

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

JUL 22 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

ORDER DENYING DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT--  
STATUTE OF LIMITATIONS

This Order relates to: All Cases

At the eighth status conference on July 15, 2004, The Court reserved ruling on Defendants' Motion for Summary Judgment--Statute of Limitations, filed February 20, 2004 (Ct. Rec. 1433). Argument was presented by William Squires for the Defendants and Louise Roselle and Peter Nordberg for the Plaintiffs.<sup>1</sup>

The Court has reviewed the file, all materials submitted on the Motion, and the *Ball v. Union Carbide Corp.*, \_\_\_ F.3d \_\_\_ 2004 WL 1573172 (6th Cir. 7/15/04) decision presented at the hearing by Defendants; considered the oral arguments of counsel, and is fully informed. For the reasons stated below, the Motion is denied.

<sup>1</sup>See Eighth Status Conference Order: July 15, 2004, for listing of additional counsel present at the hearing.

ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY  
JUDGMENT--STATUTE OF LIMITATIONS - 1

1

**I. POSITIONS OF PARTIES**

2 Defendants assert that five years before Plaintiffs filed suit on  
3 August 6, 1990,<sup>2</sup> there was massive publicity, extensive public disclosure  
4 of Department of Energy [DOE] documents, and government investigations  
5 that put the Plaintiffs on notice that Hanford I-131 releases caused  
6 their alleged thyroid conditions. Defendants identify February 27, 1986,  
7 the date of the DOE's disclosure of 18,920 pages, as the date the  
8 Plaintiffs had knowledge regarding causation. Defendants assert that  
9 Plaintiffs whose diagnosis occurred before August 6, 1987 (three years  
10 before filing) did not assert timely claims.

11 The Plaintiffs argue that the DOE withheld information on Hanford  
12 emissions from 1944 until February 27, 1986. After the large DOE  
13 document disclosure tremendous efforts were needed to determine if the  
14 reported emissions had injured off-site residents. There was great  
15 uncertainty with many officials, including DOE, stating there was no  
16 evidence of harm. The media reported on many investigations and  
17 repeatedly stated that studies were needed to determine if harm occurred.  
18 Variables that would affect radiation dosage included wind, agricultural  
19 areas, type of products, and dietary habits of residents. See  
20 Defendants' Media Appendix, THE OREGONIAN, Sept. 12, 1986.<sup>3</sup> As of August  
21 6, 1987 (three years before filing), a Plaintiff would have concluded  
22 that uncertainty was great and the ongoing Hanford Environmental Dose  
23

24 <sup>2</sup>The Evanson class action was filed August 6, 1990 (CY-90-3067).

25 <sup>3</sup>Hereinafter citations to the Defendants' two volume Media Appendix  
26 will be to the media source and date of publication.

