

ORIGINAL

OFFICIAL TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

DOCKETED

SEP 16 P2:26

ADJUDICATED

**Title:** PREHEARING CONFERENCE  
PRIVATE FUEL STORAGE, INC.

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

**Work Order No.:** ASB-300-911

**LOCATION:** Rockville, MD

**DATE:** Wednesday, September 8, 1999

**PAGES:** 1168 - 1215

ANN RILEY & ASSOCIATES, LTD.  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

20823

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

- - - - -x  
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

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 APPEARANCES:

2 FOR THE STATE OF UTAH, ATTORNEY GENERAL'S OFFICE:

3 DENISE CHANCELLOR, Esquire

4 FRED NELSON, Esquire

5 LAURA LOCKHART, Esquire

6 CONNIE NAKAHARA, Esquire

7 Utah Attorney General's Office

8 160 East 300 South, Fifth Floor

9 P.O. Box 140873

10 Salt Lake City, Utah 84114

11 FOR THE STATE OF UTAH:

12 DIANE CURRAN, Esquire

13 Harmon, Curran, Spielberg & Eisenberg

14 2001 S Street, N.W., Suite 430

15 Washington, D.C. 20009

16 FOR THE PRIVATE FUEL STORAGE, L.L.C.:

17 JAY E. SILBERG, Esquire

18 Shaw, Pittman, Potts and Trowbridge

19 2300 N Street, N.W.

20 Washington, D.C. 20037

21 FOR CONFEDERATED TRIBES:

22 JOHN KENNEDY, Esquire

23

24

25

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

1 APPEARANCES [continued]

2 FOR THE SKULL VALLEY BAND OF GOSHUTE INDIANS:

3 DANNY QUINTANA, Esquire

4 Danny Quintana & Associates, P.C.

5 50 West Broadway, Fourth Floor

6 Salt Lake City, Utah 84101

7 FOR THE U.S. NUCLEAR REGULATORY COMMISSION:

8 SHERWIN E. TURK, Esquire

9 CATHERINE MARCO, Esquire

10 Office of the General Counsel

11 Mail Stop - 0-15 B18

12 U.S. Nuclear Regulatory Commission

13 Washington, D.C. 20555

14 MARK DELLIGATTI

15 SCOTT FLANDERS

16 Spent Fuel Projects Office

17 U.S. Nuclear Regulatory Commission

18 Washington, D.C.

19

20

21

22

23

24

25

ANN RILEY & ASSOCIATES, LTD.  
Court Reporters  
1025 Connecticut Avenue, NW, Suite 1014  
Washington, D.C. 20036  
(202) 842-0034

## 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.