



**Issue Date: 26 June 2014**

**CASE NO.: 2013-ERA-00015**

**In the Matter of:**

**WILLIAM ROBERTS,  
Complainant,**

**v.**

**BECHTEL CORPORATION,<sup>1</sup>  
Respondents.**

**DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT,  
CANCELING HEARING, AND DISMISSING COMPLAINT**

This case arises under the employee protection provisions of Energy Reorganization Act of 1974, as amended, 42 U.S.C. §5851, with implementing regulations appearing at 29 C.F.R. Part 24, as amended, 76 Fed. Reg. 2808 (Jan. 18, 2011). The case is currently set for a hearing to be held in Knoxville, Tennessee from July 15 to 17, 2014, pursuant to a Third Notice of Hearing and Prehearing Order of June 23, 2014. However, the hearing is being canceled and the case is being dismissed because the remaining parties have entered into a settlement. For the reasons set forth below, I am now approving the settlement.

On June 24, 2014, Complainant filed a motion to dismiss Bechtel Power Corporation and to withdraw his objections to the Secretary's findings. In support, Complainant submitted a copy of a Confidential Settlement Agreement and General Release, signed by all parties [hereafter "Settlement Agreement"] and a Stipulation of Dismissal with Prejudice.

Settlements in certain environmental whistleblower cases, and specifically cases brought under the Energy Reorganization Act, must be filed with the presiding administrative law judge and reviewed to determine whether they are fair, adequate and reasonable. 29 C.F.R. §24.111(d)(2). Compare *Hoffman v. Fuel Economy Contracting*, 1987-ERA-33 (Sec'y Aug. 4, 1989) (Order) (requiring that settlements in whistleblower cases brought under the Energy Reorganization Act be reviewed to determine whether they are fair, adequate and reasonable) with *Indiana Dept. of Workforce Development v. U.S. Dept. of Labor*, 1997-JTP-15 (Admin. Review Bd. Dec. 8, 1998) (holding ALJ has no authority to require submission of settlement agreement in Job Training Partnership case when parties have stipulated to dismissal under Rule

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<sup>1</sup> Tennessee Valley Authority was dismissed as a party by an Order Canceling Hearing, Approving Partial Settlement, and Dismissing Tennessee Valley Authority of May 30, 2014.

41(a)(1)(A)(ii), FRCP, and contrasting ERA cases.) As amended in January 2011, the regulations applicable to environmental whistleblower cases distinguish between types of environmental cases in determining whether a settlement needs to be approved by an administrative law judge prior to dismissal. Those regulations require that cases brought under the Energy Reorganization Act be submitted for approval. Specifically, section 24.111 provides, in relevant part:

(c) At any time before the Assistant Secretary's findings or order become final, a party may withdraw its objections to the Assistant Secretary's findings or order by filing a written withdrawal with the ALJ. . . . If the ALJ approves a request to withdraw objections to the Assistant Secretary's findings or order, and there are no other pending objections, the Assistant Secretary's findings and order will become the final order of the Secretary. . . . If the objections are withdrawn because of settlement under the Energy Reorganization Act, the Clean Air Act, the Safe Drinking Water Act, or the Toxic Substances Control Act, the settlement must be submitted for approval in accordance with paragraph (d) of this section.

(d) . . .

(2) Adjudicatory settlements under the Energy Reorganization Act, the Clean Air Act, the Safe Drinking Water Act, and the Toxic Substances Control Act. At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the ALJ if the case is before the judge, or by the ARB if the ARB has accepted the case for review. A copy of the settlement must be filed with the administrative law judge or the ARB, as the case may be.

(e) Any settlement approved by the Assistant Secretary, the administrative law judge, or the ARB will constitute the final order of the Secretary and may be enforced pursuant to Sec. 24.113 [providing for enforcement through a civil action brought in the United States district court for the district in which the violation was found to have occurred].

29 C.F.R. §24.111.

*Confidentiality Clause.* The Settlement Agreement contains a confidentiality provision. The parties are advised that records in whistleblower cases are agency records which the agency must make available for public inspection and copying under the Freedom of Information Act (FOIA), 5 U.S.C. §552, and the Department of Labor must respond to any request to inspect and copy the record of this case as provided in the FOIA. *See generally Seater v. Southern California Edison Co.*, 1995-ERA-13 (ARB Mar. 27, 1997).

*Other Causes of Action and Future Claims.* To the extent that the Settlement Agreement may be deemed to relate to matters under laws other than the ERA, I have limited my review to determining whether the terms thereof are a fair, adequate and reasonable settlement of Complainant's allegations that the Respondent violated the ERA. *See, e.g., Poulos v. Ambassador Fuel Oil Co., Inc.*, 1986-CAA-1 (Sec'y Nov. 2, 1987). Also, to the extent that provisions of the agreement may make reference to future claims, they are construed as relating solely to the right to sue in the future on claims or causes of action arising out of facts occurring

before the date of the agreement. *See generally McCoy v. Utah Power*, 1994-CAA-0001 (Sec'y. Aug. 1, 1994).

Having reviewed the terms of the Settlement Agreement, I find that the settlement is fair, reasonable, and adequate, and that it should be approved. Under 29 C.F.R. §24.111(e), this Decision and Order will become the final order of the Secretary of Labor and is enforceable as such. Accordingly,

### **ORDER**

**IT IS HEREBY ORDERED** that the hearing in this matter set for July 15 to 17, 2014 be, and hereby is, **CANCELED**; and

**IT IS FURTHER ORDERED** that the Settlement Agreement be, and hereby are, **APPROVED**, and the parties shall comply with its terms to the extent that they have not already done so; and

**IT IS FURTHER ORDERED** that this action be, and hereby is **DISMISSED WITH PREJUDICE**.

PAMELA J. LAKES  
Administrative Law Judge

Washington, D.C.