

Statement of

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My name is Diane Curran. I am a partner with the law firm of Harmon, Curran, Spielberg & Eisenberg, LLP.

In response to a freedom of information act request the U.S. Department of Energy has publicly released copies of contracts that the George W. Bush administration entered into with 21 applicants for new nuclear reactor licenses in late 2008, to dispose of spent reactor fuel when the new plants have finished operating. There was no apparent justification for the Bush administration's rush to sign these spent nuclear fuel disposal contracts for new reactors, for which the NRC has barely commenced its licensing reviews.

Having already paid out hundreds of millions in contract damages on spent fuel disposal agreements it could not fulfill, the government should have waited until it knew whether it could deliver on the contracts, instead of signing up for more liability.

These corporations have already reaped tens of millions of dollars in taxpayer-funded contract damages, and stand to get hundreds of millions more. The funds for the damages are coming from the taxpayer-funded Department of Treasury judgment fund.

Here's what we found ...

In a period of less than three months at the end of 2008 and the beginning of 2009, the Bush administration quietly signed contracts to accept spent fuel from 21 new commercial atomic reactors even though at that time, no repository for new sources of spent fuel existed or was planned.

And the government signed these contracts even though it had already paid out \$565 million in contract damages – and faced an additional \$790 million of contract damages at that very same time – for its failure to dispose of the *existing* inventory of spent reactor fuel in the United States. And \$565 million is only part of what DOE owes on these broken spent fuel disposal contracts – DOE is expected to face around an additional billion dollars of damage payments to nuclear power utilities each and every year for the next decade.

The huge contract damages paid by the government are for breach of spent fuel disposal contracts that DOE signed between 1983 and 1987 with over 100 operating commercial atomic reactors in the U.S. Those contracts required DOE to begin accepting waste from utilities on Jan. 31, 1998.

When this deadline was missed, the first of a current total of 71 lawsuits were filed by nuclear utilities against DOE for breach of contract, seeking damages to compensate them for on-site storage costs.

As of July 2009, \$565 million in damages had been awarded, and paid, to five nuclear utilities pursuant to settlements, and one trial court judgment that was not appealed. The funding for these damage awards is ultimately coming out of the U.S. Treasury because the courts have ruled that the ratepayer funded nuclear waste fund (estimated to have \$23.8 billion remaining at the end of fiscal year 2009) cannot be used to pay liability to nuclear utility waste contract holders.

DOE has estimated that by 2020, taxpayer liability for breach of contract damages will amount to \$12.3 billion – thus, around a billion dollars of damage payments to nuclear power utilities each and every year for the next decade.

DOE has not yet estimated the government's liability for these existing contracts beyond 2020. The nuclear industry itself estimates damages will top \$50 billion of taxpayer money. Significantly ... neither of these estimates reflects the impact of the 21 proposed reactor projects covered under the Bush administration agreements with major utilities.

In closing I want to underscore the fact that the new spent fuel disposal contracts signed in the waning days of the Bush administration will add significantly to future liability. In addition to damages, the Department of Justice has, thus far, expended another \$154 million of taxpayer money trying to defend DOE against breach of contract charges and damage awards. This "endless litigation," at taxpayer expense, is expected to continue indefinitely for decades to come.

Thank you for your attention to my remarks.