

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: Board Letter on DOE Order 232.2A on Occurrence Reporting

Doc Control#2017-100-045

The Board, with Board Member(s) Jessie H. Roberson, Daniel J. Santos, Joyce L. Connery *approving*, Board Member(s) Sean Sullivan, Bruce Hamilton *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *not participating*, have voted to approve the above document on May 9, 2017.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Sean Sullivan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/09/17
Bruce Hamilton	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/09/17
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	05/08/17
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/08/17
Joyce L. Connery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	05/08/17

*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: Sean Sullivan

SUBJECT: Board Letter on DOE Order 232.2A on Occurrence Reporting

Doc Control#2017-100-045

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

Recusal – Not Participating _____

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

The letter represents an unwarranted intrusion into the Secretary's management and leadership of his own department. The letter expresses a "concern" of the Board that DOE safety oversight will be weakened by recent changes to the DOE Order specifying required reports by DOE contractors on incidents or unplanned events. If the Board was concerned that we might not receive timely information, then a letter on the matter would be appropriate. But this letter does not raise that concern. Rather, the letter expresses concern that the Secretary and his team may not receive timely reports.

We have no evidence that DOE safety oversight will actually be weaker under the revised order. It is quite possible that DOE is merely eliminating unnecessary administrative burdens. We should wait until an order has been implemented before passing judgment on it, except in cases where the deficiencies are so great as to threaten the adequate protection of the public health and safety. This is not such an instance.

The proposed reporting requirement seeks information regarding possible "supplemental action" planned by DOE line management. The reporting requirement should not be used in this manner. Such supplemental action, if any, has not yet been determined, and we know that. Using the Board's statutory power to require a report creates a public discourse on an internal DOE issue, and can have no other purpose than to coerce the Secretary into reversing some of the changes. Congress provided to the Board the power to issue formal recommendations but strictly limited use of that power to circumstances involving the adequate protection of the public health and safety. The reporting requirement is intended to be used only for situations requiring additional information. If used coercively the Board can, without limit, attempt to micromanage the affairs of Secretary of Energy.

I therefore disapprove.



Sean Sullivan

5/9/17

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

SUBJECT: Board Letter on DOE Order 232.2A on Occurrence Reporting

Doc Control#2017-100-045

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

Recusal – Not Participating _____

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

This correspondence proposes to invoke 42 U.S.C. § 2286b(d) to require that DOE report to the Board what supplemental actions are planned by line management to ensure safety oversight is not degraded at defense nuclear facilities prior to implementing DOE Order 232.2A. It expresses the Board's concern that deleting the requirement to report a Potential Inadequacy of the Safety analysis may impede line and independent oversight organizations' awareness and ability to effectively oversee (sic) the immediate actions taken and the follow-on Unreviewed Safety Question Determination. It states that such a change to the DOE Order may impede safety and organizational learning at defense nuclear facilities.

The correspondence is unsound on two counts.

First, the correspondence arrogantly suggests that the Board knows better than DOE how to manage DOE's internal affairs, and it implies that a legitimate role for the Board is to help DOE in improving its nuclear safety posture. This is contrary to the Board's mission, as specified in 42 U.S.C. § 2286a.(a), which states clearly that the Board is to, "...provide independent analysis, advice, and recommendations to the Secretary of Energy ... in providing adequate protection of public health and safety at ... defense nuclear facilities." In other words, the Board is limited to informing the Secretary when adequate protection of public health and safety is compromised. The Board should refrain from suggesting, nudging, or otherwise encouraging improvements in safety which do not reach the adequate protection threshold: to do otherwise would have the Board assume a role in optimization or continuous improvement in DOE's internal management without being accountable for any increased costs and/or schedule delays that might results.

Second, the correspondence proposes to misapply the Board's statutory authority. 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 its statutory

authority to require reports. This authority should be used with discretion, such as when information has been difficult to obtain through informal staff-to-staff interaction or when periodic recurring reports on program status are warranted. 42 U.S.C. § 2286b(d) should not be used as a mechanism to convey either an explicit or an implied mandate for DOE to carry out an activity. In this case, that appears to be the message. Further, 42 U.S.C. § 2286b(d) should not be used as a surrogate for a recommendation. In the event that the issues identified in the Staff Issue Report, either individually or in totality, challenged the "... adequate protection of the public health and safety..." the statutorily appropriate path would be to recommend action to the Secretary of Energy. In this case, there is no indication that this threshold has been reached.

I therefore disapprove.


Bruce Hamilton

9 MAY 2017
Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

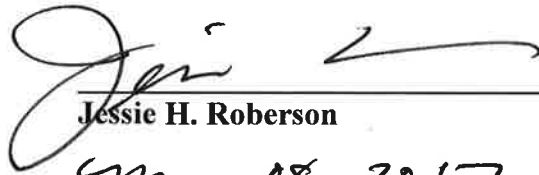
FROM: Jessie H. Roberson

SUBJECT: Board Letter on DOE Order 232.2A on Occurrence Reporting

Doc Control#2017-100-045

Approved **Disapproved** **Abstain**
Recusal – Not Participating

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



Jessie H. Roberson
May 08, 2017

Date

Cameron Shelton

From: Daniel J. Santos
Sent: Monday, May 08, 2017 9:11 AM
To: Cameron Shelton; Shelby Qualls
Subject: RE: Notational Vote: Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting - BLUE FOLDER

Approved with the following comment:

The impact of changes to occurrence reporting resulting from deleted Order requirements could lead to less discipline toward nuclear safety and could adversely impact the safety posture of the defense nuclear complex. Studies of major accidents across many industries continue to reinforce the importance of having a strong learning culture with adequate information flow and accountability at all levels and across all stakeholders. DOE's action to revise DOE Order 232.2A appears to be a step in the opposite direction and could end up being a contributing factor that negatively impacts the sustainability of adequate protection of the health and safety of the public.

From: Cameron Shelton
Sent: Monday, May 08, 2017 9:02 AM
To: Bruce Hamilton [REDACTED]; Daniel J. Santos [REDACTED]; Jessie Roberson [REDACTED]; Joyce Connery [REDACTED]; Sean Sullivan [REDACTED]
Cc: Glenn Sklar [REDACTED]; Katherine Herrera [REDACTED]; James Biggins [REDACTED]; Richard Reback [REDACTED]; Steven Stokes [REDACTED]; Richard Tontodonato [REDACTED]; ExSec [REDACTED]; Adam Poloski [REDACTED]; Chris Roscetti [REDACTED]; John Pasko [REDACTED]; Timothy Dwyer [REDACTED]; Matt Forsbacka [REDACTED]
Subject: Notational Vote: Doc#2017-100-045, Board Letter on DOE Order 232.2A on Occurrence Reporting - 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: Subject of document

DOC#2017-100-045

Approved _____
Disapproved _____
Abstain _____
Recusal – Not Participating _____

COMMENTS:
Below _____

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

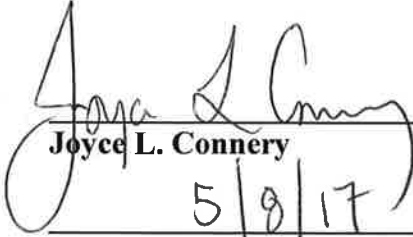
FROM: Joyce L. Connery

SUBJECT: Board Letter on DOE Order 232.2A on Occurrence Reporting

Doc Control#2017-100-045

Approved **Disapproved** **Abstain**
Recusal – Not Participating

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



Joyce L. Connery

5/8/17
Date