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M E M O R A N D U M

To: Jim Courter, Chairman
Matt Behrmann, Staff Director
Commission Staff

From: Mary A. Hook, Acting General Counsel

Re: Update on Plattsburgh: Motion for a Preliminary Injunction

Date: April 18, 1994

State of New York, Cuomo, McHugh et al. v. Defense Base Closure Commission et al.: Plattsburgh AFB

On December 2, 1993, plaintiffs filed a civil action for declaratory judgment against the Commission, DOD and the Air Force to enjoin the Secretary of Defense from taking any action to close Plattsburgh AFB, New York.

The complaint cites numerous causes of action including; (1) the Commission exceeded its statutory authority and (2) the Commission did not find substantial deviation by the Secretary in rendering its recommendation on McGuire/Plattsburgh AFB, (3) the Commission failed to follow its procedural requirements of a 30 day publication in the Federal Register, (4) the Commission improperly interpreted its enabling statute's requirements for the decision-making process.

Summary Update: In late March, 1994 the Plaintiffs filed a request for a preliminary injunction motion to stop all actions (aircraft and military and civilian personnel movement) by the Secretary of Defense in implementing the closure of Plattsburgh until the Supreme Court's decision on Specter is handed down in June/July of 1994.

Arguments on the motion were held on the injunction request in the Northern District of New York District Court on April 11, 1994. The Judge did not rule on the motion, rather he asked the parties to attempt to arrive at an agreement.

On April 15, 1994, the parties agreed to write a stipulation where the Air Force would proceed with its current plan to move six

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aircraft and 126 military personnel. The stipulation result is that no civilians will lose their jobs pending the Specter decision. If the Air Force needs to alter the plan between now and June, it will provide plaintiffs with 10 days notice.

The motion for summary judgment and the government's motion to dismiss will be stayed until June 1994.