



Los Alamos Study Group

Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability

**Comments submitted to the Defense Nuclear Facilities Safety Board (DNFSB)
Department of Energy's (DOE) Interface with the DNFSB and DOE Order 140.1
Public Hearing
21 February 2019**

Thank you for allowing me this opportunity to speak this evening. My name is Trish Williams-Mello and I am representing the Los Alamos Study Group. My colleague and husband, Greg Mello, would be here tonight as well, however, he is in Washington, DC for another few days.

I have corresponded and met personally with DNFSB board and its staff almost from the time of its inception in 1988. And all of you have known Greg and I and the Study Group for many years. We have been the DNFSB's champions and defenders for the majority of that time. However, when we see mistakes being made; or policies that desperately need changed or discontinued; or staff and board who are guiding the DNFSB down a path of destruction we will speak up, write letters, inform the press, and generally not turn loose until things change for the better.

Specific comments:

On May 14, 2018, DOE adopted Order 140.1, which greatly restricts DOE communications with the DNFSB, eliminates direct communication between the DNFSB and DOE contractors (the sole operating staff in all DOE and National Nuclear Security Administration (NNSA) nuclear facilities and for the sites overall), and eliminates DNFSB oversight of Hazard Category 3 nuclear facilities, which comprise about 60% of DOE's nuclear facilities overall.

DOE's internal roll-out briefing, leaked to the Study Group, provides more background and detail. For example, the Los Alamos National Laboratory (LANL) management and operating contractor at that time was part of the team that designed the Order.

This Order would eliminate formal DNFSB oversight for the majority of defense nuclear facilities, those judged by DOE not to have potential public health and safety consequences in the event of accidents (i.e. those categorized by DOE as "Hazard Category 3" and below).

The Order ends all formal DOE cooperation with DNFSB as regards worker safety *per se*, both workers in defense nuclear facilities as well as co-located workers in other facilities nearby. The only formal cooperation with the Board that is allowed under the Order is that which bears on public health and safety.

On August 28, 2018, the DNFSB held a hearing on the Order, at which the DOE witnesses on hand made clear that while informal cooperation and suggestions about worker safety are always welcome, DOE is no longer under any obligation to formally respond to DNFSB requests and concerns unless public health and safety are implicated.

DOE witnesses were Undersecretary Dan Brouillette, Associate Under Secretary for Environment, Health, Safety and Security Matthew Moury, and Ike White, Chief of Staff for NNSA Administrator Lisa Gordon-Hagerty.

Upending three decades of prior mutual agreement and practice, in this Order DOE defines the "public" as not including workers.

At that August 2018 hearing, the four DNFSB board members took turns condemning the new Order overall and in eloquent detail -- at times vehemently.

In their closing statements Board members made clear their varied dissatisfaction with the responses they received from the DOE witnesses.

At the outset of the hearing it was noted by the Acting Chair that the new Order appeared to conflict with the Board's [enabling legislation](#). We agree and want to state for the record that this order is illegal.

On August 15, 2018, in testimony before the New Mexico Legislature's [Radioactive and Hazardous Materials Committee](#) (RHMC), Craig Leasure, Principal Associate Director of Operations and Business for LANL told RHMC Chairman Jeff Steinborn, in response to Steinborn's question as to his role in crafting the Order, that "I helped with the order as one of the people on the team, but it is a federal order." (from Study Group audio recording).

The staff cut, recent Order, and related prior actions to weaken the Board are taking place as the Trump Administration seeks to ramp up acquisition of production facilities for new nuclear weapons, in particular for the production of plutonium cores of warheads ("pits"), the mission of the former Rocky Flats Plant.

Safety concerns loom large in plutonium pit production. LANL's aging main plutonium facility (PF-4) has been dogged by persistent safety problems that have been and remain a [focus](#) of DNFSB concern.

LANL proposals to build underground factory "modules" to expand pit production capacity "rely solely on the passive confinement capability for accident mitigation and assumes that no active safety systems would be required" ("[Pu Pit Production Engineering Assessment](#)," p 2-43). Emergency fire water supply and electrical power "will not be designed, procured, or installed to nuclear code and standards".

NNSA also seeks to transform an existing radiological facility (the [Radiological Laboratory, Utility, and Office Building](#), RLUOB) into a Hazard Category 3 nuclear facility [without having designed or built the facility to nuclear standards](#). Under DOE O 140.1, this facility (and its workers) would lie outside DNFSB's purview and apparently the DOE would not have to respond to design review by DNFSB of [any](#) of these facilities, because a) RLUOB is to become a HazCat 3 facility and b) even though the underground modules are to be HazCat 2, they are presumed to create no public health risks (being underground) and hence have no active safety-class systems to mitigate those risks.

We believe the Board should make it clear to Congress, which created the Board in 1988, that under the terms of this Order the Board will be unable to protect DOE atomic energy defense workers from nuclear hazards. At a minimum Congress should expand DNFSB's mandate to explicitly advise DOE on worker safety and health at all defense nuclear facilities, in parallel to DNFSB's explicit public safety and health mandate.

What is being done in the name of decreasing 'red tape' is a travesty, and very dangerous for workers. It will increase, not decrease, bureaucratic burdens.

As of June 17, 2018 the Department of Labor had approved 1,599 unique worker occupationally-related death claims from survivors of LANL workers, according to the [Alliance of Nuclear Workers Advocacy Groups](#) (ANWAG, personal communication). Considering that documentation of occupational illness and death is more difficult for the early years of Los Alamos, this is almost certainly an underestimate of worker mortality due to work at LANL. This very roughly works out to one committed occupational fatality every two weeks for 61 years.

I have included a copy of ANWAG's formal comments on DOE Order 140.1 as part of my written comments. I have also included the Study Group's formal comments, Parts 1 and 2, dated August 27 & 30, 2018, our press release dated August 28, 2019, and our letter to Congressional colleagues, dated August 30, 2019 as part of my written comments as well.

Greg Mello: "There is no doubt that killing the Safety Board, or turning it into a zombie agency, is exactly the idea of those who have proposed these so-called 'reforms.' There have been continued efforts to kill or maim the DNFSB since the G.W. Bush administration. These have waxed and waned with political circumstances. The Board's internal enemies -- those responsible for repeated efforts to destroy the Board or the Board's effectiveness -- were appointed by Obama but activated under Trump.

There is no question that the present Order was drafted in order to remove the DNFSB as an obstacle to Trump Administration plans to jump-start nuclear weapons production, particularly the construction of new facilities for production of plutonium pits (nuclear warhead cores).

Destroying the Safety Board is likely to result in collapse of nuclear weapons work itself, but what kind of tragedies will families have to endure in the meantime, or afterward? A community can be destroyed as readily with nuclear accidents and worker illness as with a bomb."



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["Forget the Rest" blog](#)

August 30, 2018

Dear [Congressional colleagues],

You all probably have the important letter sent from the New Mexico senators yesterday. It requests that you --

- prohibit any funds from being used to support the proposed DNFSB reorganization, especially the proposed staff cut, and that you
- suspend DOE Order 140.1

as you complete the FY19 Energy and Water Appropriations bill.

We fully concur with these timely and simple proposals, which are to the point.

We believe DOE Order 140.1 is not just ill-advised but illegal for reasons well-articulated in the August 28 hearing.

Today we wrote the Board suggesting that they ignore the subject Order to the best of their ability and meanwhile log every instance of resistance, time-wasting, and lack of access from DOE and its contractors, with names and dates and other specific information for submission to Congress, as examples of Atomic Energy Act violations which should not be allowed to continue. Your committees have an important role to play in this.

We are also concerned that the vote by the DNFSB Board to slash its own staff reflects declining expectations of agency performance on the part of the Board itself.

Congress has been too idle in protecting this agency, and now emergency action is warranted. The letter from the New Mexico delegation is an excellent start.

We also suggest that in DNFSB's enabling legislation, the words "and worker" should be inserted after the word "public" in the phrase "public health and safety" in the four places the latter phrase occurs, to clarify what has been so far 30 years of oversight.

We have collected our own formal comments and press releases, recent articles in the press, and other materials of interest here. A good overview was provided today by Robert Alvarez: "Under siege: Safety in the nuclear weapons complex," *Bulletin of the Atomic Scientists*, Aug 30, 2018.

The Radioactive and Hazardous Materials Committee of the New Mexico Legislature is very interested in these issues. That Committee recently conducted a hearing in which DOE Order 140.1 and DNFSB staffing issues played an important part. Ms. Shawna Casebier, an attorney with the New Mexico Legislative Council Service, is copied here.

As was remarked at the August 28 DNFSB hearing by more than one Board member (and in press accounts afterward), the timing of DOE Order 140.1 could hardly be worse. DOE facilities are aging, just as dangerous new missions are being proposed. A "perfect storm" is at hand, in Board member Connery's words.

In the case of LANL, the operating contractor and NNSA are now boldly proposing nuclear facilities which admittedly will not meet current nuclear safety standards. They also appear, to my eye at least, to violate common building standards, to the point of future inoperability.

They have done this before more than once, and their projects have failed to get off the drawing board. In one case -- the Plutonium Storage Facility -- the building was completed but could never be used and had to be quietly torn down. In the case of the Radiological Laboratory, Utility, and Office Building (RLUOB), once a relatively "modest" building (\$400 million, with equipment), the paint was hardly dry before a billion dollars in new equipment was proposed, and funded, to re-purpose the building.

The geotechnical and topographic limitations of LANL's TA-55 area, coupled with the age and original design of building PF-4, make it very difficult to expand the pit production mission, let alone to do so in an enduring fashion, i.e. beyond PF-4's lifetime. If current DOE safety standards were actually met, LANL couldn't take on the industrial pit mission.

Instead, the safety strategy for LANL's proposed underground pit production modules would "rely solely on the passive confinement capability for accident mitigation and assumes that no active safety systems would be required" (Engineering Assessment, p. 2-43). Emergency fire water supply and electrical power for the modules "will not be designed, procured, or installed to nuclear codes and standards" (op. cit., p. 2-47). Production shifts would be shuffled in and out of cramped underground plutonium processing rooms through what appear to be very small locker rooms; there would be no "office areas, lunch/break room, restrooms, or operations and security control areas" (Ibid).

Meanwhile LANL and NNSA seek to acquire Hazard Category 3 nuclear facility space in the former RLUOB despite not having built the facility to nuclear standards. You should see a trend here.

Under Order 140.1, DOE would not apparently have to respond to design review by DNFSB of any of these facilities, because a) RLUOB is to become a HazCat 3 facility and b) even though the underground modules are to be HazCat 2, they are

presumed to create no public health risks (being underground) and hence have no active safety-class systems to mitigate those risks.

We hope you will take decisive action to restore at least the very limited oversight of public and worker health and safety for defense nuclear facilities the nation at least thought it had a few months ago. Perhaps you can find a way to clarify the worker safety aspect of DNFSB's mandate.

Thank you for listening to these concerns and ideas.

Greg Mello

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"Forget the Rest" bl

For immediate release August 28, 2018

Defense Nuclear Facilities Safety Board Convenes Hearing, Condemns Restrictive Trump Safety Order

Order Eliminates External Oversight at Most Defense Nuclear Facilities

Ends Formal External Safety Oversight for Defense Nuclear Workers Except As Necessary to Protect Off-Site Public

Contact: Greg Mello, Los Alamos Study Group, 505-265-1200 office, 505-577-8563 cell

[Selected background](#)

[Permanent link](#) * [Previous press releases](#)

Albuquerque, NM – Today the Defense Nuclear Facilities Safety Board (DNFSB, Board) convened a hearing to examine issues related to Department of Energy (DOE) Order 140.1, "Interface with the Defense Nuclear Facilities Safety Board," approved by the Secretary of Energy on May 14, 2018.

As the hearing ended, Acting DNFSB Chairman Bruce Hamilton said it was only the first of up to three hearings on the highly-controversial order. Such attention to a DOE Order by the Board is unprecedented.

The Order would eliminate formal DNFSB oversight for the majority of defense nuclear facilities, those judged by DOE not to have potential public health and safety consequences in the event of accidents (i.e. those categorized by DOE as "Hazard Category 3" and below).

The Order ends all formal DOE cooperation with DNFSB as regards worker safety *per se*, both workers in defense nuclear facilities as well as co-located workers in other facilities nearby. The only formal cooperation with the Board that is allowed under the Order is that which bears on public health and safety.

DOE witnesses made clear that while *informal* cooperation and suggestions about worker safety are always welcome, DOE is no longer under any obligation to *formally* respond to DNFSB requests and concerns unless *public* health and safety are implicated.

DOE witnesses were Undersecretary Dan Brouillette, Associate Under Secretary for Environment, Health, Safety and Security Matthew Moury, and Ike White, Chief of Staff for National Nuclear Security Administration (NNSA) Administrator Lisa Gordon-Hagerty.

Video, exhibits, and eventually transcripts from today's hearing will be available at the above link.

Upending three decades of prior mutual agreement and practice, in this Order DOE defines the "public" as not including workers.

At today's hearing, the four Board members took turns condemning the new Order overall and in eloquent detail -- at times vehemently.

In their closing statements Board members made clear their varied dissatisfaction with the responses they received from the DOE witnesses.

At the outset of the hearing it was noted by the Acting Chair that the new Order appeared to conflict with the Board's enabling legislation (the Atomic Energy Act as successively modified).

Study Group Director Greg Mello:

"We view the new Order with grave concern. It is an existential danger to the DNFSB's work.

"We believe it violates the overall intent as well as many specific sections of the Atomic Energy Act (AEA) as amended [42 U.S.C. §2286 et. seq.]

"Order 140.1 will greatly undermine the operation of the Board, increase bureaucratic burdens at both DOE and DNFSB, and could have the effect of making the DNFSB largely a vestigial, figurehead agency.

"Under the new Order DOE, and not DNFSB, will be the agency that decides whether a given document or defense nuclear facility or operation should be open to DNFSB oversight -- directly contradicting existing law. Any issue that bears on worker safety and health merely, and not also public health and safety, has been unilaterally redefined by DOE as outside the Board's mandate.

"As today's hearing made clear, DOE created this Order with intimate involvement from its contractors but in total secrecy from the Board, local communities, the public, and unions.

"At today's hearing, Board members raised legal, technical, practical, and even moral objections to the new Order. Ms Connery said she had a 'visceral' reaction to the order. So do we.

"We agree with all the concerns raised by the Board. But the fact of the matter is that the DNFSB's legal mandate does not include the words "worker," or "worker safety." The Trump Administration and some key nuclear contractors have decided that now is an opportune moment to take advantage of that inherent weakness to drive forward an anti-regulatory, nuclear production agenda in order to return to make the nuclear production complex 'great again.' They want to drive a wedge between public health and worker health, isolating the latter both literally and figuratively.

"Protecting worker safety has always been a major emphasis of the Board in part because public health and safety -- the main focus of the Board's mandate -- cannot be protected without protecting workers. And the Board does have -- or has had up until this Order -- a clear mandate to advise on all DOE defense nuclear facilities standards, operations, and related matters, all of which bear directly on worker safety.

"The Board has been able to address worker safety in part because there has been a political consensus supporting that protection. We are now in a new Cold War. With this Order and in the other ways DOE is weakening safety standards and protections, the Trump Administration is testing that political consensus.

"We believe the Board should make it clear to Congress, which created the Board in 1988, that under the terms of this Order the Board will be unable to protect DOE atomic energy defense workers from nuclear hazards. At a minimum Congress should expand DNFSB's mandate to explicitly advise DOE on worker safety and health at all defense nuclear facilities, in parallel to DNFSB's explicit public safety and health mandate. We call upon the New Mexico congressional delegation to lead the charge on this.

"What is being done in the name of decreasing 'red tape' is a travesty, and very dangerous for workers. It will increase, not decrease, bureaucratic burdens.

"There is no question that the present Order was drafted in order to remove the DNFSB as an obstacle to Trump Administration plans to jump-start nuclear weapons production, particularly the construction of new facilities for production of plutonium nuclear warhead cores ("pits").

"Los Alamos National Laboratory (LANL) is the only place pits can be produced until at least 2030. NNSA's pit production plans require converting an existing LANL radiological laboratory into a Hazard Category 3 nuclear facility without having constructed it to nuclear facility standards. This Order removes this facility from DNFSB purview.

"Under recent new law, NNSA must explore round-the-clock production of pits at LANL; at today's hearing it emerged that preliminary DNFSB queries concerning the safety implications of plutonium shift work at LANL have been rebuffed because of this Order.

"NNSA's Engineering Assessment for pit production assumes -- citing LANL design documents -- that the proposed underground pit production modules at LANL would have no public health and safety impacts in the event of a worst-case accident and hence no need for active safety-class systems such as surviving active ventilation and fire protection. So these proposed multibillion-dollar facilities may well also be exempt from DNFSB design, construction, and operational oversight under this Order."

"The full impact of this Order cannot be accurately assessed without figuring in the impact of DNFSB's recent reorganization and massive staff cut ("Massive Staff Cut, Reorganization Proposed at Defense Nuclear Facilities Safety Board," Aug 17, 2018). Either blow might be fatal for the DNFSB. Together they spell doom for this fine agency, with so many talented people. Without DNFSB's careful review, fatal accidents and sicknesses -- who knows how many, and with what public health and environmental consequences -- are a certainty in the defense nuclear business."

ENDS



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August 27, 2018

Mr. Bruce Hamilton, Acting Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, Suite 700
Washington, DC 20004-2901

Re: Part 1 of our comments on DOE Order 140.1, in time for your hearing tomorrow; more specific comments will follow in Part 2

Acting Chairman Hamilton:

We view the subject Order with great concern. We believe it violates the overall intent as well as many specific sections of the Atomic Energy Act (AEA) as amended, 42 U.S.C. §2286 et. seq.

Order 140.1 will greatly undermine the operation of the Board, increase overhead tremendously in both the Department of Energy (DOE) and DNFSB, and will have the practical effect of making the DNFSB largely a figurehead agency – if it is not beginning to do so already through its effect on morale, in combination with other factors.

The Order, as DOE's May 14, 2018 Roll-Out Briefing makes crystal clear, confines DNFSB's oversight mandate to:

- a) only those facilities which have known potential public health and safety impacts, i.e. to Hazard Category 1 and 2 (HC-1 and -2) facilities; and
- b) only those safety issues potentially affecting *public* health and safety, a category of persons carefully defined as excluding
 - i) workers in any defense nuclear facility, and
 - ii) co-located workers on the same site.

Under the terms of the Order, the DNFSB is rendered completely powerless to protect worker safety and health at most DOE nuclear facilities (upon information and belief, about 60% of DOE nuclear facilities are HC-3 facilities). For these HC-3 facilities, Board concerns about “worker and co-located worker protection *should be taken under consideration as appropriate,*” (op. cit., slide 15, emphasis added) – that is, neither DOE nor its contractors are under any obligation to actually respond to DNFSB concerns, *if such concerns could even be formulated given the lack of access codified in this Order.*

The first (and overarching) subject of my June 21, 2018 briefing to the Board was what we believe to be an urgent need for an “all-risk” nuclear worker safety initiative, to be spearheaded by the Board. The Board's enabling legislation contains no mention of worker safety. Nuclear worker safety is just not an explicit mission of the Board (§2286a(a)).

At the same time, no other federal agency external to DOE has any advisory or regulatory power to protect defense nuclear workers.

Until DOE Order 140.1, protection of workers was an implicit (and traditional) Board mission. The Board's mandate does include (for example) review and evaluation of the content and implementation of all DOE standards relating to the design, construction, operation, and decommissioning of all defense nuclear facilities, which includes worker safety standards and their implementation.

The Board's mandate also includes the investigation of any event or practice at a DOE defense nuclear facility which has affected or could affect public health and safety, which includes events and practices which also bear on worker safety. The Board's mandate includes access to all safety analysis reports from any DOE defense nuclear facility.

These mandates have provided the Board with what amounts to worker safety advisory obligations, however indirect and incomplete they may be.

Unfortunately, the authors of DOE O. 140.1 have made it very clear that workers are not members of the "public" (op. cit., slide 14), and thus do not fall – as far as DOE is concerned – under the (advisory) protection of DNFSB's overall mandate.

Under DOE Order 140.1, DOE will decide as to whether a given document or facility or operation bears merely on worker safety and health – in which case the default decision will be to deny access as not germane to the Board's public safety mandate – or else the issue does rise to a question of off-site public safety and health, in which case access may be granted subject to brand-new conditions and controls.

Just how illegal all these new provisions are will be the subject of Part 2 of these comments.

DOE nuclear facilities are typically located on very large sites, sometimes on the order of tens of square miles (e.g. Los Alamos National Laboratory, LANL, or Pantex) or even hundreds of square miles (the Savannah River Site and the Hanford Site). Within these sites, nuclear facilities may be located miles from the public. Geography at these sites can and does largely de-couple decisions affecting public safety and health from decisions affecting worker safety and health. That "de-coupling" would become even more extreme under this Order, to the detriment of the safety of defense nuclear workers.

We believe the Board would be well-advised to make it clear to Congress that, under the terms of this Order – or any variations of it – the Board will be unable to help protect DOE atomic energy defense workers from nuclear hazards.

At a minimum, Congress should expand DNFSB's mandate to explicitly advise DOE on worker safety and health, in parallel to DNFSB's public safety and health mandate. As I said on June 21, we believe the Board should request this expansion of responsibilities right now, to remedy the original defect in its mandate.

It goes almost without saying that the DNFSB is not a regulatory body and thus, contrary to DOE's view, does not fall under the purview of Executive Order 13777, "Enforcing the Regulatory Reform Agenda."

I don't need to remind you that the health and stability of the defense nuclear facility workforce is essential to the stable, continuous operation of defense nuclear facilities.

For the Study Group,

Greg Mello, Executive Director

cc: Secretary Rick Perry
Administrator Lisa Gordon-Hagerty



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August 30, 2018

Mr. Bruce Hamilton, Acting Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue, Suite 700
Washington, DC 20004-2901

**Re: Part 2 of our comments on DOE Order 140.1
Part 1 of our comments**

For reference:

- **Defense Nuclear Facilities Safety Board Convenes Hearing, Condemns Restrictive Trump Safety Order, LASG press release, Aug 28, 2018**
- **Massive Staff Cut, Reorganization Proposed at Defense Nuclear Facilities Safety Board, press release, Aug 17, 2018**
- **Recent media articles and other pertinent information**
- **Letter from senators Udall and Heinrich to the Chair and Ranking Member of the Senate Appropriations Energy and Water Development Subcommittee**

Acting Chairman Hamilton and other members of the Board:

Thank you for organizing this week's excellent and much-needed hearing on Department of Energy (DOE) Order 140.1. You can find our post-hearing press release at the above link as well as regional and national articles of interest.

We were pleased to see the letter from senators Udall and Heinrich and concur with all its points. We see both the proposed reorganization and DOE O. 140.1 as devastating blows to the DNFSB which happen to more or less coincide in time and in effect, because without adequate staff the DNFSB will have to dramatically curtail its activities with or without DOE O. 140.1.

We doubt the agency can survive either blow, let alone both, and still continue to function at a high level of competence and coverage of facilities and issues. It is deeply troubling to us that the proposed reorganization, unlike DOE O. 140.1, is a deep self-inflicted wound. We urge you to pause and reconsider its implementation, as now do the New Mexico senators also.

We believe the DNFSB staff is too small, not too large – much too small. At LANL alone, DNFSB inspectors cannot and do not visit most nuclear facilities, and the Board has not been able to fulfill major portions of its legislated responsibilities, e.g. in overview of nuclear facility design.

We were heartened and impressed by the Acting Chairman's admission that he had been wrong to oppose this week's hearing, and we hope that those of you who supported the reorganization plan – the peremptory unveiling of which shared the same transparency issues as O. 140.1 – will likewise reconsider your decision. A simple Board decision could relabel the plan a "discussion draft." Hopefully this could be done before too much institutional knowledge is lost.

We support increasing the number of field inspectors (though we must reserve judgment on how these additional inspectors would be deployed).

With the hearing as background, we urge you to write Secretary Perry asking him to formally suspend and where necessary rescind application of Order 140.1, as illegal and in violation of your offices. We believe you should tell Secretary Perry that you must and will ignore the Order and proceed with your statutory responsibilities. Congressional authorization, appropriations, and the appropriate government affairs committees should be notified, as well as the Attorney General. We urge the Board to proceed with its own mandated agenda.

Every single instance of resistance, time-wasting, and lack of access from DOE and contractor staff should be carefully logged, with the names of the personnel involved, dates, and other specific information, and organized for immediate and periodic submission to Congress, as examples of illegal conduct that cannot be allowed to continue.

Before the hearing, we thought it would be valuable to point out some of the contradictions of O 140.1 with the DNFSB portion of the Atomic Energy Act. The hearing accomplished this better than we could have done. Now the question is whether the DNFSB's own conduct will also become illegal, by acquiescing to DOE's illegal Order.

We were pleased to hear that the Board is planning to conduct up to two further hearings on this matter. Hopefully you will be able to attract the actual decisionmakers, i.e. the Secretary and National Nuclear Security Administration (NNSA) Administrator, rather than their representatives to these hearings. If you cannot, we believe your subpoena power should be used. What else is it for?

We would like to request a hearing in New Mexico, not just on this Order but following the logic above, on topics of particular interest to the Board. The hearing should focus primarily on Los Alamos National Laboratory (LANL), where there have been many problems and challenging new missions, and where there are new and repurposed nuclear facilities planned. The outstanding issues mentioned in the Board's letter of July 23, 2018 to NNSA Administrator comprise a partial draft agenda, in our view, if supplemented by the issues mentioned in the exhibits of this week's hearing.

We would like to reiterate our view that the Board should seek a clearer legislative mandate to advise DOE on worker safety and health. The board may wish to reach out to worker organizations, i.e. unions, to testify regarding O. 140.1 and broader worker safety

issues. We believe DOE nuclear worker safety is currently being degraded across the DOE complex by deadline pressures.

For the Study Group,

/s/

Greg Mello, Executive Director

cc: Secretary Rick Perry
Administrator Lisa Gordon-Hagerty

