



Issue Date: 07 March 2014

Case No.: 2013-SDW-00001

In the Matter of:

MORRIS BATTA,

Complainant,

v.

SMITHFIELD PACKING COMPANY, INC.,

Respondent.

**DECISION AND ORDER
APPROVING SETTLEMENT AGREEMENT
AND
DISMISSING THE COMPLAINT**

This action has been brought under the employee protection provisions of the Safe Drinking Water Act, 42 U.S.C. §300j-9(i), *et seq.* and the Solid Waste Disposal Act, 42 U.S.C. §6971. On February 24, 2014, the parties submitted for my review and approval a Settlement Agreement in which they propose to resolve the claim and request that the matter be dismissed.

Settlements in certain environmental whistleblower cases, and specifically cases brought under the Safe Drinking Water 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).

I note that the Settlement Agreement incorporates certain confidentiality provisions binding upon the parties in a nondisclosure provision. *See generally Connecticut Light & Power Co. v. Secretary of the U.S. Department of Labor*, 85 F.3d 89 (2nd Cir. 1996). 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. Any agency receiving a request for release of the agreement is directed to comply with Section 1 of Executive Order 12,600 (June 23, 1987) and 29 C.F.R. §70.26. Specifically, it is incumbent on any agency receiving such a request to give the parties prompt written notice of the request, to give a reasonable time to object in writing, to consider any objections, and in the event of disclosure of the information over objections, to give the party objecting written notice complying with the obligations set forth in 29 C.F.R. §70.26(f).

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.

ORDER

The settlement agreement is **APPROVED** and the complaint which gave rise to this litigation is **DISMISSED** with prejudice.

KENNETH A. KRANTZ
Administrative Law Judge

KAK/mrc