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NUCLEAR REGULATORY COMMISSION

Title: PREHEARING CONFERENCE
PRIVATE FUEL STORAGE, INC.

Case No.: 72-22-ISFSI
ASLBP No. 97-732-02-ISFSI

Work Order No.: ASB-300-911

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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In the Matter of: :
PRIVATE FUEL STORAGE, L.L.C. : Docket No. 72-22-ISFSI
(Independent Spent Fuel : ASLBP No. 97-732-02-ISFSI
Storage Installation) :
- - - - -x

U.S. Nuclear Regulatory Commission
Two White Flint
Room 3-B-51
Rockville, Maryland
Wednesday, September 8, 1999

The above-entitled matter came on for prehearing
conference, pursuant to notice, at 11:30 a.m.

BEFORE:

THE HONORABLE G. PAUL BOLLWERK, III
Administrative Judge
Atomic Safety & Licensing Board Panel

DR. JERRY R. KLINE
Atomic Safety & Licensing Board Panel

DR. PETER S. LAM
Atomic Safety & Licensing Board Panel

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P R O C E E D I N G S

[11:30 a.m.]

JUDGE BOLLWERK: Good morning.

Today we are here to conduct another prehearing conference in the Private Fuel Storage, L.L.C. proceeding to talk about plans for the upcoming evidentiary hearing on the Group I issues.

With me today are Judge Lam and Judge Kline of the Atomic Safety and Licensing Board Panel. My name is Paul Bollwerk. I'm the Board Chairman for the Licensing Board. Also in the room with me is Jack Whetstine of the ASLBP administrative staff.

Let's have the parties identify themselves. Let's start with the applicant Private Fuel Storage, please.

MR. SILBERG: This is Jay Silberg with the law firm Shaw, Pittman, representing the applicant Private Fuel Storage.

JUDGE BOLLWERK: Anyone else you need to identify as being there with you?

MR. SILBERG: I'm all alone.

JUDGE BOLLWERK: NRC staff, please.

MR. TURK: This is Sherwin Turk. With me are Cathy Marco from the Office of General Counsel; Mark Delligatti, who is the Project Manager with NMSS Spent Fuel Project Office; and Scott Flanders, also with the Spent Fuel

1 Project Office. Mr. Flanders will be joining us for part of
2 the conference today.

3 JUDGE BOLLWERK: Let's have the State of Utah,
4 please.

5 MS. CHANCELLOR: Denise Chancellor. Attorneys
6 with me are Fred Nelson, Laura Lockhart, and Connie
7 Nakahara.

8 JUDGE BOLLWERK: Ms. Curran.

9 MS. CURRAN: This is Diane Curran. I'm calling
10 from Washington, D.C., and I'm also with the Attorney
11 General's Office.

12 JUDGE BOLLWERK: For Confederated Tribes.

13 MR. KENNEDY: John Kennedy.

14 JUDGE BOLLWERK: For OGD we had contacted Joro
15 Walker. You are representing her interest; is that correct,
16 Ms. Chancellor?

17 MS. CHANCELLOR: That's correct.

18 JUDGE BOLLWERK: For the Skull Valley Band.

19 MR. QUINTANA: Danny Quintana.

20 JUDGE BOLLWERK: Is there anybody else that we
21 haven't covered at this point?

22 [No response.]

23 JUDGE BOLLWERK: We have several things that we
24 need to talk about this morning. Why don't we go ahead and
25 start with the question of scheduling of the evidentiary

1 hearing.

2 Mr. Silberg, there is a suggestion on the table
3 that the hearing which we have scheduled to start
4 approximately November 1 on the Group I issues be delayed.
5 Why don't you go ahead and present your position on that.

6 MR. SILBERG: That was after we received the
7 Board's orders on summary disposition motions and took a
8 look at the issues that were available for litigation, those
9 that were still in the process of being resolved because the
10 staff had not yet taken a position, and the schedule for
11 further hearings and other work that the parties,
12 particularly the applicant and the staff, had in front of
13 them. It occurred to us that the process could be on an
14 overall basis expedited if we were to defer the November
15 hearings back to the hearings on the Group II issues.

16 The reasons are as follows. There are a fairly
17 small number of issues which would be ready for litigation.
18 The very limited portion of issues on Utah K would be
19 available, cruise missiles and offsite conventional arms
20 testing, and that is the subject of a motion for
21 reconsideration that we have filed, which we believe will
22 hopefully result in that issue being resolved as well.

23 The aircraft crash issues generally are not
24 available. The staff had informed us that they would not be
25 prepared to take a position on those by October 15, and

1 since testimony was due to be filed by October 1 and there
2 would be no opportunity for whatever discovery might be
3 required, those issues weren't going to be ready in November
4 in any event. That also left Utah R a fairly narrow issue.
5 And there just weren't going to be that many issues that we
6 would go to hearing on. And Security C.

7 Looking at the overall schedule, it seemed to us
8 that if you could combine those issues with the issues that
9 would be due for resolution in the Group II hearings that we
10 probably could save time by not having a November hearing,
11 that because of the time necessary to get ready for that
12 hearing, the post-trial briefs, that would in fact interfere
13 with the schedule for the Group II issues; that in fact
14 staff and the applicant believe that if we were to defer the
15 November 1 hearing, we might well be able to advance the
16 timing of the Group II now combined with Group I hearings.

17 That is an issue which we briefly touched on with
18 the State of Utah. The State of Utah has not agreed with
19 that position. They haven't rejected it, but we have agreed
20 to discuss that further and try to work out a specific
21 schedule that would be then proposed to the Board.
22 Hopefully that would be something we could accomplish in the
23 next several weeks.

24 Allowing this to go forward, the staff would still
25 be issuing its safety evaluation report sometime in October.

1 We would then be able to devote our resources in the near
2 term to resolving some of the outstanding issues where the
3 staff is asking us for additional information, and those are
4 issues the resolution of which between the applicant and the
5 staff would probably be postponed were we to go to hearing
6 that could now be done on a more expeditious basis with a
7 higher assurance that those issues would be ready for
8 resolution in the combined Group I/Group II hearings
9 sometime late spring or next summer.

10 We also hope that there will be opportunity for
11 resolving some of the issues in that category through
12 settlement or summary disposition.

13 On balance, we believe that it would be more
14 efficient use of the parties' time and the Board's time were
15 we to defer the hearing on the few Group I issues that are
16 available to the next hearing session.

17 JUDGE BOLLWERK: All right. Anything else at this
18 point?

19 MR. SILBERG: I think that pretty well summarizes
20 our position.

21 JUDGE BOLLWERK: I will go a little bit out of
22 order. Let me ask the staff first for their responses on
23 this and then I will move to the intervenors.

24 Mr. Turk, is there anything you want to say in
25 addition to what Mr. Silberg said or different from what

1 Mr. Silberg said?

2 MR. TURK: Nothing different from what he said,
3 Your Honor. We heard Mr. Silberg's proposal, and we felt
4 that it was a good idea. There are a number of issues that
5 the staff is not ready to go to hearing on in Group I
6 dealing with the military aircraft crash hazard and the
7 cumulative aircraft hazard.

8 We would be ready on other issues, but given the
9 fact that there would be only a limited number of issues to
10 go forward on in the same time period that we are going to
11 be trying to wrap up the SER, we thought there might be less
12 conflict in the demands for our time if we did not have to
13 go to hearing immediately.

14 Also, we think that the way the schedule has been
15 derived until now, the Group II litigation has more or less
16 been pushed back a little bit to allow completion of all the
17 Group I litigation items.

18 As you know, if we go to hearing on Group I before
19 Group II, we'd have to file testimony, go to hearing, do
20 proposed findings, and work towards a Board decision, and
21 then really get into the filing of testimony and going to
22 hearing on the second set of issues, the Group II issues.

23 We felt that given the limited number of issues
24 that would be ready for hearing for Group I, we could
25 conserve resources and advance the schedule if we simply

1 slide the two groups together and try to go to hearing
2 somewhat earlier than we would have gone otherwise on Group
3 II, and that would lead to a more efficient resolution of
4 the proceeding.

5 JUDGE BOLLWERK: Just to update us, the staff SER
6 is now due out when?

7 MR. TURK: We are aiming for October. It will
8 probably be around the end of October. That would be
9 issuance of the safety evaluation report. There will be
10 items that will not be ready for presentation in that SER,
11 where we have outstanding requests for information from PFS
12 or where the information that we are expecting from them
13 will be too detailed for us to complete our review and
14 publish the results of our evaluation within that schedule.

15 As an example, the seismic information that was
16 requested from PFS is not entirely in yet. We are expecting
17 a fairly large submittal and then we are expecting there
18 will be a significant amount of time needed to go back
19 through the seismic information before we can take a
20 position. At this time, although we are issuing the SER by
21 the end of October, we are expecting that to be an area that
22 is not going to be identified in the SER or discussed in the
23 SER. There may be some other issues like that.

24 JUDGE BOLLWERK: That affects a potential Group II
25 issue, though, doesn't it?

1 MR. TURK: Yes, it does.

2 JUDGE BOLLWERK: That means that may slide; is
3 that right?

4 MR. TURK: That's right. We were required to take
5 a position on Group II contentions by October 15. Based on
6 my understanding of where the review is now, we would not be
7 able to take a complete position on Contention L, which is a
8 Group II issue, the geotechnical issue, by October 15
9 because we are still waiting for information. We will then
10 have to digest that information.

11 Also, Contention GG, which concerns the TranStor
12 cask. We would not be ready on that by October 15 because
13 the British Nuclear Fuels Company has not completed its
14 submittals to us.

15 So we would have to defer that to the Group II
16 issues even if we go forward with Group II under the current
17 schedule.

18 JUDGE BOLLWERK: What do you think you are looking
19 at in terms of slippage on, for instance, Contention L?

20 MR. TURK: We are expecting approximately a
21 two-month slippage. This may be more advanced and we will
22 know better when we see the information that PFS is
23 submitting to us this week, but we are expecting that we may
24 have to take our position in December rather than October.

25 JUDGE BOLLWERK: What about the TranStor cask,

1 Contention GG?

2 MR. TURK: Let me have one minute, Your Honor.
3 We can't project a time for that yet, Your Honor.

4 JUDGE BOLLWERK: All right.

5 MR. TURK: You may be aware that the original
6 manufacturer of that cask has sold the company. I think
7 that was the Sierra Nuclear Corporation. They sold to
8 British Nuclear Fuels. British Nuclear Fuels took over the
9 project and they have been evaluating where they stand and
10 making additional submittals. I think their schedule has
11 slipped in part because of that transfer and for other
12 reasons.

13 JUDGE BOLLWERK: Mr. Quintana, your client
14 generally supports the application. What are your feelings
15 about this?

16 MR. QUINTANA: Regarding?

17 JUDGE BOLLWERK: The schedule changes being
18 proposed.

19 MR. QUINTANA: I would like to see the hearings go
20 forward as expeditiously as possible. We would object to
21 having any delays in the schedule that would make it so that
22 this thing would be dragged out. I'd like to see this thing
23 get done as fast as possible. What I am afraid of is that
24 as we get into a presidential election, this thing could
25 turn into a campaign issue.

1 JUDGE BOLLWERK: Let me go to the different
2 intervenor groups that generally oppose the application or
3 are challenging it. What about the State of Utah?

4 MS. CHANCELLOR: Your Honor, I would add to Jay
5 Silberg's presentation that we really aren't ready to go to
6 hearing on the cruise missile crashes. We still don't have
7 information from the Air Force on the latest cruise missile
8 crash and that probably won't be available for another month
9 or two. That is presently in the Air Force's hands.

10 We are in agreement with the time and efficiency
11 of moving the Group I contentions into Group II, but there
12 is a significant amount of work that still needs to be done
13 with respect to Group I contentions. PFS has identified at
14 least one new witness for Contention K. We would want to
15 depose that witness.

16 Also, the staff has not taken a position on the
17 military aircraft crashes. We would want some discovery
18 against the staff.

19 So from our point of view it really doesn't make
20 sense to go to hearing for the limited number of contentions
21 that remain in Group I. What we would like to suggest is
22 that the state and the staff and PFS work together to see if
23 we can come up with a workable schedule. A lot will depend
24 on when the staff can take a position both on Group I
25 contentions and Group II contentions. The timing of their

1 being able to take a position in essence will drive the
2 schedule.

3 JUDGE BOLLWERK: Mr. Kennedy.

4 MR. KENNEDY: I don't have anything to add. I
5 agree with what Ms. Chancellor just said.

6 JUDGE BOLLWERK: Let me ask a couple questions.
7 It sounds like Contention Utah K and Confederated Tribes B
8 is somewhat problematic because of the issues that were
9 deferred basically because the staff hasn't taken a position
10 generally. If Contention R were to go forward for hearing,
11 how much trial time do you think we are looking at?

12 MR. SILBERG: I think our case, if we were ready
13 to put it on, would not take more than half a day. I don't
14 know what kind of cross-examination the state would want to
15 have.

16 JUDGE BOLLWERK: Is there anything the staff wants
17 to say about Contention R in terms of hearing time?

18 MR. TURK: I would think the total amount of time
19 for all three parties' cases would be on the order of two
20 days. The direct, as the Board is aware, takes generally
21 about a half an hour. It merely consists of swearing the
22 witness and presenting the testimony, having the witness
23 confirm that that is the testimony that they wish to present
24 and that it's true, and then it's all cross-examination time
25 plus introduction of documents. I would expect a total of

1 roughly two days.

2 JUDGE BOLLWERK: Ms. Chancellor, anything you want
3 to say on that subject in terms of Contention R?

4 MS. CHANCELLOR: I would be more inclined to say a
5 day rather than two days.

6 JUDGE BOLLWERK: Mr. Turk is saying two days;
7 you're thinking a day?

8 MS. CHANCELLOR: Half a day to a day, yes. It
9 depends on what the other side presents.

10 MR. SILBERG: Judge Bollwerk, my experience has
11 also been that whenever you start a hearing that the first
12 couple of contentions take a long, long time. It's kind of
13 the getting up to speed process, and it's kind of not
14 related to what the issues are, but my experience is the
15 first couple of contentions seem to drag on forever, and
16 then once people get into the swing of the hearings, the
17 later contentions proceed in a much more expeditious
18 fashion. So I would not underestimate the time for the
19 first contention or two, whatever they are.

20 JUDGE BOLLWERK: Let me ask you a separate
21 question about Security C. Mr. Silberg, anything about how
22 long that will take to try?

23 MR. SILBERG: I think that could be longer. I
24 think there is a lot of work on that that needs to be done.
25 I know Sherwin has informed us that there are aspects that

1 will require closed hearings. He would like to discuss some
2 of that with me, but we can't even do it on the phone. So
3 some of that we have not yet scoped out.

4 JUDGE BOLLWERK: Mr. Turk, anything you want to
5 say about how long Security C might take to try?

6 MR. TURK: Security C is a very narrow issue at
7 this time.

8 JUDGE BOLLWERK: Basically response times,
9 correct?

10 MR. TURK: It's the response time and what
11 constitutes timely response. That is why I believe that we
12 may have to go into closed hearings, because that would get
13 into matters that we do not discuss publicly. I think that
14 hearing should not take more than about a day.

15 JUDGE BOLLWERK: Ms. Chancellor, anything you want
16 to say in terms of Security C?

17 MS. CHANCELLOR: It's difficult to predict because
18 PFS hasn't named any witnesses yet. So we don't even know
19 who their witnesses are going to be. If they are only going
20 to have a couple of witnesses, I guess a day or so.

21 JUDGE BOLLWERK: Having received what you have
22 sent us and looked at it, we thought perhaps with respect to
23 K, yes, that may need to be put off; it would be more
24 efficient to try that later. But we weren't clear as to why
25 we couldn't go forward on R and Security C to at least, as

1 you say, Mr. Silberg, get things rolling and get something
2 before the Board that we can move forward on.

3 MR. SILBERG: The reason I would put forward why
4 we shouldn't do that is the logistics of starting the
5 hearing will occur for each session. If we gear up for a
6 hearing that covers two limited issues, I think there is
7 going to be a lot of duplicative time spent now and then
8 when the next hearing session starts to gear up for that
9 hearing session.

10 If you go out there and you take care of a
11 significant number of issues at the same time, I think there
12 is a greater benefit, a much more efficient process than if
13 you try to do them in very small bites. This, I would
14 think, would be a very small bite. You have to bring all
15 the parties out there; the staff would have to come out
16 there; you'd have to get the reporters out there. It just
17 seems like we would be spending a lot of time and effort for
18 a fairly small step in the process.

19 If we defer these to later times, then you will be
20 able to do a larger number of issues at the same time. You
21 will be, in essence, amortizing all the logistical effort
22 over a much larger base. You also won't have to take on the
23 proposed findings process at a time when we are trying to
24 get ready for Group II issues.

25 It just seems to me to go to hearing on those two

1 issues at this point is not an efficient use of the parties'
2 or the Board's time.

3 MS. CHANCELLOR: Judge Bollwerk, I forgot to
4 mention that because PFS hasn't named any of their experts,
5 we haven't had a chance to depose them. So I doubt that we
6 would be ready, either us or PFS, to file testimony by
7 October 1 on Security C.

8 JUDGE BOLLWERK: I guess I'm a little confused. I
9 thought given the issue was there, whatever was supposed to
10 be done in terms of discovery had been finished.

11 MR. SILBERG: We have not identified our
12 witnesses. In fact, we are talking to people as we speak on
13 that topic.

14 MS. CHANCELLOR: We have general interrogatories
15 out requesting PFS and the staff to name their witnesses.
16 That is the only one that is outstanding today.

17 MR. TURK: We have answered that interrogatory.
18 We did name our witness.

19 MR. SILBERG: I think we named one, if I remember
20 correctly. I mentioned that name to you, Denise, but there
21 may be additional ones.

22 JUDGE BOLLWERK: I take it that you are not going
23 to object to Ms. Chancellor wanting to take depositions at
24 this point when you name those witnesses.

25 MR. SILBERG: That's right.

1 JUDGE BOLLWERK: I was assuming that given these
2 were Group I contentions that everything had been done and
3 they were ready to go to hearing once we rule on the summary
4 disposition motions, but I take it what you are telling me
5 now is that is not correct.

6 MR. SILBERG: I think that is a fair
7 characterization.

8 JUDGE BOLLWERK: All right. I guess the Board is
9 going to need to take this all under advisement.

10 I am a little disturbed to hear that we are
11 setting contentions in groups and then there are things that
12 are outstanding that are going to push those into a
13 different group. When we set this up, my understanding was
14 that the issues within that group were going to be tried and
15 then when discovery was over, that was it, and we would move
16 forward. Apparently that is not happening. I just want to
17 make the parties aware of the fact that if there are issues
18 in a group and discovery has been had, that is the end of
19 it.

20 MR. SILBERG: I think the issue here is that the
21 technical review on some of these issues is not yet
22 complete. It wasn't that the staff and the applicant didn't
23 try to complete it on time; it's just that the staff
24 determined that additional information was necessary. We
25 have been gathering that information and sending it to them,

1 and we have done that on an iterative basis. As Sherwin
2 said, there is a lot of seismic information that has yet to
3 be evaluated or the staff is beginning now to evaluate.

4 As the Board knows, we have done a significant
5 amount of additional seismic work and seismic analysis which
6 has been provided to the Board and the parties and staff. I
7 don't think that was anticipated at the time that the Board
8 grouped the contentions. The grouping was fine, but I think
9 subsequent events made that grouping questionable in some
10 cases because of the need for additional analysis.

11 JUDGE BOLLWERK: Let me just say this. I don't
12 have a problem if the staff has a problem getting its
13 position out changing things around, moving issues from one
14 group to another if we need to do that. Using Security C as
15 an example, I wasn't aware there was any problem with the
16 staff's position on Security C and any reason to move it out
17 of Group I into Group II. I guess that is the concern that
18 I have. I don't have a problem, assuming everyone has
19 sufficient notice of problems with staff's position. That
20 may mean things are going to be moved back, although I
21 obviously want the staff to move forward; we need to get
22 this hearing on its way. But if things are going to move,
23 the Board needs to know what the problems are up front
24 rather than hearing it kind of offhandedly that an issue,
25 even though it's in a group, really isn't ready to go to

1 hearing.

2 MR. SILBERG: On things like seismic and the
3 aircraft crash, some of these are just unavoidable because
4 of the factual development. Had there been enough issues to
5 go to hearing on, I think these other issues would have been
6 ready or could be ready on the currently set schedule. For
7 the reasons that I went into at the beginning, I think it's
8 a more efficient process if we defer those. I really think
9 having a very limited hearing particularly at the beginning
10 of the process is not going to allow us to complete the
11 process any quicker and may slow it down.

12 MR. TURK: For the staff, let me note that we are
13 ready to go forward on Security C. We took our position as
14 required back in June. This summer we identified our
15 witness, and we could go forward on that. Like Mr. Silberg,
16 I believe that's a very limited issue and I don't see the
17 benefit of going forward on that and possibly R while we are
18 busy trying to close the other issues. Where the staff has
19 not completed its review for Group I, that issue involves
20 military aircraft.

21 I'm not sure if the Board is aware that PFS in its
22 response to our request for additional information did not
23 use the NUREG-0800 approach in estimating the hazard
24 presented by military aircraft. After the staff received
25 that response from PFS, we then went back to them and said,

1 well, we are going to need more information, and that's the
2 information that we are now digesting and trying to close
3 our review on.

4 So those things could not have been anticipated
5 back when we set the schedule approximately a year or more
6 ago, when we decided which issues could go forward in Group
7 I and which could go forward in Group II.

8 JUDGE BOLLWERK: Ms. Chancellor, anything else you
9 want to say at this point? Or Mr. Kennedy or Mr Quintana?

10 MS. CHANCELLOR: No, Your Honor.

11 MR. KENNEDY: No, Your Honor.

12 MR. QUINTANA: No, Your Honor.

13 JUDGE BOLLWERK: Let me clarify one thing. In
14 terms of security issues, as long as I'm hearing that there
15 is a possibility we are going to need to discuss safeguards
16 information, the Board's preference is probably going to be
17 to try that issue here in Washington at our headquarters
18 facility simply because the security is here; we are not
19 going to have to in theory take security guards out to Utah
20 to monitor goings and comings from the proceeding, and also
21 we are not going to have to have special safes and all the
22 kind of security devices that go along with one of these.
23 So one thing we are definitely looking at in terms of trying
24 the security issue is having it here in Washington.

25 MS. CHANCELLOR: Does that mean that we have to

1 bring our witnesses to Washington, or is there any way to
2 get a secured teleconference transmission?

3 JUDGE BOLLWERK: I would say that is pretty
4 problematic. How many witnesses are you talking about?

5 MS. CHANCELLOR: We have one identified at the
6 moment. We may have others, depending on what PFS does.

7 JUDGE BOLLWERK: Understanding that we are talking
8 about one witness in one day, I just heard basically one day
9 of trial on this. Overall in terms of security of the
10 proceeding, which is what I'm concerned about with
11 safeguards information, it makes a lot more sense to have
12 that person come here for a one-day hearing or a two-day
13 hearing, however long it takes, rather than to take
14 everything else out to Utah. That still would be my
15 preference.

16 MS. CHANCELLOR: The big question is whether the
17 information that we will present will actually be safeguards
18 information. That is an issue that we haven't resolved with
19 the staff.

20 JUDGE BOLLWERK: This may be something that you
21 need to talk about further. If you all can come to us and
22 tell us now we are going to be able to do this without using
23 safeguards information, that is fine with the Board. I
24 don't want to get in a situation where we are out there with
25 that assurance and all of a sudden there is some safeguards

1 information that begins to slip in. If you can't come to a
2 resolution on that, I'm simply going to have to assume that
3 safeguards is going to be involved and we will probably act
4 accordingly. So bearing in mind any further discussions
5 that you have with the staff or with PFS about that, that is
6 sort of our general take on the security portion of this.

7 Let me raise a separate question. One of things
8 that we had thought about doing if we came out in November
9 was doing limited appearance statements. Is that something
10 that the parties prefer to see us put off if we decide to
11 put the proceeding off, or is that something we should go
12 ahead with?

13 MR. SILBERG: I would prefer that we push those
14 off. Logistically, to do that in November I'm not sure
15 makes a lot of sense.

16 JUDGE BOLLWERK: Mr. Turk, anything you want to
17 say about that?

18 MR. TURK: I would not want to make a special trip
19 for the purpose of limited appearances. I think once we
20 finally do go to hearing, setting aside a day or a couple of
21 evenings or a day and an evening as part of that schedule is
22 probably the most efficient way to go in terms of using our
23 time and our travel resources.

24 JUDGE BOLLWERK: Ms. Chancellor?

25 MS. CHANCELLOR: I'm not very familiar with

1 limited appearances. Will there be only one opportunity for
2 limited appearances, or will there be limited appearances
3 available prior to Group II and Group III hearings?

4 JUDGE BOLLWERK: My preference would be to do it
5 once and perhaps a second time, not necessarily three times.
6 Generally, limited appearances, in terms of what people can
7 raise or talk to the Board about, are not necessarily
8 limited to the issues that the Board is actually hearing.
9 They basically are an opportunity for people to come before
10 us and bring to our attention any matters relating to the
11 proceeding that they want the Board to hear about. It isn't
12 like the Group I issues can only be spoken about or talked
13 about when we have limited appearance statements if we did
14 it in conjunction with Group I or Group II.

15 MS. CHANCELLOR: How would you publicize that
16 these limited appearances would be available?

17 JUDGE BOLLWERK: We put a notice in the Federal
18 Register. We put out press releases. The usual ways that
19 we make these things public. Generally we would invite
20 folks to come in and interact with the Office of the
21 Secretary here, to get a list together of people that want
22 to reserve time.

23 Generally it's three to five minutes to make a
24 presentation. We would hopefully have a list of
25 pre-registered folks. Then if there is additional time, we

1 would take individuals that happen to show up that day.

2 Generally they are done in the afternoon and the
3 evening. I would anticipate doing several sessions at Salt
4 Lake City as well as out in the Tuella area, or anyplace
5 close to the facility that we can find suitable arrangements
6 in terms of a building.

7 MS. CHANCELLOR: Given what you have just told us
8 and without talking with anybody else just sort of off the
9 cuff, I would think that we would want limited appearances
10 sooner rather than later so that the issues of concern to
11 people in the state can be placed before the Board so the
12 Board knows some of the issues that are of concern to the
13 general public.

14 JUDGE BOLLWERK: Mr. Kennedy, anything you want to
15 say on the subject?

16 MR. KENNEDY: No. I don't think I have anything
17 further to add. I'm hearing from you, Your Honor, that you
18 are thinking of several sessions. Does that mean we would
19 have more than one in Salt Lake and more than one out in
20 Tuella, or we would have one in each of these various
21 locations? I'm not quite clear on what you are thinking.

22 JUDGE BOLLWERK: It is going to depend on a couple
23 things. In part it depends on the interest. If we have a
24 set of sessions that we set a certain time for, let's say an
25 afternoon and an evening and another evening perhaps, and we

1 have a number of people that show up and we can't
2 accommodate them, we might then look for additional
3 sessions. On the other hand, if we are basically able to
4 take care of everybody that wanted to speak, then in theory
5 we may not need to do it again. To some degree it mirrors
6 the interest of the public in the proceeding.

7 We try to go different place. For folks out in
8 the Tuella area, it would be difficult for them to get into
9 Salt Lake City, and vice versa. That's why we try to choose
10 a couple different locations.

11 Anything else you want to say on the subject?

12 MR. KENNEDY: No.

13 JUDGE BOLLWERK: Mr. Quintana.

14 MR. QUINTANA: I'm in good shape, Your Honor.

15 MR. SILBERG: Judge Bollwerk, one thing you might
16 clarify for Denise and for John is my understanding is that
17 parties generally are not allowed to make limited appearance
18 statements. I know that has been an issue in some cases and
19 not in others. That may not be something that John and
20 Denise are familiar with.

21 JUDGE BOLLWERK: It is generally for members of
22 the public. The parties have access to the Board to raise
23 issues any time they want to in terms of initially or late
24 filed issues.

25 MS. CHANCELLOR: Given that we are talking about

1 the State of Utah, there are many arms of the state that are
2 not involved in this proceeding, and there may be issues
3 that we are unable to get before the board where certain
4 agencies may want to comment. I guess we can cross that
5 bridge later.

6 MR. SILBERG: The state is the party.

7 MS. CHANCELLOR: I don't think there is any need
8 to argue it now. I'm just saying that in depends how you
9 define who the state is.

10 JUDGE BOLLWERK: As you say, we will cross that
11 bridge when we come to it. If there is going to be an issue
12 there, you will need to let us know about that sooner than
13 later so that we can deal with it. We don't need the night
14 of the limited appearance statements having a dispute about
15 who is going to be speaking and who isn't.

16 MR. TURK: Your Honor, I think the answer may be
17 found by reference to the regulations under 2714 and 2715 as
18 to who has a right to participate and who is represented by
19 counsel and who has a right to make a limited appearance
20 statement.

21 JUDGE BOLLWERK: Let me just ask the staff also.
22 In terms of the DEIS and the FEIS, the draft and final
23 environmental impact statements, are we still on track with
24 the dates we have been given most recently, or has that
25 changed as well?

1 MR. TURK: We are still on track. Those dates as
2 reflected in your order of May 18 are the draft EIS, March
3 2000, and the final EIS, February 2001. We are still on
4 track for that.

5 JUDGE BOLLWERK: I would like to go through the
6 order that we issued setting out some of the administrative
7 processes that we have used in a hearing.

8 Does anybody have any problems or concerns with
9 any of the things that I set out there. Let me start with
10 the use of pre-filed testimony, pre-filed exhibits,
11 stipulations. Let's start with the applicant again.

12 MR. SILBERG: Those are fine.

13 JUDGE BOLLWERK: Staff.

14 MR. TURK: We're fine with that.

15 JUDGE BOLLWERK: Ms. Chancellor.

16 MS. CHANCELLOR: We're fine, Your Honor.

17 JUDGE BOLLWERK: Mr. Kennedy.

18 MR. KENNEDY: No problem.

19 JUDGE BOLLWERK: Mr. Quintana.

20 MR. QUINTANA: We're fine.

21 JUDGE BOLLWERK: Any questions about the use of in
22 limine motions or stipulations about admissibility?

23 Mr. Silberg.

24 MR. SILBERG: No.

25 JUDGE BOLLWERK: Staff.

1 MR. TURK: We're all right.

2 JUDGE BOLLWERK: Ms. Chancellor.

3 MS. CHANCELLOR: We're fine.

4 JUDGE BOLLWERK: Mr. Kennedy.

5 MR. KENNEDY: No problem.

6 JUDGE BOLLWERK: Mr. Quintana.

7 MR. QUINTANA: No.

8 JUDGE BOLLWERK: The other subject we raised was
9 the order of presentation.

10 Mr. Silberg.

11 MR. SILBERG: I have no problem from the
12 standpoint of the applicant, but normally the staff goes
13 last. That has been my experience, and I think that is
14 appropriate.

15 MR. TURK: I thank Mr. Silberg for raising that
16 point. We would prefer to go last. The reason for that is
17 that the staff always likes to have the prerogative to
18 change its position if it sees something or hears evidence
19 that causes it to rethink its position. I would not want
20 our witnesses to feel locked in if more information comes up
21 later through the presentation by the state or some other
22 party. So we would prefer to come after the applicant and
23 state have made their presentations.

24 JUDGE BOLLWERK: Ms. Chancellor, anything you want
25 to say on the order of presentation?

1 MS. CHANCELLOR: We would prefer to go last and to
2 leave the order of presentation as you have it in your
3 order. Because the applicant and the staff basically have
4 the burden, we think they should go first.

5 MR. SILBERG: The applicant has the burden, not
6 the staff.

7 MR. TURK: That's correct.

8 JUDGE BOLLWERK: Mr. Kennedy.

9 MR. KENNEDY: I don't want to make a comment on
10 that.

11 JUDGE BOLLWERK: Mr. Quintana.

12 MR. QUINTANA: We're okay.

13 JUDGE BOLLWERK: Anything else anybody wants to
14 say on the order of presentation?

15 [No response.]

16 JUDGE BOLLWERK: In terms of the use of
17 cross-examination plans?

18 MR. SILBERG: I don't have a problem. My general
19 experience is I'm not sure how useful those have been from
20 my standpoint, but I'm not the judge. If the Board thinks
21 that those in its experience have been useful, we certainly
22 don't object to them.

23 JUDGE BOLLWERK: Mr. Turk.

24 MR. TURK: I have no problems with it, Your Honor.

25 JUDGE BOLLWERK: Ms. Chancellor.

1 MS. CHANCELLOR: This is foreign to us, Your
2 Honor. We'll do the best we can.

3 JUDGE BOLLWERK: It doesn't have to be extensive.
4 It's generally an hour. I've seen different people use them
5 for different purposes. Some people make them quite
6 detailed because they actually use them as the basis for
7 putting together their cross-examination and they give them
8 to the Board in that form. Some people give us more of an
9 outline. It's really up to you so long as we can sort of
10 follow what is going on.

11 Mr. Kennedy?

12 MR. KENNEDY: Just one question. Is the
13 cross-examination plan disclosed to all the parties or just
14 to the Board?

15 JUDGE BOLLWERK: It is only given to the Board. I
16 think, as the rule indicates that I cited it in the order,
17 when the Board issues its initial decision, we then put them
18 on the public record, but not until then.

19 MR. KENNEDY: I have one matter that doesn't
20 relate directly to cross-examination plans. Does the Board
21 anticipate that each intervenor will have separate
22 cross-examination or only the lead intervenor will have
23 cross-examination rights?

24 JUDGE BOLLWERK: At this point I think we would
25 anticipate that the lead intervenor is going to take the

1 bulk of the questions, but I'm not going to necessarily
2 preclude others from asking questions so long as they are
3 not repetitive and they are not going places that had
4 nothing to do with the contention or what is at issue.

5 MR. TURK: Your Honor, I also recall a previous
6 order where I believe you had stated that you expected the
7 parties on one side of the table to work together to try to
8 come up with a common cross-examination plan, but if there
9 were disagreements, then you would expect to see another
10 intervenor go forward with additional cross-examination
11 beyond what the lead party was doing.

12 JUDGE BOLLWERK: That's exactly right.

13 Any questions about that from any of the
14 intervenors?

15 MS. CHANCELLOR: I have one question that relates
16 indirectly to that. In your order you mention a
17 cross-examination plan for a witness or a panel. Is it
18 possible to have a panel of witnesses?

19 JUDGE BOLLWERK: Yes, and in fact that is often
20 done. For instance, I think Mr. Silberg had mentioned that
21 they may have three witnesses on a particular issue. Is
22 that correct?

23 MR. SILBERG: That's certainly possible.

24 JUDGE BOLLWERK: We will put it hypothetically.
25 In theory, the direct testimony on that issue might well

1 reflect the testimony of all three of those witnesses, each
2 one of them subscribing to whatever questions and answers
3 they are answering, and then the panel would be put there at
4 the same time and they would be cross examined as a panel.

5 MR. SILBERG: Our experience is that, depending on
6 the issue of course, and it really is very issue specific,
7 there are times when testimony of two witnesses or three
8 witnesses is so interrelated that it just makes sense to
9 have them all on the panel so you don't ask questions and
10 then one witness is going to say, no, that's a question for
11 the other guy, and he has already been on and off. It just
12 makes the process go a lot easier.

13 MS. CHANCELLOR: So the person doing the
14 cross-examination, if they are cross examining a panel, I
15 assume that they target their question at a specific member
16 of the panel and that another member of the panel could not
17 answer that question.

18 JUDGE BOLLWERK: It depends on how you want to
19 frame the question. You can direct it to a specific witness
20 or in theory you can ask any of the members of the panel to
21 comment.

22 MR. SILBERG: Generally these are fairly informal.
23 My experience has been that if a cross examiner directs a
24 question to one and only one witness and the other witness
25 has something that is directly relevant to that answer,

1 generally the Board will allow that other witness to speak
2 up at that point as opposed to holding on until redirect and
3 then trying to bring it all in. You wind up with a much
4 more coherent record that way. Again, that's question by
5 question, issue by issue.

6 MR. TURK: Let me add also that one thing we
7 typically do will be at the beginning of each answer to a
8 question in the written testimony we will indicate in
9 parentheses which witness on a panel is responsible for the
10 following statement. That would help the cross examiner who
11 to direct the questions to. But if a question comes up that
12 another member of the panel feels they would like to comment
13 on, that typically is allowed also.

14 Also, I should mention from my experience that,
15 depending on the question that is posed during
16 cross-examination, the witnesses may wish to confer, and
17 licensing boards typically allow that to happen, although
18 that is certainly something that the Board would have the
19 authority to rule on in any particular case.

20 JUDGE BOLLWERK: If you want an answer from a
21 certain witness and that is the only witness, you can direct
22 it to that witness, and then if another one tries to answer,
23 make whatever objections you want to subject to what you
24 just heard. Generally these are fairly informal and the
25 object is to get the information into the record.

1 MS. CHANCELLOR: Thank you very much.

2 JUDGE BOLLWERK: Mr. Kennedy?

3 MR. KENNEDY: Nothing further.

4 JUDGE BOLLWERK: Mr. Quintana?

5 MR. QUINTANA: I think what we are going to do on
6 our cross-examination is just follow the lead of the
7 applicant Private Fuel Storage, and unless there is
8 something that is absolutely earthshaking, at that point we
9 would consult with Private fuel Storage first and only then
10 would we make a separate motion or a separate notice on
11 questions that we think needed to be asked.

12 JUDGE BOLLWERK: The point is that the lead party
13 bears the brunt of the work here in terms of getting the
14 questions together and interacting with the other parties.
15 If there is something you just can't agree on, we are not
16 going to preclude a party from asking a separate question,
17 assuming that they can explain to the Board why they
18 couldn't resolve this and it's necessary to go forward with
19 some kind of separate cross-examination.

20 I'm going to put us on mute. I want to confer
21 with the other members of the Board for a second. Remember,
22 we can hear you; you cannot hear us, however.

23 [Discussion off the record.]

24 JUDGE BOLLWERK: Let's go back on the record.

25 We have been discussing the proposal about the

1 evidentiary hearing. Let me present you with two concerns
2 we have.

3 The first one is we want the proceeding to move
4 forward. Recognizing the efficiencies involved, I am also
5 concerned about this proceeding becoming back loaded, as it
6 were, with everything at the end while it continues to be
7 put off. So from my perspective at this point, anything we
8 can begin to try is all to the good.

9 Having said that, I've heard a lot of problems
10 here today with Contention K. Also with Security C in terms
11 of the readiness of the parties to go forward with that. It
12 sounds like R probably is ready. For us to defer this at
13 this point, at least going ahead with Contention R, we would
14 like to see something concrete from the parties in terms of
15 a schedule that will show us exactly where they are planning
16 on placing this. We would need that in fairly short order.

17 The second thing I want to mention to you is what
18 we mentioned to you before, and you interacted with Jack
19 Whetstine of our office about getting hearing space. It's a
20 problem in Salt Lake City right now for us to find dedicated
21 space because of everything that is going on there with the
22 olympics and other things as people get geared up.

23 We originally were looking at as much as 30 days
24 of hearing time in the Hilton. We are now looking at going
25 back to them and telling them, sorry, no dice, guys; we may

1 be back later. That may make it very hard for us. In fact,
2 that is one of the few hotels we've been able to interact
3 with that could give us any hearing space at all. I'm not
4 sure how that is going to work out.

5 That concerns me, because I do want to hold as
6 much of the hearing in Salt Lake City as we can, but we are
7 having a difficult time finding space that will meet all the
8 needs of this proceeding in terms of having sufficient size
9 as well as being able to have dedicated space for
10 significant periods of time.

11 So frankly, a large concern of ours is finding
12 someplace where we will be able to hold this hearing for a
13 month, if that is what we are looking at, in the next round.
14 I make you aware of that, because that gives us a reason to
15 go out there and at least do something in November in terms
16 of limited appearances and beginning to move forward on
17 Contention R.

18 With that having been said, how quickly do you
19 think you can get back to us with whatever revised schedule
20 you want to propose.

21 MR. SILBERG: You are talking about an overall
22 schedule, not just for R?

23 JUDGE BOLLWERK: That would be for R. I'm hearing
24 that Security C is not going to be ready even if we were to
25 set a schedule and you could agree on the fact there is no

1 safeguards information.

2 MR. SILBERG: That wouldn't be on your proposal in
3 Salt Lake City in any event.

4 JUDGE BOLLWERK: Again, I would love to go forward
5 with Security C if we could, but I'm hearing that you
6 haven't identified your witnesses and Ms. Chancellor needs
7 to take some depositions. I think from the Board's
8 perspective we are kind of stuck.

9 MR. SILBERG: Again, I want to understand what you
10 need on R. Do you want to know when we would be ready to go
11 forward with R or when would we propose to have the hearing
12 on R and Security C and all the other issues?

13 JUDGE BOLLWERK: What I am asking is, when can you
14 come back to us with a revised schedule which would, as you
15 have suggested, defer these matter? We need that quickly
16 because we are kind of dealing with the possibility of still
17 going out and hearing limited appearance statements and
18 doing Contention R.

19 MR. SILBERG: I would think by the middle of next
20 week. I guess it's up to all of us, Denise and Sherwin as
21 well as John and Danny. We will certain begin to consult
22 immediately on what makes sense.

23 JUDGE LAM: This is Judge Lam. If the Board
24 defers the Group I contentions, what would the Group II
25 trial schedule look like?

1 MR. SILBERG: I guess I'll let Sherwin speak to
2 that, because he at least expressed some opinions on that
3 this morning.

4 MR. TURK: I did a very rough cut at the schedule,
5 Your Honor. It would depend on when the staff is able to
6 get all the information that is requested from PFS and to
7 review it. I am thinking now primarily of the seismic
8 information. I'm leaving out the TranStor issue because I
9 cannot project when we would get TranStor's submittal and
10 when we would be able to go to hearing on that. That one
11 may have to slip into Group III. That is a unique
12 situation. It has to do with the timing of the TranStor
13 application and the review of that application.

14 JUDGE LAM: All right.

15 MR. TURK: If the staff was able to take a
16 position by mid-December on all Group II issues, then I
17 would think we would be able to go to hearing approximately
18 45 days to two months sooner than the current schedule. My
19 rough projection is we would be able to go to hearing
20 mid-May or June 1st as opposed to the August hearings that
21 were previously set for Group II.

22 I guess I would be more comfortable with the June
23 1st than the mid-May, but I see a savings of approximately
24 two months.

25 JUDGE BOLLWERK: Mr. Turk, when do you think you

1 can all get together and get back to us? Is it possible to
2 do it by next Monday?

3 MS. CHANCELLOR: Your Honor, I have one comment.
4 With respect to the seismic issue, one thing that is still
5 out there that we don't know the resolution of is the
6 seismic exemption request. I don't know when the staff will
7 be taking a position on that and whether we will need to
8 amend our contentions.

9 I'm a little concerned with pushing to get a
10 schedule put together without knowing what the staff's
11 position is. If we go forward and devise a schedule and
12 then have to keep on revising it, it may be better to give
13 us some time in which to work this through so that we only
14 have to do it once.

15 MR. TURK: It's always going to be a moving target
16 because there will always be the possibility that some
17 issues will either come up or issues that are in resolution
18 may still be in resolution that we can't predict now. It's
19 possible that some issues may have to slip to the Group III
20 hearings. We certainly don't want that to happen, but I
21 think if we wait until everything is known before we come up
22 with a schedule, then we will wait for a long time.

23 JUDGE BOLLWERK: When I spoke about back loading,
24 obviously, Ms. Chancellor, you are well aware of the
25 procedures for filing late filed contentions. Those can

1 come up at any time, and that is one of my concerns. I
2 don't know how that is going to play out, and I don't want
3 us to end up with everything at the end.

4 MR. TURK: We share that concern and we are trying
5 to accommodate that as well all the other concerns.

6 MS. CHANCELLOR: Of course late filed contentions
7 have to be weighed against summary disposition motions. So
8 it almost turns out to be a wash or probably a black mark
9 against us.

10 JUDGE BOLLWERK: The original question I had asked
11 was, how quickly do the parties think they can get together
12 and discuss a revised schedule taking into account all the
13 information we have heard here, and changing some of the
14 contention groupings? If that looks like it is going to be
15 in the scheme of things, it is something we can do now
16 rather than later if we have enough information.

17 Also, dealing with this question about Security C
18 and whether the parties believe there is going to be
19 safeguards information involved such that the hearing would
20 be closed.

21 How quickly do you think you can get back to us?
22 Is Monday a possibility?

23 MR. SILBERG: It's certainly a possibility from
24 our point.

25 MR. TURK: Friday may be a little bit tough for

1 us. I personally will be out of the office most of the day
2 Friday. That leaves us the afternoon on Thursday. I would
3 say if it's all right with you, we will try for Tuesday.

4 JUDGE BOLLWERK: All right. Ms. Chancellor?

5 MS. CHANCELLOR: Why don't we shoot for Thursday?

6 JUDGE BOLLWERK: Part of the problem here is we
7 need to interact with the Hilton and tell them what is going
8 on. I don't want to cancel this space until we have decided
9 what we are going to do. On the other hand, they are
10 expecting to hear back from us about how much time we are
11 going to be spending there.

12 MR. SILBERG: Clearly it wouldn't be 30 days.

13 JUDGE BOLLWERK: Recognizing that, are we going to
14 be spending any time there at all? We also have to
15 recognize in dealing with them, frankly, if we want to
16 reserve space for June, we need to be in a good position in
17 terms of interacting with them promptly and letting them
18 know what is going on. I don't want to have them simply
19 saying, sorry, don't bother to come back here again. They
20 may say that anyway.

21 MR. SILBERG: I'm happy to get on the phone with
22 Sherwin and the intervenors this afternoon and at least
23 start a dialogue on schedule issues. I don't know what
24 people's schedules are.

25 MS. CHANCELLOR: This is Denise Chancellor.

1 Sorry. I thought I hit the mute button. I cut us off.

2 JUDGE BOLLWERK: I just expressed a concern that I
3 don't want this to drag on too long because we need to get
4 back with the Hilton in Salt Lake City and let them know
5 what the status is, if we have any hope of getting them to
6 give us some space, assuming we do move this into June or
7 May, or whatever.

8 MR. SILBERG: And I said, Denise, I would be happy
9 to get on the phone with Sherwin and you all this afternoon
10 and start the process.

11 MS. CHANCELLOR: Certainly I'm willing to work the
12 process as quickly as possible, but I still think we need to
13 try and confer with some of our other people as well. It's
14 rather complicated.

15 JUDGE BOLLWERK: Let me make a suggestion. Why
16 don't you all confer this afternoon and delegate someone to
17 give me a phone call and give me a date when you think you
18 can get back. I would hope at this point no later than next
19 Tuesday but hopefully maybe Monday, if that is possible.
20 Talk about that among yourselves, and someone can give me a
21 call back this afternoon. How's that?

22 MR. SILBERG: That's fine.

23 MS. CHANCELLOR: Fine.

24 MR. SILBERG: Sherwin and Denise, what time do you
25 want to try to get each other on the phone?

1 MS. CHANCELLOR: I'll be here all day.

2 MR. SILBERG: Sherwin, what's a good time?

3 MR. TURK: Any time after 1:30 our time.

4 MR. SILBERG: Let's make it two o'clock.

5 John and Danny, do you want to be on this call?

6 MR. QUINTANA: Yes. I'll be around all day.

7 JUDGE BOLLWERK: It sounds like you are going to
8 try for two o'clock eastern time, which is noon mountain
9 time.

10 MR. SILBERG: Right.

11 JUDGE BOLLWERK: Why don't you all plan on getting
12 together. Then you can give me a call or let me know when
13 you think you can get back to us with a schedule,
14 recognizing that sooner is better than later.

15 MR. SILBERG: John Kennedy, do you want to be on
16 that call?

17 MR. KENNEDY: Yes.

18 JUDGE BOLLWERK: Okay. Then it's 1:30 mountain
19 time, 3:30 eastern time.

20 Let's finish up the hearing and then I will leave
21 you guys on the line and you can finish this up.

22 Anything else that anybody wants to raise with the
23 Board at this point?

24 MR. TURK: I have one comment, Your Honor. I just
25 want to say that I found the summary disposition procedure

1 to be especially useful in this case. I know that the
2 Commission in its policy guidance had felt that summary
3 disposition is not necessarily a useful procedure, but if
4 you look at Contention G and M, for instance, in this case,
5 which dealt with quality assurance the maximum probable
6 flood, because of the summary disposition procedure, I think
7 the parties were all able to focus their thoughts and get
8 their views on paper ahead of hearing and we were able to
9 save ourselves from having to put on live witnesses and go
10 through cross-examination and proposed findings. So I think
11 the process has been very useful and I'm grateful that the
12 Board included the summary disposition procedure in this
13 proceeding.

14 JUDGE BOLLWERK: All right. Anything else any of
15 the parties want to raise with the Board at this point?

16 MS. CHANCELLOR: Your Honor, can we assume that we
17 do not have to file pre-filed testimony on Group I
18 contentions by October 1 because that deadline is coming up
19 very quickly?

20 JUDGE BOLLWERK: I recognize that. We are still
21 holding out until we hear back on this revised schedule the
22 possibility that we may at least go to hearing on Contention
23 R.

24 MS. CHANCELLOR: Would there be a possibility of
25 putting that pre-filed testimony date back?

1 JUDGE BOLLWERK: If that is necessary. In theory,
2 if you can get back to us within the next several days about
3 a new schedule, we will give you a ruling as promptly as we
4 can of what we are going to do with the schedule. Right now
5 we are still saying it's possible that R and the limited
6 appearance statements may go forward in November, and we are
7 waiting to hear from you all on a revised schedule.

8 Is that clear to everyone? Have I left any doubts
9 in anybody's mind about that?

10 [No response.]

11 JUDGE BOLLWERK: Anything else anybody wants to
12 raise with the Board?

13 Mr. Silberg?

14 MR. SILBERG: No.

15 JUDGE BOLLWERK: Mr. Turk, anything else?

16 MR. TURK: No, Your Honor.

17 JUDGE BOLLWERK: Ms. Chancellor?

18 MS. CHANCELLOR: No, Your Honor.

19 JUDGE BOLLWERK: Ms. Curran?

20 MS. CURRAN: No.

21 JUDGE BOLLWERK: Mr. Quintana?

22 MR. QUINTANA: I think we are straight on
23 everything. I was curious whether there were any filings
24 that the court is in need of from the Skull Valley Goshutes,
25 because basically we are following the lead of Private Fuel

1 Storage. We should be in good shape.

2 JUDGE BOLLWERK: The only thing that I know that
3 is outstanding is a response to a motion for clarification
4 or reconsideration that PFS filed.

5 MR. QUINTANA: I don't need to make a response to
6 that.

7 JUDGE BOLLWERK: Mr. Kennedy?

8 MR. KENNEDY: No.

9 All right. We thank you for your time. Again, I
10 would expect to hear back from someone late this afternoon
11 concerning timing for a revised schedule. I thank you.

12 If you have any problems with the electronic
13 document interchange project that we talked about earlier
14 prior to the prehearing conference, feel free to call Mr.
15 Skoczlas. If there is something I can do for you, let me
16 know. Again, Mr. Skoczlas is probably the person that knows
17 more about it than anybody in this agency at this point.

18 I would again urge all of you if you can
19 participate to do so. I think it will be useful to you and
20 to the agency as well to sort of expedite the proceeding
21 over all and make it more efficient.

22 Again, thank you to the parties. We expect to be
23 hearing from you this afternoon at some point.

24 [Whereupon at 12:43 p.m. the prehearing conference
25 was concluded.]

REPORTER'S CERTIFICATE

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

NAME OF PROCEEDING: PREHEARING CONFERENCE
 PRIVATE FUEL STORAGE, INC.

CASE NUMBER: 72-22-ISFSI
 97-732-02-ISFSI

PLACE OF PROCEEDING: Rockville, MD

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



Mike Paulus

Official Reporter

Ann Riley & Associates, Ltd.