



In the Matter of:

DAVID F. HOCH,

COMPLAINANT,

v.

CLARK COUNTY HEALTH DISTRICT,

RESPONDENT.

**ARB CASE NOS. 00-036
01-023**

**ALJ CASE NOS. 98-CAA-12
00-CAA-12
00-CAA-13
00-CAA-17**

DATE: January 31, 2001

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

Richard Segerblom, Esq., *Las Vegas, Nevada*

For the Respondent:

Mark J. Ricciardi, Esq., Donna L. Strenicki, Esq., *Ricciardi Law Group, Las Vegas, Nevada*

**FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING APPEALS WITH PREJUDICE**

These cases arose when Complainant David F. Hoch filed several complaints alleging that his employer, Respondent Clark County Health District (“District”), violated the whistleblower protection provisions of the Clean Air Act, 42 U.S.C. §7622 (1994)(CAA).

The District appealed the Administrative Law Judge’s [Recommended] Decision and Order in *Hoch v. Clark County Health District*, 1998-CAA-12 (Jan. 18, 2000), and the Supplemental Order Awarding Attorneys’ Fees, 1998-CAA-12 (Mar. 15, 2000), to the Administrative Review Board (ARB) pursuant to 29 C.F.R. §24.8 (2000). The ARB docketed this appeal as ARB Case No. 00-036.

The parties subsequently filed a global settlement agreement of ARB Case No. 00-036 and three cases pending before a second Administrative Law Judge (ALJ), 2000-CAA-012, 2000-CAA-0013, and 2000-CAA-0017. Simultaneously, Hoch and the District submitted a “Joint Stipulation and Request for Certification to the Administrative Review Board” with the second ALJ requesting her to “certify [2000-CAA-012, 2000-CAA-0013, 2000-CAA-0017] to the [ARB] for purposes of settlement.” Order Canceling Hearing and Recommended Order of Dismissal, 2000-CAA-012, 2000-CAA-0013, 2000-CAA-0017 (Dec. 27, 2000) (Order of Dismissal). The ALJ construed the parties’ stipulation as a request for voluntary dismissal of the cases pending before her “without prejudice to their reinstatement in the event that the parties are unable to reach either a ‘global settlement’ or a settlement in the case pending before the ARB that would render the instant cases moot.” Order of Dismissal at 2. The District filed a petition for review of the ALJ’s Order of Dismissal pursuant to 29 C.F.R. §24.8, and the ARB docketed the appeal as ARB Case No. 01-023. The parties subsequently filed an “Amendment to Settlement Agreement.”

The CAA requires the Secretary of Labor to enter into or otherwise approve a settlement. *See* 42 U.S.C. §7622(b)(2)(A). The Secretary, in turn, has delegated to this Board her authority to approve settlements of cases that are pending before the Board at the time the parties enter into the settlement. Secretary’s Order 2-96, 61 Fed. Reg. 19978 (May 3, 1996); 29 C.F.R. §24.8.

The Board requires that all parties requesting settlement approval of cases arising under the CAA provide the settlement documentation for any other claims arising from the same factual circumstances forming the basis of the federal claim, or to certify that the parties entered into no other such settlement agreements. *Beliveau v. Naval Undersea Warfare Center*, ALJ Case Nos. 97-SDW-1, 97-SDW-4, 97-SDW-6; ARB Case Nos. 00-073, 01-017, 01-019, slip. op. at 2 (Nov. 30, 2000). Accordingly, the parties have certified that the Agreement constitutes the entire and only settlement agreement with respect to Hoch’s claims. Settlement Agreement at 6, ¶14.

Review of the Settlement Agreement reveals that it is intended to settle matters under laws other than the CAA. Settlement Agreement at 3, ¶7. Our authority to review settlement agreements is limited to the statutes within our jurisdiction and is defined by the applicable statutes. *Beliveau*, slip. op. at 2; *Pawlowski v. Hewlett-Packard Co.*, ALJ Case No. 97-TSC-3; ARB Case No. 99-089, slip. op. at 2 (May 5, 2000). Therefore, we have restricted our review of the Agreement, as amended, to ascertaining whether its terms fairly, adequately and reasonably settle the environmental whistleblower cases over which we have jurisdiction. *Id.*

We find the overall settlement terms to be reasonable, but include our interpretation of one of its provisions. Paragraph 13 of the agreement provides that the Agreement will be “construed and interpreted in accordance with the laws of the state of Nevada.” We construe this provision to except the authority of the Administrative Review Board and any Federal court which shall be governed in all respects by the laws and regulations of the United States.

Pawlowski, slip op. at 3. As so construed, we find the agreement is a fair, adequate and reasonable settlement of the complaint. Accordingly, we **APPROVE** the Agreement and **DISMISS** the appeals with prejudice.

SO ORDERED.

PAUL GREENBERG
Chair

E. COOPER BROWN
Member

CYNTHIA L. ATTWOOD
Member