

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

MAR 30 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 GRANTING PLAINTIFFS'
MOTION TO STRIKE DEFENDANTS'
GOVERNMENT CONTRACTOR DEFENSE

This Order relates to: All Cases

A hearing on Plaintiffs' Motion to Strike Defendants' "Government Contractor" Defense [pursuant to Fed. R. Civ. P. 12(f)], filed January 16, 2004 (Ct. Rec. 1399), was held March 17, 2004, in Spokane, Washington. Peter Nordberg presented Plaintiffs' argument; Kevin Van Wart¹ presented Defendants' argument. Also present were the following counsel representing the listed parties:

Plaintiffs' Lead Counsel	Louise Roselle
Plaintiffs	Counsel
Jaros	Roy S. Haber
Seaman	
Hamilton/Criswell	Merrill Davidoff (Telephonic)
Evenson	Arnold Levin John Cummings
Berg	Richard Eymann Steven Jones Connie Powell

¹Defendants' Lead Counsel.

Berg/Lumpkin	
Matthies	
Defendants	Counsel
E.I. DuPont De Nemours & Co. [DuPont]	William (Randy) Squires
General Electric Co. [GE]	
UNC Nuclear Industries, Inc. [UNC]	

The Court took the matter under advisement. The Court has reviewed the file, the briefing on the Plaintiffs' Motion to Strike, and considered the oral argument of counsel. For the reasons stated below, the Court grants the Plaintiffs' Motion to Strike the Defendants' "Government Contractor" Defense.

I. BACKGROUND

The Amended Joint Consolidated Complaint for the cases consolidated in *In Re: Hanford*, CY-91-3015-WFN, was filed August 29, 2003. Federal question jurisdiction is asserted pursuant to the Price-Anderson Act, 42 U.S.C. § 2210(n)(2). Supplemental jurisdiction is asserted pursuant to 28 U.S.C. § 1367. The Plaintiffs' eight claims against the Defendants who operated the Hanford nuclear weapons facility are alleged to arise under the Price-Anderson Act and/or state law.²

²Plaintiffs' claims include: (1) negligence; (2) absolute or strict liability; (3) trespass; (4) private nuisance; (5) public nuisance; (6) outrage; (7) negligent infliction of emotional distress; and (8) concert of action/civil conspiracy. Amended Jt. Consol. Compl., filed 8/29/03, pp. 9-16.

