

AFFIRMATION OF BOARD VOTING RECORD

SUBJECT: Tritium Extraction Facility Safety Basis Review

Doc Control#2016-019

The Board, with Board Member(s) Joyce L. Connery, Jessie H. Roberson *approving*, Board Member(s) Sean Sullivan, Daniel J. Santos, Bruce Hamilton *disapproving*, Board Member(s) none *abstaining*, and Board Member(s) none *recusing*, have voted to disapprove the above document on December 24, 2015.

The votes were recorded as:

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIPATING*	COMMENT	DATE
Joyce L. Connery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12/22/15
Jessie H. Roberson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12/24/15
Sean Sullivan	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12/23/15
Daniel J. Santos	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12/21/15
Bruce Hamilton	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12/23/15

*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: Joyce L. Connery

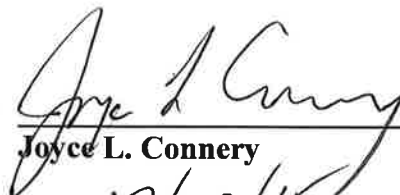
SUBJECT: Tritium Extraction Facility Safety Basis Review

Doc Control#2016-019

Approved **Disapproved** **Abstain**

Recusal – Not Participating

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



Joyce L. Connery
12/22/15

Date

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

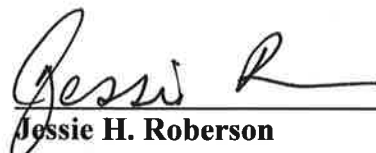
FROM: Jessie H. Roberson

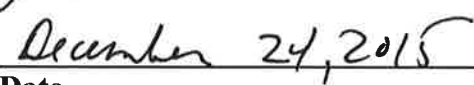
SUBJECT: Tritium Extraction Facility Safety Basis Review

Doc Control#2016-019

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

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



Jessie H. Roberson


Date

Shelby Qualls

From: Sean Sullivan
Sent: Wednesday, December 23, 2015 9:55 AM
To: Shelby Qualls; Lotus Smith
Subject: RE: Notational Vote: Doc#2016-019, Tritium Extraction Facility Safety Basis Review - BLUE FOLDER
Attachments: 2016-019 TEF DSA.pdf

Disapproved with comment. See attached.

From: Shelby Qualls
Sent: Tuesday, December 22, 2015 3:56 PM
To: Bruce Hamilton; Daniel J. Santos; Jessie Roberson; Joyce Connery; Sean Sullivan
Cc: Lotus Smith; Shelby Qualls; James Biggins
Subject: Notational Vote: Doc#2016-019, Tritium Extraction Facility Safety Basis Review - BLUE FOLDER

This email is an electronic record of Notational Vote. Voting ballot will follow shortly. Also, accepting electronic votes.

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

FROM: Members of the Board
SUBJECT: Tritium Extraction Facility Safety Basis Review

DOC#2016-019

Approved_____
Disapproved_____
Abstain_____
Recusal – Not Participating_____

COMMENTS:

Below_____
Attached_____
None_____

Shelby Qualls
Assistant Executive Secretary
Office of the Chairman

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

FROM: Sean Sullivan

SUBJECT: Tritium Extraction Facility Safety Basis Review

Doc Control#2016-019

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

Recusal – Not Participating _____

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

I do not support levying the reporting requirement contained in this letter. See my comment on Doc#2016-019A, Member Hamilton's failed amendment to this letter.

//s//
Sean Sullivan

12/23/15
Date

Shelby Qualls

From: Daniel J. Santos
Sent: Wednesday, December 23, 2015 12:02 PM
To: Shelby Qualls; Lotus Smith
Subject: Re: Notational Vote: Doc#2016-019, Tritium Extraction Facility Safety Basis Review - BLUE FOLDER

Disapproved without comments.

From: Shelby Qualls
Sent: Tuesday, December 22, 2015 3:56 PM
To: Bruce Hamilton; Daniel J. Santos; Jessie Roberson; Joyce Connery; Sean Sullivan
Cc: Lotus Smith; Shelby Qualls; James Biggins
Subject: Notational Vote: Doc#2016-019, Tritium Extraction Facility Safety Basis Review - BLUE FOLDER

This email is an electronic record of Notational Vote. Voting ballot will follow shortly. Also, accepting electronic votes.

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

FROM: Members of the Board
T: Tritium Extraction Facility Safety Basis Review

16-019

I _____
ved _____
Not Participating _____

NTS:

None _____

Shelby Qualls
Assistant Executive Secretary
Office of the Chairman

DEFENSE NUCLEAR FACILITIES SAFETY BOARD
NOTATIONAL VOTE RESPONSE SHEET

FROM: Bruce Hamilton

SUBJECT: Tritium Extraction Facility Safety Basis Review

Doc Control#2016-019

Approved _____

Disapproved _____

Abstain _____

Recusal – Not Participating _____

COMMENTS:

Below _____

Attached _____

None _____


Bruce Hamilton

23 DEC 2015

Date

ARCHIVE: Doc#2016-019, Tritium Extraction Facility Safety Basis Review

December 23, 2015

Board Member Hamilton *BH*

Comment on Notational Vote Doc#2016-019, Tritium Extraction Facility Safety Basis Review

Justification: I have no disagreement with the Staff Issue Report accompanying this letter. The Staff Issue Report is well written and technically sound, and it is helpful to share DNSFB staff insights and observations with the NNSA Administrator.

That notwithstanding, the Board should generally practice a narrow interpretation of its statutory authority to require reports. 42 U.S.C. § 2286b(d) authorizes the Board to, "... establish reporting requirements *for the Secretary of Energy ...*," (emphasis added). If the Board determines that an issue is of sufficient significance that it should invoke the formal reporting requirement of its enabling statute, then it follows that the requirement should usually be transmitted directly to the Secretary. The Board should generally refrain from using this authority at various touchpoints within the Department subordinate to the Secretary. Such broader interpretation of the language in the statute would bypass the Secretary and might have negative consequences, including: (i) omitting the Secretary's endorsement of the reporting requirement, thus eroding the Department's urgency to address it; (ii) interfering with the Secretary's ability to allocate the Department's resources for processing the reporting requirement in the most efficient manner; and, (iii) creating the false perception that the Secretary is unaccountable for the response to the reporting requirement.

A narrow interpretation of 42 U.S.C. § 2286b(d) should not in any way constrain the Agency's staff from requesting information from the Department at any level through routine staff-to-staff communications. Should the Department not be forthcoming in providing relevant information, the staff may elevate the request to incrementally higher levels within the Department until the information is provided. In the unlikely event of an impasse, the Board could choose to require a report from the Secretary.

Additionally, the authority of 42 U.S.C. § 2286b(d) should not be used as a surrogate for making a Recommendation. Where an issue of adequate protection needs to be addressed, the Board should make a Recommendation vice issuing a reporting requirement.

It appears from the Staff Issue Report that the Department has cooperated with the Agency's staff in providing details on the areas of concern listed. It is reasonable to expect that the staff will be able to obtain updates on these issues through routine staff-to-staff communications. Using the authority of 42 U.S.C. § 2286b(d) is thus unnecessary, and since the reporting requirement is not addressed to the Secretary of Energy, it also appears inappropriate.

I therefore decline to approve this correspondence.