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September 22, 1989

The Honorable Lloyd D. George
United States District Judge
Foley Federal Building
300 Las Vegas Blvd. South
Las Vegas, NV 89101

RE: Nevada Power Company vs. Monsanto Company, et al.
No. CV-S-89-555-LDG-(LRL)

Dear Judge George:

Following receipt of this court's order for scheduling and planning entered August 25, 1989, and minutes of the court (#13) dated September 1, 1989, counsel for the defendants met and conferred in an effort to provide the court with a proposed plan for the management and initial scheduling of this action. The following proposal represents the defendants' joint proposal to the court.

Plaintiff Nevada Power seeks to recover certain costs allegedly incurred to comply with regulations applicable to exchange of electrical equipment containing polychlorinated biphenyls (PCBs). Allegedly, that equipment was manufactured by General Electric and/or Westinghouse and the PCBs were manufactured by Monsanto. From the defendants' records, the equipment in question was purchased by Nevada Power no later than 1978.

On July 14, 1989, the Sixth Circuit Court of Appeals in Electric Power Board of Chattanooga v. Monsanto, 879 F.2d 1368 (6th Cir. 1989), dismissed similar claims on the basis of the statute of limitations. Therein, the court held that the utilities had knowledge of the public dialogue concerning PCBs in electrical equipment due to the utilities' participation in public rulemaking procedures and proposed restrictions of PCBs by the EPA during the 1970s and early 1980s. Accordingly, the statute of limitations/repose began to run years before 1985

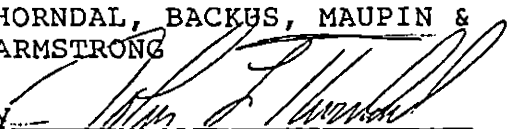
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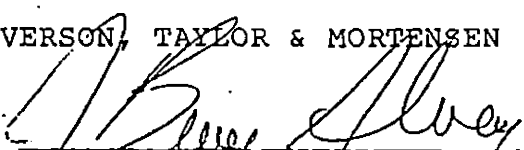
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when the Complaint was filed and the claims were barred. This decision provides persuasive authority and an excellent model for application to the case at bar. For the convenience of the court, a copy of that decision is enclosed.

It is the recommendation of the defendants that initial discovery be conducted on an expedited basis limited in scope to statute of limitations/repose related issues. The defendants believe such limited discovery could be completed in less than 60 days, and the issues briefed shortly thereafter. With this in mind, the schedule attached is respectfully submitted to the court for its consideration in issuing a scheduling order.

It is respectfully submitted that the defendants' proposal is a desirable and appropriate approach which will conserve the resources of the court as well as the litigants and facilitate an early resolution of this case.

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PAL/JBA/JLT/ds/ad
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cc: Charles H. McCrea, Esq. w/enc.

DEFENDANTS' PROPOSED LIMITED DISCOVERY AND BRIEFING SCHEDULE

10/6/89	Plaintiff to completely respond to outstanding discovery requests. ¹
10/6/89	Plaintiff to propound all written discovery to defendants limited to statute of limitations/repose related issues.
10/10/89	Defendants to notice depositions for week of 10/16 to 10/20.
10/13/89	Proposed status check before Magistrate.
10/16 to 10/20/89	Defendants to take depositions limited in scope to statute of limitations/repose related issues.
11/1/89	Defendants to notice depositions for period of 11/13 to 12/8.
11/13 to 12/8/89	Defendants to complete depositions.
11/17/89	Defendants to completely respond to plaintiff's discovery requests limited in scope to statute of limitations/repose related issues.
12/18/89	Defendants to file summary judgment motions.
1/15/90	Plaintiff to file response to motions.
1/30/90	Defendants to file reply briefs.
2/5 to 2/9/90	Proposed hearing on defendants' motions. (Defendants would request a stay of all other proceedings pending a decision by the court on these case dispositive motions.)

1/ The defendants propounded interrogatories and requests for production of documents shortly after answering the complaint. Nevada Power's discovery responses are due as follows:

responses to GE are due	9/26/89
responses to Westinghouse are due	9/26/89
responses to Monsanto are due	9/29/89

Responses to GE were originally due 9/19 and responses to Westinghouse were originally due 9/5; extensions have been requested and granted as to each.