Department of Energy
Washington, DC 20585

SEP 19 2005

Gilbert J. Vigil, Esq.
1615 Central Avenue, NW
Albuquerque, NM 87104

Re: Case No. TBB-0003

Dear Mr. Vigil:

This letter pertains to a Petition for Secretarial Review that you filed on August 8, 2005, on behalf of Gilbert Hinojos. In the Petition, you requested that the Secretary of Energy review a July 8, 2005 appeal decision, issued by the Director of the Office of Hearings and Appeals. That appeal decision denied Mr. Hinojos' complaint of retaliation filed pursuant to 10 C.F.R. Part 708.

In an August 9 letter, we advised you that the regulations governing this matter provide that within 15 days after submitting a Petition for Secretarial Review, you are required to file a statement identifying the issues that you wish the Secretary to consider. 10 C.F.R. § 708.35. Accordingly, that filing should have been submitted by August 23.

We also informed you that the Secretary will reverse or revise an appeal decision by the OHA Director only under extraordinary circumstances. 10 C.F.R. § 708.35(d). We therefore indicated that your statement of issues should identify the extraordinary circumstances warranting a reversal of the OHA's July 8 Decision and Order.

As of this date, you have not submitted a statement of issues for the Secretary to review. Thus, the time period for filing your submission has now elapsed. Further, your August 8 submission does not identify any issues for review. Accordingly, since you have failed to complete the filing of your appeal in this case, and since there are no issues in your submission that could be considered reviewable, I find that your Petition for Secretarial Review should be dismissed.

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Accordingly, the Petition for Secretarial Review filed in Case No. TBB-0003 is hereby dismissed.

If you have any questions regarding this matter, please contact Virginia Lipton at telephone number (202) 287-1436.

Sincerely,

George B. Breznay
Director
Office of Hearings and Appeals

cc: Jeffrey L. Lowry, Esq.
Rodey, Dickason, Sloan, Akin & Robb, PA
201 Third Street NW
Suite 2200
P.O. Box 1888
Albuquerque, NM 87103