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DATE: 2-22-93

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CLIENT/MATTER: Nevada Power/Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: Westinghouse "Abrams memorandum"

NUMBER OF PAGES (including cover page): 2

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MEMORANDUM

To: Paul Merrell, Ralph Bradley, Jane
Saginaw, and Brian Weinstein

From: David S. McCrea

Subject: 22-page In-House Confidential
Westinghouse Memorandum

Date: February 22, 1993

Observations:

1. This supplements my February 19, 1993 memorandum to you.
2. The 22-page Westinghouse memorandum needs a title for reference. In the future, I will refer to this document as the "Abrams Memorandum".
3. The Abrams Memorandum makes 7 specific references to "smoking gun" documents. See pages 7, 8, 9 and 10.
4. The Abrams Memorandum makes 7 specific references to discarding files. See pages 13, 14, 20 and 21.
5. The Abrams Memorandum identifies the following microfiche cards and records:
 - a. Pre-1984 document collection: "...4 feet of cards and each card contains anywhere from one to forty documents." p.1

- b. In addition to the microfiche, Industrial Hygiene has: "...14 file cabinets of records in hard copy." *pps. 1 and 4*
- c. Plant correspondence prior to January 1, 1978, categorized by location: "...485 microfiche cards..." *p.2*
- (1) Reference at Tab 1
- d. Plant correspondence after January 1, 1978 through 1985: "...344 microfiche cards..." *p.2*
- e. Test records prior to January 1, 1978: "...222 microfiche cards..." *p.2*
- (1) Reference at Tab 2
- f. Test records after January 1, 1978 through 1984: "...210 microfiche cards..." *p.3*
- (1) Reference at Tab 3
- g. Historical files of Industrial Hygiene from 1936 (Is this 1930; 1950 or 1956? It is hard to read.): "...112 microfiche cards..." *p.3*
- (1) Reference at Tab 4
- h. Plant correspondence dated after 1985: "...one file drawer..." *p.4*
- i. Test records dated after 1984 (Is this 1964? It is hard to read.): "...two file drawers..." *p.5*
- j. Material cards, material safety data sheets, purchasing department spec cards, safe practice data sheets and safe practice data sheet historical files: "...five file cabinets..." *p.5*
- (1) Reference at Tab 5
- (2) SPDS historical file at Tab 6
- (3) Procedures and guidelines for "dioxin-furan health hazard training", radiation, asbestos, etc., at Tab 7. *p.6*
- k. The "Mines" (DSMc: This could be an acronym for documents in Westinghouse's archives): "...26 rolls of microfilm records..." *p.7*

6. The Abrams Memorandum is organized as follows:

Page 1: INTRODUCTION

Page 1: Microfiche Records - subparagraphs (a) through (e)

Page 4: Records Maintained in Hard Copy - subparagraphs (a) through (g)

Page 7: Records Maintained At The Records Retention Center, Boyers, Pennsylvania

Page 7: DISCUSSION (2 "smoking gun" references)

Page 8: Plant Correspondence Files (4 "smoking gun" references)

Page 9: Site and Employee Specific Test Records (No "smoking gun" references, however, "some of this documentation might present problems"; i.e., air sampling as early as 1940 might be used to prove early knowledge on the part of Westinghouse of hazards associated with such substances. p.9)

Page 9: Material Cards, Material Safety Data Sheets, Purchasing Department Specification Cards, Safe Practice Data Sheets and Historical Safe Practice Data Sheet Files (1 "smoking gun" reference)

Page 11: Procedure and Guideline Documents (no "smoking gun" references - but paragraph repeats information from previous paragraph, which had a "smoking gun" reference)

Page 11: Technical Literature (no "smoking gun" references - however, documentation might be used to prove knowledge of Westinghouse)

Page 11: RECOMMENDATIONS

Page 11: 6 questions related to the risks of keeping files vs. advantages:

- (1) What are the chances of litigation? Is it pending or imminent?**
- (2) In cases of litigation, which party would have the burden of proof?**
- (3) When does the statute of limitations run?**
- (4) What records are necessary for the continued operation of the Department?**
- (5) What records is the Corporation required to maintain pursuant to law?**
- (6) Do the Westinghouse records retention guidelines cover any or all of the records?**

Page 12: The Abrams Memorandum specifically refers to documents that should be discarded:

- a. If not required to be maintained by law, "[w]e recommend that all such files generated prior to 1974 should be discarded." *p.13***
- b. Correspondence before 1974 from the Industrial Hygiene Department included "self-analysis" and "editorializing" type of information that can be dangerous. "This is just the type of documentation which should be discarded from the files." *p.14***
- c. Procedures and guidelines to help plants develop appropriate occupational health programs to minimize employee exposure**

and corporate liability. "Those which are no longer used and/or are outdated should be discarded." *p.20*

- d. Under Miscellaneous - subparagraph 1, Workmen's Compensation Claim Files, there is reference to one file cabinet of case-specific workmen's compensation files. "We recommend that all settled and/or closed files be discarded." *p.21*
- e. Under Miscellaneous - subparagraph 2, Seminar and Education Materials, there is reference to training workshops and training courses. "Those which are no longer used and/or are outdated should be discarded." *p.21*
- f. Under Miscellaneous - subparagraph 3, Audit Report Drafts and Work Papers, there is reference to Industrial Hygiene plant audits. "We recommend that each author discard all drafts and work papers used to prepare the audit reports immediately after an adequate audit response is received from the Westinghouse plant." *p.21*
- g. Under Miscellaneous - subparagraph 4, Microfilm Records Maintained at the Mines: "We recommend that the microfilm records maintained at the Mines be destroyed. These records are merely duplicates of the records currently maintained at Industrial Hygiene." *p.21*

7. Specific references to PCBs:

- a. "Procedure or guideline documents. Examples of procedure or guideline documents which are maintained in Industrial Hygiene Files include 'dioxin-furan health hazard training,' radiation protection programs, radiation guidelines, noise reduction procedures, heat control procedures, asbestos removal, shipment of hazardous waste procedures and ventilation procedures, to name a few. Westinghouse and Industrial Hygiene in particular, played an active role in the development of many of these procedures and guidelines. An example of a procedure or guideline document can be found at Tab 7." *pps. 5 and 6*
- b. "The plant correspondence files generated subsequent to the mid 1970s contain more information concerning follow-up and, consequently, actual implementation or Industrial Hygiene programs. As a result, these files might be of value to the Corporation. The recent request for information from the IUE regarding PCB use at Sharon is an example of how these newer plant correspondence files might be of value to the Corporation. It might be possible to use these files, as well as test record files, to establish that industrial hygiene and employee safety were and are promoted by Westinghouse as routine and indispensable requirements of daily operations; to show that health and safety were, and are, an integrated effort that involves management and hourly employees. Of course, documentary evidence of follow-up and implementation is at times missing from the post-1970s Industrial Hygiene files. Documentary evidence of implementation though, might be found in local plant files." *p.15*

DSMc comments: If a Westinghouse witness testifies that industrial hygiene and employee safety were promoted by Westinghouse as routine and indispensable requirements of daily operations in an integrated effort that involved management and hourly employees at the Bloomington Westinghouse plant, he will easily be impeached with the affidavit of Richard K. Sluder.

- c. "But until the early 1970s, Industrial Hygiene was the department responsible for maintaining much of this testing data. In addition,

experience has shown that often times the information cannot be located at the plant site human resources/medical departments. The closing of plants has historically presented problems in this regard. Consequently, we recommend that Industrial Hygiene continue to maintain the information. Based on our review of some of this data, it appears that at least a substantial portion of it is favorable. This information has in the past been used to respond to Union requests for information (Sharon is an example) and to defend workmen's compensation claims. In fact, it may become even more valuable in this regard (i.e., the defense of claims) if the risk notification legislation becomes law."

DSMc comments: There is not one piece of favorable data from the Bloomington Westinghouse plant. Please note that the author uses the word "data", not refer to opinions of management.

8. Miscellaneous Questions/Comments

- a. Who was the attorney who signed the document?
- b. Who was the Manager of Corporate Industrial Hygiene Environmental Affairs who signed the document?
- c. What is the significance of the code at the bottom of the page "4832U/1" through "4832U/22"
- d. When was this document typed? Reference is made to January 1, 1978 through 1985. My guess is that this document is that this document was prepared in 1986 shortly before OSHA's implementation of the Hazard Communication Standard.

COL

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