

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: 226.2 DOE Oversight Policy & CAS

Doc Control#2016-100-039

The Board, with Board Member(s) Joyce L. Connery, Jessie H. Roberson, Daniel J. Santos *approving*, Board Member(s) Sean Sullivan, Bruce Hamilton *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *recusing*, have voted to approve the above document on September 20, 2016.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Joyce L. Connery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/19/16
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/20/16
Sean Sullivan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/20/16
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09/19/16
Bruce Hamilton	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/20/16

*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.


 Assistant 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

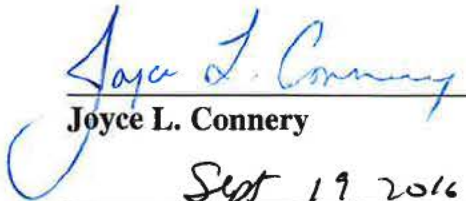
FROM: Joyce L. Connery

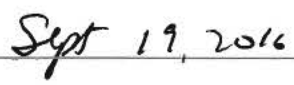
SUBJECT: 226.2 DOE Oversight Policy & CAS

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Approved **Disapproved** **Abstain**
Recusal - Not Participating

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



Joyce L. Connery


Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Jessie H. Roberson


SUBJECT: 226.2 DOE Oversight Policy & CAS

Doc Control#2016-100-039

Approved **Disapproved** **Abstain**

Recusal - Not Participating

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



Jessie H. Roberson
Sept 20, 2016

Date

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

FROM: Sean Sullivan

SUBJECT: 226.2 DOE Oversight Policy & CAS

Doc Control#2016-100-039

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

Recusal – Not Participating _____

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

The proposed letter states a concern over a recent change to a Department of Energy policy on federal oversight and contractor assurance systems (CAS). I do not share the stated concern. Accordingly, I disapprove.

The new policy statement, DOE Policy 226.2, expands the scope of CAS beyond the environment, safety, security, and health areas to include business and financial systems, and requires that both federal oversight and the CAS be tailored to the risk posed by the site or activity. The policy seems entirely reasonable.

The proposed letter implies that because the prior policy was issued during implementation of a DNFSB recommendation, the Secretary should report to the Board on the policy revision as well as measures being taken to ensure effectiveness of federal oversight and the CAS. The relevant Board recommendation was issued twelve years ago. Since then there has been four different Secretaries of Energy. In any organization, policies should evolve as conditions change, lessons are learned, and leaders attempt to lead. To suggest, as this letter appears to do, that a twelve year old policy should remain static strikes me as improper.

Moreover, the Board's Recommendation 2004-1, *Oversight of Complex, High-Hazard Nuclear Operations*, was very broad, so much so that assessing the impact of the Recommendation and DOE's response to it has been difficult. The Recommendation and an associated technical report, TECH-35, *Safety Management of Complex, High-Hazard Organizations*, encompassed safety management issues across the complex. It touched on issues involving technical competence, personnel assignment, contract management, organizational culture, and delegation of authority. Inevitably, evidence surfaced of improvement in some areas and/or places, but degradation in others.

Ten years later, in May 2014, the Board closed the Recommendation, without assessing whether the Board's goals had been met. Arguably, they had not. At the time of closure DOE's Implementation

Plan was not complete. Five months after closure, the Board's prior Chairman publicly stated that DOE's federal oversight capability and contractor assurance systems needed to be strengthened. (See the presentation of Dr. Peter Winokur, "The Evolution of Safety", dated October 21, 2014. The presentation is available on the Board's website.)

I conclude that the Board's Recommendation 2004-1 was too broad and that the current Board should cease efforts to implement its stated goals. Future Board recommendations should identify specific safety issues at specific defense nuclear facilities threatening the adequate protection of the public. Subsequent safety improvement can then be reasonably measured. Broad, sweeping direction on how best to manage the entire complex should be left to the Secretary, subject only to input from the President and the Congress.



Sean Sullivan

9/20/16

Date

Shelby Qualls

From: Daniel J. Santos
Sent: Monday, September 19, 2016 4:48 PM
To: Shelby Qualls; Lotus Smith
Subject: RE: Notational Vote: Doc#2016- - BLUE FOLDER

Approved.

From: Shelby Qualls
Sent: Monday, September 19, 2016 3:51 PM
To: Bruce Hamilton [REDACTED]; Daniel J. Santos [REDACTED]; Jessie Roberson [REDACTED]; Joyce Connery [REDACTED]; Sean Sullivan [REDACTED]
Cc: James Biggins [REDACTED]; Katherine Herrera [REDACTED]; ExSec [REDACTED]
Subject: Notational Vote: Doc#2016- - BLUE FOLDER

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: 226.2 DOE Oversight Policy & CAS

DOC#2016-100-039

Approved _____
Disapproved _____
Abstain _____
Recusal – Not Participating _____

COMMENTS:

Below _____
Attached _____
None _____

Shelby Qualls
Assistant Executive Secretary
Office of the Chairman

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

SUBJECT: 226.2 DOE Oversight Policy & CAS

Doc Control#2016-100-039

Approved _____ Disapproved X Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

This correspondence proposes using the statutory authority of 42 U.S.C. § 2286b(d) to require that the Secretary of Energy provide a briefing within 15 days explaining how new DOE Policy 226.2 will be implemented in order to achieve certain oversight approaches that the Board views as necessary.

42 U.S.C. § 2286b(d) authorizes the Board to, "...establish reporting requirements for the Secretary of Energy...." The Board should generally practice a narrow interpretation of this statutory authority and use it with discretion for information-gathering and obtaining expert knowledge and advice from DOE. This interpretation is consistent with the legislative history of the Board's founding. (See House Conference Report No. 100-989, "Joint Explanatory Statement of the Committee of Conference, National Defense Authorization Act, Fiscal year 1989," page 490; and, Senate Committee on Armed Services Report 100-232, Report Together with Additional Views to Accompany S. 1085, Nuclear Protections and Safety Act of 1987," page 26.)

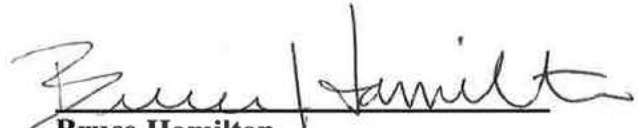
42 U.S.C. § 2286b(d) should not be used as a mechanism to persuade, either explicitly or implicitly, the Secretary of Energy to carry out certain activities. In this case, tying the reporting requirement to, "... how DOE plans to ensure its oversight approach ... [is] ... consistent with [closed] Recommendation 2004-1," appears to convey that message.

More broadly, it is important to remember that nuclear safety is achieved in large part through a combination of often unquantifiable elements, including policies, orders, directives, management styles, workforce talents, contract terms, the working environment, supplier choices, and many others. These elements can be integrated into the enterprise in multiple ways, and it is reasonable to assume that placing different priorities on different elements or allocating limited resources in different proportions can still achieve a level of nuclear safety that adequately protects the public.

It is the Secretary's job to determine policies, design programs, and develop processes to achieve that outcome, including setting priorities and allocating resources. It is the role of the DNFSB to inform the Secretary of Energy when the outcome of that arrangement threatens the adequate protection of the public.

This correspondence would place the Board in a position of telling the Secretary how best to design a policy, without making an objective case that the result of such policy would affect the adequate protection standard. If this were an appropriate role for the Board, there would be no limit to where the Board could insert itself in the overall management of the weapons complex ... and no limit to the costs it could impose. This is certainly not what Congress intended when it created the Board.

I therefore disapprove.


Bruce Hamilton

20 SEPT 2016
Date