



1 \*Mr. Pierson and Mr. Jones have not been listed by Liaison Counsel to date as being  
2 involved in this litigation.

Defendants	Counsel
E.I. DuPont De Nemours & Co. [DuPont]	Kevin T. Van Wart William (Randy) Squires Michelle Browdy*
General Electric Co. [GE]	
UNC Nuclear Industries, Inc. [UNC]	
Atlantic Richfield Company [ARCO]	
Rockwell International Corporation [Rockwell]	
*Ms. Browdy has not been listed by Liaison Counsel to date as being involved in this litigation.	

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11 The Court and the parties discussed the items on the previously  
12 filed Agenda as well as additional items raised by the parties. This  
13 Order is entered to memorialize the oral rulings of the Court.  
14 Accordingly,

15 IT IS ORDERED that:

16 1. Participating Attorneys List. Liaison Counsel John Moore and  
17 Randy Squires provided the list of attorneys for the Plaintiffs and  
18 Defendants as required by the Case Management Order No. 1--May 29-30,  
19 2003. It appears by the attendance of additional counsel at the first  
20 status conference that the lists are incomplete. Liaison counsel for  
21 Plaintiffs and Defendants shall submit an updated list to the Court of  
22 all attorneys in this consolidated action no later than August 18, 2003.  
23 Liaison Counsel are requested to provide updated lists as necessary.

24 2. Backup Lead Counsel for Plaintiffs. Louise Roselle, Lead Counsel  
25 for the Plaintiffs, clarified that Stanley Chesley is backup Lead Counsel  
26 with her law firm, but the person designated as backup Lead Counsel for

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1 the Plaintiffs has not yet been identified. Plaintiffs shall advise the  
2 Court of the name of backup Lead Counsel no later than September 19,  
3 2003.

4 3. Defendants advise, and the Court ACCEPTS, Michelle Browdy as  
5 backup Lead Counsel for the Defendants in this litigation.

6 4. Motion for Remand of Durfey. The Court has received the Plain-  
7 tiffs' Motion for Remand of Durfey, No. CY-93-3087-WFN. The briefing is  
8 complete and the matter is under advisement. The Court may request a  
9 telephonic hearing on the Motion. The Court was advised that Merrill  
10 Davidoff or Peter Nordberg would provide argument on behalf of the  
11 Plaintiffs.

12 5. Mediation. The parties shall present the name of the an agreed  
13 upon mediator to the Court at the status conference on September 19,  
14 2003. The Defendants advise that it will not take significant time to  
15 identify a government representative to participate in mediation. The  
16 Court anticipates that mediation will likely be ordered during the first  
17 quarter of 2004.

18 6. Bellwether Plaintiffs. The parties have agreed that the process  
19 to select 30 bellwether Plaintiffs will be that each side will identify  
20 15 potential bellwether Plaintiffs [PBWS] without restriction. The Court  
21 determined that the PBWS will not be limited to thyroid cases. The Court  
22 RESERVES RULING on the issue of whether the first trial may be limited  
23 to thyroid cases. The parties may discuss briefing on this issue with  
24 the Court at a later date.

25 (a) Plaintiffs shall file and serve a list of 15 PBWS no later  
26 than August 29, 2003.

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1 (b) Defendants shall file and serve a list of 15 PBWS no later  
2 than September 9, 2003. This represents an amendment to the Discovery  
3 Order No. 1--May 29-30, 2003, page 3, paragraph 4(b).

4 (c) To ensure that an adequate number of bellwether Plaintiffs  
5 [BWs] are available for trial, Plaintiffs and Defendants shall each  
6 identify from the 30 PBWS 6 BWS and file and serve the list of their  
7 names no later than January 23, 2004. This represents an amendment to  
8 the Discovery Order No. 1--May 29-30, 2003, page 3, paragraph 4(d).

9 (d) Substitute BWS will not be used.

10 7. Inactive Docket. The parties have submitted a Stipulated Order  
11 to create an inactive docket for those Plaintiffs' claims that do not  
12 involve a present physical injury. Plaintiffs have also submitted a  
13 document captioned Request for Transfer of Claims to Inactive Docket with  
14 a list of Plaintiffs in Exhibit A which request transfer of their claims  
15 to the inactive docket. All Plaintiffs listed on Exhibit A to the  
16 Request for Transfer of Claims to Inactive Docket are DISMISSED without  
17 prejudice from this litigation.

18 The Court anticipates that the list of Plaintiffs that will be  
19 transferred to the Inactive Docket is incomplete. Plaintiffs' counsel  
20 shall make every effort to identify and request transfer of these  
21 Plaintiffs before September 19, 2003. This issue will be discussed at  
22 the September 19, 2003 status conference.

23 8. Shared Database. The parties shall consult and report to the  
24 Court at the September 19, 2003 status conference as to an agreed  
25 schedule to share potentially relevant documents on PBWS. A deadline for  
26 exchanging trial exhibits will be set at a later time.

1           9. Expert witnesses. The Court will not limit at this time any  
2 expert's ability to criticize the analysis made by other experts.

3           10. Potential Dismissal of Defendants Rockwall and ARCO. Mr. Foulds  
4 requires additional time to analyze Defendants' request for a stipulated  
5 dismissal of these Defendants. He will be prepared to report whether  
6 Plaintiffs will stipulate to a dismissal at the status conference on  
7 September 19, 2003.

8           11. Protective Order. The parties shall be prepared to advise the  
9 Court at the next status conference on September 19, 2003, whether the  
10 protective Order in *In Re Berg*, filed September 17, 1998 (Ct. Rec. 224),  
11 should be vacated or whether there is a need to extend it to the *In Re*  
12 *Hanford Litigation*.

13           12. Classified Documents. The Court was advised that clearances are  
14 being updated for Plaintiffs counsel without current problems.

15           13. Plaintiffs' Agreed Reimbursement Plan. Plaintiffs' Motion for  
16 Extension of Time . . . , filed July 16, 2003, Ct. Rec. 1309, is GRANTED.  
17 Plaintiffs shall submit *in camera* on or before September 19, 2003, the  
18 reimbursement plan for Plaintiffs' Lead and Liaison Counsel.

19           14. Second Amended Consolidated Complaint. The Plaintiffs' Second  
20 Amended Consolidated Complaint has been ordered to be filed no later than  
21 August 29, 2003. Plaintiffs advised the Court that all claims are being  
22 retained in the Consolidated Complaint, some for appeal purposes only,  
23 and that this will be clearly delineated in the Complaint.

24           15. Stipulation Re: Medical Records. On September 24, 1992,  
25 Plaintiffs and Defendants entered into a Stipulation Regarding  
26 Plaintiffs' Healthcare Records. The parties will abide by the

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1 Stipulation at this time while giving some thought to limiting its terms  
2 to a smaller pool of PBWS. This issue will be revisited at the September  
3 19, 2003, conference.

4 16. Claim Summaries. The Plaintiffs agree that they will provide a  
5 list of Plaintiffs' claims by diseases with both names and a tabular  
6 summary. The claim summaries will be subject to supplementation and  
7 amendment. If the Plaintiffs are aware that the claim is based primarily  
8 upon Columbia River exposure due to fish consumption, the Plaintiffs will  
9 so note on the claim summary. No separate list of Columbia River claims  
10 need be identified.

11 17. Clarification to CMO No. 1--May 29-30, 2003. The reference to  
12 filing attorney fee and expense records at page 8, paragraph 10, line 26,  
13 of CMO No. 1, is erroneous. The reports are only to be submitted in  
14 camera, not filed.

15 18. Defendants' Request to Require Plaintiffs to Supplement Inter-  
16 rogatory Reports. The Plaintiffs are making their best efforts to  
17 supplement interrogatories by August 29, 2003. The Court is not inclined  
18 to set additional deadlines.

19 19. Second Status Conference. The second status conference shall be  
20 held Friday, September 19, 2003, at 8:00 a.m., in Spokane, Washington.  
21 Lead Counsels' status report shall be filed and served no later  
22 than September 5, 2003. Any stipulations, proposed orders, or other  
23 agreements to be reviewed at the status conference are also requested to  
24 be supplied to the Court with the status reports so that the Court may  
25 review them prior to the status conference.

26 20. The Court confirmed the deadline of August 29, 2003, for:

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(a) The Plaintiffs' Second Amended Consolidated Complaint;

(b) The grouping of Plaintiffs into I-131 and non-I-131 with subgroups; and

(c) As to generic causation, a joint list of diseases which are undisputed and those which are disputed as being caused by radiation.

The District Court Executive is directed to file this Order and provide copies to Liaison Counsel.

DATED this 21 day of July, 2003.



WM. FREMMING NIELSEN  
SENIOR UNITED STATES DISTRICT JUDGE

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