IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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

DEPOSITION OF GEORGE J. LEVINSKAS

On the part of the Plaintiff

30(b)(6)

July 14, 1993

Concannon & Jaeger
General Court Reporters
705 Olive Street, Suite 604
St. Louis, Missouri 63101
(314) 421-1000

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NEVADA POWER COMPANY, etc.,
Plaintiff,
-vs-
MONSANTO COMPANY, etc., et al.,
Defendants.

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

* * *

I N D E X

WITNESS: Page:

GEORGE J. LEVINSKAS

Direct Examination by Mr. Bradley 4

E X H I B I T S

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Deposition Exhibit # 517. 20

STLCOPCB4027860

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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

30(b)(6) DEPOSITION OF WITNESS, to be used in an action pending in the District Court of the United States, for the District of Nevada, wherein NEVADA POWER COMPANY, etc., is Plaintiff, and MONSANTO COMPANY, etc., et al. are Defendants, pursuant to Notice, under the provisions of Rule 26 of the Rules of Civil Procedure, taken on July 14, 1993, at the law offices of Messrs. Husch & Eppenberger, 100 North Broadway, St. Louis, Missouri, before John T. Concannon, a Notary Public within and for the State of Missouri.

A P P E A R A N C E S

The Plaintiff was represented by Mr. Ralph A. Bradley, of the law firm of Bradley & Merrell, 700 Bank of America Plaza, 300 South Fourth Street, Las Vegas, Nevada, 89101.

The Defendant, Monsanto Company, was represented by Mr. Scott Bauer, of the law firm of Kirkland & Ellis, 1999 Broadway, Denver, Colorado, 80202.

The Defendant, Westinghouse Electric Corporation, was represented by Mr. Robert P. Morgan, Westinghouse Electric Corporation, Gateway Center, Pittsburg, Pennsylvania 15222.

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Before commencement of the deposition, the reporter marked Plaintiff's 30 (b)(6) Deposition Exhibit Number One, for identification.)

GEORGE J. LEVINSKAS,

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

DIRECT EXAMINATION

QUESTIONS BY MR. BRADLEY:

Q. Dr. Levinskas, we've just completed your personal deposition and you have been designated in part as the Monsanto designee on a Federal Rule of Civil Procedure 30(b)(6) Notice. That is correct, is it not?

A. Yes.

Q. And I have had marked as Plaintiff's IBT 30(b)(6) Number One, the notice sent out by Nevada Power seeking a 30(b)(6) deponent on those items listed on Attachment A, and as I understand it, your attorney is offering you not as a sole Monsanto designee to cover those areas on Attachment A, but to cover some of those areas, and I, at this point, I think it would be useful to have your attorney designate for the record those areas that you are being tendered as Monsanto's 30(b)(6) deponent.

MR. BAUER: This is Scott Bauer representing Monsanto. I will do so. A slight caveat to what you just

said. I think with respect to some of these topics, he will be the only designee but with respect to most of the topics, he's not. Specifically with respect to the last topic, he's not a designee at all.

MR. BRADLEY: Okay. Go ahead and go through it then.

MR. BAUER: I will go through them one-by-one. There are eight topics listed on Attachment A; there's no numbers on them but I'm going from the start to the finish, one through eight. The first topic, summarizing it, Monsanto hiring Industrial BIO-TEST Laboratory in whatever capacity to conduct research on Monsanto products. Dr. Levinskas will be Monsanto's designated corporate representative for that topic for the period starting in July of 1971 and moving forward. With respect to topic two, knowledge of any inaccuracy in reports of the conduct of tests regarding PCB compounds produced by Monsanto, Dr. Levinskas is being designated as a corporate representative. He has knowledge about the investigation he undertook with respect to that. At this time, I do not know whether Monsanto had knowledge of inaccuracies, other than the work Dr. Levinskas did, but if we identify other knowledge of inaccuracies, we will have to designate another corporate representative. Number three, knowledge of conditions at IBT and reliability of studies conducted

by IBT. Dr. Levinskas is, again, a corporate representative, but because of the date of his employment at Monsanto, again he can only cover the period from late 1971 forward. As I understand it, Dr. Levinskas is the person most knowledgeable and therefore, is the only corporate representative with respect to topic number four, hiring of Industrial BIO-TEST employees after their termination from Industrial BIO-TEST. With respect to topic number five, Monsanto's discussions of proposed experiments, experiments actually conducted, Dr. Levinskas will, again, be a corporate representative for that topic covering the period starting in 1974, which was when he was involved in those efforts.

MR. BRADLEY: You had indicated to me that it would be '74 to '75. Is my note incorrect? Will he cover '74 on, or just '74 and '75 relative to topic five?

MR. BAUER: Well, I don't -- I'm not sure that's not the same thing. I'm not sure there was any IBT experiments, or proposed experiments, on PCBs after 1975, so I think it's '74 forward.

MR. BRADLEY: All right.

MR. BAUER: In any case, you can ask him questions from '74 forward and if we later find out there are other things, we'll take care of that. Monsanto's reviews of experiments conducted by IBT on Monsanto PCB

products and their reports. Again, Dr. Levinskas is a corporate representative designated on that topic for the period from 1974 forward, especially including the work IBT did in 1974 and 1975 and his review of that work. Comparison of that work to work begun by other people and Monsanto's hiring of other toxicologists to review all that work together, and then also Dr. Levinskas' own review in 1981. So again, to my understanding, he will cover the entire period from 1974 forward with respect to topic number six. The same statement with respect to topic number seven, communications between Monsanto and IBT, and again, for the record, I'm summarizing, previously summarizing all these topics which are in the Exhibit. He is a corporate representative designated for the period from 1974 forward.

MR. BRADLEY: And nothing on topic eight.

MR. BAUER: And nothing on topic eight.

MR. BRADLEY: Let's go off the record for a moment.

(Whereupon, a short colloquy was held between Counsel, off the record.)

Q. (By Mr. Bradley) Dr. Levinskas, as I understand it, if I asked you all of the questions in your 30(b)(6) deposition that we're now conducting that I asked you in your personal deposition, your answers would be the

same; is that correct?

A. Yes, it is.

MR. BRADLEY: Let's go off the record for a moment.

(Whereupon, a short colloquy was held between Counsel, off the record.)

MR. BAUER: For the record, with respect to that last answer, we're not agreeing necessarily that all the questions asked of Dr. Levinskas in his personal deposition are coextensive with the topics for which he's been designated as a corporate representative, but there is a substantial overlap between the two and with respect to the overlap, his answer is on the record.

Q. (By Mr. Bradley) And the purpose of conducting the 30(b)(6) after the personal deposition is to remove the requirement that the same questions be asked again, so to the extent that my prior questions don't overlap, those questions will stand as questions posed to this witness in this 30 (b)(6) deposition and the answers given will stand as answers given in this 30(b)(6) deposition. Is that correct, counselor?

MR. BAUER: You said to the extent they don't overlap. To the extent they do overlap, I agree with that.

MR. BRADLEY: Yes. That's correct.

MR. BAUER: All right.

MR. MORGAN: I take it all objections are on the record as well, to the extent there were objections made to questions in the personal deposition?

MR. BRADLEY: That's correct.

Q. (By Mr. Bradley) When Monsanto hired Dr. Wright for the second time in 1972, it knew that Dr. Wright had been responsible for conducting tests on PCBs while he was at IBT; is that correct?

A. There may be individuals at Monsanto who were aware of that. I, from my prospective, since I was involved in his hiring, the only thought I gave was that he had been at IBT; I was cognizant of the fact that Monsanto was using IBT as a contract laboratory. I did not particularly or specifically think of the specific products he was involved with.

Q. And after Paul Wright became reemployed with Monsanto in 1972, he continued to have contact with IBT regarding their testing of Monsanto products; that's true, isn't it?

A. I think I've indicated that we made an offer to hire Paul to work with me on environmental assessments. Because of the untimely death of Dr. Hunt, he was then put into a relationship working back with IBT, but that was not the premise or the intent when we hired him.

Q. How long had Dr. Wright worked at IBT before

Monsanto rehired him in 1972?

A. I do not know that.

Q. When Dr. Wright worked at IBT, he worked as a toxicologist; is that correct?

A. Yes, I believe that was -- I don't know the specific title, but he worked as a toxicologist.

Q. And when Dr. Wright was rehired by Monsanto in 1972, he was rehired as a toxicologist; isn't that true?

A. Yes.

Q. And it is also true that after Dr. Wright became re-employed with Monsanto in 1972, that he took trips to IBT to discuss their tests of Monsanto products; that is true, isn't it?

A. That's correct. He assumed Dr. Hunt's duties and that was one of the things Dr. Hunt had been doing.

Q. And on these trips that Dr. Wright made to IBT, Dr. Wright instructed secretaries at IBT to change the wording in some of the reports that were generated by IBT regarding Monsanto products; that's true, isn't it?

A. I have no knowledge of that.

Q. Monsanto also hired a gentleman named Manuel Reyna, M-a-n-u-e-l, R-e-y-n-a, sometime during the 1970s; isn't that true?

A. Yes.

Q. Manuel Reyna worked at IBT during part or all

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- excuse me - during part of the 1970s; isn't that true?

A. Yes.

Q. And Manuel Reyna's work at IBT was also as a toxicologist; isn't that true?

A. I do not know his title but he was working in the toxicology area.

Q. And prior to being hired by Monsanto, Manuel Reyna had been an IBT employee; isn't that true?

A. Yes.

Q. And prior to hiring Manuel Reyna, Monsanto knew that Manuel Reyna, while at IBT, had been responsible for some parts of the IBT testing of Monsanto products; isn't that true?

A. I would give an answer to that similar to the one earlier about Paul Wright. I don't know what Monsanto knew. I was aware that Manny, as we called him, Reyna had been at IBT and that he may well have worked on Monsanto products.

Q. After Monsanto hired Dr. Wright in 1972, how frequently did Dr. Wright travel to IBT to discuss with them the tests they were performing on Monsanto products?

A. I really could not give any estimate of how often or how frequently he made the trips.

Q. Can you estimate it was more frequently than once a month?

A. I really -- The travel records, travel vouchers, may exist to substantiate it but I really have no basis for even speculating how often he went.

Q. I don't what you to speculate. Do you have any basis of knowing whether it was more than once a year?

A. Oh, I'm sure it was more than once a year.

Q. While Dr. Wright was employed at Monsanto following his work at IBT, did he have any job responsibilities regarding reports being prepared by IBT regarding Monsanto products containing PCBs?

A. Dr. Wright would have been operating under the situation that I described. He'd be asking for draft reports when they came in. Depending on the urgency of the study, availability of time, he or I would review them. He may well have reviewed reports on PCBs if they arrived at this time. I cannot specifically identify reports he looked at or I looked at at that time.

Q. Did Dr. Wright, or anyone else at Monsanto, request any changes in the wording of the reports being generated by IBT regarding their testing of Monsanto products containing PCBs?

A. I have indicated earlier, I think that it would be my practice to perhaps request changes depending on my review of the report. I would not be surprised if others had done it. I have no specific knowledge of

instances when this was done.

Q. And if it was done and it was done by writing, would you expect those letters or reports or writings to have been maintained as part of Monsanto's business records?

MR. BAUER: Object to the form of the question. You may answer.

A. You use the term "business records." It was my practice, and would be my practice, to document, or to keep a file copy of such written correspondence, yes.

Q. (By Mr. Bradley) And you instructed the toxicologists under your supervision to also keep copies of that type of correspondence; isn't that true?

A. The secretaries were instructed to file copies and they, to the best of my knowledge, they did.

Q. As part of your designation here, then, as a 30(b)(6) deponent, I want to know who and on what dates people within Monsanto made requests to IBT to change wording in the reports they were generating on the testing they were conducting of Monsanto products containing PCBs.

MR. BAUER: In addition to what he's already testified to?

MR. BRADLEY: In addition to what he's already testified to. So at this point, we have a choice. We can either stop the deposition while the witness goes over and

reviews the records so that he can answer the question, or we can handle it by having him return after he's had a chance to review the records, or I'm open to any other suggestions that you have.

MR. BAUER: Well, the problem with that is, that assumes there are any others, other than the ones he already testified about, which --

MR. BRADLEY: Well, he's already indicated in testimony that he would expect there to have been requests, and he's said that he doesn't know whether, in fact, any copies were kept of the requests.

MR. BAUER: Right.

MR. BRADLEY: But I'm certainly entitled to know whether or not there is a way for him to answer my question as Monsanto's 30(b)(6) designee.

MR. BAUER: Well, for the record, if documents existed, other than the ones that have already been marked in the depositions in the case, indicating changes in IBT, in the language of IBT reports for Monsanto PCB products, other than the ones that have already been marked here, I believe that they would have been provided to him already. If I determine that there are such other reports, we will have Dr. Levinskas appear again, or designate another person with respect to those other changes.

MR. BRADLEY: All right. Thank you.

MR. BAUER: Other changes during the time period for which he has been deposed. We already have a caveat that there would be another time period which would have to be covered by a different witness, in any case.

MR. BRADLEY: The time period, as I understand it, would be from '70/'71 forward for that particular item; is that correct? Well, as a practical matter, our Attachment A doesn't have a limitation by time.

MR. BAUER: Right.

MR. BRADLEY: And so you would tender Dr. Levinskas if it covered an appropriate period of time, as you've already indicated, relative to the eight subsections in Attachment A?

MR. BAUER: Correct.

MR. BRADLEY: And you would have somebody else appear if the time period was outside what you've designated for Dr. Levinskas?

MR. BAUER: Correct.

MR. BRADLEY: Okay.

MR. BAUER: If we --

MR. BRADLEY: If you find anything.

MR. BAUER: If we become aware of other documents fitting the category for the question which you asked. I can tell you sitting here today, I'm not aware of any.

MR. BRADLEY: I also assume from your response you will make inquiry to see whether or not those documents do exist?

MR. BAUER: Yes. Well, my first inquiry will be whether that search has already been done, and I believe it has been, and I will confirm it has been done. If it hasn't been done, we'll make such a search.

MR. BRADLEY: All right.

Q. (By Mr. Bradley) Dr. Levinskas, you've already testified regarding the review you conducted in '80/'81 of the IBT tests that had been previously done regarding PCB products?

A. Yes.

Q. Did anyone within Monsanto -- Let me back off a moment. You also indicated in footnote six of the report that you wrote that there were some databases missing and that there may have been some inaccuracies in the prior reports; is that a fair summary of what you indicated previously?

A. I said there was - we could only get certain databases. Now, whether they're missing or not, they were not available. So I don't know their status, and that where I saw some differences between the records I had and what was in the reports, I tried to note those in the review.

Q. Okay.

A. That I prepared, yes.

Q. And did anyone within Monsanto, as far as you know, conduct any investigation into why there were missing databases or why there were some inaccuracies in either the files of IBT or in the reports they wrote regarding the tests they were conducting on PCBs?

MR. BAUER: Object to the form, characterization of the files as missing, but you can answer.

MR. BRADLEY: Well, let me rephrase it.

Q. (By Mr. Bradley) Did anyone within Monsanto indicate to you that they had investigated the reasons for any inaccuracy that you noted in your '80/'81 report?

A. I'm not aware that anybody attempted to make an investigation of why the differences were in the reports and the data. I'm not aware that anybody made that effort. I made no such effort.

Q. And are you aware of anyone within Monsanto conducting an investigation into why databases were missing as identified in your '80/'81 report?

MR. BAUER: Same objection. Characterization of the files as missing.

A. I would go back to answer -- As I've indicated earlier, that at that time, IBT had ceased to

exist as a functional operation. We made a request for information. They sent us the information they could locate. How thoroughly they looked, how effectively they looked or such, I have no basis for speculating or surmising why they sent us only that limited amounts of information.

Q. (By Mr. Bradley) Did anyone within Monsanto conduct an investigation into why the databases were insufficient, as noted in your footnote six of your '80/'81 report?

A. I'm not aware that anybody did. I did not.

Q. Did anyone within Monsanto attempt to locate any databases that you considered insufficient, as noted in footnote six of your '80/'811 report?

A. What I describe in footnote six is the result of our efforts to obtain the data. Paltry as they were, those are the results of our effort.

MR. BRADLEY: Would you read my question back, please?

(Whereupon, the reporter propounded the previous question.)

Q. (By Mr. Bradley) Did Monsanto contact anyone within the United States Government to determine whether any databases that you referred to in footnote six of your '80/'81 report were within the possession of the United States Government?

A. I'm not aware that such effort was made. I don't know who to contact for such a request.

Q. Did you ask the attorney of the United States Government who interviewed you in Chicago -

A. We did not --

Q. - whether that person knew of any databases that you considered insufficient as noted in footnote six of your '80/81 report?

A. I did not.

Q. To which agency was the -- Let me rephrase it. To which agency were the IBT reports sent? By "IBT reports," I mean the ones you reviewed in '80/'81.

MR. BAUER: Well, I've got to object on vagueness grounds to that question, in terms of when the reports were being sent. I think it's unclear whether you're asking what was sent in 1981 or whether the reports he reviewed in '81, which are dated much earlier, were sent earlier, but Dr. Levinskas, you can answer the question.

Q. (By Mr. Bradley) Are you looking for your report?

A. No. No. I thought there might be something in here that would, in part, may be responsive to it. Maybe not.

Q. For the record, would you identify what you're reviewing?

A. I'm looking at the Plaintiff's Exhibit 517.

MR. BRADLEY: Okay.

A. I have not personally submitted any of the reports that we're talking about to any regulatory agency. I do know - I have heard and I assume that it was done - is that these reports, before I came to Monsanto, had been made available to FDA at its request. They had been sent to EPA. Somewhere along the line, the impression I had, I was told that they were given to several of the regulatory agencies, which would include OSHA, Occupation and Safety Health Administration, scientific agencies, such as the National Institute of Occupational Safety and Health, NIOSH, that they were discussed with members of Congress or their staffs, but I was not a participant in those events and I could not specifically say who they were sent to.

Q. Were the reports that you reviewed in '80/'81 written in 1971 or some other date?

A. They would have been written within a few months of the dates on the reports.

Q. Well, --

A. Which was '81.

Q. My question wasn't clear then. Which reports did you review in '80/'81?

A. I looked at the three two-year rat feeding studies, which I think carry numbers something like 71-.

They were the '71 year, and the extension of those studies, which includes the extra liver sections, which were discussed in '75. That information and the, quote, "raw data" from those studies is what I looked at to prepare my 1981 report, and that report was done within a matter of a few months of the date on the cover sheet.

Q. In footnote six of your '80/81 report, you indicate that you reviewed necropsy reports. Did any of those necropsy reports have the designation TBD next to individual animals?

A. I think we've already made reference to that. There may have been a few. I do not recall. If there were substantial numbers, I would certainly have made a notation or record, or might even have stopped there with my assessments.

MR. BRADLEY: For purposes of this deposition, Counsel, would you search the records to determine whether the data that was reviewed by Dr. Levinskas to prepare his '80/81 report is available and if it is available, if you would provide it to us and then we can determine whether or not we need to ask Dr. Levinskas some questions about it.

MR. BAUER: Well, I'll agree to make an inquiry about whether that data still exists and if it still exists, after confirming that it's responsive to the discovery, I am not saying it's not, but I'm not saying I

know what all discovery requests are outstanding. If that data exists and it hasn't been provided to you already, and it is responsive, we would certainly provide it to you and would discuss with you whether or not an additional 30(b)(6) deposition was appropriate after such a review.

MR. BRADLEY: The difficulty with your response is that I don't think I need to fit it under a request for production that pre-exists because I've asked a question about information that he's indicated he'd have to review certain documents in order to answer my question. Then as a practical matter, either I have the deposition stopped while he goes to review the documents, if they still exist, or we reschedule him again later after he's had a chance to review the documents if they exist, or you simply provide them to us if they exist, and we determine whether or not we need to continue his deposition. So I'm going to first see whether we can accommodate one another, and so I'm asking whether if, after you make an inquiry of whether they exist, whether you will provide them to us?

MR. BAUER: I don't know.

MR. BRADLEY: Okay. Then I want the deposition to cease while Dr. Levinskas goes to review whatever records he needs to review to answer the question that I posed to him, which is whether the necropsy reports listed in Exhibit Six have the designation "TBD" anywhere.

Footnote six to his '80/81 report.

MR. BAUER: And which of the 30(b)(6) topics is covered by the question which necropsy reports contain the designation TBD?

MR. BRADLEY: Number two, when he talks about his knowledge of inaccuracies in reports, and he indicated that his knowledge of inaccuracies came through his review of the documents provided to him, which resulted in the preparation of his '80/'81 report and I'm entitled to examine the inaccuracies, including anything that may have a listing of TBD, which means too badly decomposed to be of use.

MR. BAUER: That would be a fact, not an inaccuracy. I am not agreeing that the designation TBD constitutes an inaccuracy. You can terminate the deposition if you desire.

MR. BRADLEY: It's over until I get an answer to my question unless you're willing to simply provide me with the documents if they exist.

MR. BAUER: I've already said -- You're going to stay on this topic? If you want to ask any more questions of Dr. Levinskas on any other topics, you're welcome to.

MR. BRADLEY: I'll ask the questions after I get an answer to that one. So I am considering this

deposition to remain open until he, Dr. Levinskas, as Monsanto's 30(b)(6) deponent on those topics, conducts a sufficient review of the records within Monsanto to answer my question.

MR. BAUER: Let's go off the record for a second.

(Whereupon, a short colloquy was held between Counsel, off the record.)

MR. BRADLEY: Back on the record. Counsel and I have not been able to reach an agreement on continuation of the deposition. I have posed a question to this witness that I believe is covered by item two of Attachment A. The witness has indicated he cannot answer the question without a review of documents. I requested that there be a review of the documents presently so that the witness can answer the question, and I am requesting that that occur now and that after the review takes place, that we continue the deposition.

MR. MORGAN: On behalf of Westinghouse, I'd like to put on the record our objection to continuing this deposition on the grounds that it subjects Westinghouse to undue burden and expense to do so, and that it involves travel of counsel from Pittsburgh, among other things, and note as part of my objection the observation that I do not detect anywhere on Attachment A to the Notice of Deposition

an area of inquiry as to the meaning of TBD, or to whether or not TBD constitutes an inaccuracy in the report, test, regarding PCB compounds and therefore, I see no obligation on the part of Monsanto to produce a witness on the subject of TBDs, or produce documents related thereto, to the extent they have not already been requested, and so I would request that the deposition be completed as scheduled and not continued.

MR. BAUER: On behalf of Monsanto, I would add that the specific request made was to review any necropsy reports for the designation of TBD to answer a question about how many necropsy reports were viewed by Dr. Levinskas in 1981 that had that designation. He did not recall the answer to that question. I agree that if documents exist, documents still exist, that have that information on it, that if the necropsy report still exists, they would contain that information, but I do not know at the present time whether those documents exist. I have already offered to make an inquiry about whether those documents exist and whether they are responsive to requests, either with respect to this notice or with respect to prior document requests, but it is my position that the Attachment A to Plaintiff's 30(b)(6) Exhibit One, from my readings of this today, it does not fairly request that information and therefore, I am not willing to agree

that the deposition will be terminated, or will be continued until that review is undertaken and for the record, Dr. Levinskas has answered questions with respect to some but not all of the topics on which he had been designated. It seems to me more reasonable to proceed with the rest of the questions posed of Dr. Levinskas as the 30(b)(6) designee on behalf of all the rest of the topics and reserve that dispute solely for potential resolution later, and I offered that resolution to Mr. Bradley and he did not accept it. Therefore, I believe it would be our position that Dr. Levinskas, assuming that we do make an inquiry and the documents do not exist, or we prevail in our position that they're not responsive to Attachment A of the 30(b)(6) Notice, that Plaintiff has failed to avail itself fully of the opportunity that it has had to examine him on the other topics, and we would not voluntarily present Dr. Levinskas for the rest of the topics for which Plaintiff could have asked the questions today.

MR. BRADLEY: All right. Whether my question falls within the terms of the Attachment, let me represent that in response to this 30(b)(6) deposition notice, counsel for Monsanto indicated that Dr. Levinskas would be testify regarding his '80/'81 report and Dr. Levinskas testified that he found some inaccuracies, which is identified under item two of Attachment A, in prior reports

of IBT regarding PCBs and in addition, he found databases insufficient, and he identified in his report and footnote six databases that were insufficient and he identified in other parts of his reports certain inaccuracies and he pointed them out in his deposition. He also indicated that if there had been TBD designations in a sufficient number that it would have, I think it's fair to say his testimony was that if those designations had been sufficiently high, it would have led him to reject the reports in there entirety, which certainly is a support for concluding that any TBD designations would have made the report inaccurate. So it's my position that if Dr. Levinskas cannot identify for me orally, today, the number of TBD designations that were on the necropsy reports, then he has an obligation under item two of Attachment A to seek that information out, and I have not accepted counsel's offer to go forward with the remainder of the deposition because I am entitled to conduct a deposition as I see fit, and I have quizzed the witness on an area that he already identified would produce a report that was inaccurate and I'm entitled to an answer to that at this point in time and I am entitled to have the witness go seek out whatever reports or documents exist that would enable him to answer my question. From Nevada Power's point of view, this deposition remains open until the witness makes the review and is able to respond

to the question.

MR. MORGAN: Off the record.

(Whereupon, a discussion was held between Counsel, off the record.)

George J. Levinskas

GEORGE J. LEVINSKAS

Subscribed and sworn to before me this 25th day of February, A.D., 1994.

Josephine S. Niblock

Notary Public

Notary Public within and for the State of Missouri.

MY COMMISSION EXPIRES THE 15th DAY OF January, A.D., 1995.

JOSEPHINE S. NIBLOCK
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. JAN. 15,1995

STLCOPCB4027886

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

I, John T. Concannon, a Notary Public within and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to take and certify to depositions, do hereby certify that pursuant to Notice in the civil cause now pending and undetermined in the District Court of the United States, within and for the District of Nevada, entitled NEVADA POWER COMPANY, Plaintiff, -vs- MONSANTO COMPANY, etc., et al., Defendants, to be used in the trial of said cause in said Court, I was attended at the law offices of Messrs. Husch & Eppenberger, 100 North Broadway, in the City of St. Louis, State of Missouri, by Ralph A. Bradley, attorney for the Plaintiff; by Scott Bauer, attorney for the Defendant, Monsanto,; by Robert P. Morgan, attorney for the Defendant, Westinghouse; and by GEORGE J. LEVINSKAS, the witness, in said office on July 14, 1993.

The said witness, GEORGE J. LEVINSKAS, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth in the case aforesaid, thereupon testified as is shown in the foregoing transcript, said testimony being by me reported in shorthand and caused to be transcribed into typewriting,

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and that the foregoing pages correctly set out the testimony of the aforementioned witness, GEORGE J. LEVINSKAS, together with the questions propounded by counsel and the remarks and objections of counsel thereto, and is in all respects a full, true and complete transcript of the questions propounded to and the answers given by said witness; and that said testimony, so transcribed, was subscribed to by the witness on the _____ day of _____, A. D., 1993.

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

I FURTHER CERTIFY that Plaintiff Deposition Exhibits marked for identification are the identical exhibits referred to and identified by the witness in the foregoing deposition.

WITNESS MY HAND and Notarial Seal, given this 23rd day of September, A. D., 1993, at St. Louis, Missouri.

MY COMMISSION EXPIRES SEPTEMBER 12, 1994

_____

JOHN T. CONCANNON,
Notary Public, within and
for the State of Missouri

September 24, 1993

Dr. George J. Levinskas
526 Fairways Circle
Creve Coeur, Missouri 63141

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

Dear Dr. Levinskas:

This letter, incorporated as the last page of your 30(b)(6) deposition, taken on July 14, 1993, will serve as notice to you that your testimony is now ready for your reading and signing of same. You will recall your attorney, Mr. Bauer, indicated a preference for you reading your deposition, rather than waiving signature.

Mr. Bauer or his office will be in contact with you in the near future to read and sign you deposition. If you have any questions, please contact him at his office.

Thank you for your cooperation in this regard.

Sincerely,

JOHN T. CONCANNON
Shorthand Reporter

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

JTC:md

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