

February 8, 2000

SECY-00-0031

FOR: The Commission

FROM: John F. Cordes, Jr. /RA/
Solicitor

SUBJECT: ANNUAL REPORT ON COURT LITIGATION (CALENDAR YEAR 1999)

PURPOSE: To Inform the Commission of the Status of Litigation in the Courts

DISCUSSION:

Attached is a report updating events in NRC court litigation since my last cumulative annual report dated January 29, 1999 (SECY-99-030). This report reflects the status of NRC cases in court as of February 8, 2000.

During the reporting period (calendar year 1999), the Commission or its officials were sued twelve times in the courts of appeals,¹ once in federal district court,² and once in the United States Court of Federal Claims.³ During this same one-year period fifteen cases were closed.⁴ The fourteen new cases in 1999 compare to twelve in 1998, four in 1997, ten in 1996, and sixteen in 1995.

¹ Dienethal v. NRC, Nos. 99-1001 & 99-1132 (D.C. Cir.); Eastern Navajo Dine v. NRC, Nos. 99-1190, 99-1194, 99-1195 & 99-1196 (D.C. Cir.); Envirocare of Utah v. NRC, No. 99-1294 (D.C. Cir.); Grand Canyon Trust v. NRC, No. 99-70922 (9th Cir.); National Whistleblower Center v. NRC, Nos. 99-1002 & 99-1043 (D.C. Cir.); Natural Resources Defense Council, Inc. v. NRC, Nos. 99-1269 & 99-1383 (D.C. Cir.).

² Timbers v. United States, No. MJG 99 CV 501 (D. Md.).

³ Westinghouse Electric Co. v. United States, No. 99-105C (U.S. Court of Federal Claims).

⁴ Dienethal v. NRC, No. 99-1001 (D.C. Cir.); Dolford v. United International Investigative Services, Inc., No. AW-98-3984 (D. Md.); El Paso Natural Gas Co. v. Neztosie, No. 98-6 (U.S. Supreme Court); Envirocare of Utah, Inc. v. NRC, Nos. 98-1426, 98-1592 & 99-1294 (D.C. Cir.); Farley v. Kerr-McGee Corp., No. SR-CV-04-95 (Navajo Nation District Court); Little v. United States, No. L-94-2824 (D. Md.); Ma v. Jackson, No. 96-3850-PJM (D. Md.); National Whistleblower Center v. NRC, No. 98-1581 (D.C. Cir.); Natural Resources Defense Council, Inc. v. NRC, No. 99-1269 (D.C. Cir.); Thermal Science, Inc. v. NRC, No. 98-3147 (9th Cir.); Timbers v. United States, No. MJG 99 CV 501 (D. Md.); United International Investigative Services, Inc. v. United States, No. 98-729 (U.S. Court of Federal Claims); Unte Cheh v. Jackson, No. AW-98-3610 (D. Md.).

We also handled seven requests (so-called "Touhy" requests) for NRC testimony, depositions or other evidence for use in private litigation in 1999. The seven Touhy requests in 1999 continues a steady downward trend in such requests in recent years: there were ten in 1998, twenty in 1997, twenty-nine in 1996, and thirty-six in 1995.

Attachment: Litigation Status Report

LITIGATION STATUS REPORT
As of February 8, 2000

ACTIVE CASES

Dienethal v. NRC, No. 99-1132 (D.C. Cir.)

Petitioner in this case challenged a license amendment for Commonwealth Edison's shut-down Zion reactor. The amendment, among other things, removed a requirement that radiation protection personnel ("RPP") be present 24 hours a day. The Licensing Board dismissed the hearing request for lack of standing. On appeal to the Commission (and ultimately to the court of appeals), petitioner maintained that, as a nearby resident, he had standing because a reduction in RPP increased the risk that radiation would migrate offsite and injure him. The Commission turned down petitioner's appeal, holding that he had failed to raise his RPP argument for standing before the Board, and that his argument lacked substance given Zion's shutdown. Petitioner then brought this lawsuit.

On January 21, just ten days after oral argument, the court of appeals (Williams, Randolph & Tatel, JJ) issued a one page order denying the petition for judicial review on the ground that "[t]here is no reversible error in the procedural reasons on which the Commission relies, and they are sufficient to justify the Commission's decision."

Petitioner has 45 days to seek rehearing or and 90 days to seek Supreme Court review.

CONTACT: Stephanie R. Martz
415-1520

Eastern Navajo Dine v. NRC, Nos. 99-1190, 99-1194, 99-1195 & 99-1196 (D.C. Cir.)

Several months ago the court of appeals (Silberman, Henderson & Tatel, JJ) dismissed as premature petitioners' challenge to several interlocutory adjudicatory orders in the pending Hydro Resources administrative adjudication and ordered petitioners to show cause why they should not be assessed sanctions for bringing clearly groundless lawsuits. Petitioners had maintained that their challenge was timely, despite the ongoing administrative process that they had initiated, because the license had already taken effect.

Subsequently, in a November 24 order, the court in fact assessed sanctions and asked us to "submit documentation supporting [our] fees and costs within 30 days." We consulted with the Department of Justice, and prepared papers seeking \$6,258.59. This figure reflected attorney salaries, overhead and printing expenses associated with our motion to dismiss (and a reply memorandum). Petitioners did not object to our figure and in fact promptly submitted a check in the requested amount. The court of appeals, though, has not yet issued a final order reducing the sanctions to an amount certain.

CONTACT: Brooke D. Poole
415-2490

F.A.C.T.S. (For a Clean Tonawanda Site), Inc. v. NRC, No. 98-0354E(H) (W.D.N.Y.)

Plaintiff, a citizens group with members living in or near Tonawanda, New York, seeks an injunction halting further cleanup of the "FUSRAP Tonawanda Site." "FUSRAP" refers to the Department of Energy's "Formerly Utilized Sites Remedial Action Program." Pursuant to a Congressional directive, the Army Corps of Engineers currently is performing the FUSRAP decontamination work. Plaintiff's lawsuit named the NRC, DOE, and the Corps of Engineers as defendants.

Insofar as it involves the NRC, plaintiff's complaint alleges that the NRC should exercise regulatory jurisdiction over the disposition of radioactive material at the Tonawanda site. Plaintiff seeks a declaratory judgment that the NRC has regulatory jurisdiction. Plaintiff also seeks injunctive relief against the Corps of Engineers prohibiting further Corps of Engineers activity until the NRC exercises its jurisdiction.

The district court dismissed the case as to the Corps, but ordered the claims against the NRC transferred to the court of appeals. Working with Department of Justice lawyers, we are seeking reconsideration in the district court, and arguing that the case against the NRC should be dismissed outright.

CONTACT: Susan G. Fonner
415-1629

Fields v. NRC, No. 1:98CV01714 (D.D.C.)

Plaintiff in this lawsuit was a licensed operator at the Crystal River Nuclear Plant in Florida. In 1994, after becoming frustrated by his management's inattention to an alleged safety problem at the plant, plaintiff and a colleague conducted their own "experiment" to substantiate their safety concerns. The concerns turned out to be well-founded, and led to the NRC's imposition of a large civil penalty (\$500,000) against Florida Power and Light Company. The NRC took no enforcement action against plaintiff for his unilateral activity but in letters stated that his actions were unlawful and that the "ends do not justify the means." Plaintiff and his colleague lost their positions as licensed operators at Crystal River.

Plaintiff's initial complaint demanded correction of his NRC records under the Privacy Act. The district court (Sullivan, J.) denied Privacy Act relief on the ground that the Act does not serve as a vehicle for challenging agency action. Plaintiff then amended his complaint to allege Administrative Procedure Act (APA) and due process violations. On February 7, 2000, the district court dismissed those claims on the ground that the agency had taken no action against plaintiff giving rise to legal claims -- *i.e.*, no "final agency action" for APA purposes and no deprivation of a "liberty" or "property" interest for due process purposes.

We have worked with the U.S. Attorney's office in this case. Plaintiff has sixty days to take an appeal.

CONTACT: Catherine M. Holzle
415-1560

Grand Canyon Trust v. NRC, No. 99-70922 (9th Cir.)

This petition for review challenges the Commission's failure to grant emergency relief on a section 2.206 petition and also the agency's issuance of a license amendment approving a reclamation plan for the former Atlas mill tailings site in Moab, Utah. Petitioners' principal claim is that the NRC licensing action violates the Endangered Species Act by not taking adequate account of endangered fish in the Colorado River.

Petitioners filed an opening brief in October, but we filed a motion to dismiss their lawsuit as premature. We argued that petitioners ought not be permitted to seek court of appeals relief setting aside the Moab reclamation plan where, as here, they also are challenging the same plan in a pending ASLBP proceeding. The Ninth Circuit's "Appellate Commissioner" denied our motion "without prejudice" to our renewing the prematurity argument in a full answering brief. We will file the brief as directed.

Petitioners are seeking Endangered Species Act relief not only before the ASLBP and the court of appeals, but also before a federal district court in Utah.

CONTACT: Marjorie S. Nordlinger
415-1616

Grand Canyon Trust v. Babbitt, No. 2:98CV0803S (D. Utah)

This lawsuit, brought by Utah environmental groups and individuals, claims that the Secretary of the Interior and the NRC have violated the Endangered Species Act in allowing the Atlas Corporation to continue to store radioactive mill tailings near the Colorado River and in considering a reclamation plan that will leave the mill tailings in place. The NRC staff had not yet taken licensing action to permit the reclamation plan at the time the lawsuit was filed, but did so few months later.

We have moved to dismiss the suit against the NRC on the ground that exclusive jurisdiction for judicial review of NRC licensing-related activities lies in the courts of appeals. Plaintiffs have sought injunctive and summary judgment relief. The district court has not yet acted on any of the motions.

We are working with Department of Justice attorneys on the case.

CONTACT: Marjorie S. Nordlinger
415-1616

National Whistleblower Center v. NRC, Nos. 99-1002 & 99-1043 (D.C. Cir.)

This petition for review challenged the Commission's decision to reject a request for a hearing in the Calvert Cliffs license renewal proceeding. The Commission turned down the hearing request on the ground that the petitioner, the National Whistleblower Center (NWC), had failed to submit timely contentions.

A split panel of the court of appeals (Wald & Edwards, JJ., Williams, J., dissenting) initially granted NWC's petition for review. The court focused on the refusal of the Licensing Board and the Commission to grant NWC a two-month extension of time it had sought to file contentions. The panel held unlawful the Commission's insistence, in its initial order referring NWC's hearing request to the Board, that requests for extensions of time be granted only upon a showing of "unavoidable and extreme circumstances." According to the panel, this test was so different from the NRC's traditional "good cause" test that it amounted to an amendment of NRC regulations requiring notice-and-comment rulemaking.

Ten days later, though, the panel (on its own motion) vacated the original decision, and set the case for supplemental briefing and reargument. After a snowstorm postponed the initial January 26 argument date, the case now is slated to be heard on March 2.

CONTACT: Marjorie Nordlinger
415-1616

Natural Resources Defense Council, Inc. v. NRC, No. 99-1383 (D.C. Cir.)

Several citizens groups filed two lawsuits challenging the Commission's recent decision to implement changes in its Sunshine Act rules allowing some forms of non-decisional Commission meetings outside the usual Sunshine Act strictures. The Commission's rule changes rest on a 1984 Supreme Court decision construing the Sunshine Act, FCC v. ITT World Communications, 466 U.S. 463 (1984). The Commission first promulgated the rule changes some years ago, but deferred effectuating them until recently.

Petitioners initially filed suit after the Commission's initial announcement of its intent to implement its Sunshine Act rule changes, but before the Commission had completed its consideration of comments from the public and before it had actually effectuated the new rules. On its own motion, the court of appeals dismissed the initial petition for review (No. 99-1269) "as premature." In the meantime, however, petitioners had filed a second, timely, petition for review (No. 99-1383). The Court has set a schedule calling for briefs in January and February, with an oral argument set for May.

CONTACT: Catherine M. Holze
415-1560

Westinghouse Electric Co. v. United States, No. 99-1015C (United States Court of Federal Claims)

This is a damages case arising out of an environmental cleanup of a contaminated industrial site in Blairsville, Pennsylvania, used in the production of fuel for the Navy's nuclear programs. The claim is that a contract between the Atomic Energy Commission and plaintiff obliges the government to foot the bill for the cleanup. Plaintiff seeks monetary relief under both the contract and CERCLA.

Plaintiff has named the United States, the NRC and the Department of Energy as defendants in the case. We are investigating the facts to see whether there is a basis for claiming no NRC

involvement. Department of Justice lawyers are representing the government in the Court of Federal Claims.

CONTACT: Charles E. Mullins
415-1618_

CLOSED CASES

Dienethal v. NRC, No. 99-1001 (D.C. Cir., decided March 31, 1999)

This lawsuit challenged a Licensing Board decision dismissing petitioner's challenge, for lack of standing, to license amendments at Commonwealth Edison Company's Zion nuclear power plant. We filed a motion to dismiss the suit, on the ground that it had been filed prematurely. At the time petitioner filed suit, he also was pursuing an administrative appeal of the Board decision to the Commission. The Commission ultimately affirmed the Board decision (CLI-99-04).

The court of appeals (Edward, Ginsburg & Sentelle, JJ.) agreed with our prematurity argument and issued a one-page order granting our motion to dismiss.

CONTACT: Brooke D. Poole
415-2490

Dolford v. United International Investigative Services, Inc., No. AW-98-3984 (D. Md., decided February 26, 1999)

Plaintiffs in this lawsuit were former security guards at the NRC who lost their jobs when they could not meet weight requirements contained in their employer's contract with the NRC. They sued their employer, former NRC contractor United International Investigative Services (UIIS), and claimed unlawful discrimination under the Americans With Disabilities Act (ADA). UIIS, in turn, brought a "third-party action" against the NRC on the theory that UIIS's decision to fire plaintiffs rested entirely on NRC-imposed weight requirements for security guards. UIIS demanded that the NRC provide indemnification for any damages assessed against UIIS.

The district court (Williams, J.) issued an order terminating the lawsuit. The court ruled that neither the ADA itself nor federal common law gave contractors a right to seek indemnification from the government in ADA suits. The court also ruled that plaintiffs' obesity was not a proper basis for an ADA suit, both because obesity is not generally regarded as a "disability" under the ADA and because UIIS did not regard plaintiffs as disabled or take action against them on that ground.

We worked with the U.S. Attorney's office in Maryland in defending this lawsuit. There apparently will be no appeal.

CONTACT: Grace H. Kim
415-3605

El Paso Natural Gas Co. v. Neztosie, No. 98-6 (U.S. Supreme Court, decided May 3, 1999)

This case raised complex jurisdictional questions under the Price-Anderson Act. The underlying lawsuits were filed in Navajo Tribal Courts and claimed damages against the owners of abandoned uranium mines and mills for claimed adverse health effects. The owners sought a federal court injunction against continuation of the tribal court suits on the ground that “nuclear tort” claims arise exclusively under the federal Price-Anderson Act and lay outside the jurisdiction of tribal courts. The lower courts refused injunctive relief and required the owners to exhaust their tribal court remedies. The Supreme Court then took up the case. The Solicitor General filed an amicus curiae brief urging reversal.

The Court, in an opinion by Justice Souter, reversed, embracing the position taken in the government’s amicus brief. The Court decided that the usual doctrine requiring defendants in tribal court to exhaust tribal court remedies does not apply in the Price-Anderson Act context, which preempts state and tribal law. The Court held that the mine and mill owners were entitled to insist that federal courts, not tribal courts, decide the question whether plaintiffs’ claims in fact fall under the Price-Anderson Act.

We worked closely with the Department of Justice and the Department of Energy on the government’s amicus brief and on the oral argument in this case.

CONTACT: Marjorie S. Nordlinger
415-1616

Envirocare of Utah, Inc. v. NRC, Nos. 98-1426 & 98-1592 (D.C. Cir., decided Oct. 22, 1999)

These consolidated petitions for review challenged Commission decisions dismissing requests for hearings in two NRC license amendment proceedings. The license amendments granted authority to International Uranium (USA) Corporation (IUSA) and Quivira Mining Company to dispose of radioactive byproduct material from offsite sources. A competitor, Envirocare of Utah, sought NRC hearings on the license amendments. In separate opinions, the Commission rejected the hearing requests on the ground that Envirocare’s claimed competitive harms did not satisfy the judicial “zone of interests” test for standing. In the IUSA case, the Commission also ruled that quite aside from the judicial test Envirocare’s competitive harms did not satisfy the Atomic Energy Act’s “interest” requirement for an NRC hearing.

The court of appeals (Randolph, Edwards & Sentelle, JJ) upheld the Commission’s refusal to grant Envirocare a hearing and denied its two petitions for review. The court initially pointed out that “Envirocare spends all of its time” arguing that its claims of competitive harm meet the judicial test for standing. This emphasis was misplaced, according to the court, because as a regulatory agency rather than an Article III court, the Commission “is not bound to follow” judicial standing tests. The court said that “prudential standing requirements, of which the ‘zone of interests’ test is one, are ... inapplicable to an administrative agency acting within the jurisdiction Congress assigned it.”

The court thus did not consider Envirocare’s claims under the judicial test, but turned instead to the Commission’s alternate rationale for its decision -- its view that Envirocare’s competitive harm is not among the “interests” that trigger a right to a hearing under section 189 of the

Atomic Energy Act. On that issue, the court deferred to the Commission's understanding that the Act offered hearing opportunities only to those with genuine safety or environmental concerns, not those claiming purely competitive harm. Nothing in the Act, stated the court, "indicates that the license requirement was intended to protect market participants from new entrants."

CONTACT: Grace H. Kim
415-3605

Envirocare of Utah v. NRC, No. 99-1294 (D.C. Circuit, order of dismissal issued Nov. 26, 1999)

In October, the court of appeals upheld a Commission decision refusing to grant "competitor's" standing to Envirocare to intervene in licensing proceedings involving Quivira Mining and International Uranium. Envirocare of Utah v. NRC, 194 F.3d 72 (D.C. Cir. 1999). See Litigation Report 1999-6, SECY-99-274. Subsequently, Envirocare decided to withdraw this companion lawsuit, which had been held in abeyance. This lawsuit challenged the NRC's rejection of a section 2.206 petition attacking a license amendment granted to International Uranium. The court of appeals granted Envirocare's motion to dismiss its petition for review voluntarily. No briefs had been filed.

CONTACT: Grace H. Kim
415-3605

Farley v. Kerr-McGee, No. SR-CV-04-95 (Navajo Nation District Court, Shiprock District, 3d party complaint filed July 10, 1996)

This suit, filed in a Navajo Nation court, seeks damages from several corporations for injury and death allegedly resulting from radiation at a uranium milling facility near Shiprock, New Mexico. The corporations, in turn, have filed a third-party complaint impleading the federal government, including the NRC, in an effort to obtain indemnification for any damages that are assessed.

The third-party complaint rests on the argument that the Shiprock mill operated as part of an Atomic Energy Commission procurement program. It is not clear why the third-party complaint names the NRC as a party, because DOE, not the NRC, succeeded the now-defunct AEC in areas like uranium procurement. It also is not clear that a Navajo Nation court possesses jurisdiction to adjudicate claims against the federal government.

The United States Attorney's submitted a letter to the tribal court denying any tribal court jurisdiction over the United States government. We are administratively closing the cas, subject to reopening, as no claims have been reasserted against the NRC.

CONTACT: Marjorie S. Nordlinger
415-1616

Little v. United States, No. L-94-2824 (D. Md., decided by Fourth Circuit, June, 1999)

This was a Federal Tort Claims Act suit filed by a person claiming injuries resulting from the NRC's "failing to properly place and maintain . . . concrete furniture [at its White Flint facility] such that it was safe to use and . . . failing to warn of the hazard in using said furniture." Plaintiff sought \$500,000 in damages from the government. The district court entered summary judgment for the government. Plaintiff unsuccessfully pursued an appeal to the Fourth Circuit.

OGC worked with the U.S. Attorney's office in this case.

CONTACT: Donald F. Hassell
415-1550

Ma v. Jackson, No. 96-3850-PJM (D. Md., filed December 10, 1996)

Two NRC employees bypassed for promotion filed this lawsuit seeking damages and injunctive relief for alleged age and race discrimination. The case entered mediation and has been closed, subject to reopening by plaintiffs.

CONTACT: Elva Berry
415-1536

National Whistleblower Center v. NRC, No. 98-1581 (D.C. Cir., decided March 31, 1999)

This was the first of three lawsuits filed by the National Whistleblower Center (NWC) challenging its dismissal, for failure to file timely contentions, from the Calvert Cliffs license renewal proceeding. We moved to dismiss this lawsuit as premature, on the ground that it was filed at the same time as NWC was pursuing an administrative appeal to the Commission. The court of appeals (Edwards, Ginsburg & Sentelle, JJ.) agreed with our position and issued an order dismissing the suit.

Remaining before the court of appeals are two additional suits, filed after the final Commission decision in the Calvert Cliffs case. The court of appeals has consolidated the two remaining suits for briefing and argument, but has not yet established a briefing schedule.

CONTACT: Marjorie S. Nordlinger
415-1616

Natural Resources Defense Council, Inc. v. NRC, Nos. 99-1269 (D.C. Cir., dismissed Nov. 8, 1999)

Several citizens groups filed two lawsuits challenging the Commission's recent decision to implement changes in its Sunshine Act rules allowing some forms of non-decisional Commission meetings outside the usual Sunshine Act strictures. The Commission's rule changes rest on a 1984 Supreme Court decision construing the Sunshine Act, FCC v. ITT World Communications, 466 U.S. 463 (1984). The Commission first promulgated the rule changes some years ago, but deferred effectuating them until recently.

Petitioners initially filed suit after the Commission's initial announcement of its intent to implement its Sunshine Act rule changes, but before the Commission had completed its consideration of comments from the public and before it had actually effectuated the new rules. On its own motion, the court of appeals dismissed the initial petition for review (No. 99-1269) "as premature." In the meantime, however, petitioners had filed a second, timely, petition for review (No. 99-1383), which remains pending before the court of appeals.

CONTACT: Catherine M. Holzle
415-1560

Thermal Science, Inc. v. NRC, No. 98-3147 (8th Cir., decided July 23, 1999)

For nearly three years the NRC has been attempting to get the *Thermal Science* civil penalty proceeding off the ground, but the agency's efforts have been tied up by a pre-enforcement lawsuit brought by TSI. Last summer, a federal district court dismissed the lawsuit as premature. *Thermal Science, Inc. v. NRC*, 29 F.Supp.2d 1068 (E.D. Mo. 1998). Recently, "relying largely on the well-supported opinion of the district court," the United States Court of Appeals for the Eighth Circuit (McMillian, Arnold & Sachs, JJ.) affirmed the district court decision.

Although the court of appeals agreed with our position on prematurity, it saw "troubling procedural issues" in the case -- principally the lapse of time since the underlying violations and the "institutional loyalties" at the NRC that might "have some influence in resolving the merits." The court indicated that it might have stepped in to decide the controversy now "if TSI's double jeopardy and lack of regulatory authority arguments had been compelling (or if they could have been summarily rejected)." The court concluded, however, that it lacked a sufficient record to decide the case on the merits, particularly the question whether NRC has the statutory authority to impose civil penalties on non-licensees for violation of the Wrongdoer Rule. (As the court noted, we did not offer a full-scale merits argument on the civil penalty issue, on the theory that judicial review must await a definitive Commission decision.)

The court concluded its opinion with the admonition that "the questions should be carefully and promptly examined at the agency level. Prudence would seemingly dictate determining the legal soundness of a penalty proceeding before preparing to relitigate the criminal case with a reduced burden of proof."

TSI now has 45 days to seek rehearing in the court of appeals and 90 days to seek certiorari in the Supreme Court.

CONTACT: Charles E. Mullins
415-1618

Timbers v. United States, No. MJG 99 CV 501 (D. Md., decided June, 1999)

This is a Federal Tort Claims Act suit for damages against the United States arising out of a slip and fall in an NRC building (OWFN). The fall allegedly occurred because of a wet floor. Plaintiff has sued not only the government but also an NRC contractor, Tecom. The district

court dismissed the case as to the government. OGC worked with the United States Attorney's office in defending the suit.

CONTACT: Donald F. Hassell
415-1550

United International Investigative Services, Inc. v. United States, No. 98-729 C (U.S. Court of Federal Claims, settled in December, 1999)

This lawsuit challenged the NRC's termination of a contract for security guard services at the NRC's Rockville facilities. The lawsuit argued that the NRC terminated plaintiff's contract in July for failure to possess a Maryland license, but failed to provide plaintiff a ten-day period to "cure" the default, as the contract allegedly required. The lawsuit also maintained that plaintiff was under no obligation to obtain or maintain a state license.

Working with Department of Justice lawyers, we reached a settlement agreement with plaintiff last November. The agreement altered the basis for termination of the security guard contract from a "termination for default" to a "termination for convenience." Under the terms of the settlement, the lawsuit could be revived on limited issues if the parties fail to reach agreement on the "termination for convenience" costs.

CONTACT: Grace H. Kim
415-3605

Unte Cheh v. Jackson, No. AW-98:3610 (D. Md., settled Sept. 30, 1999)

Plaintiff, an NRC employee, claims various forms of unlawful discrimination and filed this suit under Title VII of the Civil Rights Act of 1964 and under the Americans with Disabilities Act. OGC worked with the United States Attorney's office in defending the case. It was settled last September.

CONTACT: Marvin L. Itzkowitz
415-1566