

APPENDIX B

The Navy-NAS committee and the Science Court

The Navy-NAS committee was created, funded, and chosen by the Navy to review the safety of a proposed Navy project. The first committee that reviewed the project (the Ad Hoc Committee) made findings and reached conclusions that were quite at variance with the official Navy view. A second committee, shielded by the light that is associated in the popular mind with the National Academy of Sciences, was chosen by the Navy to overcome the adverse publicity suffered when the Ad Hoc report was released in 1975. In addition to the three openly outrageous choices of Miller, Michaelson and Schwan, many of the other committee members were either Navy grantees, or worked for corporations which were Navy grantees or corporations which did business with the Navy. The Navy-NAS Committee members were treated procedurally as judges. The NAS staff brought Navy officials before the committee, who explained why the Navy believed that its proposed project was not a health hazard. On March 25, 1976, in Washington D.C., members of the public who disagreed with the Navy were invited to appear before the Navy-NAS Committee. Thereafter the staff of the NAS sent letters to many ELF investigators announcing their appointment as "consultants" to the Navy-NAS Committee; each letter specified that the consultant be "directly responsible to Abramson." The consultants,

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who in normal terminology would be called witnesses, appeared before the Navy-NAS Committee. Each described his own work and answered questions concerning it. Unlike a normal judicial proceeding, in which the evidence is a matter of public record, the evidence received by the Navy-NAS Committee was impounded. The NAS Staff has not released the ELF reports from the foreign literature, or the position papers of the various ELF consultants, or the summaries and updates of various ongoing Navy research projects, or the transcripts of the presentations of the ELF consultants, or the correspondence and other documents that were sent and received by the Navy-NAS Committee. In its final report, the Navy-NAS Committee listed only citations to the literature which supported its decisions, and analyses of the literature which colorably were not supportive, and consequently had to be explained away.

Thus, on the basis of a permanently impounded record, individuals chosen by the Navy who had conflicts of interests ranging from arguable to obvious, made judgments supportive of prior Navy decisions.

The fundamental defects of the National Academy of Sciences committee as a mechanism for the resolution of scientific disputes have been previously recognized. Efforts have been underway to create alternative, more impartial mechanisms. One possibility, the "Science Court," has recently come under consideration by the Task Force of the Presidential Advisory

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Group on Anticipated Advances in Science and Technology (Task Force). The Task Force said:

"The Science Court (will) be concerned solely with questions of scientific fact. It will leave social value questions - the ultimate policy decisions - to the normal decision-making apparatus of our society, namely, the executive, legislative, and judicial branches of government....The basic mechanism proposed here is an adversary hearing, open to the public, governed by a disinterested referee, in which expert proponents of the opposing scientific positions argue their cases before a panel of scientists/judges. The judges themselves will be established experts in areas adjacent to the dispute. They will not be drawn from researchers working in the area of dispute, nor will they include anyone with an organizational affiliation or personal bias that would clearly predispose him or her towards one side or the other. After the evidence has been presented, questioned, and defended, the panel of judges would prepare a report on the dispute, noting points on which the advocates agree and reaching judgments on disputed statements of fact."

Although Becker and Marino agreed, Miller, Michaelson, and Schwan refused the invitation of a Task Force member to participate in a Science Court to explore the issues of health hazards associated with high voltage transmission lines.