



Issue Date: 28 December 2012

CASE NO.: 2013-SWD-00002

In the Matter of:

**STEVE ZAPPE,
Complainant,**

v.

**NEW MEXICO ENVIRONMENTAL DEPARTMENT,
Respondent.**

ORDER GRANTING MOTION TO DISMISS

This proceeding arises under the Solid Waste Disposal Act (SWDA), 42 U.S.C. §6971 (1988) and the regulations thereunder at 29 C.F.R. Part 24 which contain employee protection provisions of the Act.

On November 19, 2012, I issued a Notice of Docketing and Order to Meet and Confer in which I instructed the parties to provide me with certain information concerning proposed discovery deadlines, a trial date and a location for the hearing. On December 20, 2012, the parties filed a Joint Motion to Dismiss in which they state that Complainant and Respondent have agreed not to pursue this matter further and jointly request a dismissal of this proceeding with prejudice. According to an accompanying "Report of the Parties to the Order to Meet and Confer," Complainant did not intend to request a hearing in the letter he submitted to the Office of Administrative Law Judges on November 19, 2012 which resulted in the docketing of this case. Instead, he says, he simply wanted to note his objection to certain facts set forth in an affidavit submitted by Respondent while the case was before OSHA, and he does not object to the Secretary's findings and order dated October 15, 2012 which found no violation by Respondent of the employee protection provisions of the SWDA.

Based on the foregoing, the parties' joint motion to dismiss is GRANTED and this case is hereby DISMISSED WITH PREJUDICE.

STEPHEN L. PURCELL
Chief Judge