



Issue Date: 15 December 2005

Case No.: 2006-CAA-0001

In the Matter of:

STEPHEN DURHAM,
Complainant,

v.

TENNESSEE VALLEY AUTHORITY,
Respondent.

ORDER DENYING MOTION TO AMEND COMPLAINT

On November 16, 2005, Complainant filed a Motion to Amend Complaint to include violations under the Energy Reorganization Act. Complainant's case centers on allegations that he was terminated because of a letter he sent to Senator Lamar Alexander in January 2005. In a July 30, 2005 letter to OSHA, Complainant alleges he informed Senator Alexander of serious safety and environmental issues at Widows Creek Fossil Plant. In an August 5, 2005 e-mail to OSHA, Complainant states his belief that he was terminated on March 27, 2005, because of the letter sent to Senator Alexander which raised safety, environmental and administrative issues.

29 C.F.R. § 18.5(e) permits appropriate amendments to complaints. While the Court recognizes that *pro se* litigants are held to less stringent standards in regards to their pleading, they nonetheless must meet minimal pleading requirements. Minimally, under the Energy Reorganization Act, the complaint, supplemented as appropriate by the complainant, must allege the existence of facts and evidence to meet the required elements of a *prima facie* case including that the employee engaged in a protected activity or conduct. 29 C.F.R. § 24.5(b)(2). In none of his contacts with OSHA nor in his letter to Senator Alexander is there any mention of the Energy Reorganization Act nor are any facts or evidence alleged that could fall under the auspices of the Energy Reorganization Act. Likewise, in neither his Motion to Amend Complaint nor in any of the other documents filed with the Court has Complainant alleged the existence of facts and evidence to meet the required elements of a *prima facie* case including that he engaged in an activity or conduct protected by the Energy Reorganization Act.

Having reviewed the Motion, Complainant's filings with OSHA and the other matters of record, the Motion to Amend Complaint is hereby **DENIED**.

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LARRY PRICE
Administrative Law Judge

LWP/lpr
Newport News, Virginia