



Issue Date: 27 October 2006

Case No: 2005 ERA 00017

In the Matter of:

MICHAEL R. MOHR,
Complainant

v.

NUCLEAR MANAGEMENT COMPANY,
Respondent

RECOMMENDED DECISION AND ORDER

This proceeding arises from a claim filed by Michael R. Mohr (Complainant) against Nuclear Management Company alleging violations of § 211 of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851 (ERA).

The parties, through counsel for Nuclear Management Company, Timothy J.V. Walsh, submitted by letter dated October 16, 2006, a settlement agreement, waiver and general release resolving the ERA action involved in this matter. The settlement agreement is duly executed by the parties. Although the settlement agreement contains provisions that relate to actions by the Complainant under state law, I have no authority to approve such provisions and this Decision and Order makes no determination regarding the propriety of those provisions.

The settlement agreement also contains provisions regarding confidentiality. Should a Freedom of Information request be made for the settlement agreement, the U.S. Department of Labor will have to respond and decide whether to exercise its discretion to claim any applicable exemption. However, the parties are entitled to pre-disclosure notification rights under 29 C.F.R. § 70.26.

Having reviewed the settlement agreement, waiver and general release with regard to the ERA complaint, I make the following findings:

1. the settlement agreement appears to be fair and reasonable on its face and to effectuate the purposes and policies of the ERA;
2. this Decision and Order shall have the same force and effect as one made after a full hearing on the merits;

3. the parties are deemed to have waived further proceedings before the U.S. Department of Labor regarding the matters which are the subject of the settlement agreement.

Based on the foregoing, IT IS HEREBY ORDERED that the settlement agreement is approved and that the complaint involved in this matter is dismissed with prejudice.

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DONALD W. MOSSER
Administrative Law Judge

NOTICE OF APPEAL RIGHTS: To appeal, you must file a Petition for Review (“Petition”) that is received by the Administrative Review Board (“Board”) within ten (10) business days of the date of issuance of the administrative law judge’s Recommended Decision and Order. The Board’s address is: Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington, DC 20210. Once an appeal is filed, all inquiries and correspondence should be directed to the Board.

At the time you file your Petition with the Board, you must serve it on all parties, as well as the Chief Administrative Law Judge, U.S. Department of Labor, Office of Administrative Law Judges, 800 K Street, NW, Suite 400-North, Washington, DC 20001-8001. *See* 29 C.F.R. § 24.8(a). You must also serve copies of the Petition and briefs on the Assistant Secretary, Occupational Safety and Health Administration and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

If no Petition is timely filed, the administrative law judge’s recommended decision becomes the final order of the Secretary of Labor. *See* 29 C.F.R. § 24.7(d).