

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

MICHELLE MCMUNN, et al.,)	Civil Action No. 2:10-cv-00143-DSC-RCM
)	
Plaintiffs,)	
)	ELECTRONICALLY FILED
v.)	
)	
BABCOCK & WILCOX POWER)	
GENERATION GROUP, INC., et al.,)	
)	
Defendants.)	
)	
)	

**DEFENDANTS' [~~PROPOSED~~] ORDER GRANTING DEFENDANTS' MOTION FOR
CASE MANAGEMENT ORDER**

Having duly considered Defendants' Motion for Case Management Order ("Motion"), Plaintiffs' Response in Opposition to that Motion, all related briefs filed by the parties, the record in this action, and the arguments of counsel, IT IS HEREBY ORDERED that:

1. No later than ^{seventy (70)} ~~sixty (60)~~ days after the issuance of the Court's CMO, each Plaintiff must provide Defendants with admissible evidence, in the form of expert affidavits or otherwise, establishing the *prima facie* elements of his or her claims, including:
 - a. an identification by name of the specific radionuclide(s) released from Defendants' facilities in excess of the applicable federal permissible limits;
 - b. an identification of each exposure pathway(s) through which each Plaintiff was exposed to each specific radionuclide;
 - c. the facility from which the radionuclide(s) originated and the dates of each Plaintiff's exposure to those specific radionuclides originating from that facility;
 - d. the numerical dose, if any, for each Plaintiff's claimed exposure to the specific radionuclides originating from that facility;
 - e. the epidemiological evidence demonstrating that the specific radionuclide(s) to which the Plaintiff was exposed causes the Plaintiff's

specific disease(s) (general causation) and that the exposure(s) and resulting dose (if any) caused the Plaintiff's specific disease(s) (specific causation); and,

f. the scientific and medical evidence providing the basis for and supporting each such *prima facie* element of his or her claim.

2. Plaintiffs submittal pursuant to this Order shall not use phrases such as "including, but not limited to" or "including without limitation" when responding to items 1(a)-(e) above. Plaintiffs shall be prohibited from asserting any theory of exposure, dose, or causation that is not specifically stated in Plaintiffs' response to the Court's Order and supported by admissible evidence of a *prima facie* theory.

3. ~~Within 60 days~~ ^{By May 31, 2012} of receiving Plaintiffs' evidence pursuant to paragraph 1 above, Defendants may file a motion or motions directed to whether Plaintiffs have complied with this CMO, after an opportunity for discovery from Plaintiffs' experts.

4. Status conference June 1, 2012 @ 9³⁰ AM

Dated: Jan 24, 2012

Robert C. Mitchell

Robert C. Mitchell
United States Magistrate Judge