

**From:** David Frankel  
**To:** [Ladin, Sarah](#)  
**Cc:** [Simon, Marcia](#); [Tom Ballanco](#); [Monteith, Emily](#); [Carpenter, Robert](#); [trsmith@nuclear.law](mailto:trsmith@nuclear.law)  
**Subject:** [External\_Sender] Re: Re: Availability for Conference Call on Wednesday 9/26 for Crow Butte Marsland Proceeding  
**Date:** Tuesday, September 25, 2018 11:19:59 AM

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Yes - the reasons are that our experts are world class experts with overbooked travel schedules - it seems like a miracle that they have one day to devote to this hearing, especially considering they are working on a heavily discounted/stipend, almost pro bono, basis -

These experts book their schedules up several months in advance and had prior commitments existing before becoming committed to this hearing schedule -

Mike Wireman leaves for Cuba on the night of Oct 31 or the morning of Nov 1;

Dr. Kreamer's schedule takes him from teaching University on Mon Oct 29, taking the late flight to Denver, driving up to NE in the early AM to be available Oct 30 and then departing the night of Oct 30 also from Denver (after 5 hour road trip) to be back at his classroom at 1030am Wed Oct 31 - due to his other travel and engagements he has informed us that his Department Chair will not approve any more missed classes so he has only provided a very small window for in person testimony in Nebraska -

These are not negotiable with our experts.

I hope that this background will help inform the call - feel free to pass this info to the Board -

David Frankel  
Counsel for OST  
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On Tue, Sep 25, 2018 at 8:12 AM Ladin, Sarah <[Sarah.Ladin@nrc.gov](mailto:Sarah.Ladin@nrc.gov)> wrote:

Mr. Frankel,

Will Mr. Ballanco be able to speak to the reasons for OST's witnesses's limited availability?

Sarah

On: 24 September 2018 19:02, "David Frankel" <[davidcoryfrankel@gmail.com](mailto:davidcoryfrankel@gmail.com)> wrote:

Hello - while I am not available until 1130am ET, I might be able to get on early depending on how things go; my co-counsel Tom Ballanco can start at 11am ET - so if the Board needs an hour, I propose we start at 11am ET, Mr. Ballanco can start and I can join as soon as possible thereafter -

David Frankel  
Counsel for the OST

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On Mon, Sep 24, 2018 at 3:19 PM Tyson Smith <[trsmith@nuclear.law](mailto:trsmith@nuclear.law)> wrote:

Ms. Ladin,

NRC Staff counsel are available during the entire period 10 am to 4pm Eastern time on Wednesday, 9/26. However, counsel for Crow Butte is only available up until noon ET on Wednesday, as I'm in the midst of a multi-week trial that starts at 9 am PT each day. In light of OST's availability below, the only available window appears to be from 11:30 ET-Noon ET on Wednesday.

Tyson

On Sep 24, 2018, at 2:06 PM, David Frankel <[davidcoryfrankel@gmail.com](mailto:davidcoryfrankel@gmail.com)> wrote:

Hello,

Counsel for Oglala Sioux Tribe are available between 11:30am ET and 4pm ET, on Wed Sept 26 - thanks,

David Frankel  
Counsel for Oglala Sioux Tribe  
[arm.legal@gmail.com](mailto:arm.legal@gmail.com)  
605-515-0956

On Mon, Sep 24, 2018 at 1:25 PM Ladin, Sarah <[Sarah.Ladin@nrc.gov](mailto:Sarah.Ladin@nrc.gov)> wrote:

Dear Counsel,

After receiving the Oglala Sioux Tribe's Notice of Witness Availability, the Board would like to convene a short (one-hour or less) conference call this Wednesday, September 26, with a start time between 10 a.m. (ET) and 4 p.m. (ET) in order to discuss the availability of the parties' witnesses for the hearing.

One representative of the collective parties should respond with their availability for a call on Wednesday by tomorrow (September 25, 2018) at noon (ET).

Best,

Sarah

**Sarah Ladin, Law Clerk**

Atomic Safety and Licensing Board Panel

Nuclear Regulatory Commission

[Sarah.Ladin@nrc.gov](mailto:Sarah.Ladin@nrc.gov)

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