

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUL 19 2004

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

IN RE HANFORD NUCLEAR
RESERVATION LITIGATION

NO. CY-91-3015-WFN

EIGHTH STATUS CONFERENCE
ORDER: JULY 15, 2004

This Order relates to: All Cases

An eighth status conference was held July 15, 2004, in Spokane, Washington. The following counsel were present representing the listed parties.

Plaintiffs	Counsel
Jaros	Roy S. Haber
Matthies	
Seaman	
Hamilton/Criswell	Louise Roselle ¹ John S. Moore ²
Evenson	Peter Nordberg Merrill Davidoff (Tele)
Berg	Tom Foulds Arnold Levin
Berg/Lumpkin	Frank Dudenhefer Richard Pierson
	Richard Eymann Connie Powell
	Steven Jones
	David Breskin

¹Lead Counsel for Plaintiffs.

²Liaison Counsel for Plaintiffs.

EIGHTH STATUS CONFERENCE
ORDER: JULY 15, 2004 - 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Defendants	Counsel
E.I. DuPont DOE Nemours & Co. [DuPont]	William (Randy) Squires Michelle Browdy
General Electric Co. [GE]	
UNC Nuclear Industries, Inc. [UNC]	

Pro se Plaintiffs Noreen L. Wynne, Carmela M. Destito-Buttice (for late John P. Destito, Jr.), and Marylin F. Mlnarik were not present.

The Court and the parties discussed the items on the previously filed Agenda. The Court noted that the Protective Order authorized at the Seventh Status Conference, June 3, 2004, was presented to the Court and executed on July 7, 2004. The Court heard argument on Defendants' Motion for Summary Judgment--Statute of Limitations, filed February 20, 2004 (Ct. Rec. 1433).

This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

IT IS ORDERED that:

1. Defendants' Motion for Summary Judgment--Statute of Limitations.

The Court **RESERVED RULING** on the Defendants' Motion, filed February 20, 2004, Ct. Rec. 1433.

2. Settlement Progress Report.

The Court advised the parties that the Court is only interested in knowing whether the mediation process is ongoing and that any details related to mediation should be omitted from the Status Conference Reports.

3. Discovery Issues Re^o Bellwethers--IMEs.

Ms. Browdy advised the Court that the parties had agreed in principle to a stipulation regarding the IMEs. If the parties are unable to enter a written stipulation, they

1 will contact the Court telephonically in the next week to request the
2 Court's assistance.

3 4. Exhibits.

4 (a) The parties indicate that they have exchanged their initial
5 exhibit lists.

6 (b) The parties and the Court agree that the number of exhibits
7 should be limited. The Court requested that as the parties begin to
8 informally resolve issues regarding the initial exhibit lists that they
9 begin to consider what a reasonable limitation on the number of exhibits
10 should be. The Court encourages the use of summaries, the delineation
11 of demonstrative exhibits, and a delineation of exhibits of record versus
12 those that would be submitted to the jury.

13 (c) The deadline for exchanging final exhibit lists is
14 November 30, 2004. The Court suggested the following deadlines related
15 to objections to exhibits.

16 • Formal objections to exhibits¹--due two weeks after list
17 exchange;

18 • Formal responses to objections to exhibits--due two weeks
19 after objections filed; and

20 • Hearing on objections to exhibits--two weeks after
21 responses filed.

22

23

24 ¹Formal objections should reference the evidentiary rule, if appli-
25 able, or other basis for the objections. The objections must be specific
26 and concisely stated.

1 **5. Relative Timing of Pretrial Events.** The Court suggested the
 2 following relative timing of pretrial events.

Description	Relative Timing
Proposed Voir Dire Joint Proposed Jury Instructions Objections/Disputed Jury Instructions Trial Briefs Motions in Limine	Six Weeks Before Trial
Responses to: Trial Briefs Motions in Limine	Five Weeks Before Trial
Proposed Pretrial Order	Five Weeks Before Trial
Final Pretrial Conference	Three Weeks Before Trial
Exhibits • Marked • Listed on Court Form • To Court and Counsel	One Week Before Trial
Final Witness Lists	One Week Before Trial

14 Specific dates will be set at a future status conference.

15 **6. Scientific Session for the Court.** The Court would like the
 16 parties to cooperate in developing a joint proposal, for presentation at
 17 the September status conference, for a scientific session for the Court
 18 to be held in conjunction with the October or November status conference.
 19 The Court contemplates an informal presentation by the attorneys to
 20 familiarize the Court with some terminology and some of the science
 21 related to the issues in the case. The session would provide general
 22 background for the Court only.

23 **7. Discovery Order.** A separate Stipulation was executed by the
 24 Court.

25 (a) The Defendants' deadline to provide expert reports pursuant
 26 to Rule 26(a)(2) of the Federal Rules of Civil Procedure was **EXTENDED**

EIGHTH STATUS CONFERENCE
ORDER: JULY 15, 2004 - 4

1 from July 30, 2004 to August 16, 2004, amending Discovery Order No. 1:
2 May 29-30, 2003, paragraph 4(h).

3 (b) The Plaintiffs' deadline for completing depositions of
4 Defendants' experts was **EXTENDED** from October 29, 2004, to November 15,
5 2004, amending Discovery Order No. 1: May 29-30, 2003, paragraph 4(j).

6 **8. New Motions.**

7 (a) Plaintiffs shall file and serve their summary judgment motion
8 regarding ultra-hazardous activity no later than **September 1, 2004**. The
9 motion shall be limited to 20 pages.

10 • Defendants' response to Plaintiffs' motion shall be filed
11 and served no later than **September 22, 2004** and shall be limited to
12 20 pages.

13 • Plaintiffs' reply shall be filed and served no later than
14 **October 6, 2004**, and shall be limited to 10 pages.

15 • The hearing on the Plaintiffs' summary judgment motion
16 regarding ultra-hazardous activity will likely be set for the October 28,
17 2004, status conference.

18 (b) The Defendants shall advise the Court of other motions to be
19 filed on scientific issues at the September 14, 2004, status conference.

20 9. The Court **CONFIRMS** that the Defendants' *Daubert* motions shall be
21 filed and served no later than **August 31, 2004**. The motions shall be
22 limited to 20 pages.

23 (a) Plaintiffs' responses to the motions are **CONFIRMED** as due
24 **November 30, 2004**.

25 (b) Defendants' replies shall be filed and served no later than
26 **December 14, 2004**.

**EIGHTH STATUS CONFERENCE
ORDER: JULY 15, 2004 - 5**

1 (c) Hearings on the Daubert motions will be held in early
2 January, 2005.

3 10. Next Status Conferences.

4 (a) The ninth status conference shall be held Tuesday,
5 September 14, 2004, at 8:00 a.m., in Spokane, Washington.

6 (b) Counsel who wish to appear telephonically shall notify Joanna
7 Knutson no later than two days prior to the hearing at 509.353.3163, in
8 order to schedule a conference call.

9 (c) Lead Counsels' status report shall be filed and served no
10 later than August 31, 2004. Responses to the status report are not
11 appropriate and shall not be submitted.


12 Any documents to be reviewed at the status conference are
13 also requested to be supplied to the Court with the status report so that
14 the Court may review them prior to the status conference.

15 (d) The tenth status conference is tentatively set for Thursday,
16 October 28, 2004, at 8:00 a.m., in Spokane, Washington.

17 The District Court Executive is directed to file this Order and
18 provide copies to Liaison Counsel; Mediator Gary Bloom; AND TO pro se
19 Plaintiffs Noreen L. Wynne, Carmela M. Destito-Buttice (for late John P.
20 Destito, Jr.), and Marylin F. Mlnarik.

21 DATED this 19 day of July, 2004.

22
23
24 H\O\071604


WM. FREMMING NIELSEN
SENIOR UNITED STATES DISTRICT JUDGE

25
26
EIGHTH STATUS CONFERENCE
ORDER: JULY 15, 2004 - 6