

## No Time Like the Present

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On May 4, 2015, the U.S. Court of Federal Claims granted Plaintiff, Entergy Nuclear Palisades' motion for summary judgment for an undisputed portion of damages in a spent nuclear fuel case. Unsatisfied with this ruling, the Government moved for reconsideration, which the Court denied.

The underlying dispute concerns the Palisades Nuclear Plant, which Entergy Nuclear Palisades owns and operates. A contract between ENP and the United States required the government to accept and dispose of spent nuclear fuel and high-level radioactive waste from Palisades in January 31, 1998 under the Nuclear Waste Policy Act of 1982. However, both ENP alleged and the Government agreed that this did not happen.

Entergy Nuclear filed a complaint alleging a breach of contract in 2012, and its expert calculated damages for the breach to be \$36.4 million, but the Government's expert only calculated them to be \$20.6 million. The court granted Entergy Nuclear's motion for summary judgment regarding the claim for the undisputed portion of damages, \$20.6 million, and that judgment was entered by the clerk of court for the amount in late May. In its motion for reconsideration, the Government asked the court to revisit its decision to enter partial judgment under RCFC 54(b), arguing that the damages were not separable for entry of partial judgment.

The Court rejected that argument, explaining that the Government's definition of claim was overly restrictive and that both *Stockton Eastern Water District v. United States* and *Bell BCI Co. v. United States* hold that RFCF 54(b)'s requirement of a final claim does not prevent the entry of partial judgment when (1) a portion of the damages has already been definitively established and (2) further litigation will not change the Government's obligation to pay at least that amount.

The Court also explained that there was no reason for any delay in entering a partial final judgment because the damages amount was not disputed and there was no good reason to wait until resolution of the remaining claims, especially since there would be no interest paid on the damages amount during the period of delay.

Read full decision [here](#).