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VIA TELEFAX
~~HAND DELIVERED~~

February 22, 1993

Richard L. Hinckley, Esq.
Vice President, Secretary
and Chief Counsel
Nevada Power Company
6226 West Sahara Avenue
Las Vegas, Nevada 89102

Re: Nevada Power Company v. Monsanto Company, et al.
USDC, District of Nevada, Case No. CV-S-555-LDG-LRL

Dear Richard:

As we discussed this morning, please find draft materials for our witness testimony development project. I would appreciate any comments you may have.

Please recall that the schedule cannot be finalized until the Stipulation on Discovery Scheduling is signed.

Sincerely,

BRADLEY & MERRELL


PAUL E. MERRELL

PEM:dd

PLAINTIFF FACT WITNESSES

Begin assembling our fact witness list

Give Holly responsibility to develop tracking form. Liz to have responsibility for tracking project progress with periodic updated progress reports. Holly to work with Debbie and Liz in developing tracking form. Draft tracking form with instructions for use to be provided to Paul & Ralph by 10 a.m. February 18, 10 a.m. Form and instructions to be placed in Desk Reference when finalized.

Give Debbie over-all responsibility for development of draft project description, suitable for inclusion in Desk Reference Procedures Manual, by February 18, 10 a.m., breaking down tasks with proposed persons to delegate assignments to and due dates for all assignments. Tasks should include periodic updates for Ralph & Paul, as well as tracking whether all relevant materials have been placed into TNB and relevant computer files. Debbie to work with Holly and Liz on developing project description. Project description should forecast personnel needs at relevant times for scheduling purposes.

Keep in mind that we will have to develop similar procedures for tracking our progress on our expert witnesses, see below, and on our development of materials for defense witnesses. Can we develop a system that works for all? One suggestion, include a witness-type field in the computer file for each witness, e.g., WIT-TYPE: PLAINTIFF-LAY, DEFENSE-EXPERT. This would allow global search for all information on each type of witness, or allowing pairing of witness types with the witness name to narrow the search in ISYS, and would facilitate search and replace operations to add information later.

Develop procedure to ensure that suspense files are created as necessary and that all "start" and "deadline" dates are calendared.

Develop procedure to ensure that all relevant materials are stored in the TNB and that table of contents is amended and relevant tabs prepared before they are needed.

Develop draft plaintiff fact witness list

Determine what information has to be included in witness list served on defendants

List to be developed in computer file alphabetized by last name; directory and filename information to be included in project plan (see Linda).

Include initially all Nevada Power employees and ex-employees defendants have deposed. Each person's name is

followed by abbreviation "-- NPC" to identify as Nevada Power present or former employee.

Include initially all people on our deposition schedule, other than those named only by defendants. Each person's name is followed by abbreviation for present or former affiliation with defendant, i.e., "--WEC" or "-- GE" or "-- MON". For those affiliated neither with plaintiff nor with defendant, use abbreviation of "-- MSC".

Add miscellaneous persons:

Ed Bates

Phillip Smith

Others (develop plan for identifying others).

Work in process for identifying address and telephone number for each witness.

Ensure that contact information is added to relevant "Contact list" portion of TNB, as well as any updates. Information critical for subpoenaing witnesses to trial. Also, on our miscellaneous witnesses, we will have to provide information to defendants so they can depose them.

Establish schedule for contacting each miscellaneous witness by telephone to ensure willingness to testify at trial, obtain summary of relevant knowledge (summary substitutes for deposition summary until deposition taken by defendants). Must occur before defendants take their depositions.

Include early memo to B&B, D. McCrea, R. Hinckley, S. Fogelboch, G. Smoger, B. Snyder (blind), others(?) soliciting input on who should be on our fact witness list by particular date.

Include requirement of daily update of relevant computer files to be moved to ISYS machine; Paul to write batch processing files to ease copying from the JJC&B system and onto the proper directory on the ISYS unit. Printout of batch processing files to be made part of Desk Reference computer files section, with cross-reference in the witness list preparation section.

Due date for witness list project completion is one week before earliest proposed date for exchange of fact witness lists. See Ralph for latest proposals from us and Kuney.

Work in process for culling witness list down after depositions are summarized. This may have to be through amendment after witness list is served on defendants

initially. See section on developing plaintiff responses on fact witness anticipated testimonies, below, for process on summarizing depositions.

Generate final witness list. Review need for including language justifying a large witness list on our part by defendants' expressed intention to call a large number of witnesses, and/or the complexity of the issues.

Copy final witness list and prepare for service.

Serve final witness list on last permissible date.

PLAINTIFF RESPONSES ON FACT WITNESS ANTICIPATED TESTIMONIES:

Development of final witness list should dovetail into later project for answering interrogatories regarding substance of witness' proposed testimonies, and from there into proposed pre-trial order. See Ralph for latest proposals from us and Kuney. Preparation of interrogatory responses should not await final witness list, but should instead begin ASAP.

Process developed must allow for fact that we may not have all depositions taken by time responses are due; i.e., some deposition summaries will have to be processed very quickly; for some witnesses, we will have to answer interrogatories through supplements after due date for responses.

Develop and acquire sub-tabs for all materials identified below, under each witness' section in the TNB. These will separate the materials in the "packet" for Paul or Ralph's review described below.

List should be copied into duplicate computer file in which interrogatory responses will begin to be assembled.

(NOTE: This would require extensive editing of two large and simultaneously expanding computer files. Consider option of a single file for the witness list, but a separate interrogatory response file for each person on the list, each named with a standard filename extension, such as .WIT. (These would simplify file copies.) Both of these filetypes would be located as the only files on a particular subdirectory in the JJCB and ISYS systems.)

Identify information required to be disclosed by interrogatories, any associated needed legal research.

As completed, add copies of deposition summaries under each witness name in interrogatory computer file; these will later be edited down to interrogatory responses. Identify persons responsible for copying summaries to files and for later editing, along with deadlines.

Check TNB for any other relevant materials on each witness. If found, identify, summarize, and add to relevant computer files.

Identify any needed witness follow-up, such as further deposition or interview, or document acquisition. Enter field: FOLLOWUP NEEDED? Y/N
FOLLOWUP DESCRIPTION: Conduct followup.

Identify exhibits that support point we wish to make through each witness' testimony. If there is a database entry for any exhibit, add the database entry to the file under each witness. If there is no database entry yet, send document to Laura/Joe/Gay for expedited database entry. Identify then-present authentication/hearsay status using standardized language that can be used for an ISYS or Wordperfect search on present status of all exhibits we intend to rely on. Example: AUTHENTICATED OKAY, AUTHENTICATED NOT OKAY. (Or abbreviations?)

Summarize deposition summaries and other materials for each witness down to draft interrogatory response. **CRITICAL TASK MUST BE COMMENCED IMMEDIATELY.**

Get 4-5 paralegals/out of work attorneys hired ASAP to do deposition summaries on piecework basis at their homes. Buy \$30 tape recorders for each to use. Put Lynda in charge of hiring and administrative procedures. Put Debbie in over-all charge of project and of planning mass meeting to instruct paralegals. Check quality of Dean's work, and if o.k. get her to help instruct. Debbie should also field their telephoned questions as they go, about how to proceed. Procedure should ensure thorough quality check on first summary for each. Save the deps we know are important for last. Identify the persons who do the best job, assign them the most important deps. Holly and Liz to track workflow. Summaries of deps are proofread first by our shop, then by people who dictated summaries. Corrected summaries are placed in one subdirectory on JJC&B system. Lynda to identify subdirectory.

After correction, duplicates of computer files on each witness are inserted in the fact or expert *.WIT interrogatory response files for further summarization down to interrogatory responses. (See concurrent plan for preparing interrogatory responses.)

Assemble packet for each witness, including final draft interrogatory response, deposition summary, deposition(s), relevant exhibits, any other materials for that witness. Provide packets to Ralph or Paul. (Or provide them with tracking info. on which witness sections of the TNB are completed to this stage but unreviewed by them so they can review materials as part of TNB rather than as separate packets.)

Ralph or Paul review and approve each packet or TNB witness section described in previous step.

Make revisions requested by Paul or Ralph.

Produce final interrogatory responses and prepare for service.

Serve final interrogatory responses on last permissible date.

PLAINTIFF EXPERTS:

Use draft 26(b)(4) responses on experts as organizational tools not only for preparing interrogatory responses but also for assembling materials to send to experts.

After project completion, duplicate computer files of our interrogatory responses will serve as organizational tool for trial preparation of each expert, i.e., as subfiles to the over-all trial plan. Within these subfiles, and the relevant portions of the TNB, we assemble all information we need to get that witness to the trial, get the testimony and related exhibits in the record, and get the witness home again.

One week before earliest date proposed for expert 26(b)(4) disclosures is deadline for over-all project completion.

Locate defense interrogatories requesting Rule 26(b)(4)-type information and enter those interrogatories in a computer file for each of our experts. Also include corresponding document request. End each file with a .WIT extension. Provide printouts of each file to Paul.

Paul & Ralph will dictate draft summaries of expert testimonies to be entered in each file.

Experts to be contacted to negotiate whether they are willing to make statements entered in summaries. If so, they verbally summarize the grounds for each opinions or specify the information they need to support such an opinion should they render it. Experts are asked to draft letter requesting needing information from us. They read draft letter to Paul or Ralph over telephone before sending it, to make sure no damaging statements will be made. After approval, they send the letters to us. The letters are made a part of the TNB relevant section for each expert.

We provide the requested information to the experts. After their review, they draft summaries of the grounds for their opinions. These are read to Paul or Ralph over telephone, approved, and then sent to us for entry into the expert computer files. The letters are filed in the relevant TNB section for each expert.

At this point, the draft interrogatory responses are sent to the experts and placed in the relevant TNB section for each expert along with the covering letter asking them review and correct the draft interrogatory responses and to provide us with a list and copy of all documents they rely upon to support their statements of fact and their opinions. RESEARCH NEED: What is the dividing line between expert statements of fact and expert opinion? (Schedule research to be completed before this point.)

After we receive the corrected interrogatory responses, the supporting lists of documents and the documents themselves, we prepare a final discovery response separately for each expert from the assembled materials. (This makes it more feasible to negotiate late provision of responses for individual experts for whom we experience delays.) All documents not previously entered in the database are copied and routed for database processing, and for consideration of whether they should be trial exhibits. All documents supporting statements of fact are checked and processed for authentication and to remove hearsay problems.

We copy and prepare the discovery responses for service.

We serve the discovery responses on the last permissible date.

TRIAL PREPARATION FOR ALL PLAINTIFF WITNESSES:

[RESERVED]

DEFENSE FACT WITNESSES:

DEFENSE EXPERT WITNESSES:

Paul & Ralph Friday night, February 12, to do phone conference.

meet with Paul Wednesday 9:30 to 11:30 to do rough summaries of experts' expected testimonies.

Get in works the 30(b)(6) notices for other suppliers -- suggest that Chuck do first cut.

Get Chuck the response brief on methods of computing damages; request his input soon.

Confirm that Paul Donsbach is responsible on reply brief re damages. Letter reminding him of due date.

Get Laura to develop indexes for Westinghouse documents.

Schedule time for planning.

c:\users\todo [ISYS system]