

**UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD  
OFFICE OF REGIONAL OPERATIONS**

RUTH A. ETZEL,  
Appellant,

DOCKET NUMBER  
DC-1221-19-0827-W-1

v.

ENVIRONMENTAL PROTECTION  
AGENCY,  
Agency.

DATE: March 27, 2020

**ORDER**

Based on the appellant's appeal, with attachments, and her response to my September 26, 2019 Jurisdictional Order, I find she has established Board jurisdiction over her individual right of action (IRA) appeal.

Specifically, I find the appellant has raised non-frivolous allegations that her disclosure in August 2018 regarding the agency's alleged delay in responding to a Congressional inquiry; her disclosures on October 15, 2018 during an interview with CBS This Morning and October 16, 2019 during an interview with CNN, regarding the agency's alleged resistance to her efforts to safeguard children from lead exposure; her disclosure on October 18, 2018 that her placement on investigative/administrative leave was "illegal"; and her disclosure in June 2019 that the agency "unlawfully" reduced her rate of pay, were protected under 5 U.S.C. § 2302(b)(8), and that they constituted contributing factors in the agency's decision to take one or more personnel actions as defined under 5 U.S.C. § 2302(a), specifically, her placement on administrative leave on September 25, 2018; her rating of "1" for leading people on her FY 2018 performance review; the agency's delay and refusal to grant her annual leave, resulting in her placement on absence without leave (AWOL) status on October 22, 2018; her March 21, 2019 removal from the Senior Executive Service (SES); her assignment to a cubicle and the agency's continued failure to provide her with a

position description and duties, beginning in March 2019; and a 10% reduction in her rate of pay on May 3, 2019. I further find the appellant has demonstrated that she exhausted her remedies before the Office of Special Counsel (OSC) as to these elements of her IRA claim.

The parties may initiate discovery requests or motions, previously stayed, within 10 days of the date of this Order. Processing of this appeal is hereby suspended for 30 days from the date of this Order, pursuant to 5 C.F.R. § 1201.28, to facilitate discovery, and will automatically resume at the end of that period.

FOR THE BOARD:

\_\_\_\_\_  
/S/  
Ronald J. Weiss  
Administrative Judge

CERTIFICATE OF SERVICE

I certify that the attached Document(s) was (were) sent as indicated this day to each of the following:

Appellant

Electronic Mail      Ruth A. Etzel  
3719 Cumberland Street NW  
Washington DC, DC 20016

Appellant Representative

Electronic Mail      Paula Dinerstein, Esq.  
Public Employees for Environmental Responsibility  
962 Wayne Ave., Suite 610  
Silver Spring, MD 20910

Electronic Mail      Peter T. Jenkins  
Public Employees for Environmental Responsibility  
962 Wayne St., #610  
Silver Spring, MD 20910

Agency Representative

Electronic Mail      Nathanael Nichols  
Environmental Protection Agency  
Office of the General Counsel  
Acting Assistant General Counsel  
General Law Office, Employment Law Practice Group  
1200 Pennsylvania Avenue, N.W. MC 2377A  
Washington, DC 20460

March 27, 2020  
\_\_\_\_\_  
(Date)

/S/  
\_\_\_\_\_  
Kiecia Payne  
Paralegal Specialist

