BRB Nos. 13-0475, 13-0475A and 13-0475B

LEONARD A. WEIMER	)	
	)	
Claimant-Cross-Petitioner A	)	
	)	
v.	)	
	)	
TODD SHIPYARDS CORPORATION	)	
	)	
Employer	)	
Cross-Respondent A, B	)	
	)	DATE ISSUED: July 29, 2014
and	)	
	)	
LIBERTY NORTHWEST INSURANCE COMPANY	)	
	)	
	)	
Carrier-Respondent	)	
Cross-Petitioner B	)	
Cross-Respondent A	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Petitioner	)	
Cross-Respondent B	)	DECISION and ORDER

Appeals of the Decision and Order Following Remand of Russell D. Pulver, Administrative Law Judge, United States Department of Labor.

Robert H. Madden, Seattle, Washington, for claimant.

Russell A. Metz (Metz & Associates, P.S.), Seattle, Washington, for Todd Shipyards Corporation.

John Dudrey (Williams Fredrickson, LLC), Portland, Oregon, for Liberty Northwest Insurance Company.

Kathleen H. Kim (M. Patricia Smith, Solicitor of Labor; Rae Ellen James, Associate Solicitor; Mark A. Reinhalter, Counsel for Longshore), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: HALL, Acting Chief Administrative Appeals Judge, SMITH and BOGGS, Administrative Appeals Judges.

PER CURIAM:

The Director, Office of Workers' Compensation Programs (the Director), claimant, and Liberty Northwest Insurance Company (Liberty) each appeal the Decision and Order Following Remand (2010-LHC-00471; 2010-LHC-01608) of Administrative Law Judge Russell D. Pulver rendered on the claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §901 *et seq*. (the Act). We must affirm the findings of fact and conclusions of law of the administrative law judge which are rational, supported by substantial evidence, and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

This case is before the Board for the second time. To recapitulate the facts, claimant sustained work-related injuries to his back and left shoulder while working for employer on October 27, 1999. Claimant underwent significant medical treatment; he returned to light-duty work on October 8, 2002. On November 18, 2003, claimant's condition was aggravated in a work accident; he continued to work, however, until June 23, 2004, when his back pain caused him to stop. Claimant underwent back surgery and, on January 10, 2005, he was again released to return to light-duty work. Claimant returned to work, but his continued employment, ending on May 16, 2005 when he lifted cables, caused an aggravation of his condition; he was not worked since that date.

Claimant filed a claim under the Act. The parties stipulated that claimant has been permanently totally disabled since May 17, 2005, and the Director conceded employer's entitlement to Section 8(f) relief relating to permanent disability arising from claimant's work injuries. 33 U.S.C. §908(f). A controversy, however, arose as to whether employer or Liberty is liable for claimant's disability and medical benefits.[1]

[1] At the time of claimant's October 27, 1999, work injury, employer was insured by Fremont Industrial Indemnity Group (Fremont). Fremont became insolvent; thus employer is liable for any benefits due arising from Fremont's period of coverage. 33 U.S.C. §904(a). Employer was self-insured until September 30, 2002, when Liberty became its carrier. Liberty remained employer's carrier until September 28, 2007.

In a Decision and Order Awarding Benefits issued on June 7, 2011, the administrative law judge found that claimant's work-related duties subsequent to his October 27, 1999, work injury aggravated his medical condition, and that Liberty, as the carrier on the risk at the time of claimant's aggravating injuries, is responsible for claimant's disability and medical benefits as of the date claimant became disabled due to the 2003 aggravation. Specifically, the administrative law judge awarded claimant periods of temporary total and permanent partial disability benefits payable by employer until November 18, 2003. The administrative law judge awarded claimant permanent partial disability benefits from November 19, 2003 through May 16, 2005, and ongoing permanent total disability benefits from May 17, 2005, payable by Liberty, subject to assumption of that responsibility by the Special Fund pursuant to Section 8(f) 104 weeks after May 17, 2005.

Claimant appealed, and Liberty cross-appealed, the administrative law judge's decision to the Board. In its Decision and Order, the Board affirmed the administrative law judge's 1999 average weekly wage calculation; his finding that claimant sustained an aggravating injury on November 18, 2003, when Liberty was on the risk; and the award of permanent total disability and medical benefits to claimant. The Board vacated the administrative law judge's calculation of the awards due claimant, and remanded the case for the administrative law judge to: explain his rationale for the date on which the Special Fund was to assume liability for claimant's permanent disability benefits; provide a calculation of claimant's wage-earning capacity upon his return to work following his October 27, 1999, work injury; provide a calculation of claimant's average weekly wage at the time of his November 18, 2003, aggravating work injury; and consider whether the facts of this case require concurrent awards to claimant. *Weimer v. Todd Shipyards Corp.*, BRB Nos. 11-0694/A (Jun. 28, 2012)(unpub.).

In his Decision and Order Following Remand, the administrative law judge calculated claimant's post-1999 injury wage-earning capacity and average weekly wage at the time of his November 18, 2003, aggravating injury to be $474.48. The administrative law judge ordered employer to pay claimant continuing permanent partial disability benefits as of October 8, 2002, excluding the periods of November 19, 2003 through June 22, 2004, and January 11 through May 16, 2005. The administrative law judge ordered Liberty to pay claimant permanent total disability benefits from June 23, 2004 through January 10, 2005, and continuing from May 17, 2005. Thus, as of May 17, 2005, claimant is receiving concurrent permanent partial and permanent total disability awards. *See Brady-Hamilton Stevedore Co. v. Director, OWCP*, 58 F.3d 419, 29 BRBS 101(CRT) (9th Cir. 1995). The administrative law judge found employer entitled to Section 8(f) relief beginning 104 weeks after October 2, 2002, and Liberty entitled to

Section 8(f) relief beginning 104 weeks after June 23, 2004.[2] Lastly, the administrative law judge directed the district director to calculate the amount of any overpayments made or credits due the parties.

On appeal, the Director contends the administrative law judge erred in ordering the Special Fund to assume Liberty's liability for claimant's permanent total disability benefits 104 weeks after June 23, 2004. Liberty has filed a brief in response urging the Board to reject the Director's appeal. BRB No. 13-0475. In his appeal, claimant challenges the administrative law judge's calculations of his wage-earning capacity following his 1999 injury and his 2005 average weekly wage, as well as the administrative law judge's failure to enter a nominal award. Liberty and employer have filed briefs in response, urging rejection of claimant's contentions. BRB No. 13-0475A. Liberty, in its appeal, asserts the administrative law judge erred in determining the commencement date of its entitlement to Section 8(f) relief, and in ordering the district director to resolve any outstanding issues regarding credits for overpayments or reimbursements of compensation among the parties. Employer and the Director have filed response briefs, to which Liberty has replied. BRB No. 13-0475B.

Section 8(f)

We will first address the contention concerning the administrative law judge's award of Section 8(f) relief to Liberty. Section 8(f) shifts the liability to pay compensation for permanent disability or death after 104 weeks from an employer to the Special Fund established in Section 44 of the Act if the prerequisites for entitlement are satisfied.[3] 33 U.S.C. §§908(f), 944. Liberty asserts that claimant did not sustain any permanently disabling injury as a result of the work incident on May 16, 2005, and that, consequently, its relief pursuant to Section 8(f) should commence 104 weeks after June 23, 2004, the date claimant became disabled by the November 18, 2003, injury. BRB No. 13-0475B. *See also* n. 11, *infra*. We disagree.

In this case, it is not disputed that claimant sustained an aggravating injury by continuing to work between January 2005 and May 16, 2005, and, moreover, the parties stipulated that claimant has been permanently totally disabled since that date. *See* Decision and Order Awarding Benefits at 2. In his initial decision, the administrative law

[2] The administrative law judge found that Liberty's 104-week period of liability excluded January 11 to May 16, 2005, when claimant was not entitled to any disability benefits. *See* Decision and Order on Remand at 7-8.

[3] The Director conceded below that Section 8(f) is applicable on its merits in this case.

judge found that this last injury resulted in claimant's permanent total disability. Dr. Nelson stated that claimant's continued working conditions contributed to flare-ups of claimant's pain and to his functional deterioration, leading to total disability. RX 14 at 217-218, 238, 245; Decision and Order Awarding Benefits at 11. The administrative law judge thus stated that the,

> parties don't seriously dispute that Claimant is totally disabled. Dr. Nelson indefinitely suspended Claimant from working [subsequent to May 16, 2005] because Claimant's work could further aggravate his injury and drastically increase his pain [citation omitted] Claimant also testified that he is unable to perform his previous job because of the pain. . . . Accordingly, the undersigned concludes that Claimant is totally permanently disabled.

Id. at 15. Thus, substantial evidence in the form of Dr. Nelson's opinion and claimant's testimony support the administrative law judge's finding that claimant sustained an aggravating injury on May 16, 2005 that resulted in permanent total disability. *Hawaii Stevedores, Inc. v. Ogawa*, 608 F.3d 642, 44 BRBS 47(CRT) (9th Cir. 2010). Therefore, we reject Liberty's allegation of error on this issue.[4]

In his appeal, the Director contends the administrative law judge erred in finding that the Special Fund assumes Liberty's liability for claimant's permanent total disability benefits beginning 104 weeks after June 23, 2004. BRB No. 13-0475. Specifically, the Director asserts that, as claimant sustained an injury on November 18, 2003 which became disabling on June 23, 2004, followed by an aggravating injury on May 16, 2005, Liberty remains liable for two periods of permanent disability benefits, the second of which results in its liability for 104 weeks of permanent total disability benefits following claimant's May 16, 2005, injury. We agree and, for the reasons that follow, we modify the date on which Liberty's relief pursuant to Section 8(f) commences.

This case involves three work injuries: the initial injury on October 27, 1999; an aggravation of claimant's back condition on November 18, 2003; and another aggravation of claimant's back condition on May 16, 2005. Thus, in its prior decision remanding this case to the administrative law judge, the Board directed the administrative law judge to provide a rationale for his determination as to the date upon which the

[4] As claimant's May 16, 2005, aggravating injury constituted a new injury, the administrative law judge properly recalculated claimant's average weekly wage as of that date. *Lopez v. Southern Stevedores*, 23 BRBS 295 (1990); *see* discussion, *infra.*

Special Fund would assume liability in this case.[5] The Board discussed case precedent holding that, in cases where permanent partial disability is followed by permanent total disability due to the same injury, and Section 8(f) is applicable to both periods of disability, employer is liable for only one period of 104 weeks, while in cases where claimant sustains two separate unrelated injuries to which Section 8(f) applies, employer is liable for two 104-week periods of benefits. *See Weimer*, slip op. at 7 n.7. On remand, the administrative law judge found that claimant sustained two aggravating injuries to the same body part, that the first aggravating injury in November 2003 resulted in periods of permanent partial and permanent total disability, and that claimant has been permanently totally disabled since his second aggravating injury occurred in May 2005. *See* Decision and Order Following Remand at 7. The administrative law judge further found that these two aggravating injuries did not "fit the description of 'separate, unrelated injuries'" since, although they were separate in terms of their chronology, it "cannot be said that they are unrelated." *Id*. at 8. Thus, the administrative law judge found it "more reasonable to identify June 23, 2004," the date claimant's November 2003 injury resulted in permanent total disability, as the commencement date for purposes of Liberty's 104 weeks of liability. *Id*.

With regard to the issue raised by the Director, Section 8(f)(1) provides, in pertinent part, that:

> In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury based upon the average weekly wages of the employee at the time of the injury. . . . In all other cases of total permanent disability or of death, found not to be due solely to *that injury*, of an employee having an existing permanent partial disability, the employer shall provide in addition to compensation under subsections (b) and (e) of this section, compensation payments or death benefits for one hundred and four weeks only.

33 U.S.C. §908(f)(1) (emphasis added). In considering this subsection of the Act, the United States Court of Appeals for the Ninth Circuit, within whose jurisdiction this case arises, has held that a period of 104 weeks of liability applies to each injury when a claimant sustains discrete injuries. *Matson Terminals, Inc. v. Berg*, 279 F.3d 694, 35

[5] In his first decision, the administrative law judge commenced Liberty's 104 weeks of liability on May 17, 2005, the date of onset of claimant's permanent total disability following his second aggravating work injury. *See* Decision and Order Awarding Benefits at 23. However, the administrative law judge had not explained the basis for this finding.

BRBS 152(CRT) (9th Cir. 2002) (injuries to both knees); *see Newport News Shipbuilding & Dry Dock Co. v. Howard*, 904 F.2d 206, 23 BRBS 131(CRT) (4th Cir. 1990) (back and carpal tunnel injuries; court states that it is not unreasonable for a 104-week period of liability per discrete injury to be imposed on employers); *Cooper v. Newport News Shipbuilding & Dry Dock Co.*, 18 BRBS 284 (1986) (asbestosis and back injury; Board states that while it is consistent with the Act to assess employer with only one 104-week period of liability for all disabilities arising out of the same injury, employer's liability is not so limited when the subsequent total disability is caused by a distinct injury).

There are no cases specifically delimiting an employer's liability in cases such as this where claimant sustains successive aggravating injuries to the same body part. Nonetheless, it is well-established that a work-related aggravation of a pre-existing condition constitutes a "new" injury under the Act.[6] *See*, *e.g.*, *Mowl v. Ingalls Shipbuilding, Inc.*, 32 BRBS 51 (1998); *Abbott v. Dillingham Marine & Manufacturing Co.*, 14 BRBS 453 (1981), *aff'd mem.*, 698 F.2d 1235 (9th Cir. 1982) (table). Thus, although the 2003 and 2005 injuries were to the same body part, it cannot be said that claimant's two periods of disability are due to the "same injury." That is, claimant's 2003 injury did not alone cause the total disability in 2005. In this regard, we have affirmed the administrative law judge's finding that claimant sustained a new, totally disabling injury in May 2005, as it is supported by substantial evidence. Accordingly, as a new, second disabling injury occurred in May 2005, Liberty is responsible for 104 weeks of permanent disability benefits commencing May 17, 2005.[7] *See Berg*, 279 F.3d 694, 35 BRBS 152(CRT); *Cooper*, 18 BRBS at 286 n.2; *see also Padilla v. San Pedro Boat Works*, 34 BRBS 49 (2000). We therefore vacate the administrative law judge's decision ordering the Special Fund to assume Liberty's liability for claimant's ongoing permanent disability benefits beginning 104 weeks after June 23, 2004, and we modify the decision to reflect that the Special Fund assumes Liberty's liability 104 weeks after May 16, 2005.

[6] It follows from the "aggravation rule" that the employer at the time of the aggravating injury is liable for the entire resultant disability, at the claimant's average weekly wage at the time of the aggravating injury. *See*, *e.g.*, *Metropolitan Stevedore Co. v. Crescent Wharf & Warehouse Co.*, 339 F.3d 1102, 37 BRBS 89(CRT) (9th Cir. 2003), *cert. denied*, 543 U.S. 940 (2004); *Lopez v. Southern Stevedores*, 23 BRBS 295 (1990); *see also Delaware River Stevedores, Inc. v. Director, OWCP*, 279 F.3d 233, 35 BRBS 154(CRT) (3d Cir. 2002).

[7] Liberty's liability for benefits resulting from the 2003 injury was for fewer than 104 weeks. *See* n. 11, *infra*.

Post-Injury Wage-Earning Capacity

In his appeal, claimant first contends the administrative law judge erred on remand in calculating a new, higher post-injury wage-earning capacity, because the Board remanded the case only for the administrative law judge to explain how he calculated claimant's post-injury wage-earning capacity. Alternatively, claimant challenges the administrative law judge's calculations of his post-injury wage-earning capacity. BRB No. 13-0475A.

In his first decision, the administrative law judge determined claimant's wage-earning capacity after his October 1999 work injury to be $357.65. On appeal, the Board agreed with the assertions of both claimant and Liberty that the administrative law judge's findings on this issue were "sufficiently vague as to require that we remand this case," *see Weimer*, slip op. at 9, for the administrative law judge to "calculate claimant's wage-earning capacity upon his return to work after the October 27, 1999 work injury, presumably as of October 8, 2002." *Id*. On remand, the administrative law judge explained his calculation of claimant's post-1999 injury wage-earning capacity. *See* Decision and Order Following Remand at 2-3. As the Board's decision neither affirmed the administrative law judge's calculation of claimant's post-1999 injury wage-earning capacity nor instructed the administrative law judge to justify that specific calculation, the administrative law judge did not err in recalculating claimant's wage-earning capacity during this period.[8]

We cannot affirm, however, the administrative law judge's calculations of claimant's wage-earning capacity following his 1999 injury and during the periods of October 8, 2002 to November 18, 2003, and November 19, 2003 to June 22, 2004.[9] Section 8(h) of the Act, 33 U.S.C. §908(h), provides that claimant's wage-earning capacity shall be his actual post-injury earnings if these earnings fairly and reasonably represent his wage-earning capacity. In making this determination, relevant considerations include the employee's physical condition, age, education, industrial

[8] This calculation resulted in a wage-earning capacity of $474.48, which is higher than the rate of $357.65 that the administrative law judge had previously calculated. *See* Decision and Order Following Remand at 2-3.

[9] We observe, however, that claimant inconsistently avers both that the calculated average weekly wage for these time periods was too low and the wage-earning capacity was too high. A claimant's average weekly wage at the time of a second injury generally is based on the wage-earning capacity remaining after the first injury. *See Lopez v. Southern Stevedores*, 23 BRBS 295 (1990).

history, claimant's earning power on the open market, and any other reasonable variable that could form a factual basis for the decision. *See Container Stevedoring Co. v. Director, OWCP* [*Gross*], 935 F.2d 1544, 24 BRBS 213(CRT) (9th Cir. 1991); *Long v. Director, OWCP*, 767 F.2d 1578, 17 BRBS 149(CRT) (9th Cir. 1985). In this case, claimant bears the burden of establishing that his actual post-injury wages do not fairly and reasonably his wage-earning capacity. *See generally Gross*, 935 F.2d 1544, 24 BRBS 213(CRT).

In his brief to the administrative law judge on remand, claimant asserted that his actual post-injury earnings were not representative of his wage-earning capacity, and he gave specific reasons for this assertion. *See* Cl. Brief on Remand at 2-5.[10] While the administrative law judge listed the factors enunciated in Section 8(h), he did not discuss them, nor did he address claimant's specific contentions that his actual earnings did not fairly and reasonably represent his wage-earning capacity. Rather, the administrative law judge determined claimant's gross earnings during the periods in question, adjusted those earnings for inflation, and divided the adjusted figure by the number of weeks claimant worked during the respective periods. *See* Decision and Order Following Remand at 2-3, 5. As the administrative law judge did not address the specific contentions claimant raised in view of the factors set out at Section 8(h), we vacate the administrative law judge's calculation of claimant's post-injury wage-earning capacity. We remand the case for the administrative law judge to reconsider claimant's post-injury wage-earning capacity in view of claimant's specific arguments and Section 8(h). *See Gross*, 935 F.2d 1544, 24 BRBS 213(CRT); *Warren v. National Steel & Shipbuilding Co.*, 21 BRBS 149 (1988); *see also Petitt v. Sause Brothers*, 730 F.3d 1173, 47 BRBS 35(CRT) (9th Cir. 2013); *Deweert v. Stevedoring Services of America*, 272 F.3d 1241, 36 BRBS 1(CRT) (9th Cir. 2001); *Sestich v. Long Beach Container Terminal*, 289 F.3d 1157, 36 BRBS 15(CRT) (9th Cir. 2002); *Sproull v. Director, OWCP*, 86 F.3d 895, 30 BRBS 49(CRT) (9th Cir. 1996), *cert. denied*, 520 U.S. 1155 (1997).

Average Weekly Wage

Claimant next challenges the administrative law judge's calculation of his average weekly wage as of May 16, 2005, averring that the administrative law judge's mathematical calculation is not supported by the record. We agree and, thus, we vacate that calculation and remand for reconsideration on this issue.

[10] For example, claimant contended that: he worked in spite of considerable pain; his work was "sheltered employment;" and that general pay increases account for his increased wages.

In his decision on remand, the administrative law judge determined claimant's average weekly wage at the time of his May 16, 2005 injury by calculating claimant's weekly wage-earning capacity between January 11, 2005, the day after he was released to return to work by Dr. Nelson, and May 16, 2005. The administrative law judge arrived at this figure, $520.50, by dividing what he determined to be claimant's earnings during this period, $9,962.27, by the number of weeks that he found claimant worked, 19.14. *See* Decision and Order Following Remand at 5. The administrative law judge did not explain the genesis of the figure he determined represents claimant's earnings during this period, $9,962.27, and claimant cites evidence that he received $10,129.95 in 2005, and an additional sum in 2006 of $542.60, representing previously earned vacation pay. *See* CX 2 at 16. Additionally, claimant asserts that while this period of time represents 17.86 weeks, he actually was employed for 14 weeks. As the administrative law judge's decision does not set forth the evidence on which he relied in calculating claimant's average weekly wage as of May 16, 2005, we vacate that calculation and remand the case for the administrative law judge to calculate claimant's average weekly wage and to state the evidence on which he relies.

Nominal Awards

Claimant next asserts that the administrative law judge erred in failing to enter a nominal award during the periods of November 19, 2003 to June 22, 2004, and January 11 to May 16, 2005.[11] We disagree. The purpose of a nominal award, to preserve the employee's right to seek benefits should his injury in the future cause a loss in wage-earning capacity, *see Metropolitan Stevedore Co. v. Rambo* [*Rambo II*], 521 U.S. 121, 31 BRBS 54(CRT) (1997); *Keenan v. Director, OWCP*, 392 F.3d 1041, 38 BRBS 90(CRT) (9th Cir. 2004), has been satisfied in this case since claimant was awarded permanent total disability benefits for disability resulting from the November 2003 injury, as well as permanent total disability benefits commencing May 17, 2005 for his loss in wage-earning capacity due to the subsequent injury.

Credit and Reimbursement

Liberty asserts the administrative law judge erred in failing to address its contentions regarding credit and reimbursement issues. The Director and employer respond, averring that the administrative law judge did not err in delegating these calculations to the district director.

[11] Liberty, in its cross-appeal, similarly challenges the administrative law judge's failure to award claimant nominal benefits during these two periods of time. This contention relates to Liberty's attempt to have the Special Fund assume liability sooner.

As the issues to be reconsidered by the administrative law judge on remand include claimant's average weekly wage and wage-earning capacity during certain periods of time, the amount of benefits due and owed to claimant, payable by either employer, Liberty, or the Special Fund may be different than those benefits previously awarded. Thus, once the administrative law judge has determined the benefits due claimant, he, as the factfinder, should address Liberty's specific contention that a dispute remains between the parties regarding the amount of any credit and reimbursement due among Liberty, employer, and the Special Fund. *See* 33 U.S.C. §914(j). Once the administrative law judge has made the necessary findings of fact to resolve the issues on remand, he may charge the district director with making any calculations that are purely ministerial in nature. *See Cretan v. Bethlehem Steel Corp.*, 24 BRBS 35 (1990), *aff'd in part and rev'd in part*, 1 F.3d 843, 27 BRBS 93(CRT) (9th Cir. 1993), *cert. denied*, 512 U.S. 1219 (1994); *see also Ledet v. Phillips Petroleum Co.*, 163 F.3d 901, 32 BRBS 212(CRT) (5th Cir. 1998) (administrative law judge must provide a means of calculating benefits due); *Kirkpatrick v. BBI, Inc.*, 38 BRBS 27 (2004).

Accordingly, the administrative law judge's award of Section 8(f) relief to Liberty is modified to reflect Liberty's liability for a period of 104 weeks of permanent disability benefits commencing May 17, 2005, after which time the Special Fund will assume payment of claimant's permanent total disability benefits. The administrative law judge's calculations of claimant's wage-earning capacity following his 1999 work injury, and during the periods of October 8, 2002 to November 18, 2003, and November 19, 2003 to June 22, 2004, as well as claimant's average weekly wage at the time of his May 16, 2005 work injury, are vacated, and the case is remanded for further consideration consistent with this decision. On remand, the administrative law judge must address Liberty's contentions that there are unresolved factual issues concerning credits and reimbursements. In all other respects, the administrative law judge's Decision and Order Following Remand is affirmed.

SO ORDERED.

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BETTY JEAN HALL, Acting Chief
Administrative Appeals Judge

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ROY P. SMITH
Administrative Appeals Judge

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JUDITH S. BOGGS
Administrative Appeals Judge