

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

SEP 16 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

NINTH STATUS CONFERENCE
ORDER: SEPTEMBER 14, 2004

This Order relates to: All Cases

A ninth status conference was held September 14, 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 Peter Nordberg Merrill Davidoff (Tele)
Evanson	Tom Foulds Frank Dudenhefer Arnold Levin Richard Pierson Monica Mitchell Jill Olson (Tele)
Berg	Richard Eymann Steven Jones Connie Powell
Berg/Lumpkin	Elizabeth Crooke

¹Lead Counsel for Plaintiffs.

Defendants	Counsel
E.I. DuPont DOE Nemours & Co. [DuPont]	Kevin T. Van Wart ² William (Randy) Squires
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 a Stipulation had been filed on July 26, 2004, dealing with the IMEs (Ct. Rec. 1535). This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

IT IS ORDERED that:

1. Trial Exhibits.

(a) Only items for which admission into evidence is sought shall be listed on the Final Trial Exhibit List. For lengthy documents or books, the parties shall designate as an exhibit the pages to be admitted rather than the entire document. The entire document or book must be available for opposing counsel to review.

(b) The Court confirms the deadline for exchanging the Final Trial Exhibit List of **November 30, 2004**. Plaintiffs anticipate that this is also when the parties will exchange the electronic images of the exhibits.

²Lead Counsel for Defendants.

1 • Formal objections to the exhibits are due December 14,
2 2004;

3 • Formal responses to objections to the exhibits are due
4 December 28, 2004;

5 • A hearing on the objections to the exhibits will be
6 scheduled during mid-January, 2005.

7 (c) The Parties shall determine which exhibits are duplicates and
8 move the duplicate exhibits to a Joint Exhibit List where the exhibits
9 will be designated as "J" rather than Plaintiffs' or Defendants'
10 exhibits.

11 (d) The parties and the Court reaffirmed the agreement that the
12 number of exhibits will be limited. That limitation will be set at a
13 future status conference.

14 (e) The Court suggested again that the parties attempt to
15 delineate exhibits of record versus those that would be submitted to the
16 jury.

17 (f) The Court encouraged the use of demonstrative exhibits which
18 usually do not go to the jury during deliberations.

19 2. Materials Relied Upon by Expert Witnesses. Materials relied upon
20 by expert witnesses should not be listed on the Final Trial Exhibit List.
21 This also applies to the experts' curriculum vitae and the experts'
22 report.

23 (a) Several days prior to the testimony of an expert, counsel
24 shall designate the exhibits that will be relied upon by the expert and
25 share that designation with opposing counsel. This will facilitate the
26 examination of the expert.

1 (b) Defendants indicate that they will provide reliance materials
 2 to the Plaintiffs prior to the Plaintiffs' depositions of the Defendants'
 3 experts.

4 3. Expert Testimony. The Federal Rule of Civil Procedure 26(a)(2)
 5 expert reports limit the scope of the expert's testimony on direct
 6 examination. The parties may supplement the expert report with correc-
 7 tions, explanations, or in some cases elaboration. The parties are not
 8 permitted to supplement a report by an expansion into new areas.
 9 Deposition testimony will satisfy the supplementation requirement of Rule
 10 26(e) of the Federal Rules of Civil Procedure.

11 4. Relative Timing of Pretrial Events. In the Eighth Status
 12 Conference Order: July 15, 2004, Ct. Rec. 1532, ¶ 5, the Court set forth
 13 the relative timing of pretrial events. One additional deadline is added
 14 to that table. The entire table is repeated with the addition of an
 15 exchange date for a tentative witness list.

Description	Relative Timing
Tentative Witness List Exchange	January 10, 2005
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