

MEMORANDUM

TO: Peggy Leen, Konrad Cailteux, VIA TELEFAX
FROM: Paul Merrell
RE: Nevada Power v. Monsanto, et al
DATE: July 13, 1993

Attached please find a page from Westinghouse's response to Nevada Power's Motion for Default (pg. 9). It quotes testimony of Ronald Lawrence to the effect that there were indexes of documents prepared. Would you please check with your clients in this regard?

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WESTINGHOUSE ELECTRIC CORPORATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NEVADA POWER COMPANY, a
Nevada Corporation,

Plaintiff,

v.

MONSANTO COMPANY, a foreign
corporation; GENERAL ELECTRIC
COMPANY, a foreign corporation;
WESTINGHOUSE ELECTRIC
CORPORATION, a foreign
corporation; and DOES I through
XXV, inclusive,

Defendants.

CV-S-89-555-LDG-LRL

DEFENDANT WESTINGHOUSE
ELECTRIC CORPORATION'S
RESPONSE TO PLAINTIFF
NEVADA POWER COMPANY'S
MOTION FOR ENTRY OF DEFAULT
AGAINST WESTINGHOUSE AND
REQUEST FOR ORAL ARGUMENT

related to pending and threatened litigation, and such documents -- including documents related to PCBs -- had been collected, copied and preserved for discovery purposes. See infra at 15-17. Mr. Lawrence's testimony in the Dashko case, which Nevada Power's counsel, Baron & Budd, knew about before filing the instant motion made this perfectly clear:

- Q. Now, did this program that was potentially going to be implemented - what was its relationship to asbestos or PCB or any other documents?
- A. There wasn't any relationship to it. Those documents had all been collected prior to this time. This time would now be late 1987, early 1988. They had been collected, had been segregated, for the most part had already been indexed. It was clear to Jeff Bair, it was clear to me, it was clear to Mr. Pitts, right from the beginning, that this document retention program had nothing to do with those documents whatsoever.

See Garry Aff., Ex. 1, p. 73 (emphasis added).

Thus, PCB-related documents within Industrial Hygiene were not only specifically excluded from the document retention proposal embodied in the Draft Memo, they already had been searched for and collected by Westinghouse's counsel.

During the formulation of the Industrial Hygiene document retention proposal, other internal memoranda, in addition to the Draft Memo, were written.⁶ For example, a

6. So that all interested parties could fully understand the circumstances surrounding the Draft Memo, Westinghouse has voluntarily produced all documents relating to the proposed document retention guidelines for Industrial Hygiene. See Appendix 1 and Appendix 2 In Support Of Westinghouse Electric

(continued...)

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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 7-13-93

TO: Peggy A. Leen, Esq.

Konrad Cailteux, esq

FAX #: (702) 366-0327

PHONE #: (702) 366-0622

FROM: *Paul merrell*

CLIENT/MATTER: Nevada Power v. Monsanto, et al.

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION:

Except from Lawrence testimony

NUMBER OF PAGES (including cover page): *4*

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MESSAGE FROM XEROX 7024: (702) 385-1656

DATE: 7-13-93

TO: Peggy A. Leen, Esq.
Konrad Carlteux, Esq.

FAX #: (702) 386-0327

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FROM: Paul Merrell

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DOCUMENT(S) DESCRIPTION:

Excerpt from Lawrence testimony

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DATE: 7-13-83

TO: Peggy A. Leen, Esq.
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