



Issue Date: 23 January 2008

In the Matter of

ROBERT D. POWERS, JR.
Complainant

v.

UNION PACIFIC RAILROAD
Respondent

Case No. 2007-CAA-00002

RECOMMENDED ORDER APPROVING SETTLEMENT

This case arose under the employee protection provisions of the Clean Air Act. Just prior to the scheduled hearing in this case, which was to take place on July 10, 2007 in Las Vegas, Nevada, the parties notified me that they had reached a settlement, and the hearing was cancelled. When by November 27, 2007 I had not received the parties' settlement agreement, I issued a show cause order. In response to that order, the parties submitted an agreement for the case to be dismissed with prejudice signed by counsel for both parties. However, the actual settlement agreement was not submitted. Finally, after further prodding from this Office, I received a notarized copy of an August 25, 2007 *Release of All Claims* executed by the complainant.

Although not a conventional settlement agreement, the two documents accomplish the same purpose, and I will consider them together as a settlement agreement. In the release, the complainant has given up his right to proceed against the respondent for any claims arising out of his employment with respondent, and specifically agrees to release respondent from liability for this claim and another case pending in U.S. District Court in Utah. Complainant also agrees to never again seek employment with respondent. In return, complainant has received payment of a specified amount of money from the respondent. Finally, the parties' counsel have agreed to the dismissal of this case and that each party shall bear its own costs.

It appears to me that the complainant is receiving a relatively small sum for the settlement of two unrelated cases and waiving his right to pursue any further actions stemming

from his employment with respondent. However, I have not heard this case, and therefore have no basis to evaluate the merits of the complainant's case or measure his potential recovery assuming he was successful. Further, complainant is represented by counsel who has agreed to the settlement. Under these conditions,

IT IS RECOMMENDED that this settlement agreement be approved.

A

JEFFREY TURECK
Administrative Law Judge