

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

NEVADA POWER COMPANY)
)
) Plaintiff,)
-vs-) # CV-S-89-555-LDG (LRL)
)
)
MONSANTO COMPANY, et al.,)
)
) Defendants.)

DISCOVERY DEPOSITION OF JAMES McNICHOLS

On the part of the Plaintiff

April 1, 1993

 **Concannon
& Jaeger**
General
Court
Reporters

705 Olive Street, Suite 604
St. Louis, Missouri 63101
(314) 421-1000

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEVADA

3 NEVADA POWER COMPANY,)

4 Plaintiff,)

5 -vs-)

CV-S-89-555-LDG (LRL)

6)

7 MONSANTO COMPANY, et al.,)

8 Defendants.)

9 DISCOVERY DEPOSITION OF WITNESS, to be used in an
10 action pending in the District Court of the United States,
11 for the District of Nevada, wherein NEVADA POWER COMPANY is
12 Plaintiff, and MONSANTO COMPANY, et al., are the
13 Defendants, pursuant to Notice, under the provisions of
14 Rule 26 of the Rules of Civil Procedure, taken on April 1,
15 1993, at the law offices of Messrs. Husch & Eppenberger,
16 100 N. Broadway, St. Louis, Missouri, before Mark D.
17 Concannon, a Notary Public within and for the State of
18 Missouri.

19 A P P E A R A N C E S

20 The Plaintiff was represented by Attorney Ralph A.
21 Bradley of the law firm of Jones, Jones, Close & Brown,
22 Chartered, 700 Bank of America Plaza, 300 South Fourth
Street, Ste. 700, Las Vegas, Nevada 89101, and Richard
Hinckley, Vice-President/General Counsel, Nevada Power.

23 The Defendant, Monsanto, was represented by Attorney
24 Bruce A. Featherstone of the law firm of Kirkland & Ellis,
1999 Broadway, Ste. 4000, Denver, Colorado 70202.

A P P E A R A N C E S (:continuing)

The Defendant, Westinghouse, was represented by Attorney Laurie Basch of the law firm of Weil, Gotshal & Manges, 767 Fifth Avenue, New York, New York 10153.

Also present: Liz Gini, paralegal.

1 JAMES McNICHOLS,
2 of lawful age, being first duly sworn to tell the truth,
3 the whole truth, and nothing but the truth, deposes and
4 says on behalf of the Plaintiff, as follows:

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. BRADLEY:

7 Q. Please state your name and spell your last for
8 the record.

9 A. James McNichols, M-c-N-i-c-h-o-l-s.

10 Q. What is your residential address?

11 A. 1503 Ploma, P-l-o-m-a, Manchester, Missouri.

12 MR. FEATHERSTONE: Before we go on with the
13 questioning, Mr. Bradley, the record should show that the
14 witness has been tendered in response to the Rule 30(b)6
15 Notice from Nevada Power to Monsanto regarding Mr. Paul A.
16 Wright and for the subject matters identified in the Notice
17 as limited by the Magistrate's order of, I believe it's
18 December 23.

19 Q. (by Mr. Bradley) What is your educational
20 background?

21 A. I'm a graduate of the University of Notre Dame
22 in '73 with a Bachelor's degree in economics, and I have a
23 Master's degree in business administration from the
24 University of Michigan in 1975, and I'm currently a law
25 student at the University of St. Louis.

1 Q. Are you here today represented by an attorney?

2 A. Yes, I am.

3 Q. Mr. Featherstone?

4 A. Yes.

5 Q. Have you had your deposition taken before?

6 A. No, I have not.

7 Q. Have you had a chance to talk with your
8 attorney about the purposes of a deposition?

9 A. Yes, I have.

10 Q. If at any time during this deposition I ask a
11 question that you don't understand, will you tell me?

12 A. Yes, I will.

13 Q. And if you give an answer to a question, I am
14 going to assume you understood it. Fair enough?

15 A. Fine.

16 Q. Additionally, if at any point you want to take
17 a break for any reason, you just let me know, all right?

18 A. Fine.

19 Q. Where have you worked following receipt of
20 your Bachelor's in economics?

21 A. I worked for B.F. Goodrich in Akron, Ohio from
22 1975 until February of 1979. I joined Monsanto in February
23 of 1979.

24 Q. What was your job title when you joined
25 Monsanto?

1 A. I was labor relations supervisor at the
2 Monsanto Industrial Chemicals Company, Trenton, T-r-e-n-
3 t-o-n, Michigan facility.

4 Q. What were your job responsibilities as labor
5 relations supervisor?

6 A. I was responsible for administering labor con-
7 tracts between Monsanto and the Oil, Chemical, and Atomic
8 Workers Union.

9 Q. How long were you labor relations supervisor?

10 A. From February 19th, 1979 until June 2nd of
11 1981.

12 Q. What work did you do following June 2nd, 1981?

13 A. I was the personnel superintendent for that
14 site from June of 1981 until January of 1985.

15 Q. By "that site," you mean the Trenton, Michigan
16 facility?

17 A. That's correct.

18 Q. What was your next job title?

19 A. Manager of personnel.

20 Q. Was that also at the Trenton, Michigan
21 facility?

22 A. No. That was at Monsanto's World Headquarters
23 in St. Louis.

24 Q. When did you -- You became manager of person-
25 nel in 1985?

1 A. That's correct.

2 Q. What was your next job title?

3 A. My next job title was manager of personnel in
4 Monsanto Chemical Company from January of 1986 until March
5 of 1988.

6 Q. What was your next job title?

7 A. I was the general superintendent of personnel
8 at the W. G. Krummrich, K-r-u-m-m-r-i-c-h, Plant, in
9 Sauget, Illinois.

10 Q. What was your next job title?

11 A. I left Monsanto in July of 1988; I was the
12 director of labor relations and employee benefits for Con
13 agra, C-o-n a-g-r-a, Frozen Foods here in St. Louis and in
14 Omaha, Nebraska.

15 Q. What was your next job title?

16 A. I rejoined Monsanto January 1st, 1990, and my
17 title is -- was and is manager of human resources for
18 Monsanto's legal and financial staff here in St. Louis.

19 Q. Did anyone indicate to you why you were
20 selected as the person within Monsanto who would respond to
21 the 30(b)6 Notice that was issued by Nevada Power Company
22 that brings you here today?

23 A. Yes, they have.

24 Q. What did they tell you?

25 A. Well, I have access to the records out at

1 Monsanto related to Dr. Wright.

2 Q. And, as I understand it, the files that you
3 have access to are in Monsanto's -- involve Monsanto's
4 legal and financial staff?

5 A. Yes.

6 Q. Why is Dr. Wright's file in Monsanto's legal
7 and financial staff records?

8 A Well, I have access to not only the legal and
9 financial staff, but I also have access to general person-
10 nel records of Monsanto Company that includes access to
11 Monsanto's pension information, and I also, through our
12 financial organization, have the ability, by asking the
13 right questions, to find out information related to any
14 payments that may have been made to Dr. Wright.

15 Q. Did you speak with anyone within Monsanto
16 where you were attempting to ask the right questions re-
17 garding any payment that may have been made to Dr. Wright?

18 A. Yes, I did.

19 Q. Who did you speak to?

20 A. First I spoke to Mrs. Laura Engelage, E-n-g-e-
21 l-a-g-e -- she is a compensation and benefits representa-
22 tive for Monsanto -- to find out whether or not Monsanto
23 was, through its salaried payroll system, making any pay-
24 ments to Dr. Paul Wright. I found out that the last pay-
25 ments to Dr. Paul L. Wright were in February of 1984. Cur-

1 rently, Dr. Wright is not receiving any payments through
2 the salaried payroll system.

3 The next information data base that I have to
4 go to is our pension fund, or pension system. I talked to
5 Mrs. Karen McHugh, M-c-H-u-g-h, who is responsible for
6 administering Monsanto's salaried pension system, to find
7 out whether in fact Dr. Wright was receiving any pension
8 payments from Monsanto. He was not -- has not been receiv-
9 ing any pension payments from Monsanto.

10 In point of fact, I found out that Dr. Wright
11 has recently passed away, and in terms of his benefit
12 status, Dr. Wright is entitled to no benefits to himself or
13 to his estate.

14 Q. How did Dr. Wright pass away?

15 A. I have no idea.

16 Q. When did you determine that he passed away?

17 A. I understand that from employees at Monsanto.

18 Q. Who told you that?

19 A. Mike Newport.

20 Q. And what did Mr. Newport tell you?

21 MR. FEATHERSTONE: You're instructed not to
22 answer that question.

23 Q. (by Mr. Bradley) Is Mike Newport an attorney?

24 MR. FEATHERSTONE: You can answer that ques-
25 tion.

1 A. Yes, he is.

2 Q. (by Mr. Bradley) Is he an attorney within
3 Monsanto's corporate law department?

4 MR. FEATHERSTONE: You can answer that ques-
5 tion, too.

6 A. Yes, he is.

7 MR. BRADLEY: I need to go off the record for
8 a minute.

9 (Thereupon, a short colloquy was had.)

10 Q. (by Mr. Bradley) All right. Do you know when
11 Dr. Wright passed away?

12 A. No, I do not.

13 Q. Were you told by anyone when Dr. Wright passed
14 away?

15 MR. FEATHERSTONE: Well, Mr. McNichols, your
16 only information about Dr. Wright and his death came from
17 Mike Newport the attorney?

18 THE WITNESS: Yes, that's correct.

19 MR. FEATHERSTONE: You're instructed not to
20 answer that question.

21 I think the important point is on the record.

22 MR. BRADLEY: Do you think that the questions
23 that I asked really goes to the attorney/client privilege?

24 MR. FEATHERSTONE: Well, if you agree that the
25 answer is not a waiver.

1 MR. BRADLEY: I agree that the answer is not a
2 waiver.

3 MR. FEATHERSTONE. All right. Let me hear the
4 question again.

5 Q. (by Mr. Bradley) The question was, did anyone
6 tell you when he died?

7 MR. FEATHERSTONE: You can answer that yes or
8 no.

9 A. No. They did not tell me when he died.

10 Q. (by Mr. Bradley) Were you told how he died?

11 MR. FEATHERSTONE: You can answer that yes or
12 no.

13 A. No.

14 Q. (by Mr. Bradley) Were you told where he died?

15 MR. FEATHERSTONE: You can answer that yes or
16 no.

17 A. No.

18 Q. (by Mr. Bradley) I'm going to show you
19 Plaintiff's Exhibit 1137. Is this a document you have seen
20 before?

21 MR. FEATHERSTONE: Have you seen it before?

22 A. No, I have not.

23 Q. (by Mr. Bradley) Do you know whether Monsanto
24 paid for the criminal defense of Paul Wright in his
25 criminal prosecution for fraud in the case of the United

1 States versus Kevin Urdahl, prosecuted in the United States
2 District Court of Illinois?

3 A. As I understand it from reviewing the records
4 and talking to people at Monsanto's law department, verify-
5 ing through our payroll systems and payment systems, Dr.
6 Wright's legal fees were paid up through April 9th of 1984.

7 Q. And what were his legal fees that were paid by
8 Monsanto?

9 MR. FEATHERSTONE: What do you mean, "What
10 were his legal fees"?

11 MR. BRADLEY: What was the amount of money
12 that Monsanto paid for Dr. Wright's legal defense relating
13 to the -- I'll ask it better, but that's what I'm getting
14 at.

15 MR. FEATHERSTONE: That's beyond the scope as
16 permitted by the Magistrate's order.

17 MR. BRADLEY: The Magistrate's order says that
18 we are prohibited from seeking information relating to
19 Monsanto's decision to pay for the criminal defense of Mr.
20 Wright. All other objections to this Notice are overruled,
21 so the decision I'm restricted from, but the amount I'm
22 not.

23 MR. FEATHERSTONE: Well, it's your Notice, so
24 ask for somebody to testify about the amount.

25 If you take a look the two paragraphs in the

1 Rule 30(b)6 Notice, you will see that one relates to the
2 decision to pay for the defense, and the second relates to
3 the decision to make any payments since the criminal prose-
4 cution.

5 MR. BRADLEY: Well, you have a choice: We can
6 come back and do it again, or you can let me ask it. You
7 can have a continuing objection to it.

8 MR. FEATHERSTONE: Well, I think that what I
9 would like to do, since you've drafted the Notice and I
10 objected to it and it's been tendered to the Magistrate in
11 the form in which the Notice was served upon us, is, you
12 can ask your questions and establish a record as to what
13 areas I will not allow this witness to respond to, and then
14 you can take it up or not take it up as you see fit. How's
15 that?

16 MR. BRADLEY: That's fine.

17 What amount of money did Monsanto pay for the
18 criminal defense of Paul L. Wright in the criminal prosecu-
19 tion regarding the case, the United States versus Kevin
20 Urdahl, prosecuted in the United States District Court in
21 Illinois?

22 MR. FEATHERSTONE: You're instructed not to
23 answer that question. The reason is because this question
24 is beyond the permissible scope of the Rule 30(b)6 Notice.

25 Q. (by Mr. Bradley) Okay. To whom did Monsanto

1 make payment for Dr. Wright's criminal defense?

2 MR. FEATHERSTONE: Well, without waiving my
3 position on the last question, you can answer that ques-
4 tion.

5 A. Based upon my review of the records and
6 payments systems, to Wilmer, Cutler & Pickering Law Firm.

7 Q. (by Mr. Bradley) And over what period of time
8 did Monsanto make payments to that law firm for the
9 criminal defense of Paul Wright in his criminal prosecution
10 involving the case of the United States versus Kevin
11 Urdahl?

12 MR. FEATHERSTONE: You may answer that ques-
13 tion insofar as giving counsel the last date for -- the
14 date of the last services paid to Wilmer, Cutler that
15 Monsanto paid.

16 A. The last date that I have seen is April. A
17 payment was made through April 9th, 1984. The last --
18 That's the last date I had.

19 Q. (by Mr. Bradley) And when was the first pay-
20 ment made for the criminal defense of Dr. Wright for fraud
21 in the case of the United States versus Kevin Urdahl?

22 MR. FEATHERSTONE: You're instructed not to
23 answer that question. That question is beyond the
24 permissible scope of Rule 30(b)6.

25 Q. (by Mr. Bradley) I'm going to show you

1 Deposition Exhibit 1677. Is that a document you've seen
2 before?

3 MR. FEATHERSTONE: The question is whether
4 that is a document you have seen before.

5 A. No. I have not seen this document before.

6 Q. (by Mr. Bradley) Did you review any records
7 relating to the payment for the criminal defense of Paul
8 Wright in his criminal prosecution for fraud in the case of
9 the United States versus Kevin Urdahl?

10 MR. FEATHERSTONE: You may answer that ques-
11 tion.

12 A. Yes, I did.

13 Q. (by Mr. Bradley) In the material that you
14 reviewed, did you review statements from Wilmer, Cutler &
15 Pickering regarding their representation of Paul Wright in
16 that case?

17 MR. FEATHERSTONE: You may answer that ques-
18 tion.

19 A. Yes.

20 Q. (by Mr. Bradley) And do you know whether
21 Plaintiff's Exhibit 1677 is within the file of records that
22 you reviewed regarding Paul Wright?

23 MR. FEATHERSTONE: Well, you've assumed some-
24 thing he hasn't said, which is that he reviewed a file of
25 records.

1 For your benefit, Mr. Bradley, at my request
2 he was instructed to ascertain the date of the last payment
3 -- or the last statement that was paid from Wilmer, Cutler,
4 and that's what he did. I think there's an April 9 state-
5 ment that's been referred to, so he saw that statement, but
6 he was not asked to and was not instructed to and was not
7 furnished with any file statements from Wilmer, Cutler.

8 MR. BRADLEY: Did he get the material from
9 your office?

10 MR. FEATHERSTONE: He did not get it from my
11 office.

12 MR. BRADLEY: Did you -- Did he get a file
13 from another attorney as opposed to going and reviewing a
14 file within Monsanto?

15 MR. FEATHERSTONE: He was provided with
16 materials through the law department and then was asked to
17 verify that the April 9th statement was in fact the last
18 statement that was authorized for payment and that in fact
19 was paid.

20 Q. (by Mr. Bradley) All right. And is -- Let me
21 ask you the question, as part of your review of documents
22 to determine whether the April, '84 payment was the last
23 payment, did you review invoices submitted by Wilmer,
24 Cutler & Pickering that pre-existed the April of '84
25 invoice?

1 MR. FEATHERSTONE: You may answer that
2 question.

3 A. I reviewed two statements: One statement was
4 from Wilmer, Pickering & Cutler. I don't recall the exact
5 date of that statement; I believe it was in 1984. The
6 other statement that I saw was the last statement from that
7 law firm; it was dated April 9th, 1984. I then have inde-
8 pendently verified that that was in fact -- that invoice
9 was in fact paid by Monsanto.

10 Q. (by Mr. Bradley) And how did you make that
11 independent determination?

12 A. I went to the accounting director for Monsanto
13 who has access to our payable system, and that person in
14 fact verified that the payment had been made on that state-
15 ment.

16 Q. And did you review the documents within the
17 accounting department that indicated that statement had
18 been paid?

19 A. Yes, I did.

20 Q. Who is the manager of the accounting depart-
21 ment, or -- Excuse me. Who is the person within the
22 accounting department with whom you spoke?

23 MR. FEATHERSTONE: Go ahead.

24 A. The person with whom I spoke was Donald Dent,
25 D-e-n-t.

1 Q. (by Mr. Bradley) I'm not a hundred percent
2 certain I asked this question of you.

3 Well, let's go off the record for a moment.

4 (Thereupon, a short colloquy was had.)

5 Q. (by Mr. Bradley) I'm now going to hand you
6 Plaintiff's Exhibit 1676. Is that a document that you have
7 seen before?

8 MR. FEATHERSTONE: Yes or no.

9 A. No.

10 Q. (by Mr. Bradley) Do you know whether that's a
11 document that existed within the file of materials provided
12 to you regarding Paul Wright?

13 MR. FEATHERSTONE: You're assuming something
14 that has not been established, that he looked at a file of
15 materials.

16 Q. (by Mr. Bradley) Let me ask it this way: Do
17 you know whether that exhibit was part of the material that
18 you reviewed in preparation for today's deposition?

19 A. I don't remember. I don't recall.

20 Q. Okay.

21 A. I don't recall seeing that document.

22 Q. I'm going to show you Plaintiff's Exhibit
23 1678. Is that a document that you have seen before?

24 A. I don't recall seeing this document.

25 Q. I'm going to show -- I'm going to show you

1 Plaintiff's Exhibit 1679 and ask you if you have seen that
2 document before.

3 A. I don't recall seeing that document.

4 Q. I'm now showing you Plaintiff's Exhibit 1680.
5 Have you seen that document before?

6 A. Yes, I have seen this document.

7 Q. Where did you see that document?

8 A. At Monsanto.

9 Q. And what is that document?

10 A. It's a letter from Robert Berendt, who is in
11 Monsanto's law department, to Mr. James Robertson regarding
12 Monsanto paying fees for representing Paul Wright through
13 April 9th, 1984.

14 Q. And is that a true and accurate copy of the
15 document that you reviewed?

16 A. Yes, it is.

17 Q. And was the document that you reviewed main-
18 tained by Monsanto within its file systems as part of its
19 regularly-conducted business activities?

20 A. I didn't know where the document was kept.

21 MR. FEATHERSTONE: We'll stipulate that that
22 is the case.

23 Q. (by Mr. Bradley) I'm showing you Plaintiff's
24 Exhibit 1681. Have you seen 1681 before?

25 A. No, I have not.

1 Q. Has Monsanto made any payments for the benefit
2 of Paul Wright since his criminal prosecution or conviction
3 for fraud?

4 A. Has Monsanto made any payments after April
5 9th, 1984? I'm not sure I understand your question.

6 Q. Has Monsanto -- Do you know whether Paul
7 Wright was convicted of the crime in the case of the United
8 States versus Kevin Urdahl, prosecuted in the United States
9 District Court for Illinois?

10 A. No, I do not.

11 Q. So you wouldn't know whether Monsanto made
12 payments to Dr. Wright following any criminal conviction
13 since you don't know when he was convicted.

14 MR. FEATHERSTONE: Well, he's been instructed
15 as to a date.

16 MR. BRADLEY: I'm asking what his personal
17 knowledge is, since he's been brought here as the person
18 most knowledgeable about payments made to Dr. Paul L.
19 Wright, since his criminal prosecution, not a date that was
20 supplied to him by someone else.

21 MR. FEATHERSTONE: If you put the question in
22 the correct way, Mr. Bradley, you'll get one answer, and if
23 you put it the other way, which requires him to speculate
24 as to the date, when he wasn't involved in that case, then
25 you may get another answer, but that's up to you.

1 MR. BRADLEY: I'm not certain I got an answer
2 to my question.

3 A. Okay.

4 Q. (by Mr. Bradley) You wouldn't know, then,
5 whether Monsanto has made payments to -- or for the benefit
6 of Paul Wright since his criminal conviction for fraud
7 since you don't know the date that he was criminally
8 convicted for fraud. Is that fair to say?

9 A. Do you mean April 9th, 1984? Is that the
10 date? Is that the date you're inquiring about?

11 Q. What I'm inquiring about is the date of his
12 criminal conviction for fraud in the case of the United
13 States versus Kepplinger. You don't know if it's April or
14 '84 or April of '83, or you just don't know, do you?

15 A. All I know is the post trial conviction or
16 post trial appeal ended approximately April 9th, 1984, and
17 what I do know is that there has been -- or Dr. Wright was
18 terminated from Monsanto on February 29th, 1984. At that
19 time he received one month's severance pay, he received
20 thirty-three and a third days of vacation pay, and those
21 are standard benefits. As a matter of fact, he received
22 less severance pay than the normal formula will allow.

23 Q. Why was that?

24 A. I do not know why. That's what the record
25 reflects.

1 Q. Okay.

2 A. I do know that since February 29th, 1984,
3 there have been no payments to Dr. Paul L. Wright through
4 our corporate payable system.

5 Q. Have there been payments made for the benefits
6 of Paul Wright since his criminal prosecution?

7 A. The only payments that I know of were the
8 payments for his legal fees to Wilmer, Pickering & Cutler
9 in 1984, one was April 20th, 1984, and the other is July
10 20th, 1984. Other than that, Mr. -- or Dr. Wright received
11 no pension benefits from Monsanto. Although he was
12 eligible to, he did not elect to receive benefits, and is
13 not receiving benefits right now, nor is his estate
14 eligible for any benefits.

15 Q. What was the rationale for Monsanto paying
16 Paul Wright's criminal defense in the case of the United
17 States versus Kepplinger.

18 MR. FEATHERSTONE: Instruct him not to answer
19 the question. Beyond the scope.

20 Q. (by Mr. Bradley) What were the reasons
21 Monsanto had when it deemed that it would pay for Paul
22 Wright's criminal defense in the case of the United States
23 versus Kepplinger.

24 MR. FEATHERSTONE: Object.

25 Q. (by Mr. Bradley) What were the motives of

1 Monsanto in paying for Dr. Paul Wright's criminal defense
2 in the case of the United States versus Kepplinger.

3 MR. FEATHERSTONE: Same instruction and same
4 objection.

5 Q. (by Mr. Bradley) Were payments made to
6 Wilmer, Cutler & Pickering for both Paul Wright and
7 Monsanto's defense?

8 MR. FEATHERSTONE: Instruct him not to answer
9 that question.

10 MR. BRADLEY: On what grounds?

11 MR. FEATHERSTONE: Same basis.

12 MR. BRADLEY: Okay.

13 MR. FEATHERSTONE: Object to the form of the
14 question.

15 Q. (by Mr. Bradley) Are there records of pay-
16 ments to former Monsanto employees that would not be within
17 the accounting department -- Let me replace the question.
18 Are there ever payments made by Monsanto to former
19 employees that would not be found in general personnel
20 files?

21 A. Yes.

22 Q. Are there ever payments made to former
23 Monsanto employees that are not either in a personnel file
24 or a pension file?

25 A. Yes.

1 Q. Where would records of those payments be?

2 A. In the corporate accounts payable file.

3 Q. Did you review the corporate accounts payable
4 file to determine what deposition testimony you should give
5 today as the person nominated by Monsanto to respond to
6 this Rule 30(b)6 deposition notice?

7 A. Yes, I did.

8 Q. And what did you determine?

9 A. I determined that from February 9th, 1984
10 through today's date, there have been no payments to Dr.
11 Paul Wright, Dr. Paul L. Wright, Paul Wright, Wright, Paul.

12 Q. And you called these records corporate what?

13 A. The corporate accounts payable records.

14 Q. What are corporate accounts payable records?

15 A. Those are records of Monsanto's payments to
16 customers, suppliers - anyone that Monsanto owes money to.

17 MR. BRADLEY: I have nothing further.

18

19

20

JAMES McNICHOLS

21

Subscribed and sworn to before me this _____ day

22

of _____, A. D., 1993.

23

MY COMMISSION EXPIRES _____.

24

25

Notary Public, within and
for the State of Missouri

1 STATE OF MISSOURI)
) SS
2 COUNTY OF ST. LOUIS)

3 I, Mark D. Concannon, a Notary Public within and for
4 the State of Missouri, duly commissioned, qualified and
5 authorized to administer oaths and to take and certify to
6 depositions, do hereby certify that pursuant to Notice in
7 the civil cause now pending and undetermined in the
8 District Court of the United States, within and for the
9 District of Nevada, entitled NEVADA POWER COMPANY, Plain-
10 tiff, -vs- MONSANTO COMPANY, et al., Defendants, to be used
11 in the trial of said cause in said Court, I was attended at
12 the law offices of Messrs. Husch & Eppenberger, 100 N.
13 Broadway, in the City of St. Louis, State of Missouri, by
14 Ralph A. Bradley and Richard Hinckley, attorneys for the
15 Plaintiff; by Bruce A. Featherstone, attorney for the
16 Defendant, Monsanto; by Laurie Basch, attorney for the
17 Defendant, Westinghouse; and by JAMES McNICHOLS, the
18 witness, in said office on April 1, 1993.

19 The said witness, JAMES McNICHOLS, being of sound
20 mind and being by me first carefully examined and duly
21 cautioned and sworn to testify the truth, the whole truth
22 and nothing but the truth in the case aforesaid, thereupon
23 testified as is shown in the foregoing transcript, said
24 testimony being by me reported in shorthand and caused to
25 be transcribed into typewriting, and that the foregoing

1 pages correctly set out the testimony of the aforementioned
2 witness, JAMES McNICHOLS, together with the questions
3 propounded by counsel and the remarks and objections of
4 counsel thereto, and is in all respects a full, true and
5 complete transcript of the questions propounded to and the
6 answers given by said witness; and that said testimony, so
7 transcribed, was subscribed to by the witness on the _____
8 day of _____, A. D., 1993.

9 I FURTHER CERTIFY that I am not of counsel nor
10 attorney for any of the parties to said suit, nor related,
11 nor interested in any of the parties or their attorneys.

12 WITNESS MY HAND and Notarial Seal, given this
13 _____ day of _____, A. D., 1993, at St. Louis,
14 Missouri.

15 MY COMMISSION EXPIRES MARCH 21, 1994.
16
17
18

19 _____
20 MARK D. CONCANNON,
21 Notary Public, within and
22 for the State of Missouri
23
24
25

Concannon and Jaeger
General Court Reporters
705 Olive Street, Ste. 604
St. Louis, Missouri 63101

May 3, 1993

James McNichols
1503 Ploma Drive
Manchester, Missouri 63021

Re: Nevada Power Vs. Monsanto

Dear Mr. McNichols:

This letter, incorporated as the last page of your deposition, taken on April 1, 1993, will serve as notice to you that your testimony is now ready for your reading and signing of same.

I would appreciate your contacting my office by calling (314) 421-1000 within the next thirty days so that arrangements can be made to accomplish this before your deposition must be filed in Court.

Thank you for your cooperation in this regard.

Sincerely,

MARK D. CONCANNON

MDC:mk

JAMES MCNICHOLS

- DEPOSITION CORRECTION SHEET -

In Re: NEVADA POWER Vs. MONSANTO

Upon reading his deposition transcript and before subscribing thereto, the deponent indicated the following:

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JAMES MCNICHOLS

KIRKLAND & ELLIS

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Elizabeth H. Dressel
To Call Writer Direct:
303 291-3026

1999 Broadway
Denver, Colorado 80202

303 291-3000

Facsimile:
303 291-3300

May 28, 1993

Via Federal Express - Economy

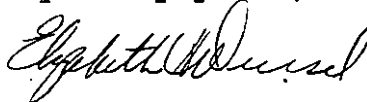
Mr. John Concannon
Concannon & Jaeger General Court Reporters
705 Olive Street, Suite 604
St. Louis, MO 63101

Re: Nevada Power Company v. Monsanto, et. al.

Dear John:

Enclosed is the original signature page for James McNichols whose deposition was taken on April 1, 1993 in the above referenced case. Mr. McNichols did not make any corrections to his transcript.

Very truly yours,



Elizabeth H. Dressel
Legal Assistant to
Bruce A. Featherstone

EHD/mc
Enclosure
TEMPLTR.EHD

cc: Bruce A. Featherstone, Esq. (w/o encl.)
Timothy Peck, Esq. (w/o encl.)
Joey Niblock (w/o encl.)