

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WESTINGHOUSE ELECTRIC COMPANY,)
)
Plaintiff,) CIVIL ACTION NO. 00-CV-895
) Judge Gary L. Lancaster
v.)
)
UNITED STATES OF AMERICA, UNITED)
STATES DEPARTMENT OF ENERGY, and)
NUCLEAR REGULATORY COMMISSION,)
)
Defendants.)

UNITED STATES' FIRST SET OF INTERROGATORIES TO PLAINTIFF

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendants United States of America, United States Department of Energy, and United States Nuclear Regulatory Commission (collectively the "United States"), request that Plaintiff Westinghouse Electric Company answer fully, in writing and under oath, each of the following interrogatories, and to serve such answers on the United States within the time provided by Rule 33(b). In answering these Interrogatories, furnish all information available to you, including information possessed by any agent, employee, or attorney representing you.

DEFINITIONS

Unless otherwise indicated, the following definitions shall apply to these discovery requests:

1. "And" and "or" have both conjunctive and disjunctive meanings as necessary to bring within the scope of each request all documents and information that might otherwise be construed to be outside its scope.

2. "Blairsville Facility" shall mean the Specialty Metals Plant in Blairsville, Pennsylvania identified in Paragraphs 3 and 29 through 77 of Plaintiff's Complaint in this case.

3. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.*

4. "Contractor" means any person who acts or acted as agent for, or on behalf of, any other person, whether or not for consideration, and includes subcontractors.

5. "Defendants" shall mean the United States of America, United States Department of Energy and United States Nuclear Regulatory Commission.

6. "Describe" means a complete report of all facts known to you about an incident, event, physical object, person, or other subject, together with any expert opinions about the subject matter, the basis for those opinions, and a description of all relevant documents and evidence that supports and/or refutes the fact or opinion.

7. "Document(s)" means all writings of any kind, including, without limitation, the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, email messages and attachments, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, interoffice and intra-office communications, notations of any conversations (including, without limitation, telephone calls, meetings, and other communications or any kind), bulletins, printed matter, computer printouts, teletypes, telefax, "twix" messages, invoices, worksheets, graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotapes, recordings and motion pictures), electronic,

mechanical or electric records or representations of any kind (including, without limitation, tapes, cassettes, discs, recordings and computer memories), and all drafts, alterations, modifications, changes and amendments of any of the foregoing.

8. "Each," "any," and "all" mean each and every.

9. "EPA" means the United States Environmental Protection Agency.

10. "Facility" shall have the same meaning ascribed by CERCLA § 101(9), 42 U.S.C. § 9601(9).

11. "Hazardous substance" shall have the same meaning ascribed by CERCLA § 101(14), 42 U.S.C. § 9601(14).

12. "Implement" means to accomplish, carry out, or fulfill.

13. "Including," as used in these Requests, shall be construed inclusively and not as a term of limitation.

14. "Material benefits" includes profits, fees fixed by contract, below-market prices for the rental, use and/or purchase of government-owned facilities and/or machinery, favorable tax treatment, tax deductions and refunds, patents arising from the development of war materiel, company goodwill, tax offsets or payments resulting from wartime losses and claims, and any other type of financial or property gain.

15. "Materiel" means the product(s) that you contend were (1) manufactured, fabricated, or produced at the Blairsville Facility, (2) which resulted in the release of hazardous substances, (3) that have or will cause Westinghouse to incur necessary costs of response consistent with the national contingency plan at the Blairsville Facility, including without limitation the component parts of any nuclear power plant and any product that was

manufactured, fabricated or produced at the Blairsville Facility using enriched uranium or natural uranium or any other nuclear material(s) or radioactive material(s).

16. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substance Pollution Contingency Plan codified at 40 C.F.R. Part 300.

17. "Person" shall have the same meaning ascribed by CERCLA § 101(21), 42 U.S.C. § 9601(21).

18. Persons upon whom you "rely" for an Interrogatory answer means any and all of the following: (a) persons who are the source of the information upon which the answer is based, and (b) persons who have information which supports the answer.

19. "Plaintiff" shall mean Westinghouse Electric Company.

20. "Refer to" or "refers to" means mentioning, discussing, making reference to or relating to in any way.

21. "Relate(s) to" or "relating to" means constituting, defining, concerning, embodying, reflecting, identifying, stating, referring to, bearing upon, dealing with or in any way pertaining to.

22. "Release" shall have the same meaning ascribed by CERCLA § 101(22), 42 U.S.C. § 9601(22).

23. "Remedy" or "remedial action" shall have the same meaning ascribed by CERCLA § 101(24), 42 U.S.C. § 9601(24).

24. "Remove" or "removal" shall have the same meaning ascribed by CERCLA § 101(23), 42 U.S.C. § 9601(23).

25. "Respond" or "response" shall have the same meaning ascribed by CERCLA § 101(25), 42 U.S.C. § 9601(25).

26. "United States" means the federal government or any of its agencies, including the United States Department of Energy and the United States Nuclear Regulatory Commission.

27. "United States Department of Energy" means the United States Department of Energy itself and its employees.

28. "United States Nuclear Regulatory Commission" means the United States Nuclear Regulatory Commission itself and its employees.

29. "Westinghouse" shall mean Plaintiff Westinghouse Electric Company and any and all merged, consolidated, and acquired predecessors, including the previous owner or owners of any lines of business acquired through the purchase of assets or similar transaction, or successors, parents, subsidiaries, divisions, and affiliates, wherever located, and each past and present officer, director, employee, agent, servant and representative of each such entity or individual, and each past and present attorney of each such entity or individual, and any other persons acting or purporting to act on behalf of Westinghouse.

30. "You" or "your," unless specifically designated otherwise, means the Plaintiff, Westinghouse Electric Company, and any and all merged, consolidated, and acquired predecessors, including the previous owner or owners of any lines of business acquired through the purchase of assets or similar transaction, or successors, parents, subsidiaries, divisions, and affiliates, wherever located, and each past and present officer, director, employee, agent, servant and representative of each such entity or individual, and each past and present attorney of each such entity or individual.

INSTRUCTIONS

1. The United States' First Set of Interrogatories to Plaintiff

("Interrogatories") is directed to Westinghouse Electric Corporation and covers all information in your possession, custody or control, including information in the possession of your officers, employees, agents, servants, representatives, attorneys, or other persons directly or indirectly employed or retained by you, or anyone else acting on your behalf or otherwise subject to your control, and any merged, consolidated, or acquired predecessor or successor, parent, subsidiary, division or affiliate, including, without limitation information in any corporate archives or document collection of any kind over which you exercise any authority to control access to any degree.

2. These Interrogatories are continuing in nature: your response must be supplemented, in accordance with Fed. R. Civ. P. 26(e), if you, your counsel, or your agents obtains further or different information or documents prior to or during trial on the matters alleged in the Complaint.

3. In answering these Interrogatories, please set forth the Interrogatory or subpart thereof to which each answer corresponds immediately prior to your answer.

4. A request for the identification or description of any fact includes, without limitation, a request for the identification and description of all persons with knowledge of such fact, and all documents relating to such fact.

5. Whenever in these Interrogatories there is a request to identify a "document," state or identify:

a. its date;

- b. its author and signatory;
- c. its addressee and all other persons receiving copies;
- d. the type of document (e.g., letter, memorandum, contract, report, accounting record, etc.);
- e. its title;
- f. its substance;
- g. its addressee and all other persons receiving copies;
- h. its custodian;
- i. its present or last known location;
- j. its Bates number or other similar identifying number or label; and
- k. if the document was, but no longer is, in your possession or

subject to your control, state where and in whose possession or control it is.

6. Whenever in these Interrogatories there is a request to identify a "person," where the person is a natural person, state or identify the person's:

- a. full name;
- b. current and last known business and residence address;
- c. employer's name and address; and
- d. position and/or or occupation.

7. Whenever in these Interrogatories there is a request to identify a "person," where the person is not a natural person, state or identify the person's:

- a. full name;
- b. the form of its organization (corporation, partnership, etc.);

- c. present or last known principal place of business;
- d. telephone number; and
- e. business.

8. Whenever a full and complete answer to any Interrogatory or part of an Interrogatory is contained in a document or documents, the documents, if properly identified as answering a specific numbered interrogatory or part of an interrogatory, may be supplied in place of a written answer provided that the specific sections or pages from the document that are responsive to the Interrogatory are identified.

9. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

10. If you currently lack information to answer any Interrogatory, please state:

- a. the responsive information currently available;
- b. the responsive information currently unavailable;
- c. efforts which you intend to make to secure the information currently unavailable; and
- d. when you anticipate receiving the information currently unavailable.

11. If you do not know the answer to any Interrogatory, identify the person(s) who know(s) or would be expected to know the answer to such Interrogatory.

12. If anything is deleted from a document produced in response to these Interrogatories, identify each such document in your response and state:

- a. the privilege or other reason asserted for the deletion;
- b. the subject matter of the deletion;
- c. the factual basis giving rise to the privilege or other reason asserted; and
- d. the identity of the person responsible for the deletion.

13. If you believe that any information requested by any of the following Interrogatories is privileged, please identify such information, state the privilege asserted, and state the facts giving rise to such privilege.

14. In the event that you object to a particular Interrogatory as vague or burdensome, you should answer that and all other Interrogatories to the best of your ability and in good faith, preserving any bona fide objections if necessary.

15. Unless otherwise specified, the following Interrogatories cover documents from 1955 to the present.

INTERROGATORIES

INTERROGATORY NO. 1:

Describe in detail each and every factual and legal basis for your contention in Paragraphs 15, 95 and 102 of the Complaint that the Defendants were operators of the Blairsville Facility within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), at the time hazardous substances were released or disposed of at the Blairsville Facility.

INTERROGATORY NO. 2:

Describe in detail each and every factual and legal basis for your contention in Paragraphs 15, 96 and 102 of the Complaint that the Defendants arranged for the disposal or treatment of hazardous substances at the Blairsville Facility within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

INTERROGATORY NO. 3:

Describe in detail each and every fact which forms the basis of your contentions in Paragraph 28 of the Complaint regarding Admiral Hyman G. Rickover's control over the Blairsville Facility.

INTERROGATORY NO. 4:

Describe in detail any and all facts or circumstances that tend to prove or disprove that Defendants supplied, supervised, or controlled any of your employees, equipment or raw materials at the Blairsville Facility during the time period relevant to the Complaint.

INTERROGATORY NO. 5:

Identify each and every person that you have reason to believe may be a person potentially responsible for response costs at the Blairsville Facility pursuant to CERCLA, and describe in detail the factual and legal basis for each person you identify.

INTERROGATORY NO. 6:

Describe all material benefits you received from the United States arising from your activities at the Blairsville Facility.

INTERROGATORY NO. 7:

Describe all material benefits you received from the United States arising from your activities under contract AT-11-1-GEN-14, referenced in Paragraph 16 of the Complaint.

INTERROGATORY NO. 8:

Describe in detail all facts or circumstances regarding the decision(s) to subcontract work under contract AT-11-1-GEN-14, referenced in Paragraph 16 of the Complaint, to the Blairsville Facility, including without limitation the identity of the person(s) who made the decision(s).

INTERROGATORY NO. 9:

State each and every fact, event, circumstance, occurrence, or factor, that you contend is relevant to a potential equitable allocation of response costs at the Blairsville Facility.

INTERROGATORY NO. 10:

Describe Westinghouse's lobbying or other efforts to secure contracts with the United States for the production of nuclear powerplants and/or the component parts of nuclear powerplants from 1950 through 1965.

INTERROGATORY NO. 11:

Describe Westinghouse's efforts to obtain uranium of any kind from the United States for any purpose during the period 1950 through 1965.

INTERROGATORY NO. 12:

If you contend that you have incurred or will incur "necessary costs of response" that are "consistent with the national contingency plan" at the Blairsville Facility pursuant to CERCLA, describe in detail each and every fact which forms the basis of this contention for each past and future cost.

INTERROGATORY NO. 13:

If you contend that the United States is liable in contribution for a portion of any necessary costs of response that are consistent with the National Contingency Plan that you have incurred or will incur at the Blairsville Facility, list each and every cost of response and describe the work underlying each and every such cost, indicating where any costs of response resulted from EPA's, a State's or other governmental oversight or supervision of your activities.

INTERROGATORY NO. 14:

Identify and describe in detail each and every instance that hazardous substances were released or disposed of at the Blairsville Facility for which you contend the United States is liable under CERCLA, including without limitation the type and quantity of each hazardous substance, the location and date of each release or disposal, the person(s) responsible, and the instrumentality or process that caused the release or disposal.

INTERROGATORY NO. 15:

Identify each and every federal government employee, including military personnel, whom you contend managed, directed or otherwise conducted any operation(s) at the Blairsville Facility and describe in detail the specific operations you contend the person(s) managed, directed, or otherwise conducted and the dates such operations occurred.

INTERROGATORY NO. 16:

Identify each and every Westinghouse employee who was involved in managing, directing or otherwise conducting any operations at the Blairsville Facility from 1955 through 1962; as well as during any period that enriched uranium or natural uranium were used at the Blairsville Facility; and during any period that materiel was manufactured, fabricated, or produced at the Blairsville Facility, and describe in detail the specific operation(s) each person managed, directed or otherwise conducted, the type of hazardous substance involved, and the applicable dates.

INTERROGATORY NO. 17:

Describe in detail any and all efforts by you to recycle, reclaim, or reuse production process materials that were, or could have become, hazardous substances at the Blairsville Facility during the time period relevant to the Complaint, including any efforts you contend the Defendants, managed, directed or controlled the Blairsville Facility

INTERROGATORY NO. 18:

Describe in detail any and all efforts by you relating to your compliance with any environmental regulations, rules, standards, or requirements, or similar rule(s) applicable to the handling, treatment, recycling, storage, or disposal of hazardous substances during the time

period relevant to the Complaint, including any efforts you contend the Defendants, managed, directed or controlled at the Blairsville Facility.

INTERROGATORY NO. 19:

Describe in detail any facts or circumstances that tend to prove or disprove that any civilians or military personnel employed by the United States had any involvement in any day-to-day operation(s) at the Blairsville Facility during the time period relevant to the Complaint, including personnel matters; the acquisition, storage, use, disposal, and leakage of hazardous substances; the selection of equipment; or the scheduling of work.

INTERROGATORY NO. 20:

Identify and describe any and all work that Westinghouse performed for any person(s) at the Blairsville Facility under a Special Nuclear Material License from the United States Atomic Energy Commission, including without limitation the nature of the work; any hazardous substances that were used and the amount; the product(s) that were manufactured, fabricated or produced and the process(es) involved; the person(s) for whom the work was performed, the time period(s) the work was performed, all inspection and quality control efforts the person(s) for whom you performed such work utilized; and all material benefits you received.

INTERROGATORY NO. 21:

Identify and describe in detail all areas of the Blairsville Facility, including all of its buildings, structures, edifices, tanks, containers, impoundments, pits, lagoons, or other similar structures of any kind that are or have been located on the Blairsville Facility that are the subject of the Complaint.

INTERROGATORY NO. 22:

Describe each and every administrative or judicial process or action taken against you under Section 106 or 107 of CERCLA, 42 U.S.C. § 9606 or 9607, or any other provision of state or federal law relating to the removal or remediation of contamination at the Blairsville Facility.

INTERROGATORY NO. 23:

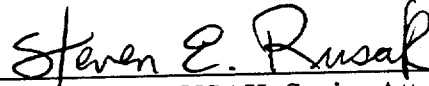
For each Interrogatory identify each and every document and person with knowledge that is relevant to your answer, and each and every person who provided the information upon which each of your answers is based.

INTERROGATORY NO. 24:

Identify each and every expert and fact witness that you intend to call to testify at trial and the subject of their testimony.

Respectfully submitted,

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment & Natural Resources Division



STEVEN E. RUSAK, Senior Attorney
United States Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
P.O. Box 23986
Washington, D.C. 20026-3986
Tel: (202) 514-9275

OF COUNSEL:

JAMES CAREY, Chief Counsel
Pittsburgh Naval Reactors Office
United States Department of Energy
P.O. Box 109
West Mifflin, PA 15122-0109

Tel: (412) 476-7202

CHARLES MULLINS, Senior Attorney
Office of the General Counsel
United States Nuclear Regulatory
Commission
Washington, D.C. 20555
Tel: (301) 415-1606

DATE: December 7, 2001

MARY BETH BUCHANAN
United States Attorney
Western District of Pennsylvania

JESSICA LIEBER SMOLAR
PA Bar # 65406
Assistant United States Attorney
Western District of Pennsylvania
633 U.S. Post Office and Court House
Pittsburgh, Pennsylvania 15219
Tel: (412) 644-3500

CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2001, I caused a true copy of the foregoing: "United States' First Set of Interrogatories to Plaintiff" to be served by Federal Express, postage prepaid, upon the following counsel:

Steven Baicker-McKee, Esq.
Scott A. Wright, Esq.
Babst, Calland, Clements & Zomnir, P.C.
Two Gateway Center, 8th Floor
Pittsburgh, PA 15222

