

1 Riley. I don't mean another try. More redirect if you want
2 it.

3 MR. RILEY: I, I want to look at the --

4 JUDGE STEINBERG: Okay. Take your time.

5 MR. RILEY: No. Your Honor, Your Honor, I -- we, we
6 -- I regret to think that we may end up debating this later in
7 the findings and exceptions, but I am not going to --

8 JUDGE STEINBERG: We may or we may not.

9 MR. RILEY: I'm not going to ask redirect on that.
10 I think it's torn out of context as they say, Your Honor.

11 JUDGE STEINBERG: Okay. Okay. That completes your
12 testimony. You're excused. Thank you very much.

13 WITNESS: Yes, sir.

14 JUDGE STEINBERG: I've got a couple of -- let me
15 just see here. We've still got Bott Exhibit 2 --

16 MR. RILEY: Yes, Your Honor.

17 JUDGE STEINBERG: And I'm still torn between -- I
18 still think I want the other half of the story, but if
19 nobody's going to make an argument based upon --

20 MR. RILEY: I'm not going to argue that our
21 population number is that which is shown in that attachment to
22 the official record material, whereas there's is this and
23 therefore they have 80 or 85 percent. My point with this
24 exhibit is to show, as Mr. Bott had determined in his
25 judgment, that this station will cover Idaho Falls and

1 Pocatello.

2 That's all it's undertaking to show as reflected in
3 Mr. Bott's testimony and that indeed is what it shows, Your
4 Honor. The accuracy isn't contested and I think the showing
5 is, is basically that which is described in Mr. Bott's
6 testimony, which refers to this exhibit.

7 JUDGE STEINBERG: Okay. So basically what -- let me
8 just see if I -- usually I see if I understand things by
9 repeating them. It's a very elementary thing, but that's the
10 way my elementary mind works -- of humor. There's no
11 laughter. There's a little tittering, but no laughter.

12 Basically the purpose -- Mr. Bott testified that he
13 thought KRSS covered the whole valley --

14 MR. RILEY: That's right.

15 JUDGE STEINBERG: -- from Idaho Falls to Pocatello,
16 but the tes -- but he also testified he didn't undertake any
17 -- contemporaneously, any --

18 MR. RILEY: That's right.

19 JUDGE STEINBERG: -- studies at the time.

20 MR. RILEY: That's right.

21 JUDGE STEINBERG: The sole purpose of this exhibit
22 is to show, yes indeed, KRSS does cover that area.

23 MR. RILEY: Yeah.

24 JUDGE STEINBERG: And that we're not going to be
25 sitting there spouting numbers in the ID -- I mean in the, in

1 the findings. Yes, Mr. Goldstein?

2 MR. GOLDSTEIN: When we had -- when Mr. Bott
3 testified, we asked him what was his understanding, what was
4 his belief, what was his state of mind, what was the
5 relationship of one, one facility to the other. That is all
6 that is necessary for purposes of this case. We don't have to
7 go into a contest to see whether his, his belief was
8 corroborated or his belief was belied.

9 If, indeed, this belies his belief, it would be of
10 no probative value. Because it corroborates it, it's of no
11 probative value. The point is, was he reasonable in his
12 belief? Did he have a -- did he testify truthfully as to what
13 the basis was for his decision vis-a-vis station KRSS and what
14 decisions were made thereafter?

15 MR. RILEY: I, I --

16 MR. GOLDSTEIN: And if you go --

17 MR. RILEY: I agree with you, Mr. Goldstein.

18 MR. GOLDSTEIN: Okay.

19 MR. RILEY: I do agree with you. The problem I have
20 with that -- I completely agree with you. The problem I have
21 -- and I agree with that position almost every word of what
22 you stated about what's at issue here. The problem I have is
23 paragraph 11 of the Hearing Designation Order and the document
24 from which it quotes, which is one of those that is in here is
25 a predicate for the designation, this 50 or 60 pages of

1 engineering that's in there. I, I just felt we could not
2 leave that alone, Your Honor.

3 MR. GOLDSTEIN: Your Honor, the Bureau does not
4 propose to rely on those figures in --

5 JUDGE STEINBERG: Okay. I'm going to, I'm going to
6 receive Bott Exhibit No. 2 for the limited purpose that we've
7 discussed.

8 (Whereupon, the document referred to
9 as Bott Exhibit No. 2 was received
10 into evidence.)

11 MR. RILEY: Fine, Your Honor.

12 MR. GOLDSTEIN: Excuse me, Your Honor. You're going
13 to receive it without the information on the -- his station?

14 JUDGE STEINBERG: No, without -- yeah. I'm just
15 going to receive it just the way it is for the limited purpose
16 that, that we've -- that Mr. Riley has discussed. And --

17 MR. GOLDSTEIN: Are you -- are -- then --

18 JUDGE STEINBERG: We're not comparing. We're not
19 going -- number comparative. I mean, what I get from Mr.
20 Riley is we're not going into a numbers comparative -- from
21 what I, what I get from Mr. Goldstein is we're not going into
22 a numbers comparative --

23 MR. GOLDSTEIN: Yeah but could you just -- for -- as
24 a courtesy to me, could you restate the reason just so I'm
25 clear at this point in time?

1 MR. RILEY: -- rely on the record as stated since
2 Judge Steinberg --

3 JUDGE STEINBERG: I'd, I'd rephrase it.

4 MR. RILEY: -- liked it the first time.

5 JUDGE STEINBERG: I rephrased it. Basically to show
6 that the station KRSS covers Idaho Falls and Pocatello as Mr.
7 Bott believed it did when he made the various decisions that
8 he made. Just to corroborate Mr. Bott's belief. And whatever
9 the record says, you know, I'm --

10 MR. GOLDSTEIN: I, I -- you've ruled, but we repeat
11 our objection to it, Your Honor.

12 JUDGE STEINBERG: Okay. I have a couple of dates in
13 mind for proposed findings. December 17th for findings. I
14 tried to factor in the holidays. That's more than 50 days.

15 MR. RILEY: Oh, I, I'd go for sooner, but I realize
16 you had said some time ago, Your Honor, you didn't know how
17 rapidly you could deal with them in any event.

18 JUDGE STEINBERG: And then January, and then January
19 -- December 17th, '93, for findings; January 13th, '94, for
20 replies. We're not going to go off the record yet, but when
21 we do I want to have a discussion with counsel and only
22 counsel. Not no audience.

23 Let me just say something about the findings.
24 Please give me complete findings. The good facts and the bad
25 facts. Please don't mix conclusion or argument in with your

1 findings. I want facts and then conclusions.

2 There's a case that Mr. Oxenford and I are familiar
3 with which the findings are atrocious, absolutely atrocious
4 and it caused a substantial delay in everything coming out of
5 my office because I'm sitting there digesting and rewriting.

6 There are arguments mixed up with facts, the
7 findings are riddled with inaccuracies, incomplete, etc.,
8 etc., and it's just -- I'm not going to say it's a nightmare,
9 because it's not. That's what I'm paid to do and I do it, but
10 it, it, it's very frustrating when you've got stuff piled
11 behind it.

12 And I'm not casting aspersions on Mr., you know, Mr.
13 Oxenford because -- haven't gotten into his stuff yet -- not
14 any major, any of his major stuff which -- so he knows what
15 I'm talking about. That's the next thing I'm going to do.

16 So -- but give me good findings, things that are
17 accurate, complete, balanced, that I can rely on. Let me tell
18 you something -- the way I like reply findings. Some judges
19 don't like them. I love them, but I don't want to rehash of
20 your findings. If Mr. Goldstein, Ms. Laden want to, want to
21 argue with something Mr. Riley says, just tell me.

22 Paragraph this, he says this. This is wrong
23 because. Boom! Paragraph whatever, this is wrong because.
24 Boom! He didn't consider the cross-examination. You didn't
25 consider the brilliant examination by the presiding judge or

1 something like that. Same thing with, with Mr. Bott's
2 finding.

3 Just hone in on what's, what's -- what the
4 inaccuracies are, what the contentions are, if a case is cited
5 that you disagree with, tell me why you disagree with it. I
6 don't need a whole, big rehash of what you said in your
7 findings, believe me. I read them and I rely -- I try to rely
8 as much as I can on them.

9 Okay. Let me ask Mr. Riley about the, the basic
10 missing piece of information that we've talked about --
11 missing pieces. When do you think you can get that?

12 MR. RILEY: Well, I, I will go to former counsel.
13 We're talking now about the Commission's request for radiation
14 hazard data and the filing of that in '91, prior to the
15 issuance of the construction permit. I will have to talk to
16 former counsel and I will try to speak with him this
17 afternoon, Your Honor, and supplement the record with that.

18 JUDGE STEINBERG: Okay. Could you bring Mr.
19 Oxenford and Mr. Goldstein into it so that perhaps you could
20 give me a stipulation?

21 MR. RILEY: Sure.

22 JUDGE STEINBERG: And, and then what I'm going to do
23 is I'm going to close the record and then when I get the
24 stipulation or whatever I get I'm going to reopen it, mark,
25 you know, give it a number --

1 MR. RILEY: Um-hum.

2 JUDGE STEINBERG: -- give it an exhibit number and
3 I'll, I'll reopen the record and receive the exhibit and then
4 close it again, but I, I don't want to leave the record open
5 if I don't have to. Does anybody have any problem with that?
6 I don't -- hearing nothing, I assume nobody has any problem
7 with that. And, and then why don't we -- this is Tuesday,
8 why don't we say by next Monday -- something to be filed by
9 next Monday.

10 MR. RILEY: Oh, certainly, no later than that.

11 JUDGE STEINBERG: Or sooner.

12 MR. RILEY: No later than.

13 JUDGE STEINBERG: Okay. Then what I will do is
14 I'll, I'll close the record at this time with the
15 understanding that we'll get something and I'll reopen it and
16 receive it. Hopefully I'll -- hopefully it will be that
17 simple. I'll reopen it and receive it and then reclose it.
18 Thank you all very much. I appreciate your efforts.

19 MR. GOLDSTEIN: Thank you.

20 JUDGE STEINBERG: Okay. Final word is the record's
21 closed.

22 (Whereupon, at 3:00 p.m., the proceeding was
23 adjourned.)

24

25

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IN RE APPLICATIONS OF BLACKFOOT, IDAHO

Name of Hearing

MM DOCKET NO. 93-155

Docket No.

WASHINGTON, D.C.

Place of Hearing

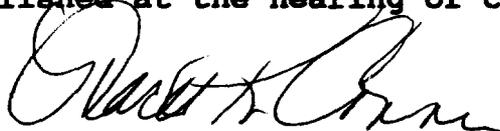
OCTOBER 26, 1993

Date of Hearing

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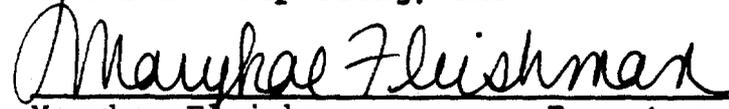
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