ARMED SERVICES BOARD OF CONTRACT APPEALS
SKYLINE SIX
5109 LEESBURG PIKE
FALLS CHURCH VA 22041-3208

1 October 1999

MEMORANDUM FOR: THE SECRETARY OF DEFENSE
THE SECRETARY OF THE ARMY
THE SECRETARY OF THE NAVY
THE SECRETARY OF THE AIR FORCE

SUBJECT: Report of Transactions and Proceedings of the Armed Services Board of Contract Appeals for the Fiscal Year Ending 30 September 1999

This report is furnished under paragraph 9 of the Charter of the Armed Services Board of Contract Appeals, revised 1 July 1979. The statistics reflect the adjudication of appeals of the Army, Navy, Air Force, Defense Logistics Agency (DLA), and other defense agencies. Also included are appeals of various executive agencies which have been adjudicated under inter-agency arrangements, as provided in 41 U.S.C. § 607(c).

The following statistics cover activities of the Board during the reporting period and the current reserve of pending matters:

A.	Appeals docketed during FY 1999 (includes 49 reinstatements)	663
B.	Appeals disposed of during FY 1999	706
C.	Number of Appeals Pending 1 October 1982	1594
	Number of Appeals Pending 1 October 1983	1695
	Number of Appeals Pending 1 October 1984	1729
	Number of Appeals Pending 1 October 1985	2074
	Number of Appeals Pending 1 October 1986	2096
	Number of Appeals Pending 1 October 1987	2503
	Number of Appeals Pending 1 October 1988	2355
	Number of Appeals Pending 1 October 1989	2321
	Number of Appeals Pending 1 October 1990	2462
	Number of Appeals Pending 1 October 1991	2367
	Number of Appeals Pending 1 October 1992	2198
	Number of Appeals Pending 1 October 1993	2027
	Number of Appeals Pending 1 October 1994	1977
	Number of Appeals Pending 1 October 1995	1822
	Number of Appeals Pending 1 October 1996	1543
	Number of Appeals Pending 1 October 1997	1325
	Number of Appeals Pending 1 October 1998	1266
	Number of Appeals pending 1 October 1999	1223
	Net Decrease in Docket, FY 1999	43

Printed on Recycled Paper

D. Source of Appeals Docketed FYs 1995-99

	FY 95	FY 96	FY 97	FY 98	FY 99
Air Force	251	169	140	147	129
Army	405	268	183	148	125
Corps of Eng	*	*	101	104	92
Navy	292	229	224	171	165
DLA	101	108	109	93	53
Other	164	235	78	75	50
Reinstated	110	96	88	58	49
TOTAL	1323	1105	923	796	663

E. Status of Appeals Pending End of FY 1999 (includes 22 Rule 12s):

Complaint Due	125
Answer Due	104
Discovery	607
To Be Set	33
Hearing Set	128
Transcript & Briefs Due	51
Suspense	6
Ready to Write	169
TOTAL	1223

F. Appeals Disposed of During FYs 1995-99

1. Origin of Appeals:	FY 95	FY 96	FY 97	FY 98	FY 99
Air Force	287	305	177	131	124
Army	551	429	277	160	138
Corps of Eng	*	*	111	110	100
Navy	357	349	375	254	163
DLA	97	126	106	131	82
NASA	8	11	22	19	8
Other Agencies	164	126	57	41	82
Admin. Disposal	14	28	16	9	9
2. Rule 12 Proceedings	180	147	173	137	87
3. Record only Dispositions	182	280	165	120	86
4. Disposition:					
Dismissed	1083	969	823	583	475
Denied	227	216	175	118	82
Sustained	168	199	143	154	140
TOTAL	1478	1384	1141	855	697

*Corps of Engineers appeals prior to FY 97 were included in the Army appeals

Of the Board's 1,223 active appeals, the Army has 233 (19.1%), the Corps of Engineers has 163 (13.3%), the Navy has 346 (28.3%), the Air Force has 261 (21.3%), the DLA has 117 (9.6%), and the remaining 103 appeals (8.4%) are from other sources. At the conclusion of FY 99, 3 of the appeals were court remands, 25 were applications under the Equal Access to Justice Act, 6 were motions for reconsideration, and 22 were being processed under Board Rule 12 (11 expedited and 11 accelerated).

At the close of FY 99, the U.S. Court of Appeals for the Federal Circuit had 19 cases on its docket relating to ASBCA decisions. The Board is not aware of any appeals pending before District Courts relating to ASBCA decisions. No requests have been received from District Courts for an advisory opinion under the Cochran Amendment (41 U.S.C. § 609(f)).

During the fiscal year, the parties requested the Board's ADR services 68 times, covering 112 appeals and 11 pre-appeal disputes. The cases varied in amount from several thousand dollars to millions of dollars. Of the 68 requests, 31 were for binding ADR, while the remaining 37 requests were for non-binding ADR. Only one of the ADR procedures finalized during FY 99 was unsuccessful.

The Board continues to struggle with the high-grade freeze and the Department of Defense downsizing efforts. Of the 37 administrative judge positions authorized by the Deputy Secretary of Defense on 22 May 1986, only 25 positions are filled. The Board has not hired a replacement judge since 1993.

Paul Williams

PAUL WILLIAMS
Chairman