



Issue Date: 05 November 2007

CASE NOS.: 2005-SDW-00004/00006

In the Matter of:

GREGORY A. DANN,
THOMAS KOSCIK,
Complainants,

vs.

BECHTEL SAIC COMPANY, LLC, and
BECHTEL NEVADA CORPORATION,
Respondents.

ORDER APPROVING SETTLEMENT

This case arises under the Safe Drinking Water Act ("SDW"), 42 U.S.C. § 300J-9(i), Pipeline Safety Improvement Act of 2002 ("PSIA"), 49 U.S.C. § 60129, Energy Reorganization Act of 1974 ("ERA"), 42 U.S.C. § 5851, Solid Waste Disposal Act ("SWDA"), 42 U.S.C. § 6971, Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2622, Clean Air Act ("CAA"), 42 U.S.C. § 7622, Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9610 ("CERCLA"), and Clean Water Act ("CWA"), 13 U.S.C. § 1367. This proceeding with the Office of Administrative Law Judges ("OALJ") was initiated after the Complainants asked for a hearing before the OALJ about complaints they filed against Respondents Bechtel SAIC Company, LLC and Bechtel Nevada Corporation under the whistleblower protection provisions of these environmental statutes.

This was originally a consolidation of three cases involving one other complainant, Lon Fuller, and set for hearing on September 10, 2007. These cases were severed from Mr. Fuller's case on September 5, 2007, after I was advised during a telephone pre-hearing conference that Mr. Fuller had settled his case with the Respondents. These cases proceeded to trial.

Due to rulings on prior motions filed by Bechtel SAIC, by the time the hearing started on September 10, 2007, the only claims pending against Bechtel SAIC were those brought under the ERA and the blacklisting claims under the remaining environmental statutes. Prior to the start of the hearing, Bechtel SAIC filed a motion for summary decision asking that the ERA complaints against it be dismissed. The Complainants filed a written opposition to the motion. Additionally, it was agreed during the telephonic pre-hearing conference that the blacklisting claims against Bechtel SAIC were only viable if there was a joint employer relationship between Bechtel SAIC and Bechtel Nevada at the time of the alleged blacklisting incident.

At the beginning of the hearing on September 10, 2007, I granted Bechtel SAIC's motion to dismiss the ERA claims against it. The hearing then commenced with evidence and testimony on the issue of whether there was a joint employer relationship between Bechtel SAIC and Bechtel Nevada. After hearing the testimony and considering the evidence on this issue, I ruled that there was no joint employer relationship between Bechtel SAIC and Bechtel Nevada. This resulted in the dismissal of all claims against Bechtel SAIC.

After making my ruling, at my suggestion, the Complainants and counsel for Bechtel Nevada engaged in settlement discussions. At their request, I also met with them to discuss settlement, and we were able to reach a successful resolution of these claims.

The parties have now submitted settlement agreements which memorializes the terms of their agreement. Each Complainant signed a separate settlement agreement. I have reviewed the settlement agreements signed by the Complainants and Bechtel Nevada and find that they are a fair, adequate and reasonable settlement of the Complainants' claims under the employee protection provisions of the environmental statutes listed above, and I approve the settlement agreements.

It is hereby ORDERED that the settlement agreements between the Complainants and Bechtel Nevada Corp. be APPROVED. It is further ORDERED that these cases be DISMISSED WITH PREJUDICE.

A

JENNIFER GEE
Administrative Law Judge

San Francisco, California