

November 22, 1982



SECY-82-464

**ADJUDICATORY ISSUE**  
(Information)

For: The Commission  
From: E. Leo Slaggie, Acting Solicitor  
Subject: LITIGATION REPORT FOR WEEK OF  
NOVEMBER 15, 1982  
Discussion: 1. Font y. U.S., M.D. Ala. No. 81-19-S

This lawsuit has been pending in the District Court in Montgomery, Alabama, concerning plaintiff's allegations that Government regulatory negligence caused him to be exposed to radiation in a 1969 accident. We moved to dismiss the case on the grounds that the licensing actions complained of were not NRC's but the State of New York's, pursuant to a section 274 agreement, and that any other allegations were barred by the exceptions to the Federal Tort Claims Act. At a hearing on August 5 District Judge Hobbs indicated his unwillingness to rule on a motion to dismiss if the plaintiff believed that some discovery would be important to the resolution of that motion. The plaintiff thereafter provided the Judge with a list of proposed discovery, which we opposed as being illegally irrelevant. After a further hearing on November 10, the Judge, in an order dated November 12,

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denied the motion to dismiss and directed the plaintiff to proceed with discovery.

2. NRDC v. NRC, D.C. Cir. No. 82-1962  
(Clinch River)

Oral argument is set for November 24 at about 11:30 a.m.

3. Del-AWARE v. Baldwin, D.C. E.D. Pa.

On November 18, Del-AWARE, an intervenor in the Limerick operating license proceeding, filed suit in Federal District Court, naming the NRC, the Corps of Engineers, the Delaware River Basin Commission, Philadelphia Electric Company, and several other entities as defendants. Del-AWARE seeks a preliminary injunction blocking construction of a project for diverting water, some of which would be used in the Limerick cooling towers, from the Delaware to the Schuylkill River.

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