

In the Matter of:

Defense Nuclear Facilities Safety Board

*July 29, 2015
Closed Meeting*

Condensed Transcript with Word Index



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3 DEFENSE NUCLEAR FACILITIES SAFETY BOARD
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10 CLOSED MEETING
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14 JULY 29, 2015
15 1:00 p.m.
16
17 DEFENSE NUCLEAR FACILITIES SAFETY BOARD
18 625 INDIANA AVENUE, NW
19 ROOM 425
20 WASHINGTON, DC 20004
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1 meeting as authorized under 5 USC Section 552b(c)(3) and
2 10 CFR Section 1704.4(c). The Board has determined that
3 it is necessary to close the meeting to the public since
4 conducting an open meeting is likely to disclose matters
5 that are specifically exempted from the disclosure -- or
6 excuse me, exempted from disclosure by statute.
7 Specifically, the deliberations will pertain to
8 potential recommendations which under 42 USC Section
9 2286(d)(b) and subsection (h)(3) may not be made publicly
10 available until after they have been received by the
11 Secretary of Energy or the President, respectively. The
12 Acting General Counsel has certified closure of this
13 meeting under Exemption 3.
14 The Board is recording this proceeding through
15 a verbatim transcript and video recording. This closed
16 meeting concerns member deliberations pertaining to the
17 development and formulation of potential Board
18 recommendations to the Secretary of Energy.
19 As a reminder to those staff who are privy to
20 these proceedings, the Board and its staff are prohibited
21 from publicly disclosing information related to the
22 development and formulation of a recommendation prior to
23 the receipt of that final recommendation by the Secretary
24 of Energy. Specifically, you are prohibited from
25 disclosing, reproducing, or disseminating to any person

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1 CLOSED MEETING
2 - - - - -
3 (1:00 p.m.)
4 MR. SULLIVAN: Good afternoon. My name is Sean
5 Sullivan. I'm a member of the Defense Nuclear Facilities
6 Safety Board. I will preside over this closed meeting.
7 With me today are my colleagues on the Safety Board.
8 Seated to my immediate right is Ms. Jessie Roberson, the
9 Board's Vice Chairman; seated to my immediate left is Mr.
10 Daniel Santos. We three constitute the Board.
11 Also seated at the table, to the left of Mr.
12 Santos is Mr. John Batherson, the Board's Acting General
13 Counsel, who shall serve as the Board's Executive
14 Secretary for this meeting.
15 Having established a quorum of three Board
16 members, this closed meeting will now come to order.
17 This closed meeting was announced on July 3rd, 2015, on
18 the Board's public website. It was also subsequently
19 noticed in the Federal Register on July 15th, 2015. The
20 meeting is closed to the public per the provisions of the
21 Government and the Sunshine Act, also known as the
22 Sunshine Act, as well as the Board's regulations
23 implementing the Sunshine Act and the Board's operating
24 procedures for meetings.
25 The Board is invoking Exemption 3 to close the

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1 or entity outside the agency any information you may
2 learn concerning potential Board recommendations as a
3 result of this closed meeting.
4 This prohibition applies to information you may
5 learn during the course of the meeting and it also
6 applies to information you may learn after the meeting by
7 review of the transcript, related documents, or other
8 sources. Disclosure of such information will be viewed
9 as a violation of the Board's enabling legislation and
10 could subject you to adverse personnel action.
11 Pursuant to the specific agenda, the Board will
12 now discuss the following matters related to potential
13 recommendations. First, a review of 2015-XX, which is a
14 draft recommendation on Pantex emergency response;

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1 The Board should not conduct deliberations in
 2 this closed meeting on procedural aspects of
 3 recommendations that are not coupled to a particular
 4 recommendation. A copy of the closed meeting agenda is
 5 posted on the Board's public website, although I will
 6 point out that that copy does not include the specific
 7 topics. It just says that we're having an agenda for a
 8 closed meeting.

9 This concludes my opening remarks. I will now
 10 turn to the Board members for their opening remarks.
 11 Ms. Roberson?

12 MS. ROBERSON: I don't have any remarks, Mr.
 13 Sullivan.

14 MR. SULLIVAN: Thank you.
 15 Mr. Santos?

16 MR. SANTOS: No opening remarks. Thank you.
 17 MR. SULLIVAN: Very well. This concludes the
 18 Board's opening remarks.

19 At this time, I'd like to begin with the first
 20 order of business on the agenda: review of 2015-XX,
 21 draft recommendation on Pantex emergency response. So,
 22 I'd like to start off by asking the Technical Director to
 23 bring the appropriate group lead to the table. Is it Mr.
 24 Bullen?

25 MR. BULLEN: Yes.

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1 MR. SULLIVAN: So, for the record, would you
 2 just announce your name and position?

3 MR. BULLEN: Yes. My name is Daniel Bullen.
 4 I'm the group lead for Nuclear Programs and Analysis at
 5 the Defense Board.

6 MR. SULLIVAN: Okay, thank you. So, Mr.
 7 Bullen, draft recommendation has gone through our orange
 8 folder process; comments by all Board members have been
 9 submitted. I'd just like to start by asking you if you'd
 10 had an opportunity to do at least one read-through of
 11 those comments, and then my follow-on question is going
 12 to be just your initial impression, is it going to be
 13 easy or hard to resolve these.

14 MR. BULLEN: Okay. Yes, we have received the
 15 comments. We -- we got them earlier this week. They've
 16 been distributed to the team, so everybody has had a
 17 chance to take a look at it. We've done a summary review
 18 of the comments, and to give you some statistics, there
 19 is approximately 105 comments from the Board. Those 105
 20 comments range from very simple to very complex, and so
 21 we are in the process right now of walking through and
 22 addressing those comments. I do not have a handle on
 23 whether or not there are comments that are diametrically
 24 opposite. We haven't gotten to that point yet. We've
 25 done just the first read-through and the first

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1 determination of sort of the level of effort that's going
 2 to be necessary to resolve the comments.

3 MR. SULLIVAN: So, characterizing that level of
 4 effort, this is -- what's your gut reaction?

5 MR. BULLEN: My hope is that over the course of
 6 the next week or so we'll be able to get through those
 7 comments. And as per the orange folder process, we will
 8 be coming to individual Board members with requests for
 9 clarification, with our proposed changes to language that
 10 we would then put together our best and final, which is
 11 the -- the process that we come through. So, the best
 12 and final effort to resolve those comments, and then they
 13 will come back to you. But over the course of the next -
 14 - well, the next week, barring Board member availability,
 15 we will be working to do that next week or two. So...

16 MR. SULLIVAN: All right. So, hopefully by the
 17 end of next week we might see staff coming back to -- we
 18 might see staff coming back to me, for example, to
 19 discuss comments?

20 MR. BULLEN: I would hope that during next week
 21 we will come to you with comments, so -- or with
 22 questions for -- for comment resolution.

23 MR. SULLIVAN: Okay. Any other Board members
 24 want to ask any questions?

25 MS. ROBERSON: No. I just want to be clear. I

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1 mean, it's -- even if a Board member didn't make a
 2 comment on a particular topic, you understand that if the
 3 comment changes what the Board member didn't comment on,
 4 then there is a difference.

5 MR. BULLEN: Correct.

6 MS. ROBERSON: So, hopefully, you guys are
 7 going to talk to all Board members about -- about all
 8 changes.

9 MR. BULLEN: And when -- when we have our best
 10 and final, we will discuss the best and final with you --

11 MS. ROBERSON: With all Board.

12 MR. BULLEN: -- to tell you what changed and to
 13 tell you how we addressed your comments. So --

14 MS. ROBERSON: Or any changes to the document.

15 MR. BULLEN: Or, no, no, tell you what changed.
 16 So, everything that's changed --

17 MS. ROBERSON: Okay.

18 MR. BULLEN: -- will be discussed and to
 19 specifically address your comments with you.

20 MS. ROBERSON: Okay.

21 MR. BULLEN: So, that's the current status.

22 MR. SULLIVAN: Okay, do you have any comments
 23 or questions?

24 MR. SANTOS: No. I just want to make an
 25 observation since we're now starting to have closed

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1 meetings. Some of the comments I made in the orange
 2 folder I consider scope comments, and I was wondering,
 3 moving forward for future recommendations and we may --
 4 stop me if I'm going beyond -- and I want to specifically
 5 for this one, could have we benefit for additional
 6 interactions prior to generating the draft, given the
 7 comments you have received from the Board members on this
 8 recommendation?
 9 I'm trying to improve the efficiency of
 10 recommendations in the future using this particular
 11 recommendation as an example of how to improve that. So,
 12 help --
 13 MR. SULLIVAN: Yeah, so, let me just -- let me
 14 just interject.
 15 MR. SANTOS: Yeah.
 16 MR. SULLIVAN: I'm going to turn to our Acting
 17 General Counsel, right? I mean, part of my script said
 18 the Board should not complete deliberations --
 19 MR. SANTOS: Right.
 20 MR. SULLIVAN: -- in this closed meeting on
 21 procedural aspects of recommendations that are not
 22 coupled to a particular recommendation. So, I think
 23 we're on the edge of that.
 24 MR. BATHERSON: Yeah, we're drifting a little
 25 bit.

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1 MR. SANTOS: Okay.
 2 MR. BATHERSON: So, let's -- thank you, Mr.
 3 Sullivan.
 4 MR. SANTOS: So, my point is in the context of
 5 this recommendation, I'm interested of learning --
 6 lessons learned --
 7 MR. SULLIVAN: Right.
 8 MR. SANTOS: -- on this particular
 9 recommendation as we move forward.
 10 MR. BATHERSON: Okay.
 11 MR. SULLIVAN: That's it.
 12 MR. SANTOS: Okay?
 13 MR. SULLIVAN: Fair statement. I think that
 14 was a statement.
 15 MR. SANTOS: Right.
 16 MR. BATHERSON: Okay, that's fine.
 17 MR. SULLIVAN: You can reply if you want, but,
 18 again, the -- we need to keep comments germane to this
 19 recommendation.
 20 MR. BULLEN: Correct. And I have not
 21 specifically delved into your individual comments on this
 22 recommendation.
 23 MR. SANTOS: Okay.
 24 MR. BULLEN: But would be happy to discuss them
 25 with you in the future.

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1 MR. SANTOS: Okay.
 2 MR. SULLIVAN: Okay.
 3 MS. ROBERSON: And, you know, our General
 4 Counsel will kick me if his leg's that long. I guess
 5 what I'm concerned about is since you haven't had a
 6 chance to really understand the comments about how long
 7 it could be and so I guess you said next week. I mean, I
 8 know that our Board members are here, but as soon as
 9 possible, I'd certainly like to understand, for instance,
 10 if the background work is expanding to do the
 11 recommendation.
 12 I'm just saying I think the staff needs to tell
 13 us sooner than later if it's not going to be a week or
 14 two. You know what I'm saying? That's a recommendation.
 15 It's kind of --
 16 MR. BULLEN: Correct.
 17 MS. ROBERSON: I don't want it to go into the
 18 hole of wonder. So, I'd like to know if it's going to
 19 take more than a couple weeks to resolve comments.
 20 MR. SULLIVAN: May I? So, keeping it germane
 21 to this recommendation, I think what you're hearing is
 22 the Board -- as a Board member, I'm concerned about
 23 emergency preparedness at Pantex.
 24 MR. BULLEN: Right.
 25 MR. SULLIVAN: So, we'd like to -- we'd like to

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1 convey that concern to the Secretary of Energy. So, if
 2 by the end of next week if -- if, you know, if you're
 3 still in the process, things -- even where you are,
 4 please come back and tell me. I think the other Board
 5 members may want to know the same, where are you. And if
 6 it's taking longer than you had hoped when we sat here on
 7 the 29th of July and had this meeting, well, then, just
 8 tell us why, tell us what you're doing, right?
 9 So, you know, another Board member might feel
 10 like, hey, that -- they were ready to sign as is, you
 11 know, so if you're spending weeks because a different
 12 Board member made a suggestion, well, then, that Board
 13 member is free to say, no, let's try to move this along,
 14 whatever.
 15 MR. BULLEN: Okay.
 16 MR. SULLIVAN: So, if you'd just come back to
 17 us next -- by the -- commit to coming back to us by the
 18 end of next week, I'd appreciate that. And just tell us
 19 where you are.
 20 MR. BULLEN: I will provide a status update to
 21 each individual Board member by the end of next week, and
 22 that will tell us what scope that we see and I'll have a
 23 better opportunity at that time to know the magnitude of
 24 what we have. We -- we looked at it for about a day, and
 25 I actually have been preoccupied, so it's my staff has

1 looked at it. I have not spent a great deal of time, but
2 I will bring my staff back and we will talk to each
3 individual Board member as soon as -- as soon as we have
4 some information that we can share.
5 MR. SULLIVAN: Okay. Any other Board members
6 want to ask anything?
7 Thank you, Mr. Bullen.
8 MR. BULLEN: Thank you.
9 MR. SULLIVAN: Appreciate it.

**PAGES 14 – 72
CONTAIN EXEMPT
TESTIMONY THAT HAS
BEEN REDACTED**

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Okay, any other discussion or

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1 comment on this agenda item?
2 Okay, hearing none, having completed each of
3 the closed meeting topics, I would like to thank everyone
4 for their participation in this closed meeting.
5 Do the Board members have any final comments?
6 Ms. Roberson?
7 MS. ROBERSON: No, Mr. Sullivan.
8 MR. SANTOS: No.
9 MR. SULLIVAN: So, no comments from Board
10 members. As a final reminder, all of you who have been
11 privy to this proceeding or who may later gain access to
12 information discussed here are under a nondisclosure
13 obligation and are prohibited from disclosing,
14 reproducing or disseminating to any person or entity
15 outside the agency any information you have learned here
16 today concerning potential Board recommendations.
17 This concludes the Defense Nuclear Facilities
18 Safety Board's closed meeting. The meeting is adjourned.
19 (Whereupon, the closed board meeting was
20 adjourned at 2:28 p m.)
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1 CERTIFICATE OF REPORTER
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3 I, LINDA METCALF, the officer before whom the
4 foregoing testimony was taken, do hereby certify that the
5 proceeding was digitally recorded by me and thereafter
6 reduced to typewriting by me or under my direction; that
7 said testimony is a true record of the event; that I am
8 neither counsel for, related to, nor employed by any of
9 the parties to the action in which this proceeding was
10 taken; and, further, that I am not a relative or employee
11 of any of the parties hereto, nor financially or
12 otherwise interested in the outcome of the action.
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17 LINDA METCALF
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