

In the Matter of:

Defense Nuclear Facilities Safety Board

September 17, 2018
Closed Board Meeting

Condensed Transcript with Word Index



For The Record, Inc.
(301) 870-8025 - www.ftrinc.net - (800) 921-5555

Closed Board Meeting

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6 DEFENSE NUCLEAR FACILITIES SAFETY BOARD
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10 CLOSED BOARD MEETING
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13 SEPTEMBER 17, 2018
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16 625 Indiana Avenue, NW
17 Washington, DC 20004
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2 ACTING CHAIRMAN HAMILTON: Good afternoon. My
3 name its Bruce Hamilton and I am the acting Chairman of
4 the Defense Nuclear Facilities Safety Board. I will
5 preside over today's closed meeting. With me today are
6 my colleagues on the board: Board member Jessie
7 Roberson, Board Member Daniel Santos and Board Member
8 Joyce Connery. We four constitute the Board.
9 Having established a quorum of Board members,
10 this closed meeting will now come to order. Mr. Joseph
11 Gilman, the Board's associate general counsel, will
12 serve as the Board's Executive Secretary for the
13 meeting.
14 This closed meeting was publicly announced on
15 September 10th, 2018, on the Board's public website.
16 Notice of this meeting was published in the Federal
17 Register on September 14th. The Board has closed the
18 meeting to the public per the provisions of the
19 Government and the Sunshine Act, as well as the Board's
20 regulations implementing the Sunshine Act and the
21 Board's operating procedures for meetings.
22 This closed meeting concerns member
23 deliberations pertaining to the development and
24 formulation of potential Board recommendations to the
25 Secretary of Energy. The Board's compliance with

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1 A P P E A R A N C E S
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3 DEFENSE NUCLEAR FACILITIES SAFETY BOARD:
4 BRUCE HAMILTON, Acting Chairman
5 JESSIE H. ROBERSON, Board Member
6 JOYCE L. CONNERY, Board Member
7 DANIEL J. SANTOS, Board Member
8 CASEY BLAINE, ESQ., Acting General Counsel
9 CHRISTOPHER ROSCETTI, Technical Director
10 ERIC F. FOX, ESQ., Associate General Counsel
11 JOSEPH GILMAN, ESQ., Associate General Counsel
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23 REPORTED BY:
24 Sally Jo Quade, CERT, Reporter
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P R O C E E D I N G S

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1 statutory provisions permitting closure of this meeting
2 has been stated in the Board's Federal Register notice.
3 Additional documentation related to this meeting is
4 available on our website, www.DNFSB.gov.
5 As a reminder to those who are in attendance and
6 Board employees who may later become privy to these
7 proceedings, the Board and its staff are prohibited from
8 publicly disclosing information described in draft or
9 final recommendations prior to the receipt of the final
10 recommendation by the Secretary of Energy. This
11 prohibition applies to information learned during the
12 course of this meeting, or by review of the meeting
13 transcript, related documents, or from other sources.
14 Pursuant to the specific agenda, the Board will
15 deliberate on three potential recommendations currently
16 pending before the Board. Following the discussion on
17 each, I will summarize the outcome of the discussion and
18 the Executive Secretary will summarize any staff
19 taskings and Board votes.
20 After an opportunity for closing comments from
21 Board members, the meeting will adjourn. This concludes
22 my opening remarks in my capacity as acting Chairman.
23 I will now turn to the Board members for their
24 opening remarks. Ms. Roberson?
25 BOARD MEMBER ROBERSON: No opening remarks,

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1 Mr. Chairman.
 2 ACTING CHAIRMAN HAMILTON: Thank you,
 3 Ms. Roberson.
 4 Mr. Santos?
 5 BOARD MEMBER SANTOS: Yes, I have some opening
 6 remarks. Thank you, Mr. Chairman.
 7 So I'm going to -- since calendar year 2015, as
 8 you know, the Board has issued one final recommendation
 9 titled 2015-1, Emergency Preparedness and Response. If
 10 you may, I would like to submit for the record Exhibit I
 11 which I titled Number of DNFSB Final Recommendations.
 12 And I'd like to give you a copy. Is that okay?
 13 ACTING CHAIRMAN HAMILTON: Okay, please. You're
 14 submitting Number of DNFSB Final Recommendations for the
 15 record.
 16 BOARD MEMBER SANTOS: Yes. Accepted?
 17 ACTING CHAIRMAN HAMILTON: Yes.
 18 BOARD MEMBER SANTOS: Thank you. As you can see
 19 from the charts in the year 2012, '13 and 2014, the
 20 Board did initial recommendations; however, this is the
 21 first time in the almost 30-year history of the Board
 22 that the Board has gone more than one year without
 23 issuing a final recommendation, and we are about to
 24 hit -- to hit year number three.
 25 So, however, since 2015, the Board has worked on

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1 several potential recommendations, but none turning to a
 2 final recommendation. So the question is why? So I
 3 keep asking myself that question. I have observed that
 4 through a variety of reasons, the use of the
 5 recommendation tool has been allowed to turn into a
 6 monster of almost mythical proportions, where even the
 7 talk of it seems to strike fear, and this bureaucratic
 8 processing is many, many months in the making.
 9 And these are for issues that could impact
 10 public health and safety. So this is concerning to me.
 11 And I contend that it should be the opposite. I would
 12 contend that it is through the use of the recommendation
 13 process and issuance of recommendations that we can be
 14 the most effective at achieving our mission. The
 15 history of the Board demonstrates that this is the case,
 16 as most of the positive impact by this agency can be
 17 traced to issued final recommendations.
 18 Moving forward, I need to know what are the
 19 expectations and roles and responsibilities for both
 20 Board members and staff regarding recommendations. For
 21 example, should the Board direct the staff to initiate
 22 the recommendation process in all cases? Or should the
 23 Board only act once the staff proposes information in
 24 the form of recommendation? If the staff doesn't
 25 present information in the form of a draft

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1 recommendation, does it mean that there might be no
 2 issues that impact or may impact public health and
 3 safety? Does the staff need to agree or implicitly
 4 approve each recommendation for us to be successful?
 5 I will continue to seek clarification in these
 6 areas and with line management. The effectiveness of
 7 our use of the recommendation tool is directly tied to
 8 our effectiveness as an agency. And I'm concerned that
 9 this is being eroded.
 10 This concludes my opening remarks.
 11 ACTING CHAIRMAN HAMILTON: Thank you,
 12 Mr. Santos.
 13 Ms. Connery?
 14 BOARD MEMBER CONNERY: I wasn't intending on
 15 making opening remarks, but given what Mr. Santos just
 16 said, I feel it's my obligation to state that the Board
 17 has many tools in its tool kit in order to effect change
 18 in the Defense Nuclear Facilities Complex, and we use
 19 those tools accordingly, and I think that it's the
 20 judgment of each individual Board member as to how they
 21 evaluate those recommendations -- those potential
 22 recommendations, potential hearings, potential
 23 inquiries, whatever it happens to be.
 24 So I would like to push back a little bit on the
 25 philosophy that this has to do with process and it was

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1 the process that has affected the Board's ability to
 2 issue final recommendations. I think each
 3 recommendation's history is -- can be attributed to a
 4 number of different things.
 5 We've proven that we can write short
 6 recommendations and those might not go forward, we can
 7 write long recommendations and those might go forward,
 8 we can amend recommendations and that might be the cause
 9 for a recommendation to fail. I would rather see us
 10 focus on the substantive issues of safety and spend our
 11 time focusing on those particular issues and then which
 12 of the tools that we have available to us would be the
 13 most effective in effecting change within the complex
 14 rather than having esoteric discussions about what the
 15 staff should do and what the Board should do and what
 16 the mechanisms for the processes are to get them done.
 17 But that's just my personal view.
 18 ACTING CHAIRMAN HAMILTON: Thank you,
 19 Ms. Connery. And given that Mr. Santos has teed up a
 20 topic that wasn't planned to be deliberated, I want to
 21 give Ms. Roberson a chance to see if she has any
 22 follow-on comments to this.
 23 BOARD MEMBER ROBERSON: No, sir, if I start I'll
 24 never end, so I think we should get to the technical
 25 work, okay?

1 ACTING CHAIRMAN HAMILTON: Thank you,
2 Ms. Roberson. This concludes the Board's opening
3 remarks at this time.

4 I would like to begin with the first order of
5 business on the agenda, Board member deliberations on a
6 potential recommendation regarding

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7 ACTING CHAIRMAN HAMILTON: With that we will
8 move to closing comments. Board members offer closing
9 comments? Ms. Roberson?
10 BOARD MEMBER ROBERSON: No closing comments,
11 Mr. Chairman.
12 ACTING CHAIRMAN HAMILTON: Mr. Santos?
13 BOARD MEMBER SANTOS: No closing comments,
14 Mr. Chairman.
15 ACTING CHAIRMAN HAMILTON: Ms. Connery?
16 BOARD MEMBER CONNERY: No closing comments.
17 ACTING CHAIRMAN HAMILTON: And I have no closing
18 comments. As mentioned, the staff are prohibited from
19 mentioning any public information described in draft or
20 final recommendations. This prohibition applies to
21 information learned during the course of this meeting or
22 by review of the meeting transcript, related documents
23 or from other sources. The prohibition shall remain in
24 effect until receipt of a final recommendation by the
25 Secretary of Energy or the Board otherwise makes an

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[REDACTED]

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1 affirmative decision to release information.
2 This concludes the closed meeting. We are
3 adjourned.
4 (Whereupon, at 4:00 p.m., the meeting was
5 adjourned.)
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CERTIFICATE OF REPORTER

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I, Sally Jo Quade, CERT, do hereby certify that the foregoing proceedings were recorded by me via stenotype and reduced to typewriting under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were transcribed; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

SALLY JO QUADE, CERT