

SURFACE TRANSPORTATION BOARD 11/06/97 FD #33388 1-28

UNITED STATES OF AMERICA

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DISCOVERY CONFERENCE

CSX CORPORATION AND CSX
TRANSPORTATION, INC., NORFOLK
SOUTHERN CORPORATION AND NORFOLK
SOUTHERN RAILWAY COMPANY --
CONTROL AND OPERATING LEASES/
AGREEMENTS -- CONRAIL INC. AND
CONSOLIDATED RAIL CORPORATION --
TRANSFER OF RAILROAD LINE BY
NORFOLK SOUTHERN RAILWAY COMPANY
TO CSX TRANSPORTATION, INC.

Finance Docket
No. 33388

Thursday,
November 6, 1997

Washington, D.C.

The above-entitled matter came on for a
oral argument in Hearing Room 4 of the Federal
Energy Regulatory Commission, 888 First Street, N.E.
at 9:30 a.m.

BEFORE: THE HONORABLE JACOB LEVENTHAL
Administrative Law Judge

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P-R-O-C-E-E-D-I-N-G-S

(9:30 a.m.)

JUDGE LEVENTHAL: All right, Discovery Conference will come to order. This is a Discovery Conference in Finance Docket Number 33388. We'll take appearances.

MR. HARKER: Your Honor, good morning. Drew Harker with Arnold & Porter, for CSX.

MS. BRUCE: Good morning, Your Honor. Patricia Bruce, Zuckert, Scoutt & Rasenberger, for Norfolk Southern.

MR. DRIVER: Good morning, Your Honor. Kenneth B. Driver from Jones, Day, Reavis & Pogue, here on behalf of National Lime and Stone Company.

JUDGE LEVENTHAL: Further appearances? All right. The topic of this morning's conference is the Motion of primary applicants to compel production of documents relating to evidentiary submission. I'm going to instruct the reporter to include a copy of the primary applicant's Motion into the record.

All right. Now, I received replies of Belvidere and Delaware River Railway and the Black

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1 River & Western Railroad; City of Indianapolis;
2 Livonia Avon & Lakeville Railroad Corp.; and the New
3 York State Electric & Gas Corporation. Does that
4 dispose of the issue with regard to those four, Mr.
5 Harker?

6 MR. HARKER: Your Honor, I think so, with
7 the exception of Belvidere which we can discuss at
8 your pleasure. But I think with respect to the
9 others, in fact, I have disposed of a number of issues
10 with respect to other parties as well, if you'd like
11 me to report to you on that.

12 JUDGE LEVENTHAL: Yes. Why don't you tell
13 me what's up?

14 MR. HARKER: If you look on page 2 of the
15 Motion, we consider Belvidere still open; Bessemer and
16 Lake Erie Railroad closed; City of Indianapolis still
17 open; Illinois Central closed; Indiana & Ohio Railway
18 closed; Indiana Southern Railroad closed; Livonia Avon
19 & Lakeville Railroad Corporation closed; National Lime
20 still open; New England Central Railroad closed; New
21 York State Electric & Gas Corporation closed; Shell
22 Oil Company and Shell Chemical Company open;

1 Southeastern Pennsylvania Transportation Authority
2 closed; and Wisconsin Central closed.

3 And on page 3 of our Motion we raised an
4 additional concern with respect to the labeling. This
5 was with respect to Orange & Rockland Utilities and
6 the U.S. Department of Transportation, and I can
7 report to you that those are both closed now.

8 JUDGE LEVENTHAL: All right.

9 MR. HARKER: So really there are, as far
10 as primary applicants are concerned, there's really
11 four issues: Belvidere & Delaware, the City of
12 Indianapolis, National Lime & Stone, and Shell Oil
13 Company.

14 JUDGE LEVENTHAL: All right. Do you wish
15 to address it first?

16 MR. HARKER: I'd be glad to.

17 JUDGE LEVENTHAL: All right.

18 MR. HARKER: Your Honor, the background on
19 this is that on October 21 -- the deadline set by the
20 Board for filing of comments, protests, responsive
21 applications, inconsistent applications and the like,
22 with respect to the primary application -- we

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1 received, on or about that date, something like 160
2 filings.

3 And many of these were very voluminous,
4 many of them contained evidentiary submissions,
5 verified statements and other such things. And we
6 have until December 15th to respond to the 160 or so
7 filings. Coming over here this morning I looked at my
8 calendar and I did some quick math, and we had
9 basically 55 days to respond from the 21st to the 15th
10 -- that is, calendar days -- and 39 business days.

11 November 7th, tomorrow -- which is the
12 date we argued in our Motion to Compel, we requested
13 relief for in a Motion to Compel -- would give us 26
14 business days from the 15th of December, or 38
15 calendar days. Meaning that a third of the period by
16 which we have to respond to these 165 filings has
17 already passed.

18 I should mention as well that, given our
19 "production schedule" for putting together our
20 rebuttal filing on the 15th, we've been informed by
21 our printer -- who is going to take everything
22 together and bind it together -- that they need

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1 something on the order of about five business days at
2 the tail end of the schedule to get everything for
3 purposes of printing and binding.

4 So you can take five business days off of
5 those days I just gave you to give you a sense of the
6 limited amount of time that we have to put together
7 our rebuttal filings.

8 In our paper we quoted from Decision No.
9 6 which is the basis for our Motion. This was issued
10 by the Board at the end of May, so everybody has been
11 well aware of the requirement, and I will just read it
12 for the record. It's on page 20 of my copy of the
13 Order.

14 And it says -- it's immediately after the
15 procedural schedule and it says: "Immediately upon
16 each evidentiary filing, the filing party will place
17 all documents relevant to the filing (other than
18 documents that are privileged or otherwise protected
19 from discovery) in a depository open to all parties,
20 and will make its witnesses available for discovery
21 depositions."

22 Now, that language is essentially repeated

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1 in the discovery guidelines that you issued in
2 Decision No. 10 and in addition, the discovery
3 guidelines also require, in paragraph 8, that all
4 depositories shall be maintained in the Washington,
5 D.C. area unless a party requests and receives written
6 permission from the ALJ after notice to all other
7 parties and for good cause shown, to maintain its
8 depository outside of the Washington, D.C. area.

9 Because of the problem that we were
10 confronted with in terms of dealing with 160 filings
11 and potentially 160 depositories, on October 17th I
12 sent a memorandum to all parties of record in the case
13 asking for copies of the documents that they would put
14 in their depository.

15 That way, we could essentially have one
16 central location -- at least CSX and the primary
17 applicants could have one, central location where the
18 other parties' workpapers would be stored and you
19 weren't running around town, spending a lot of time on
20 the road reviewing and gathering workpapers.

21 And we did receive a number of workpapers
22 from a number of parties, on or about the 21st of

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1 October; however, we've done a review of the filings
2 that were made on October 21 and realized that other
3 parties probably had workpapers as well; parties who
4 had not contacted us.

5 So I've been in the process over the
6 course of the last week or ten days, of contacting a
7 list of about 40 or 50 parties that made filings for
8 which we had a keen interest in getting the work
9 papers.

10 And as of Monday when we filed our Motion,
11 we were essentially -- had not been able to resolve
12 the issues with the companies and the entities that
13 are identified on page 2 of our Motion. Since then,
14 as I said, we've essentially been able to resolve the
15 issues with respect to all but four.

16 And based on the fact that we were unable
17 to resolve the issues with respect to these four, we
18 request that you grant the Motion to Compel which
19 would essentially require production of these
20 documents by tomorrow. Which again, would give us
21 about two-thirds of the time we originally had to put
22 together our rebuttal submission.

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1 The workpapers -- we put together a
2 depository -- the primary applicants have to establish
3 a depository. And we indicated right at the outset of
4 the case -- in fact, I think it's in the discovery
5 guidelines -- that the applicant's depository would be
6 maintained at Arnold & Porter.

7 And that turned out to -- having a
8 depository where workpapers are maintained are a
9 critical element to being able to put together some
10 kind of filing in response to a primary application
11 which was what we filed in our case, or a responsive
12 application of comments.

13 Because what these documents are, they
14 really are the underlying workpapers for the testimony
15 of the experts and the consultants and others who have
16 provided testimony to the Board, and it gives us an
17 opportunity to see what their underlying work was and
18 allows us to put together our discovery.

19 And we have already begun that process.
20 Indeed, we started getting our discovery last week and
21 we have started putting together discovery this week,
22 but we are prejudiced because without seeing the

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1 underlying workpapers we don't know what experts or
2 other witnesses relied on and it's a little bit like
3 a shell game. Since we don't know what they relied on
4 it's hard to ask discovery about it.

5 We were entitled to this information on or
6 about October 21. Today is November 6th, and I submit
7 to you that it's late, the stuff is overdue, and we
8 should have already had it and we shouldn't be getting
9 it any later than tomorrow.

10 Which brings me to the next point which is
11 that with respect to Belvidere & Delaware, I know
12 counsel's letter to you indicated that they would be
13 prepared to give us documents by Tuesday. We were
14 frankly, Your Honor, not in a position to agree to
15 that. You know, that's four more days than we had
16 requested -- four more calendar days. For us they're
17 really working days as well.

18 But you know, given the delay already --
19 given the delay already -- we are just not in a
20 position to find Tuesday acceptable, particularly when
21 the excuse for failure to comply, frankly, is so weak.
22 I'm sorry Mr. Green isn't here, but you know, with all

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1 due respect, Mr. Green's letter suggests that it was
2 my fault that they didn't establish a depository or
3 that we don't have the records, because somehow he
4 didn't get my October 17th memorandum.

5 But my October 17th memorandum didn't set
6 the requirement. My October 17th memorandum wasn't a
7 discovery request. All it was asking for were copies
8 of what was going to be in the depository four days
9 hence, on October 21. And so his letter essentially,
10 concedes that they are not in compliance as of today,
11 with the depository requirement.

12 And as I said, that is prejudicial to us.
13 He has a consultant that did some work and we're
14 entitled to his workpapers. And so I would submit to
15 you that Tuesday is just not acceptable to us.

16 With respect to the City of Indianapolis
17 we received a letter from counsel for the City, last
18 night, which indicated that -- they did forward I
19 think, one or two documents which were workpapers and
20 indicated that the other material was in the mayor's
21 office and that the mayor was a busy fellow and that
22 he was traveling.

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1 And I don't doubt that he is very busy
2 with very many, important civic responsibilities and
3 the like, but they did indicate that we would have
4 their workpapers by tomorrow. And I think we can't
5 ask for anything more than that.

6 And I would ask you, though, to enter a
7 Motion from -- or, I'm sorry -- enter an Order to
8 Compel Production by the City, tomorrow, which
9 apparently they're agreeable to. So there shouldn't
10 be a problem there. The importance though, of having
11 your Order is that it gives the issue some teeth.

12 That is to say, if there was a failure for
13 some reason, to produce the documents on Friday,
14 despite counsel's good faith assurance that we'll get
15 the documents, at least then the primary applicants do
16 have your Order should we decide to take some other
17 action next week.

18 That bring me to National Lime and Stone,
19 and I think I'll let Mr. Driver address that issue.
20 But just let me conclude and then I'll get on to Shell
21 Oil Company.

22 I've tried to contact Shell. I've called

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1 Mr. Felker a number of times; I've left him
2 voicemails. He and I, in fact, have traded
3 voicemails. I obviously -- I made a special point of
4 faxing him the Motion to Compel.

5 I made a special point of sending to him -
6 - along with Mr. Driver and a few others who are not
7 on our restricted service list and who get these
8 things by normal course -- I sent them a copy of Ms.
9 Bruce's memo, scheduling this Discovery Conference
10 today. But I have not received anything from them,
11 and I gather you haven't either based on your opening
12 comments.

13 So I don't have anything to report with
14 respect to Shell Oil, except that they too, filed a
15 verified statement, they've been in the case since
16 May, and they have asked for some relief from the
17 Board and that's based on a verified statement by an
18 outside consultant who must have workpapers, and we're
19 entitled to those workpapers.

20 And again, I would ask that, with respect
21 to all of these parties, that you grant our request
22 for relief, meaning an Order to produce workpapers by

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1 no later than tomorrow. Thank you. I'll respond to
2 any questions if you have anything.

3 JUDGE LEVENTHAL: I do, but we'll hear
4 from Mr. Driver first.

5 MR. DRIVER: Your Honor, Ken Driver on
6 behalf of National Lime and Stone Company. On October
7 31st, this past Friday, we got a call from Mr. Harker
8 who alerted us to his request for access to the
9 information in our depository. I spent that afternoon
10 reviewing the orders and determining that in fact --
11 and in reviewing Decision No. 6 -- and identifying the
12 fact that in fact, we needed to establish that
13 depository.

14 Outside counsel in this matter were
15 brought in relatively late in the game. The
16 evidentiary submission was on October 21st and we were
17 still in the process of reviewing everything and
18 getting ourselves prepared to go forward.

19 Upon notification that we had not fully
20 complied with the depository requirement I put a call
21 back into Mr. Harker, offered to verify what, if any,
22 workpapers existed and to provide them on a good

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1 faith, best efforts basis, and asked if he could
2 identify any specific pieces of information that were
3 particularly crucial to the applicant and that we
4 would try to get those pieces of information to him
5 first.

6 Mr. Ronald Krewse, the sponsor of the
7 verified statement, was out of the office on Monday
8 and Tuesday, but we had been communicated with people
9 who work for him and I communicated with Mr. Krewse
10 yesterday. We verified that workpapers do exist.
11 They weren't place aside and prepared in anticipation
12 of placing them in the depository, but that is taking
13 place yesterday and today. We should be getting a
14 Federal Express and Overnight into Washington
15 tomorrow.

16 I believe we still need to review that
17 material and verify that that is all the material. We
18 also need to review that material for any
19 confidentiality concerns. We believe that we can
20 fully comply by Tuesday. I think we need to verify
21 whether this package that we receive tomorrow in
22 Washington is the full amount of material.

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1 So what I propose to Mr. Harker this
2 morning, having had these conversations late yesterday
3 evening with the client, would be full compliance by
4 Tuesday. I don't believe that complying with his
5 request on Tuesday would prejudice the applicants.

6 I acknowledge that with 165 parties the
7 sheer bulk of this proceeding makes their job very
8 difficult in terms of responding and responding.
9 However, Mr. Krewse's verified statement with nine
10 pages, raises discrete issues which are important to
11 National Lime and Stone Company but don't appear to
12 raise the volumes of information that other aspects of
13 this proceeding raise.

14 So I believe that full compliance by
15 Tuesday should be able to avoid any prejudice to the
16 applicant. And so that is the position of National
17 Lime and Stone. Thank you.

18 JUDGE LEVENTHAL: Mr. Harker, I take it
19 that compliance by Tuesday doesn't satisfy you?

20 MR. HARKER: It creates a problem for us,
21 Your Honor. I think I've already laid that out for
22 you. The requirement has been in place since the end

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1 of May in this particular proceeding. But indeed,
2 this is not a new requirement in these merger cases.

3 Indeed, when we were putting together our
4 depository for the primary applicants, you know, we
5 looked at prior merger cases to see what UP/SP -- what
6 was done in UP/SP, BN/SF. It's all the same
7 requirement.

8 You know, this is very standard stuff.
9 This was no surprise. And these commentators and
10 responsive applicants and the like, made very
11 substantial claims for relief -- all of which we think
12 are unjustified, of course. But nevertheless, they
13 made very substantial claims for relief. And I think
14 that, you know, they should be held to the rules.

15 And I appreciate Mr. Driver's concession
16 that on Friday for the first time, he learned of the
17 requirement. But that's not my fault; that's not NS'
18 fault; that's not CSX's fault. I mean, you know, we
19 weren't under a duty to notify all of the commentators
20 that they had an obligation to put together a
21 depository. Although I suppose I did in a way on
22 October 17th when I sent my memo to everyone, and Mr.

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1 Driver hasn't denied that they got a copy of that
2 memo.

3 MR. DRIVER: On that matter, Your Honor --
4 pardon me for interrupting -- but I did not receive
5 that October 17th memo and this was in fact, the first
6 time I have learned of that memo. The only person
7 that was listed on the official service list was
8 someone in-house at National Lime and Stone Company.

9 And so I can't represent that no one
10 received it at this point, but this morning is the
11 first time that I was made aware of that. So from my
12 understanding, the prejudice to applicants began on
13 October 31st because that's the date they requested
14 access to --

15 JUDGE LEVENTHAL: Leaving that aside, if
16 you get this package of material tomorrow, why can't
17 you deliver it tomorrow to the depository?

18 MR. DRIVER: We can --

19 JUDGE LEVENTHAL: If you're concerned
20 about the confidentiality, can't you mark it all
21 "Confidential" and that disposes of that problem?

22 MR. DRIVER: That's a fine suggestion,

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1 Your Honor. We would be glad to provide everything
2 that we can tomorrow, that we receive tomorrow. And
3 we can -- whatever materials we receive tomorrow we
4 won't slow the delivery of those materials down for
5 review of the confidentiality of those materials. We
6 will --

7 JUDGE LEVENTHAL: All right. So then
8 you're willing to file by tomorrow, November 7th, all
9 the material you have?

10 MR. DRIVER: That is sent from the client
11 to us in Washington. And I guess I need to -- we're
12 in the process of identifying that material, and I
13 wasn't able to confirm yesterday evening with the
14 client, that they could in fact, get us everything to
15 Washington by tomorrow. But we believe that we can
16 get it all here by Tuesday, or perhaps by Monday. So
17 we'll get them whatever we do receive and can be
18 obtained.

19 JUDGE LEVENTHAL: Well, suppose he gives
20 you everything he has by tomorrow, Mr. Harker? And
21 supplements it if there is additional material, by no
22 later than Tuesday.

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1 MR. HARKER: Well, Your Honor, let me see
2 if this would work. If we were to get the material
3 that he receives tomorrow, tomorrow, and then any
4 additional material that is sent tomorrow be sent for
5 Saturday delivery and then sent to us over the
6 weekend, that would be -- I think that would be
7 something that would be -- that we can talk to our
8 client about, at least. You know, unfortunately --

9 JUDGE LEVENTHAL: He's concerned if he
10 doesn't receive it say, until Monday.

11 MR. HARKER: Well, Your Honor, I think
12 that there could be a serious case made for a Motion
13 to Strike the evidentiary submission, quite honestly.
14 We've not made that and I'm not making that here, but
15 that certainly, you know, is something that we have.

16 I mean, I guess I'm -- I don't think
17 you've been shown good cause as to why we're here
18 today -- other than the fact that National Lime
19 apparently wasn't aware of this requirement that's
20 been around since at least May, in this proceeding.

21 And I'm looking for -- I guess I was
22 hoping to hear good cause shown other than geez, we're

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1 sorry, and you know, we'll do better. Because we in
2 fact, Your Honor, we have been prejudiced and every
3 day that goes by we're prejudiced.

4 JUDGE LEVENTHAL: You make a strong
5 argument, Mr. Harker, but if he gives you what he has
6 by the 7th, doesn't that reduce whatever prejudice
7 you're suffering, and then we're talking about an
8 allowance of an extra day or two for additional
9 material?

10 MR. HARKER: May I ask a question?

11 JUDGE LEVENTHAL: Sure.

12 MR. HARKER: Do you have a sense of the
13 volume at this point, of the material?

14 MR. DRIVER: I don't believe it's going to
15 be a significant volume of materials. In fact, you
16 know, I think there are some existing reports that
17 we'll be able to provide in a couple of areas -- some
18 schedules to explain some of the numbers that are
19 contained in Mr. Krewse's verified statement.

20 MR. HARKER: May I have a minute?

21 (Pause.)

22 MR. HARKER: Your Honor, I think that what

1 would be acceptable to us is that if we get a package
2 tomorrow from Mr. Driver of the material that he
3 receives tomorrow, with a good faith effort to
4 continue the search tomorrow for a Saturday delivery
5 -- should they find anything -- and hopefully that
6 will be the great bulk of the material, and you know,
7 if a few others dribble in I think that that would be
8 okay -- depending on their significance.

9 I mean, that's obviously without waiver of
10 our right to come in next week and say, you know,
11 we've just gotten a very substantial document from
12 National Lime which sort of changes the whole story,
13 and we can indicate, we can show that denial of that
14 to us on a more timely basis was prejudicial. I would
15 ask that we would still have the right at that point
16 to file some Motion, perhaps to Strike or something
17 else.

18 But I think setting that aside, the plan
19 to get us some material tomorrow with further material
20 on Saturday and then anything else at the beginning of
21 next week, would be acceptable.

22 JUDGE LEVENTHAL: All right. Mr. Driver?

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1 MR. DRIVER: That's fine, Your Honor.

2 JUDGE LEVENTHAL: All right. So ordered.
3 Now, with respect to Belvidere -- let's go off the
4 record.

5 (Whereupon, the foregoing matter went off
6 the record at 9:58 a.m. and went back on
7 the record at 10:01 a.m.)

8 JUDGE LEVENTHAL: In our off the record
9 discussion I attempted to see if I could have the
10 parties reach an amicable resolution of the problem
11 with respect to Belvidere. Evidently we can't.

12 I agree with Mr. Harker's argument, the
13 provision that the workpapers be placed in the
14 depository have been longstanding and in view of the
15 abbreviated schedule for the filing of testimony and
16 for the decision of the Board in this matter, I'll
17 grant the Motion.

18 So ordered with respect to Belvidere.

19 With respect to the City of Indianapolis,
20 they've indicated in their letter to me dated November
21 5th, which I received via facsimile, that they will
22 have the workpapers in the depository by November 7th,

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1 so I am so ordering them to produce by that date.

2 With respect to Shell Oil Company, Shell
3 Oil has not appeared nor responded in any manner to
4 the Motion. the Motion with respect to Shell Oil is
5 likewise, granted.

6 Now, off the record.

7 (Whereupon, the foregoing matter went off
8 the record at 10:03 a.m. and went back on
9 the record at 10:05 a.m.)

10 JUDGE LEVENTHAL: In our off the record
11 discussion we discussed how the parties who aren't
12 present today will be made aware of my rulings. I am
13 ordering the primary applicants to advise the parties
14 who are not present today of my ruling.

15 According to the rules that we have been
16 following in these Discovery Conferences, my rulings
17 are made on the record and parties are bound by my
18 rulings on the record.

19 All right, so then the primary applicant's
20 Motion is granted fully with the exception of the
21 provisions we made for National Lime.

22 All right. That disposes of the Motion.

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1 And now we have another problem that's coming up which
2 I have advised you previously of and that is, that I'm
3 not going to be available the week of the 24th --
4 that's Thanksgiving week. We wouldn't have a session
5 on the 27th anyway because that's Thanksgiving Day.

6 Now, as you know, I'm going to be on
7 vacation in Los Angeles, California. I am willing, on
8 an emergency basis, to hold a telephone conference
9 from my son's home in Los Angeles and what I propose
10 is that we follow the usual procedure. You advise my
11 law clerk on Monday, the 24th, whether or not you need
12 a conference.

13 I believe that the parties should meet in
14 conference here, at the Commission, on Wednesday. We
15 have to allow for the difference in time so that I
16 would suggest that the conference start say, at one
17 o'clock, one p.m. That would be 10 o'clock in
18 California time.

19 I would then also suggest that you fax to
20 me, whatever the issue is. The fax number -- the
21 telephone conference on my part would take place at
22 5247 West 139th Street, Hawthorne, California 90230.

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1 The telephone number there is (310) 643-8038. I don't
2 imagine you'll have to call me. The fax number is
3 (310) 643-0260. For the record, the address and
4 telephone number and fax number I gave you is the
5 residence of my son, Robert C. Leventhal, who is an
6 attorney in Los Angeles, California.

7 MR. HARKER: Your Honor, one question?
8 You gave us the fax number. Does that mean that you
9 would like us to fax directly to you rather than to
10 your chambers, for --

11 JUDGE LEVENTHAL: Yes. I think it will be
12 faster.

13 MR. HARKER: Okay. Very good.

14 JUDGE LEVENTHAL: Right. So whatever the
15 issue is -- and of course, if you fax it to me on
16 Monday I'll know that we have the session. Otherwise,
17 you'll speak to my law clerk and she'll advise me that
18 we're going to have this session on Wednesday,
19 November 26th. All right?

20 MR. HARKER: Right.

21 JUDGE LEVENTHAL: I'm not encouraging you
22 to have it.

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1 MR. HARKER: We understand, Your Honor.
2 Wednesday afternoon before Thanksgiving, we are all
3 looking forward to that.

4 JUDGE LEVENTHAL: I don't see any other
5 way to dispose of it.

6 MR. HARKER: I agree.

7 JUDGE LEVENTHAL: I think it's an
8 emergency situation --

9 MR. HARKER: We appreciate your
10 accommodation, Your Honor.

11 JUDGE LEVENTHAL: I have a duty to preside
12 over your conferences, but we've been going on for
13 months, and I don't get much of a chance to see my son
14 and I trust we indulge each other.

15 MR. HARKER: Absolutely.

16 JUDGE LEVENTHAL: All right then, is there
17 anything else that we have before us this morning?
18 All right. Conference is adjourned.

19 (Whereupon, the Discovery Conference was
20 adjourned at 10:10 a.m.)
21
22