

UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES
Washington, DC

Issue Date: 17 October 2023

OALJ Case No.: 2023-SDW-00004
OSHA Case No. 1-0380-22-011

In the Matter of:

KEENAN SARGENT,
Complainant,

v.

CHAMPLAIN VALLEY EQUIPMENT, INC.,
Respondent.

ORDER APPROVING SETTLEMENT AGREEMENT

This matter arises under the employee protection provisions of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300j-9; the Federal Water Pollution Control Act (“FWPCA”), 33 U.S.C. § 1367; and the procedural regulations found at 29 C.F.R. Part 24.

Champlain Valley Equipment, Inc. (“Respondent”) is appealing an August 23, 2023 determination by an assistant regional administrator in the Boston, Massachusetts office of the U.S. Department of Labor’s Occupational Safety and Health Administration (“OSHA”) finding that Respondent violated the SDWA and the FWPCA when Keenan Sargent (“Complainant”) was terminated on June 13, 2022 for reporting illegal dumping of industrial wastewater. It is not yet scheduled for hearing.

On October 13, 2023, counsel for the Complainant and counsel for the Respondent filed *Joint Motion For Approval of Settlement Agreement*, advising the tribunal that the parties had reached a settlement and submitting an executed *Settlement Agreement and General Release* (“Settlement”) for my review and requesting this matter be dismissed with prejudice.

Proceedings under the SDWA and FWPCA may be terminated on the basis of a settlement if either the Secretary or the Administrative Law Judge approves the settlement.¹ A settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate, and reasonable, and in the public interest. *Edmisten v. Ray Thomas Petroleum*, ARB No. 10-020, ALJ No. 2009-STA-00036 (ARB Dec. 16, 2009). Consistent with

¹ 29 C.F.R. § 24.111(d)(2) states that at any time after the filing of objections to the Assistant Secretary’s findings and preliminary order, the case may be settled, and, if the case is before an administrative law judge, the settlement is contingent upon the approval of the administrative law judge.

this required review, the SDWA regulations direct the parties to file a copy of the settlement “with the administrative law judge or the ARB, as the case may be.”² 29 C.F.R. § 24.111(d)(2). Any settlement approved by the ALJ or the ARB constitutes the final order of the Secretary and may be enforced pursuant to § 24.113. 29 C.F.R. § 24.111(e).

Having reviewed the settlement agreement and its provisions, which includes dismissal of the complaint with prejudice, I find the terms, obligations, and conditions fair, adequate and reasonable, and in the public interest.³ I also find that the settlement was not procured through duress.⁴ Accordingly, the Motion is GRANTED.⁵ To the extent not already provided, the parties shall implement the terms of the approved settlement as specifically stated in their agreement.

ORDER

All pending deadlines are REVOKED, the Settlement is APPROVED, and, upon payment of the agreed sums, this matter is DISMISSED with prejudice.

SO ORDERED:

STEPHEN R. HENLEY
Chief Administrative Law Judge

² There is no similar requirement that adjudicatory settlements under the FWPCA be reviewed by the administrative law judge.

³ The parties have agreed to keep the specific terms of the agreement confidential, subject to applicable laws. To effectuate such confidentiality, I will have the settlement agreement sealed. However, notwithstanding the parties’ agreement, the parties’ submissions, including the settlement agreement, become part of the record of the case and are subject to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552(a). If a FOIA request is made for the settlement agreement, the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption.

⁴ Complainant and Respondent were represented by counsel.

⁵ This approval applies only to the SDWA and FWPCA complaints over which the Office of Administrative Law Judges has jurisdiction.