

RAS 14187

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Crow Butte Resources, Inc.
(In Situ Leach Facility)

DOCKETED
USNRC

December 20, 2007 (2:51pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Docket Number: 40-8943

Location: Teleconference

Date: Tuesday, December 18, 2007

Work Order No.: NRC-1934

Pages 1-52

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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IN THE MATTER OF: :
CROW BUTTE RESOURCES, INC. : Docket No.
: 40-8943
(In Situ Leach Facility) :
-----:

Tuesday, December 18, 2007

Teleconference

The above entitled matter convened,
pursuant to notice, at 1:25 p.m.

BEFORE:

ANN MARSHALL YOUNG, Chair, Administrative Judge

RICHARD E. COLE, Administrative Judge

FRED W. OLIVER, Administrative Judge

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1 APPEARANCES:

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1 On Behalf of the Petitioners, Thomas Cook, Individual;
2 Slim Buttes Agricultural Development Corporation; and
3 Western Nebraska Resources Council:

4 DAVID FRANKEL, ESQ.

5 P.O. Box 3014

6 Pine Ridge, South Dakota 57770
7

8 On Behalf of the Petitioners, Debra White Plume and
9 Owe Aku:

10 BRUCE ELLISON, ESQ.

11 P.O. Box 2508

12 Rapid City, South Dakota 57709
13

14 Also Present:

15 JOE AMERICAN HORSE

16 BUFFALO BRUCE

17 THOMAS COOK

18 MARCIA FINEMAN

19 JACOB FROHMAN

20 LARRY TEAHON

21 JOHANNA THIBAUT
22
23
24
25

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P-R-O-C-E-E-D-I-N-G-S

(1:35 p.m.)

JUDGE YOUNG: So I think we can go on the record. I'm going to start by introducing myself and the Licensing Board and the Law Firm.

My name is Ann Marshall Young, no E on the Ann. I'm the chair of the Licensing Board. I have with me Judges Richard F. Cole and Fred W. Oliver. I think I got those middle initials correct. We also have Johanna Thibault, J-O-H-A-N-N-A T-H-I-B-A-U-L-T.

And let me just start with Mr. McGuire. Why don't you tell us your name, and the spelling of your name. And who else may be listening in or with you on behalf of the Applicant.

MR. MCGUIRE: True. My name is Mark, M-A-R-K, McGuire, M-C capital G-U-I-R-E, appearing on behalf of Wachovia Resources. Listening is Mr. Larry Teahon, T-E-A-H-O-N, --.

JUDGE YOUNG: T as in Tom?

MR. MCGUIRE: T as in Tango, yes, or --

JUDGE YOUNG: Okay.

MR. MCGUIRE: -- Tom. E as in Echo, A Alpha, H-O-N as in November.

JUDGE YOUNG: All right. And then before we get to the petitioners and their counsel, Ms.

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1 Jones, could you introduce yourself and anyone who's
2 with you?

3 MS. JONES: Yes, I am Andrea Jones, counsel
4 for the NRC Staff. And I have Marcia Fineman, who is
5 also co-counsel for the NRC Staff. I have Mr. Stephen
6 Cohen, and it's Cohen, C-O-H-E-N, who is the assigned
7 project manager in this particular case. And I have
8 with me also Ms. Molly Barkman, who is also an
9 attorney within the Office of the General Counsel, who
10 will be also assisting.

11 MR. MCGUIRE: How do you spell Molly's last
12 name?

13 MS. JONES: B-A-R-K-M-A-N.

14 MR. MCGUIRE: Okay, thank you.

15 MS. JONES: Sure.

16 JUDGE YOUNG: Okay, that completes the list
17 of Staff people?

18 MS. JONES: That's correct.

19 JUDGE YOUNG: All right. Now, moving to
20 the petitioners, we have Mr. Bruce Ellison, and Mr.
21 Frankel. Is it David Frankel?

22 MR. FRANKEL: Yes, David Frankel.

23 JUDGE YOUNG: All right. Let's take you
24 one by one. And if you could tell us who you
25 represent.

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1 I know Mr. Cook is here. I'll be
2 interested to know whether Mr. Cook will be appearing
3 on his own behalf with regard to the petition he filed
4 individually, or whether either Mr. Ellison or Mr.
5 Frankel will be representing him also in addition to
6 the group.

7 And also, Ms. Plume White is not here.
8 And I believe that was indicated earlier in that she
9 would not be joining us.

10 MR. ELLISON: It's White Plume, Judge.

11 JUDGE YOUNG: White Plume, I'm sorry, I
12 keep getting that wrong. Mr. Ellison, in the filings
13 that Ms. White Plume made, she referred to you, I
14 believe, as her attorney.

15 MR. ELLISON: I will be the attorney for
16 Owe Aku, --

17 JUDGE YOUNG: Okay, not --

18 MR. ELLISON: -- which is her organization.

19 JUDGE YOUNG: Okay, but not for her
20 individually.

21 MR. ELLISON: Well, and for her
22 individually, if she --

23 JUDGE YOUNG: Okay.

24 MR. ELLISON: -- acceptable.

25 JUDGE YOUNG: Okay. And for her

1 individually.

2 MR. ELLISON: Yes, Ma'am.

3 JUDGE YOUNG: Okay. Well then why don't
4 you introduce yourself and specify more clearly than
5 I have who all you represent.

6 MR. ELLISON: Yes, Judge. My name is Bruce
7 Ellison, E-L-L-I-S-O-N, I'm an attorney from Rapid
8 City, South Dakota, and I have entered an appearance
9 on behalf of Owe Aku, O-W-E-A-K-U, and Debra White
10 Plume.

11 JUDGE YOUNG: Mr. Frankel, why don't you do
12 the same. Indicate who all you are representing, and
13 then let us know whether you will be representing Mr.
14 Cook, individually as well as the organization.

15 MR. FRANKEL: Yes, Judge, thank you. I
16 will be representing Mr. Cook individually, as well as
17 Slim Buttes Ag Development Corp, and Western Nebraska
18 Resources Council.

19 My name is David Frankel, F-R-A-N-K-E-L.
20 I'm admitted in California and the 8th and 9th Courts
21 of Appeal, and Federal District Court, Northern
22 District of California.

23 And I've just filed my notice of
24 appearance, I had some email and computer problems,
25 but it should be on everyone's email by now. And I

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1 apologize for not getting it in prior to the call.

2 JUDGE YOUNG: Thank you. Pardon me, if I
3 cough from time to time, I'll try not to.

4 For the court reporter, this is Judge
5 Young. I'll probably be sort of leading the
6 discussion, but if you're not sure whether it's me or
7 not, feel free to interrupt me or anyone else if
8 you're not sure who we are, or if you need the
9 spelling of a word.

10 Just sort of by way of introduction also,
11 to the process. Since we have counsel for all parties
12 present, we will expect just counsel to be speaking.
13 Anyone else is welcome to listen, but the lawyers are
14 those who are there to speak for the parties, so we
15 will ask them to do all the speaking on behalf of
16 them. And if you need to confer and go on mute for a
17 moment, just let us know you're doing that.

18 Also, I assume that Mr. Frankel and Mr.
19 Ellison have received both our orders of December 12th
20 and 13th, and -- May I assume that?

21 MR. FRANKEL: Yes, Judge.

22 MR. ELLISON: This is Bruce Ellison. Yes,
23 Judge, although I just really received everything over
24 the last day or so --

25 JUDGE YOUNG: Okay.

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1 MR. ELLISON: -- because I've just recently
2 become involved with Owe Aku and Ms. White Plume on
3 this matter.

4 JUDGE YOUNG: Okay, well make sure you do
5 read those carefully. We're going to talk about some
6 of the things more specifically today. At the end of
7 the conference call we'll ask if there are any other
8 questions or any other issues that we haven't gone
9 over that any participant would like to bring up. And
10 we will also be providing possibly some additional
11 case law that we'd like the parties to look at. But
12 otherwise, I would say, for starters, in terms of
13 preparing for oral argument, those orders give you
14 some information that you'll want to look at.

15 I guess I should note for the record that
16 we do have two of the original petitions, that from
17 the High Plains Community Development Corporation, and
18 from the Chadron Native American Center. Both of
19 those have been withdrawn, so we now have five parties
20 before us, Ms. White Plume and Mr. Cook individually,
21 and then the Slim Buttes Agricultural Development
22 Corporation Western Nebraska Resources Council, and
23 Owe Aku -- Is that the correct pronunciation?

24 MR. ELLISON: Yes, Ma'am.

25 JUDGE YOUNG: Okay. Is my understanding on

1 the situation as I just described it correct?

2 MR. ELLISON: This is Bruce Ellison,
3 correct.

4 MR. FRANKEL: Yes, judge.

5 MS. JONES: Yes, that's correct.

6 JUDGE YOUNG: Thank you very much. The
7 next issue on our agenda would be to address the
8 schedule. As everyone is probably aware, we're sort
9 of moving fairly rapidly in this proceeding. The
10 Board did not get involved until a little bit later
11 than we normally would, and I know that counsel for
12 the petitioners are just recently involved. And so
13 we'll take that into account as much as is appropriate
14 in setting the schedule.

15 But we do need to address a couple of
16 specific things. First of all, with regard to Ms.
17 White Plume's request for an extension, I believe she
18 made reference in that to the answer or response filed
19 by Crow Butte, I don't know that she mentioned
20 specifically the NRC Staff's response. I think we
21 recognize that there may have been some difficulty
22 getting these documents or for the petitioners
23 receiving these documents.

24 What we'd like to know is what you have, and when you
25 received it, so that we can look at a reasonable time

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1 period to allow petitioners to file their replies.
2 So, Mr. Frankel and Mr. Ellis, whichever, or you would
3 like to -- Why don't we go to Mr. Ellis first, since
4 it was Ms. White Plume who requested the extension,
5 although I think we'll be amenable to setting the time
6 line for all the petitioners for the same deadline.

7 MR. ELLISON: Your Honor, this is Bruce
8 Ellison. Yes, on behalf of both, or in response to
9 both the Crowe Butte and the NRC, in terms of a
10 response, I just had a really major hearing in court
11 yesterday that I had been preparing on, and I really
12 did not even get a chance to pull off of email these
13 documents until some on Sunday, and some on Monday,
14 and I'm just beginning to go through them. And I
15 apologize for this being this late, but I couldn't
16 help that with scheduling.

17 And one of the things I'd like to request,
18 I know Ms. White Plume requested an extension for the
19 20th, and I believe that on the Crow Butte response,
20 and I believe that Mr. Frankel has had some
21 discussions with Mr. McGuire, and I've not yet had the
22 pleasure of, or the opportunity to do that yet. Quite
23 frankly, I really look at a response in two days from
24 today as not being realistic. If other than some kind
25 of a hastily prepared document, which I don't know

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1 that would be good for anyone. Plus in addition we do
2 need to provide some affidavits, and it will take
3 longer than two days, even till the end of this week,
4 to get that.

5 So what I would like to request on behalf
6 of Ms. White Plume and Owe Aku, would be if we could
7 have some time into next week in order to give a
8 response, it would still be way in advance of the
9 hearing. Because I do understand the January 9th date
10 is going to be moved, and I would need it to be moved
11 as well.

12 JUDGE YOUNG: Actually, let's move for a
13 second to the date for oral argument. Staff counsel
14 filed a request to move that to January 10th, and I
15 believe she had conferred with everyone except Ms.
16 White Plume. Is that right, Ms. Jones? Did I get
17 that right?

18 MS. JONES: Yes, that is correct. We
19 attempted to contact her several times. I think there
20 was some, I think we sort of played phone tag, Judge,
21 and unfortunately by the time we filed our motion --

22 JUDGE YOUNG: That's okay.

23 MS. JONES: -- we hadn't really discussed
24 it with her. We were trying to meet your deadline to
25 make sure that we put in our request --

1 JUDGE YOUNG: That's all right, that's all
2 right. I really wasn't asking for an explanation of
3 that.

4 MS. JONES: Okay.

5 JUDGE YOUNG: Basically, what I'm trying to
6 get to is whether everyone is in agreement to the
7 January 10th date for oral argument.

8 MR. ELLISON: Your Honor, this is Bruce
9 Ellison. On behalf of Ms. White Plume, I am scheduled
10 to be working on a Federal case in Portland, Oregon
11 during that time period. And I had understood that
12 January 17th was a possible alternative date, and I
13 would respectfully request that it be on the 17th
14 rather than the 10th.

15 JUDGE YOUNG: I don't know that -- I don't
16 believe we had offered that date, but we can certainly
17 talk about that.

18 MR. ELLISON: All right, I'm still catching
19 up on correspondence, so thank you for advising me of
20 that.

21 MR. COHEN: I believe the Staff had asked
22 for the 10th, 11th, or 17th.

23 JUDGE YOUNG: The Staff had asked for that,
24 okay. Let me just break for one second, I'm going to
25 put you on mute.

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1 We just conferred briefly about our
2 schedules. Let me just ask, would everyone be
3 available if we were to set this to start on the 16th,
4 and run over to the 17th as necessary?

5 MR. MCGUIRE: This is Mark McGuire. Yes,
6 that would be fine.

7 MS. JONES: This is Andrea Jones for NRC
8 Staff, I think those dates would be fine here, Judge.

9 MR. FRANKEL: This is David Frankel, for
10 cook, WNRC, and Slim Buttes Ag Dev, and those dates
11 are fine.

12 MR. ELLISON: Yes, Judge, I'm Bruce
13 Ellison, I had a visit about the 17th, the 16th would
14 be fine as well.

15 JUDGE YOUNG: Okay. At this point I'm not
16 sure we'll need both dates, but sometimes it's good to
17 allow the possibility of running over. We have talked
18 with the people at the -- What's the name of the
19 court? Dawes County?

20 MS. THIBAUT: Dawes County District Court.

21 JUDGE YOUNG: And we were thinking of --

22 MS. THIBAUT: In Chadron.

23 JUDGE YOUNG: In Chadron. We were thinking
24 about doing the oral argument in the courthouse in
25 Chadron. We had gotten authorization to use it on the

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1 10th and going late. We'll need to recheck on that,
2 but if everyone's available on the 16th and 17th, let's
3 go ahead and schedule it for then. If we can't use
4 the courthouse, we'll find someone, someplace else.

5 Before we move on from that, though, let
6 me just ask. With six contentions and standing and
7 several different parties, it might be wise to
8 schedule a second day in case we don't finish on the
9 first day. Do any of the counsels have any insights
10 or opinions or requests with regard to that?

11 MR. FRANKEL: This is David Frankel. I
12 think that, we really respect everyone's time and
13 energy going into this, and from our perspective, if
14 we can schedule backup dates, then I think it would
15 just honor all those efforts. By the time everyone
16 gets to that place and has all their focus on it, it
17 would just seem to me to be worthwhile to finish the
18 process -- Or if we end early, we leave early. So
19 that would be our perspective, Your Honor.

20 JUDGE YOUNG: Anyone else have anything to
21 offer in the way of opinion, request, insights?

22 MR. MCGUIRE: This is Mark McGuire. I
23 think you're talking about starting on the 16th,
24 that's fine. It'd probably make some sense to have on
25 hold the 17th, although I sort of thing we ought to be

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1 able to finish in one day, but might as well have a
2 backup.

3 JUDGE YOUNG: Right, and if we can stay
4 late, that would give us some leeway as well. Okay,
5 well then let's schedule it for the 16th, and then if
6 necessary go on onto the 17th. And we will get out an
7 order memorializing that in the next few days, this
8 week. Because the Licensing Board, just to let you
9 know our schedules, will not be in the office next
10 week, so we need to try to take care of things this
11 week if possible, and then we can get back with you
12 the following week if anything else comes.

13 Hello, have we got someone new on?

14 MR. AMERICAN HORSE: Yes, my name is Joe
15 American Horse. Your Honor, my name is Joe American
16 Horse.

17 JUDGE YOUNG: Okay, and you're listening in
18 on the conference?

19 MR. AMERICAN HORSE: Yes, I am.

20 JUDGE YOUNG: Very well, thank you.

21 MR. FRANKEL: Your Honor, if I could take
22 a moment to let Joe know you're admonishing at the
23 beginning of this call to speak through lawyers.

24 JUDGE YOUNG: Okay, and this is Mr.
25 Frankel, or Mr?

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1 MR. FRANKEL: This is David Frankel. Joe?

2 MR. AMERICAN HORSE: Yes.

3 MR. FRANKEL: The Judge has asked those
4 people who are represented by lawyers, including
5 yourself, listen on this call but speak through
6 attorneys. If you have something that you feel you
7 need to say, since we're not able to talk, we're not
8 in the same place, then, you know, raise it if you
9 feel that it is imperative, but let's -- The Judge has
10 requested that we talk through the lawyers.

11 MR. AMERICAN HORSE: I understand that.

12 JUDGE YOUNG: That's just to make things go
13 more smoothly. We follow certain legal processes that
14 are both traditional legal processes and processes set
15 out in the NRC rules regarding adjudication, and that
16 generally makes things go more smoothly. When we're
17 all together, in Chadron, counsel and you'll be
18 together and if you need to have the lawyer say
19 something in particular, that's more easy to do in
20 that context.

21 Okay, then moving back, since we're all
22 okay on this date, I think the Board would like to
23 receive the replies early enough so that we can have
24 a chance to study them before the oral argument. And
25 your request, Mr. Ellison, for sometime next week, I

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1 think would be fine for us. Mr. Frankel, I indicated
2 earlier that we would be willing to set the same time
3 line for all petitioners.

4 MR. FRANKEL: Yes, Your Honor, that would
5 be fine for us.

6 JUDGE YOUNG: Okay, so let's say by Friday,
7 December 28? Would that work for everyone?

8 MR. ELLISON: This is Bruce Ellison, yes
9 Ma'am.

10 JUDGE YOUNG: Okay.

11 MR. FRANKEL: This is Dave Frankel, yes
12 Ma'am.

13 JUDGE YOUNG: Now in preparing those
14 replies I do encourage you both, Mr. Frankel and Mr.
15 Ellis to -- Ellison, I'm sorry. To read the orders
16 that we've issued and the case law that we cited
17 because that provides a lot of the guidelines on some
18 of the special procedures and NRC proceedings that may
19 be unlike other legal proceedings that you've been
20 involved in. And you need to be aware of those.
21 /de/; Thank you, Your Honor.

22 JUDGE YOUNG: And not just with regard to
23 the processes, but to the standards for admission of
24 contentions, the standards for standing, and so forth.

25 What the first thing that the Board is

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1 required to do is to rule on standing and
2 admissibility of contention, and I think you really do
3 need to look at that case law to get an idea of the
4 considerations that the Board will be required to
5 follow in making our ruling. Any questions on that?

6 MR. ELLISON: No, Ma'am, I do thank you for
7 your advice on that.

8 JUDGE YOUNG: Okay.

9 MR. FRANKEL: No questions here, Ma'am. I
10 do have a question separately though. This is David
11 Frankel speaking.

12 JUDGE YOUNG: Okay.

13 MR. FRANKEL: So I understand correctly,
14 Friday, December 28th, are our replies to Crow's brief
15 due? Meaning, our replies to CBR and our reply to
16 NRC, is that correct?

17 JUDGE YOUNG: That's with my thought. Now,
18 I realize we set that on a Friday, and I don't know
19 whether it would help NRC Staff counsel or Crow Butte
20 counsel that much to have it at the end of Friday. If
21 you want over the weekend we could probably add that.

22 MR. ELLISON: Until January.

23 MR. FRANKEL: That would be great, Your
24 Honor.

25 MR. ELLISON: It would be great, Your

1 Honor. To January 3rd?

2 JUDGE YOUNG: Does either Staff counsel or
3 Crow Butte counsel have any objection to that?

4 MS. JONES: Well, I believe we may be
5 running into a holiday issue. If we prolong it beyond
6 the weekend. I would, you know, prefer, Judge, if it
7 would be set on a Friday.

8 JUDGE YOUNG: So you could that --

9 MS. JONES: Exactly. It's considering that
10 I have another proceeding that I'm preparing for, it
11 would really help me a lot if I could have it set for
12 Friday, December 28th.

13 JUDGE YOUNG: But that makes a difference,
14 and certainly we'll take that into consideration as
15 well. Mr. Frankel and Mr. Ellison, would you be okay
16 then with the end of Friday?

17 MR. ELLISON: If it can't be the following
18 Monday because of other counsel's problems, I would be
19 fine with the 28th and would appreciate the additional
20 time. From tomorrow.

21 JUDGE YOUNG: And Mr. Frankel?

22 MR. FRANKEL: Yes, this is David Frankel.
23 We're happy to have it be on Friday and give Staff
24 counsel, you know, time to review it. So it works for
25 us.

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1 May I ask, Your Honor, are we expecting
2 two separate briefs, one to reply to CBR, one to reply
3 to the NRC, or would it be to anyone's convenience for
4 us to file a combined brief? We would only do that if
5 it would please the convenience of the court for us to
6 do that.

7 JUDGE YOUNG: I don't have any strong
8 preference.

9 MR. MCGUIRE: This is Mark McGuire. I
10 think it would be cleaner to do it separately.

11 MR. FRANKEL: Okay.

12 JUDGE YOUNG: Okay. Just one more issue on
13 the December 28th time line. This case does not fall
14 under the NRC's new electronic filing rule. However,
15 it's very helpful to, on the deadline date, to
16 actually file something electronically as well as
17 through the other means that have been specified in
18 our order of December 12th, I think it was the one
19 that we spelled that out in. Now we can say that
20 every time there's a deadline, it would be required to
21 be filed by close of business, say 5 o'clock Eastern
22 Time on that date, or by midnight on that date.

23 Ms. Jones, let me just ask you, since you
24 are going to be working on this apparently over that
25 weekend, would it make any difference to you, on the

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1 replies, and Mr. McGuire I will ask you the same thing
2 too, to receive them by close of business as opposed
3 to midnight?

4 MS. JONES: I would prefer close of
5 business.

6 MR. MCGUIRE: And I would as well, if I
7 may.

8 JUDGE YOUNG: Okay, then let's say close of
9 business, because that -- I want to try to take into
10 account everyone's needs here, and I think that would
11 be fair.

12 MR. ELLISON: This is Bruce Ellison. If I
13 may make a query, we are in numerous time zones. The
14 close of --

15 MR. MCGUIRE: Just about all of them.

16 (Laughter)

17 MR. ELLISON: So my question is, is it our
18 own respective end of day, 5 p.m. on Friday, or are we
19 going to set a standard time for all of us to follow?

20 JUDGE YOUNG: That would probably be good
21 to set a standard time. Let me hear suggestions.

22 MS. JONES: I would obviously prefer
23 Eastern Standard Time.

24 JUDGE YOUNG: Could you share with me, each
25 person, which time zone you are in? Because I figured

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1 maybe two others besides ours. Mr. Frankel and Mr.
2 Ellis, what times zones are you in?

3 MR. ELLISON: Your Honor this is Bruce
4 Ellison, and I believe Mr. McGuire, you are in
5 Nebraska, as I recall.

6 MR. MCGUIRE: Correct.

7 MR. ELLISON: Are you on Mountain Standard
8 Time, sir?

9 MR. MCGUIRE: Central.

10 JUDGE YOUNG: Oh, central, okay.

11 MR. ELLISON: Central. Okay. Well then we
12 do have three time zones.

13 MR. MCGUIRE: Yes.

14 MR. ELLISON: I'm on Mountain Standard
15 Time, Your Honor.

16 JUDGE YOUNG: Okay, and Mr. Frankel?

17 MR. FRANKEL: This is David Frankel, I'm
18 actually on Hawaii time.

19 (Laughter)

20 MR. MCGUIRE: Well, too bad for you.

21 MR. FRANKEL: It's raining here, if that
22 will get me any -- It's five hours earlier than
23 Eastern Time, so I have to make quite an early morning
24 to make a 5 p.m. Eastern -- I'll accept whatever is
25 good for all the parties. But even a couple extra

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1 hours on this end makes a difference to me. But
2 again, whatever works for the majority of parties is
3 workable for us.

4 JUDGE YOUNG: So you're permanently on
5 Hawaii time, you're not just there temporarily?

6 MR. FRANKEL: Right, we live -- We have a
7 raw piece of land that we're working on here and
8 living out on the land, so, you know, yes Ma'am.

9 JUDGE YOUNG: Okay, just for balancing
10 these all out, okay. Mr. Ellison is on Mountain, Mr.
11 McGuire's on Central, and Mr. Frankel is on Hawaiian.
12 Would 1 p.m. Eastern Time make that a reasonable, sort
13 of, splitting the baby --

14 MR. FRANKEL: No, Ma'am, that's 8am Hawaii
15 time.

16 JUDGE YOUNG: Oh, I'm sorry, I want to go
17 the other way. Okay. Other way. So let's say 8 p.m.
18 Eastern Time, how does that sound to the people out
19 there?

20 MR. FRANKEL: That'd be great to us, Ma'am.

21 MR. ELLISON: Which would be 6 p.m.
22 Mountain Standard Time, which would be wonderful,
23 thank you.

24 JUDGE YOUNG: Okay, and Mr. McGuire and Ms.
25 Jones, could you live with 8 p.m.?

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1 MR. MCGUIRE: Sure.

2 MS. JONES: Yes, yes I can.

3 JUDGE YOUNG: Okay, so let's set 8 p.m.
4 Eastern Time for the standard deadline whenever we set
5 a date. And that would be the deadline to have it
6 sent electronically, and then just so long as you mail
7 it that same day, or send it by delivery service or
8 whatever. Anything else?

9 MR. FRANKEL: Your Honor?

10 JUDGE YOUNG: Yes?

11 MR. FRANKEL: This is David Frankel. All
12 this is great, we can comply with all of this. One
13 thing on the follow-up mailing. I know that some of
14 us are in rural places. Will you accept our best
15 efforts for same day or immediate next day mailing?

16 JUDGE YOUNG: Any objections to that?

17 MR. MCGUIRE: No.

18 JUDGE YOUNG: Okay. Well, all right, then
19 that sounds good, I'll try to remember to incorporate
20 that in our order.

21 Okay, I think that we've addressed
22 everything on the schedule at this point. Have I left
23 anything out? Can anyone think of anything else?

24 MS. JONES: I'm sorry, Judge, I missed your
25 question.

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1 JUDGE YOUNG: On schedule, have I
2 overlooked anything? Does anyone have any other
3 issues relating to the schedule?

4 MS. JONES: Oh. No.

5 JUDGE YOUNG: Okay. All right. Moving on,
6 the next thing that I'd like to just mention with the
7 parties, participants, and that is 10 CFR
8 Section 2.316 allows for consolidation of party. And
9 for those of you who don't have it in front of you,
10 what it says is that on motion or on its or his own
11 initiative, the commission or the presiding officer --
12 we are the presiding officer in this case -- may order
13 any parties in a proceeding who have substantially the
14 same interests that may be affected by the proceeding
15 and who raise substantially the same questions, to
16 consolidate their presentation of evidence, cross
17 examination, briefs, proposed citings of fact, and
18 conclusions of law and argument.

19 We may not order any consolidation that
20 would prejudice the rights of any party. The
21 consolidation may be for all purposes of the
22 proceeding, all of the issues with respect to any one
23 or more issues.

24 We are thinking that with regard to the
25 oral argument, that it would make sense to allow for

1 separate argument by Mr. Frankel and Mr. Ellison on
2 standing, because the issues there may be slightly
3 different. But that on the contention admissibility
4 question, that it might be helpful to consolidate
5 those arguments, since from our examination it looks
6 as though the contentions of all the different parties
7 are essentially identical.

8 And I guess I would ask at this point, Mr.
9 Frankel and Mr. Ellison, do you anticipate any
10 different argument? Would it on the other hand be
11 even helpful to you to sort of divide up your
12 arguments on the six different contentions, so that
13 one of you might present the argument on three, and
14 the other on the other three, and obviously you could
15 sit together and confer with each other, but just to
16 make the arguments proceed a little bit more smoothly
17 and avoid repetition.

18 Would you have any objection, or think
19 that it would be in any way unfair to ask that you
20 consolidate your argument on the contention?

21 MR. FRANKEL: Your Honor, this is David
22 Frankel. I think it would be helpful. We would not
23 object in principle, assuming that we would not be
24 faced with loss of time. We would I think --

25 JUDGE YOUNG: I'm sorry, I didn't get the

1 last thing you said. Assuming that you would not be?

2 MR. FRANKEL: Facing a loss of time. Of
3 the number of minutes that we might be allocated to
4 argue on these issues or present, I should say. And
5 so if the court can work it out for us so that we're
6 not prejudiced in that way, we're amenable to working
7 with Mr. Ellison to allocate responsibilities and make
8 a more cohesive presentation.

9 MR. ELLISON: Your Honor this is Bruce
10 Ellison. And I would agree with Mr. Frankel. You
11 know there may be some situations on a particular
12 issue that it might be necessary for either Mr.
13 Frankel or I, depending on the other doing the
14 argument at the moment, to add something that might be
15 best by that particular counsel on behalf of a party,
16 rather than to pass a note.

17 But as a general concept, and with the
18 idea that we would clearly try and make it, certainly
19 no duplication, try and work together, I think we can.
20 Mr. Frankel and I have worked together before.

21 JUDGE YOUNG: Great, okay. I think it
22 would make things go more smoothly, and I think
23 obviously we can also be flexible in terms of if
24 anything comes up that one or the other of you wants
25 to add, that that would be permissible.

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1 Now, in this case, Mr. McGuire, I may be
2 assuming incorrectly, but nevertheless I assumed to a
3 certain extent that you have not been involved in NRC
4 proceedings like this before?

5 MR. MCGUIRE: That would be correct.

6 JUDGE YOUNG: Okay. Oftentimes it happens
7 that there is some overlap between the arguments of
8 the Staff and the Applicant.

9 MR. MCGUIRE: Right.

10 JUDGE YOUNG: And so it might be that the
11 Staff and Applicant counsel could get together and
12 discuss how you're going to present your argument as
13 well to avoid duplication and repetition of any
14 issues.

15 MR. MCGUIRE: Certainly.

16 JUDGE YOUNG: And since at this point
17 basically we have four counsel, it would seem fair to
18 allow the same amount of time to the combination of
19 the two petitioners' counsel and the combination of
20 the Staff and Applicant counsel. Does that sound fair
21 to everyone?

22 MS. JONES: Yes, that's fine, Judge.

23 JUDGE YOUNG: Okay.

24 MR. MCGUIRE: This is Mark, yes that would
25 be fine.

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1 JUDGE YOUNG: Okay.

2 MR. ELLISON: Bruce Ellison, yes, Your
3 Honor.

4 MR. FRANKEL: This is David Frankel, yes,
5 Your Honor.

6 JUDGE YOUNG: Okay. We will try before the
7 January 16th -- At some point closer to January 16h
8 we'll be issuing an order setting out the location,
9 the specific time, and so forth.

10 And we'll set out some guidelines for the
11 amount of time for each argument, just give you a
12 preview that probably the Board will have questions,
13 a fair number of questions as we go, so we wouldn't
14 hold that time against you. And my general approach,
15 I think Judge Cole, who I've worked with before, and
16 probably Judge Oliver as well, is to be flexible but
17 try to keep things moving and avoid duplication and
18 repetition.

19 Just going to make a couple notes for
20 myself.

21 Okay, the next thing on the agenda then --
22 Anything else?

23 JUDGE COLE: Just one comment. I'm looking
24 at the size of the contentions A through F.

25 JUDGE YOUNG: This is Judge Cole speaking,

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1 by the way.

2 JUDGE COLE: Certainly one or two of those
3 contentions, particularly one of them, is going to
4 require considerably more time to discuss than the
5 others, so we will take that into account when we
6 allocate time for each contention. Thanks, Judge.

7 JUDGE YOUNG: Yes. Good point. And if
8 anyone has any particular requests on that, just file
9 those as soon as possible. We'll take those into
10 account when we set that out. Yes, that's an
11 excellent point.

12 Okay, one other thing in terms of how
13 we're looking at the issues of standing and contention
14 admissibility. The petitions that have been filed,
15 unlike some other petitions that we get, information
16 that may be relevant to one contention or another or
17 to standings and the contention, is not necessarily
18 set forth under precise headings that would --

19 In other words, there may be things that
20 are relevant to standing that are found in some of the
21 contention arguments, at least in our preliminary
22 study of those documents. And so I guess we would
23 advise all parties that, that's how we are looking at
24 it, and we may have questions during oral argument on
25 issues that may come out in parts of the petition that

1 are not strictly speaking under the heading of a
2 particular contention or standing.

3 So we would like to have you be prepared
4 on that approach. Does that make sense to everyone,
5 and do you sort of follow what I'm saying here?

6 MS. JONES: Yes I do, Judge. This is
7 Andrea Jones.

8 MR. MCGUIRE: This is Mark McGuire, yes, I
9 do.

10 MR. ELLISON: Bruce Ellison yes, Your
11 Honor.

12 JUDGE YOUNG: Okay. So --

13 MR. FRANKEL: David Frankel yes, Your
14 Honor.

15 JUDGE YOUNG; So when we get to oral
16 argument, it would be helpful if, when you're making
17 your argument, to the extent that you're relying on
18 information that may be in another part of the
19 petition, or under another heading, just say on the
20 record, to the extent that you can. It would be very
21 helpful to us to have you point us to those parts,
22 those pages of the petition that are relevant.

23 And I say petition, there are a number of
24 petitions. It would also, I think, be helpful if the
25 two of you and your clients could get together and

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1 designate, not on the issue of standing, we understand
2 there are differences there, but designate one
3 document that we could sort of use as a reference
4 document in hearing your arguments. I think that
5 would be helpful as well to everyone.

6 Any comments on that?

7 MR. ELLISON: Just so I understand, Your
8 Honor, this is Bruce Ellison. This is also going to
9 be my first NRC hearing. And when you say a reference
10 document, can I understand a little bit better exactly
11 what you mean?

12 JUDGE YOUNG: All I mean is simply that we
13 have now before us, five petitions but they, except
14 for standing in some instances, the petitions look to
15 be pretty much identical. I'm not sure the page
16 numbering is exactly the same. But if you could get
17 together and say, rather than have us looking at five
18 documents, just choose one of them --

19 MR. ELLISON: I see.

20 JUDGE YOUNG: -- to refer to. So that we
21 can, you know, everyone can be agreed on which
22 document we'll refer to in argument and in any order,
23 any written filings. Does that make sense to
24 everyone?

25 MR. FRANKEL: This is David Frankel, Your

1 Honor, it does make sense. There may -- I'm not sure
2 if any one of my clients intentions includes all of
3 the others, because, you know, we have some that
4 include Native American concerns, and some don't.

5 I am able to contribute with Bruce to
6 prepare a reference document, although it may be that
7 we need to take the most complete one of the
8 petitions, and in addition to that, excerpts from the
9 others, to make sure that nothing gets left out. If
10 we can do it in the spirit of that, I would be happy
11 to, you know, work on that and submit something that
12 if it's acceptable could be used as a reference
13 document for everyone. So that we don't have these
14 kind of, you know, reference problems.

15 JUDGE YOUNG: I guess I wasn't speaking of
16 creating a new one, but the two of you and all your
17 clients getting together and choosing one of the five
18 for us to use as a reference document. And then,
19 obviously, if there's things related -- and this is
20 just on the contention, mind you, not the standing,
21 because we recognize those might be different. But it
22 just seems to us that it might be helpful to be
23 looking at one document, rather than five.

24 MR. FRANKEL: I'm going to have to look at
25 that, Your Honor, but we would like to, keeping in

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1 mind that if -- we don't want to drop anyone.

2 JUDGE YOUNG: Exactly.

3 MR. FRANKEL: Okay.

4 JUDGE YOUNG: Exactly. We don't want you
5 to drop anything out, and if you can do it by saying,
6 well we'll choose this one, and paragraphs X-Y-Z from
7 other ones.

8 It seems like that might be helpful also
9 to the Applicant and Staff to be able to do that.

10 MS. JONES: Yes, it would Judge. When do
11 you think we would be able to receive that
12 information?

13 MR. MCGUIRE: Yes, that's my question
14 exactly. To have it somewhat in advance.

15 MS. JONES: So that we're prepared.

16 MR. MCGUIRE: Yes, so that we can look at
17 the right --

18 MR. ELLISON: Can we get a sense of the
19 hearing, Mark?

20 JUDGE YOUNG: I was going to suggest that
21 you provide that with the replies.

22 MS. JONES: Okay, that would be fine. That
23 would be great.

24 MR. ELLISON: We can do that Your Honor.

25 JUDGE YOUNG: Okay, great.

1 MR. FRANKEL: This is David Frankel. We'll
2 then cite to that document in with our replies, so we
3 can all be on the same page, if that's --

4 MR. MCGUIRE: Excellent.

5 JUDGE YOUNG: That would be, that would
6 make things --

7 MR. MCGUIRE: Yes.

8 JUDGE YOUNG: Very good, thank you very
9 much. Okay, let's see. With regard to just a couple
10 other more legal issues. We wanted to just touch on
11 three things. One of the unusual things about this
12 proceeding is that unlike some other NRC adjudication
13 proceedings, in which there are often extensive rules
14 defining what the standards are for, and the sub-
15 standards for, for example granting the requested
16 license amendment, or for handling all sorts of sub-
17 issues that must be met in order obtain the requested
18 license amendment, there really aren't any regulations
19 to my knowledge, and I'll ask Staff counsel to correct
20 me if I'm wrong, but there really aren't many NRC
21 regulations that spell this out.

22 I believe it may have been Staff who
23 directed us to 10 CFR Part 40 Appendix A. Am I --

24 MS. JONES: That is correct, Judge.

25 JUDGE YOUNG: But other than that, we're

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1 not aware of any standard as would exist in some other
2 proceedings. So we wanted to just throw out, for the
3 parties to look at and be prepared to address, first,
4 standards for the grant of a license amendment.

5 Generally -- excuse me while I find my
6 rule book. 10 CFR Section 50.40 addresses the
7 standards for licenses and construction permits
8 generally. And you might want to look at that with
9 regard to the standards that we'll be required to
10 apply in this proceeding.

11 If there're any others, if maybe Staff
12 counsel could enlighten us, that might be helpful. Do
13 you know of any others that would -- There are various
14 guidance documents, we're aware of that.

15 MS. JONES: That is correct.

16 JUDGE YOUNG: However, guidance documents
17 are guidance.

18 MS. JONES: That's correct, yes.

19 JUDGE YOUNG: They are not law, and they're
20 not binding, and we can consider them persuasive, but
21 I think it would be helpful if everyone's sort of on
22 the same page in terms of the standards that are
23 governing here.

24 Ms. Jones, are you aware of any others,
25 besides that broad, the common standards for licenses

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1 and -- I think Part 50 deals with domestic licensing
2 of production and utilization facilities.

3 MS. JONES: Right. Well there's also
4 Chapter, excuse me, 10 CFR Part 51.

5 JUDGE YOUNG: Part 51.

6 MS. JONES: That deals with the
7 environmental issues under NIPA.

8 JUDGE YOUNG: Right.

9 MS. JONES: And under that particular
10 chapter, I believe 51.45, and I believe that is cited
11 in our response, where the Applicant is required to
12 comply with certain, there's certain requirements that
13 they're required to submit in their environmental
14 report. So that's another.

15 And we'll have to -- Let me confer with
16 the project manager, just to make sure I'm clear
17 before I say anything. Would that be okay?

18 JUDGE YOUNG: Sure.

19 MS. JONES: Okay, hold on a second. Okay,
20 yes Judge, I'm back.

21 JUDGE YOUNG: Okay.

22 MS. JONES: I think also to take into
23 consideration, and I believe we also mentioned this in
24 our response, but the license condition in the
25 original license would also have a bearing on these

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1 proceedings, because this is, obviously it's an
2 amendment. And so some of those conditions are also
3 going to govern.

4 JUDGE COLE: I'm sorry, could you repeat
5 that again, please?

6 MS. JONES: Some of the conditions in the
7 original license will also govern, and I believe that
8 is mentioned in our response.

9 JUDGE COLE: Okay, thank you.

10 JUDGE YOUNG: Just a question on that. I
11 assume that the application is on the NRC website. Do
12 we have a copy of the license on the website, or is --

13 MS. JONES: Yes, there is. Would you like
14 for me to get the ADAMS number?

15 JUDGE YOUNG: Yes, and also for both
16 application and licenses, that would be helpful.

17 MS. JONES: Okay, for the application and
18 the license. Okay, I can get that --

19 JUDGE YOUNG: You can provide it to us
20 afterwards if you like.

21 MS. JONES: Okay, all right. I'll do that.

22 JUDGE COLE: By an email, that would be
23 wonderful.

24 MS. JONES: Okay.

25 JUDGE COLE: Thank you.

1 MS. JONES: No problem.

2 MR. FRANKEL: Thank you.

3 MR. MCGUIRE: Thank you.

4 MS. JONES: You're welcome.

5 JUDGE YOUNG: Thank you. Anything else on
6 the general standards for granting a license amendment
7 in a case like this? Okay, then --

8 MS. JONES: That's pretty much it, as far
9 as I can see, Judge.

10 JUDGE YOUNG: All right, thank you.

11 MS. JONES: You're welcome.

12 JUDGE YOUNG: If anything else comes up, if
13 anyone becomes aware of anything else, provide it as
14 soon as possible. We're not aware of anything else.

15 Then just next, briefly, on the issue of
16 whether or not to grant the request for Subpart G,
17 proceeding as of Subpart G, the new rules became
18 effective in I think it was January or February of
19 2004. We're aware that in one case that has been
20 discussed, and that's the Vermont Yankee case, found
21 that 60 NRC 686, a 2004 decision, it's LBP-04-31, and
22 -- Is that on the NRC website? I know that most of
23 the reporters are, but not that recent. Is there an
24 ADAMS number for that?

25 MS. JONES: I'm not sure, but I could look

1 into it.

2 JUDGE YOUNG: Okay.

3 MS. JONES: It should be, Judge. But I can
4 look into it, I can provide that information as well.

5 JUDGE YOUNG: Thank you very much. And
6 then, we're not aware of anything else. If you're
7 aware of any other cases relating to that, that you
8 might provide, if you could provide those as well.

9 MS. JONES: Okay.

10 JUDGE YOUNG: Okay and then just, the final
11 issue that we wanted to mention is, on the issue of
12 discretionary standing, I'm just going to ask Ms.
13 Thibault to give you a site to a commissioner's
14 decision on discretionary standing that's clearly
15 recent, that I think all parties will want to look at
16 before the oral argument. Go ahead.

17 MS. THIBAULT: This is Johanna Thibault.
18 The ADAMS Siemaszko case, which was an enforcement
19 case that was decided in Summer of 2006, the
20 commission had an entire opinion discussing
21 discretionary standing. The cite on that is
22 63 NRC 708, and that's in 2006.

23 MR. MCGUIRE: Excuse me, this is Mark.
24 Would you say that again? Sixty-three?

25 MS. THIBAULT: Sixty-three --

1 MR. MCGUIRE: Yes.

2 MS. THIBAUT: NRC 708.

3 MR. MCGUIRE: Seven zero eight.

4 MS. THIBAUT: Yes, and it's --

5 MR. MCGUIRE: Thank you.

6 MS. THIBAUT: -- Siemaszko. S-I-E-M-A-S-Z-

7 K-O.

8 MR. MCGUIRE: I wouldn't have come close.

9 Thank you.

10 MS. THIBAUT: I just wanted to ask, if
11 anybody, if any of the parties, since this is your
12 first NRC case, have trouble finding these documents
13 online, please let us know. I've been trying to make
14 sure everyone can find them, and -- Once you get use
15 to the system, it can be relatively easy to, but if
16 you're having trouble, please let me know.

17 MR. MCGUIRE: Okay, thank you.

18 JUDGE YOUNG: Okay, that's the end of our
19 list for today's agenda. Do any of you have any other
20 issues that you'd like to raise?

21 MS. JONES: There is one thing that I would
22 like to, I'd just like to mention.

23 JUDGE YOUNG: This is Ms. Jones?

24 MS. JONES: Yes. Judge, we received -- and
25 there's been a lot of emails, so forgive me if I

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1 missed it, but we just received a notice of appearance
2 from Mr. Ellis, but I believe that it only was for
3 Owe Aku, but Mr. Ellis tells us today that he's also
4 entering an appearance for Ms. Debra White Plume or
5 Plume White, and so I didn't see that notice, that
6 written notice of appearance.

7 MR. ELLISON: And you know, that would be
8 correct, because I really was not aware until this
9 call that Ms. White Plume was filing as an individual
10 as well.

11 MS. JONES: Okay.

12 MR. ELLISON: And if I may be permitted by
13 the parties to either file an amended or a separate
14 request to represent Ms. White Plume separately, I
15 would be happy to do that.

16 JUDGE YOUNG: I think that would be good,
17 and also Mr. Frankel, when -- I don't know, we haven't
18 looked at your notice of appearance, but if you have
19 not addressed your representation of Mr. Cook, could
20 you in addition file any new notice of appearance that
21 you might need to, to define who all you represent?

22 MR. FRANKEL: It's already done, you're
23 honor.

24 JUDGE YOUNG: Thank you.

25 MR. ELLISON: Your Honor this is Bruce

1 Ellison again. Would it be all right if I just simply
2 filed an amended one? I mean, I could do either way -
3 -

4 JUDGE YOUNG: Sure.

5 MR. ELLISON: -- because the -- and then
6 combine both of them together.

7 JUDGE YOUNG: Sure, that's fine.

8 MR. ELLISON: Because the address and other
9 information regarding Ms. White Plume and Owe Aku
10 would be the same.

11 JUDGE YOUNG: That's fine. Any other
12 issues that anybody would like to take up while we're
13 all together on the phone?

14 MR. FRANKEL: Yes, Your Honor this is David
15 Frankel. We, in reading the NRC's response, and I
16 have -- I notice some questions also in the
17 Applicant's response, that request specific names and
18 addresses of individuals and things like that. We're
19 collecting that information. I just want to make sure
20 that we have the court's permission to submit those
21 affidavits and supplemental information with our
22 reply, and that it won't be viewed as any form of
23 abuse of the process that we have. We're trying to
24 respond fully, and we don't want to be under confusion
25 that that's not the court's expectation.

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1 JUDGE YOUNG: Let me just ask Ms. Jones and
2 Mr. McGuire if you have any objection to that. Also
3 there's a recent case in which I was involved, in
4 which we addressed the issue of curing any defects in
5 standing, and I think that was the Sheron Harris case.
6 I think that's the case it was. In any event, Ms.
7 Jones, do you have any objection to that?

8 MS. JONES: Can he restate that? Exactly
9 what is he proposing? I'm sorry.

10 JUDGE YOUNG: Filing an affidavit. Go
11 ahead, Mr. Ellison.

12 MR. ELLISON: No, it's Mr. Frankel.

13 JUDGE YOUNG: Mr. Frankel, I'm sorry.

14 MR. FRANKEL: You have it right, Judge.
15 Filing affidavits that provide the specific names and
16 addresses that were asked for in the NRC's response
17 and I believe also in the Applicant's response.

18 MS. JONES: Do you mean for the individuals
19 that you're going to, you're offering to establish
20 standing, is that what you're referring to?

21 MR. FRANKEL: Individuals that in my case
22 are involved with Western Nebraska Resources Council,
23 that, you know, what can I say, they live there,
24 they're part of Western Nebraska Resources Council,
25 but you don't know their names and addresses because

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1 we didn't provide them in the petition.

2 MS. JONES: I have no problem with that.

3 MR. MCGUIRE: If it's just identification -

4 -

5 MS. JONES: Yes, if it's just --

6 MR. MCGUIRE: I'm sorry, Ms. Jones, I
7 didn't mean to cut you off there.

8 MS. JONES: No, go ahead, go ahead.

9 MR. MCGUIRE: Yes, if it's just identifying
10 that Joe Smith lives in such and such place, that's
11 fine. If it goes beyond that, argumentative or
12 alleging damages or whatever, then I would have a
13 problem with that.

14 MS. JONES: Yes.

15 MR. FRANKEL: I don't envision that it
16 would be argumentative. It would be plain statements
17 that, you know, Jane and John Smith's address, that
18 they lived at that address for such and such time,
19 that they, you know, drink the water there, breathe
20 the air there, just those basic facts that they're,
21 you know, asserting as being part of this membership
22 organization, Western Nebraska Resources Council.

23 MR. MCGUIRE: If it's just they live there
24 and they drink the water, fine. If they're
25 characterizing the water then I'd have a problem. If

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1 that's a good way to sum my position.

2 JUDGE YOUNG: Go ahead and file whatever
3 you're going to file, and then if you want, we can set
4 a deadline for further objections to that -- Ms.
5 Jones, go ahead?

6 MS. JONES: I'm sorry, Judge, I didn't mean
7 to interrupt. I was going to suggest that. It's
8 difficult for me to respond to it without seeing it.
9 And I would prefer to have an opportunity to examine
10 it.

11 JUDGE YOUNG: How soon can you file those,
12 Mr. Frankel. And Mr. Ellison, did you want to file
13 some as well?

14 MR. ELLISON: Yes, we may very well, if we
15 may. And could we have until, say, the same briefing
16 date?

17 JUDGE YOUNG: December 28th?

18 MR. ELLISON: Yes, Ma'am.

19 JUDGE YOUNG: And then any response to
20 those by Ms. Jones and Mr. McGuire, a week after that?
21 Which would be January 4th.

22 MR. MCGUIRE: Sure.

23 MS. JONES: That's fine.

24 MR. MCGUIRE: That's fine.

25 JUDGE YOUNG: And in the meantime, I will

1 try to find -- I think it was the Susquehanna --

2 MS. JONES: Yes.

3 JUDGE YOUNG: -- License Renewal proceeding
4 in which we discussed briefly hearing defects and
5 standings. In any event, if that is correct, I'll
6 provide that citation in our order following up on
7 this telephone conference. For all parties' benefit.

8 Any other matters that anyone wants to
9 raise at this point?

10 Hearing only silence, I'm going to assume
11 not.

12 MS. JONES: Oh, I'm sorry, excuse me,
13 Judge. I'm sorry, I didn't mean to interrupt. I did
14 have one last item.

15 JUDGE YOUNG: Okay.

16 MS. JONES: We talked about consolidation.

17 JUDGE YOUNG: Right.

18 MS. JONES: I don't think I got the follow-
19 up to that.

20 JUDGE YOUNG: Oh, okay. I guess it would
21 be, it might be good to set a time to have all the
22 petitioners on the one hand and the NRC Staff on the
23 other, to indicate which things you think would be
24 appropriate for consolidated argument on, and which
25 things you think would not be appropriate.

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1 MS. JONES: Okay.

2 JUDGE YOUNG: And it would be helpful to
3 have that probably in the near future, so that --
4 Probably sometime next week, I guess, maybe December
5 28th, for everyone? Is that a good time for everyone?

6 MR. FRANKEL: Yes, Your Honor.

7 MR. MCGUIRE: Sure.

8 MR. ELLISON: Yes.

9 MS. JONES: Yes, that's fine.

10 MR. FRANKEL: Your Honor, David Frankel
11 here. So that I understand correctly, this is along
12 the general lines that you outlined concerning having,
13 not consolidating on the standing issues, but
14 consolidating on the contentions so that we were not
15 duplicative.

16 JUDGE YOUNG: Right.

17 MR. MCGUIRE: Correct.

18 MS. JONES: Okay.

19 JUDGE YOUNG: Okay, and if you'd rather
20 have early the next week, that'd be fine too, but just
21 in time for us to take those into consideration and
22 setting out the time lines for arguments and so forth.
23 So unless anyone says anything different, we'll just
24 say December 28th for that.

25 Okay, anything else?

1 Well, we appreciate all of your
2 participation here today. And as I say we're going to
3 try to get an order out, just confirming the things
4 we've discussed today, by the end of this week.

5 We will not be available next week. When
6 I say we, I mean the Licensing Board. And so if you
7 need to raise anything, you'll probably need to raise
8 it the beginning of the following week. Or actually
9 the middle of the following week. I think we're going
10 to be getting back into the office on January 3rd.

11 So if there's nothing else, thank you all.
12 And before we hang up, Court Reporter, do you need
13 anything? Any further spellings?

14 /cr/: Only, you mentioned a Hanna Harrison case, or
15 Heron Harrison.

16 JUDGE YOUNG: Oh, Sheron --

17 /cr/: Sheron.

18 JUDGE YOUNG: Harris.

19 /cr/: Harris.

20 JUDGE YOUNG: I said Susquehanna the last
21 time, it was Sheron Harris I think meant to say.

22 /cr/: Sheron Harris, okay.

23 JUDGE YOUNG: They both started with an S.
24 S-H-E-A-R-O-N H-A-R-R-I-S, and in my order I'll
25 provide the cite to that.

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1 /cr/: Okay, thank you.

2 MR. MCGUIRE: Judge, this is really
3 dropping to the mundane. This is Mark McGuire. If
4 you wind up with hitting a conflict with the Dawes
5 County District Court courtroom, or is scheduled, I
6 would tell you that at Chadron State College, it's
7 located there in Chadron, they have a student center
8 that has really good rooms for hearings. We had one
9 out there on a legislative issue this Summer, and I
10 just alerted you to that so there is a alternative in
11 case the courtroom's full out there.

12 JUDGE YOUNG: Thank you, we appreciate that
13 very much. And in my opinion, we can't get too
14 mundane if it helps us move things along more
15 effectively. So --

16 MR. FRANKEL: Your Honor, this is David
17 Frankel, might I just, since I'm not in the same room
18 with my clients that are on the phone, can I just ask
19 them if they felt that there was anything that was not
20 covered. I'm just asking Tom Cook, Buffalo Bruce, and
21 Joe American Horse. Gentlemen, is there anything that
22 you feel I should address that has not been addressed?

23 MR. COOK: No, I think everything's been
24 covered.

25 MR. BRUCE: This is Bruce, I'm comfortable.

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1 MR. AMERICAN HORSE: Joe American Horse,
2 I'm agreeable.

3 JUDGE YOUNG: Okay.

4 MR. FRANKEL: Thank you, everyone.

5 JUDGE YOUNG: Thank you all.

6 MS. JONES: Thank you, Judge.

7 (Whereupon at 3:02 p.m. the
8 proceeding in the above-
9 entitled matter was adjourned.)

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CERTIFICATE

This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of:

Name of Proceeding: Crow Butte Resources, Inc.

Docket Number: 40-8943

Location: Teleconference

were held as herein appears, and that this is the
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States Nuclear Regulatory Commission taken by me and,
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direction of the court reporting company, and that the
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