



Issue Date: 31 October 2013

CASE NO.: 2013-ERA-00003

In the Matter of:

MARLENE LADENDORFF,
Complainant,

vs.

ENERGY NORTHWEST,
Respondent.

DECISION AND ORDER APPROVING SETTLEMENT

This claim arises under the whistleblower protection provisions of the Energy Reorganization Act of 1978 (“the Act”), 42 U.S.C. § 5851. The parties have settled. The parties submitted a proposed settlement agreement on October 21, 2013, entitled “Confidential Settlement Agreement and Release” (“the Agreement”). I will find that the proposed settlement is generally proper, and I will approve it. But I will address three issues: confidentiality, choice of law, and the settlement of matters beyond the scope of the Act.

First, the Agreement’s title implies that it is confidential, and a provision limits Claimant’s disclosure of certain items. This Office, however, does not treat settlement agreements or the orders approving them confidentially. Our case files are generally public and subject to disclosure under the Freedom of Information Act. The Department of Labor will follow appropriate pre-disclosure notification procedures to address that assertion.¹ Beyond that, nothing about the parties’ characterization of their Agreement changes the public nature of files at this Office.

Second, the parties choose Washington law to control any dispute between them concerning the Agreement. *See* ¶11. As I construe this provision, it is not intended to and does not limit the authority of any federal court or the Secretary of Labor. It is an agreement between the parties,

¹ *See Seater v. Southern California Edison Co.*, 1995-ERA-13 (ARB March 27, 1997) (“If an exemption is applicable to the record in this case or any specific document in it, the Department of Labor would determine at the time a request is made whether to exercise its discretion to claim the exemption and withhold the document. If no exemption is applicable, the document would have to be disclosed.”)

limited in its application to themselves. For the federal courts and the Secretary, the law and regulations of the United States control.²

Third, some language in the Agreement purports to settle claims beyond the scope of the Act. I limit my review to the Sarbanes-Oxley Act claim only; anything beyond that exceeds this Office's jurisdiction.

That said, I find the proposed settlement agreement fair and reasonable as to the claim under the Sarbanes-Oxley Act. It adequately protects Ms. Ladendorff, and none of the terms is against public interest. The proposed settlement therefore is APPROVED, and the parties are ORDERED to comply with its terms.

SO ORDERED.

STEVEN B. BERLIN
Administrative Law Judge

² See *Hildebrand v. H. H. Williams Trucking, LLC*, ARB No. 11-030, ALJ No. 2010-STA-056, slip op. at 3 (ARB Sept. 26, 2011).