



In the Matter of

EDWARD J. SLAVIN, JR.,

ARB CASE NO. 00-081

COMPLAINANT,

ALJ CASE NO. 2000-ERA-26

v.

DATE: FEB 14, 2001

**PACIFIC NORTHWEST NATIONAL LABORATORY,
BATTELLE MEMORIAL INSTITUTE,
U.S. DEPARTMENT OF ENERGY,
UNIVERSITY OF ILLINOIS AT CHAMPAGNE-
URBANA,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER DENYING MOTION TO STRIKE DOE BRIEF
AND DRAW ADVERSE INFERENCES AND
GRANTING MOTION TO FILE REBUTTAL BRIEF**

Complainant Edward A. Slavin, Jr. has filed a Motion with the Administrative Review Board requesting that we strike the Reply Brief of Respondent Department of Energy (DOE) and draw adverse inferences on the grounds that DOE faxed its reply brief to the Board, but sent it by regular mail to Slavin. We **DENY** this Motion. The regulations governing appeals to the Board in environmental whistleblower cases like this one, 29 C.F.R. § 24.8 (2000), do not require the parties to serve briefs by fax or express mail. Furthermore, the briefing deadlines prescribed by the Board are predicated upon service by regular mail. Thus, Slavin's allegation that service by mail is "invidiously discriminatory" is incorrect.

We **GRANT** Slavin's Motion, in the alternative, to file a rebuttal brief in response to DOE's reply brief. The rebuttal brief may not exceed ten (10) double-spaced typed pages and must be postmarked no later than February 28, 2001. The format requirements as described in the Notice of Appeal and Order Establishing Briefing Schedule issued on September 20, 2000, remain in effect.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel

Note: Questions regarding any case pending before the Board should be directed to the Board's staff assistant, Ernestine Battle.

Telephone: (202) 693-6200
Facsimile: (202) 693-6220