



In the Matter of:

PAUL JAYKO,

COMPLAINANT,

and

**ACTING ASSISTANT SECRETARY FOR
OCCUPATIONAL SAFETY AND HEALTH,
U. S. DEPARTMENT OF LABOR,**

INTERVENOR,

v.

OHIO ENVIRONMENTAL PROTECTION AGENCY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

Appearances:

For the Complainant:

E. Dennis Muchnicki, Esq., *Dublin, Ohio*; Michael D. Kohn, Esq., *Kohn, Kohn & Colapinto, P.C. Washington, D.C.*

For the Intervenor:

Judith Kramer, Esq., Steven J. Mandel, Esq., William J. Stone, Esq., *United States Department of Labor, Washington, D.C.*

For the Respondent:

Betty D. Montgomery, Esq., Jack W. Decker, Esq., Richard N. Coglianese, Esq., *Office of the Attorney General of the State of Ohio, Columbus, Ohio*

**APPROVAL OF SETTLEMENT AND
ORDER OF DISMISSAL WITH PREJUDICE**

This case arises under the whistleblower protection provisions of the Toxic Substances Control Act, 15 U.S.C.A. §2622 (West 1998); the Federal Water Pollution Prevention and Control Act, 33 U.S.C.A. §1367 (West 1986); the Safe Drinking Water Act, 42 U.S.C.A. §300j-9(i) (West

1994); the Solid Waste Disposal Act, 42 U.S.C.A. §6971 (West 1995); the Clean Air Act, 42 U.S.C.A. §7622 (West 1995); the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. §9610 (West 1995) and the Energy Reorganization Act, 42 U.S.C.A. §5851 (West 1995).

Paul M. Jayko, an employee of the Respondent Ohio Environmental Protection Agency (Ohio EPA), filed a complaint with the Occupational Safety and Health Administration (OSHA) in 1998. Jayko alleged that Ohio EPA violated each of the listed provisions by retaliating against him for voicing concerns about possible safety and health violations of the statutory programs in which the listed whistleblower protection provisions appear.

After a hearing on the merits of Jayko's complaint, the administrative law judge issued a recommended decision in Jayko's favor. *Jayko v. Ohio Environmental Protection Agency*, 1999-CAA-5 (ALJ Oct. 2, 2000). Ohio EPA petitioned for review of the recommended decision by this Board.

However, before briefs were filed in this forum, the parties settled the case. On March 8, 2001, the parties submitted to this Board a Joint Submission of Settlement Agreement and Motion for Dismissal. The parties request that the settlement agreement be approved and the case dismissed with prejudice. The motion is granted.

Accordingly, the Settlement Agreement is **APPROVED**, and this case is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

PAUL GREENBERG
Chair

E. COOPER BROWN
Member

RICHARD A. BEVERLY
Member