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BRADLEY & MERRELL
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Las Vegas, Nevada 89101-6026

Fax: (702) 385-1655

July 12, 1993

VIA TELEFAX

Peggy A. Leen
Thorndal, Backus, Maupin & Armstrong
1100 East Bridger Avenue
Las Vegas, Nevada 89101

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

Dear Peggy:

I am writing to share with you my thoughts regarding some issues which should be resolved prior to commencement of the Bair, Lawrence, and Pitts depositions. I am determined to achieve Nevada Power's goal of discovering, with certainty, once and for all, whether or not Westinghouse destroyed documents identified as being potentially useful to plaintiffs in possible litigation against it. However, I am very open to suggestions regarding the means by which this goal might be achieved.

What follows is our position regarding matters which might require rulings from the Court. Items "3," "4," and "5" seem absolutely essential to me, but I am very interested in discussing any alternatives you might propose. Item "1" would not become moot even if Westinghouse conclusively proved that no documents were destroyed. Fraud is alleged in this case, and Westinghouse's state of mind in devising the document destruction plan is an issue. Here is where we stand on some issues which are important to us:

1. Neither attorney-client privilege nor work product immunity protects information, including attorney thought processes and impressions, which could lead to admissible evidence that documents were destroyed to prevent them from falling into the hands of potential plaintiffs, and which could lead to evidence relevant to Westinghouse's plans to destroy documents.

COMMENT: I believe waiver and the fraud/crime exception leave the issue of document destruction on the table for full discovery. Regarding indices to documents, there is the additional element of

Peggy Leen
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exceptional need.

2. Nevada state law applies to claims of attorney-client privilege in this case.

3. Indices of PCB documents collected during the corporate-wide sweep, along with a current index of PCB documents, should be produced prior to the depositions.

COMMENT: All indices were specified in our April 14, 1993, request for production.

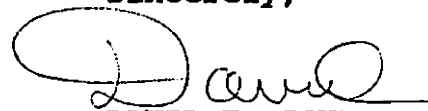
4. All indices of industrial hygiene documents should be produced prior to the depositions.

5. I wish to inspect all the microfiche cards, files, and documents described in the 22-page Bair/Bickerstaff memo.

COMMENT: I will be disgraced if I return from Pittsburgh without airtight proof that the Bair/Bickerstaff "smoking gun" documents still exist or are missing. To date, Westinghouse has produced no witness who claims to have recently seen the documents. But even if you were to produce such a witness in Pittsburgh, under the circumstances surrounding the "smoking gun" issue I would be negligent not to insist upon seeing the documents for myself.

We also need to resolve Westinghouse's objections to some of our requests for production. To whatever extent that your objections are valid, we will gladly modify our requests. Requests which stand out as being particularly relevant to the planned depositions include those made in Nevada Power's April 14, 1993, request for production and the subpoena duces tecum attached to our request for entry upon land, a copy of which I believe Paul Merrell sent you last Friday.

Sincerely,



DAVID E. SCHALK

BRADLEY & MERRELL
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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: July 12, 1993

TO: Peggy A. Leen, Esq.

FAX #: (702) 366-0327

PHONE #: (702) 366-0622

FROM:

David Schalk

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

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION:

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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 Schalk

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

CLIENT/MATTER NO.: 11927.2

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