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**SendTo:** Judge.John.Tunheim @ usdcmn.cchub.com @ INTERNET @ INTERLIANT  
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**BlindCopyTo:** CN=R ecord/O=ARRB  
**From:** CN=Jeremy Gunn/O=ARRB  
**DisplayFromDomain:**  
**DisplayDate:** 04/16/1998  
**DisplayDate\_Time:** 8:33:59 AM  
**ComposedDate:** 04/16/1998  
**ComposedDate\_Time:** 7:40:58 AM  
**Subject:** Current Items  
I would still like to talk to you as soon as it can be arranged. I will, in principle, be in the office most of the day. We should discuss the first two items, and the other is FYI. 1. Schiller subpoena status. We now know that the Federal Programs Branch advised DAAG Grindler against issuing the subpoena. (Grindler is Hunger's DAAG for Federal Programs.) The Branch prepared a memorandum for Grindler, who just returned from vacation on Tuesday. We have asked for a copy of the memorandum. As far as we know, Grindler was not aware of the issue before Tuesday. Our draft letter to Hunger was delivered to Grindler and the Branch at about noon on Tuesday -- so he received both the Branch memo and our letter roughly simultaneously. Prior to our meeting with Grindler on Tuesday afternoon, three attorneys from the Branch (Dave Anderson, Art Goldberg, and Carlie Wells) met with him for 10-15 minutes giving their reasons for not issuing the subpoena. Grindler and the three Branch attorneys then met with Kim and me. Grindler said that he had only been able to read my draft letter to Hunger quickly. During the meeting, Grindler took a strikingly "adversarial" attitude against issuing the subpoena. (By "adversarial" I do not mean "hostile." The general tenor of the meeting was cordial, although he was very pointed in his comments about the scope of the Board's authority. His approach struck me much like that of a judge who gives both attorneys a hard time during oral argument. He did not, however, give the Branch attorneys a hard time). Grindler made it very clear that he had serious doubts about the propriety of issuing the subpoena, but said that he had not made up his mind. He said that my letter would be read carefully and would be given serious consideration. I told him that the issue is very important to the Board and that if there is a likelihood that Hunger will not issue the subpoena, that you would like to meet with Hunger. He suggested that such a meeting would not make any difference and that Hunger would take the issue very seriously in any case. Although he is obviously more knowledgeable than I about this matter, I think that it probably would make sense for you to try to meet with Hunger if we do not get a favorable outcome within the next week or so. Although we could try to make the appointment here, I think it might be more practical for Debbie to try to make the appointment. I would suggest that, unless we get a positive response by a week from Friday, that you initiate contact. 2. NBC. At the status conference, Judge Jackson said that he wanted the parties to try to work out an agreement. (Sound familiar?) He gave us 30 days before the next status conference, after which he will set a discovery schedule. We told NBC at the status conference that we were not prepared to accept the agreement as written, but that we were prepared to continue discussions. Carlie Wells has thus far handled most of the negotiations with NBC. I offered to make specific changes to the draft language. The plan now is that I will make proposed changes today. I would like

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