



**Issue Date: 08 December 2008**

CASE NO. 2004-SDW-00001

*In the Matter of:*

**Ronald Dollens,**

*Complainant,*

vs.

**Bechtel SAIC Company, LLC,**

*Respondent.*

### **Order Approving Settlement Agreement and Dismissing Complaint**

The parties moved for the approval of a settlement agreement they submitted. Mr. Dollens claimed here that Bechtel SAIC Company, LLC, was liable to him for violations of the employee protection provisions of the Energy Reorganization Act, the Safe Drinking Water Act, the Federal Water Pollution Control Act, the Toxic Substances Control Act, the Solid Waste Disposal Act, the Clean Air Act, the Comprehensive Environmental Response, Compensation Liability Act, and the Pipeline Safety Improvement Act. The terms of the settlement agreement are to be treated as confidential by the parties, and they ask that the Office of Administrative Law Judges treat the filing of their settlement terms as confidential as well, relying on 29 C.F.R. § 18.9.

The OALJ is a government agency, and this is a public proceeding. The submissions of the parties, including their settlement agreement, typically become records subject to disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. FOIA requires Federal agencies to disclose records when requested to do so, unless they are statutorily exempt from FOIA disclosure. *Gerald Fish v. H and R Transfer*, ARB No. 01-071; ALJ Case No. 00-STA-56 (ARB April 30, 2003).

Although the Complainant and Bechtel SAIC did not explicitly state that the settlement agreement they submitted comprises and includes confidential commercial information that they believe is exempt from disclosure under FOIA exemption 4, I infer that request based on the confidentiality obligations the parties assume in Section 5 of the agreement. See also, Section 5(a)

of the Agreement concerning a request that the Office of Administrative Law Judges place the agreement under seal to “prevent disclosure . . . to third parties”). Department of Labor regulations provide specific procedures for responding to FOIA requests, including appeals from denials of requests for disclosure by those who request records, and procedures to protect the countervailing interests of those who have submitted confidential commercial information to the Department. *See* 29 C.F.R. § 70.26 (2008). The settlement agreement the Complainant and Bechtel SAIC have submitted for approval will be placed in a separate envelope and identified as matter that the parties contend contains confidential commercial information that qualifies for FOIA exemption 4. Whether that is so will be determined by the FOIA disclosure officer if a request is made for the Department to disclose the settlement document.

The settlement agreement between the Complainant and Bechtel SAIC constitutes a fair, adequate and reasonable settlement of the Complainant’s claims under the employee protection provisions of the nuclear and environmental statutes listed above, and I approve the settlement agreement.

The settlement agreement between the Complainant and Bechtel SAIC is approved. This case is dismissed with prejudice.

So Ordered.

A

William Dorsey  
ADMINISTRATIVE LAW JUDGE

San Francisco, California