

APPENDIX 4

REQUEST FOR BOARD ACTION BY A BOARD MEMBER

Requester: Board Member Bruce Hamilton

October 11, 2016

Brief description of Requested Action: The Technical Director shall prepare, implement and complete, no later than September 30, 2017, a change management plan to transition the name of the Board's staff stationed at any Department of Energy defense nuclear facilities from 'Site Representatives' to 'Resident Inspectors' in order to match the statutory language of 41 U.S.C. § 2286b. (h).

Attachments (init) None (included clean version of any proposed document or modified document)

Summarize any time sensitive considerations:

Requestor signature s/ Bruce Hamilton

October 11, 2016

Executive secretary  10-11-16 Click here to enter a date.

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING	COMMENT	DATE
Joyce L. Connery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Jessie H. Roberson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Sean Sullivan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Daniel J. Santos	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Bruce Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Final Disposition Summary

Executive Secretary signature _____ Click here to enter a date.

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: Request for Board Action by Board Member Bruce Hamilton; Task OTD for name change from "Site Representatives" to "Resident Inspectors" NLT September 30, 2017

Doc Control#2017-300-003

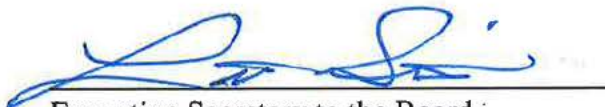
The Board, with Board Member(s) Sean Sullivan, Daniel J. Santos, Bruce Hamilton *approving*, Board Member(s) Joyce L. Connery, Jessie H. Roberson *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *recusing*, have voted to approve the above document on October 17, 2016.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Joyce L. Connery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10/17/16
Jessie H. Roberson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10/13/16
Sean Sullivan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10/12/16
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10/12/16
Bruce Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	10/13/16

*Reason for Not Participating:

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Board Members.


Executive Secretary to the Board

Attachments:

1. Voting Summary
2. Board Member Vote Sheets

cc: Board Members
OGC
OGM Records Officer
OTD

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Joyce L. Connery

SUBJECT: Request for Board Action by Board Member Bruce Hamilton; Task OTD for
name change from "Site Representatives" to "Resident Inspectors" NLT
September 30, 2017

Doc Control#2017-300-003

Approved _____

Disapproved _____

Abstain

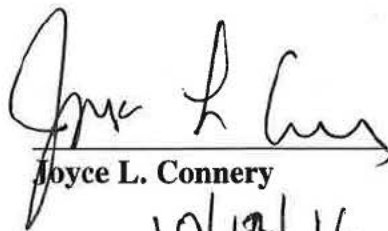
Recusal - Not Participating _____

COMMENTS:

Below _____

Attached _____

None



Joyce L. Connery

10/17/16

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Jessie H. Roberson

SUBJECT: Request for Board Action by Board Member Bruce Hamilton; Task OTD for
name change from "Site Representatives" to "Resident Inspectors" NLT
September 30, 2017

Doc Control#2017-300-003

Approved _____ Disapproved X Abstain _____
Recusal - Not Participating _____

COMMENTS: Below _____ Attached _____ None X

Jessie H. Roberson
Jessie H. Roberson
Oct 13, 2016
Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Sean Sullivan

SUBJECT: Request for Board Action by Board Member Bruce Hamilton; Task OTD for
name change from "Site Representatives" to "Resident Inspectors" NLT
September 30, 2017

Doc Control#2017-300-003

Approved

Disapproved _____

Abstain _____

Recusal - Not Participating _____

COMMENTS:

Below _____

Attached _____

None



Sean Sullivan

10/12/16

Date

Lotus Smith

From: Daniel J. Santos
Sent: Wednesday, October 12, 2016 3:23 PM
To: Lotus Smith; Shelby Qualls
Subject: RE: Notational Vote: Doc#2017-300-003 Request for Board Action by Board Member Bruce Hamilton; Task OTD for name change from "Site Representatives" to "Resident Inspectors" NLT September 30, 2017

Approved.

From: Lotus Smith
Sent: Wednesday, October 12, 2016 2:57 PM
To: Bruce Hamilton <[REDACTED]>; Daniel J. Santos <[REDACTED]>; Jessie Roberson <[REDACTED]>; Sean Sullivan <[REDACTED]>
Cc: ExSec <[REDACTED]>
Subject: Notational Vote: Doc#2017-300-003 Request for Board Action by Board Member Bruce Hamilton; Task OTD for name change from "Site Representatives" to "Resident Inspectors" NLT September 30, 2017

This email is an electronic record of Notational Vote. Voting ballot will follow shortly. Also, accepting electronic votes.

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET**

FROM: Members of the Board
SUBJECT: Request for Board Action by Board Member Bruce Hamilton; Task OTD for name change from "Site Representatives" to "Resident Inspectors" NLT September 30, 2017

DOC#2017-300-003

Office Directors have provided their input

Approved_____
Disapproved_____
Abstain_____
Recusal – Not Participating_____

COMMENTS:

Below_____
Attached_____
None_____

Lotus Smith
Executive Secretary
Office of the Chairman

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

SUBJECT: Request for Board Action by Board Member Bruce Hamilton; Task OTD for name change from "Site Representatives" to "Resident Inspectors" NLT September 30, 2017

Doc Control#2017-300-003

Approved X **Disapproved** **Abstain**

Recusal – Not Participating

COMMENTS: **Below** X **Attached** **None**

This Request for Board Action directs the Technical Director to prepare, implement and complete, no later than September 30, 2017, a change management plan to transition the name of the Board's staff stationed at any Department of Energy defense nuclear facilities from 'Site Representatives' to 'Resident Inspectors' in order to match the statutory language of 41 U.S.C. § 2286b. (h).

Note that this Action does *not* implicitly or explicitly signal the Board's intention to change the duties, roles, or responsibilities as a result of this name change.

The following historical perspective worth noting.

The first written reference to Board's staff stationed at DOE sites appears to be in the Board's Annual Report to Congress for 1992 (dated April 1993), which states twice that a member of the Board's staff had been assigned to Pantex as the Board's site representative. It does not discuss the choice of the term "site representative."

Interviews late last year with long-tenured current and former members of the Board's staff, the original Chairman and Vice Chairman, and another original Board Member found a common understanding of the rejection of the term "resident inspector" and origin of the term "site representative." The Board avoided the term "inspector" because the Board's functions did not include "inspection," and the Board had not established criteria against which to inspect. By comparison, U.S. Nuclear Regulatory Commission (NRC) resident inspectors perform inspections for compliance with NRC regulations. The Board apparently did not want to be perceived as overstepping its authority by assigning "inspectors" when its assigned functions did

not include inspection. Moreover, the Board intended these people to be their “eyes and ears” and to work to understand the “bigger picture” instead of following a standard review plan or checklist. Inspection was perceived to be a completely different and undesired activity.

The Board may also have been influenced by the title used by the Naval Reactors Representative’s Offices at NR field activities, although NRRO activities were not completely analogous to those of DNFSB’s site representatives.

While the reasoning of the original Board may have been sound and well-intentioned, it violated a fundamental principles of the American tradition of self-government; namely, the rule of law. 41 U.S.C. § 2286b (h) authorized the Board to have “Resident Inspectors,” not “Site Representatives.” The Board ignored the language of the law and used a different term than the one Congress had statutorily authorized. This practice continued for two and a half decades. That the practical difference in the two terms was inconsequential is not relevant. Our respect for the rule of law must apply to all elements of the statute, big and small, not just the ones we choose to follow or determine to be appropriate.

This Action will improve alignment between the Board’s enabling statute and its implementation, and it will demonstrate that the rule of law remains revered.

I therefore approve.


Bruce Hamilton

13 OCT 2016
Date