



**Issue Date: 09 September 2020**

**CASE NO.: 2020-SDW-00001**

**IN THE MATTER OF**

**FRANCISCO OSORIO**

**Complainant**

**v.**

**CITY OF ALAMO**

**Respondent**

**ORDER OF DISMISSAL**

This proceeding arises pursuant to a complaint alleging violations under the employee protection provisions of the Safe Drinking and Water Act (the Act or SDWA), 42 U.S.C. 300j-9, and regulations promulgated thereunder at 29 C.F.R. Part 24, *et seq.* This matter was docketed on January 6, 2020, and the undersigned received this case on January 21, 2020. The hearing is scheduled for November 9, 2020.

The undersigned issued a Notice of Hearing and Pre-Hearing Order on June 3, 2020, directing Complainant to file a detailed complaint on or before June 26, 2020. Respondent was directed by the same Order to file an Answer no later than July 20, 2020. Employer through email, contacted my Attorney Advisor on July 17, 2020, stating that they have not received Complainant's complaint, if any was filed and cannot submit an Answer as directed in the Notice of Hearing and Pre-Hearing Order issued June 3, 2020.

Having received no Complaint or any other contact from Complainant, the undersigned issued an Order to Show Cause on July 27, 2020, directing Complainant Osorio to file a response by Monday, August 10, 2020, as to why this claim should not be deemed abandoned and dismissed for failure to submit a Complaint. Complainant Osorio was also directed to file a Complaint by August 10, 2020. The Order to Show cause was served via electronic mail. Despite having ample time to respond, Complainant has not responded to date to the Order to Show Cause and has not filed a Complaint.

In all proceedings, the judge has "all powers necessary to conduct fair and impartial proceedings." 29 C.F.R. § 18.12(b). This includes the power to "terminate proceedings through dismissal or remand when not inconsistent with statute, regulation or executive order." 29 C.F.R. § 18.12(b)(7). The Department of Labor's Administrative Law Judges "must necessarily manage their dockets in an effort to achieve the orderly and expeditious disposition of cases." *Larue v. KLLM Transport, Inc.*, ARB No. 02-024, ALJ No. 01-STA-54, slip op. at 2 (ARB July 22,

2003). According to the Administrative Review Board, administrative law judges have “inherent power” to dismiss a case on their own initiative for lack of prosecution. *Id.*; see also *Claypoole v. U.S. Xpress Enterprises, Inc.*, ARB Case No. 10-064 (April 26, 2011) (citing *Link v. Wabash R. Co.*, 370 U.S. 626, 629-30 (1962)). Because it appears that Complainant has abandoned this claim based on his failure to respond to orders of this Court, including failure to file a Complaint detailing his allegation against Respondent, the claim is **DISMISSED** with prejudice.

**ORDERED** this 9<sup>th</sup> day of September, 2020, at Covington, Louisiana.

**ANGELA F. DONALDSON**  
**Administrative Law Judge**