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EPA Must Reinstate Whistleblower

By THE ASSOCIATED PRESS

Filed at 8:40 p.m. ET

WASHINGTON (AP) -- Federal labor officials ordered the Environmental Protection Agency to reinstate a senior investigator to his former ombudsman-related duties, after he filed a whistleblower complaint.

EPA said it will appeal the finding by the Labor Department that Hugh Kaufman, a policy analyst for EPA's Office of Solid Waste and Emergency Response, "suffered a continuing pattern of discrimination" over the past several years.

The Philadelphia regional office of the Labor Department's Occupational Safety and Health Administration said its review of Kaufman's personnel file "established no evidence of a valid reason for his removal from ombudsman support duties."

Kaufman "suffered a continuing pattern of discrimination," wrote Richard D. Soltan, OSHA's Philadelphia region administrator. Though Kaufman worked in Washington, Soltan's office had jurisdiction in the case.

OSHA has power to investigate and issue findings on workplace complaints stemming from most whistleblower cases at federal agencies; this case legally falls under the whistleblower section of the Superfund toxic waste cleanup program.

Such findings are required by law unless appealed within five days. Kaufman's case took more than a year of investigative work since April 2001 and fills a file nearly one foot thick. Most cases take three months to compile.

"It's a vindication and a documentation that what EPA has been doing to the ombudsman program has been retaliatory since December 2000," Kaufman said. "The discrimination is they're not letting me do my job, even though I'm doing a good job."

Kaufman complained that he was barred from investigating cases for the ombudsman, whose job includes responding to complaints about handling the Superfund program. In April, the embattled ombudsman for EPA's hazardous waste office, Robert Martin, resigned rather than be transferred to working within the EPA inspector general's office, where he said would have no power.

A federal court in February rejected a lawsuit challenging Martin's transfer. After he left, an acting ombudsman, Peggy Boyer, took over Martin's former job, but in the IG's office.

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Two subcommittees of the House Energy and Commerce Committee scheduled a hearing for Tuesday on recent developments in the EPA ombudsman office.

EPA spokesman Joe Martyak said the agency would exercise its right to have a formal hearing on Kaufman's case before an administrative law judge. The case could go to federal court if it is still unresolved.

Kaufman said he would seek depositions from EPA Administrator Christie Whitman and other senior agency officials.

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