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October 9, 1989

HAND DELIVERED

J. Randall Jones, Esq.
JONES, JONES, CLOSE & BROWN
300 South Fourth Street
Seventh Floor
Las Vegas, Nevada 89101

Re: General Electric, et al. adv. Nevada Power
Our File No.: 5025

Dear Mr. Jones:

This office is in receipt of the following documents: Plaintiff Nevada Power Company Response to General Electric Company's First Request for Production of Documents, Nevada Power Company's Response to Monsanto Company's First Request for Production of Documents, Plaintiff Nevada Power's Answers to General Electric Company's First Set of Interrogatories, Nevada Power Company's Answers to Monsanto Company's First Set of Interrogatories, and the Order we submitted to your office on September 29, 1989 concerning the Case Conference held with the Court on September 27, 1989. Your responses to the Interrogatories, Requests to Produce, and Order necessitate this correspondence.

Nevada Power Company's response to General Electric's First Request for Production of Documents is incomplete. As you are aware, Nevada Power's Responses to this Request to Produce was originally due on September 19, 1989. Pursuant to Stipulation, the due date for Nevada Power's Response was extended to September 26, 1989. During the Case Conference before Judge George when you informed the Court that you could not respond, you agreed to the discovery schedule in

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which you would have until October 6, 1989 to "completely respond to outstanding discovery requests." Nevada Power's complete responses were necessary at that time, in part, so that the limited discovery schedule could proceed. Under the discovery schedule, the Defendants are required to notice the depositions for the week of October 16, 1989 on October 10, 1989, four days after Nevada Power was to have completely responded to outstanding discovery requests.

Instead of providing the documents as required on October 6, 1989, Nevada Power's response to General Electric's First Request for Production of Documents, Requests Numbers 1-15, 17-20, 22-36, and 42 merely state that the requested documents are numerous and therefore are not produced. If the information sought is too voluminous to have been produced, then this information should have been presented to the Defendants several weeks ago so that the discovery schedule would have been honored.

In Response to Request Number 16, you merely assert that the information sought is "privileged." Your Response fails to identify which privilege is asserted. Moreover, communications to third parties or to the Defendants cannot be withheld from discovery under the cloak of either the attorney-client privilege or the work product doctrine.

The information sought in Request Number 16 comes within the limited scope of discovery. Documents concerning the removal or replacement of equipment as a result of the presence of PCBs would concern Nevada Power's knowledge of any potential hazards of PCB and is therefore within the limited scope of discovery on Statute of Limitations issues. Similarly, testing and inspection as a result of the presence of PCB would also come within the limited scope of discovery. Therefore, these documents need to be produced.

The documents sought in Request Number 29 should not come within the attorney-client and work product privileges. All documents concerning the work performed by experts or consultants retained by you is not shielded within these privileges since this is discoverable pursuant to Federal Rules of Civil Procedure 26(b)(4).

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In Plaintiff Nevada Power's Answers to General Electric Company's First Set of Interrogatories, you assert that Interrogatory Number 1, which seeks identification of each item of PCB equipment in your Complaint, is beyond the scope of the limited discovery order. This information, however, is necessary in order to determine when the equipment was sold to Nevada Power for Statute of Limitations purposes. Therefore, a portion of the information sought in Interrogatory Number 2 should also be provided. Subsections (b) and (d) are both necessary to address issues raised by the Statute of Limitations. The date of purchase will demonstrate the time when the Cause of Action accrued while the presence of a warning or caution label goes towards Nevada Power's knowledge of the alleged hazards of PCB equipment.

Interrogatory 3 also contains requests for information which come within the limited scope of discovery in this matter. The identification of all PCB equipment in this matter, the date Nevada Power made the decision to replace, remove, refit, and/or dispose of each item of PCB equipment, and the Federal legislation and EPA regulations you contend have required or will require you to comply with all concern Nevada Power's knowledge of the alleged hazards of PCBs. Thus, you need to provide this information, as well as the identification of documents and other communications concerning the sub-parts of this Interrogatory.

You also need to execute the Order previously provided to you. We are not against deleting the requirement concerning out-of-state counsel. We also are not opposed to deleting reference to custodian of records depositions since you acknowledge that we can set these. We cannot agree with your proposal to delete the language in the Order concerning your representation that no objections to the form of the questions would be made.

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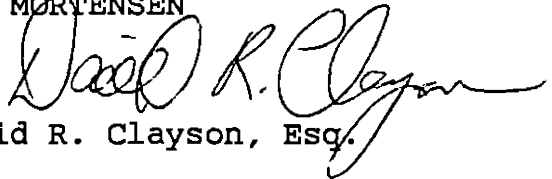
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Your prompt attention to these matters is greatly appreciated. This correspondence is sent pursuant to the local court rules in Federal Court so that this discovery dispute can be resolved, if possible, amicably.

Very truly yours,

ALVERSON, TAYLOR
& MORTENSEN



David R. Clayson, Esq.

DRC:deb

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