

MEMORANDUM

TO: Paul Merrell
FROM: Charles H. McCrea, Sr.
RE: Nevada Power v. Monsanto
DATE: February 6, 1991

Herewith simplified table showing opening and closing of one year "window" on indemnity cause of action. Note also addition to lead in line of language "which disregards any tolling of any statute of limitations because of fraud."

The effect of these dates and obligations is illustrated in the following figure, which disregards any tolling of any statute of limitations because of fraud.

BEFORE OCTOBER 1, 1985

In 1979, EPA determined that PCB transformers and capacitors are "totally enclosed uses" that can remain in service indefinitely. No restrictions on use of any PCB transformers or capacitors by Nevada Power. No indemnity cause of action on anything.

OCTOBER 1, 1985

PCB transformers posing risk to food or feed are prohibited. Indemnity cause of action on transformers becomes ripe because "time for performance has arrived." Still no restrictions on use (and therefore no indemnity cause of action for removal) of PCB capacitors.

OCTOBER 1, 1988

PCB capacitors prohibited. Indemnity cause of action on capacitors becomes ripe because "time for performance has arrived."

Window opens: Indemnity claims timely on both PCB transformers and PCB capacitors.

July 7, 1989 - Nevada Power files suit.

OCTOBER 1, 1989

Window closes: Four year statute of limitations runs on indemnity cause of action on transformers. Indemnity claims still timely only on capacitors.

October 1, 1993-----

Four year statute of limitations runs on indemnity cause of action on capacitors.

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