



In the Matter of:

TOD N. ROCKEFELLER,

ARB CASE NO. 02-051

COMPLAINANT,

ALJ CASE NO. 02-CAA-5

v.

DATE: February 28, 2002

**CARLSBAD FIELD OFFICE,
U.S. DEPARTMENT OF ENERGY,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

ORDER DISMISSING APPEAL AND REMANDING CASE

This case arose when the complainant, Tod N. Rockefeller, filed a complaint with the Department of Labor alleging that the respondent, Department of Energy (DOE), violated the employee protection provisions of the Clean Air Act, 42 U.S.C. §7622 (1994) (CAA); the Solid Waste Disposal Act (SWDA), 42 U.S.C. §6971 (1994); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §9610 (1994) and the Energy Reorganization Act (ERA), 42 U.S.C. §5851 (1994). On February 15, 2002, Rockefeller filed with the Administrative Review Board an interlocutory appeal of an Administrative Law Judge's Order of Remand issued February 7, 2002.

The Secretary and the Administrative Review Board have held many times that interlocutory appeals are generally disfavored, and that there is a strong policy against piecemeal appeals. *See e.g., Amato v. Assured Transportation and Delivery, Inc.*, ARB Case No. 98-167, ALJ Case No. 98-TSC-6 (ARB Jan. 31, 2000); *Hasan v. Commonwealth Edison Co.*, ARB Case No. 99-097; ALJ Case No. 99-ERA-17 (ARB Sept. 16, 1999); *Carter v. B & W Nuclear Technologies, Inc.*, ALJ Case No. 94-ERA-13 (Sec'y Sept. 28, 1994). Accordingly, on February 19, 2002, the Board ordered Rockefeller to show cause why the Board should not dismiss his petition for review as interlocutory and remand this case to the Administrative Law Judge (ALJ) to complete his adjudication of the case.

^{1/} This appeal has been assigned to a panel of two Board members, as authorized by Secretary's Order 2-96. 61 Fed. Reg. 19,978 §5 (May 1996).

On February 25, 2002, Rockefeller, responding to the show cause order, agreed that the Board should dismiss the petition for review and remand the case to the ALJ for further adjudication. Thus, given that interlocutory appeals are not favored and Rockefeller's agreement that his appeal should be dismissed, we **DISMISS** this appeal and **REMAND** the case to the ALJ for further adjudication.

SO ORDERED.

M. CYNTHIA DOUGLASS
Chief Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge