

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

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March 15, 2007 (4:00pm)

Title: USEC, Inc.

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Docket Number: 70-7004-ML; ASLBP No. 05-838-01-ML

Location: Rockville, Maryland

Date: Tuesday, March 13, 2007

Work Order No.: NRC-1477

Pages 73-110

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TEMPLATE = SECY-032

SECY-02

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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5 In the Matter of: :

6 USEC, INC. : Docket No. 70-7004-ML

7 : ASLBP No. 05-838-01-ML

8 (American Centrifuge Plant :
9 -----x

10 Tuesday, March 13, 2007

11
12 Nuclear Regulatory Commission

13 Hearing Room T-3 B45

14 11545 Rockville Pike

15 Rockville, Maryland

16
17 BEFORE:

18 LAWRENCE G. McDADE, Chair

19 RICHARD E. WARDWELL, Administrative Judge

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E X H I B I T S

	<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>IDENT</u>	<u>REC'D</u>
3		Staff 1 through 54	79	80
4		USEC 1 through 12	86	87
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P R O C E E D I N G S

(9:56 a.m.)

JUDGE McDADE: The hearing will come to order. My name is Lawrence McDade. I'm the Chairman of this Board. With me is Judge Wardwell. You might note that Judge Lam is not present today. He will be with us beginning on the 18th, next Monday.

For the NRC staff, would you please announce who is representing the staff.

MS. BUPP: Margaret Bupp for the NRC staff.

MR. KLUKAN: Brett Klukan for the NRC staff.

JUDGE McDADE: And for USEC.

MR. SILVERMAN: Don Silverman with Morgan, Lewis & Bockius.

MR. O'NEILL: Marty O'Neill with Morgan, Lewis & Bockius.

MR. SCOTT: And Dennis Scott with USEC.

JUDGE McDADE: Okay. Welcome. It is good to see you all again. I would ask, however, when you are making statements if you would announce your names just to make sure that the court reporter attributes your statement to the correct person. I'm sure everything we say will be so wonderful that we want it

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1 attributed to us in perpetuity. So it will be helpful
2 if we just announce the name, it makes it easier for
3 the court reporter.

4 I don't think we are going to be here very
5 long this morning. There are just some administrative
6 matters that we want to clear up. We're going to hold
7 off the taking of testimony until Monday, the 18th,
8 when Judge Lam is able to join us and be here
9 throughout the remainder of the hearing.

10 I anticipate that we will probably start
11 each day at ten o'clock and run no later than six. We
12 will be looking for sort of a reasonable breaking
13 point around that. If it is a little bit before six,
14 if it is a little bit after six, but certainly not a
15 whole lot after six on any given day unless we really
16 start to fall behind and it looks like we are not
17 going to be able to finish the hearing in a reasonable
18 amount of time.

19 But what I'd like to do is just make sure
20 everybody -- nobody gets overtired and that you also
21 have an opportunity to talk with your witnesses who
22 are going to be coming in for the following day so
23 that they have an opportunity to be prepared as well.

24 What I'd like to do today by way of
25 administrative matters first of all is to note for the

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1 record that we did receive various filings. We
2 received from the staff various exhibits marked as NRC
3 Staff Exhibits 1 through 54.

4 (Whereupon, the above-referred
5 to documents were marked as
6 Staff Exhibit Nos. 1 through 54
7 for identification.)

8 JUDGE McDADE: Mr. Silverman, has USEC had
9 an opportunity to review those?

10 MR. SILVERMAN: Yes, we have reviewed the
11 Exhibits 1 through 54.

12 JUDGE McDADE: Do you have an objection to
13 the receipt of any of those documents?

14 MR. SILVERMAN: We do not, Your Honor.

15 JUDGE McDADE: Okay. Now some of those
16 documents were indicated to be for official use only
17 and had various captions on them.

18 Are there any objections from USEC's
19 standpoint -- in other words any of the documents that
20 were not marked as official use only that you believe
21 should have been? Or any documents that are marked as
22 official use only that you don't believe are properly
23 so categorized?

24 MR. SILVERMAN: No, Your Honor.

25 JUDGE McDADE: Okay. All right. Is there

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1 any objection to my receiving those exhibits into
2 evidence at this time? Staff Exhibits 1 through 54?

3 MR. SILVERMAN: None from the applicant.

4 MS. BUPP: None from the staff, Your
5 Honor.

6 JUDGE McDADE: Okay, they are received
7 into evidence.

8 (Whereupon, the above-referred
9 to documents were received into
10 the record as Staff Exhibit
11 Nos. 1 through 54.)

12 JUDGE McDADE: What I would also note is
13 that Staff Exhibit 54 is a list of the curriculum
14 vitae, basically a description of the professional
15 training and experience of the witnesses who presented
16 prefiled testimony.

17 Mr. Silverman, you have had an opportunity
18 to review those documents?

19 MR. SILVERMAN: Yes, Your Honor.

20 JUDGE McDADE: Do you have an objection to
21 any of those individuals providing opinion testimony
22 as experts in the areas listed on the curriculum vitae
23 and, more specifically, as specified in the prefiled
24 testimony that was given by them?

25 MR. SILVERMAN: We do not.

1 JUDGE McDADE: Okay. They are all
2 accepted as experts then and we will accept opinion
3 testimony from them in those areas of expertise listed
4 on the curriculum vitae and, more specifically, listed
5 in the prefiled testimony presented by the staff.

6 At this time, does the staff anticipate
7 that there will be other individuals that you will
8 call who have not already been listed whose curriculum
9 vitae are not present in Staff Exhibit 54?

10 MS. BUPP: We may have one additional,
11 Your Honor. One of the individuals who provided
12 prefiled testimony will not be available during the
13 time of the hearing.

14 And he is identifying a colleague who
15 helped with his work on the USEC application review.
16 The identity of that colleague has not been nailed
17 down 100 percent yet. But he will bring his
18 curriculum vitae with him if not providing it
19 beforehand.

20 JUDGE McDADE: Okay. What I would ask --

21 MS. BUPP: Excuse me, I'm sorry, Your
22 Honor.

23 JUDGE McDADE: Okay. What I would ask is
24 as soon as that individual has been identified, you
25 have decided who it is going to be, make sure that Mr.

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1 Silverman gets a copy of the curriculum vitae so that
2 he has an opportunity to express any objections that
3 he might have to that witness offering the testimony.

4 And also indicate who he is replacing,
5 which, you know, individual, which one of the hearing
6 issues that individual will be testifying with regard
7 to.

8 The other thing with regard to the staff,
9 initially -- and, again, we have had somewhat of a
10 telescoped proceeding here -- we identified various
11 hearing issues initially. And you submitted prefiled
12 testimony with regard to those.

13 Subsequently we identified additional
14 hearing issues, for example, with regard to the
15 enrichment process and others. Some of those we also
16 indicated that it might be appropriate for either in
17 whole or in part that they be addressed by a brief
18 rather than by a live testimony of a witness under
19 oath.

20 At this point in time, has the staff
21 prepared additional prefiled testimony in response to
22 any of those?

23 MS. BUPP: We have not prepared anything
24 for today. But as we indicated last week, we will
25 have something -- we will have written testimony for

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1 some of those issues prepared by the end of the week
2 if that is acceptable to the Board.

3 JUDGE McDADE: Okay. And again, if you
4 would, make sure that you share those with USEC so
5 they have an opportunity to review them.

6 I would urge you to get them to them at
7 the earliest time so that they have a reasonable
8 period of time to determine whether or not they need
9 to have additional witnesses of their own either to,
10 if they believe appropriate, correct or to supplement
11 that testimony. So the earlier you can get that to
12 them, the more time they will have in order to move
13 forward with that.

14 Also, have you identified any of those
15 that you believe a brief is appropriate? And we gave
16 you the option either of filing a brief or, if you
17 thought it more appropriate -- and, again, we realize
18 you are under a real time constraint given everything
19 else you are trying to get done at the same period of
20 time, and it would have been acceptable either a brief
21 or to present oral argument during the course of the
22 hearing on that.

23 Have you identified specific issues that
24 you wish to present legal argument, either written or
25 orally?

1 MS. BUPP: Yes, we have identified those
2 issues. We will have briefs prepared by the end of
3 the week. And we will share those briefs with USEC
4 prior to filing them with the Board. And then there
5 is at least one additional issue that we do not intend
6 to brief but that we will be addressing through
7 counsel orally at the hearing.

8 JUDGE McDADE: Okay. Are you in a
9 position at this point to indicate what those are?

10 MS. BUPP: Sure. We will be filing briefs
11 on HTS-11A, on HTS-12A.

12 JUDGE McDADE: Okay. And specifically 11,
13 talking about liability insurance?

14 MS. BUPP: Yes.

15 JUDGE McDADE: 12 having to do with the
16 ISA?

17 MS. BUPP: Yes, Part A of that inquiry.
18 And then also a brief on Part C-5. And we will be
19 addressing Part C-4 orally through counsel.

20 JUDGE McDADE: Okay. What about with to
21 -- okay, those are the only ones you intend to present
22 legal argument on?

23 MS. BUPP: Yes. Although we may present
24 some legal argument on HTS-10B4. You have indicated
25 that we should explain -- we should offer some

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1 explanation through counsel on that one as well.

2 JUDGE McDADE: Okay. Have you had an
3 opportunity to share drafts of that yet with USEC?

4 MS. BUPP: We have not but we will be
5 doing so either by the end of the day today or
6 tomorrow morning.

7 JUDGE McDADE: Okay. And we would ask you
8 as soon as you do have an opportunity to look through
9 those to determine whether or not you wish to submit
10 supplemental briefs on that as well. Again, it is not
11 required but if you believe it would be helpful, you
12 will have the opportunity to do so.

13 And also are there any other issues that
14 you have identified that you would like to file either
15 briefs or legal arguments that haven't been just
16 identified by the staff?

17 MR. SILVERMAN: Yes, Your Honor, we are
18 preparing to submit a legal brief on HTS-11, which is
19 the nuclear liability questions A and B. And we will
20 -- we've already shared a draft with the staff. And
21 we expect to file that by the 16th.

22 With respect to HTS-12, we have already
23 submitted prefiled testimony on -- not on A having to
24 do with the DPO process but on a number of the other
25 sections of that particular piece of -- that

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1 particular Board issue.

2 In addition, I guess I would just mention
3 that some of -- you have a list of our testimony.
4 We've obviously responded to the initial areas of
5 testimony that the Board requested. But at the same
6 time, some of that testimony includes witnesses
7 addressing some of the additional issues that you
8 raised in your supplemental order of March 2nd. And
9 it identified in the heading for each piece of
10 testimony exactly which piece -- which Board issue
11 that the witnesses are addressing.

12 JUDGE McDADE: Okay. Thank you.

13 I'd also note for the record with regard
14 to briefing, we did receive a staff brief with regard
15 to the disposal of depleted uranium that we received
16 along with the prefiled testimony that the staff
17 submitted. And we thank you for that.

18 With regard to submissions from USEC, we
19 did receive pre-marked exhibits from USEC, Exhibits 1
20 through 12.

21 (Whereupon, the above-referred
22 to documents were marked as
23 USEC Exhibit Nos. 1 through 12
24 for identification.)

25 JUDGE McDADE: Has the staff had an

1 opportunity to review those?

2 MS. BUPP: Yes, I have, Your Honor.

3 JUDGE McDADE: Do you have any objection
4 to our receiving any of those?

5 MS. BUPP: No objection.

6 JUDGE McDADE: Okay. There being no
7 objection, we will receive USEC Exhibits 1 through 12.
8 They are admitted into evidence.

9 (Whereupon, the above-referred
10 to documents were received into
11 the record as USEC Exhibit Nos.
12 1 through 12.)

13 JUDGE McDADE: With regard to USEC Exhibit
14 No. 1, which has to do with the professional
15 qualifications of the USEC witnesses who presented
16 prefiled testimony, have you had an opportunity to
17 review those? And do you have objections to our
18 receiving the testimony of any of those individuals,
19 the opinion testimony of them as experts on those
20 areas described in their prefiled testimony?

21 MS. BUPP: I have had an opportunity to
22 review them. And I have no objections to their
23 qualifications.

24 JUDGE McDADE: That being the case, we
25 will accept them as experts. We will accept their

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1 opinion testimony. And they will also have the
2 opportunity to present additional opinion testimony
3 during the course of the oral hearing beginning on the
4 18th.

5 Additionally, I wanted to note that we
6 have received prefiled testimony from the staff and
7 from USEC. With regard to some of the issues, what
8 I'd like to do is to run through very briefly at least
9 a tentative order that we would like to address the
10 various hearing issues in.

11 Again, this is indicated as a tentative
12 schedule. And if there are going to be particular
13 problems that either the NRC staff or USEC perceives
14 by proceeding in this order, we would like you to
15 bring that to our attention, indicating this is our
16 preliminary review as to the most appropriate order.

17 We're trying to sort of group witnesses
18 together and issues together. But if you feel, you
19 know, you are more aware of the testimony you are
20 going to present, that a better order would be
21 available, you know, please don't be shy about
22 mentioning that to us.

23 The first is Safety Issue 1, the facility
24 description. We had requested a presentation with
25 regard to that and anticipated that the presentation

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1 in our original order would last about an hour.

2 We have received the prefiled testimony.
3 We look at it and anticipate that that is not going to
4 be done in an hour. However, you know, we do believe
5 that it was very helpful and really, you know, can't
6 suggest to you any place where it really needs to be
7 cut.

8 I would anticipate that that hearing issue
9 will probably run about two hours between the
10 presentation and the questions we might have on it.
11 But I really don't think it is appropriate for us to
12 try to cut it back even though -- although originally
13 we anticipated about an hour.

14 At this point in time, USEC indicated that
15 they had four witnesses that they presented prefiled
16 testimony on with regard to this particular issue.

17 Sir, do you anticipate presenting
18 additional oral testimony at the hearing on this?

19 MR. SILVERMAN: No, at this time, Your
20 Honor, we just anticipate having the witnesses
21 available for your questions.

22 JUDGE McDADE: Okay. Now those particular
23 witnesses, and it was Lopiano, Corzine, Fout, and
24 Towne, you indicated in the prefiled testimony there
25 was official use only information. If there is going

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1 to be any official use only -- and by official use
2 only I mean, you know, one of the various things,
3 whether it be safeguard information, classified
4 information, proprietary information, you all are
5 going to be in a better position than the Board to
6 know if a witness is getting into that particular
7 area.

8 So I would ask you to be sensitive to
9 that. And if you feel it is important to bring that
10 information to our attention, to do so so that in the
11 appropriate case, we can have the room cleared for the
12 taking of that testimony. Also to indicate to your
13 witnesses so that they are aware of certain sensitive
14 information.

15 We may well ask a question and they are
16 trying to be helpful and trying to be responsive and
17 they answer the question and then there is a
18 determination that the information is classified and
19 really shouldn't have been presented in a public
20 forum.

21 So if you can, just make sure you speak
22 with your witnesses. We want them to be responsive.
23 We're not encouraging people not to be responsive.
24 But just to be aware that there are certain kinds of
25 information that are involved in this particular

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1 hearing that might not be appropriate in a public
2 forum.

3 And that, you know, they can -- it is
4 totally appropriate for them to pause and not move
5 forward even though a member of the Board has asked
6 the question. And, you know, just raise, you know,
7 whether or not this is proprietary, safeguards, or
8 otherwise.

9 MS. BUPP: Your Honor, for the
10 presentation of our HTS-1, as it stands now, the
11 slides -- many, many of the slides contain official
12 use only information. And the presentation will
13 contain a great deal of official use only information
14 in order to go to the level of detail that the Board
15 had requested.

16 And so the staff would suggest that for
17 that presentation, the room be closed for the entire
18 presentation because it would be extremely difficult
19 to avoid releasing official use only information
20 during the presentation.

21 JUDGE McDADE: I mean this is -- that one
22 is somewhat problematic. And what I would ask is if
23 you could speak with Mr. Faraz between now and Monday
24 and see whether or not there is sort of a basic
25 introduction he can give because although this is

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1 intended as an introduction for the Board and an
2 overview for the Board, it also serves as an overview
3 for any of the individuals who might be interested in
4 what is going on in this particular proceeding.

5 And although there is a significant amount
6 of material there that would not be appropriate for
7 public release, nevertheless there also is some that
8 would be. And if it would be possible -- and I
9 realize this may be difficult -- but speak with Mr.
10 Faraz and perhaps if we could do, you know, maybe a
11 half hour that would be public and then to get into
12 the other information, you know, perhaps a little bit
13 broader overview initially and then to get into the
14 more specific.

15 MS. BUPP: I'll speak with him and see if
16 we can revise the presentation in that way.

17 JUDGE McDADE: Okay. Now after Hearing
18 Issue 1, we would anticipate Hearing Issue 10, Safety
19 Issue 10 with regard to the enrichment process. At
20 this point, we have not received prefiled testimony
21 with regard to this. And if you could, you know, just
22 before the end of the week get us any prefiled
23 testimony that you wish to present on that issue and
24 identify witnesses who would be available to testify
25 at the hearing.

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1 Next, Safety Issue 2 with regard to the
2 memo of understanding. We understand that you have
3 the -- the NRC staff has Brian Smith available. And
4 USEC has a Peter Miner who will be available to
5 testify with regard to that.

6 Next, Safety Issue 13, reactor safety,
7 again, we've not yet received prefiled testimony with
8 regard to that. And again, you know, if by the end of
9 the week to make sure that USEC has an opportunity to
10 review it. And if we can as well. And that witnesses
11 be identified.

12 Next would be License Conditions. Mr.
13 Echols and Mr. Henson for the USEC staff. Barpoulis,
14 Corzine, Hatcher, Miner, and Smith for USEC.

15 Next, Safety Issue No. 4, exemption
16 requests. And one of the questions I have, because we
17 are going to have exemption requests, Safety Issue 4
18 to be followed by Safety Issue 5, the USEC
19 commitments, we've got an awful lot of individuals who
20 presented prefiled testimony here. I think more
21 individuals that the Nationals brought down to spring
22 training.

23 I don't know how many of those you
24 anticipate actually offering testimony. I would hope
25 that we would be able to find a more compact group.

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1 Or, you know, we may have to bring bleachers in.

2 MS. BUPP: I actually have the staff's
3 witness list here with me which we will submit later
4 on this morning. And what I've indicated on the
5 witness list is that we will provide Stan Echols and
6 Yawar Faraz who have both served as the project
7 manager at various times for the review, to provide an
8 overview of the review and the review process.

9 And Jay Henson to provide some information
10 on the inspection process, which is how we enforce the
11 commitments.

12 We will have the other individuals who are
13 the subject matter experts for the individual areas
14 where the commitments were made available if the Board
15 has specific questions on any of those subject matter
16 areas. But otherwise we don't intend to call all 17
17 individuals who provided testimony in HTS-5 as a
18 panel.

19 JUDGE McDADE: Okay. And by the
20 conclusion of the hearing, you'll just hand up your
21 witness list for us?

22 MS. BUPP: Yes.

23 JUDGE McDADE: Good.

24 Okay, now Safety Issue No. 5, all of the
25 exhibits that have been presented with regard to that

1 have been indicated as official use only for various
2 and sundry -- some security, some for other reasons.
3 Is it going to be possible to have any of the issues
4 with regard to Hearing Issue No. 5 open? Or do you
5 think it is almost going to be necessary that that
6 entire issue be closed?

7 MS. BUPP: Actually I think if we keep the
8 testimony to Mr. Echols, Mr. Faraz, and Mr. Henson,
9 all of their testimony should be open to the public
10 because they will be speaking in generalities about
11 the entire process.

12 If we were to get into specific
13 commitments, it would depend on the subject matter
14 area. But to the extent that anything is contained in
15 the public version of the SER and not in one of the
16 non-public appendices, we could certainly discuss all of
17 that openly in public. And the majority of the
18 information is referenced in the public version of the
19 SER.

20 JUDGE McDADE: So certainly we can get
21 started in public. And then if we have specific
22 questions on some of the security information, the
23 non-public information, the non-public documents, we
24 could then close the hearing at the point with regard
25 to that issue.

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1 MS. BUPP: Yes.

2 JUDGE McDADE: And I take it then the next
3 issue we would have is Safety Issue No. 8, accident
4 analysis. And, again, most of the documents that were
5 as exhibits presented were for official use only.
6 Would we be able to proceed in the same way, Ms. Bupp,
7 do you believe?

8 MS. BUPP: That is -- also most of the
9 prefiled testimony was presented as official use only
10 as Department of Energy information. And so actually
11 the opposite in that case. I think we would probably
12 be best to err on the side of caution and start as
13 non-public for that session.

14 JUDGE McDADE: Mr. Silverman, do you
15 agree?

16 MR. SILVERMAN: I think that would be
17 fine, Your Honor.

18 JUDGE McDADE: Okay.

19 Next would be Safety Issue No. 12, the ISA
20 summary. And did you indicate that you were going to
21 supply a brief with regard to that?

22 MS. BUPP: Yes, we will provide a brief
23 for portions of HTS-12 but we will also have a panel
24 of staff witnesses for the non-legal portions of the
25 issues.

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1 JUDGE McDADE: Okay. With regard to
2 Safety Issue 11, the liability insurance issue, you
3 indicated that you would be presenting a brief on part
4 of that. You would also have witnesses with regard to
5 it.

6 MS. BUPP: At this point in time, based on
7 the Board's additional questions, we only anticipate
8 addressing it through counsel. We could make
9 witnesses available.

10 JUDGE McDADE: That's fine.

11 MS. BUPP: Okay.

12 JUDGE McDADE: Okay. The next, Safety
13 Issue 6, financial capability. And, again, at that
14 point, Mr. Uleck, Mr. Pittiglio --

15 MS. BUPP: Pittiglio.

16 JUDGE McDADE: -- okay, and Barpoulis for
17 USEC.

18 Next, decommissioning funding, Safety
19 Issue No. 7, Timothy Johnson and Craig Dean, again,
20 Mr. Barpoulis, and Mr. Smith. What we would also ask
21 is if the staff could present a brief presentation to
22 start this particular issue, basically just sort of
23 going into a chronology, you know, of when funding is
24 going to be available, how the funding is going to be
25 available, what the milestones are, you know, and just

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1 -- and again I'm talking something relatively brief,
2 no more than about 15 minutes.

3 JUDGE WARDWELL: Yes, I think 15 minutes
4 would be adequate. Looking for a timeline based on
5 events versus level of funding. And by presenting
6 that, I think it will clarify for us exactly when the
7 various commitments will be achieved and attaining the
8 various levels of funding.

9 JUDGE McDADE: Okay. And next,
10 Environmental Issue 2, the impacts on depleted
11 uranium, Environment Issue 3, and Safety Issue 9,
12 which are related and involving environmental
13 monitoring, Environmental Issue 5, liquid effluent
14 control, Environmental 1, purpose and need,
15 Environmental 4, balancing conflicting factors, and
16 Environmental 6, cost benefit analysis. And that
17 would be everything.

18 With regard to the prefiled testimony that
19 we have received, I take it there is no objection from
20 USEC to our receiving into evidence all of the
21 prefiled testimony we have received from the NRC
22 staff. Is that correct?

23 MR. SILVERMAN: That's correct, Your
24 Honor.

25 JUDGE McDADE: And no objection from the

1 NRC staff to our receiving the prefiled testimony that
2 was presented by USEC?

3 MS. BUPP: That's correct, Your Honor.

4 JUDGE McDADE: Okay. That is received
5 into evidence we have, again, prefiled testimony on
6 Issue 1 from Mr. Faraz for the NRC staff, Lopiano,
7 Corzine, Fout, and Towne for USEC.

8 On Safety Issue 2, Brian Smith for the
9 staff, Peter Miner for USEC.

10 On the license condition Safety Issue 3,
11 Stan Echols, Jay Henson for the NRC staff, Barpoulis,
12 Corzine, Hatcher, Miner, and Smith for USEC.

13 On Safety Issue 4, exemption requests,
14 Stan Echols, Ira Dinitz, Timothy Johnson, Michael
15 Lamastra, Christopher Tripp for the NRC staff.
16 Bolling, Hatcher, Miner, Smith, Taulbee, and Thompson
17 for USEC.

18 We've got the Cecil B. DeMille
19 presentation on Safety Issue 5. Let me just go
20 through this real quick. Echols, Henson, Johnson,
21 Lamastra, Tripp, Santos -- or Garcia Santos,
22 Troskoski, Wescott, Everly, Burrows, Bongarra, Graves,
23 Frazier, Bukharin, Prange, Kelly, and Faraz with
24 regard to that that we received the prefiled testimony
25 on.

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1 If you can give me just one moment now.

2 Okay, on Safety Issue 12, we have prefiled
3 testimony for Bernero and Peter Miner for USEC.

4 Safety Issue 11, we don't have prefiled
5 testimony.

6 Safety Issue 6, Uleck and Pittiglio for
7 the NRC staff. Barpoulis for the USEC.

8 Safety Issue 7, Timothy Johnson and Craig
9 Dean for the NRC staff. USEC Barpoulis and Smith.
10 And also, I'm sorry, Mr. Kennedy as well for the NRC
11 staff.

12 Environmental Issue 2, Mr. Blevins, Mr.
13 Woods, Mr. Fout, Mr. Miner.

14 Environmental Issue 3, Blevins, Echols,
15 Hammer, Fout, and Miner.

16 On Environmental Issue 5 from the USEC,
17 Fout and Miller.

18 Environmental Issue 1, purpose and need,
19 Matthew Blevins, Stan Echols, Peter Miner, Peter
20 Sewell.

21 Environmental Issue 4, balancing
22 conflicting factors, I believe it is Steven Wyngarden
23 for the NRC staff. Mr. Miner, Mr. Sewell for USEC.
24 And, again, Mr. Miner and Mr. Sewell on the cost
25 benefit analysis.

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1 All of that prefiled testimony is admitted
2 and is received into evidence.

3 Perhaps at this point if we could just
4 take a, you know, I believe it is going to be
5 necessary for you to actually present the exhibits so
6 we can receive them and make sure that they get
7 properly filed with SECY.

8 Do you have the exhibits and the prefiled
9 testimony with you, Ms. Bupp?

10 MS. BUPP: Yes, we do.

11 JUDGE McDADE: Okay.

12 And Mr. Silverman?

13 MR. SILVERMAN: We do, yes.

14 JUDGE McDADE: Do we have everything?

15 MS. BUPP: You've got everything.

16 JUDGE McDADE: Okay. Do we also have the
17 electronic copies?

18 MS. BUPP: Yes. Oh, I'm sorry, it
19 changes.

20 JUDGE McDADE: Okay. At this point in
21 time, I'm not going to admit the exhibit list and the
22 witness list because those are going to be subject to
23 change. And at this point in time just sort of view
24 them as works in progress. And at the conclusion of
25 the hearing when they are complete, we'll then receive

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1 them and make them a permanent part of the record.

2 By way of administrative things, we are
3 not going to be handled by the DDMS at the hearing.,
4 the electronic system. We are going to have the
5 electronic monitors available.

6 But I would ask if you could make sure
7 that you bring with you laptops that can connect and
8 perhaps if there is an issue, that we can put you in
9 touch during the course of the week with our technical
10 people here so make sure that it is compatible so that
11 you will both be able, when you have a witness who is
12 testifying, that you will be able to call the exhibit
13 up electronically so that the witness can make
14 reference to it.

15 So if you could one, make sure that you
16 have the appropriate hardware, you know, in order to
17 do that. And also have somebody who knows how to do
18 it who is going to be able to call up the right
19 exhibit at the appropriate time.

20 I'm trying to think. Do you have anything
21 else that you believe we need to cover?

22 JUDGE WARDWELL: I do. A couple things.
23 In regards to the last topic and also as a fallback
24 just if you could have that on a memory stick so that
25 if we have to scurry around here, I know I can

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1 probably dust off my laptop if needed as an emergency
2 situation. And that has proven to work. So at least
3 we have got that as a fallback in case others don't
4 work.

5 The other thought, I was wondering, or
6 trying to remember really is just to summarize which
7 of these issues we are going to have a public -- I
8 mean a regular presentation, a formal presentation
9 for. Just so that we are all on the same page.

10 As I recollect, Safety Issue No. 1 is a
11 presentation. We talked about the small presentation
12 for No. 7, decommissioning funding. And then Safety
13 Issue 6, I think, or Environmental Issue 6 dealing
14 with cost benefit analysis. Is there any one of those
15 that I have missed? And is everyone agreed that that
16 is what we were looking at as far as a formal
17 presentation?

18 MS. BUPP: Those are the presentations the
19 staff is preparing.

20 JUDGE WARDWELL: Good. And then the
21 others --

22 MR. SILVERMAN: That's my understanding
23 also, Your Honor.

24 JUDGE WARDWELL: Okay. And the others we
25 will just seat the panel and jump right into

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1 questions.

2 MS. BUPP: Yes.

3 JUDGE WARDWELL: That's all I had.

4 JUDGE McDADE: Okay. From the NRC staff,
5 do you have anything else that you think would be
6 helpful for us to take care of at this hearing here
7 today?

8 MS. BUPP: No. I think we've covered
9 everything. It looks like we should be all right with
10 all of our witnesses' availability. But I believe
11 we've already made the staff aware of this issue or at
12 least we've made Ms. Wolf aware of the issue.

13 Mr. Henson is only available for the first
14 two days of testimony. I think we probably should
15 cover his areas of testimony within the first two
16 days. But if we get to Tuesday afternoon and we
17 haven't reached HTS-3 and HTS-5 yet, that we might
18 need to jump around to make sure that he is still
19 available.

20 He has to go and do an inspection at
21 another facility the second half of next week.

22 JUDGE McDADE: Well, given the current
23 schedule, I think we probably will be able to
24 accommodate that, that he would be available during
25 Monday and Tuesday.

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1 MS. BUPP: Yes.

2 JUDGE McDADE: Absent that, I guess there
3 are a couple of other options, one of which is that,
4 you know, the world probably won't come to an end if
5 he starts his inspection on Thursday as opposed to
6 Wednesday.

7 And there may well be someone who has the
8 same expertise as Mr. Henson who would be able to
9 substitute for him. But let's just play that by ear
10 at the time and do the best that we can with it.

11 MS. BUPP: Yes, except that he must not be
12 here on Wednesday afternoon. He is attending a
13 licensing performance review meeting, a public
14 meeting. So he can't -- he is the only one with the
15 expertise on that meeting.

16 But I think that we should be able to
17 finish his testimony on Tuesday afternoon with the
18 schedule that the Board has set.

19 JUDGE WARDWELL: Can you repeat those
20 topics that he is involved with?

21 MS. BUPP: HTS-3 and HTS-5.

22 JUDGE McDADE: The licensing conditions
23 and the USEC commitments.

24 MS. BUPP: Yes.

25 JUDGE WARDWELL: Okay.

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1 JUDGE McDADE: And again, you know, there
2 is a good possibility -- in fact a probability we will
3 get to those on Monday or Tuesday. In the event that
4 we don't get to them on Monday or Tuesday, you know,
5 we have not required specifically that he be present.

6 MS. BUPP: Yes.

7 JUDGE McDADE: But it may be necessary for
8 the staff to adjust to be able to get, as I said,
9 either change his schedule depending on, you know,
10 whether or not that proceeding can go forward with out
11 him or this proceeding can go forward without him.

12 But, you know, I think we've got enough
13 people involved in this and with the schedule that we
14 really do need to move ahead with it. And hopefully
15 we will be able to do so.

16 The other thing before we break here, I
17 would just like to note for the record, I mean we have
18 received the prefiled testimony and the exhibits from
19 both the NRC staff and from USEC in this matter. And
20 I would like to commend counsel for the presentations
21 they have put together in a relatively short period of
22 time. And we realize the time pressure you are under.

23 And the presentations that you put
24 together were very good, very helpful. And I don't
25 want to indicate that they were only very good and

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1 very helpful because of the time pressure. They were
2 very good if you had all the time in the world and
3 even better given the relatively short period of time
4 that you had within which to put them together.

5 They were done in a very user-friendly way
6 and were very helpful to the Board in moving our
7 knowledge of this ahead more quickly than otherwise.
8 So I do want to express our appreciation to you for
9 that.

10 Do you have anything further before we
11 break for today?

12 JUDGE WARDWELL: Just one other quick
13 comment back to the laptop situation. I know -- it is
14 my understanding that you need a serial port. At
15 least I know if you do have a serial port, it will
16 work. So if you have that, you should be all set.

17 I see a head shaking in the back in
18 regards to this. That's not required?

19 PARTICIPANT: A VGA port.

20 JUDGE WARDWELL: A VGA port? Okay.
21 That's what it is. I'm sorry. VGA output, I'm sorry.

22 JUDGE McDADE: I'm sorry. Could you
23 repeat that?

24 JUDGE WARDWELL: Yes, you need an output,
25 a VGA output port rather than a serial port. I forgot

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1 that.

2 JUDGE McDADE: And you are saying V-G-A?

3 JUDGE WARDWELL: That's right. VGA for
4 video output port.

5 JUDGE McDADE: Okay.

6 JUDGE WARDWELL: Sorry, I expressed that
7 wrong. Thank you for the assistance from the
8 spectators in regards to my misrepresentation.

9 JUDGE McDADE: Well actually it wasn't a
10 spectator. It was our technical staff and we do
11 appreciate that. It wasn't someone just kibitzing in
12 the back.

13 (Laughter.)

14 JUDGE McDADE: Ms. Bupp, do you have
15 anything further?

16 MS. BUPP: I'm just wondering if the Board
17 would like a copy of our draft witness list today
18 because we have not submitted a draft previously and
19 brought them today. It might change but it might be
20 useful for you to have as reference.

21 JUDGE McDADE: Yes, we would appreciate
22 that.

23 MS. BUPP: Okay.

24 JUDGE McDADE: Mr. Silverman, do you have
25 anything further?

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1 MR. SILVERMAN: I just a few minor things,
2 Your Honor. With respect to HTS-4, exemption
3 requests, we have Mr. James Thompson on the panel who
4 did sponsor part of the direct testimony. There is an
5 illness in the family and he will not be able to be
6 here at the hearing. However, we won't need to add
7 anyone because we already have someone on the panel
8 who will cover for him effectively.

9 He's also on HTS-13. And once again, we
10 won't need to add anyone. We've got the witnesses
11 that we need. But we did want to let you know that he
12 would not be able to be here.

13 One item that we wanted to mention, which
14 I'm not sure has to be decided now, but with respect
15 to HTS-12, which is the ISA summary, insufficiency of
16 review information, we have prepared the testimony so
17 that it can be presented in public.

18 We just wanted to alert the Board to the
19 fact that to the extent that the Board might get into
20 a level of detail that goes beyond what is in that
21 testimony, there is a very good possibility that we
22 could tread into areas that would be nonpublic. So
23 we'll have to adjust to that when and if that occurs.

24 And the last thing I wanted to ask about
25 was whether there would be a phone connect if we have

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1 other folks from the company who may want to listen in
2 on the hearing. I know that has been done in some of
3 the hearings in the past.

4 JUDGE McDADE: The answer is I don't know.
5 What we will do is after the hearing breaks here
6 today, we will see whether or not arrangements can be
7 made. And if -- Ms. Wolf will be in touch with, you
8 know, both the NRC staff and USEC, with counsel,
9 hopefully today if not tomorrow to let you know.

10 I assume that can be done. It has been
11 done in the past. And just to let you know what the
12 arrangements will be for that.

13 MR. SILVERMAN: That's all we have, Your
14 Honor. Thank you.

15 JUDGE McDADE: Anything further?

16 MS. BUPP: No, Your Honor.

17 JUDGE McDADE: Well, I guess we will see
18 each other again on Monday morning, the 18th, at 10:00
19 a.m.

20 There being nothing further, this hearing
21 is now in recess. Thank you.

22 (Whereupon, the above-entitled hearing was
23 concluded at 10:36 a.m.)
24
25

CERTIFICATE

This is to certify that the attached proceedings
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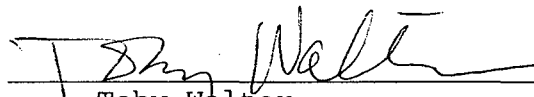
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