



In the Matter Of:

JOSEPH D. WAMPLER,

ARB CASE NO. 96-168

COMPLAINANT,

(ALJ CASE NO. 84-ERA-13)

v.

DATE: August 16, 1996

PULLMAN-HIGGINS COMPANY,

RESPONDENT.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD^{1/}

NOTICE

On February 14, 1994, the Secretary of Labor issued a Final Order Disapproving Settlement And Remanding Case, in accordance with *Macktal v. Secretary of Labor*, 923 F.2d 1150 (5th Cir. 1991), in this matter, which arises under the employee protection provisions of the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. § 5851 (1988). After the Secretary issued an Order Denying Motion For Reconsideration on June 13, 1994, and the U.S. Court of Appeals declined jurisdiction of Respondent's interlocutory appeal, the case was docketed with an Administrative Law Judge (ALJ) and the matter was set for hearing. Just prior to the hearing, Complainant advised the ALJ that he was withdrawing his complaint with prejudice.

The ALJ has issued a Recommended Decision And Order Granting Withdrawal Of Complaint With Prejudice. Pursuant to 29 C.F.R. § 24.6(a), the Board must approve Complainant's voluntary dismissal of this case. The Board has a responsibility to assure compliance with the ERA.

^{1/} This matter was filed before the Secretary of Labor pursuant to the Energy reorganization Act of 1974 (ERA), 42 U.S.C. § 5851 (1988). On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute and the implementing regulations (29 C.F.R. Part 24) to the newly created Administrative Review Board. Secretary's Order 2-96 (Apr. 17, 1996), 61 Fed. Reg. 19978 (May 3, 1996) (copy attached).

Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the Administrative Review Board now issues final agency decisions. A copy of the final procedural revisions to the regulations (61 Fed. Reg. 19982) implementing this reorganization is also attached.

The outcome of any particular ERA case affects not only the parties, but impacts on the public as well. Therefore, the Office of the Solicitor, Associate Solicitor, Division of Fair Labor Standards, is requested to review this matter to ensure that the provisions of the ERA are complied with regarding the Secretary's role in the settlement and dismissal of such cases and, if deemed appropriate, within 30 days file a motion to intervene.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTRON
Member