



In the Matter of:

**LOUEM M. BOSCHUK,**

**ARB CASE NO. 97-020**

**COMPLAINANT,**

**(ALJ CASE NOS. 96-ERA-16)**

**v.**

**DATE: January 14, 1997**

**J & L TESTING, INC.,**

**RESPONDENT.**

BEFORE: THE ADMINISTRATIVE REVIEW BOARD<sup>1/</sup>

**PRELIMINARY ORDER AND  
ORDER ESTABLISHING BRIEFING SCHEDULE**

On November 27, 1996, the Administrative Law Judge (ALJ) issued a Recommended Decision and Order (R. D. and O.) in this case arising under the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. § 5851 (Supp. IV 1992), as amended by the Comprehensive National Energy Policy Act of 1992 (CNEPA), Pub. L. No. 102-486, 106 Stat. 2776, 3123. The ALJ found in favor of the Complainant and recommended reinstatement, back pay based on a salary of \$400.00 a week from November 3, 1995 until his reinstatement and prejudgment interest at the rate specified in 29 C.F.R. § 20.58(a). The ALJ further allowed 30 days from the R. D. and O. for Complainant's attorney to submit a fee application and 15 days beyond that for Respondent to reply with any objections. Since the amended ERA requires that a preliminary order awarding damages, **except compensatory damages**, be issued when complainants prevail before an ALJ, the following preliminary order is hereby entered:

For the period of November 3, 1995 until reinstatement, Respondent shall pay Complainant back pay in the amount of \$400.00 per week plus pre-judgment interest calculated pursuant to 29 C.F.R. § 20.58(a).

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<sup>1/</sup> On April 17, 1996, Secretary's Order 2-96 was signed delegating jurisdiction to issue final agency decisions under the environmental whistleblower statutes and the regulations at 29 C.F.R. Part 24, to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996). Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order and regulations under which this Board now issues final agency decisions.

When the ALJ issues a supplemental recommended order on attorney's fees, a supplemental preliminary order will be issued.

The following briefing schedule is established. **Respondent** may file an initial brief, not to exceed 30 double spaced typed pages, on or before **February 12, 1997**. **Complainant** may file a reply brief, not to exceed 30 double spaced typed pages, on or before **March 14, 1997**. **Respondent** may file a rebuttal brief, exclusively responsive to the reply brief, on or before **March 29, 1997**.

All pleadings are expected to conform to the page limitations and should be prepared in Courier 12 point, 10 character-per-inch type or larger, with minimum one inch left and right margins and minimum 1¼ inch top and bottom margins, printed on 8½ by 11 inch paper.

An original and four copies of all pleadings and briefs shall be filed with the Administrative Review Board, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-4309, Washington, D.C., 20210.

**SO ORDERED.**

**DAVID A O'BRIEN**  
Chair

**KARL J. SANDSTROM**  
Member

**JOYCE D. MILLER**  
Alternate Member