

**REQUEST FOR BOARD ACTION**

**Title of Action Document:**

Closure of March 8 Meeting

**Complete Review By:**

**Brief Description of Purpose:**

Pursuant to the Government in the Sunshine Act at 5 U.S.C. § 552b(d)(1) and the Board's implementing regulations at 10 C.F.R. § 1704.5(a), I request that the Board approve closing the meeting currently scheduled for March 8, 2018 (or as rescheduled by the Board), and issuance of a conforming Federal Register notice pursuant to clause 1.4(B)(28) of the Board Procedures. As advised during the Board's gathering on February 8, 2018 that a separate vote must be taken to close the Board meeting, and pursuant to Board Procedures 2.1(B)(2)(j), the General Counsel advises that based on the proposed meeting agenda, the Board may close this meeting pursuant to Government in the Sunshine Act exemptions (3) and (9)(B).

By approving this action, the Board determines that public participation would likely disclose matters specifically exempted by statute and/or disclose information for which premature disclosure would likely frustrate implementation of a proposed action of the Board. Therefore, by approving this action, the Board is invoking Exemptions (3) and (9)(B) to close the meeting (5 U.S.C. § 552b(c)(3) and (9)(B), 10 C.F.R. § 1704.4(c) and (h)).

**Relevant Background Information Attached (initial):** n/a

**Summarize any staff difference of opinion regarding the proposed action:** None

**Summarize any time sensitive considerations:** The Government in the Sunshine Act requires at least a one week notice prior to a closed meeting. OGC has initiated posting notice of the meeting to comply with the Board's regulations. Pursuant to the Board's regulation 10 CFR 1704.6, the Board shall submit a Federal Register notice immediately following public announcement of a meeting.

**Requester Signature:**

**Responsible Office Director Signature:**

2/14/2018

X James Biggins

James P. Biggins  
General Counsel  
Signed by: JAMES BIGGINS

**Executive Secretary Signature:** On file

**Final Disposition of Proposed Action:**

**Executive Secretary Signature:**

**AFFIRMATION OF BOARD VOTING RECORD**

**SUBJECT: RFBA by OGC to Close Meeting and Issue FRN**

**Doc Control#2018-300-028**


The Board, with Board Member(s) Bruce Hamilton, Jessie H. Roberson, Daniel J. Santos, Joyce L. Connery *approving*, Board Member(s) none *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *not participating*, has voted to approve the above document on February 22, 2018.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Bruce Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	02/21/18
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	02/22/18
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	02/21/18
Joyce L. Connery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	02/21/18

\*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: Bruce Hamilton**

**SUBJECT: RFBA by OGC to Close Meeting and Issue FRN**

**Doc Control#2018-300-028**

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

**Recusal – Not Participating**       

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

It is inappropriate to invoke Exemption (9)(B) of the Government in the Sunshine Act. Exemption 9(B) is redundant to Exemption (3) prior to the Board's decision on a Recommendation, and it is not applicable once the Board has decided. Including it as an exemption might advance the erroneous interpretation that the information could be withheld from the public even after the Board had acted in order not to frustrate DOE's action, but the "proposed agency action" listed in (9)(B) is the Board's action, not DOE's response to it.

Note that Exemptions (3) and (9)(B) parallel 10 C.F.R. § 1704.4(c) and (h).

Although the Government in the Sunshine Act Exemption 9(B) is not appropriate, a majority of Board Members rejected my proposed amendment to remove Exemption 9(B) from the subject RFBA. The inclusion of Exemption 9(B) in RFBA thus reflects a decision already made by the Board, and further argument to the contrary would be gratuitous.

I therefore approve.



\_\_\_\_\_  
**Bruce Hamilton**

\_\_\_\_\_  
**02/21/2018**

**Date**

**Member voted by e-mail dated February 21, 2018.**

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

**FROM: Jessie H. Roberson**

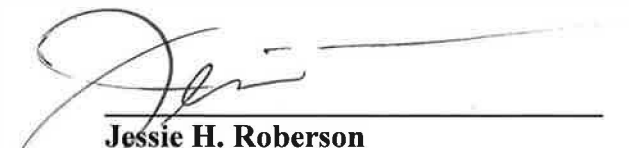
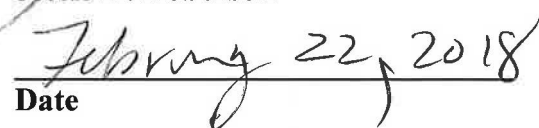
**SUBJECT: RFBA by OGC to Close Meeting and Issue FRN**

**Doc Control#2018-300-028**

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

**Recusal – Not Participating**

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

  
\_\_\_\_\_  
**Jessie H. Roberson**  
  
\_\_\_\_\_  
**Date**

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

**FROM: Daniel J. Santos**

**SUBJECT: RFBA by OGC to Close Meeting and Issue FRN**

**Doc Control#2018-300-028**

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

**Recusal – Not Participating**       

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



**Daniel J. Santos**

**Date**

2/21/18

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

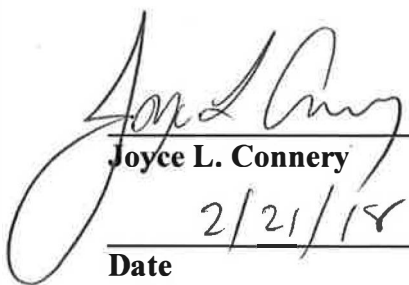
**FROM:** Joyce L. Connery

**SUBJECT:** RFBA by OGC to Close Meeting and Issue FRN

**Doc Control#2018-300-028**

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

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

  
\_\_\_\_\_  
**Joyce L. Connery**  
\_\_\_\_\_  
2/21/18  
**Date**