

Congress of the United States

Washington, DC 20510

July 14, 2015

The Honorable Ashton Carter
U.S. Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Carter:

We write to express our outrage that one of your contractors, Kellogg Brown & Root (KBR), is going after 12 sick veterans as part of the ongoing Qarmat Ali legal battle. We feel confident that Americans don't want their tax dollars supporting these scorched-earth tactics and, because the Department of Defense (DoD) may be responsible for KBR's legal bills, we urge you to exercise your authority, take over this litigation, and bring it to a fair conclusion for all parties.

As you are no doubt aware, National Guardsmen from several states including Oregon helped secure the Qarmat Ali Water Treatment Facility in Iraq during 2003. As a result of their work at the plant, these Guardsmen were exposed to sodium dichromate, a highly toxic compound known to cause cancer. When 33 Oregon National Guard soldiers who served at Qarmat Ali developed severe health problems they believe were related to their work at the plant, they sued the military contractor KBR, which was responsible both for the site and for the well-being of the soldiers there.

In November 2012 a Portland jury sided with these veterans, finding KBR negligent and awarding an \$85 million verdict to 12 of the soldiers. Earlier this year, however, an appeals court threw out that decision on a jurisdictional grounds. The case will begin anew in Texas but in the meantime, KBR is seeking nearly \$850,000 in legal fees from the sick Oregonians. If the company wins, these veterans will face a crushing penalty that could force them into bankruptcy and KBR could use the judgment as leverage to intimidate these veterans and other soldiers into dropping claims against the company.

As part of the original contract between the government and KBR, DoD agreed to assume all financial liability for KBR misconduct including unlimited reimbursement of KBR's legal expenses. That contract also included a provision allowing DoD to take control of the litigation process, if necessary. DoD has declined to exercise that authority in the past.

These veterans deserve better but we have also tried to be clear that we are neither picking sides nor trying to influence a legal dispute. Rather, we are concerned about the possibility of the DoD—and ultimately the American taxpayer—footing the bill for this seemingly endless and expensive litigation. In light of recent developments, and the potential for taxpayer dollars to enable the bankrupting of war veterans, we urge you to take control of this litigation and reach an equitable settlement.


Sincerely,



Ron Wyden
United States Senator



Kurt Schrader
Member of Congress



Jeffrey A. Merkley
United States Senator



Suzanne Bonamici
Member of Congress



Earl Blumenauer
Member of Congress



Peter DeFazio
Member of Congress