

MEMORANDUM

TO: Messrs. J. Randall Jones, Paul Merrell, Bill Snyder, David McCrea. VIA FAX to Messrs. Merrell, Snyder, D. McCrea.

FROM: Chuck McCrea 

RE: Conference Call on Meeting with Defendants

DATE: May 12, 1992

Conference call among all persons listed above.

Background. Chuck had spoken earlier in the afternoon with John Thorndal (local counsel for Monsanto and Westinghouse) regarding the proposal he made to Thorndal last Friday that defendants send big guns to Las Vegas for meeting on May 20 or 21 on neutral ground. Thorndal said that he and Bruce Alverson (local counsel for GE) had spoken with their clients (who were "a little surprised"), and that their clients want them (Thorndal and Alverson) to meet with us "to find out what we have in mind" before causing their clients to journey all the way out here from Philadelphia, Pittsburgh and St. Louis. Thorndal also said that either the 20th or the 21st (Wednesday or Thursday) would be OK with them, and that it isn't necessary to arrange a neutral site; our office or theirs is OK. I told him Randall will call him back (I will be in Reno tomorrow through Sunday).

Discussion. Randall said he is adamantly opposed to meeting with just Thorndal and Alverson. They have no authority to settle. They will listen to us, distill what we have to say, and relay an attenuated version back to their clients. We will dribble away information we would like to drop on them like a headache ball and lose the impact we might otherwise have. Randall suggested that he

call Thorndal and tell him that they need to take us seriously, that we are not interested in meeting with intermediaries who have no authority to settle, and that we have an attractive proposal to make before all-out war is declared but that we will make it to principals or not at all. All agreed with this strategy, and Randall said he would try to reach Thorndal today. If Thorndal turns him down, Randall will follow up with a letter mentioning, among other things, the questions stockholders are likely to raise about management's failure to anticipate a punishing verdict and the disaffection stockholders are likely to feel toward management upon the entry thereof.

We anticipate that Thorndal will turn us down and want to be prepared to follow up with a take no prisoners assault. We discussed the various assignments mentioned in the May 8 draft of our proposed letter to defendants' counsel, and reaffirmed the following responsibilities:

1. Motion submitting trial plan and requesting the earliest possible trial setting - Randall.
2. Motion for partial summary judgment on the issue of fraudulent concealment - Paul.
3. Motion to amend Nevada Power's Complaint to add allegations of conspiracy among defendants - Paul.
4. Comprehensive requests for admissions - David.
5. Interrogatories - David.
6. Requests for production of documents - David.

7. Motion to waive the 40 questions limit on written discovery, in view of the size and scope of this case - Randall and Kris Ballard.

8. Notices of depositions of ___ people, including current and former officers and employees of defendant companies - David

David believes that no more than six or seven depositions should be necessary and thinks we should keep them to a minimum in the interest of saving time. We discussed deposing current CEOs of the defendants and agreed that we would not name them in the initial round of notices (unless defendants agree to get their big guns together to meet with us, in which case we may name them in documents delivered at any such meeting for the sake of the impact). Paul will send JJC&B a memorandum he developed in the Champion Paper case he is working on discussing the circumstances under which a CEO may be deposed.

If there is any movement on the part of defendants counsel to make client personnel having meaningful settlement authority available for a meeting, all will be notified promptly.

cc. Kris Ballard