



Issue Date: 17 December 2014

Case No.: **2014-SWD-2**

In the Matter of:
RAYMOND TURNER,
Claimant,

v.

HGS ENGINEERING, INC.,

and

BECHTEL PARSONS BLUE GRASS/PARSONS CORP.
Respondents.

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

This complaint arises under the Section 6971 of the Solid Waste Disposal Act (“SWDA”), 42 U.S.C. §6971. The case was assigned to me for hearing and disposition. On December 11, 2014, the Respondents submitted a Settlement and Release Agreement (“Settlement”) executed by the parties for my review.¹ Of note, some language in the Settlement purports to settle claims and make agreements beyond the scope of the SWD. I limit my review to the Act enumerated above; as discussed herein, anything beyond that exceeds my jurisdiction.

The Settlement resolves the controversy arising from the complaint of Raymond Turner (the Complainant) against HGS Engineering, Inc., Bechtel Parsons Blue Grass, and Parsons Corporation (the Respondents). This Settlement is signed by the Complainant, as well as Authorized Agents for the Respondents. The Settlement provides that the Complainant will release the Respondents from claims arising under the SWD, in addition to other potential and actual causes of action. This Order, however, is limited to whether the terms of the Settlement are a fair, adequate and reasonable settlement of the Complainant’s allegations that the

¹ The parties have agreed that the terms of the settlement will be treated as confidential. The parties are afforded the right to request that information be treated as confidential commercial information where, as here, they are required to submit information involuntarily. 20 C.F.R. § 70.26(b) (2001). The DOL is then required to take steps to preserve the confidentiality of that information, and must provide the parties with predislosure notification if a FOIA request is received seeking release of that information. Accordingly, the Settlement in this matter will be placed in an envelope marked “PREDISCLURE NOTIFICATION MATERIALS.” Consequently, before any information in this file is disclosed pursuant to a FOIA request, the DOL is required to notify the parties to permit them to file any objections to disclosure. See 29 C.F.R. § 70.26 (2001). Furthermore, the undersigned will refrain from discussing specific terms or dollar amounts contained in the Settlement.

Respondents violated the SWD. As was stated in *Poulos v. Ambassador Fuel Oil Co. Inc.*, Case No. 86-CAA-1, Sec. Order, (Nov. 2, 1987):

The Secretary's authority over the settlement agreement is limited to such statutes as are within [the Secretary's] jurisdiction and is defined by the applicable statute. *See Aurich v. Consolidated Edison Company of New York, Inc.*, Case No. 86-CAA-2, Secretary's Order Approving Settlement, issued July 29, 1987; *Chase v. Buncomb County, N.C.*, Case No. 85-SWD-4, Secretary's Order on Remand, issued November 3, 1986.

The applicable provisions in the federal regulations concerning the SWDA provide for submission of settlements to the Administrative Law Judge for approval. (*See* 29 C.F.R. § 24.111(a)). Moreover, settlements become effective when their terms have been reviewed and determined to be fair, adequate, reasonable, and in the public interest. (*i.e. see Collins v. Village of Lynchburg, Ohio*, ARB No. 10-097, ALJ No. 2006-SDW-003, slip op. at 2-3 (ARB June 19, 2010) (*citing Bhat v. District of Columbia Water & Sewer Auth.*, ARB No. 06-014, ALJ No. 2003-CAA-017, slip op. at 2-3 (ARB May 30, 2006)). Any settlement approved by the administrative law judge becomes the final order of the Secretary. 29 C.F.R. § 24.111(e).

The Settlement provides that the Respondents shall make a payment to the Complainant of the amount agreed upon. The parties represent that the compensation terms are fair and reasonable in relation to the claim. The Settlement also provides that Complainant will release any and all claims against the Respondents under the SWD arising out of his employment with the Respondents, and accordingly, the Complainant's claim will be dismissed with prejudice.

The parties agree to keep the terms and conditions of the Settlement confidential, to the extent permitted by law. However, notwithstanding the parties' Settlement, the parties' submissions, including the Settlement, become part of the record of the case and may be subject to disclosure under the Freedom of Information Act, 5 U.S.C. section 552, *et seq.* (FOIA). FOIA requires federal agencies to disclose requested documents unless they are exempt from disclosure. *Faust v. Chemical Leaman Tank Lines, Inc.*, Case Nos. 92-SWD-2 and 93-STA-15, ARB Final Order Approving Settlement and Dismissing Complaint, March 31, 1998. The records in this case are agency records which must be made available for public inspection and copying under FOIA. If a FOIA request is made for the Settlement, the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption.²

Having been advised of the settlement terms and having reviewed the Settlement, noting that the parties are represented by counsel, I find the terms of the Settlement to be fair, adequate, reasonable, and not contrary to public policy, and are therefore approved. Upon my approval, the parties shall implement the terms of the Settlement as stated in the Settlement Agreement. This Decision and Order shall have the same force and effect as one made after a full hearing on the merits. Again, it is noted that my authority only extends to approving settlement of the Complainant's claim against the Respondents under the SWD.

² *See* n. 1, *supra*.

Accordingly,

IT IS HEREBY ORDERED that the Settlement Agreement filed on December 11, 2014, is **APPROVED**, and thereby becomes the final order of the Secretary.

IT FURTHER ORDERED that the complaint filed in this matter is **DISMISSED WITH PREJUDICE**.

PETER B. SILVAIN, JR.
Administrative Law Judge