

MEMORANDUM

TO: John Kim
FROM: Paul Merrell
RE: Nevada Power v. Monsanto, et al
DATE: August 4, 1993

Attached herewith please find the July 22, 1993 draft of the stipulated order indicating the remaining depositions to be taken or defended by Nevada Power beyond the July 23, 1993 discovery deadline.

McClain will be taken in his personal capacity, as well as PMK for hazards and PMK for trade associations.

Carolyn MacFarland will also be deposed beyond the discovery deadline.

It is our understanding that your firm is now handling all deposition scheduling.

cc: Richard L. Hinckley

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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3	NEVADA POWER COMPANY, etc.,	)	CASE CV-S-89-555-LDG (LRL)
4	Plaintiff,	)	STIPULATED ORDER
5	vs.	)	<u>JULY 22, 1993 4 P.M. DRAFT</u>
6	MONSANTO COMPANY, etc., et al.,	)	
7	Defendants.	)	
8			

9 All parties to this action, through undersigned counsel, agree
10 and stipulate that certain depositions noticed by the parties prior
11 to July 23 either should occur or require further discussion among
12 the parties:

13 A. The following depositions should be allowed to be taken
14 following the July 23, 1993 fact deposition deadline. The parties
15 should be instructed to meet and confer in good faith regarding the
16 dates for the depositions.

- 17 1. Ron Lawrence, previously noticed by Nevada Power
- 18 Company. (Already approved by existing order).
- 19 2. Raymond Paschke, previously noticed by Nevada Power
- 20 Company. (Already approved by existing order).
- 21 3. Roger Wills, previously noticed by Nevada Power
- 22 Company. (Already approved by existing order).
- 23 4. Robert Don McClain, previously noticed by Nevada Power
- 24 Company. (Already approved by existing order).
- 25 5. Jeff Bair, personal capacity and 30(b)(6), previously
- 26 noticed by Nevada Power Company. (Already approved by
- 27 existing order.)
- 28 6. Completion of John Brown of G.E., previously noticed

1 by Nevada Power Company.

2 7. Subpoena deposition of Fluor Power Services, Inc.,
3 previously noticed by General Electric. (Nevada Power
4 does not object to taking of deposition but reserves
5 right to object at trial to use of documents obtained
6 through subpoena duces tecum after deadline for
7 written discovery)

8 8. Continuation of Dennis Schwehr deposition previously
9 noticed by Monsanto.

10 9. Continuation of Plaintiff Nevada Power Company's March
11 12, 1993 Notice of taking deposition of defendant
12 Westinghouse Electric Corporation pursuant to FRCP
13 30(b)(6) except as to subtopic "8" (eight) of
14 "Attachment A." Nevada Power and Westinghouse
15 stipulate that Westinghouse reserves its right under
16 the Federal Rules of Civil Procedure to designate
17 appropriate person or persons, and the parts of the
18 notice to which those persons will respond, and that
19 Nevada Power reserves its right to contest the
20 adequacy of those designations. The parties
21 contemplate that the deposition regarding topic "3"
22 (three) of the notice would take place after the Court
23 has had an opportunity to rule on Westinghouse's claim
24 to privilege as to documents submitted in camera
25 pursuant to Sections 4 and 5 of the Court's Order of
26 July 16, 1993.

27 10. Subpoena duces tecum to Edison Electric Institute,
28 previously noticed by Westinghouse (Nevada Power does

1 not object to taking of deposition but reserves right
2 to object at trial to use of documents obtained
3 through subpoena duces tecum after deadline for
4 written discovery)

5 11. 30(b)(6) notice to Nevada Power regarding distribution
6 systems, previously noticed by Westinghouse.

7 B. As to the following depositions, the parties have not
8 agreed that they should be taken, are negotiating in good faith, but
9 reserve the right to move for protective orders at a later time. The
10 parties agree that the fact such depositions were not taken on or
11 before July 23, 1993 should not be considered by the Court in ruling
12 on such motions for protective orders. The parties should be
13 instructed to meet and confer in good faith regarding the need for
14 and/or dates of the depositions.

15 12. Manny Neal, previously noticed by Nevada Power
16 Company.

17 13. 30(b)(6) notice to G.E. regarding document retention
18 policies and practices with respect to PCB-related
19 documents, previously offered by G.E. in lieu of
20 taking the personal deposition of Manny Neal and
21 subject to the agreement among counsel to reevaluate
22 the need for Mr. Neal's deposition following
23 completion of this 30(b)(6) deposition.

24 14. 30(b)(6) notice to G.E. regarding warnings, previously
25 noticed by Nevada Power Company.

26 15. Dr. Emmett Kelly, previously noticed by Nevada Power
27 Company.

28 16. Richard Mahoney, previously noticed by Nevada Power

1 Company.

2 17. 30(b)(6) notice to Monsanto regarding IBT
3 (continuation of Levinskas portion), previously
4 noticed by Nevada Power.

5 18. 30(b)(6) notice to Monsanto regarding Exhibits 422 and
6 1118 continuation regarding incorporated document
7 claimed privileged.

8 19. 30(b)(6) notice to Nevada Power re G.E.
9 interrogatories, previously noticed by General
10 Electric.

11 UNDER DISCUSSION FOR INCLUSION IN STIP

12 20. Deposition of Custodian of Records for each party
13 solely to authenticate documents and to determine
14 their status under the Rules governing admissibility
15 of hearsay evidence (to the extent the documents are
16 not otherwise authenticated through agreement of the
17 parties or responses to prior discovery requests
18 seeking authentication/hearsay status). Approved by
19 Monsanto and Nevada Power in principle, still open on
20 specific language.

21 C. Notices on which Monsanto and Nevada Power are seeking
22 guidance of Court regarding whether they belong in category A or
23 category B above, but stipulated that they belong in one or the
24 other.:

25 21. 30(b)(6) notice to Nevada Power re reliance,
26 previously noticed by Monsanto.

27 22. 30(b)(6) notice to Nevada Power re property damages,
28 previously noticed by Monsanto.

1 DATED: July ___, 1993

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PAUL E. MERRELL

4 By:

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11 DATED: July ___, 1993

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20 DATED: July ___, 1993

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IT IS SO ORDERED.

Magistrate Judge
United States District Court

DATED: _____

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MESSAGE FROM XEROX 7024: (702) 385-1655

DATE: 8-4-93

TO: Richard L. Hinckley, Esq.

FAX #: (702) 367-5629

PHONE #: (702) 367-5626

FROM: Paul Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

CLIENT/MATTER NO.: 11927.2

DOCUMENT(S) DESCRIPTION: *Draft of master stip re discovery
beyond 7-23-93 deadline.*

NUMBER OF PAGES (including cover page): -8-

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DATE: 8-4-93

TO: John H. Kim, Esq.

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FROM: Paul E. Merrell

CLIENT/MATTER: Nevada Power v. Monsanto

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