A decision in an environmental whistleblower case has established that federal employees discrimi-
nated against for raising environ-
mental concerns can file suit under en-
vironmental laws and avoid the
merit-protection process.

"This is a major, landmark de-
cision," said Stephen M. Kahn, at-
torney for William L. Marcus and
chairman of the National Whistle-
blower Center.

Previously only private citizens
had been able to sue for damages
under such environmental statutes
as the Safe Drinking Water Act. Such
cases are handled not by the En-
vironmental Protection Agency, but
by the Labor Department, to prevent
possible conflicts of interest.

But when Mr. Marcus, an EPA
hydrologist, was fired in May 1992
for criticizing the agency's policies,
it represented an opportunity to test
the application of environmental
statutes to federal employees.

A Labor Department administra-
tive law judge ruled in Mr. Marcus'
favor in December 1992, but such
rulings do not become final until ap
proved by the secretary of labor. The
EPA appealed the ruling, but on
Monday Labor Secretary Robert
Reich issued a decision supporting
the initial ruling.

Mr. Reich ordered the EPA to rein-
state Mr. Marcus.

Mr. Marcus, who worked in the
EPA's Office of Drinking Water, will
receive two years' back pay and
benefits, with interest. Mr. Marcus
also will receive legal fees and
$50,000 in compensatory damages.

Mr. Kohn said Mr. Reich's de-
cision "allows federal employees to
avoid the difficult merit-systems
process in whistleblower cases."

"It offers a choice with more
objective findings -- for emo-
tional distress, punitive damages,
attorney's fees -- previously unavailable
to most federal employees," he said.

Mr. Marcus and his attorneys said
they hoped to reach an agreement on
when he will return to work at EPA.

EPA spokesman John Kadera
deprecated the ruling, saying the
agency's attorneys need time to
review Mr. Reich's decision.

Whistleblowers also were the
focus of oral arguments Wednesday
at the U.S. Court of Appeals for the
D.C. Circuit in a case involving First
Amendment free-speech rights. The case concerns two EPA
whistleblowers, William J. Sanjok
and Hugh Kaufman, both of whom
have been outspoken critics of EPA
policies, making frequent appear-
ances before private groups around
the country.

Beginning in 1991, the EPA re-
 fused to allow the men to accept
private compensation for travel ex-
pen ses, and they were forced to
cancel a number of speaking en-
gen erals. The men filed suit, charg-
ing that under EPA policies they
were forced to accept private com-
pen sation and were allowed to be reim-
bur sHed for their expenses.

The whistleblowers contend that
their freedom of speech was in-
fringed upon by the EPA's total dis-
tinction over reimbursement based
on the content of their speeches.