

APPENDIX 2

REQUEST FOR BOARD ACTION

Title of Action Document:

Complete Review By:

Board Approval of Redaction for 2018-300-017 Notational Vote Package.

Brief Description of Purpose:

Pursuant to OP-11.1-3, OGC reviews notational vote packages for information that must or may be redacted prior to the vote package being made publicly available. With respect to information from the staff that is deliberative, the OP specifically provides:

In the case of all other material proposed for redaction, the General Counsel shall request Board approval via a Request for Board Action (RFBA). The proposed redaction and the reason for it shall be provided with the RFBA as background material. The General Counsel or designee shall make all redactions once approved by the Board.

The highlighted portion of the attached notational vote package meets the triggering criteria in the OP because it contains information protectable under the deliberative process privilege held by the Board. Therefore, the General Counsel is providing this redaction to the Board for its consideration.

If the Board approves this RFBA without removing the highlight, the notational vote package will be posted online with the highlighted material redacted.

If the Board rejects this RFBA, it will be deemed to have waived its deliberative process privilege per the OP. In this case, the notational vote package will be posted without a redaction.

Relevant Background Information Attached (initial): CQB

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

Summarize any time sensitive considerations:

The Chairman has directed a one day turnaround for posting notational vote packages online. OGC will endeavor to clear the vote package for public posting within one business day of the Board decision on this RFBA.

Requester Signature:

Cathy Blain

Responsible Office Director Signature:

Cathy Blain (Acting)

Executive Secretary Signature: On file

Final Disposition of Proposed Action:

Executive Secretary Signature:

REQUEST FOR BOARD ACTION BY A BOARD MEMBER

Requester: _____ JOYCE CONNERY _____ December 6, 2017

Brief description of Requested Action:

To stay the Yellow Folder on Document #2018-200-003 until such time as the staff has performed its planned review **R2011-1 Effectiveness Review** scheduled for the **first half** of calendar year 2018.

Justification:

This action is consistent with the comments and amendments made by Board Member Roberson and supported by the Board during the approval of the work plan to look at the effectiveness of open recommendations. While the outcome of this review may result in the closure of the Recommendation, I believe that for completeness and consistency, we should allow for the review to take place before closing the Recommendation. I will submit a separate action to request Board Approval to personally accompany the team performing the review.

Attachments (init) _____ (included clean version of any proposed document or modified document)

Summarize any time sensitive considerations:

Requestor signature _____ on file _____ December 6, 2017

Executive secretary _____ on file _____ December 6, 2017

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICPATING	COMMENT	DATE
Joyce L. Connery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Jessie H. Roberson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Sean Sullivan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Daniel J. Santos	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Bruce Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

Final Disposition Summary

Executive Secretary signature _____ Click here to enter a date.



DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Sean Sullivan

SUBJECT: RFBA by Board Member Connery to Stay the Yellow Folder on Doc#2018-200-003

Doc Control#2018-300-017

Approved _____ Disapproved X _____ Abstain _____


Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

The subject Yellow Folder proposes closing Recommendation 2011-1, *Safety Culture at the Waste Treatment and Immobilization Plant*, and the requesting Member proposes to stay consideration until some indeterminate time “in the first half of calendar year 2018.”

Over two-and-one-half years ago the Board sent a letter to then-Secretary Ernest Moniz stating, “the Department of Energy (DOE) has taken numerous actions to assess and improve the nuclear safety culture at the Waste Treatment and Immobilization Plant (WTP) and across the DOE defense nuclear complex, as you personally explained last October in testimony at our public hearing. We agree that progress has been made and that only two commitments from the DOE Implementation Plan (IP) remain.” Not long thereafter, those two commitments were reported complete. Neither DOE nor DNFSB has done anything since.

Several proposals to close this Recommendation have failed, yet no clear purpose for keeping it open has emerged. We are now asked to keep it open for perhaps another six months or longer. Recommendations that remain open with no remaining Department of Energy actions are pointless. Any issues that threaten the adequate protection of the public health and safety – whether they be newly discovered issues or previously identified but uncorrected issues – should be made the subject of a new recommendation.



Sean Sullivan

12/7/17

Date

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: Board Approval of Redaction for 2018-300-017 Notational Vote Package

Doc Control#2018-300-019

The Board, with Board Member(s) Jessie H. Roberson, Daniel J. Santos *approving*, Board Member(s) Sean Sullivan, Bruce Hamilton, Joyce L. Connery *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *not participating*, have voted to disapprove the above document on January 16, 2018.

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"/>	01/12/18
Bruce Hamilton	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/12/18
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/16/18
Daniel J. Santos	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	01/16/18
Joyce L. Connery	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/16/18

*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.


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 Approval of Redaction for 2018-300-017 Notational Vote Package

Doc Control#2018-300-019

Approved _____ Disapproved X _____ Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

The proposed redactions remove direct references to the particular Recommendation under consideration for closing. (Board vote package 2018-200-003 proposed closing a Recommendation. Vote package 2018-300-017 stayed consideration of 2018-200-003. The redactions apply to vote package 2018-300-017, shielding from public view any direct reference to the specific Recommendation under consideration but not yet acted upon in 2018-200-003.)

The Board has traditionally closed its Recommendations after they had run their course. I don't believe there is any reason to shield from public view the possibility that we would do so again. Additionally, the redactions proposed here are probably not effective. As there are just four open Recommendations, the remaining facts rather easily provide for determination of the specific Recommendation by process of elimination.



Sean Sullivan

1/12/18

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

SUBJECT: Board Approval of Redaction for 2018-300-017 Notational Vote Package

Doc Control#2018-300-019

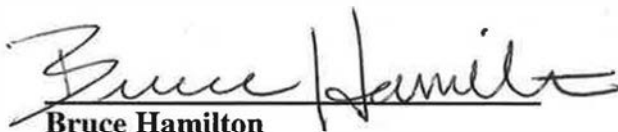
Approved _____ Disapproved X Abstain _____

Recusal – Not Participating _____

COMMENTS: Below X Attached _____ None _____

A decision to delay deliberation of an action is not in and of itself a meaningful part of that deliberation, and to the extent that it might be so construed, the deliberative process privilege should be waived.

I therefore disapprove.


Bruce Hamilton

12 JAN 2018
Date

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

FROM: Jessie H. Roberson

SUBJECT: Board Approval of Redaction for 2018-300-017 Notational Vote Package

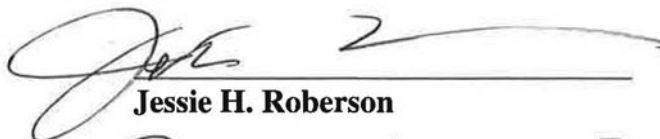
Doc Control#2018-300-019

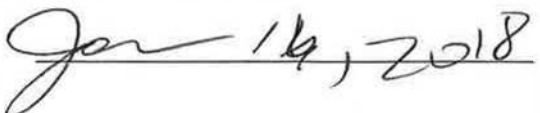
Approved **Disapproved** **Abstain**

Recusal – Not Participating

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

I am supporting this action because the subject of the redactions is a document that remains in the Board's deliberative process. There may have been communications with the Department that falsely presupposed a Board decision. Even so, I believe it is important and consistent to ensure the actual Board decision is based on each Board Members' independent technical evaluation and formal vote.



Jessie H. Roberson


Jan 14, 2018

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET


FROM: Daniel J. Santos

SUBJECT: Board Approval of Redaction for 2018-300-017 Notational Vote Package

Doc Control#2018-300-019

Approved X Disapproved _____ Abstain _____
Recusal – Not Participating _____

COMMENTS: Below _____ Attached _____ None X



Daniel J. Santos

Date 1/16/18

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Joyce L. Connery

SUBJECT: Board Approval of Redaction for 2018-300-017 Notational Vote Package

Doc Control#2018-300-019

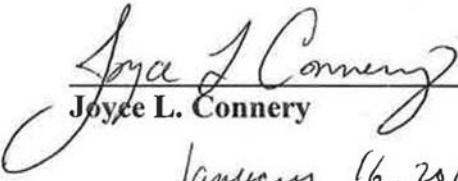
Approved___ Disapproved X Abstain___

Recusal – Not Participating___

COMMENTS: Below X Attached___ None___

While information contained in this vote is indeed deliberative, I am exercising my right to waive privilege.

The reason for my waiver is that on December 12, 2018, during a briefing with the Office of River Protection at which I was not present, the Chairman shared information pertaining to this particular issue which I believe effectively breached the deliberative process. Therefore, in my view, any redactions intended to protect the deliberative process are moot and if one party has this information, it should not be withheld more broadly.



Joyce L. Connery
Date January 16, 2017