

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

NEVADA POWER COMPANY,
a Nevada corporation,

Plaintiff,

vs.

No. CV-S-89-555-LDG (LRL)

MONSANTO COMPANY, a foreign
corporation; GENERAL
ELECTRIC COMPANY, a foreign
corporation; WESTINGHOUSE
ELECTRIC CORPORATION, a
foreign corporation; and
DOES I-XXV, inclusive,

Defendants.

COPY

DEPOSITION OF KENNETH ROBINSON

Santa Ana, California

Thursday, March 18, 1993

Sarnoff
**DEPOSITION
SERVICE, INC.**

REPORTED BY:

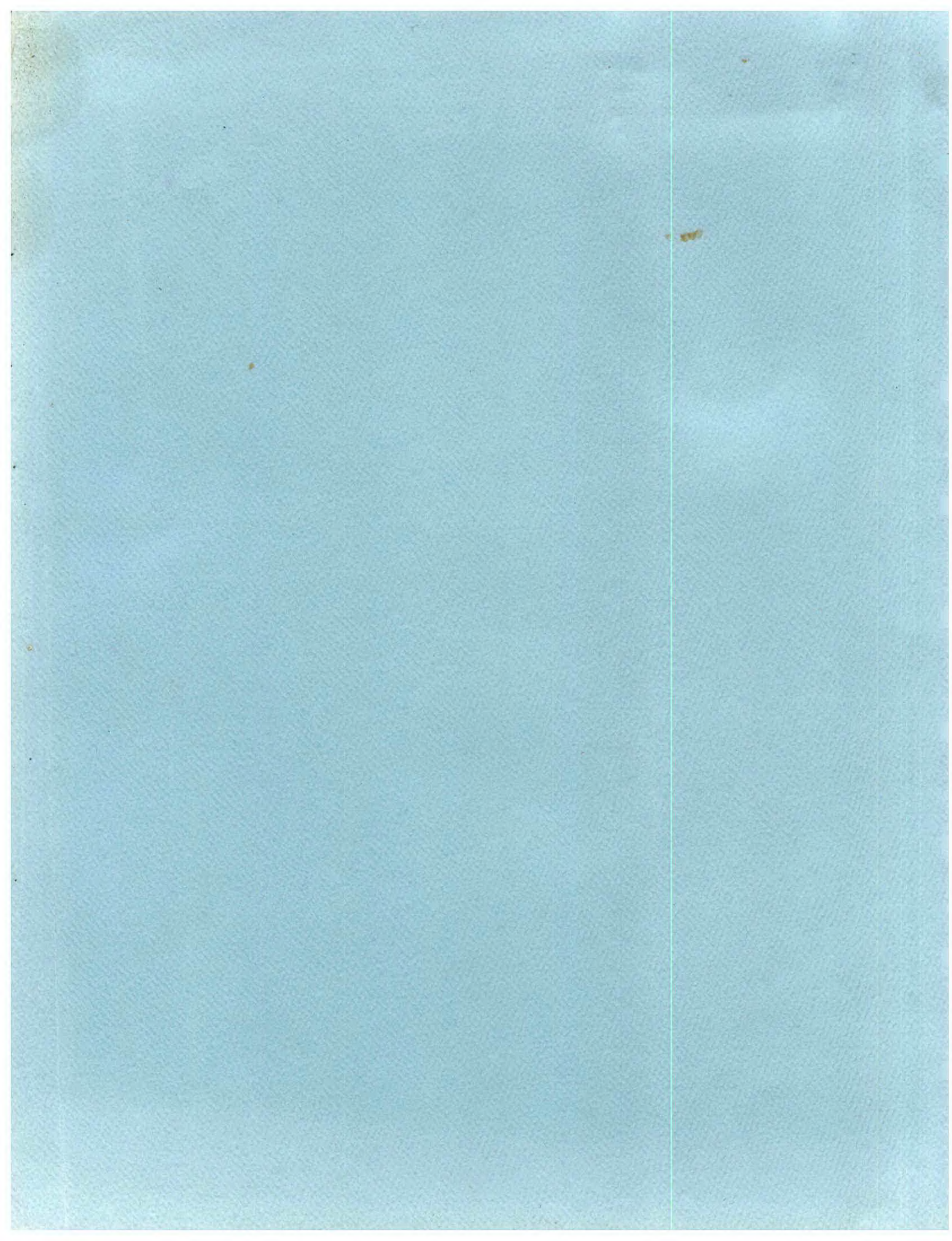
SHERI L. CLARK-BELL, CSR NO. 6368
JOB NO. 132165

Los Angeles
6222 Wilshire Blvd., Suite 204
Los Angeles, CA 90048
213.938.2461
Fax 213.931.3016

Orange County
2100 N. Broadway, Suite 210
Santa Ana, CA 92706
714.834.1571
Fax 714.834-9235

San Diego
619.434.4854
Fax 619.544.9901

800.888.6949





Los Angeles
213.938.2461
Fax 213.931.3016

Orange County
714.834.1571
Fax 714.834.9235

San Diego
619.434.4854
Fax 619.544.9901

1.800.888.6949

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SHORTHAND
REPORTERS

April 12, 1993

Deborah N. Mailander
BRADLEY & MERRELL
c/o JONES, CLOSE & BROWN
300 South Fourth Street Suite 700
Las Vegas, Nevada 89101

Job No. 132165

Please be advised that the sealed original transcript of the below-captioned deposition is hereby being forwarded to your office.

CASE NAME: Nevada Power Company vs. Monsanto Company
CASE NO.: CV-S-89-555-LDG DATE TAKEN: 3/18/93
WITNESS: Kenneth Robinson
REPORTER: Sheri Clark-Bell

The following changes should be noted:

<u>PAGE</u>	<u>LINE</u>	<u>FROM</u>	<u>TO</u>
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Jill S. Rodomsky

Jill S. Rodomsky
Sarnoff Deposition Service, Inc.

cc: All Counsel

ATTORNEY'S NOTES

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DISTRICT OF NEVADA

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corporation; WESTINGHOUSE	)	
ELECTRIC CORPORATION, a	)	
foreign corporation; and	)	
DOES I-XXV, inclusive,	)	
	)	
Defendants.	)	

Deposition of KENNETH ROBINSON, taken on behalf
of the Plaintiff, at 2100 North Broadway, Third Floor,
Santa Ana, California, commencing at 12:55 p.m., on
Thursday, March 18, 1993, before SHERI L. CLARK-BELL,
Certified Shorthand Reporter No. 6368, pursuant to Subpena.

1 APPEARANCES:

2
3
4 For Plaintiff:

5 BRADLEY & MERRELL
Attorneys at Law
6 BY: DEBORAH N. MAILANDER
JOSEPH MAILANDER, Legal Assistant
7 c/o JONES, CLOSE & BROWN, Chartered
300 South Fourth Street
8 Suite 700
Las Vegas, Nevada 89101
9

10
11 For Defendant Westinghouse Electric Corporation:

12 THORNDAL, BACKUS, MAUPIN & ARMSTRONG
Attorneys at Law
13 BY: PEGGY A. LEEN
14 1100 East Bridger Avenue
Las Vegas, Nevada 89125-2070
15

16
17 For Defendant Monsanto Company:

18 KIRKLAND & ELLIS
Attorneys at Law
19 BY: SCOTT R. BAUER
20 1999 Broadway
Denver, Colorado 80202
21
22
23
24
25

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I N D E X

<u>WITNESS</u>	<u>EXAMINATION</u>	<u>PAGE</u>
ROBINSON, KENNETH	BY MS. MAILANDER	5
	BY MR. BAUER	22

EXHIBITS FOR IDENTIFICATION

(None)

1 Santa Ana, California, Thursday, March 18, 1993

2 12:55 p.m.

3

4 KENNETH ROBINSON,

5 produced as a witness by and on behalf of the Plaintiff, and
6 having been first duly sworn, was examined and testified as
7 follows:

8

9 EXAMINATION

10 BY MS. MAILANDER:

11 Q My name is Deborah Mailander, and I represent
12 Nevada Power Company in this lawsuit against Monsanto,
13 Westinghouse and GE.

14 Could you state your full name for the record,
15 please.

16 A Kenneth Van Robinson.

17 Q And what is your current residential address?

18 A 8804 Nindante, N-i-n-d-a-n-t-e, Drive,
19 Whittier, California 90603.

20 Q Are you being represented by an attorney here
21 today?

22 A Yes.

23 Q And is that Ms. Leen?

24 A Peggy.

25 Q Have you spoken with anyone in preparation for

1 this deposition?

2 A Just at lunch.

3 Q Have you reviewed any documents in preparation
4 for this deposition?

5 A None.

6 Q Are you currently employed?

7 A No, ma'am.

8 Q What years were you employed at Westinghouse?

9 A From 1949 to 1990.

10 Q Would you go through your period of employment
11 at Westinghouse and tell me what position or positions
12 you've held and the approximate years for each one.

13 A 1949 to 1950 I was in an undergraduate student
14 program. 1950 I went to Portland, Oregon as a sales
15 assistant. 1952 I was made a sales engineer.

16 Q Okay. Hold on. Let me catch up here. I'm
17 sorry, what year were you a sales engineer?

18 A 1953 I was made a sales engineer.

19 Q Okay. Go ahead.

20 A That was in Portland, Oregon. In 19 -- what
21 year was it? In 1968 I was transferred to the Los Angeles
22 office as a sales engineer, 1970 to the Phoenix office as
23 district manager. That was 1968, did I say that? 1970 I
24 transferred back to Los Angeles as district manager. And I
25 was district manager in Los Angeles from 1970 to 1990 in

1 different positions of management, different products.

2 Q So from 1968 to 1970 you were in the
3 Los Angeles office as a sales engineer?

4 A I was in Phoenix as a district manager.

5 Q From '68 --

6 A '68 to '70 in Phoenix, Arizona as district
7 manager, and then 1970 to 1990 in the Los Angeles office as
8 district manager.

9 Q So when did you start in Los Angeles as a sales
10 engineer?

11 A 1963.

12 Q From 1950 to 1952, while you were a sales
13 assistant, were you involved with equipment that contained
14 Inerteen?

15 A Yes. When you say "involved," I was involved
16 in helping the salesmen sell the equipment.

17 Q And could you explain a little bit more what
18 your duties were as sales assistant.

19 A Sales assistant was to assist the sales
20 engineer in communicating bids back to the factory,
21 preparing quotations, taking customer phone calls, generally
22 assistant to the sales engineer.

23 Q And what were your duties as a sales engineer?

24 A Sale of Westinghouse products to electric
25 utilities.

1 Q And what type of Westinghouse products were you
2 involved in selling between 1953 and 1963?

3 A 1953 --

4 Q That was while you were in Portland, I believe.

5 A In Portland, Oregon I was selling everything
6 from nuclear plants, turbine generators, distribution
7 transformers, watt-hour meters, lightning arresters, T&D and
8 generation equipment until 1963.

9 Q And then in 1963 in the Los Angeles office,
10 what type of equipment were you selling there?

11 A Transmission and distribution equipment,
12 watt-hour meters, transformers, capacitors, lightning
13 arresters. That was 1963 to 1967. '67 to '68 was nuclear
14 plants, turbine generators.

15 Q While you were a sales engineer in Portland and
16 in Los Angeles, did some of the distribution equipment that
17 you handled include equipment that contained Inerteen?

18 A In Portland? There were Inerteen transformers
19 in Portland. Los Angeles, I don't recall the sale of
20 Inerteen transformers. Capacitors, yes.

21 Q And what were your duties as district manager
22 in Phoenix?

23 A Supervising the sales force and responsibility
24 for the sale of Westinghouse product to electric utilities.

25 Q And were your duties essentially the same in

1 Phoenix and in Los Angeles?

2 A Yes.

3 Q At any time while you were working with
4 Westinghouse was it your responsibility to inform customers
5 of potential hazards that might be associated with the
6 equipment that you sold?

7 A If I received notification from a division, I
8 would advise the customer.

9 Q Was there a particular procedure for notifying
10 customers?

11 A Yes. The division, if they recognized a
12 problem with equipment or some type of problem, they'd
13 notify the field, and we'd usually have a form letter for us
14 to send on to the customer.

15 Q And while you were at Westinghouse were you
16 ever informed from the division of any warnings that needed
17 to be passed on to customers regarding PCBs?

18 A I can't recall exactly. But when one came out,
19 letters were transmitted to the customer in regards to the
20 use of Inerteen.

21 Q And do you recall if there was an approximate
22 year when you started notifying customers --

23 A I don't recall the years. Probably in 1970,
24 could have been mid-1970s, I don't remember. But we in the
25 field would get notification from the manufacturing

1 divisions of any problems, and we would then notify the
2 customer.

3 Q During your employment at Westinghouse did you
4 have communications with Nevada Power Company?

5 A Yes.

6 Q Sir, during what period of time did you have
7 communications with Nevada Power Company?

8 A From 1970 to 1990.

9 Q So that would be while you were the Los Angeles
10 district manager; is that correct?

11 A That's right.

12 Q Do you recall the names of any of the people at
13 Nevada Power who you dealt with?

14 A Yes. Elmer Johnson, Harry Allen, Art Pearson,
15 Connie Ryan. I dealt mostly with the executives, presidents
16 and executive vice presidents.

17 MR. BAUER: Could I hear the names back.

18 MS. LEEN: Elmer Johnson, Harry Allen, Art Pearson.

19 MR. BAUER: Elmer Johnson?

20 MS. LEEN: Yes.

21 THE WITNESS: They were generally the board and
22 presidents of Nevada Power from the time I started calling
23 on them.

24 BY MS. MAILANDER:

25 Q Was there a typical transaction that you had

1 with Nevada Power in regards to distribution equipment?

2 MS. LEEN: Objection; overbroad. Go ahead.

3 THE WITNESS: Do you want me to answer?

4 MS. LEEN: Sure.

5 THE WITNESS: There was nothing typical. We sold our
6 distribution product to Nevada Power through Osborne
7 Electric up until about 1985, '86, '87, when we took over
8 the direct sales ourselves. They were our agents.

9 BY MS. MAILANDER:

10 Q Do you know what year you began dealing through
11 Osborne Electric with Nevada Power?

12 A I took over as district manager in 1970, and
13 the arrangements were all in place at that time. I don't
14 know how far before that time.

15 Q Did Osborne Electric handle both transformers
16 and capacitors?

17 A Yes. They handled distribution and
18 transmission equipment. We handled generation equipment
19 direct.

20 Q So did you have any dealings directly with
21 Nevada Power on distribution and transmission equipment at
22 all?

23 A Very seldom. We divided up our responsibility,
24 and the sales engineer generally handled transmission and
25 distribution equipment and I handled the generation, the

1 contact with the top management.

2 Q And with the contacts that you did have at
3 Nevada Power, what type of service did you personally
4 provide?

5 A I don't know how to answer that. I was trying
6 to sell them equipment. That was the service.

7 Q Did you provide them with specific information
8 to assist them in purchasing Westinghouse equipment?

9 A We provided catalogs. They were on our mailing
10 system, and catalogs were sent to them. All updated
11 catalogs would usually be sent to them. If new equipment
12 came out, we would send them letters if we felt they were
13 interested, or if it was a product that might be of interest
14 to them.

15 Q Were you ever in a position to suggest or
16 recommend that Nevada Power purchase specific equipment from
17 Westinghouse?

18 A We suggested certain transformers, certain
19 generators, certain equipment.

20 Q Do you recall whether you ever suggested that
21 Nevada Power purchase a specific type of Inerteen equipment?

22 A No, ma'am. Capacitors probably, not
23 transformers. They were not purchasing Inerteen
24 transformers, that I am aware of, from 1970 from us.

25 Q Prior to 1979, while you were working with

1 Westinghouse, did you have any direct physical contact with
2 equipment which contained Inerteen?

3 A At any time during my career?

4 Q Prior to 1979.

5 A Prior to 1979, yes, in Portland, Oregon.

6 Q And what type of work were you doing that
7 required you to handle Inerteen?

8 A Well, I think if there was a defective
9 transformer, I went out and looked at the defective
10 transformer and tested the transformer and probably touched
11 the side of it, and there may have been something on the
12 side of it, that's all.

13 Q Do you recall whether the transformer was
14 leaking?

15 A I don't recall.

16 Q Do you recall what type of defect there was in
17 the transformer?

18 A No, ma'am.

19 Q At the time you think you may have handled the
20 Inerteen, did you wear any type of protective clothing?

21 A No, ma'am.

22 Q During the time that you worked at Westinghouse
23 were you ever advised of potential health hazards that might
24 be associated with polychlorinated biphenyls?

25 A When the letters would come out from the

1 divisions advising us to advise the customer, I would read
2 the letters and I would be aware of it from that point. I
3 was also aware of it from reading trade journals and from
4 going to conventions where it would be discussed.

5 Q Do you recall whether you attended any
6 conventions prior to 1979 where the potential hazards of
7 PCBs were discussed?

8 A I don't remember.

9 Q Do you recall whether prior to 1979 you read
10 any trade journals regarding potential hazards associated
11 with PCBs?

12 A Oh, yes.

13 Q Do you recall specifically what type of hazards
14 may have been discussed in those trade journals?

15 A Only that it was suspected cancer causing.

16 Q Do you recall what year you first read that
17 PCBs were suspected of causing cancer?

18 A I can't remember. Early '70s, possibly, late
19 '60s. I don't remember exactly.

20 Q During the time that you worked at Westinghouse
21 were you ever informed that Inerteen could be absorbed
22 through the skin?

23 A I don't know that I was -- I can't tell you in
24 exact detail when I was aware. It was advised not to get it
25 on your hands, if you could avoid it.

1 Q And you mentioned earlier that you did have
2 physical contact with Inerteen from a defective transformer;
3 is that correct?

4 A Yes.

5 Q Did you wear gloves at that time?

6 A No, ma'am.

7 Q So is it safe to say that any knowledge you
8 gained about --

9 A That could have been before we were even aware
10 that Inerteen was a potential problem.

11 Q While you worked at Westinghouse were you ever
12 told that PCBs could cause serious skin irritation?

13 A I don't remember the details exactly. All I
14 can think about Inerteen was it was a possible
15 cancer-causing device.

16 Q While you worked at Westinghouse were you ever
17 informed that PCBs could be an environmental hazard?

18 A I don't remember the details of that.

19 Q Do you remember ever being informed at all that
20 PCBs could be --

21 A Oh, I was informed in letters that came out,
22 which we would then notify all of our customers who had
23 purchased transformers, of the potential problems. If they
24 are in the letters, I was aware of it.

25 Q Do you recall while you worked at Westinghouse

1 ever receiving requests from customers regarding potential
2 hazards that might be associated with Inerteen?

3 A I don't recall --

4 MS. LEEN: Objection; ambiguous. But go ahead.

5 THE WITNESS: I don't recall any request from a
6 customer of that nature.

7 BY MS. MAILANDER:

8 Q Did you ever conduct any seminars or provide
9 any instruction to Nevada Power personnel?

10 MS. LEEN: Objection; compound.

11 MR. BAUER: And vague.

12 THE WITNESS: On what subject?

13 BY MS. MAILANDER:

14 Q On Inerteen.

15 A No, ma'am.

16 Q Did you ever provide any pamphlets or
17 instruction books on Inerteen to Nevada Power personnel?

18 A If they came out from the division as part of
19 the catalogs or part of the equipment, they would have been
20 furnished.

21 Q Do you know specifically whether there were any
22 such instruction books --

23 A All I can assume is there were definitely
24 books, but I can't tell you the name of them or the dates.
25 This was not a problem that developed on a finite day. It

1 developed over a long period of time.

2 Q As part of your responsibilities as district
3 manager, would you periodically review the instruction books
4 on Inerteen that were provided to customers?

5 A No, ma'am.

6 Q Do you recall whether five to seven years ago
7 any documents relating to PCBs were sent from your workplace
8 to the legal department of Westinghouse?

9 A I don't recall that.

10 Q Do you recall whether any attorneys came to
11 your workplace and reviewed documents related to PCBs?

12 A They could have. I don't know.

13 Q Are you aware that Nevada Power has filed a
14 lawsuit against Westinghouse?

15 A Yes, ma'am.

16 Q And when did you first become aware of this
17 lawsuit?

18 A Oh, about 1988, 1989, 1990, about the time I
19 was retiring I became aware of it. Mr. Pace, who was my
20 sales representative at that time calling on Nevada Power,
21 was mostly involved in the T&D equipment, and I think I was
22 aware that there was a lawsuit discussed at that time.
23 Whether it had been filed or not, I don't know.

24 Q And what was Mr. Pace's first name?

25 A Richard.

1 Q Are you aware whether or not Westinghouse has
2 entered into an indemnification agreement with Monsanto
3 which requires Westinghouse to compensate Monsanto for
4 litigation expenses related to the PCB litigation?

5 A I'm not aware of any.

6 Q Do you have any information relating to whether
7 Nevada Power gained -- let me start over here.

8 Do you have any information regarding when
9 Nevada Power gained information regarding potential hazards
10 associated with Inerteen?

11 MS. LEEN: Objection; overbroad. Do you mean from
12 Westinghouse or from other sources?

13 MS. MAILANDER: I mean from other sources.

14 THE WITNESS: The problems with the Inerteen,
15 askarel, Pyrenol was well-known to the trade at certain
16 times, and it was in the newspaper, it was in the trade
17 journals, it was in conventions. They were just as aware as
18 we were and any other customer in the United States was
19 aware. It was very prominent when we all became aware it
20 was a problem.

21 BY MS. MAILANDER:

22 Q Did you at any time while you were working with
23 Westinghouse discuss potential hazards of PCBs with any
24 personnel from Nevada Power?

25 A I did not. It was never discussed. My

1 discussions were mostly with the executive vice president
2 and up.

3 Q Have you reached an agreement with defense
4 counsel to testify in this case?

5 A What do you mean have I reached an agreement?

6 Q Have you talked with them and agreed to testify
7 at trial in this case?

8 A Ms. Leen came to my home --

9 MS. LEEN: I will instruct you not to answer
10 concerning our discussions. But if you have an agreement to
11 testify at the time of trial, say yes or no to that.

12 THE WITNESS: Oh, I'll testify.

13 BY MS. MAILANDER:

14 Q Do you have a written agreement with defense
15 counsel?

16 A No, ma'am.

17 Q Do you have an oral agreement with defense
18 counsel to testify as of today?

19 A I have no objection to testifying.

20 Q That's okay.

21 MS. LEEN: He's answered your question. There is no
22 agreement, per se. As in every case, we will determine at
23 the close of the case who we are going to call as a trial
24 witness, and Mr. Robinson may or may not be called,
25 depending on what the issues are at the time of trial. So

1 that's the best we can answer for you at this time.

2 THE WITNESS: If I'm called, I have no objection.

3 But there is no agreement, no.

4 MS. MAILANDER: Why don't we take a quick break.

5 (Recess taken.)

6 BY MS. MAILANDER:

7 Q Just a couple more questions here.

8 A Are we back on the record now?

9 Q Yes.

10 A I have to play attorney a little bit.

11 Q Do you know who Robert Kinslow is?

12 A Yes.

13 Q And do you know what position he held at
14 Westinghouse?

15 A Pardon me?

16 Q Do you know what position he held at
17 Westinghouse?

18 A He was a special sales representative working
19 for me.

20 Q Can you describe for me what the duties are of
21 a special sales representative.

22 A He was a senior sales engineer dealing with
23 important customers, major products, and was involved in the
24 sale of Westinghouse apparatus to utilities.

25 Q Do his duties differ from, say, a line salesman

1 or distribution salesman?

2 A No, just different grade of customers and size
3 customers, different type of equipment.

4 Q So the fact that he's called a special
5 salesman, is it special customers?

6 A A sales engineer and a special sales
7 representative did the same work. They did the same thing.

8 Q But their customers were different; is that
9 right?

10 A Some customers, yes. If it was a large
11 customer, maybe it would be a special sales representative.
12 A smaller company might just be handled by a sales engineer.
13 But their responsibilities and duties were identical.

14 Q Is Nevada Power Company considered a large
15 customer?

16 A They were a very large customer of ours in
17 generation equipment.

18 Q And do you know for distribution equipment
19 whether Nevada Power is considered large or small?

20 A Compared to many of our customers, they were
21 small. But they are also large compared to a lot of
22 customers.

23 Q Do you know who Gary Cunningham is?

24 A Yes.

25 Q And do you know what his current residential

1 address is or where he's currently living?

2 A I do not know.

3 Q Have you ever heard of Jeffrey Bair?

4 A No.

5 Q How about C.W. Bickerstaff?

6 A No.

7 MS. MAILANDER: All right. I have no further
8 questions at this time. Thank you.

9 MR. BAUER: I have a few, Mr. Robinson.

10

11 EXAMINATION

12 BY MR. BAUER:

13 Q As I mentioned before the deposition, my name
14 is Scott Bauer. I represent Monsanto Company in this
15 litigation.

16 You mentioned several times in your testimony
17 this morning the catalog. Do you recall that?

18 A Yes.

19 Q Would you describe the catalog for us.

20 A It's classified literature. Could be anything
21 from price lists, discount schedules, catalog sections,
22 instruction books, instruction leaflets. And there was just
23 a computerized mailing list that we would mark to send out
24 to customers.

25 As far as Nevada Power is concerned, they may

1 have had 10 or 15 sets of these catalogs. Purchasing would
2 have them, engineering would have them, the vice presidents.
3 We'd mark them for instruction -- not for instruction books,
4 but what's on new equipment.

5 Q Do you know from your work with Nevada Power
6 that there were people at Nevada Power that received the
7 Westinghouse catalog?

8 A Yes.

9 Q You described the procedure that different
10 mailing lists would go out to different people in terms of
11 what parts of the catalog would go to what --

12 A We have a list of all the products, and there
13 would be columns of price, discount sheets, et cetera, et
14 cetera, and we could mark the name of the customer and what
15 product we wanted and what sheet we wanted to automatically
16 be sent to them that they were issued or renewed.

17 Q Were instruction leaflets in some catalogs?

18 A They were part of that list, uh-huh.

19 Q And were product brochures also?

20 A Yes, descriptive bulletins.

21 Q Do you recall something called a sales letter?

22 A Certain sales letters announcing new products
23 and things like that would go out, yes.

24 Q Do you know whether sales letters were the
25 mechanism by which Westinghouse informed customers of

1 potential hazards from --

2 A I don't recall exactly. In that case I think
3 it would probably be a notification from the division to my
4 office and then from my office to the customer.

5 Q You mentioned 10 or 15 different copies of the
6 catalog being held. Do you know from your dealings with
7 Nevada Power that they actually had multiple copies of these
8 catalogs?

9 A Yes, they do. They did at the time I retired,
10 yes.

11 Q And is it correct that you dealt with Nevada
12 Power during the two times that you were in the Los Angeles
13 office?

14 A Yes, the total time from 1970 to 1990.

15 Q You did not in the earlier time when you were
16 in Los Angeles?

17 A No. I was working with Southern California
18 Edison at that time.

19 Q So the time period that you can tell us about
20 your personal knowledge with is 1970 until you retired?

21 A Nevada Power is 1970 to 1990.

22 Q I think you just testified earlier that there
23 were certain engineers that had catalogs?

24 A Yes. They'd request it be sent to the
25 engineering department so all engineers could use it.

0

1 Rather than sending 100 copies to 100 engineers, it would go
2 into the engineering library and there would be a set for
3 the engineering department, a set for the purchasing
4 department. And individuals would request for products that
5 they wanted to be aware of and they'd mark them specifically
6 individuals for other types of catalogs.

7 Q Do you know whether a copy of the Westinghouse
8 catalog that went to the engineering department specifically
9 contained the instruction leaflets?

10 A I don't know that we marked instruction
11 leaflets. I can't say.

12 Q The purpose of the instruction leaflets was to
13 give them to the customers, correct?

14 A Yes.

15 Q Is that correct?

16 A That's correct.

17 Q I think you also mentioned another method of
18 distribution of instruction leaflets, and that was with the
19 equipment; is that right?

20 A Some customers required instruction leaflets to
21 be shipped with the equipment.

22 Q Do you know whether that was done with the
23 equipment --

24 A I don't recall. Certain products may have been
25 handled differently.

1 MR. BAUER: That's all I have.

2 MS. LEEN: Thank you very much.

3 MS. MAILANDER: I'm sorry, I have just a couple more
4 wrap-up questions.

5 You mentioned that you knew that Nevada Power
6 received the catalog?

7 THE WITNESS: Oh, I read the catalogs up in their
8 engineering department, and I have read the catalogs up in
9 their purchasing department, and I have seen them in
10 executive offices. I have seen catalogs.

11 MS. MAILANDER: That's all I have. Thank you.

12 (Whereupon the deposition proceedings
13 concluded at 1:30 p.m.)

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STATE OF _____)
COUNTY OF _____)

ss.

I, the undersigned, say that I have read
the foregoing deposition and I declare, under penalty of
perjury under the laws of the State of California, that the
foregoing is a true and correct transcript of my testimony
contained therein.

EXECUTED this _____ day of _____,
199__, at _____.

KENNETH ROBINSON

The undersigned Certified Shorthand Reporter of the State of California does hereby certify:

That prior to being examined, the witness in the foregoing proceedings was duly sworn to testify the truth, the whole truth and nothing but the truth.

That said proceedings were taken before me at the time and place therein set forth, and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision; and I hereby certify that the foregoing transcript of proceedings is a full, true and correct transcript of my shorthand notes so taken.

I further certify that I am neither counsel for nor related to any party to said action, nor in anywise interested in the outcome thereof.

In witness whereof, I have hereunto subscribed my name this 25th day of March, 1993.



SHERI CLARK BELL

CSR No. 6368

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