Department of Energy
Washington, DC 20585

MAR - 5 2008

Ms. Sharon M. Fiorillo
6927 Wilson Street
West Mifflin, PA 15122

Re: OHA Case No. TBB-0070

Dear Ms. Fiorillo:

This letter concerns the complaint of retaliation that you filed with the Department of Energy (DOE) under 10 C.F.R. Part 708. On August 20, 2007, the Office of Hearings and Appeals (OHA) received your petition for Secretarial review of the July 16, 2007, jurisdictional appeal decision issued by the OHA Acting Director. You filed a statement of arguments in support of your position on September 4, 2007.

Under the Part 708 regulations, the Secretary will reverse or revise an appeal decision by the OHA Director only in extraordinary circumstances. 10 C.F.R. § 708.19.

The basis of this proceeding is your contention that you made a disclosure that is protected under Part 708, and that your employer improperly terminated you for making that disclosure. The disclosure that you made consisted of a statement to the DOE Office of Inspector General (DOE/IG), that your supervisor failed to take action against another employee who stated in a three-way telephone conversation with you and your supervisor that had she seen you in person she "would have spit in your face." You believe that disclosing this statement to the DOE/IG constitutes a revelation of violation of law, and your supervisor's failure to take action against the employee who made the remark is evidence of mismanagement and abuse of authority. In this case, the OHA Acting Director dismissed your complaint of retaliation, finding that the disclosure you describe was trivial. In your petition for Secretarial review, you object to this conclusion, but you do not provide any significant new arguments in this regard. Accordingly, since the OHA Acting Director responded fully to that claim in the July 16 appeal decision, no further review here of that issue is warranted.

You further maintain in your statement of arguments that it is your "personal feeling" that your termination "was to serve the purpose of alleviating funding for PRC's fixed fee award contract. . . .

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[the] termination allowed PRC to maintain the funds provided by DOE for [you] ($50,000 annually-$44,449 salary plus benefits package) to promote two Secretary I's and hire a new Receptionist." This suggests that you actually believe the basis for your termination was not a retaliation due to your disclosure to the DOE/IG, but rather because your contractor employer had management and hiring goals that did not include your position.

Thus, ultimately there is no basis for your Part 708 complaint, and certainly no assertion here that rises to the extraordinary level necessary to invoke Secretarial review under Part 708.

The Deputy Secretary of Energy has authorized me to send you this letter dismissing the petition for failure to demonstrate extraordinary circumstances.

Accordingly, the petition for review filed in Case No. TBB-0070 is hereby dismissed.

If you have any questions regarding this letter, please call Virginia Lipton, Assistant Director, Office of Hearings and Appeals, at telephone number (202) 287-1436.

Sincerely,

Poli A. Marmolejos
Director
Office of Hearings and Appeals

cc: Service List

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Case No. TBB-0070

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