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Title: Strata Energy, Inc.

Docket Number: 40-90901-MLA

ASLBP Number: 12-915-01-MLA-BD01

Location: teleconference

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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PRE-HEARING CONFERENCE

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In the Matter of: :

STRATA ENERGY, INC. : Docket No. 40-9091-MLA

 : ASLBP No. 12-915-01-MLA-BD01

(Ross In Situ Recovery:
Uranium Project) :

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Tuesday, February 25, 2014

Teleconference

BEFORE:

G. PAUL BOLLWERK, III, Chair

DR. RICHARD F. COLE, Administrative Judge

DR. CRAIG M. WHITE, Administrative Judge

1 APPEARANCES:

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P R O C E E D I N G S

11:09 A.M.

1
2
3 CHAIR BOLLWERK: Good morning. The
4 Licensing Board has convened this pre-hearing
5 conference in the Strata proceeding to talk to the
6 parties this morning about some administrative matters
7 relating to the potential for an evidentiary hearing
8 and a related site visit and limited appearance
9 sessions in the late September, early October 2014
10 time frame.

11 Before we begin our discussion today, I'd
12 like to have everyone go around and identify
13 themselves for the record. Why don't we start with
14 the applicant, Strata, please.

15 MR. PUGSLEY: Christopher Pugsley, Your
16 Honor, for Strata.

17 MR. THOMPSON: Anthony Thompson for
18 Strata.

19 CHAIR BOLLWERK: All right, and do you all
20 have anyone else with you in the room that's listening
21 in or there to help you?

22 MR. PUGSLEY: No, we do not.

23 CHAIR BOLLWERK: Thank you very much. The
24 NRC staff, please?

25 MS. MARSH: Yes, this Molly Marsh and

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1 Emily Monteith for the staff. And we have our project
2 managers, John Saxton, Johari Moore and Ashley
3 Waldron.

4 CHAIR BOLLWERK: All right, thank you very
5 much. And then the intervenors, please?

6 MR. CRYSTAL: Howard Crystal for the NRDC.

7 MR. FETTUS: Geoff Fettus for the Natural
8 Resources Defense Council.

9 MS. ANDERSON: And Shannon Anderson for
10 Powder River Basin Resource Council.

11 CHAIR BOLLWERK: All right. Thank you
12 very much. This is Judge Paul Bollwerk, we're here in
13 Rockville, Maryland along with Judge Richard Cole;
14 Kathleen Schroeder, our law clerk; Karen Volloch, one
15 of the administrative assistants for the panel; and
16 also Andrew Welkie, Andy Welkie, who is one of our
17 information technology/audio visual specialists. And
18 Judge Craig White is participating via teleconference
19 from Idaho.

20 I would ask today, talking with you all if
21 you please can remember and it would help the court
22 reporter to try to identify yourselves before you
23 start speaking, so he will know who it is. And also,
24 if the court reporter has any questions about who
25 might be speaking or needs any clarification, please

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1 feel free to stop us and we'll provide that at that
2 point or we can talk with you about it at the end.

3 Before we start today also I should
4 mention and you all may be aware of this, back in the
5 fall we reconstituted this Licensing Board and
6 substituted Judge White for Judge Kenneth Mossman.
7 And the reason for that at the time was because Judge
8 Mossman had received a presidential appointment to the
9 Defense Nuclear Facilities Safety Board and his Senate
10 confirmation had finally come through and he was about
11 to head off to a new appointment, a very prestigious
12 position.

13 You also may be aware, about a month after
14 he began his work with the Defense Nuclear Facilities
15 Safety Board, Judge Mossman actually had a heart
16 attack and died on the Washington, D.C. Metro system.
17 We were very shocked to hear that and very -- Judge
18 Mossman was a very distinguished colleague, someone
19 that was a good Licensing Board member, and I just
20 wanted to make note of that and for the record express
21 our sorrow over Judge Mossman's passing and he will be
22 missed.

23 All right, let's go ahead then today with
24 our pre-hearing conference. As you all are aware, we
25 set this up based on orders, dated January 29th and

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1 February 4th, and we talked somewhat about what we're
2 going to talk about this morning back in March of 2012
3 on a pre-hearing conference on the 28th of March.

4 Just by way of sort of setting the
5 background, we're currently scheduled to have an
6 evidentiary hearing in this proceeding for any
7 admitted contentions the week of September 28, 2014.
8 The number of days of hearing will, of course, depend
9 on the number of contentions that go to hearing.

10 I should say that in Subpart L
11 proceedings, they tend to on average be about one day
12 for contention, but that, of course, all contentions
13 are not created equal. Some may take longer. Some
14 may take a little bit less. So right now we have four
15 admitted contentions. Whether it would take three
16 days, four days, we don't know. But right now we've
17 set it for three, but as we get closer, we'll have to
18 look at the timing of that more carefully, but right
19 now it's set for basically to start on Tuesday,
20 September 30th and end by either Thursday or Friday,
21 October 2nd or 3rd.

22 The Board has actually begun -- we're
23 eight months out now -- looking at some possibilities
24 of venues out in the area of the Ross facility. And
25 we sort of focused on the towns of Gillette,

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1 Moorcroft, and Sundance, which are in that vicinity,
2 Moorcroft being directly south of the facility;
3 Gillette being somewhat to the west, and Sundance
4 being somewhat to the east.

5 Based on what we've located and found and
6 talked with the facility folks, so far we are inclined
7 to use for the evidentiary hearing meeting rooms in
8 the Energy Hall at the Cam-Plex multi-event facility
9 in Gillette. They have availability there and a large
10 hearing room with the necessary audio-visual
11 equipment, as well as the possibility of party
12 breakout rooms is one of the things that makes that an
13 attractive facility for us. There also appears to be
14 plenty of parking.

15 At this point, you all may be more
16 familiar, certainly the applicant, perhaps the staff,
17 and the intervenors have any input about any other
18 facilities out in that area we might consider for the
19 evidentiary hearing. And I should say we actually
20 looked at the local court facility in Gillette. And
21 one of the issues they had was they really wouldn't
22 commit anything more than one day at a time and
23 obviously I think at this point we're fairly certain
24 the case will go at least two days and maybe three.

25 Let me see if the applicant has any

1 thoughts about an evidentiary hearing venue.

2 MR. PUGSLEY: Your Honor, Chris Pugsley
3 for Strata. We conferred with our client prior to
4 this call and they've recommended the courthouse in
5 Sundance because it's the county seat and the largest
6 population distribution for the county and they
7 thought that it might be that the basement room in the
8 courthouse is quite large and they've had uranium
9 round tables there a few years ago, so they
10 recommended that as a facility that should be
11 considered.

12 CHAIR BOLLWERK: All right, I think we
13 talked with the folks at the courthouse in Sundance,
14 didn't we, if I remember?

15 MS. SCHROEDER: I believe so, yes.

16 CHAIR BOLLWERK: All right, we can go back
17 and talk with them again. Do you know anything about
18 the Cam-Plex, good, bad, or indifferent?

19 MR. PUGSLEY: Chris Pugsley again, Your
20 Honor. Our client seems to think it's a good facility
21 for this type of hearing, so I think it would make
22 sense for you all to try to talk to them again. If we
23 can assist in any way in providing a contact person,
24 we're certainly happy to do that.

25 CHAIR BOLLWERK: I have to say the one

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1 concern I have about Sundance is that most of the --
2 if I understand it, most of the hotel facilities are
3 going to be back in Gillette which means that we're
4 looking at an hour drive out to the hearing space
5 every day, so that is an issue.

6 MS. ANDERSON: Your Honor, this is Shannon
7 Anderson from Powder River Basin Resource Council.
8 There are a few hotels in Sundance, but I agree that
9 the Cam-Plex is a great facility and it would be fine
10 for your purposes, I'm sure.

11 CHAIR BOLLWERK: All right. Does the NRC
12 staff have anything they want to add about giving
13 their experience out in the area?

14 MS. MARSH: We're not familiar with the
15 courthouses -- I'm sorry, this is Molly Marsh. But
16 the staff did hold a public meeting in Cam-Plex and it
17 worked out just fine.

18 CHAIR BOLLWERK: Did you use Energy Hall
19 or one of the other facilities there, if you remember?

20 MS. MARSH: I'm sorry, I thought we had
21 used that for our public meeting.

22 CHAIR BOLLWERK: All right, we'll go back
23 again and perhaps talk to the folks one more time in
24 Sundance. Again, one concern I would have, however,
25 is that may force everybody on the road every morning

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1 to drive an hour to get to the hearing facility which
2 is, I think, a consideration. But we can certainly go
3 back and talk with the folks there again just to see
4 what's available. And I appreciate the applicant's
5 input in that regard.

6 MR. PUGSLEY: Your Honor, Chris Pugsley
7 again for Strata. Just so you know, part of the
8 reason that we believe that Sundance should be
9 strongly considered is because it has the largest
10 population distribution for the county, we believe
11 that it would give the most availability to the
12 stakeholders in the project so that it would provide
13 those folks who are closer in proximity to the project
14 an easier opportunity to participate.

15 CHAIR BOLLWERK: Okay. That may be
16 something we need to talk about as well when we come
17 to limited appearance session. We'll perhaps revisit
18 that in the context of limited appearances when we
19 come to that in a couple of minutes.

20 Let me ask, we talked back in March of
21 2012 about a site visit and I think at that point the
22 applicant felt that that would be a useful exercise
23 for the Board and the other parties. I know the staff
24 has been on the site at least once, probably more
25 often, but had at least one formal site visit.

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1 There's a report in the ADAMS system.

2 I guess one of the questions that the
3 Board has is going to the facility, going out to the
4 Ross facility, what would we see and how would that
5 compare, say to trying to do something? I recognize
6 that these facilities are not ones that Strata
7 operates or controls in any way, but there are several
8 facilities operating ISR facilities southwest of
9 Gillette, the Moore Ranch, the Nichols Ranch, and
10 Willow Creek.

11 How would trying to see one of those
12 versus seeing the Ross facility differ? Better,
13 worse, any thoughts of the applicant or we'll go
14 around to the other parties might have about that sort
15 of thing.

16 MR. PUGSLEY: Your Honor, Chris Pugsley
17 for Strata. I'd like my partner, Tony Thompson, to
18 discuss if he would, please, the site visit that was
19 conducted by the Board for the Powertech litigation
20 because I think he can answer your question directly.

21 CHAIR BOLLWERK: All right.

22 MR. THOMPSON: Yes, Your Honor. This is
23 Tony Thompson for Powertech. I personally and I think
24 our client would highly recommend a site visit so that
25 you have some perspective about where well fields

1 would be versus where the central processing plant is
2 versus where the neighbors are versus where the
3 intervenor lives, etcetera, etcetera.

4 So it gives you perspective on those
5 various relationships.

6 The Powertech Board and Judge Cole can
7 probably speak to this for you, Judge Bollwerk, also
8 went and visited an active site, the Crow Butte site
9 down in Nebraska when they were doing the visit to the
10 proposed Powertech site. It is useful if you've not
11 seen an ISL facility to see what it looks like. The
12 central processing plant is like any other sort of
13 butler-type building, but the well fields, the well
14 field houses that hold the various -- with the various
15 -- individual well fields come together, all of that
16 is probably worth seeing.

17 The question is how far is it to any one
18 of these sites and can you do it in one day? The
19 Powertech Board did it in two days.

20 We would have to get permission from the
21 operators of any one of the sites to actually go on
22 the site. Obviously, if you could see it from the
23 road, you can see it from the road, but that's how it
24 worked out.

25 CHAIR BOLLWERK: All right.

1 MR. THOMPSON: And I believe it was
2 beneficial to the panel just to put things i
3 perspective.

4 CHAIR BOLLWERK: Does staff have any
5 thoughts about site visit in terms of the Ross
6 facility, one of these operating facilities, both,
7 neither?

8 MS. MARSH: This is Molly Marsh. I
9 suppose it sort of depends what you'd like to see. If
10 you're more interested in the -- where the Ross site
11 is and what it neighbors or if you want to see the
12 operating site, I believe Smith Ranch is operating.
13 Nichols is just under construction. It's not
14 operating yet. Moore Ranch isn't operating either.

15 CHAIR BOLLWERK: Is Willow Creek and Smith
16 the same thing or is there another one that I missed
17 in that area?

18 MS. MARSH: Willow Creek is different.

19 CHAIR BOLLWERK: Okay, so there's the
20 Smith Ranch.

21 MS. MARSH: Willow Creek.

22 CHAIR BOLLWERK: Willow Creek, and those
23 are both operating facilities that are possibilities?

24 MS. MARSH: And Crow Butte.

25 CHAIR BOLLWERK: Crow Butte is just a

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1 little bit further away. We were looking for
2 something close to Gillette.

3 MR. PUGSLEY: Your Honor, Chris Pugsley
4 for Strata. Can I say that the Nichols Ranch facility
5 is for all intents and purposes fully constructed.
6 It's just not operating because they will have to
7 address a couple of issues associated with their pre-
8 op inspection. But for all intents and purposes, it's
9 constructed.

10 CHAIR BOLLWERK: What is the status likely
11 to be by September of 2014 we're talking about here?
12 I guess that would be the question.

13 MR. PUGSLEY: Your Honor, Chris Pugsley
14 again. I would be surprised if Nichols Ranch was not
15 in operation by the time a site tour would be
16 scheduled.

17 CHAIR BOLLWERK: Does anyone know, among
18 the staff and the applicant, which -- between the
19 Smith Ranch, the Nichols Ranch and Willow Creek, which
20 is the easiest to reach from Gillette?

21 MS. ANDERSON: Your Honor, this is Shannon
22 Anderson for Powder River Basin Resource Council. The
23 Nichols Ranch facility would be the closest.

24 CHAIR BOLLWERK: Okay.

25 MS. ANDERSON: The other few are a little

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1 bit farther from Gillette and you know, just for your
2 benefit it would be very difficult to do both a site
3 visit of an operating facility and a Strata facility
4 because they're in opposite directions.

5 CHAIR BOLLWERK: Right. That's the
6 problem. One is about a half a day to the southwest
7 and the other one is a half a day to the northeast.
8 So I would tend to agree that if we're going to try to
9 do both an operating facility and the Ross site, we're
10 going to end up having two days, probably one day and
11 one the next day.

12 I haven't heard yet from the intervenors
13 as to whether they think it would be useful to see an
14 operating facility or simply going to the Ross site is
15 sufficient.

16 MR. FETTUS: Your Honor, this is Geoff
17 Fettus with the Natural Resources Defense Council. I
18 think we'd have to confer with our counsel in Wyoming,
19 with Shannon, before we weighed in with an
20 affirmative. We're certainly not against it. And if
21 the staff and the applicant and the court are
22 interested in doing it, then of course, we're not
23 going to object. But I think we need to confer with
24 Shannon which we can't do right now.

25 CHAIR BOLLWERK: Let me just ask the

1 applicant, how much of a difficulty or if the staff
2 has anything they want to say in this regard, how much
3 difficulty do you think we would have getting
4 authorization to go on to an existing site? I mean
5 obviously it's not a site that Strata controls and the
6 staff is simply there as a regulator, not necessarily
7 come and visit whenever you want. Anyone want to
8 speak to that? Is it a difficult issue?

9 MR. PUGSLEY: Your Honor, Chris Pugsley
10 for Strata. In the Powertech case, there was
11 authorization given to go to Crow Butte by Cameco
12 Resources, so that should not be too much of an issue.
13 Right now, the Nichols Ranch facility is controlled by
14 Uranerz Energy Corp. We know who to contact there to
15 get permission, if necessary.

16 Another facility that we did not mention
17 and apologize for that is Cameco recently in the past
18 six months or so started their North Butte satellite
19 facility which is pretty close to Gillette as well.

20 MR. THOMPSON: Your Honor, this is Tony
21 Thompson for Powertech. There was an issue associated
22 with the Crow Butte visit in that a member of the
23 board was also a member of the board in a licensing
24 proceeding before a different board. And counsel for
25 Cameco couldn't be present. As it turned out, none of

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1 the counsel for the intervenors attended the site
2 visit so that took away the concern of Cameco's
3 counsel.

4 Since Your Honor is not involved in any
5 litigation with a Board, I don't know whether they
6 would permit it or not but since we also represent
7 them in some things, I don't see that there would be
8 a problem just to walk around and take a look, but we
9 would have to ask.

10 CHAIR BOLLWERK: All right. Let's do two
11 things here. It sounds like the intervenors want to
12 at least give us some input. How long do you think
13 you can basically send us a letter or a pleading that
14 would indicate what your thoughts are about the site
15 visit?

16 MR. FETTUS: I'm sure, Your Honor, we
17 could send you either email or a short pleading,
18 whatever you prefer by the end of the week.

19 CHAIR BOLLWERK: That would be fine.
20 Let's go ahead and get that in by Friday, please,
21 then.

22 MR. FETTUS: Sure. Would you prefer it in
23 the form of an email to your clerk or would you prefer
24 it in the form of a short pleading?

25 CHAIR BOLLWERK: A pleading or a letter.

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1 Let's go ahead and put it on the record.

2 MR. FETTUS: Okay, thank you.

3 CHAIR BOLLWERK: Once we get that input,
4 we'll try to get back to you either formally or
5 informally, not necessarily in a conference, but there
6 may be some email traffic back and forth to try to
7 begin to set something up. The Board needs to talk
8 about this as well. One of the questions for us is do
9 we want to devote two days to this or not. It sounds
10 like the parties at least have some general interest
11 in at least a one-day site visit, but we need to talk
12 about that and see what seems to make the most sense.
13 But it also sounds like the applicant would be willing
14 to help us set it up, if we decide to go to another
15 facility. if I'm understanding what you all are
16 saying.

17 MR. PUGSLEY: Chris Pugsley for Strata,
18 Your Honor. Yes, that's true. We would be willing to
19 assist however we can.

20 CHAIR BOLLWERK: Okay, and just so I
21 understand, what do you think -- what kind of
22 presentation or what will we see out at the Ross
23 facility itself? How long do you think it would take?
24 I know there's an unimproved road to get there. I
25 take it we need to drive out there and can we drive

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1 around? How do you think it would work based on what
2 -- the staff has had at least one site visit out
3 there.

4 MR. PUGSLEY: Your Honor, this is Chris
5 Pugsley. I think Tony Thompson can answer that.

6 CHAIR BOLLWERK: All right.

7 MR. THOMPSON: Yes, this is Tony Thompson
8 for Strata. Yes, we would provide some vehicles that
9 can go off road and you would -- they would take you
10 where the station is. They would take you and show
11 you where, I guess, any of the NHPA sites are. They
12 would take you where the well fields would be and
13 where the CPP, central processing plant, would be,
14 etcetera, etcetera. And you would see where these
15 things are in relation to the various local people
16 that live in the neighborhood and what else is going
17 on in the neighborhood, oil wells, etcetera.

18 CHAIR BOLLWERK: All right. Based on the
19 staff's site visit, is there anything you'd offer that
20 would be useful for the Board to see?

21 MS. MARSH: This is Molly Marsh. I think
22 Tony described it pretty well.

23 CHAIR BOLLWERK: Whose vehicles did you
24 use when you had your site visit?

25 MS. MARSH: We rented our own SUVs to get

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1 there and then we switched over to Strata's vehicles
2 once we were there.

3 CHAIR BOLLWERK: Okay.

4 MS. MARSH: Just getting there can be a
5 bumpy ride.

6 CHAIR BOLLWERK: A bumpy right, and I
7 suspect, I take it if the weather is not great, that
8 may be an issue, too, but give it's an unimproved
9 road. Would that be correct?

10 MR. THOMPSON: This is Tony Thompson.
11 There's not going to be a problem getting to the site
12 itself. Where you're going to be bumping around is
13 when you drive out into the well fields and places
14 like that. And since a lot of this is private
15 property and Strata has access control, they have to
16 do it the way they want to do it and it shouldn't be
17 an issue, but it does -- they are on private property
18 and so the Strata vehicles when you go off-road
19 probably is the way to go. But getting there isn't
20 any issue. The unimproved road is quite an improved
21 unimproved road.

22 CHAIR BOLLWERK: Okay. All right, I think
23 at this point we have the information we need to begin
24 thinking about this. Anything else the intervenors
25 want to say about the site visit, subject to whatever

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1 they might put in their pleading on Friday?

2 MR. FETTUS: Nothing, Your Honor. Thank
3 you.

4 CHAIR BOLLWERK: All right, thank you.
5 Let's move next to the subject of limited appearance
6 sessions and one of the things I guess the Board would
7 like to get a sense from the parties is the sort of
8 local interest there is out in the area. And part of
9 I think what we're raising the question is one limited
10 appearance session going to be enough? Do we need to
11 do two? If we're going to do only one, what would the
12 location, the best venue be? If we're going to do
13 two, what the possibilities involved.

14 One thing I should mention, again
15 depending -- I originally thought if we did one site
16 visit we'd probably do that on Monday the 29th, the
17 morning of the 29th, the day before the hearing. If
18 we held the hearing in Gillette probably if we did any
19 limited appearances, for instance, in Sundance, we
20 might well have to do that on the weekend, say on
21 Sunday. But I don't know -- again, I guess we need --
22 we'll have to think about where the hearing venue is,
23 but I guess I'm interested, is there enough interest
24 in both Gillette and Sundance to do limited
25 appearances are should we simply limit ourselves to

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1 Sundance?

2 Let me go to the applicant first and see
3 if you have any thoughts about that.

4 MR. PUGSLEY: This is Chris Pugsley for
5 Strata, Your Honor. As a preliminary matter, we
6 believe that only one session of limited appearance
7 statements would be required. We believe Sundance,
8 again, as we said earlier about the hearing venue, we
9 believe Sundance would be the best location because of
10 again, the concentration of population and the fact
11 that there are the most stakeholders present and would
12 give them the best opportunity to participate.

13 We also believe that as we've said in the
14 Powertech proceeding that one session of oral limited
15 appearance statements with the option of people
16 submitting written limited appearance statements at
17 some -- in some time period designated by the Board
18 would be more than enough to capture everyone's
19 opinions.

20 CHAIR BOLLWERK: All right, anything the
21 staff wants to say about limited appearance sessions?
22 I should mention by the way I think we issued the
23 initial order or one initial order in this case. We
24 already invited written limited appearance statements.
25 In theory, someone could put one in right now. But in

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1 any event, anything the staff wants to say about
2 limited appearance sessions?

3 MS. MARSH: This is Molly Marsh. I think
4 one session would probably be fine. It seems like the
5 interest is coming from very near the Ross site, the
6 land owners nearby and the local community. So
7 Sundance should probably be fine.

8 CHAIR BOLLWERK: All right. Anything the
9 intervenors want to say about limited appearance
10 sessions?

11 MR. FETTUS: Nothing else, unless Shannon
12 wants to chime in from Wyoming.

13 CHAIR BOLLWERK: All right.

14 MS. ANDERSON: Thank you. Shannon
15 Anderson from Powder Riven Basin Resource Council. I
16 would agree with Mr. Pugsley. I think Sundance would
17 be the better venue. I would assume one day would be
18 more than sufficient, if not just a few hours with the
19 opportunity for written statements.

20 CHAIR BOLLWERK: If we did it in Sundance
21 and we did it on a Sunday afternoon or a Sunday
22 evening, is that an issue out there? I've done them
23 in the past. Sometimes they work, although I've done
24 at least one where no one showed up. So I hate to do
25 that for obvious reasons, although we were doing two

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1 for that particular facility and we got a lot of
2 people at the second one.

3 Do people appreciate the opportunity to
4 get there on a day when they're likely to be working
5 or does Sunday present a problem?

6 MS. ANDERSON: Your Honor, I think Sunday
7 would be fine, provided it's in the evening.

8 CHAIR BOLLWERK: Okay.

9 MS. ANDERSON: Or late afternoon. Sunday
10 mornings around here --

11 CHAIR BOLLWERK: Obviously, I wouldn't do
12 it then, but Sunday afternoon, early evening?

13 MS. ANDERSON: Yes.

14 CHAIR BOLLWERK: Anything the applicant or
15 staff wants to say about Sundance that time of day on
16 a Sunday?

17 MR. PUGSLEY: Chris Pugsley for Strata,
18 Your Honor. Absent conferring with our client about
19 what their thoughts are, we would have no objection to
20 Sunday late afternoon or evening.

21 CHAIR BOLLWERK: All right. Anything the
22 staff wants to say?

23 MS. MARSH: This is Molly Marsh. No, we
24 don't have anything to add.

25 CHAIR BOLLWERK: All right, we think we

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1 actually -- was the library in Sundance?

2 MS. SCHROEDER: We have a conference room
3 in the basement of the Gillette courthouse.

4 CHAIR BOLLWERK: Okay. Let me go off the
5 record here one second.

6 (Off the record.)

7 CHAIR BOLLWERK: Let me ask for one piece
8 of clarification regarding the facilities in Sundance.
9 We had located, there is a courthouse that we're aware
10 of. We also located a library in Sundance, the Crook
11 County Public Library that has a room. Does anyone
12 know the difference between those two facilities and
13 which might be better?

14 MS. ANDERSON: Your Honor, this is Shannon
15 Anderson from Powder River Basin Resource Council.
16 The library is quite small.

17 CHAIR BOLLWERK: Okay.

18 MS. ANDERSON: The courthouse is a much
19 better venue for this type of proceeding.

20 ADMIN. JUDGE COLE: If it's available on
21 a Sunday.

22 CHAIR BOLLWERK: That's the question.
23 That may be an issue in terms of getting it on a
24 Sunday. That may be one thing we're going to need to
25 think about.

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1 All right, does anybody else want to say
2 anything about Sundance in terms of the facilities
3 there?

4 MR. PUGSLEY: Your Honor, this is Chris
5 Pugsley for Strata. We'd be happy to by the end of
6 the week as Mr. Fettus is going to be supplying you
7 with a small pleading on the site visit, we'd be happy
8 to provide you with the same small pleading on
9 information on Sundance, including the courthouse,
10 available hotels and things of that nature. We're
11 happy to do that.

12 CHAIR BOLLWERK: All right, if that's
13 something you want to provide for the record, that's
14 fine.

15 MR. PUGSLEY: Okay, thank you.

16 CHAIR BOLLWERK: Appreciate it. All
17 right, let me just check.

18 Judge White, you've been listening to all
19 this. Do you have any questions or concerns that you
20 want to express at this point?

21 ADMIN. JUDGE WHITE: I have none at this
22 point, thanks.

23 CHAIR BOLLWERK: All right, Judge Cole, is
24 there anything you want to say about these subjects?

25 ADMIN. JUDGE COLE: No, I'm fine.

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1 CHAIR BOLLWERK: All right. You lived
2 through Powertech, so you know what that's all about.
3 I should say that one of the things, the things that
4 we will be doing is trying to incorporate some audio-
5 visual technology into the hearing in terms of
6 displaying documents and other things and I know one
7 of the advantages of the Cam-Plex multi-event facility
8 is they do have wireless. So that would obviously
9 provide counsel with the opportunity to be connected
10 as well as the Board. We're going to have to see
11 what's available in Sundance at the courthouse, just
12 to see what their facilities will allow. So we'll
13 look into that.

14 At this point, I wanted to raise one other
15 issue then if none of the parties have anything else
16 relative to the evidentiary hearing, the site visit,
17 or the limited appearance sessions, and the email we
18 had sent out sort of setting up the telephone numbers,
19 I had mentioned that I was going to raise a question
20 of the potential for the -- depending again, and this
21 is obviously hypothetical at this point, what the
22 final supplemental environmental impact statement were
23 to say in terms of authorizing the issuance of a
24 license.

25 And I'm assuming, and maybe the staff

1 wants to say something about that, that they're still
2 on track to finish that by the end of the month. If
3 that, in fact, were the case, what is the staff's
4 approach relative to the Section 2.1202(a) notice that
5 the staff would then be issuing. So perhaps I'll hear
6 what the staff has to say on that at this point.

7 MS. MARSH: This is Molly Marsh. The
8 FSEIS is still on track to be public by the end of
9 this week and I think now it sounds like the Federal
10 Register notice will go out next week and the hard
11 copies will be sent to all the parties next week.

12 CHAIR BOLLWERK: All right. You want to
13 comment on the second part of it then? Assuming the
14 notice goes out, assuming -- I'm making an assumption
15 here, that it's sufficient to authorize the issuance
16 of a license so does the staff then have any thoughts
17 or plans or -- I know on the website, for instance, it
18 indicates that within 30 days, the license probably
19 would be issued.

20 MS. MARSH: Sorry, this is Molly Marsh
21 again. Yes, it would be 30 days after the EPA issues
22 it's Federal Register notice for the final
23 environmental impact statement. Thirty days after
24 that, the staff could issue the license, would give
25 notice and issue another Federal Register notice.

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1 CHAIR BOLLWERK: And would that notice be
2 the Section 2.1202(a) notice or is that going to be a
3 separate pleading that you would put in?

4 MS. MARSH: At this point we're working on
5 how we'll do that, but we could certainly file a
6 separate pleading if you'd like a separate notice. We
7 could file a separate notice letting you know when
8 that went out.

9 CHAIR BOLLWERK: All I know is what the
10 rule says, so as long as you comply with the rule that
11 would be what we want to happen obviously, because as
12 you're aware, that triggers other things. So that
13 notice is important as a matter of public record
14 because then we begin to look at Section 2.1213 and
15 stayed motions and other things.

16 All right, the issue has been raised and
17 one other thing I will mention and I know this came up
18 in the Powertech case where actually the final
19 supplemental environmental impact statement has
20 already been issued. The question about the stay
21 process, assuming we were to move forward in that way,
22 the parties actually had some discussions among
23 themselves, talked about schedules because if you look
24 at the schedule under 2.1213, basically after that
25 notice comes out under 2.1202(a), there's five days to

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1 file a stay motion, and then things follow from there.

2 If the parties have any thoughts about how
3 they want to structure that process, the Board would
4 certainly be willing to listen. Having said that, if
5 nothing happens, then we're just going to look to the
6 rules and we'll follow it from there, assuming that
7 someone decides to file a stay motion.

8 Does the intervenor want to say anything
9 in that regard?

10 MR. CRYSTAL: Yes, this is Howard Crystal
11 for NRDC. All I can say at the moment is I'm sure
12 that we would appreciate if all those things come to
13 pass, having more than five days to file a stay
14 motion. It sounds like a pretty tight time line. It
15 may be premature to ask to set a different schedule
16 now and if it is, then we can wait. If there's the
17 opportunity, I guess at this point to suggest that if
18 those things do come to pass that we have some longer
19 time period than five days, we'd certainly appreciate
20 it.

21 CHAIR BOLLWERK: Well, from the Board's
22 perspective, if the parties can come to us with an
23 alternate schedule, that would be the preferred
24 process. Having said that, if they can't, obviously
25 anyone is welcome to file a motion for an extension of

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1 time or whatever else they might think is appropriate,
2 but again, given it's five days after that notice
3 comes out, you're going to need to have that in sooner
4 rather than later.

5 I guess what I'm saying is that there is
6 maybe an opportunity here for you all to talk about
7 this. If you have a schedule that you think would
8 meet your needs, recognizing that there may be other
9 pleadings coming in, new or amended contentions,
10 summary disposition motions, all kinds of things, once
11 that final supplemental final environmental impact
12 statement goes out, if there's a way that you all want
13 to structure this, the Board is certainly willing to
14 listen. But if we don't hear anything further from
15 you, then we'll simply follow the rules.

16 MR. CRYSTAL: This is Howard Crystal
17 again. I appreciate that, Your Honor. We'll confer
18 with the other parties and see if we can work
19 something out in that regard..

20 CHAIR BOLLWERK: All right. And if you
21 feel it's useful that we have another pre-hearing
22 conference, let us know and we'll convene one and talk
23 with you about it.

24 MR. CRYSTAL: Thank you.

25 CHAIR BOLLWERK: All right, anything the

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1 applicant or the staff wants to say in that regard,
2 about that subject? The applicant first.

3 MR. PUGSLEY: Your Honor, Chris Pugsley
4 for Strata. In the Powertech case, our opinion was
5 that we would stick to the rules, but of course, as
6 always, we're willing to have discussions to see what
7 makes sense, but we certainly have to speak with our
8 client before we render any opinions.

9 CHAIR BOLLWERK: All right, fair enough.
10 Anything the staff wants to say?

11 MS. MARSH: Yes, this is Molly Marsh. I
12 apologize for not being a little more prepared. But
13 I just wanted to mention that the NHPA Section 106
14 consultation is still continuing. The staff is
15 working with the other consulting parties on a
16 programmatic agreement and that needs to be completed
17 as well before the staff could issue a license. So
18 the 30 days might not be a perfect time frame. I just
19 wanted to be clear.

20 CHAIR BOLLWERK: How much longer
21 approximately do you think that process is going to
22 take given what information you have now?

23 MS. MARSH: I think it's going to be very
24 -- it should be done within the 30 days, but it will
25 be very close.

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1 CHAIR BOLLWERK: All right. Well, again,
2 the rule is clear. The process is out there and I
3 guess we simply wanted to raise it, make you aware
4 that we're aware of it. If there's something you want
5 to do in terms of the schedule, obviously talk among
6 yourselves if you can come up with a proposed schedule
7 that is a little bit different. We're certainly
8 willing to listen. The rule is there and we'll follow
9 the rule in the absence of anything else.

10 All right, let me then go around to each
11 of the parties, see if there's anything else you want
12 to talk to the Board about, anything we talked about
13 today or anything else at this point.

14 Anything from the applicant?

15 MR. PUGSLEY: Your Honor, Chris Pugsley
16 for Strata. No, nothing at this time?

17 CHAIR BOLLWERK: All right, anything for
18 the NRC staff?

19 MS. MARSH: No, Judge Bollwerk.

20 CHAIR BOLLWERK: And anything from the
21 intervenors?

22 MR. CRYSTAL: Yes, Your Honor, this is
23 Howard Crystal again for the NRDC. There are two
24 issues that we actually conferred with the other
25 parties about yesterday that we're all in agreement

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1 that we'd like to raise now if we could.

2 CHAIR BOLLWERK: All right.

3 MR. CRYSTAL: The first one is with regard
4 to the page limitation that goes along with the filing
5 of any new or amended contentions after issuance of
6 the final supplemental EIS. As reflected in the
7 Board's prior orders, the current page limit is ten
8 pages per contention or amended contention. And a
9 prior order suggested that if there were going to
10 multiple contentions or amended contentions that the
11 parties file a motion to do it in one pleading rather
12 than filing separate ten-page briefs.

13 What we'd like to suggest and the other
14 parties have no objection is that we all agree now or
15 that the Board order at this time that if there are
16 any amended contentions or new contentions that any
17 pleading include all of those amended or new
18 contentions and be limited to ten pages per contention
19 or amended contentions and that page limit would also
20 apply to any responses.

21 CHAIR BOLLWERK: Okay. That's one matter.
22 There's a second one.

23 MR. CRYSTAL: Yes, the other matter is the
24 Board's order from November 3, 2011 provided that
25 after issuance of the final EIS the discovery schedule

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1 would revert to every 14 days for disclosures instead
2 of 30 days and we suggested and the other parties had
3 no objection that we just keep the 30 day time period
4 after issuance of the final EIS.

5 CHAIR BOLLWERK: Okay, let me make a
6 suggestion. You're going to file a pleading on
7 Friday.

8 MR. CRYSTAL: Yes, Your Honor.

9 CHAIR BOLLWERK: Why don't you go ahead
10 and put both of these matters in there and indicate
11 this is the parties' agreement. Then we'll take it
12 from there. How is that?

13 MR. CRYSTAL: That's fine, Your Honor.
14 Thank you.

15 CHAIR BOLLWERK: I appreciate it. All
16 right, anything else from the intervenors then?

17 All right, again, we appreciate your
18 input. We thought this was a good opportunity, we
19 wanted to take the opportunity to talk with you
20 because you all are more familiar with what goes on
21 out at the site, near the site and have some insights
22 into what the situation is out there. I think we've
23 gotten some good information. You're going to be
24 providing us with some additional information and
25 we'll go forward from there.

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1 Again, if there is at some point relative
2 to the stays or something else, possibilities after
3 the FSEIS comes out, you need to talk with us, let us
4 know and we'll certainly convene another pre-hearing
5 conference as needed.

6 Judge White, did you have anything you
7 wanted to say?

8 ADMIN. JUDGE WHITE: Nothing more, thanks.

9 CHAIR BOLLWERK: All right, Judge Cole?

10 ADMIN. JUDGE COLE: No, I'm fine.

11 CHAIR BOLLWERK: All right, then thank you
12 very much for making yourselves available today. We
13 very much appreciate it. And I hope you all have a
14 good day.

15 (Whereupon, at 11:49 a.m., the pre-hearing
16 conference was concluded.)

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