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1 APPEARANCES:

2 On Behalf of South Texas Project Nuclear Operating
3 Company:

4 STEVEN P. FRANTZ, ESQ.

5 STEPHEN J. BURDICK, ESQ.

6 ALVIN H. GUTTERMAN, ESQ.

7 of: Morgan, Lewis & Bockius LLP

8 1111 Pennsylvania Avenue, N.W.

9 Washington, DC 20004

10 202-739-5460

11

12 On Behalf of the Intervenors:

13 ROBERT V. EYE, ESQ.

14 of: Kauffman & Eye

15 112 SW 6th Avenue

16 Suite 202

17 Topeka, KS 66603

18 785-234-4040

19

20

21

22

23

24

25

1 APPEARANCES (CONT.)

2 On Behalf of the Nuclear Regulatory Commission:

3 MICHAEL SPENCER, ESQ.

4 JESSICA BIELECKI, ESQ.

5 SARA KIRKWOOD, ESQ.

6 of: Office of the General Counsel

7 Mail Stop - O-15 D21

8 U.S. Nuclear Regulatory Commission

9 Washington, D.C. 20555-0001

10 301-415-4073 (Michael Spencer)

11

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P R O C E E D I N G S

(11:06:20 a.m.)

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3 CHAIR GIBSON: Well, I believe we have all
4 counsel present on the line. Judge Charbeneau is
5 joining us by phone, as well, and Judge Arnold is here
6 with me in Rockville.

7 I have -- we have had a chance to look
8 over the proposals that you all have made to the
9 Scheduling Order. I think, for the most part, they
10 are improvements on the original order, and I
11 appreciate your suggestions.

12 I have a couple of things that I would
13 like to discuss with you all today. Let me just tell
14 you what I would like to do. Once we have, basically,
15 hopefully, nailed out the specific terms of this
16 Scheduling Order, I'm going to ask you all to be in
17 contact with Erica here, because we need to get this
18 issued tomorrow. Unless there's some compelling
19 reason we can't do so, I would like to get this out
20 tomorrow. And I don't think we'll have too much
21 difficulty doing that.

22 The first change you all proposed was on
23 page 3 at Footnote 12, and I think we're all -- that's
24 fine to add that language to that footnote. On page
25 3, Footnote 14, I think we're also okay with the

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1 addition of that language to that footnote. I'm
2 sorry. That's actually an addition to the text in
3 both cases. It's near Footnote 12, I guess, is what
4 it is, and near Footnote 14.

5 On page 3, shortly after Roman Numeral II,
6 you all wanted to add that language about "consistent
7 with 10 CFR 2.306(a). I think that's an improvement,
8 and that's fine. With respect to, on page 3, you all
9 want to add the language about "letter from Alvin
10 Gutterman." That's fine. The only thing I would
11 suggest is, you all could make one more pass at the
12 language that you've used there, so that we have
13 consistency. You may want to make sure that we've got
14 the appropriate naming convention.

15 You used the term "joint agreement".
16 Sometimes, it refers to joint agreement of the
17 parties, sometimes it says an agreement of the parties
18 regarding mandatory disclosures. Wherever it's put in
19 first, we probably ought to have joint agreement, and
20 then use it throughout, thereafter. I didn't try to
21 figure out exactly where that would start, but if you
22 all would do that, I'd appreciate it.

23 On page 4, we're okay with the addition of
24 that, "and the joint agreement of the parties on
25 document disclosures". That's fine, subject to my

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1 comment about naming conventions.

2 I want to talk a little bit about the --
3 on page 4, the discussion about the privilege log,
4 and the language that you have proposed that we strike
5 there. I understand that what you're seeking here --
6 what you all have agreed on is that instead of
7 substantiating the privilege claim, you will simply
8 identify the privileged documents. And having been
9 where you all are, it seemed to me that we might end
10 up having more challenges than we would otherwise, if
11 we don't substantiate them. And I'll tell you what my
12 thinking is.

13 You know, you all have an obligation, if
14 you're not the producing party, you all have an
15 obligation to make sure that all non-privileged
16 documents are produced. And if you don't have enough
17 information to know that, I'm concerned that instead
18 of having less privilege claims, we'll end up having
19 more. And I -- so, I question whether it makes sense
20 to do this by simply identifying the documents,
21 instead of creating a privilege log, and listing the
22 substantiation for the privilege claim.

23 MR. FRANTZ: Judge Gibson, this is Steve
24 Frantz. I think it was the intent of the parties not
25 to provide any listing at all of the documents which

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1 are subject to the attorney/client privilege, or the
2 work product privilege.

3 CHAIR GIBSON: Okay.

4 MR. FRANTZ: So, since we don't even need
5 to identify the documents, we wouldn't have to, of
6 course, justify why they fall within those privileges.

7 CHAIR GIBSON: So, would there be a
8 privilege log?

9 MR. FRANTZ: No, with the exception of
10 proprietary documents, SUNSI documents, and similar
11 other types of documents, which are protected, but
12 don't fall within the attorney/client, or work product
13 privilege.

14 CHAIR GIBSON: And if you did that, they
15 would -- you would have the substantiation for what
16 the basis for the privilege claim was?

17 MR. FRANTZ: For the proprietary,
18 typically, we would just identify in a very summary
19 fashion the basis for the proprietary status.

20 CHAIR GIBSON: Okay. But you would,
21 actually, substantiate the basis for the claim by
22 listing whether it was trade secret, or whatever it
23 was. Is that correct?

24 MR. FRANTZ: Right now, we have produced
25 to the Intervenors and to the NRC Staff is a little

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1 bit more conclusory than that, but we could make it
2 more detailed, if that's the desire of the Board. For
3 example, right now, our proprietary log simply
4 identifies, for example, Bechtel proprietary
5 information, or Westinghouse proprietary information,
6 but we can be more detailed, if that's desired by the
7 Board.

8 CHAIR GIBSON: Well, you know, this -- you
9 all are grownups, and you all have competent counsel,
10 so I'm not trying to require you all to do something
11 that you all can agree doesn't need to be done.

12 My concern, frankly, is less with that,
13 and more with the lack of substantiation that might
14 give rise to a claim that, without that additional
15 information, you were going to -- there would end up
16 being disputes.

17 Now that I understand better what you all
18 are envisioning here, I can't speak for Judge Arnold,
19 Judge Charbeneau, but, personally, I'm comfortable
20 with that notion, that attorney/client, attorney work
21 product documents do not need to be listed and
22 identified, provided that's acceptable to Mr. Eye. I
23 think that's fine.

24 With respect to the specific -- the level
25 of specificity of why a particular document is SUNSI,

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1 or trade secret, or something, I was more concerned
2 with the -- I was under the impression, I guess, that
3 that was not going to be listed. Now that I
4 understand that, the level of specificity you're
5 talking about is certainly, I think, acceptable to us.
6 Again, I haven't had a chance to talk with Judge
7 Arnold or Judge Charbeneau about that, but I suspect
8 they're probably going to be okay with that. But, I
9 just didn't understand, I guess, what your agreement
10 was when I read this. I thought it was something
11 different.

12 MR. FRANTZ: Judge Gibson, this is Steve
13 Frantz. Also, with respect to the proprietary logs,
14 we're, obviously, willing to provide those to the
15 Intervenors and the NRC Staff, if the Intervenors
16 decide that they want to expand the scope of the
17 existing Protective Order and Non-Disclosure
18 Agreements, which we assume would be pretty easy to
19 do.

20 CHAIR GIBSON: Right. And in light of the
21 fact that there is a Protective Order in place that
22 addresses those issues, again, that, I think, obviates
23 some of the disputes that I think we might otherwise
24 have.

25 Mr. Eye, unless -- if this all sounds fine

1 to you, it sounds like it probably is, you've already
2 agreed to it, I think we'll probably accept the
3 agreement.

4 MR. EYE: Yes, this is Bob Eye. Judge
5 Gibson, I think it is. It was never our intention to
6 try to dislodge legitimately privileged work product,
7 and attorney/client documentation. And to the extent
8 that a designation of a document on the privilege log
9 raises a question, I think that we've got a
10 sufficiently good working relationship that I can call
11 Steve, or communicate with either Steve or his co-
12 counsel, and delve into it further, as need would
13 require. So, I think that what we've worked out in
14 the main should satisfy everybody's needs. And when
15 those special circumstances come up, we'll deal with
16 them, as such.

17 CHAIR GIBSON: Okay.

18 MR. SPENCER: This is Michael Spencer for
19 the NRC Staff.

20 CHAIR GIBSON: Yes.

21 MR. SPENCER: I just wanted to point out
22 that although the draft order talked about
23 attorney/client, or attorney work product privileges,
24 that -- the joint agreement wasn't limited to only
25 those privileges. And there are, in fact, other

1 privileges that the NRC Staff could assert.

2 CHAIR GIBSON: Okay. Deliberative
3 privilege, things like that?

4 MR. SPENCER: Yes, that's one of them.
5 Yes.

6 CHAIR GIBSON: Okay. All right. That's
7 fine. Well, again, I'm -- I think we're fine with
8 that. Unless Judge Arnold, or Judge Charbeneau feels
9 contrary, I think we can accept your agreement on
10 those terms then.

11 Now, I think the proposed language at the
12 beginning on page 4 under "Scope of Disclosures in
13 Hearing File", I think that should be okay to add that
14 language, that lead-in sentence, because I think we
15 are okay with a joint agreement. So, that should be
16 fine.

17 And at the beginning of Footnote 22, I
18 think that's a conforming agreement. It should also
19 be fine. At the top of page 5, adding "or its
20 contractors", I think that was a good suggestion, and
21 I think that should also be fine.

22 On pages 5 and 6, you all have changed --
23 want to change "Electronically stored information",
24 to "electronic documents". And it appears to me from
25 reading this that what you're really seeking to do is

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1 to produce documents in a searchable format, but
2 without the metadata. Is that correct?

3 MR. FRANTZ: Yes, this is Steve Frantz.
4 That's correct, Judge Gibson. In particular, the
5 joint agreement among the parties states that we could
6 produce documents in the PDF format. And, to the
7 extent we can, to make that a searchable PDF format.

8 CHAIR GIBSON: Okay. Well, I think it
9 should -- I think the concept you've gotten to here is
10 one that I think we can certainly accept. It is
11 difficult for me to see how metadata would be material
12 in this kind of adjudication. I have -- in my past
13 lives, I have been involved in trade secret
14 litigation, and in securities fraud litigation, toxic
15 torts, and things like that, where the metadata can
16 end up being extremely important. But for this kind
17 of adjudication, it's difficult for me to see how the
18 metadata would really be material. And I think the
19 deletion of it should be fine.

20 The one thing I'm curious about, though,
21 is, would it be possible to leave the document the way
22 it is, and to simply make an explicit statement that
23 the parties have agreed that metadata will not be
24 produced, or to say all electronically stored
25 information, other than metadata, will be produced, or

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1 something like that?

2 MR. FRANTZ: This is Steve Frantz. That
3 would be acceptable to the Applicants.

4 CHAIR GIBSON: Okay. NRC?

5 MR. SPENCER: Can you give us a second?

6 CHAIR GIBSON: Yes, I'll be glad to. Mr.
7 Eye, I assume that would be okay with you?

8 MR. EYE: It seems to be consistent with
9 what we've been working with.

10 CHAIR GIBSON: Yes.

11 MR. FRANTZ: And, Judge Gibson, just so
12 we're clear, on page 6, I think we would still like to
13 delete Paragraph B on the format of production, so
14 that we can produce documents in the PDF format.

15 CHAIR GIBSON: Yes. That's fine. That's
16 absolutely fine. I understand your purpose. As long
17 as they're searchable, that's the main thing.

18 MR. SPENCER: Your Honor, this is Michael
19 Spencer, NRC Staff. Did you say that you wanted the
20 parties to produce the documents in their original
21 form?

22 CHAIR GIBSON: No. No. I'm sorry. We
23 didn't get to that paragraph, which is B, but Mr.
24 Frantz just pointed out that they would still like to
25 get that paragraph stricken. And I understand that,

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1 because you all want to be producing these documents
2 in Adobe, rather than in Word, or something. And
3 that's fine. I understand how it's easier to strip
4 out the metadata, and all, that's fine. But I'm just
5 -- it just seems -- I, frankly, don't know if there
6 are some kind of electronic documents that are not
7 metadata, electronically stored information that's not
8 metadata, but it just seemed to me that rather than
9 creating a new term, we could simply say except for
10 metadata.

11 MR. SPENCER: Your Honor, this is the NRC
12 Staff, Michael Spencer. That's fine with us.

13 CHAIR GIBSON: Okay. Okay. Well, then,
14 again, if you all would work with Erica this
15 afternoon, get that specific language down so that we
16 can get something out tomorrow, I'd appreciate it.

17 On page 7, the Monthly Status Reports, I
18 would like to keep those Monthly Status Reports. I
19 think the Board believes that's a good thing. If it
20 turns out there are no developments that happen in
21 that month, you can simply say in the Monthly Status
22 Report that there are no new developments. That's
23 fine.

24 On page 8, you all have wanted to keep the
25 30-day limit, but to extend it to 40 days, for the

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1 Draft EIS and the Final EIS to assert environmental
2 contentions. I'm curious about what the reason would
3 be for needing an additional 10 days, because it is my
4 understanding that the Intervenors are going to be
5 tracking new issues as this process goes. And, unless
6 there's -- there could be something new in a Draft
7 EIS, or a Final EIS, that has not already been
8 surfaced, but I would, at least, anticipate that
9 through the RAI process and all, that you all would
10 have already been aware of those -- any new issues.

11 Now, I realize 10 days may not sound like
12 a big deal, but I'm actually thinking about the Board,
13 and not you guys. Because we could -- whatever days
14 we're allotted is going to be pretty tight. And I'm,
15 obviously, concerned that even 10 days can add to the
16 burdens that we have in trying to get everything
17 accomplished to get ready for a Subpart L proceeding.
18 So, I'm just curious, is the 10 days that important,
19 or can you all just leave it at 30 for everything?

20 MR. EYE: Judge Gibson, this is Bob Eye.
21 That was my proposal, and it was to -- it was in
22 anticipation of the DEIS having something in it that
23 we did not anticipate. And giving us an opportunity
24 to comb through that in as comprehensive way as
25 possible. And that was the only thing that motivated

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1 that proposal, Judge, was just the recognition that
2 the DEIS will be a fairly extensive document, that to
3 the extent that we can have that additional time to
4 make sure that we're comfortable with it, and develop
5 whatever contentions that need to be done, as a result
6 of the DEIS, that would give us that time to
7 accomplish that task. Recognize, it's kind of like
8 squeezing the balloon. When you create additional
9 time for us, it may impinge on time that others have,
10 particularly, in this case, the Board, and the Board
11 staff, and so forth, but, nevertheless, it was in
12 anticipation of the DEIS having, potentially, new
13 issues.

14 CHAIR GIBSON: How would it be if we added
15 the -- if we gave you the 40 days after the DEIS, but
16 not after the FEIS? Would that be okay?

17 MR. EYE: I think it probably would be,
18 inasmuch as if something is going to fall out, it's
19 probably going to be out of the -- I'm sorry, this is
20 Bob Eye.

21 CHAIR GIBSON: Yes.

22 MR. EYE: If it's going to fall out, it's
23 going to be out of the DEIS, rather, presumably, than
24 the FEIS.

25 CHAIR GIBSON: Okay. Well, I assume that

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1 neither the Staff, nor the Applicant, would have any
2 trouble with going back to 30 days after the FEIS.

3 MR. FRANTZ: That's correct. That's
4 satisfactory to the Intervenors.

5 CHAIR GIBSON: Okay. I thought -- okay.
6 Staff?

7 MR. SPENCER: This is Michael Spencer of
8 the Staff. We would be okay with that.

9 CHAIR GIBSON: Okay. Fine. Okay. Well,
10 then what we'll do is, we will give you 40 days
11 instead of 30 days after the DEIS, but not after the
12 FEIS. And, again, if you all will make those changes
13 with Erica, I'd appreciate it, get that done.

14 Okay. On page -- can you hold on just one
15 second, please. Okay. What I think we'll do is,
16 we'll go ahead and redo this draft, and then Erica
17 will get that out to you shortly after this call. And
18 we should be able to -- I don't think there's going to
19 be very many changes. But if you all would just be
20 sure and be -- have a heightened sensitivity to the
21 need to get this turned around so we can issue it
22 tomorrow, I'd appreciate it.

23 MR. FRANTZ: Judge Gibson, this is Steve
24 Frantz. We're going to be probably on an airplane
25 mid-afternoon.

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1 CHAIR GIBSON: Okay.

2 MR. FRANTZ: So, if we can get that
3 before, say 2:00, that would be helpful. If not, what
4 we can try to do is get access to it tonight when we
5 get back to our hotels.

6 CHAIR GIBSON: Okay. I think that's fine.
7 I think we've really gotten the agreement. I think
8 Erica will be able to put it in those terms, but
9 that's fine. I mean, as long as we get it out
10 tomorrow, that's the main thing. You all can get any
11 comments like tonight, then she can see them when she
12 gets here tomorrow. And I think we'll probably be in
13 good shape. Okay?

14 All right. Let's go to page 14. You are
15 suggesting that we eliminate the language, "whichever
16 is last to occur". And I think looking at that, and
17 at your footnote, it suggests to me that, you know, we
18 could end up in a situation where we have two separate
19 trials. And from an efficiency standpoint, I think it
20 is much more efficient if we can do this in one trial,
21 and not two.

22 What I would think I would like to propose
23 is this, let me just say, I hear you with respect to
24 your desire to insert this language. What I would
25 like to do is not to eliminate that language. What I

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1 would like to do, instead, is to let you know that our
2 intention will be to have one trial as soon as we can
3 have it. And if it turns out that we have no safety
4 contentions after the EIS is issued, and we can go
5 ahead and set the case for trial with the
6 environmental contentions, but we may asterisk it so
7 that in the event some safety contentions are raised
8 when the ACRS is completed, then we may postpone that
9 trial, and allow the safety contentions to go forward,
10 or we may not. But I would prefer not to have even
11 the implication that we're okay with having two
12 trials. I think it would be our strong preference to
13 do this once. It's much more efficient for all
14 parties concerned, and there is nothing that will
15 prevent us from doing this after the EIS is issued,
16 having, at least, a tentative trial date. And if no
17 safety issues are raised, we can go forward with it at
18 that time. Would that be acceptable to you all?

19 MR. EYE: This is Bob Eye. That's fine.

20 MR. FRANTZ: This is Steve Frantz. That's
21 fine with us. However, I would like to retain the one
22 addition that we made to Footnote 40, saying that if
23 there's a substantial gap between the SCR and the EIS,
24 and we have both safety and environmental contentions,
25 then there might be a real advantage to having

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1 separate hearings.

2 CHAIR GIBSON: Well, there certainly
3 might, but I think that's actually contemplated by
4 what I just said. I just -- my issue really is, I
5 don't want to get -- I want us to proceed on the basic
6 assumption that we're going to have one trial. If
7 there are substantial -- if there is a substantial
8 gap, certainly, we could go forward with that. I don't
9 think that adding that language, though, is essential.
10 And, if anything, I think it sort of suggests that we
11 might be open to it. I think we really -- I want you
12 to understand, we really want to do this one time, and
13 not two times.

14 MR. SPENCER: This is Michael Spencer for
15 the NRC Staff, and we're fine with the Board's
16 resolutions.

17 CHAIR GIBSON: Okay. Likewise, on the --
18 you've suggested adding some language that if the
19 contentions are based on information contained in the
20 document that defines the trigger gate, the Board may
21 adjust the schedule, as appropriate. I think that,
22 frankly, we have that power to adjust the schedule.
23 I don't think that there's anything about that
24 sentence that adds in any way to our power. If
25 anything, it might take away from it, under -- if you

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1 looked at this under an expressio unius kind of
2 analysis. I think it's better for us just to leave it
3 the way it is. I don't think we need to add that
4 note.

5 On page 17, you've suggested the deletion
6 of the language, "even if", in Paragraph 2.
7 Exception, I think the Board can live with that, but
8 if you are not going to attach ADAMS documents to a
9 filing, I want to make certain, and I know that Judge
10 Charbeneau and Judge Arnold share my concern, I want
11 to make certain that you identify the document by its
12 ML number, and the specific page or pages of the
13 document that you want us to see, that you believe
14 supports your claim. And, to be very precise in that
15 regard.

16 Again, I'm sure you all can appreciate, we
17 are going to be under the COL time line, proposed time
18 line. We're going to be under a great deal of
19 pressure to try to get a lot of stuff done in a short
20 amount of time. And I don't want us, or, frankly,
21 anyone else to be given a recitation to a massive
22 document, and we're supposed to go fish for some
23 isolated sentence in the lengthy document. So, if you
24 all can abide by the notion of identifying the
25 document by ML number, and the specific page or pages

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1 that you want us to see, and be precise about that,
2 then we'll be okay with taking out "even if".

3 MR. EYE: Judge Gibson, this is Bob Eye.

4 CHAIR GIBSON: Yes.

5 MR. EYE: Would -- I think it might be a
6 good idea, then, to -- it seems like what you're
7 contemplating is in that paragraph, because it does
8 say that it's supposed to cite the specific page or
9 section. Is there anything else in that paragraph
10 that we should add to carry out what you were
11 expressing a moment ago?

12 CHAIR GIBSON: I don't think so.

13 MR. EYE: Okay. It didn't seem like it,
14 but I wanted to make sure.

15 CHAIR GIBSON: No, I don't think so. I
16 just wanted to make sure that you all hear us.

17 MR. EYE: Right.

18 CHAIR GIBSON: I don't want recitation to
19 a massive document. I want to make sure that you all
20 are very precise, and we don't have to go fish.

21 MR. EYE: Right. Yes, you shouldn't have
22 to. That's for sure.

23 CHAIR GIBSON: Are the rest of you all
24 okay with that?

25 MR. FRANTZ: This is Steve Frantz. That's

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1 acceptable to the Applicants.

2 CHAIR GIBSON: Okay.

3 MR. SPENCER: This is Michael Spencer, NRC
4 Staff. We accept that.

5 CHAIR GIBSON: Okay. Now, with respect to
6 page 18, you've suggested that the electronic filing
7 system cannot accommodate a very large filing. I have
8 to tell you that we did a little bit of research in
9 that regard, and we have a different understanding.
10 And what I would like to suggest is that we not change
11 the provision, as it's drafted. And if we get into
12 this, and we have any trouble, we can address it
13 later, at least on an ad hoc basis. And even on a
14 global basis, if it turns out that we do have a
15 problem. But my understanding is that the system is
16 designed to accommodate very large filings.

17 MR. FRANTZ: Judge Gibson, this is Steve
18 Frantz. Our concern was not the ability to
19 accommodate large documents, our concern was more on
20 the format of the documents, that in many cases these
21 documents are not in the format that is ideal for the
22 electronic filing system. We can make our pleadings
23 conform to the EIE filing requirements, but some of
24 these attachments may not. And we were concerned that
25 if you then try to have one single file with the

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1 pleading, plus the attachment, that you may convert
2 our pleading into a format that's not acceptable to
3 the e-Filing system.:

4 CHAIR GIBSON: Okay. NRC Staff?

5 MR. SPENCER: I think that there may be --
6 I think I agree with Steve, that there may be some
7 document formats that don't, necessarily, transmit
8 well over the EIE.

9 CHAIR GIBSON: Okay. Well, I guess what
10 I would like to do is, if you're going -- I mean, how
11 often are we talking about this happening? Is it
12 going to be for every pleading, or is it going to be
13 something that happens twice during the course of this
14 proceeding?

15 MR. FRANTZ: This is Steve Frantz.
16 Looking back at what we've filed already, I know we
17 have made several filings already that we'd had
18 problems with. For example, whenever we submit a
19 document that's been prepared by our clients, and they
20 file that with the NRC, and we attach that to a
21 pleading or a letter, the document we get from our
22 clients is not, necessarily, -- does not, necessarily,
23 meet all the requirements for the e-Filing system,
24 even though it meets the EIE filing system for the NRC
25 Staff. And that's the problems we've been having,

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1 we've been getting notices back from the NRC saying
2 that our filing doesn't conform with the e-Filing
3 system.

4 CHAIR GIBSON: So, it sounds like it's
5 something that's happened already, so you're
6 anticipating it's going to happen more.

7 MR. FRANTZ: That's correct.

8 CHAIR GIBSON: Do you -- have you been
9 given any explanation for why that is the case? Has
10 EIE been modified, or is it being -- is it intended to
11 be modified in some way, that it's going to allow that
12 to happen?

13 MR. FRANTZ: I don't know. I think some of
14 these documents may be just copies, basically, more or
15 less photocopies, turned into a PDF format that may
16 not be, for example, word searchable.

17 CHAIR GIBSON: Okay. All right. Well,
18 this is what let's do. I guess we can leave it the
19 way it is right now. I am -- frankly, because we've
20 got to get this order out tomorrow, we'll do it. And
21 if we need to, I'd like to do a little bit of
22 investigation about that. And, frankly, if you could
23 document for me in some way, a very simple letter or
24 something to the Board, that just explains the
25 problem, I would, frankly, like to raise this, and see

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1 what we can do. And if we need to -- if it turns out
2 we just need to amend the Scheduling Order, we can do
3 that. We need to get this Scheduling Order out
4 tomorrow. Would that be acceptable?

5 MR. FRANTZ: Yes. And perhaps rather than
6 just putting another letter on the docket, the letter
7 I have in mind, I believe, is the letter we sent in --
8 it was for identification on filings our client made.
9 I don't recall the exact dates, but when we tried to
10 put those attachments through the sieve, if you would,
11 the NRC on the e-Filing system, it did not pass.
12 That's why we separated it out, and made it two
13 separate documents, two separate files.

14 CHAIR GIBSON: Okay. Well, the purpose of
15 this is not to work any hardship on you, I assure you.
16 The purpose of this is, as I'm sure the NRC Staff can
17 attest, the Agency has put a lot of stock in this
18 system, and it may be that if we -- rather than having
19 an order that addresses the problem of the system, we
20 may be able to use your -- whatever documentation you
21 provide like this, and any of the rest of you, too, by
22 the way, as a way to try to make an improvement in the
23 system so that perhaps we can address this issue.

24 But, again, the purpose of this is not, in
25 any way, to make your lives uneasy. It really has

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1 more to do with trying to make the EIE better. So, if
2 you're okay with that, let's leave it the way it is
3 right now. And I assure you that we can modify this,
4 if we have to, if we can't figure out a way to address
5 this. Is that okay?

6 MR. EYE: This is Bob Eye. That's fine,
7 Judge.

8 MR. SPENCER: This is Michael Spencer, NRC
9 Staff. That's fine.

10 MR. FRANTZ: This is Steve Frantz. That's
11 fine with us, too.

12 CHAIR GIBSON: Thank you very much. I
13 appreciate it.

14 Okay. Is there anything else that we need
15 to address before we get this Scheduling Order turned
16 around and out to you guys?

17 MR. FRANTZ: Not from the Applicant's
18 standpoint.

19 MR. EYE: Nor the Intervenor, Your Honor.

20 CHAIR GIBSON: Okay. Hold on just one
21 second. Okay. In light of the very few changes that
22 we've gotten here, I don't think there's really,
23 probably, any -- I think we've, basically, got the
24 language for the Scheduling Order. I think we can get
25 it turned around. You all probably won't even need to

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1 look at it again. I think we're in good enough shape.
2 So, I appreciate your help, your time, and we'll get
3 this order out. And with respect to the other issue,
4 again, don't kill yourself to get that documentation
5 in, but once you all have a chance to do it, we'll try
6 to get this -- see what the problem with the portal
7 is, and see if we can't figure out a way to make this
8 happen, so it doesn't work a burden on you, or anyone
9 else. Okay?

10 If there's nothing else, we will stand
11 adjourned.

12 MR. FRANTZ: Thank you.

13 MR. EYE: Thank you.

14 CHAIR GIBSON: Bye.

15 (Whereupon, the proceedings went off the
16 record at 11:45:27 a.m.)

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CERTIFICATE

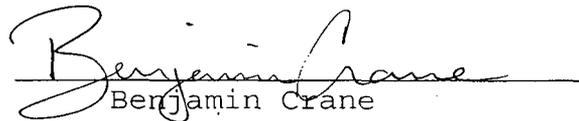
This is to certify that the attached proceedings
before the United States Nuclear Regulatory Commission
in the matter of: South Texas Project Units 3&4

Name of Proceeding: Pre-hearing Conference .

Docket Number: 52-012/013-COL,
ASLBP No. 09-885-08-COL-BD01

Location: (telephone conference)

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