



In the Matter of:

**TAMMY ANN ANDERSON,**

**ARB CASE NO. 98-142**

**COMPLAINANT,**

**ALJ CASE NO. 97-CER-0001**

**v.**

**DATE: July 28, 1998**

**DeKALB PLATING COMPANY,  
INCORPORATED,**

**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**FINAL ORDER OF DISMISSAL**

In this case arising under the employee protection provision of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9610 (1994), the Administrative Law Judge (ALJ) issued an Order Recommending Dismissal of Complaint, dated January 27, 1998, and received by the Administrative Review Board on July 14, 1998. The ALJ's recommendation is based on Complainant's request to withdraw, which was made prior to any hearing. Respondent has not objected to Complainant's request to withdraw the complaint.

The ALJ's recommendation to dismiss this case is consistent with prior decisions of the Secretary and the Board, holding that voluntary dismissals of environmental whistleblower cases are governed by Rule 41 of the Federal Rules of Civil Procedure. *See Seetharaman v. Massachusetts Water Resources Auth.*, ARB Case No. 98-021, ALJ Case No. 97-CAA-17, Nov. 18, 1997; *Lorenz v. Law Eng'g, Inc.*, Case No. 90-CAA-1, Sec. Order, Mar. 12, 1991, slip op. at 3. However, in the absence of a request for dismissal with prejudice, we reject the ALJ's recommendation to dismiss the case with prejudice. *See F. R. Civ. P. 41(a)(1)(i); Thompson v. U.S. Dept. of Labor*, 885 F.2d 551, at 556, 557 (9th Cir. 1989).

Accordingly, the complaint in this case is **DISMISSED** without prejudice.

**SO ORDERED.**

**KARL J. SANDSTROM**

Chair

**PAUL GREENBERG**

Member

**CYNTHIA L. ATTWOOD**

Acting Member