



Issue Date: 17 September 2009

CASE NO.: 2009-CAA-00013

In the Matter of:

THOMAS J. HAHN,
Complainant,

vs.

MAKAH TRIBAL COUNCIL,
Respondent.

FINAL ORDER DISMISSING COMPLAINT

This case arises under the employee protection provisions of the Clean Air Act (“CAA”), 42 U.S.C. § 7622, the Solid Waste Disposal Act of 1976 (“SWDA”), 42 U.S.C. § 6971, and the Occupational Safety & Health Act of 1970 (“OSHA”), 29 U.S.C. § 660(c). The Complainant filed an initial complaint on December 2, 2008, alleging a number of complaints against the Respondent under the whistleblower protection provisions of these Acts.. He subsequently amended the complaint on several occasions.

After investigating the allegations in the complaint and its amendments, the Regional Administrator for the Occupational Safety & Health Administration (“Administrator”) dismissed the complaint in a determination dated August 10, 2009. On August 26, 2009, the Complainant mailed a timely request asking for a hearing before the Office of Administrative Law Judges (“OALJ”). This request, dated August 25, 2009, was received by OALJ on September 11, 2009. Meanwhile, on September 9, 2009, the OALJ received another letter¹ dated August 4, 2009, from the Complainant stating that he was withdrawing his appeal of the Administrator’s determination.

The Complainant has the right to withdraw his objections to the Administrator’s findings at any time before they become final. 29 C.F.R. § 24.111(c). Under the provisions of 29 C.F.R. § 24.105(c), the Administrator’s findings and dismissal of the complaint did not become final because the Complainant filed an objection and a request for a hearing on those findings. However, they will become final if his request for a hearing is withdrawn.

Accordingly, it is ORDERED that:

¹ The date was erroneous. The error is obvious since it refers to his August 25, 2009, letter asking for a hearing. For unknown reasons, this letter was actually received before the request for hearing.

1. The Complainant's request to withdraw his request for a hearing before the OALJ is GRANTED.
2. The Determination made by OSHA on August 10, 2009, is the final decision of the Secretary of Labor.
3. This matter is DISMISSED WITH PREJUDICE.

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JENNIFER GEE
Administrative Law Judge

San Francisco, California