Department of Energy
Washington, DC 20585

JUN 26 2006

Ms. Caroline Roberts
3113 Texas Street NE
Albuquerque, NM 87110

Re: OHA Case No. TBB-0040

Dear Ms. Roberts:

This letter concerns the complaint of retaliation that you filed with the Department of Energy (DOE) under 10 C.F.R. Part 708. On March 24, 2006, the Office of Hearings and Appeals (OHA) received your petition for Secretarial review of the February 23 jurisdictional appeal decision issued by the OHA Director. Under the Part 708 regulations, the Secretary will reverse or revise an appeal decision by the Director of OHA only in extraordinary circumstances. 10 C.F.R. § 708.19.

In this case, the Whistleblower Program Manager at the DOE's NNSA Service Center dismissed your complaint of retaliation because it was untimely filed. You appealed that dismissal. After reviewing the facts in this matter, I upheld the dismissal. I found that the fact that you were unaware of the Part 708 program was not a sufficient reason to waive the Part 708 filing period.

In your petition for Secretarial review, you again contend that you were unaware of the Part 708 program. Since I responded fully to that claim in the February 23 appeal decision, no further review here is necessary. You also contend that you made many disclosures of a serious nature. This assertion, even if true, does not in and of itself entitle you to protection under Part 708 if you file an untimely complaint. You also cite alleged retaliations against you and other purported misbehavior by your contractor. Again, even if such assertions are true, they do not overcome the serious deficiency in the filing of your Part 708 complaint. In sum, your arguments here do not raise any issue of an extraordinary nature.

The Deputy Secretary of Energy has reviewed your petition and concurs with the above determinations. He has authorized me to send you this letter dismissing the petition for failure to demonstrate extraordinary circumstances.

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Accordingly, the petition for review filed in Case No. TBB-0040 is hereby dismissed.

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

Sincerely,

George B. Breznay
Director
Office of Hearings and Appeals

cc: Michelle Rodriguez de Varela
Whistleblower Program Manager
U.S. Department of Energy
NNSA/Service Center
P.O. Box 5400
Albuquerque, NM 87185-5400

Richard A. Marques
Los Alamos National Laboratory
Whistleblower Office
P.O. Box 1663, A108
Bikini Atoll Road
Los Alamos, NM 87545

David S. Jonas
General Counsel
National Nuclear Security Administration
7G-046 FRSTL

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