



In the Matter of:

DONALD DORSEY,

ARB CASE NO. 97-128

COMPLAINANT,

ALJ CASE NO. 96-WPC-3

v.

DATE: August 8, 1997

**GREENBRIAR COUNTY
PUBLIC SERVICE DISTRICT #2,**

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

ORDER

This case arises under the Water Pollution Control Act (WPCA), 33 U.S.C. § 1367 (1988). The parties submitted a Settlement Agreement to the Administrative Law Judge (ALJ) seeking approval of the settlement and dismissal of the complaint. The ALJ issued a Recommended Decision and Order (R. D. and O.) on July 25, 1997 approving the settlement.

The R. D. and O. states at page I that the Complainant is "satisfied with the amount of the cash settlement," but the settlement agreement does not contain a provision indicating the amount of money to be paid to Complainant or Complainant's attorney pursuant to the proposed settlement. The Board must know the amount of the cash settlement as well as the amounts Complainant and Complainant's counsel will receive as settlement and attorney's fees and costs amounts, respectively, in order to determine if the settlement agreement is fair, adequate and reasonable. This amount affects not only the Complainant's individual interest, but impacts on the public interest as well, because if the amount is not fair, adequate and reasonable, other employees may be discouraged from reporting safety violations. *See Plumlee v. Alyeska Pipeline Service Co.*, 92-TSC-7, Sec. Dec. and Order, Aug. 6, 1993, slip op. at 5; *Biddy v. Alyeska Pipeline Service Company*, ARB Case Nos. 96-109, 97-015, Order, May 31, 1996, slip op. at 1-2.

The Board also requires that all parties requesting settlement approval of cases arising under the employee protection provisions of the WPC provide the settlement documentation for any other alleged claims arising from the same factual circumstances forming the basis of the federal claim, or to certify that no other such settlement agreements were entered into between the parties. *Biddy v. Alyeska Pipeline Service Company*, ARB Case Nos. 96-109, 97-015, Final Order Approving Settlement and Dismissing Complaint, Dec. 3, 1996, slip op. at 3. Therefore,

prior to approving the settlement, the parties are directed to provide the specified additional settlement documentation or certification.

The parties are required to file a joint response to this Order within ten (10) days. If the parties cannot agree upon a joint response, Complainant's counsel is to submit the required information within ten (10) days from the issuance of this Order. Respondents may submit a response within fifteen (15) days of the issuance of this Order.

Docket entries for this matter shall be filed by directing submissions to the attention of the undersigned at:

Administrative Review Board
United States Department of Labor
200 Constitution Avenue, N.W.
Room S-4309
Washington, D.C. 20210

FOR THE ADMINISTRATIVE REVIEW BOARD:

Gerald F. Krizan, Esq.
Executive Director
Telephone: (202) 219-4728
Facsimile : (202) 219-9315