

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 15, 1993

VIA TELEFAX - 202/508-5673

Joe Yost, Esq.
Edison Electric Institute
1111 19th Street N.W.
Washington, D.C. 20036

Re: Subpoena Issued for Nevada Power v. Monsanto, et al

Dear Joe:

Under this cover, please find the discovery scheduling order from this case.

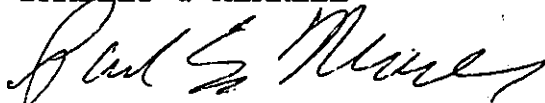
Please note particularly numbered paragraph 1, which establishes May 14, 1993 as the cut-off date for serving "all written discovery requests, including interrogatories, requests to produce documents and requests for admissions." In my opinion, this portion of the order can be fairly read to apply to subpoenas duces tecum as well.

As we discussed, Fed.R.Civ.P. 30(b)(6) requires that the subpoena must "describe with reasonable particularity the matters on which examination is requested, and must "advise a non-party organization of its duty to make . . . a designation" of a person to testify on the organization's behalf as to the described matters. Absent such a designation, the non-party has no way of preparing a witness.

I hope this is helpful. We will be reviewing our legal research to see if we have any authorities that might help in your situation.

Sincerely,

BRADLEY & MERRELL



PAUL E. MERRELL
Coordinating Attorney

PEM:dd
evg\corlyost.101

Paul Murrell Jones Jones

RECEIVED
APR 9 1993

APR 9 12 25 PM '93

CLERK OF COURT

BY *Johnson*
DEPUTY

ENTERED AND
SERVED

APR 9 1993

CLERK OF COURT
DEPUTY
Johnson

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

NEVADA POWER COMPANY,

Plaintiff,

v.

MONSANTO COMPANY, et al.,

Defendants.

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

SCHEDULING ORDER AND LITIGATION PLAN

The Court has considered Plaintiff's Corrected March 4, 1993 Motion to Extend Discovery (#323, filed March 22, 1993), Defendants' Joint Opposition thereto and Cross-Motion for Alternative Discovery Schedule and Litigation Plan (#324, filed March 22, 1993), and the arguments and representations made by counsel during the hearing conducted on March 25, 1993. Based thereon, the following scheduling order and litigation plan are established.

1. The parties shall serve all written discovery requests, including interrogatories, requests to produce documents and requests for admissions, no later than May 14, 1993. Responses to

1 all written discovery requests shall be provided no later than June
2 18, 1993.

3 2. Plaintiff shall supplement its answers to the defense
4 contention interrogatories already on file (that is, Plaintiff will
5 supplement its October 16, 1992 answers to Defendants' contention
6 interrogatories) by May 28, 1993. Defendants will (a) supplement
7 their October 16, 1992 answers to Plaintiff's contention
8 interrogatories regarding affirmative defenses, and (b) respond to
9 Plaintiff's statute of limitations contention interrogatories served
10 on January 16, 1993, by June 4, 1993. The parties shall list
11 specific facts and identify specific supporting documents in these
12 answers and shall not merely make conclusory statements.

13 3. Plaintiff may submit up to 700 documents to Defendants
14 collectively, in addition to those previously submitted in
15 Plaintiff's First Request for Admissions, and Defendants shall
16 indicate by stipulation for each whether the document is authentic
17 pursuant to Fed. R. Evid. 901 or 902, and whether it is a business
18 record pursuant to Fed. R. Evid. 803(6). Defendants may likewise
19 collectively submit 700 documents to Plaintiff for similar
20 stipulation. All requests for stipulation shall be submitted by May
21 14, 1993, and responses shall be due no later than June 18, 1993.

22 4. Plaintiff shall serve on each Defendant a list of its
23 intended fact witnesses, together with a brief statement of each
24 witness' expected testimony, by June 18, 1993. Defendants shall
25 each serve on Plaintiff a list of their intended fact witnesses,
26

1 together with a brief statement of each witness' expected testimony,
2 by June 25, 1993.

3 5. All parties shall complete their fact witness depositions,
4 including any document authentication depositions, by July 23, 1993.
5 Neither Plaintiff nor Defendants shall notice and take more than 40
6 fact witness depositions, whether they be personal or Rule 30(b)(6),
7 that do not relate primarily to the authentication of documents.

8 6. Plaintiff shall provide Rule 26(b)(4) disclosure of its
9 experts and their anticipated testimony by July 30, 1993.
10 Defendants may depose Plaintiff's experts from July 30 through
11 August 20, 1993.

12 7. Defendants shall provide Rule 26(b)(4) disclosures of
13 their expert witnesses and their anticipated testimony by August 27,
14 1993. Plaintiff may depose Defendants' experts from August 27
15 through September 17, 1993.

16 8. Discovery will close on September 18, 1993.

17 9. The Court recognizes that this Order provides for a longer
18 discovery period than was requested by the parties. However, in the
19 interest of ending the discovery phase of this lawsuit on a
20 reasonably foreseeable date certain, it is the Court's intent to
21 impose a strictly enforced discovery plan which is manageable and
22 attainable. All previous deadlines that are inconsistent with this
23 Order are hereby rescinded.

24 10. Nevada Power's motion to reduce the number of defense
25 witnesses (# 231), and its appeal dated January 28, 1993 (# 271) are
26

1 withdrawn as moot.

2 11. Nothing in this Stipulation and Order alters or modifies
3 the provisions of Local Rule 190-3 governing the joint pretrial
4 order.

5 12. Except as otherwise expressly provided herein, this Order
6 does not bar any party from objecting to any discovery served in
7 accordance with this Order. Discovery disputes shall be adjudicated
8 on an expedited basis. The parties are therefore directed to
9 provide my chambers with a courtesy copy of any discovery motion or
10 response which may be filed. However, no discovery dispute will be
11 considered by the Court unless and until there has been a meaningful
12 attempt by counsel to resolve the matter informally, as required by
13 Local Rule 190-1(f)(2).

14 IT IS SO ORDERED.

15 DATED this 8th day of April, 1993.

16
17 

18 LAWRENCE R. LEAVITT
19 UNITED STATES MAGISTRATE JUDGE

BRADLEY & MERRELL
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: 7/15/93

TO: JOE YOST, ESQ.

FAX #: 202/508-5673

PHONE #:

FROM: Paul Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: letter with attached Scheduling Order

NUMBER OF PAGES (including cover page): 7

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
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: 7/15/93

TO: JOE YOST, ESQ

FAX #: 202/528-5673

PHONE #:

FROM: Paul Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: Letter with attached Scheduling Order

NUMBER OF PAGES (including cover page): 7

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 : 6

TOTAL PAGES CONFIRMED : 6

*** SEND ***

No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	2025085673	7-15-83 1:28PM	3'49"	6/ 6		COMPLETED 9600

TOTAL 0:03'49" 6

NOTE:

No. : OPERATION NUMBER 48 : 4800BPS SELECTED EC : ERROR CORRECT G2 : G2 COMMUNICATION
PD : POLLED BY REMOTE SF : STORE & FORWARD R1 : RELAY INITIATE RS : RELAY STATION
MB : SEND TO MAILBOX PG : POLLING A REMOTE MP : MULTI-POLLING RM : RECEIVE TO MEMORY