

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 06 August 2008

CASE NO.: 2008-ERA-00006

In the Matter of:

LEA ANN ALLEN,

Complainant,

vs.

CH2M WG IDAHO, LLC; EG&G TECHNICAL SERVICES and
BARTLETT SERVICES,

Respondents.

ORDER DISMISSING CASE
WITHOUT PREJUDICE

On or about July 21, 2008, Complainant filed notice of intent to bring an action based on the currently pending matter in the United States District Court (D. Id.) on or after August 5, 2008. The notice is based on the Administrative Review Board's not having issued a final decision within one year of the filing of the complaint. On July 23, 2008, I ordered that any party opposing a dismissal show cause why the case should not be dismissed without prejudice. Respondents have filed a non-opposition. Complainant submitted nothing further.

Complainant filed the complaint with the Department's Occupational Safety & Health Administration on September 18, 2006. More than one year has run, and the Board has not issued a final decision. There is no showing of bad faith of the Complainant. Under these

circumstances, the Complainant may bring an action for *de novo* review in the appropriate district court of the United States. 29 C.F.R. § 24.114(a). Complainant having stated intent to do so,

IT IS ORDERED that this matter be, and it hereby is, dismissed without prejudice.

A

STEVEN B. BERLIN
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: This Decision and Order will become the final order of the Secretary of Labor unless a written petition for review is filed with the Administrative Review Board ("the Board") within 10 business days of the date of this decision. The petition for review must specifically identify the findings, conclusions or orders to which exception is taken. Any exception not specifically urged ordinarily will be deemed to have been waived by the parties. The date of the postmark, facsimile transmittal, or e-mail communication will be considered to be the date of filing. If the petition is filed in person, by hand-delivery or other means, the petition is considered filed upon receipt.

The Board's address is: Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Ave., NW., Washington, DC 20210.

At the same time that you file your petition with the Board, you must serve a copy of the petition on (1) all parties, (2) the Chief Administrative Law Judge, U.S. Dept. of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001, (3) the Assistant Secretary, Occupational Safety and Health Administration, and (4) the Associate Solicitor, Division of Fair Labor Standards. Addresses for the parties, the Assistant Secretary for OSHA, and the Associate Solicitor are found on the service sheet accompanying this Decision and Order.

If the Board exercises its discretion to review this Decision and Order, it will specify the terms under which any briefs are to be filed. If a timely petition for review is not filed, or the Board denies review, this Decision and Order will become the final order of the Secretary of Labor. *See* 29 C.F.R. §§ 24.109(e) and 24.110, found at 72 Fed. Reg. 44956-44968 (Aug. 10, 2007).