



**In the Matter of:**

**JAMES G. BLODGETT, JR.,**  
**COMPLAINANT,**

**v.**

**TENNESSEE DEPARTMENT  
OF ENVIRONMENT AND  
CONSERVATION,**

**RESPONDENTS.**

**ARB CASE NO. 03-043**

**ALJ CASE NO. 03-CAA-7**

**DATE: April 29, 2004**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

*For the Complainant:*

**Edward A. Slavin, Jr., Esq., St. Augustine, Florida**

*For the Respondent:*

**Kim L. Kirk, Esq., Department of Environmental and Conservation, Nashville,  
Tennessee**

**R. Jan Jennings, Esq., Carrol D. Kilgore, Esq., Branstetter, Kilgore, Stranch &  
Jennings, Nashville, Tennessee**

**ORDER DENYING MOTION TO RECONSIDER  
AND VACATE FINAL DECISION**

On March 19, 2004, the Administrative Review Board issued a Final Decision and Order (F. D. & O.) in this case arising under the whistleblower protection provisions of the Clean Air Act, 42 U.S.C.A. § 7622 (West 1995); the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C.A § 9610 (West 1995); the Federal Water Pollution Control Act, 33 U.S.C.A. § 1367 (West 2001); the Safe Drinking Water Act, 42 U.S.C.A. § 300(j)-9(i) (West 1991); the Solid Waste Disposal Act, 42 U.S.C.A. § 6971 (West 1995); and the Toxic Substances Control Act,

15 U.S.C.A. § 2622 (West 1998). In the F. D. & O., the Board dismissed James Blodgett's complaint because he failed to file a brief in response to the Board's briefing order and he failed to respond to the Board's Order to Show Cause why his case should not be dismissed for failure to prosecute it. *Blodgett v. TDEC*, ARB No. 03-043, ALJ No. 2003-CAA-7, slip op. at 3 (Mar. 19, 2004)(*Blodgett I*).

On March 31, 2004, Blodgett filed a Motion to Reconsider and Vacate the Final Decision. In support of the Motion, Blodgett alleges that he filed a response to the Order to Show Cause on January 5, 2004, by fax and mail.

The Board has inherent authority to reconsider its decisions arising under the environmental statutes at issue here in appropriate circumstances. *Leveille v. New York Air Nat'l Guard*, ARB No. 98-079, ALJ Nos. 94-TSC-3, 4, slip op. at 3-4 (ARB May 16, 2000). In this case reconsideration would not interfere with, delay or otherwise affect the fulfillment of the Acts' safety purposes and goals. *Id.* Furthermore, the request was filed soon after the Board issued its decision.

Nevertheless, upon reconsideration, we must deny Blodgett's motion to vacate our F. D. & O. Blodgett's assertion that he filed a response to our Show Cause Order in this case is erroneous. Although Blodgett did file a response to a Show Cause Order in *Blodgett v. TDEC*, **ARB No. 03-138**, ALJ No. 03-CAA-15 (ARB Mar. 22, 2004)(*Blodgett II*), on January 5, 2004, a review of the Board's docket and the case file confirms that he did not file such a response in this case, *Blodgett I*. Furthermore, regarding Blodgett's request that the ARB "disclose all files and indicies on his cases," Blodgett is welcome to review his case file and the Board's docket entry for his case at any mutually convenient time. As for Blodgett's request that we reverse and remand the Administrative Law Judge's decisions in *Blodgett I* and *Blodgett II*, for the reasons articulated in our decisions in *Blodgett I* and *Blodgett II*<sup>1</sup>, we decline to do so.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**WAYNE C. BEYER**  
**Administrative Appeals Judge**

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<sup>1</sup> We note that in and *Blodgett II*, on November 19, 2003, Blodgett informed the Board that he was attempting to obtain new counsel, but until such time as he did, he would be appearing pro se. Thus, it appears that counsel for Blodgett in *Blodgett I* no longer represents Blodgett in *Blodgett II*.