

DRAFT

Telephone: (702) 385-4202

BRADLEY & MERRELL
c/o Jones, Jones, Close & Brown
300 South Fourth Street, Seventh Floor
Las Vegas, Nevada 89101-6026

Fax: (702) 385-1655

July 12, 1993

Via Fax

Konrad Cailteux, Esq.
(212) 312-8007

Peggy Leen, Esq.
(702) 366-0622

Re: Nevada Power Company v. Monsanto Company, et al.
USDC, District of Nevada Case CV-S-89-555-LDG (LRL)

Dear Counsel,

The following is a draft summary of the agreements and areas for further discussion as discussed in this morning's phone conference with Paul Merrell, David Schalk and yourselves.

I. Areas of Agreement for Stipulations

A. Westinghouse will not instruct witnesses not to answer questions in the upcoming depositions regarding the alleged Westinghouse destruction of evidence on matters concerning:

1. conversations between Mr. Bair and Mr. Bickerstaff and Mr. Lawrence concerning the destruction of documents;
2. the purpose and meaning of the 22 page Bair memo (hereinafter plaintiff's exhibit 1212);
3. Specific documents, cases or issues raised in plaintiff's exhibit 1212 subject to appendices subject to claimed privileges;
4. Commendations or reprimands given to Westinghouse personnel regarding the document destruction program described in plaintiff's exhibit 1212;
5. the 1986 company wide sweep for PCB documents.

B. Westinghouse will bring to the Bair/Bickerstaff depositions any written record of commendations or reprimands given to Westinghouse personnel regarding the document destruction program described in plaintiff's exhibit 1212.

Peggy Leen, Konrad Cailteux
July 12, 1993
Page 2

C. Westinghouse will consider bringing portions from the personnel files of Bair, Bickerstaff, Lawrence, and Pashke to their depositions if Nevada Power identifies narrow categories.

D. Westinghouse does not anticipate any objections based on privilege during Mr. Pashke's deposition relating to the 1986 document collection in Pittsburgh and its relationship if any to the Bair/Bickerstaff document destruction memoranda.

E. Westinghouse will be prepared to submit to the court under seal for in camera review the documents claimed to be privileged that were originally attached to Mr. Bair's 22 page memoranda. Westinghouse will provide a copy of the cover letter to Nevada Power and include in that cover letter the basis for Nevada Power's belief that the privilege has been waived. Nevada Power anticipates making a short presentation to the magistrate on these issues.

F. The documents responsive to Nevada Power's discovery request for documents taken from the files of Pierce, Walsh, Mandelcorn, and Munson were objected to but Westinghouse states it has produced them all.

II. Issues to Be Discussed Further

A. The availability of Mr. Pashke for his deposition by Nevada Power.

B. Whether Westinghouse will bring the personnel files of Bickerstaff, Bair, and Lawrence to the deposition in case questions arise.

C. The scope of the waiver of privilege as to the subject matter surrounding the plaintiff's exhibit 1212, the program described in plaintiff's exhibit 1212, the documents submitted by Westinghouse in response to Nevada Power's motion for default, and the 1986 document collection at Westinghouse's headquarters in Pittsburgh.

D. A method to allow Nevada Power to verify whether or not all of the documents relating to PCBs, dioxins, and furans in Industrial Hygiene at the time of the Bair/Bickerstaff 22 page memoranda are still in Westinghouse's possession.

1. Konrad Cailteux and Peggy Leen proposed that Nevada Power identify specific categories which Nevada Power believes are

missing and they will search for such documents. Alternatively, Westinghouse proposed that Nevada Power wait until after the depositions to see whether they are satisfied and then make specific requests for documents to see if they are still in Westinghouse's possession. Westinghouse will consider extending the discovery deadline for these issues if Nevada Power accepts a bifurcated approach.

2. David Schalk suggested that he be provided with an index of the documents in Industrial Hygiene in 1989 and the most recent index and he be permitted to select a few specific documents for production. David Schalk also suggested that a method of verification would be physical inspection of the premises to see if they correspond with the description of the microfiche and files described by Mr. Bair in plaintiff's exhibit 1212. Paul Merrell also suggested that the type of documents produced relating to PCBs, dioxins, and furans be compared to the type of documents in Westinghouse's possession for other chemicals.

3. Peggy and Konrad will discuss whether or not they can and will produce an index of the documents. Nevada Power will consider whether they would be satisfied with Westinghouse's proposal.

E. The parties discussed but did not decide whether they are willing to extend discovery regarding the destruction of documents beyond the July 23, 1993 deadline.

F. Westinghouse and Nevada Power did not reach agreement as to which state's law governs objections and privileges at the Bair, Bickerstaff, Lawrence, and Pashke depositions.

G. Westinghouse agreed to investigate whether it will produce prior depositions, affidavits, and hearing testimony of the upcoming deponents regarding the destruction of documents, PCBs, dioxins, furans plus the insurance litigation deposition of Wayne Bickerstaff.

H. Westinghouse and Nevada Power did not concur on the best method of verifying the content of Mr. Bair's handwritten notes relating to the destruction of documents. Nevada Power has provided a draft typewritten transcription for preview by Mr. Bair. Westinghouse suggested that Nevada Power ask about specific words or phrases. Westinghouse agreed to consider Nevada Power's proposal that Mr. Bair review, correct, and attest to Nevada Power's type written version.

Peggy Leen, Konrad Cailteux
July 12, 1993
Page 4

I. Nevada Power will investigate the scope of its prior 30(b)(6) deposition notices regarding these matters. Westinghouse thinks it is limited to the Bair/Bickerstaff memoranda and the 1986 document sweep.

J. Nevada Power would like a copy of Westinghouse's document retention or related policies which related to the 1986 document collection and the documents reviewed by Mr. Bair. There may have been a document produced as an attachment to the Francis Gary affidavit.

III. Unrelated Matters Discussed

A. Nevada Power should receive an additional 9 boxes of Westinghouse production this week.

B. Westinghouse will be providing additional documents from its privilege log.

C. Nevada Power will agree to a second extension of Westinghouse's filing deadline regarding the salvage value of PCB equipment.

D. Westinghouse is not opposed to an extension for Nevada Power's filing of its reply brief on its amended complaint, possibly until July 28, 1993.

E. Production of documents relating to dioxins and furans including a training guideline mentioned documents produced by Westinghouse in response to Nevada Power's motion for default. Deborah Mailander faxed Konrad a list of such documents following today's meeting. Konrad has agreed to check whether these documents have been/will be produced.

Sincerely,

BRADLEY & MERRELL

DEBORAH N. MAILANDER

BRADLEY & MERRELL
c/o JONES, JONES, CLOSE & BROWN, CHARTERED
Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-6026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 7-12-75

Peggy Leen
TO: John L. Thorndal, Esq. **FAX #:** (702) 366-0327
Konrad Cantor **PHONE #:** (702) 366-0622

FROM: Deborah MacLund

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

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION:

draft status letter

NUMBER OF PAGES (including cover page): 5

MESSAGE:

THIS TELECOPY IS INTENDED ONLY FOR THE ADDRESSEE NAMED ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU HAVE RECEIVED THE TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, DESTROY ALL COPIES, AND DO NOT DISSEMINATE THE INFORMATION TO ANYONE. THANK YOU FOR YOUR ASSISTANCE.

IF YOU EXPERIENCE PROBLEMS WITH THIS TRANSMISSION,
please call (702) 385-4202 and ask for: Robert Osterloh, Ext. 615

BRADLEY & MERRELL
a/o JONES, JONES, CLOSE & BROWN, CHARTERED
Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-8026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1855

DATE: 7-12-83

TO: Peggy Leen
John L. Thorndal, Esq.
Kornel Carlick

FAX #: (702) 386-0327

PHONE #: (702) 386-0622

FROM: Deborah M. J. J. J.

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

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION:

Draft State Letter

NUMBER OF PAGES (including cover page): 5

MESSAGE:

THIS TELECOPY IS INTENDED ONLY FOR THE ADDRESSEE NAMED ABOVE. IT MAY CONTAIN INFORMATION THAT IS
PRIVILEGED AND CONFIDENTIAL. IF YOU HAVE RECEIVED THE TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY
BY TELEPHONE, DESTROY ALL COPIES, AND DO NOT DISSEMINATE THE INFORMATION TO ANYONE. THANK YOU FOR
YOUR ASSISTANCE.

IF YOU EXPERIENCE PROBLEMS WITH THIS TRANSMISSION,
please call (702) 385-4202 and ask for: Robert Osterloh, Ext. 815

TRANSMISSION REPORT

THIS DOCUMENT WAS CONFIRMED
(REDUCED SAMPLE ABOVE - SEE DETAILS BELOW)

**** COUNT ****

TOTAL PAGES SCANNED : 5

TOTAL PAGES CONFIRMED : 5

*** SEND ***

No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	PEGGY LEEN	7-12-83 4:04PM	2'33"	5/ 5	EC	COMPLETED 9600

TOTAL 0:02'33" 5

NOTE:

No. : OPERATION NUMBER 48 : 4800BPS SELECTED EC : ERROR CORRECT G2 : G2 COMMUNICATION
PD : POLLED BY REMOTE SF : STORE & FORWARD RI : RELAY INITIATE RS : RELAY STATION
MB : SEND TO MAILBOX PG : POLLING A REMOTE MP : MULTI-POLLING RM : RECEIVE TO MEMORY

BRADLEY & MERRELL
c/o JONES, JONES, CLOSE & BROWN, CHARTERED
Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-8026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 7-14-83

TO: Peggy Leen
John L. Thordarson, Esq.
Kornel Conitkov

FAX #: (702) 366-0327
PHONE #: (702) 366-0622

FROM: Deborah P. Thordarson

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

CLIENT/MATTER NO.: 11827.2

DOCUMENT(S) DESCRIPTION:
Draft Statute Letter

NUMBER OF PAGES (including cover page): 5

MESSAGE:

THIS TELECOPY IS INTENDED ONLY FOR THE ADDRESSEE NAMED ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU HAVE RECEIVED THE TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, DESTROY ALL COPIES, AND DO NOT DISSEMINATE THE INFORMATION TO ANYONE. THANK YOU FOR YOUR ASSISTANCE.

IF YOU EXPERIENCE PROBLEMS WITH THIS TRANSMISSION,
please call (702) 385-4202 and ask for: Robert Osterloh, Ext. 615

TRANSMISSION REPORT

THIS DOCUMENT WAS CONFIRMED
(REDUCED SAMPLE ABOVE - SEE DETAILS BELOW)

**** COUNT ****

TOTAL PAGES SCANNED : 5
TOTAL PAGES CONFIRMED : 5

*** SEND ***

No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	ARVIN MASKIN	7-12-83 4:07PM	2'31"	5/ 5	EC	COMPLETED 9600

TOTAL 0:02'31" 5

NOTE:

No. : OPERATION NUMBER 48 : 4800BPS SELECTED EC : ERROR CORRECT G2 : G2 COMMUNICATION
PD : POLLED BY REMOTE SF : STORE & FORWARD RI : RELAY INITIATE RS : RELAY STATION
MB : SEND TO MAILBOX PG : POLLING A REMOTE MP : MULTI-POLLING RM : RECEIVE TO MEMORY

BRADLEY & MERRELL
c/o JONES, JONES, CLOSE & BROWN, CHARTERED
Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-6026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 7/12/93

TO: Paul E. Merrell, Esq.

FAX #: (503) 528-7105

PHONE #: (503) 528-7151

FROM: David E. Schalk

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

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: Bair memo to Palmieri, 4/5/88

NUMBER OF PAGES (including cover page): 2

MESSAGE: Note reference to "Headquarters Product Safety and Integrity" I sure would like past and present indices of their documents.

THIS TELECOPY IS INTENDED ONLY FOR THE ADDRESSEE NAMED ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU HAVE RECEIVED THE TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, DESTROY ALL COPIES, AND DO NOT DISSEMINATE THE INFORMATION TO ANYONE. THANK YOU FOR YOUR ASSISTANCE

IF YOU EXPERIENCE PROBLEMS WITH THIS TRANSMISSION,
please call (702) 385-4202 and ask for: Robert Osterloh, Ext. 615

BRADLEY & MERRELL
c/o JONES, JONES, CLOSE & BROWN, CHARTERED
Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-5026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 7/12/93

TO: Paul E. Merrell, Esq.

FAX #: (503) 628-7106

PHONE #: (503) 628-7151

FROM: David E. Schalk

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

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: Bair memo to Palmieri, 4/5/88
Bates 300867

NUMBER OF PAGES (including cover page): 2

MESSAGE: Note reference to "Headquarters
Product Safety and Integrity" I sure would
like past and present indices of their documents:

THIS TELECOPY IS INTENDED ONLY FOR THE ADDRESSEE NAMED ABOVE. IT MAY CONTAIN INFORMATION THAT IS
PRIVILEGED AND CONFIDENTIAL. IF YOU HAVE RECEIVED THE TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY
BY TELEPHONE, DESTROY ALL COPIES, AND DO NOT DISSEMINATE THE INFORMATION TO ANYONE. THANK YOU FOR
YOUR ASSISTANCE.

IF YOU EXPERIENCE PROBLEMS WITH THIS TRANSMISSION,
please call (702) 385-4202 and ask for: Robert Osterloh, Ext. 615

TRANSMISSION REPORT

THIS DOCUMENT WAS CONFIRMED
(REDUCED SAMPLE ABOVE - SEE DETAILS BELOW)

** COUNT **

TOTAL PAGES SCANNED : 2
TOTAL PAGES CONFIRMED : 2

*** SEND ***

No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	PAUL MERRELL	7-12-83 2:46PM	1'21"	2/ 2		COMPLETED 9600

TOTAL 0:01'21" 2

NOTE:

No. : OPERATION NUMBER 48 : 4800BPS SELECTED EC : ERROR CORRECT G2 : G2 COMMUNICATION
PD : POLLED BY REMOTE SF : STORE & FORWARD RI : RELAY INITIATE RS : RELAY STATION
MB : SEND TO MAILBOX PG : POLLING A REMOTE MP : MULTI-POLLING RM : RECEIVE TO MEMORY

BRADLEY & MERRELL
c/o JONES, JONES, CLOSE & BROWN, CHARTERED
Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-6026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 7-12-93

TO: David McCrea, Esq.

FAX #: (812) 336-5307

PHONE #: (812) 336-4840

FROM: David Schalk

CLIENT/MATTER: Nevada Power/Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: *Exh. A to G.E.'s motion to exceed
of interogs; + order indicating 15 allowed + which ones
are under protective order*

NUMBER OF PAGES (including cover page): -17-

MESSAGE:

THIS TELECOPY IS INTENDED ONLY FOR THE ADDRESSEE NAMED ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU HAVE RECEIVED THE TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, DESTROY ALL COPIES, AND DO NOT DISSEMINATE THE INFORMATION TO ANYONE. THANK YOU FOR YOUR ASSISTANCE.

IF YOU EXPERIENCE PROBLEMS WITH THIS TRANSMISSION,
please call (702) 385-4202 and ask for: Robert Osterloh, Ext. 615

BRADLEY & MERRELL
c/o JONES, JONES, CLOSE & BROWN, CHARTERED
Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-6026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1855

DATE: 7-12-93

TO: David McCrea, Esq.

FAX #: (812) 336-5307

PHONE #: (812) 336-4840

FROM: David Schalk

CLIENT/MATTER: Nevada Power/Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: Exh. A to G.E.'s motion to exceed
of interrog; + order indicating 15 allowed + which ones
are under protective order

NUMBER OF PAGES (Including cover page): -17-

MESSAGE:

THIS TELECOPY IS INTENDED ONLY FOR THE ADDRESSEE NAMED ABOVE. IT MAY CONTAIN INFORMATION THAT IS
PRIVILEGED AND CONFIDENTIAL. IF YOU HAVE RECEIVED THE TELECOPY IN ERROR, PLEASE NOTIFY US IMMEDIATELY
BY TELEPHONE, DESTROY ALL COPIES, AND DO NOT DISSEMINATE THE INFORMATION TO ANYONE. THANK YOU FOR
YOUR ASSISTANCE.

IF YOU EXPERIENCE PROBLEMS WITH THIS TRANSMISSION,
please call (702) 385-4202 and ask for: Robert Osterloh, Ext. 815

TRANSMISSION REPORT

THIS DOCUMENT WAS CONFIRMED
(REDUCED SAMPLE ABOVE - SEE DETAILS BELOW)

**** COUNT ****

TOTAL PAGES SCANNED : 17
TOTAL PAGES CONFIRMED : 17

*** SEND ***

No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	DAVID MCCREA	7-12-83 1:27PM	9'46"	17/ 17		COMPLETED 9600

TOTAL 0:09'46" 17

NOTE:

No. : OPERATION NUMBER 48 : 4800BPS SELECTED EC : ERROR CORRECT G2 : G2 COMMUNICATION
PD : POLLED BY REMOTE SF : STORE & FORWARD RI : RELAY INITIATE RS : RELAY STATION
MB : SEND TO MAILBOX PG : POLLING A REMOTE MP : MULTI-POLLING RM : RECEIVE TO MEMORY