

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 21 October 2004

CASE NO.: 2004-TSC-00005

In the Matter of:

ROB GUSTAFSON,
Complainant,

vs.

ARCTIC SLOPE REGIONAL CORPORATION
ENERGY SERVICES,

and

BP EXPLORATION ALASKA,
Respondents.

Appearances: A. Alene Anderson, Esquire
For the Complainant

Gregory L. Youngman, Esquire
For Arctic Slope Regional Corporation Energy Services

Charles C. Thebaud, Jr., Esquire and Jay Seymour, Esquire
For BP Exploration Alaska

Before: Jennifer Gee
Administrative Law Judge

RECOMMENDED DECISION AND ORDER
APPROVING SETTLEMENT AND RECOMMENDING DISMISSAL

This proceeding before the Office of Administrative Law Judges (“OALJ”) arises under the employee protection provisions of Section 23 of the Toxic Substances Control Act, 15 U.S.C. Section 2622, and Section 11(c) of the Occupational Safety and Health Act, and the applicable procedural regulations found at 29 C.F.R. Part 24.

On September 3, 2004, I was advised by counsel for Arctic Slope Regional Corporation Energy Services that the parties had reached a settlement in this matter and that a settlement agreement would be submitted for my review and approval. Accordingly, I issued an order on September 13, 2004, vacating the hearing and briefing schedule in this matter.

On October 18, 2004, I received a document entitled, "JOINT MOTION TO APPROVE SETTLEMENT AGREEMENT AND FOR AN ORDER OF DISMISSAL," ("Joint Motion") accompanied by a document entitled "SETTLEMENT AGREEMENT," executed by all parties. The Joint Motion and Settlement Agreement provide that the Settlement Agreement is to be treated as confidential commercial information under Exemption 4 of the Freedom of Information Act. Pursuant to the parties' joint request, the Settlement Agreement will be treated pursuant to the procedures at 29 C.R.R. § 70.26.

I have carefully reviewed the terms of the Settlement Agreement submitted in this case and find the Settlement Agreement to be fair, adequate, and reasonable. Thus, I recommend that the Settlement Agreement between the Complainant, Rob Gustafson, and Respondents, Arctic Slope Regional Corporation Energy Services and BP Exploration Alaska, be APPROVED, and this matter be DISMISSED WITH PREJUDICE. Accordingly, it is recommended that:

1. The Secretary of Labor or her designees on the Administrative Review Board approve the Settlement Agreement;
2. The claim of Rob Gustafson against Respondents Arctic Slope Regional Corporation Energy Services and BP Exploration Alaska, be dismissed with prejudice.

A

JENNIFER GEE
Administrative Law Judge

NOTICE: This Recommended Decision and Order will automatically become the final order of the Secretary of Labor unless, pursuant to 29 C.F.R. § 24.8, a petition for review is timely filed with the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Such petition for review must be received by the Administrative Review Board within ten business days of the date of this Recommended Decision and Order, and shall be served on all parties and on the Chief Administrative Law Judge. *See* 29 C.F.R. §§ 24.8 and 24.9, as amended by 63 Fed. Reg. 6614 (1998).