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Seventh Floor — Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101-6026
(702) 385-4202

MESSAGE FROM XEROX 7024: (702) 385-1656

DATE: July 21, 1993

TO: John H. Kim

FAX #: (713) 654-5070

PHONE #: (713) 654-4433

FROM: Paul E. Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: July 20, 1993 memorandum re: General Electric settlement overture

NUMBER OF PAGES (including cover page): Four (4)

MESSAGE:

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1	KIM	7-21-83 9:05AM	1'50"	4/ 4		COMPLETED 9600

TOTAL 0:01'50" 4

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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: July 21, 1993.

**TO: Ralph A. Bradley
c/o Cheshire Inn**

FAX #: (314) 647-0442

PHONE #: (314) 647-7300

FROM: Bradley & Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: Copy of July 20, 1993 memorandum to Richard Hinckley re: G.E. settlement

NUMBER OF PAGES (including cover page): Four (4)

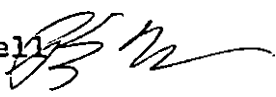
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MEMORANDUM

TO: Richard Hinckley
cc: Mike Gallagher, Charles McCrea, David McCrea, John Kim

FROM: Paul Merrell 

RE: Nevada Power v. Monsanto, et al

DATE: July 20, 1993

Regarding the General Electric settlement overture, I have an update and some advice. The advice is to suggest that Nevada Power send a letter to Mr. Murphy of G.E., telling him that: [i] unless G.E. is willing to lay a proposal on the table before the meeting, there is no reason for the meeting; [ii] absent such a proposal, Nevada Power would have no prior opportunity to consult with its attorneys and therefore could not engage in meaningful discussion; [iii] if and when a meeting does occur, Nevada Power intends to have its attorneys present and G.E. is welcome to bring its attorneys as well.

The reason for the advice, in a nutshell, is that G.E.'s goal is now apparent, to pressure Nevada Power into making the first offer both through the personal relationship between Mr. Holcombe and Mr. Murphy and through pressure in Court. That way, the negotiation would be down from the number Nevada Power proposes rather than up from the number G.E. proposes.

During the hearing this morning on the stay of proceedings to negotiate, Steve Kuney completely reversed G.E.'s position regarding the stay given to me the day before by David Kiernan. I first advised the Court of the basic facts of the settlement initiative, then related that Mr. Kiernan had authorized me to

represent that G.E. supported the motion. In response, Kuney stated that if Nevada Power had problems preparing its expert disclosures, G.E. was open to an extension, but it believed there should be a stay only if the first meeting resulted in meaningful discussions and otherwise G.E. believed the schedule should not be altered. (I have said nothing to any defendant or the Court about any such difficulties.) I immediately told the Court that I was withdrawing the motion because I obviously should have spoken with Mr. Kuney rather than Mr. Kiernan. I also informed the Court that it was Mr. Kiernan who had chosen the dates and much of the language involved in the stay.

I had also told the Court that I was disturbed by the ploy of a client-to-client contact and asked the Court to inquire whether counsel for G.E. was aware of the initiative before it occurred and whether counsel intended the meeting condition that Nevada Power's attorneys not attend. Rather than address that issue, Kuney made a rather huffy speech about the rights of clients to contact each other. I believe this has the salubrious effect of alerting the Court to an apparent ethical irregularity and putting G.E. a little on the defensive.

The statement by Kuney conditioning a stay on "a meaningful dialogue" was obviously a surmise by him that we were eager enough for a stay that Nevada Power's attorneys would urge Nevada Power to engage in a "dialogue" during the meeting, in other words that Nevada Power would dicker at the meeting.

Under these circumstances, I believe it imperative that G.E. receive an immediate message that there is no linkage among the requested stay, the discovery schedule, and the meeting, that Nevada Power will not bargain from a position of apparent weakness. Mr. Murphy needs to be advised that his request to slow things down, his attorneys' agreement to implement that request, and Nevada Power's good faith effort to comply with his "go-slow" request resulted in an embarrassment to all concerned.

I believe that the experience demonstrates the need to insist that the attorneys conduct the negotiations. The only possible motive for G.E. to approach Nevada Power directly is the hope that they can trade on the personal relationship with Mr. Holcombe to obtain a negotiation advantage. If you are determined to proceed with a private meeting, under no circumstances should Nevada Power suggest settlement terms or amounts even hypothetically.

G.E. asked for the meeting and it should make the first proposal, prior to the meeting. If it is not willing to do that, then all that is involved in the meeting proposal is a fishing expedition to see if Nevada Power will offer the slightest clue about how much money or in-kind services it might accept. It is not in Nevada Power's best interest to allow negotiations to begin on such a footing.

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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: July 21, 1993

TO: Richard L. Hinckley, Esq. FAX #: (702) 367-5629

PHONE #: (702) 367-5626

FROM: Paul E. Merrell, Esq.

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: July 20, 1993 memorandum re: General Electric settlement overture

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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: July 21, 1993.

TO: Michael T. Gallagher

FAX #: (713) 654-5070

PHONE #: (713) 654-4433

FROM: Paul E. Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: July 21, 1993

TO: David McCrea

FAX #: (812) 336-5307

PHONE #: (812) 336-4840

FROM: Paul E. Merrell

CLIENT/MATTER: Nevada Power/Monsanto

CLIENT/MATTER NO.: 11927.2

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TO: John H. Kim

FAX #: (713) 654-5070

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FROM: Paul E. Merrell

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