



In the Matter of:

WEEKS MARINE, INC.

ARB CASE NO. 99-021

***In re:* Request for addition of conformed
wage rates, Corps of Engineers Mississippi
River Flood Control Project, Louisiana**

DATE: January 29, 1999

Appearances:

For the Complainant:

Michael Mayeux, *Bourg, Louisiana*

For the Deputy Administrator

Douglas J. Davidson, *U.S. Department of Labor, Washington, D.C.*

ORDER DISMISSING PETITION FOR REVIEW

This case is before the Board pursuant to the Davis-Bacon Act, 40 U.S.C. §276a *et seq.* (DBA), and its implementing regulations. *See* 29 C.F.R. Parts 1 and 7 (1998).

By letter of December 2, 1998, Weeks Marine, Inc. petitioned the Board for review of wage determination rates applicable to clamshell oilers employed on a U.S. Army Corps of Engineers flood control project in Louisiana. According to the petition, the wage determination at issue (LA-970013) did not include a rate for oilers. Weeks Marine had proposed to the Wage and Hour Division that a rate of \$8.00/hr. be allowed for the clamshell oilers, presumably pursuant to the Davis-Bacon regulations' conformance procedures. *See* 29 C.F.R. §5.5(a)(1)(ii) (1998).

The petition submitted by Weeks Marine did not include any indication that the company had received a "final decision" on its conformance request from the Wage and Hour Administrator. On January 7, 1999, we issued a Notice of Appeal and Order to Show Cause, noting that the Board's jurisdiction to consider cases under the Davis-Bacon Act extends only to review of "final decisions" of the Administrator of the Wage and Hour Division (or authorized representative) under 29 C.F.R. Parts 1, 3 and 5. 29 C.F.R. §7.1(b).^{1/} Without

^{1/} Under the regulations dealing with Davis-Bacon enforcement actions, the Board also hears appeals of certain decisions issued by Administrative Law Judges under 29 C.F.R. Part 6. 29 C.F.R. (continued...)

a final decision from the Wage and Hour Division, it was unclear that the Board had jurisdiction to hear the case.

Weeks Marine responded to our order by forwarding a copy of an undated letter signed by Margaret J. Washington of the Wage and Hour Division's national headquarters staff.^{2/} Ms. Washington is the Section Chief, Construction Wage Determinations. In the letter, the Division denies Weeks Marine's request for a conformed clamshell oiler rate of \$8.00/hr., concluding that the correct conformed rate would be \$10.00/hr.

By motion dated January 29, 1999, the Deputy Administrator has moved for dismissal of this case. Attached to the Motion to Dismiss is a copy of correspondence from Ms. Washington to the Army Corps of Engineers dated January 21, 1999, in which the Division advises the Corps that the conformed \$8.00/hr. wage rate for clamshell oilers is acceptable.

Based upon this correspondence, it is the Board's view that Weeks Marine has been granted the relief that it requested in its petition. Accordingly, this case has become moot. As this Board and its predecessor panels have held previously, we are under no obligation to render decisions in cases where no relief can be granted. *See In the Matter of U.S. Dep't of the Navy (Unidyne Corp.)*, ARB Case No. 96-185 (May 15, 1997) and cases cited therein. Accordingly, this case is hereby DISMISSED as moot.

SO ORDERED.

PAUL GREENBERG

Chair

E. COOPER BROWN

Member

CYNTHIA L. ATTWOOD

Acting Member

^{1/}(...continued)

§§6.20, 6.34, 6.45, 6.57.

^{2/} It is unclear whether this document also was provided to counsel for the Administrator. However, in light of the disposition of the case, no party has been prejudiced by this omission.