

In the Matter of:

Defense Nuclear Facilities Safety Board

September 26, 2017
Public Meeting

Condensed Transcript with Word Index



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8 PUBLIC MEETING
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11 TUESDAY, SEPTEMBER 26, 2017
12 12:00 p.m.
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15 625 Indiana Avenue, NW
16 Washington, DC 20004
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A T T E N D E E S

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3 DEFENSE NUCLEAR FACILITIES SAFETY BOARD MEMBERS:
4 SEAN SULLIVAN, Chairman
5 BRUCE HAMILTON, Vice Chairman
6 JESSIE H. ROBERSON, Board Member
7 JOYCE L. CONNERY, Board Member
8 DANIEL J. SANTOS, Board Member
9
10 DEFENSE NUCLEAR FACILITIES SAFETY BOARD STAFF:
11 JAMES BIGGINS, General Counsel
12 ERIC FOX, Associate General Counsel
13 RICHARD TONTODONATO, Technical Director
14 CHRISTOPHER ROSCETTI, Associate Technical
15 Director, Nuclear Programs and Analysis
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23
24 REPORTED BY:
25 Susanne Bergling, RMR-CRR-CLR

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P R O C E E D I N G S

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2 - - - - -
3 CHAIRMAN SULLIVAN: Good afternoon. My name is
4 Sean Sullivan, and I'm the Chairman of the Defense
5 Nuclear Facilities Safety Board. I will preside over
6 today's public meeting.
7 I would like to introduce my colleagues on the
8 Board. To my immediate right is Vice Chairman Bruce
9 Hamilton. And next to him, to his right, is Board
10 Member Jessie Roberson, and then Board Member Daniel
11 Santos. To my left is Board Member Joyce Connery. We
12 five constitute the Board.
13 Having established a quorum of Board Members,
14 this public meeting will now come to order. Mr. James
15 Biggins, seated to my far left, is the Board's General
16 Counsel and will serve as the Board's Executive
17 Secretary for the meeting.
18 This public business meeting was announced on
19 September 18, 2017, on the Board's public website, and
20 was also subsequently noticed in the Federal Register
21 on September 20, 2017.
22 The Board has voted to hold this public
23 business meeting pursuant to the Government in the
24 Sunshine Act, the Board's implementing regulations for
25 the Government in the Sunshine Act, and the Board's

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1 operating procedures.
 2 The Board is recording this proceeding through
 3 a verbatim transcript. A live broadcast is also
 4 available on the Board's public website, www.dnfsb.gov.
 5 This public meeting concerns staff testimony
 6 and member deliberations pertaining to the oversight of
 7 emergency preparedness and response. Pursuant to this
 8 specific agenda, the Board will obtain testimony from
 9 staff on their completed and documented efforts to date
 10 regarding oversight of emergency preparedness and
 11 response, with a special emphasis on Board Regulation
 12 2014-1.
 13 Following the staff testimony, we will welcome
 14 comments from members of the public before deliberating
 15 on the topic. After the Board's deliberations, I will
 16 summarize the outcome of the discussions in conjunction
 17 with a summary of any staff taskings and votes by the
 18 General Counsel.
 19 This concludes my opening remarks in my
 20 capacity as Chairman, and I have no individual opening
 21 remarks, so I will turn to the other Board Members to
 22 see if they have any.
 23 Mr. Hamilton?
 24 VICE CHAIRMAN HAMILTON: I have no opening
 25 remarks, Mr. Chairman.

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1 CHAIRMAN SULLIVAN: Thank you.
 2 Ms. Roberson?
 3 BOARD MEMBER ROBERSON: No remarks. Thank you,
 4 Mr. Chairman.
 5 CHAIRMAN SULLIVAN: Okay. Mr. Santos?
 6 BOARD MEMBER SANTOS: No opening remarks.
 7 Thank you.
 8 CHAIRMAN SULLIVAN: Ms. Connery?
 9 BOARD MEMBER CONNERY: No opening remarks.
 10 CHAIRMAN SULLIVAN: Okay, this concludes the
 11 Board's opening remarks.
 12 At this time, I would like to begin with the
 13 first order of business, which is staff testimony
 14 concerning emergency preparedness and response, and I
 15 believe we are going to hear first from Mr. Chris
 16 Roscetti.
 17 Mr. Roscetti?
 18 MR. ROSCETTI: Good afternoon, Chairman
 19 Sullivan, Vice Chairman Hamilton, and Board Members
 20 Roberson, Santos, and Connery. My name is Chris
 21 Roscetti. I am the Associate Technical Director for
 22 Nuclear Programs and Analysis at the Defense Nuclear
 23 Facilities Safety Board. I am responsible for
 24 oversight of the Department of Energy's safety
 25 management programs, including Emergency Preparedness

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1 and Response, and the Department of Energy's
 2 implementation of Recommendation 14-1, titled Emergency
 3 Preparedness and Response. Throughout this testimony,
 4 I will refer to the Defense Nuclear Facilities Safety
 5 Board as the "Board"; the Department of Energy as
 6 "DOE"; and the Board's technical staff as "the staff."
 7 Thank you for the opportunity to testify
 8 regarding Oversight of the Emergency Preparedness and
 9 Response, with special emphasis on open Recommendation
 10 14-1. I will briefly describe the history of the
 11 Board's oversight of DOE's implementation and DOE's
 12 oversight of emergency management programs. Next, I
 13 will discuss the status of Recommendation 14-1,
 14 including DOE's accomplishment of its Implementation
 15 Plan. I will then summarize related technical staff
 16 work. Finally, I will discuss the technical staff's
 17 conclusions.
 18 Before I continue, I want to take a moment to
 19 thank the staff members who worked with me. Without
 20 their support, I would not have the body of work on
 21 which to base this testimony.
 22 The Board has previously sent correspondence to
 23 DOE concerning the state of emergency preparedness and
 24 response at DOE sites with defense nuclear facilities.
 25 This correspondence dates back to the late 1990s, when

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1 the Board issued Recommendation 98-1 titled Resolution
 2 of Issues Identified by Department of Energy Internal
 3 Oversight, and then Technical Report-21, titled Status
 4 of Emergency Management at Defense Nuclear Facilities
 5 of the Department of Energy.
 6 In Recommendation 98-1, the Board cited the
 7 need to establish a clear, comprehensive, and
 8 systematic process to address and effectively resolve
 9 the environment, safety, and health issues identified
 10 by independent oversight during the conduct of
 11 assessment activities.
 12 As part of the execution of its Implementation
 13 Plan for Recommendation 98-1, DOE developed corrective
 14 actions to address the emergency planning and response
 15 issues identified in Technical Report-21. DOE used
 16 these corrective actions as case studies to demonstrate
 17 execution of its Implementation Plan for Recommendation
 18 98-1.
 19 The staff observed many of the issues
 20 identified in Technical Report-21 during the reviews
 21 and observations that led to the development of
 22 Recommendation 14-1.
 23 DOE's response to Recommendation 98-1 initially
 24 led to improvements in emergency preparedness and
 25 response; however, in the years prior to the issuance

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1 of Recommendation 14-1, the staff observed that the
 2 momentum for continuous improvement had faded,
 3 evidenced by sites failing to maintain improvements
 4 they had initiated. As a result, the Board held
 5 various public meetings and hearings that included DOE
 6 testimony and discussion of the staff's observations
 7 about the emergency preparedness and response
 8 capabilities at defense nuclear facilities.
 9 To address the Board's concerns regarding the
 10 overall status of emergency preparedness and response
 11 at defense nuclear facilities, the staff conducted
 12 comprehensive programmatic reviews at various sites.
 13 The staff also reviewed the ability of sites to
 14 prepare for and respond to severe events. For example,
 15 events that can affect multiple facilities, cascading
 16 events, and events that can ultimately overwhelm site
 17 resources, such as a major hurricane or earthquake.
 18 Based on the results of these staff activities
 19 and reviews, the Board issued Recommendation 14-1 on
 20 September 3rd, 2014.
 21 Recommendation 14-1 communicated two specific
 22 recommendations to DOE. First, in Recommendation 1,
 23 the Board recommended DOE, in its role as a regulator,
 24 standardize and improve implementation of its criteria
 25 and review approach to confirm that all sites with

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1 defense nuclear facilities have the emergency
 2 preparedness and response program elements to
 3 demonstrate and ensure a capable emergency response.
 4 Second, in Recommendation 2, the Board
 5 recommended that DOE "update its emergency management
 6 directive to address" the following: severe events,
 7 reliability and habitability of emergency response
 8 facilities and support equipment, criteria for training
 9 and drills, criteria for exercises to ensure that they
 10 are in adequate demonstration of proficiency, and
 11 vulnerabilities identified during independent
 12 assessments.
 13 The Secretary of Energy's November 7th, 2014,
 14 response to Recommendation 14-1 states, and I quote,
 15 "In developing an Implementation Plan to address each
 16 specific action of this Recommendation, the Department
 17 will expeditiously proceed with improvements,
 18 accomplishing the highest priorities within a one-year
 19 period." In this response, the Secretary of Energy
 20 assigned the National Nuclear Security Administration's
 21 Acting Associate Administrator, Office of Emergency
 22 Operations, to be DOE's responsible manager for
 23 Recommendation 14-1.
 24 DOE sent its Implementation Plan for
 25 Recommendation 14-1 to the Board on April 24th, 2015.

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1 In November 2015, DOE briefed the Board on the status
 2 of its Implementation Plan. After this brief, DOE
 3 informed the staff that it planned to revise its
 4 Implementation Plan. To advise DOE with this revision,
 5 the Board communicated a number of concerns with DOE's
 6 Implementation Plan in a letter dated February 8th,
 7 2016.
 8 In the enclosure to the letter, the Board
 9 communicated that the initial Implementation Plan, also
 10 known as an "IP," and I quote, "relies heavily on
 11 working groups but it does not specify working group
 12 membership or deliverable guidelines nor indicate how
 13 the products will flow together to accomplish the
 14 Recommendation." Furthermore, the enclosure states,
 15 and I quote, "The IP does not specify how a thorough
 16 and unbiased assessment of emergency preparedness and
 17 response capabilities at defense nuclear facilities is
 18 being determined." The enclosure goes on to state, and
 19 I quote, "The IP does not include how recurring program
 20 issues will be identified, critiqued through common
 21 cause analysis, and addressed by corrective actions."
 22 DOE sent its revised Implementation Plan to the
 23 Board on July 20th, 2016. The revised Implementation
 24 Plan includes five primary deliverables. All five
 25 primary deliverables are assigned to the National

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1 Nuclear Security Administration's Acting Associate
 2 Administrator, Office of Emergency Operations, who is
 3 the responsible manager for DOE's Implementation Plan.
 4 Earlier this year, the Board reiterated its
 5 concerns with DOE's Implementation Plan in a letter
 6 dated February 16th, 2017. The letter states that the
 7 Board, and I quote:
 8 "has concluded that the plan will not
 9 effectively implement the Recommendation. The plan
 10 makes program management improvements at headquarters
 11 but does not delineate the coordination between
 12 headquarters and field elements necessary to promptly
 13 address the deficiencies at the defense nuclear sites."
 14 Now I will summarize the status of DOE's
 15 efforts to address Recommendation 14-1.
 16 DOE's current Implementation Plan indicates
 17 that DOE intends to implement a risk-informed and
 18 performance-based approach to improve consistency and
 19 oversight of the Emergency Management Program for
 20 defense nuclear facilities, as well as complex-wide.
 21 This approach is comprised of two primary components:
 22 DOE Order 115.1(d), titled Comprehensive Emergency
 23 Management System, and a Baseline Emergency Management
 24 Criteria and Review Approach Document for defense
 25 nuclear facilities. Additionally, this approach will

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1 be supported by a corrective action program in
 2 accordance with DOE Order 226.1B, titled Implementation
 3 of Department of Energy Oversight Policy.
 4 I will now discuss DOE's efforts to address
 5 Recommendation 1 of Recommendation 14-1. This states
 6 that DOE, "In its role as a regulator, by the end of
 7 2016, standardize and improve implementation of its
 8 criteria and review approach to confirm that all sites
 9 with defense nuclear facilities..." have a robust
 10 emergency response infrastructure; have an effective
 11 training and drill program that ensures competent
 12 emergency response; conduct exercises to demonstrate
 13 capable emergency response; identify deficiencies; and
 14 have an effective corrective action program; and have
 15 an effective Readiness Assurance Program.
 16 A key phrase in Recommendation 1 is "in its
 17 role as regulator." DOE has the authority and the
 18 responsibility as regulator to confirm that all of its
 19 sites with defense nuclear facilities have effective
 20 emergency preparedness and response programs.
 21 As a form of compensatory measure to provide
 22 senior leaders with an understanding of the
 23 deficiencies in Emergency Preparedness and Response
 24 capabilities, the Deputy Secretary, via memorandum,
 25 required sites to provide a list of deficiencies. The

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1 National Nuclear Security Administration Office of
 2 Plans and Policy consolidated these deficiencies into
 3 what I will call a Deficiency Report. According to the
 4 Implementation Plan, DOE committed to updating the
 5 Deficiency Report on a quarterly basis as long as
 6 needed. The staff received the initial Deficiency
 7 Report and then requested and received one update in
 8 the past year.
 9 Additionally, to address Recommendation 1, DOE
 10 plans to provide the Board three deliverables. These
 11 are copies of, one, the Secretarial Direction to
 12 implement the revised Corrective Action Procedures;
 13 two, the Secretarial Direction to implement the Risk
 14 Based Approach; and, three, the Final Baseline
 15 Emergency Management Criteria and Review Approach
 16 Document for Defense Nuclear Facilities.
 17 The National Nuclear Security Administration
 18 Office of Emergency Operations recently declared
 19 Deliverables 1 and 2 complete in its August 14th, 2017,
 20 letter to the Board. Specifically:
 21 The Office of Emergency Operations considers
 22 the corrective action procedures complete based on a
 23 working group that convened in March of 2017.
 24 According to DOE, the working group concluded that all
 25 DOE defense nuclear facilities have revised or have a

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1 plan to revise site corrective action program
 2 procedures.
 3 To address the risk-based oversight approach,
 4 the letter credits the August 9th, 2016, revision of
 5 the DOE Policy 226.2, titled Policy for Federal
 6 Oversight and Contractor Assurance System.
 7 For the third deliverable, DOE is creating
 8 Criteria and Review Approach Documents. DOE provided
 9 draft Criteria and Review Approach Documents to the
 10 Board on April 20th, 2016. DOE's initial draft
 11 Criteria and Review Approach Documents were based on
 12 the previous version of Order 151.1C. DOE is currently
 13 updating the Draft Criteria and Review Approach
 14 Documents to align with the revised order 151.1D.
 15 DOE has informed the staff that the revised
 16 Criteria and Review Approach Documents are
 17 substantially different from the initial draft. Per
 18 DOE's Implementation Plan, Revision 1, the final
 19 Criteria and Review Approach Documents are due to the
 20 Board in December 2017.
 21 In short, contrary to DOE's Implementation
 22 Plan, DOE declared the corrective action procedures and
 23 risk-based oversight approach milestones as complete
 24 based on sites' intentions to implement DOE's existing
 25 directives. Despite DOE's Implementation Plan

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1 commitment calling for Secretarial Direction to
 2 implement the revised Corrective Action Procedures and
 3 oversight approach, the staff does not expect any
 4 follow-on action or communication for these milestones.
 5 The only outstanding deliverable is the
 6 Criteria and Review Approach Document.
 7 I will now discuss the staff's assessment of
 8 DOE's attempt to address Recommendation 1. In the
 9 staff's opinion, none of the three deliverables are
 10 likely to improve implementation of Emergency
 11 Preparedness and Response at defense nuclear
 12 facilities. Improved implementation and confirmation
 13 of adequate programs may be achieved by increased focus
 14 from line management and actual oversight; however,
 15 neither line management nor independent oversight is
 16 assigned any responsibilities in the Implementation
 17 Plan. With the exception of the Chief Information
 18 Officer, the only responsible authorities for DOE's
 19 Implementation Plan milestone deliverables are the
 20 National Nuclear Security Administration's Office of
 21 Emergency Operations and Office of Plans and Policy.
 22 Nothing in DOE's Implementation Plan assigns
 23 responsibility to any entity that is actually
 24 accountable for improved implementation.
 25 In addition, the staff has not observed that

17	<p>1 DOE analyzed or leveraged information from the</p> <p>2 Deficiency Report to inform senior leaders about</p> <p>3 vulnerabilities in emergency preparedness and response.</p> <p>4 Therefore, in the staff's opinion, the Deficiency</p> <p>5 Report did not serve as an effective compensatory</p> <p>6 measure.</p> <p>7 Finally, in the staff's opinion, the Criteria</p> <p>8 and Review Approach Documents may not improve</p> <p>9 implementation at the site level. DOE's line</p> <p>10 management must use the tool effectively, and</p> <p>11 headquarters must ensure use of the tool at the sites.</p> <p>12 I will now discussed DOE's efforts to address</p> <p>13 Recommendation 2. Recommendation 2 calls for DOE to</p> <p>14 update its Emergency Management Directive, Order</p> <p>15 151.1C.</p> <p>16 To address the Board's second recommendation,</p> <p>17 DOE revised Order 151.1C. This Order establishes the</p> <p>18 baseline emergency management requirements for DOE</p> <p>19 sites. The Deputy Secretary of Energy approved Order</p> <p>20 151.1D on August 11, 2016. DOE's defense nuclear sites</p> <p>21 are in the process of adding the revised order to</p> <p>22 contracts to ensure contractors follow the revised</p> <p>23 requirements. Sites have not had time to implement the</p> <p>24 program changes and demonstrate the results of the</p> <p>25 revised requirements.</p>	19	<p>1 requirement to hold an annual exercise to a site-level</p> <p>2 requirement and provides additional guidance for this</p> <p>3 site-level program. The facility annual exercise</p> <p>4 requirement no longer exists; however, the training and</p> <p>5 drill requirements include annual assessments of</p> <p>6 emergency response organization proficiency.</p> <p>7 Finally, sub-recommendation 2e recommends that</p> <p>8 the updated directive address, "Vulnerabilities</p> <p>9 identified during independent assessments." There are</p> <p>10 two ways to interpret sub-recommendation 2e. The first</p> <p>11 interpretation is to initially perform independent</p> <p>12 assessments of emergency preparedness and response</p> <p>13 programs and identify vulnerabilities in those programs</p> <p>14 throughout the complex. Then, when revising the Order,</p> <p>15 include requirements that address any generic</p> <p>16 vulnerabilities identified during the independent</p> <p>17 assessments.</p> <p>18 However, in my opinion DOE interpreted</p> <p>19 sub-recommendation 2e in a second way. In the second</p> <p>20 interpretation, when DOE revised the Order, it inserted</p> <p>21 a requirement for a process for sites with defense</p> <p>22 nuclear facilities to follow to address vulnerabilities</p> <p>23 found in any independent assessments going forward.</p> <p>24 In the staff's opinion, Order 151.1D adequately</p> <p>25 addressed the Board's five sub-recommendations of</p>
18	<p>1 Sub-recommendation 2a recommends that the</p> <p>2 updated directive address "severe events, including</p> <p>3 requirements that address hazards, assessments, and</p> <p>4 exercises, and 'beyond-design-basis' operational and</p> <p>5 natural phenomena events." DOE Order 151.1D</p> <p>6 incorporates emergency planning requirements for severe</p> <p>7 events.</p> <p>8 Sub-recommendation 2b recommends that the</p> <p>9 updated directive also address "Reliability and</p> <p>10 habitability of emergency response facilities and</p> <p>11 support equipment." Order 151.1D includes requirements</p> <p>12 for the habitability and reliability of emergency</p> <p>13 response facilities.</p> <p>14 Sub-recommendation 2c recommends the updated</p> <p>15 directive address "Criteria for training and drills,</p> <p>16 including requirements that address facility</p> <p>17 conduct-of-operations drill programs and the interface</p> <p>18 with emergency response organization team drills."</p> <p>19 Order 151.1D includes more thorough and extensive</p> <p>20 requirements for training and drill programs than the</p> <p>21 previous version of the Order.</p> <p>22 Sub-recommendation 2d recommends that the</p> <p>23 updated directive address "Criteria for exercises to</p> <p>24 ensure that they are an adequate demonstration of</p> <p>25 proficiency." Order 151.1D transfers the facility</p>	20	<p>1 Recommendation 2.</p> <p>2 I will now discuss the staff's related</p> <p>3 oversight. Following the issuance of Recommendation</p> <p>4 14-1, the staff continued to provide oversight of</p> <p>5 drills, exercises, and Emergency Management Programs.</p> <p>6 The Board continued to send correspondence to the</p> <p>7 Secretary of Energy, communicating concerns about</p> <p>8 emergency preparedness and response at individual</p> <p>9 sites, including Pantex, Los Alamos National</p> <p>10 Laboratory, and the Savannah River Site.</p> <p>11 As part of this oversight of DOE's defense</p> <p>12 nuclear facilities, the staff conducted activities to</p> <p>13 gain and maintain awareness of the state of emergency</p> <p>14 preparedness and response at the Pantex Plant. The</p> <p>15 staff's oversight and observations constitute the</p> <p>16 technical supporting document for Recommendation 15-1,</p> <p>17 titled Emergency Preparedness and Response at the</p> <p>18 Pantex Plant.</p> <p>19 The technical supporting document for</p> <p>20 Recommendation 15-1 presents the staff's observations</p> <p>21 in three main sections regarding the drill and exercise</p> <p>22 programs, notification and support to offsite agencies,</p> <p>23 and technical planning bases and decision-making tools.</p> <p>24 Based on its observations, the staff concluded</p> <p>25 that the Pantex Plant contractor had not demonstrated</p>

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1 adequate capabilities through its drill and exercise
 2 programs. Furthermore, the staff found no demonstrated
 3 capability to provide timely, accurate information to
 4 the public regarding offsite radiological consequences.
 5 Finally, the technical planning tools developed to
 6 respond to emergencies were inadequate to ensure timely
 7 notification of the need for protective actions to the
 8 workers and recommended protective actions to the
 9 public.
 10 The Board issued Recommendation 15-1 on
 11 November 23rd, 2015. In this recommendation, the Board
 12 concluded that, and I quote, "deficiencies must be
 13 addressed in the drill and exercise programs, in
 14 demonstrating the capability to provide timely,
 15 accurate information to the public regarding offsite
 16 radiological consequences, and in the technical
 17 planning bases and decision-making tools."
 18 Two of the recommendations in Recommendation
 19 15-1 dealt with inadequate implementation of existing
 20 requirements and the lack of robust oversight, not only
 21 in identifying these deficiencies but also in getting
 22 the National Nuclear Security Administration's
 23 contractor to correct the deficiencies. These
 24 recommendations are directly related to the first
 25 recommendation in Recommendation 14-1.

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1 The staff and resident inspectors also
 2 conducted observations of drills and exercises at Los
 3 Alamos National Laboratory following the Board's
 4 November 2011 public meeting and hearing in Santa Fe,
 5 New Mexico. These observations formed the technical
 6 basis for the Board's January 2016 letter to the
 7 Secretary of Energy. The letter stated that the
 8 staff's observations indicated weaknesses in emergency
 9 preparedness and response at Los Alamos National
 10 Laboratory. Additionally, the Board directed the staff
 11 to conduct a programmatic review of emergency
 12 preparedness and response at Los Alamos National
 13 Laboratory. The staff conducted this review in April
 14 2016.
 15 Based on the staff's on-site review, as well as
 16 the staff's oversight of various facility exercises in
 17 2015 and 2016, the staff concluded that Los Alamos
 18 National Laboratory's emergency preparedness and
 19 response program had weaknesses in four categories:
 20 federal oversight; the site-level emergency exercise
 21 program; facility-level emergency planning and drill
 22 programs; and demonstration of emergency response
 23 capabilities through drills and exercises.
 24 The observations comprised the technical basis
 25 document for a draft recommendation titled Emergency

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1 Preparedness and Response at Los Alamos National
 2 Laboratory. The Board sent the draft recommendation to
 3 the Secretary of Energy in February 2017. The Board
 4 ultimately decided not to issue a final recommendation
 5 on this topic. The staff subsequently documented the
 6 observed weaknesses in an issue report to the Board.
 7 In the staff's opinion, the concerns noted
 8 previously exist due to inadequate implementation and
 9 oversight of requirements. The staff's concerns
 10 regarding Los Alamos National Laboratory are similar to
 11 the underlying issues of Recommendation 1 of Board
 12 Recommendation 14-1. DOE's implementation of
 13 Recommendation 14-1 could have provided a framework for
 14 Los Alamos National Laboratory to improve its emergency
 15 preparedness and response capability. However, DOE's
 16 Implementation Plan for Recommendation 14-1 will not
 17 adequately address the Board's concerns at Los Alamos
 18 National Laboratory in a timely manner.
 19 To its credit, the National Nuclear Security
 20 Administration and the Los Alamos National Laboratory
 21 have begun to address many of the weaknesses and
 22 implementation issues noted by the staff.
 23 In addition to the review at Los Alamos
 24 National Laboratory, the staff performed 20 reviews of
 25 drills and exercises at sites with defense nuclear

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1 facilities over the past two years. Drills and
 2 exercises provide sites and facilities an opportunity
 3 to demonstrate proficiency by responding to credible
 4 scenarios. When sites adequately respond to an
 5 emergency exercise, the staff gains confidence that
 6 these sites will be able to respond to a real event.
 7 The staff has observed some improvements in the
 8 field with respect to implementation of the
 9 requirements of Order 151.1C in line with the Board's
 10 recommendation. However, the improvements are not
 11 consistent across all the sites. Therefore, the staff
 12 concludes that Recommendation 14-1 is not driving
 13 improvements in implementation at the sites. If sites
 14 struggled to implement the requirements of Order 151.1C
 15 without assistance from headquarters, the staff
 16 believes those same sites will continue to struggle
 17 with implementing the revised requirements in Order
 18 151.1D. Likewise, having a set of Criteria and Review
 19 Approach Documents will not drive improvements unless
 20 the Criteria and Review Approach Documents are used
 21 effectively.
 22 The staff has observed that several sites are
 23 running more complex annual exercises involving severe
 24 events that affect multiple facilities. In 2017, the
 25 staff witnessed an annual exercise at the Y-12 National

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1 Security Complex that also affected Oak Ridge National
 2 Laboratory and the East Tennessee Technology Park.
 3 This particular exercise tested the response and the
 4 resources at the site to demonstrate that the sites
 5 could respond to an actual event affecting all three.
 6 However, this is contrasted by an example in the past
 7 year where a different site ran a simple exercise
 8 affecting only one facility at the site to demonstrate
 9 the entire site's response.
 10 The staff has noted that sites such as Hanford,
 11 the Savannah River Site, and the Pantex Plant are using
 12 facility drills on a more frequent basis. This is
 13 evidenced by the number of mentions in resident
 14 inspector weekly reports over the past year.
 15 The staff has also seen sites perform drills
 16 and exercises that involve activating alternate
 17 Emergency Response Facilities, including Emergency
 18 Operation Centers. The staff has seen an increase in
 19 the use of drills and, to some extent, exercises at
 20 alternate Emergency Operation Centers, at sites such as
 21 the Y-12 National Security Complex, the Pantex Plant,
 22 and Los Alamos National Laboratory.
 23 However, as I stated previously, the staff has
 24 not observed these improvements being made consistently
 25 at defense nuclear facilities. In addition, during its

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1 oversight of exercises and drills, the staff continues
 2 to see examples of sites that struggle to maintain
 3 command and control and effective performance of
 4 incident commands.
 5 In the staff's opinion, sites also need to find
 6 a way to appropriately assess and provide feedback to
 7 responders. The primary way an individual will improve
 8 performance or correct improper performance is to
 9 receive feedback. If responders do not receive
 10 feedback regarding their performance, they will not
 11 improve.
 12 The staff also has seen a need for sites to
 13 focus on emergency termination and recovery skills. As
 14 stated in the technical supporting document for
 15 Recommendation 14-1, and I quote, "In addition to the
 16 use of simplistic scenarios, another problem observed
 17 by the staff team was the failure of most sites to
 18 adequately incorporate recovery actions into the
 19 exercise. Due to the hazardous nature of operations at
 20 DOE sites, planning and implementing recovery and
 21 re-entry actions will be extremely complex as evidenced
 22 by the current recovery activities at WIPP. Recovery
 23 at other DOE sites could be more difficult due to the
 24 more hazardous and complex nature of operations at
 25 those sites. Planning and implementing recovery

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1 actions are typically not demonstrated in detail during
 2 the normal scope of annual emergency exercises at DOE
 3 sites or in follow-on exercises."
 4 In summary, the staff has seen some improvement
 5 in the field in exercises and drills, but it is my
 6 opinion that this improvement is not consistent across
 7 the complex, and it is not necessarily driven by
 8 consistent oversight from headquarters.
 9 Thank you for the opportunity to testify
 10 regarding Oversight of Emergency Preparedness and
 11 Response. The only outstanding deliverable for
 12 Recommendation 14-1 is the Criteria and Review Approach
 13 Document. However, the Implementation Plan does not
 14 address how DOE will ensure that sites use this
 15 document as a tool to assess their programs and drive
 16 improvements. To actually make improvements in
 17 implementation, headquarters and site line management
 18 must conduct effective oversight and ensure contractors
 19 correct deficiencies in a timely manner.
 20 In the staff's opinion, Recommendation 14-1
 21 will not drive additional improvement in emergency
 22 planning and response at DOE's defense nuclear
 23 facilities.
 24 This concludes my prepared remarks.
 25 CHAIRMAN SULLIVAN: Thank you, Mr. Roscetti.

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1 So now we have time in our agenda for Board
 2 Members to follow up by asking questions of the staff.
 3 So I'm looking to my fellow Board Members to see if
 4 anybody wants to begin or has any questions.
 5 BOARD MEMBER ROBERSON: I don't have any
 6 questions, Mr. Chairman.
 7 CHAIRMAN SULLIVAN: Okay.
 8 Ms. Connery?
 9 BOARD MEMBER CONNERY: A couple.
 10 So, Chris, starting with your last statement
 11 first, Recommendation 14-1 will not drive additional
 12 improvements in emergency planning and response at
 13 DOE's nuclear facilities, just to clarify, do you mean
 14 Recommendation 14-1 or do you mean the Implementation
 15 Plan that DOE has put forward to address the issues in
 16 14-1, because I -- well, I'll just leave it at that.
 17 MR. ROSCETTI: To answer your question
 18 regarding whether I think the Recommendation 14-1 or
 19 DOE's Implementation Plan will address -- excuse me,
 20 will not drive additional improvement in emergency
 21 planning and response at DOE's defense nuclear
 22 facilities, I would say both.
 23 The Implementation Plan, Revision 1, does not
 24 have any other outstanding deliverable, other than the
 25 CRAD, the Criteria and Review Approach Document.

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1 Because that's the only outstanding deliverable, once
 2 DOE completes that, I don't foresee DOE taking any
 3 other action. Therefore, having the recommendation
 4 open isn't, in itself, going to drive DOE to make any
 5 implementation improvements.
 6 Does that answer your question?
 7 BOARD MEMBER CONNERY: Yes.
 8 CHAIRMAN SULLIVAN: Mr. Santos?
 9 BOARD MEMBER SANTOS: Thank you, Mr. Chairman.
 10 Can you walk again me through the time period?
 11 Was the implementation to happen within a one-year
 12 period? Can you explain what sort of timeline is the
 13 Department going to implement the various actions?
 14 MR. ROSCETTI: Yes, sir, I can walk you through
 15 the timeline.
 16 So the original recommendation stated, in its
 17 role as a regulator, by the end of 2016, so that was
 18 the first part of the Board's recommendation. The
 19 Department of Energy's original Implementation Plan did
 20 not commit to completing all actions by the end of
 21 2016.
 22 However, the Secretary of Energy, in one of his
 23 letters to the Board -- if you give me just a second,
 24 I'll find it. It was the Secretary of Energy's
 25 November 7, 2014, response to Recommendation 14-1. He

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1 committed to -- I shouldn't say he committed. He
 2 states, "The Department will expeditiously proceed with
 3 improvements accomplishing the highest priorities
 4 within a one-year period." So that was the timeline
 5 interaction between the Board and the Secretary of
 6 Energy regarding the one-year period.
 7 BOARD MEMBER SANTOS: And where are we today?
 8 MR. ROSCETTI: Where are we today? So today
 9 the Department of Energy's revised its Implementation
 10 Plan once, so we're on Revision 1, and the only
 11 outstanding deliverable is the Criteria and Review
 12 Approach Document.
 13 BOARD MEMBER SANTOS: Right, that's when it
 14 comes to the IP, but is there any information regarding
 15 the final implementation of the various corrective
 16 actions? Do you have an idea of what sort of timeline
 17 the Department is operating? Is this a five-year
 18 effort? a two-year effort? Is there any document from
 19 the Department or anything that gives an idea of the
 20 extent of the implementation of the various corrective
 21 actions?
 22 MR. ROSCETTI: So the Department of Energy is
 23 currently implementing the revised order 151.1D, and
 24 they're in the process of putting that into contracts
 25 at sites with defense nuclear facilities. I do not

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1 have an idea of how long it will actually take for
 2 those sites to complete putting that order in their
 3 contracts and then to implement the new order.
 4 With respect to the other implementation, I
 5 don't have a timeline for the sites that have to revise
 6 their corrective action programs, and then once the
 7 CRAD -- the Criteria and Review Approach Document -- is
 8 provided to the Board, assuming that happens in
 9 December 2017 as the Department committed to, there
 10 will be time for the sites to actually use and
 11 implement that, and I don't have a timeline for how
 12 long that implementation takes.
 13 BOARD MEMBER SANTOS: My other question is you
 14 mentioned that it was your staff opinion that there
 15 were some inconsistent implementation and inconsistent
 16 oversight throughout the complex. Could you give me
 17 some examples of facilities or sites to support that
 18 statement?
 19 MR. ROSCETTI: Sir, you want specific examples
 20 of sites that the staff noted, in its opinion, need to
 21 improve command and control and use of exercises? Is
 22 that what you're asking?
 23 BOARD MEMBER SANTOS: Yes. You made the
 24 statement that there was inconsistent implementation
 25 and inconsistent, you know, oversight throughout the

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1 complex. I just want to -- if you have some specifics
 2 behind that statement.
 3 MR. ROSCETTI: I'd like to take that for the
 4 record to get you the specific sites and dates. I have
 5 some general examples that I included in the testimony,
 6 but to be thorough, I'd like to get the actual
 7 specifics.
 8 BOARD MEMBER SANTOS: Okay.
 9 CHAIRMAN SULLIVAN: Ms. Connery?
 10 BOARD MEMBER CONNERY: So you may have to take
 11 this for the record as well, but I was wondering if you
 12 could let the Board know -- my understanding is that
 13 there are some aspects of 151.1D that sites can opt out
 14 of, and I'd like to know whether or not -- what those
 15 specific issues are and what the approval process is
 16 for opting out of those specific requirements that are
 17 in 151.1D. Thank you.
 18 MR. ROSCETTI: So with regards to the specifics
 19 of Order 151.1D, I will have to take that for the
 20 record, but based on my knowledge of the DOE's
 21 directive system, I will tell the Board that sites can
 22 use the exemption process built into the directives to
 23 request relief from any requirement that is in a
 24 contract. But I will take the specific question about
 25 151D for the record.

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1 BOARD MEMBER CONNERY: Yeah, to clarify, I
2 thought there were two different processes, and I
3 thought there was one that didn't require headquarters
4 approval. That's the one I was actually asking.
5 CHAIRMAN SULLIVAN: Mr. Santos?
6 BOARD MEMBER SANTOS: Thank you, Mr. Chairman.
7 Could you describe what are some of the current
8 and upcoming staff review focus areas in the area of
9 emergency preparedness?
10 MR. ROSCETTI: Yes, sir. So the staff, in the
11 upcoming fiscal year 2018, in the area of emergency
12 planning and response, has proposed, in the Office of
13 the Technical Director's work plan to conduct oversight
14 exercises at a number of sites with defense nuclear
15 facilities. The specifics of those I will have to get
16 you for the record.
17 And as far as the reviews, there's at least two
18 reviews of emergency planning and response programs we
19 plan to do, but those specifics I'll have to get for
20 the record also, sir.
21 BOARD MEMBER SANTOS: So you mentioned
22 exercises and some programmatic aspects. Have you
23 reviewed or are planning to review some of the new
24 methodologies or approaches?
25 For example, you mentioned that DOE is trying

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1 to implement a new risk-informed approach. Is that
2 part of your upcoming efforts or can you comment on
3 that?
4 MR. ROSCETTI: We're not planning to look at
5 the risk-informed approach at the specific exercises or
6 programmatic reviews we perform; however, as part of
7 our oversight of Recommendation 14-1, we do look at the
8 outcomes of the exercises and reviews we do, and we
9 have proposed in the fiscal year 2018 work plan an
10 overall review of how the Department of Energy has
11 addressed Recommendation 14-1, and that would be where
12 we look at the risk-informed approach.
13 BOARD MEMBER CONNERY: So a direct followup on
14 that -- and, again, unfortunately we don't have the
15 Department of Energy here taking questions, otherwise,
16 I would be directing this at them -- but EA has stated
17 that the new proposed core risk management process no
18 longer requires clear and quantitative expectations for
19 risk management. Can you comment on that?
20 MR. ROSCETTI: I would have to get the
21 specifics of the risk management approach and provide
22 it to the Board for the record, ma'am, which I will do.
23 BOARD MEMBER SANTOS: Can you provide more
24 insights of what is it that is the staff opinion that
25 14-1 is no longer driving improvements or, you know, or

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1 any -- what's the impact of it? Can you offer some
2 insight of why did you make that statement?
3 MR. ROSCETTI: So the reason I said that it's
4 the staff's opinion that 14-1 isn't driving
5 implementation improvements at the sites is because
6 there's nothing that holds the sites accountable to
7 actually improve their implementation. The only
8 authorities assigned any responsibility in the
9 Implementation Plan are the National Nuclear Security
10 Administration's Office of -- I believe it's Plans and
11 Policy. They're the one responsible for implementing
12 the Implementation Plan.
13 So the only vehicle for sites to make
14 implementation improvements is through their normal
15 contracting mechanisms and oversight of requirements,
16 but there's no linkage to the Implementation Plan for
17 14-1.
18 BOARD MEMBER CONNERY: Just a rhetorical, it
19 was the Secretary of Energy that accepted the
20 recommendation, not that office, so the Secretary would
21 still be responsible for carrying out 14-1, correct?
22 MR. ROSCETTI: Yes, ma'am.
23 CHAIRMAN SULLIVAN: So, Mr. Roscetti, you
24 referred to this list of deficiencies that was provided
25 by NA 40 authority to the Board back in -- first I

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1 think we got it in 2016, and then there have been a few
2 updates to it, but the Department of Energy considers
3 any action on this complete. Is that -- did I
4 understand you correctly with that?
5 MR. ROSCETTI: Yes, sir.
6 CHAIRMAN SULLIVAN: All right. So does that
7 mean that in the headquarters they are no longer
8 maintaining any sort of list of deficiencies in
9 emergency preparedness at different sites around the
10 complex?
11 MR. ROSCETTI: I can't say whether headquarters
12 is maintaining a list of deficiencies around the
13 complex. The way the Implementation Plan reads, they
14 would maintain it as long as needed, but I don't recall
15 any criteria that defined when they would stop the
16 Deficiency Report.
17 CHAIRMAN SULLIVAN: All right. It also
18 appeared from the initial report we were provided in
19 May of '16 and the few updates that came after that
20 that primarily the updates dropped things off this list
21 as opposed to ever adding things to them. Is that also
22 a correct assumption of mine?
23 MR. ROSCETTI: Yes, I think that's an accurate
24 statement, that the items that were completed and
25 corrected came off the Deficiency Report. Yes, sir.

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1 CHAIRMAN SULLIVAN: All right. So just
2 recently the staff went out and -- our staff went out
3 to Savannah River, watched a full-scale exercise, and
4 one of the things that the staff informed us of was
5 that there's a problem with the sitewide announcing
6 system at Savannah River. It just doesn't work very
7 well.

8 So does that -- who's responsible for tracking
9 that as a corrective action item within the Department
10 of Energy? Do you have knowledge of that?

11 MR. ROSCETTI: For that specific instance, my
12 understanding is the site would track that. The way
13 the Deficiency Report was created, it was based on
14 external assessments, which is partly why you see items
15 come off of that list and not necessarily go on,
16 because of the way the original data call
17 was requested. So for that particular deficiency, if
18 it was discovered by the site, it would be in the Site
19 Corrective Action Tracking Program.

20 CHAIRMAN SULLIVAN: All right, so two issues
21 there. So let's go back to what you just talked about,
22 which is the list of deficiencies was generated by
23 external assessments as opposed to deficiencies noted
24 by the people who work at the site themselves. Is that
25 correct?

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1 MR. ROSCETTI: Yes, sir. I would say that the
2 site -- that the deficiencies reported by the sites
3 were not all-inclusive of all the deficiencies at the
4 sites.

5 CHAIRMAN SULLIVAN: All right. So the fact
6 that no new deficiencies were being added to this list
7 in the last 15 months, does that mean that there
8 haven't been any external assessments at any of these
9 sites?

10 In other words, has the Office of Enterprise
11 Assessments been doing assessments, or did they just do
12 assessments and not find any deficiencies, or do you
13 not know?

14 MR. ROSCETTI: I don't know the answer to that
15 question, sir. I can take that for the record, though.

16 CHAIRMAN SULLIVAN: All right, thank you.

17 And so that with respect to deficiencies
18 identified by the sites themselves, so, for example,
19 the -- what I just mentioned at the Savannah River
20 site, who, in particular, would be responsible for
21 correcting that? Are we talking about an M&O
22 contractor? the Department of Energy field office?
23 Who's responsible for tracking that sort of deficiency
24 within the Department of Energy? Do you know?

25 MR. ROSCETTI: I'm not familiar with the

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1 Savannah River site's specific corrective action
2 tracking program, but generally, contractors have a
3 program that tracks deficiencies and tracks the
4 corrective actions to address those deficiencies, and
5 the Department of Energy, the site offices, would have
6 access to that list so that they could provide
7 oversight to ensure that their contractors are
8 correcting issues. That's my general understanding,
9 but I don't have the specifics of the Savannah River
10 site's program.

11 CHAIRMAN SULLIVAN: All right, thank you.

12 All right, I'm looking around at other Board
13 Members. Does anybody else want to ask a question?
14 Mr. Hamilton?

15 VICE CHAIRMAN HAMILTON: Thank you,
16 Mr. Chairman.

17 Mr. Roscetti, I want to ask you about the word
18 "improve" or "improvement." I counted it, with my
19 rough word count, at least a dozen times in your
20 testimony, and I counted the word "correct" maybe once
21 or twice.

22 I want to make sure I understand, when you say
23 "improve," are you talking about improving to the point
24 that it's corrected or are you talking about, as you
25 did at the beginning of the testimony, prior to 14-1, a

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1 momentum for continuous improvement? I just want to
2 understand what you mean when you use the word
3 "improvement." And it is a trick question, I'm sorry.

4 MR. ROSCETTI: So with recommendations, sir,
5 I -- there's a certain -- the Board sends
6 recommendations to the Secretary of Energy. The
7 Secretary of Energy accepts them. There are
8 improvements that need to be made. So with respect to
9 recommendations, I would say it's actually, like, an
10 improvement to the point of correction. When I'm not
11 talking about specific recommendations, I would go with
12 the other definition where it's an actual continuous
13 improvement.

14 VICE CHAIRMAN HAMILTON: Okay. Well,
15 I appreciate that comment, and I -- so now I understand
16 that when you say "in this context, improvement," you
17 mean improvement to the point that it's -- that
18 whatever the deficiency was has been corrected. Am I
19 correctly stating what you mean?

20 MR. ROSCETTI: Yes, sir.

21 VICE CHAIRMAN HAMILTON: Okay. And the reason
22 I wanted to bring this up -- and this is really for my
23 fellow Board Members -- is that it's very easy for us
24 to wander off into continuous improvement space instead
25 of looking at what is good enough and when is the

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1 recommendation completed. So I just wanted to draw
2 attention to this use of the word.

3 I would argue that maybe a -- unless we had
4 this explanation, you could read into that testimony
5 something else than what you meant, which might be that
6 phrase, "continuous improvement," and when you get into
7 the continuous improvement space, you get well beyond
8 our mission, and there is no end to how much cost we
9 can incur.

10 So, thank you. That's all I wanted to know.

11 Thanks.

12 CHAIRMAN SULLIVAN: Mr. Santos?

13 BOARD MEMBER SANTOS: Thank you, Mr. Chairman.

14 Could you share the staff's -- if you made any
15 observations regarding -- as you made all those
16 exercise observations at the field, throughout the
17 complex, any observations regarding the -- how is
18 emergency preparedness and response seen by the field,
19 by the workforce?

20 What's the culture associated with how is
21 emergency preparedness and response integrated with the
22 mission requirements and the safety culture and
23 other requirements? Can you comment on that?

24 MR. ROSCETTI: So I would tell you, sir, that
25 I don't feel comfortable trying to explain how other

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1 people view emergency preparedness and response,
2 especially in relation to their accomplishment of a
3 mission. I can tell you how I view it based on my
4 experience, but as far as speaking for all of the
5 sites, I don't feel comfortable doing that.

6 BOARD MEMBER SANTOS: I understand. I'm
7 asking, what's been your observation?

8 MR. ROSCETTI: So what I will say is that based
9 on the Secretary of Energy's acceptance of
10 Recommendation 14-1 and Recommendation 15-1 and the
11 requirements outlined in the previous Order 151.1C and
12 the new Order 151.1D, that the Department of Energy
13 views emergency preparedness and response as an
14 important safety management program.

15 BOARD MEMBER SANTOS: Thank you.

16 The question following up -- following up to
17 Vice Chairman Hamilton, on the improvement, let's talk
18 about the orders themselves. 151.C [sic], was it an
19 issue of implementation or an issue of improvement,
20 correction, you know, that precipitated the need for
21 151. -- in other words, are there still issues present,
22 even if we move to the -- the Department moves to the
23 new order?

24 MR. ROSCETTI: So in my opinion, Recommendation
25 14-1 called out both implementation issues and specific

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1 requirements that needed to be added to 151.1C. And as
2 I said in the testimony, it's the staff's opinion that
3 they addressed the five specific requirements -- I'll
4 say general requirements -- that needed to be added to
5 the order.

6 With respect to implementation, the sites are
7 in the process of implementing Order 151.1D, so I can't
8 say whether the implementation issues that I think the
9 Board noted in Recommendation 14-1 will be adequately
10 addressed just by revising the order.

11 BOARD MEMBER SANTOS: Thank you.

12 CHAIRMAN SULLIVAN: Other Board Members, any
13 other questions?

14 (No response.)

15 CHAIRMAN SULLIVAN: Okay. Thank you,
16 Mr. Roscetti.

17 So at this point, we are -- our next item on
18 our agenda moves into public comment. We are just a
19 few minutes early, but I am going to look and ask the
20 staff -- I think we had a signup list out front? Did
21 we? So do we have -- do we have the list with any
22 names on it?

23 MR. FOX: No one signed up.

24 CHAIRMAN SULLIVAN: All right. So we had a
25 signup list out front, no one signed up, so I am going

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1 to ask that if there's anybody in the room who does
2 want to address the Board, now would be the time.
3 Please come forward. We have a microphone set up. And
4 if you're going to make a comment, state your name and
5 then please proceed.

6 (No response.)

7 CHAIRMAN SULLIVAN: All right. So I am not
8 seeing anyone stand up to make a comment. So at this
9 time, I am going to propose that we take a short break
10 so we can do this again just to make sure that there
11 isn't any member of the public who's planning on
12 showing up at 1:00, and so I will propose that we take
13 a ten-minute break and come back at ten after 1:00. We
14 will see again if there's anybody who wants to address
15 the Board, and, if not, we will move into the portion
16 of the agenda after that.

17 So at this point, we are in recess. Off the
18 record.

19 (A brief recess was taken.)

20 CHAIRMAN SULLIVAN: All right. We are now back
21 on the record after a short break, and, again, we took
22 a break a few minutes before 1:00 in order to make sure
23 that anybody who intended to make a statement to the
24 Board had an opportunity to show up during the
25 scheduled period and do so.

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1 So looking around the room, I don't see any new
2 faces, but nevertheless, I'll ask again, is there
3 anybody who wishes to stand up and address the Board?

4 MR. LEONE: Mr. Chairman?

5 CHAIRMAN SULLIVAN: Oh, we do have someone.
6 Yes, if you would come over here, we do have a
7 microphone set up. I would ask you to please state
8 your name and then you can address the Board.

9 MR. LEONE: Thanks, Mr. Chairman. My name is
10 Dan Leone. I write for a publication called The
11 Exchange Monitor, and I have sort of a meta question
12 about the meeting.

13 Board Member Connery said that DOE isn't here,
14 and I guess ostensibly the reason for that is that this
15 was changed from an originally scheduled public hearing
16 to a public meeting, and so effectively the Board sort
17 of -- I don't want to say uninvited the Department, but
18 maybe let them off the hook.

19 And in a letter here from the 18th of
20 September, it said, "When the hearing was planned, we
21 anticipated your team would be in place by September.
22 The assumption was overly optimistic," and so forth,
23 but if I'm counting the invitees right, there are --
24 one, two, three, four, five, six -- seven of these, and
25 all but two of them seem to still be in the roles that

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1 We invited the Secretary, and the Secretary was
2 unable to attend. The Deputy Secretary was unable to
3 attend. There was going to be someone who was a
4 stand-in, and then that person was unable to attend.
5 So after several iterations of trying to figure out who
6 was going to be here, the Board just decided to change,
7 and as you said, when we don't have a public hearing,
8 we don't have the Department of Energy here providing
9 any testimony on the subject of emergency preparedness.

10 Ms. Connery?

11 BOARD MEMBER CONNERY: So I just wanted to make
12 a comment since I had a dissenting view on that vote.
13 I actually still wanted to hear from the Department and
14 particularly the field elements. I think the biggest
15 issue we have with the implementation of the IP is
16 implementation in the field and not the order, so it
17 would have been important for me to understand where
18 the field is getting its direction and the connectivity
19 between field office and headquarters. That's why I
20 actually voted against changing this from a hearing to
21 a meeting, and my vote's on the record.

22 CHAIRMAN SULLIVAN: All right. Are there any
23 other members of the public who wish to stand up and
24 make a statement?

25 Ms. Roberson actually wishes to make a

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1 they were in at the time when the invitation went out.

2 I guess the exceptions are Glenn Podonsky has
3 left EA, although I think he had a "Dear Colleagues
4 letter" about his retirement out before you sent the
5 invitation. His deputy is in his role now. And Eric
6 Smith, I think -- I gather was replaced by Charles
7 Hopkins just at the beginning of this month, but Eric
8 Smith is still Mr. Hopkins' deputy.

9 So I guess my question is, considering all that
10 and the team that it seemed you were looking to hear
11 from, and the invitation appears to be in place, why
12 isn't DOE here?

13 CHAIRMAN SULLIVAN: Well, thanks for your
14 question. Let me just take a quick stab at explaining
15 that the reason they're not here is because the Board
16 did change it. That's the simple, straight reason, but
17 in consideration of that, we had invited, as you
18 mentioned, several people. You named some of them.

19 Mr. Podonsky was no longer available. His
20 acting replacement was also not available. We had --
21 as I think you're well aware, the Department of
22 Energy's Emergency Preparedness Program is run out of
23 NNSA, and the Administration has still not put forward
24 a new name for an administrator, so we have that aspect
25 of a team that's not in place.

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1 statement. Go ahead, Ms. Roberson.

2 BOARD MEMBER ROBERSON: Yes. I guess I would
3 just like to say since I actually proposed the action
4 to change from a hearing to a meeting, in respect of
5 all of the Board Members' views, we could have
6 considered rescheduling to accommodate, but I also
7 thought it was important to make sure that the public
8 had an opportunity to understand where the Board was,
9 and our staff had done quite a bit of work. So I
10 proposed that action because I thought it would be
11 informative, and if the Board chooses to have a hearing
12 in the future, it still can.

13 CHAIRMAN SULLIVAN: All right, thank you.

14 Anybody else?

15 (No response.)

16 CHAIRMAN SULLIVAN: If not, I am going to move
17 into the next item on our agenda, which is Board Member
18 deliberations. So at this point Board Members are
19 unconstrained in talking about anything relating to the
20 agenda or even proposing motions.

21 With that, I'll ask any Board Member who wants
22 to start off.

23 BOARD MEMBER ROBERSON: I'll start,
24 Mr. Chairman.

25 CHAIRMAN SULLIVAN: All right.

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1 BOARD MEMBER ROBERSON: And I'll start because
2 I get concerned that we lose context and sometimes can
3 get lost in the weeds. I would just like to briefly
4 describe how the Board came about this recommendation.

5 The Board, although it was focused, as
6 Mr. Roscetti said, on emergency preparedness, the
7 Board's focus on emergency preparedness really
8 sharpened after Fukushima, and the Board communicated
9 to the Secretary it had certain concerns; however, the
10 Secretary, just like NRC, had initiated a focused
11 effort in the Department to review their programs
12 across the complex at that time, and the Board
13 communicated that it would monitor those activities,
14 and it did, and it stayed abreast. It was briefed
15 routinely. At the same time, the Board had its staff
16 reviewing the activities at different sites across the
17 complex.

18 The Secretary's Emergency Preparedness Review
19 Team issued a report, and in the fall of 2013, the
20 Board became concerned with the pace of action in
21 response to that report. It was at that time that the
22 Board directed the staff to begin to organize all of
23 the reviews that were done into a package that the
24 Board could consider for recommendation.

25 And primarily the Board was concerned about the

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1 difference in deterioration of safety between the
2 response at the Daiichi and Daini nuclear facilities
3 and really focused in on how important preparedness was
4 in ensuring adequate protection of the public and how
5 responses unfolded.

6 And then in February of 2014, WIPP happened,
7 and the Board became very focused on the response
8 element of those incidents. And those are the things
9 that led the Board to determine that there certainly
10 was an adequate protection element involved in ensuring
11 preparedness to respond to events and ensure that they
12 do not deteriorate to the point that the public could
13 be at risk.

14 CHAIRMAN SULLIVAN: Thank you.

15 Anyone else want to go next?

16 Mr. Hamilton is writing away furiously over
17 here. Are you going to share any of that with us or --

18 VICE CHAIRMAN HAMILTON: Not now.

19 CHAIRMAN SULLIVAN: Okay.

20 Well, I will go ahead and comment. I was here
21 when this recommendation was issued, and I was
22 concerned from the start that the recommendation would
23 not end up being very satisfactory for the Defense
24 Nuclear Facilities Safety Board, because it attempts to
25 approach a very broad topic and ask the Secretary to

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1 make improvement in a wide area. So when I say a wide
2 area, realize there are ten different places in the
3 Defense Nuclear Complex that we provide oversight for,
4 so this recommendation was about emergency preparedness
5 and response, how it was run out of headquarters, but
6 ultimately, how emergency preparedness and response
7 played out at those ten different places.

8 And at each of those places, there's a
9 different M&O contractor, so there's a different
10 organization that actually owns the employees who do
11 the work, and then there's a different field office
12 reporting back to headquarters, in the Forrestal
13 Building, and about half of them are referring on the
14 NNSA side and about half are reporting on the EA side.
15 So it's a very disparate organization in terms of how
16 things are actually done around the country.

17 And so trying to ask the Department of Energy
18 to make broad improvement means necessarily that the
19 Department was going to have to undertake some
20 fundamental changes within the Forrestal Building, and
21 I've always seen those as difficult for us to ask the
22 Secretary of Energy to actually do that because of
23 several reasons.

24 In my view, for whatever it's worth, the
25 Secretary of Energy's process for responding to a Board

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1 recommendation, it takes quite a bit of time for them
2 even to put together a plan. So I think if we look
3 back at the history here, it was at least eight months
4 between the time the Board delivered the recommendation
5 and then the time that there was even a plan that was
6 produced.

7 Our statute does not actually give us the
8 opportunity to formally accept or reject a plan, so
9 what we can do is we can informally -- which even means
10 by letter -- but there's no statutory authority for the
11 Secretary to respond if we tell them we don't like the
12 plan, but, in fact, ultimately, we did tell him we
13 didn't like the plan, and then the plan was changed
14 again.

15 And all this time, with a change in the plan,
16 they're just trying to come up with a way to respond,
17 and meanwhile, out around at these ten different sites,
18 everything just went about pretty much as it did
19 before.

20 So that whole process tends to set us, the
21 Defense Nuclear Facilities Safety Board, into a
22 position where we're asking the Secretary to broadly
23 change everything, but it will be a couple of years, at
24 best, before things might change, and then during that
25 time, we've actually seen leadership changes within the

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1 Department, and that's exactly what we've seen here.
 2 And so as a result, this sort of
 3 recommendation, where we ask the Secretary to change
 4 things broadly throughout the complex, is just
 5 problematic. It's problematic -- it would be -- it
 6 might be accomplishable if things were different within
 7 the Forrestal Building's own system so that they could
 8 actually try to make broad changes more swiftly.
 9 We structured this in two parts, and in one
 10 part it said revise your directive. That actually did
 11 get done. I guess their order, the DOE Order
 12 151-Charlie [sic] became 151-delta [sic]. That
 13 actually did get done. It actually got done reasonably
 14 timely, and in my view, only because Secretary Moniz
 15 personally got involved in making their process be done
 16 much more quickly than it otherwise would have.
 17 If I recall correctly, a draft 151-delta [sic]
 18 was put out for comment within -- various people in the
 19 Forrestal Building came back with something on the
 20 order of 1800 comments, and so the Secretary's personal
 21 intervention was required to just say, look, okay,
 22 you -- he said something like, you've got 45 days,
 23 address what comments you can, and then you're done.
 24 And as a result, there was a new order that was issued.
 25 So all I'm trying to say is that without the

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1 personal involvement of leadership, it's very hard to
 2 get these sort of things done, as opposed to a
 3 recommendation that points to a specific place in the
 4 complex with a specific deficiency where you would
 5 expect the folks who are actually there at a site to
 6 work to fix that as soon as it's been identified to
 7 them.
 8 So I have been concerned all along on this
 9 recommendation that we would not see the sort of
 10 progress be developed around the complex that we had
 11 hoped for, and that was largely in my view because of
 12 the way this recommendation went about trying to get
 13 that change, and so I think we are where we probably
 14 could have predicted that we would be, and I still
 15 don't know what to do about it.
 16 I'd like to see a culture and organization and
 17 leadership framework set up that regularly prioritizes
 18 emergency preparedness and response. I have seen it
 19 done in the United States Navy. I've seen it done
 20 where it ends up with personal involvement, with people
 21 at the highest levels of the chain of command. I'm not
 22 trying to criticize the current Secretary.
 23 I'm just saying that, you know, when the
 24 four-star admiral at naval reactors would actually be
 25 on the other end of the conference call line during an

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1 emergency response drill, it was obviously important to
 2 the four-star admiral, and it became important to
 3 everybody else.
 4 So that sort of leadership could actually drive
 5 improvement, but it also requires a lot of effort, and
 6 it must be vigilant on the part of the chain of
 7 command. Again, I'm not trying to criticize the
 8 current Secretary or even the last Secretary. I mean,
 9 these are busy people with a lot of things on their
 10 plate, and ultimately, it is the White House and the
 11 Congress who try to settle out of those priorities and
 12 not the Defense Nuclear Facilities Safety Board.
 13 So while we make recommendations, we then end
 14 up hoping for the best when those recommendations are
 15 actually hoping for large-scale change in the way the
 16 Department is doing business.
 17 So with all that said, what I'm just trying to
 18 say is I think we are in a place where we probably
 19 won't see large-scale improvement that is being driven
 20 by this recommendation, and I think to a certain
 21 extent, that was predictable.
 22 Ms. Connery?
 23 BOARD MEMBER CONNERY: So I wasn't here when
 24 the original 14-1 was voted on by the Board or
 25 established by the Board, so I appreciate

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1 Ms. Roberson's history of the post-Fukushima
 2 challenges, and having worked with the Department of
 3 Energy, I know that we are focused on that on a daily
 4 basis.
 5 But I think that from my point of view, there's
 6 kind of a sense that I'm hearing from the staff and
 7 from the Chairman that, you know, this is too big, too
 8 hard to get the Secretary to pay attention to these
 9 issues, and I think that's kind of the wrong lens with
 10 which to look at this.
 11 It's not about the IP and fulfilling the IP.
 12 It's about fulfilling the issues that we raised within
 13 the recommendation itself. And we always tell the
 14 departments -- and I think this is a mantra within the
 15 safety community -- that we should be performance-based
 16 and not compliance-based, and yet our answers are,
 17 well, they put an IP together, that's a check-the-box
 18 exercise; they put an order in place, so that's a
 19 check-the-box exercise. So we are not following it
 20 through to its logical conclusion as to whether or not
 21 it's actually effecting change at the Department and
 22 throughout the Department.
 23 The Board's role is to provide advice to the
 24 Secretary in his role as operator and regulator, and so
 25 we could issue a recommendation a week at site-specific

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1 and play Whack-a-Mole -- forgive the analogy -- at each
2 site with each of their specific issues, but this is a
3 structural challenge that I think the Department is
4 facing, and it's incumbent upon us to point it out to
5 the Department and see if they could handle the
6 structural issues.

7 I don't think it's a leadership issue. I think
8 it's a matter of do we have the right reporting
9 requirements within the Department; do we have the
10 right connectivity between what's happening in the
11 field and what's happening in our policy shops, and are
12 we taking a look at that; and is the Secretary
13 executing his role as regulator to understand that
14 these changes are being implemented at the field and
15 that they are actually improving or correcting issues
16 with regards to the emergency protection at those
17 sites?

18 So I believe that there is still a role for
19 this recommendation to play. How we engage with the
20 Department I think is something that the Board can
21 discuss in order to get them to be more
22 performance-based than compliance-based with their IP,
23 and part of it has been a challenge I think on our part
24 in communicating to the Department where our
25 frustrations lie with regards to the implementation of

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1 this particular recommendation.

2 CHAIRMAN SULLIVAN: So, just by way of a short
3 response, I just want to be clear that what we were
4 hoping for was this broad, sustainable improvement,
5 which is -- it is difficult to get without evidence
6 that something must be done dramatically different. So
7 I guess I'm going to put myself in the shoes of the
8 Secretary of Energy right now and say, well, why should
9 I -- if I were the Secretary -- make dramatic changes
10 within the complex? Show me where there's a problem
11 that threatens the adequate protection of the public
12 health and safety.

13 So then I turn around and say, okay, now I'm
14 the Chairman of the Defense Nuclear Facilities Safety
15 Board, and I would think it would be incumbent upon us,
16 if we're making that recommendation, to say, okay, let
17 me show you where there's a problem and the public is
18 at risk.

19 Now, subsequent to this recommendation, we did
20 that with Pantex. Pantex was the subject of
21 Recommendation 2015-1. The Secretary of Energy
22 provided an Implementation Plan specific to Pantex, and
23 those steps of that plan were set to be done within one
24 year, and, in fact, one year has come and gone. I
25 think they -- well, the folks at Pantex would say that

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1 they've done all the steps. I don't know that we have
2 an independent assessment yet to say whether or not
3 they were effective, but nevertheless, the plan was set
4 out and the plan was done.

5 And meanwhile, the Board has looked hard at
6 lots of other places around the complex, and we have
7 not determined that there was an issue of adequate
8 protection somewhere else. So, again, as far as I'm
9 concerned, according to our statute, the onus is on us.
10 Where is the issue of adequate protection if it's not
11 at a particular place? So, you know, if you can't
12 point to a particular segment of the public to say
13 deficiencies at this place put this public at risk,
14 then who is at risk?

15 So perhaps some other Board Member wants to
16 address that or talk about something different.

17 Ms. Roberson?

18 BOARD MEMBER ROBERSON: Thank you. Thank you,
19 Mr. Sullivan.

20 Well, first of all, I have to say I do
21 disagree, regardless of whether we believe this
22 recommendation at this time will render significant
23 results. I think the Board, even before it issued this
24 recommendation, provided the Department with a
25 significant number of specifics based on staff work,

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1 and in this recommendation, the Board cited a
2 significant number of results inside the recommendation
3 across the complex as well, too.

4 I think if your view is that you need to
5 establish that there's an issue of adequate protection
6 at each individual facility, I don't agree with that.
7 Emergency preparedness is a line function, and it
8 extends throughout the line, and it's very hard to say
9 is A-plus-plus at any break point in that line? And
10 that is why the recommendation was structured that way.

11 I say that independent of anybody's views as to
12 whether additional improvement or correction -- or
13 whatever adjective we want to use -- occurs, but also,
14 as I said before, the Department developed its own
15 action plan. The Board stood by for two years while
16 the task force, under the Secretary's leadership,
17 reviewed all of their activities as well, too.

18 And so it wasn't as though there wasn't an
19 awareness of what the weaknesses were, and that's one
20 of the reasons why at least this Board Member felt
21 comfortable with the timelines that were proposed in
22 the original recommendation, because the Department had
23 already been working in this area for at least two
24 years before the recommendation.

25 But I guess in general, when it came to Pantex,

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1 I supported that recommendation because there was an
2 element in that recommendation that I did not believe
3 was adequately addressed in Recommendation 2014-1, and
4 that was radiological monitoring and offsite
5 notification. I did not believe 14-1 highlighted that
6 significantly enough, and, therefore, I supported the
7 follow-on recommendation.

8 CHAIRMAN SULLIVAN: Mr. Santos?

9 BOARD MEMBER SANTOS: Thank you, Mr. Chairman.

10 While there might be some value in identifying
11 specific actionable items that can be corrected at each
12 site, the part that resonates with me that there's a
13 need to have this broad approach I think is very well
14 capturing Recommendation 1A by the Board, 2014-1. I'll
15 read it real quick.

16 "Have a robust emergency response
17 infrastructure that is survivable, habitable, and
18 maintained to function during emergencies, including
19 severe events that can impact multiple facilities and
20 potentially overwhelm emergency response resources."

21 And it is that last part, you can see from
22 pretty much every emergency, very quickly the local
23 aspects are overwhelmed, and you need additional
24 infrastructure and support from other organizations,
25 governmentwide, even beyond potentially the Department

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1 of Energy. So to simply narrowly focus on a specific
2 site, we might be missing bigger infrastructure,
3 governmentwide issues, that is upon the Department and
4 other federal partners to work together and figure out
5 what is the right infrastructure to attend that.

6 So I think there's room for both, and hopefully
7 this recommendation has challenged the Department at
8 the federal level to ask those type of questions, and
9 we've seen it when the local M&O contractor might just
10 be overwhelmed and the federal partners have to step
11 in, and I don't want to lose sight of that.

12 CHAIRMAN SULLIVAN: I think they regularly ask
13 a lot of questions. It's the answers which sometimes
14 prove elusive, so -- but I understand what you're
15 saying. I guess my point is, if you were the
16 Secretary, what would you be doing different and how
17 would this be being done in your Department?

18 And that's a tough question, because it -- you
19 know, if I try to answer that for myself -- it's a very
20 tough question because conditions are so different in
21 different places. So I'm not sure that there is one
22 way to say this is how it shall be done, especially in
23 the part that you're talking about, which necessarily
24 involves working with state and local authorities, all
25 of whom have their own sets of rules, and those rules

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1 differ depending on what state or locality you're in.

2 So this is a very difficult thing to say, okay,
3 here's how we're going to do it. And so, again, I
4 don't know, if I were the Secretary, I would be able to
5 come up with a good way to have it be done everywhere,
6 other than to set some broad parameters and then leave
7 people to do it the way -- I mean, that's their job,
8 okay?

9 And so when you're doing that, now you're
10 talking about the leadership aspect and the aspect of
11 administering whatever personnel program we have to
12 evaluate how well people are doing their jobs, and
13 those are areas that we, as the Defense Nuclear
14 Facilities Safety Board, don't get involved in.

15 BOARD MEMBER SANTOS: Yeah, I just want to
16 clarify. I'm not advocating for standardization for
17 standardization's sake, but to make sure we have the
18 right level focus when those hard questions are asked,
19 and if individual solutions needs to be developed, so
20 that we...

21 BOARD MEMBER CONNERY: But I think that hits on
22 the challenge that we've seen, which is that the
23 Department can put across-the-board standards.
24 Obviously, they have to be tailored to the particular
25 site, but there is the connectivity between

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1 headquarters and the site, the field offices, and the
2 Secretary's role in oversight also plays a role in
3 this, which I think we're neglecting in what you're
4 saying, Mr. Chairman, because they have to be able
5 to -- whatever they implement, the Secretary has to
6 ensure that it is functioning and that it's habitable
7 and that it is robust enough to deal with an emergency,
8 because it's the Secretary, not the M&O contractor, who
9 has to assure the public that they are adequately
10 protected from any accidents or incidents that would
11 happen at those sites.

12 CHAIRMAN SULLIVAN: Okay. We have plenty of
13 other -- plenty of time left on our agenda, but I don't
14 see people rushing to make comments or talk to their
15 fellow Board Members in these deliberations.

16 Mr. Santos, did you want to go with something?

17 Ms. Roberson?

18 BOARD MEMBER ROBERSON: I'm always willing to
19 talk.

20 When I look at the recommendation, once again,
21 there were two primary goals of the recommendation. We
22 put a lot of stuff in it, but there were two primary
23 goals of the recommendation. One was to incorporate
24 into the Department's requirements recognition that
25 severe or beyond-design-basis events could occur. I

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1 mean, that's kind of what we learned from Fukushima and
2 other things, but -- and that, based on the staff's
3 work, I think, has been done with the new version of
4 the order.

5 The second one was to develop -- to ensure that
6 the response itself would be adequate in ensuring
7 events didn't deteriorate to the point that they
8 challenged adequate protection of the public, and,
9 therefore, the people responsible were trained, they
10 had the assets, they practiced, and they demonstrated
11 that they could carry out those duties, recognizing
12 that this is not an area of perfection. There is no A
13 or A-plus-plus. It's simply practice and making sure
14 that if you assume a piece of equipment is going to
15 work in a flood. It's in a flood plain. It's not
16 flooding. It's available for that, actually to do
17 that.

18 So for me -- I don't have an answer, but for
19 me, the question is, have they done both of those? Are
20 both of those satisfied? Those were the big take-aways
21 from this Board Member in the recommendation.

22 CHAIRMAN SULLIVAN: Ms. Connery?

23 BOARD MEMBER CONNERY: So my biggest
24 disappointment when I saw the deliverables was the
25 response -- I'll call it the deficient report versus

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1 the Deficiency Report -- the response to a Deputy
2 Secretary's request for information from the site level
3 was, I thought, shocking in terms of its brevity and
4 its basically having been not vetted.

5 And it looked to me like the Deputy Secretary
6 had asked for information, including outside
7 assessments, and then it got interpreted by those who
8 were in charge of the IP to say only outside
9 assessments, and, therefore, you got what I would
10 consider a dearth of information that perpetuated a
11 misperception at headquarters that things were not so
12 gloomy at the sites in terms of emergency preparedness
13 and response.

14 I give kudos to our staff who, in various
15 information papers, have taken it upon themselves to do
16 independent analysis to say what could have been done
17 in terms of providing information to headquarters so
18 that headquarters is fully informed. Headquarters
19 can't fix what they don't know about, and if
20 information is being filtered before it gets to the
21 folks that make decisions on the line, I find that
22 hugely problematic.

23 The information has to get to the right places
24 so the decision-makers can actually make the decisions
25 and create the change. So this Board Member's response

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1 to 14-1 deliverables, I do give the Department kudos
2 for probably a record-setting change in an order when
3 they got 151.1D done. Whether or not they did it
4 listening to all parts of the organization, I'm not
5 sure. We have heard various reports on that, and I
6 think perhaps some elements in the Department are
7 louder than others, but when it comes to the fact of
8 were the deficiencies adequately represented to the
9 highest levels of the Department, I don't think that
10 took place, and I don't think that's taken place to
11 date, and that's why I believe that this is still an
12 ongoing issue that the Department has to take a look at
13 and make sure that they have the information to judge
14 for themselves whether or not there's an issue that has
15 to be dealt with structurally or from any other point
16 of view.

17 CHAIRMAN SULLIVAN: So no one has proposed any
18 possible motions for the Board to vote on here. So if
19 we're not going to get any offered, then there won't be
20 any outcomes in terms of decisions by the Board or any
21 staff tasking, and I would move to closing remarks.

22 Mr. Santos will prevent me from doing that.

23 BOARD MEMBER SANTOS: Yes. I think we should
24 discuss where are we and where do we want to go next,
25 okay? We heard the staff is planning some exercise

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1 review, some further work plan, that would be part of a
2 meeting on Thursday. Everybody have expressed their
3 views on getting to this point, but it's not clear to
4 me how can we be more effective as a body to make sure
5 we communicate to the Department, the Secretary of
6 Energy, and the public on this matter.

7 I haven't seen anything that negates that the
8 issue is no longer relevant, so I'm looking around to
9 see what are other tools in our toolbox, from looking
10 at our statute, that we could be using to move this
11 forward.

12 CHAIRMAN SULLIVAN: Again, questions are easy;
13 answers are hard. So anybody care to answer
14 Mr. Santos?

15 BOARD MEMBER SANTOS: I still see challenges
16 with the first recommendation that have been
17 compounded, as I've learned, through structural issues
18 at the Department, the way the IPs are trying to be
19 implemented, and I'm not confident just that execution
20 of those will get to satisfaction of the first
21 recommendation.

22 On Recommendation 2, I see that 151-Charlie
23 [sic] got changed to delta, but I haven't seen or am
24 confident that the implementation issues that existed
25 with Charlie are still going to be addressed. So I was

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1 wondering if we need additional communications with the
2 Department, whether it's meeting, recommendations, what
3 have you, because time is not going to fix this.

4 CHAIRMAN SULLIVAN: Ms. Roberson?

5 BOARD MEMBER ROBERSON: Thank you.

6 I think that is actually the most relevant
7 conversation we can have, and I take very seriously
8 Mr. Roscetti's conclusions he presented as to whether
9 this recommendation will, indeed, drive improvements or
10 if the Board needs to reevaluate.

11 I think recommendations have a life cycle as
12 well, too, and there have been improvements made, there
13 have been actions taken, there have been corrections
14 done -- I'll make sure I use both words -- and so the
15 question is, is there more to drain out of this
16 recommendation or should the Board consider some other
17 alternative?

18 CHAIRMAN SULLIVAN: Ms. Connery?

19 BOARD MEMBER CONNERY: Well, as the staff
20 testified, we're waiting for one more deliverable. I
21 don't think it's going to be a panacea, so I don't have
22 a lot of optimism that that's going to solve all of our
23 problems, but as the Chairman pointed out, we have got
24 new individuals at the Department whose interest in
25 this subject has not yet been made evident to us. We

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1 assume that they will be interested.

2 With Mr. Hopkins taking over as the Associate
3 Administrator for Emergency Operations, I personally
4 would like to have a conversation with him, and I would
5 hope that the Board would want to have a conversation
6 with him, too. I know that the Chairman has been
7 looking to have a conversation with the Secretary of
8 Energy, which I think would be also very helpful in
9 pointing out the concerns that the Board still has in
10 this area.

11 I still believe that we ought to move forward
12 at some point with a hearing and hear from the field
13 offices about how they feel this is being implemented,
14 the 151.1D is being implemented, and how they feel the
15 recommendation has improved the situation in their
16 particular emergency preparedness and response
17 operations. So if you talk about tools in the toolbox,
18 I would love to see a hearing go forward at some point
19 in time.

20 In the meantime, I think having conversations
21 with the folks that will be responsible for this so
22 that they understand our concerns -- and hopefully
23 they're out their watching now -- would be extremely
24 useful.

25 BOARD MEMBER SANTOS: So I tend to agree with

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1 the staff statement that the current 14-1 may not
2 continue to drive any meaningful corrections or
3 improvements, so I -- you know, the previous Secretary
4 made statements like "emergency preparedness and
5 response, infrastructure capabilities and resources are
6 of great importance to me and DOE senior leadership."

7 I think it's important that we open back up the
8 channels of communications with the current
9 Administration and somehow hear their commitment again
10 to this area of emergency preparedness and response,
11 because that will flow from the top and will go through
12 the entire Department and help deal with some of the
13 myths that you talked about.

14 I think we have learned that people have taken
15 the language from the previous recommendation and have
16 interpreted it in different ways. I think we are in a
17 good position to kind of take all those lessons and
18 reframe what are the real broad-level concerns and
19 maybe some specific concerns and get an opportunity for
20 the current Administration to reinforce their
21 commitment to this area of emergency preparedness and
22 response.

23 So having said that, I think I would like to
24 see whether it is hearing, meeting with the Department
25 officials on this topic, and maybe look at a way to

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1 reframe the remaining issues on the recommendation,
2 which could potentially be a new recommendation.

3 So I have some proposals in mind, but I want to
4 keep the discussion going before I kind of formalize
5 them.

6 CHAIRMAN SULLIVAN: Ms. Roberson?

7 BOARD MEMBER ROBERSON: So obviously anything
8 is on the table. I would just say we kind of know
9 where the Department is when we talk about deficiencies
10 or corrections or whatever. They're developing their
11 assessment plan, and then they're going to go around
12 the complex and they're going to assess, and they'll
13 identify actions.

14 I think the question is, is the recommendation
15 necessary for them to continue that effort, and is
16 there something else we propose in addition to that?

17 CHAIRMAN SULLIVAN: Okay. So I'll just point
18 out that, again, in our statute, we make
19 recommendations; the Secretary makes an Implementation
20 Plan and executes the plan. The statute is silent
21 about any further Board role. So if you have a generic
22 scenario where the Board issues a recommendation and
23 then, at some point later, if the implementation is
24 done but the Board is still dissatisfied, the question
25 is, what do you do then?

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1 And my view is, well, if there is still an
 2 issue of adequate protection in the Board's opinion,
 3 then a new recommendation would be appropriate. If
 4 there isn't an issue of adequate protection, you can
 5 have this scenario where there was one, improvements
 6 were marginal but enough, so it's not an issue of
 7 adequate protection anymore.
 8 You'd like it to be better, but from there on
 9 out -- again, in my view, which comes from debate in
 10 Congress as the statute was created -- improvements
 11 beyond adequate protection are subject to cost-benefit,
 12 and we don't do cost-benefit.
 13 So if you want them to be even better than
 14 what's necessary for adequate protection, well, then,
 15 that's clearly up to the Secretary as to whether -- to
 16 decide whether or not any of those improvements should
 17 actually be made based on how much it would cost and
 18 how much the Secretary believes the improvement would
 19 be.
 20 So I, again, challenge the Board Members, in
 21 something that we could not reach agreement on here,
 22 but if there's a new issue of adequate protection, we
 23 need to identify that and so tell the Secretary.
 24 Otherwise, we may conclude that while there's room for
 25 more improvement in safety, there is no issue of

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1 adequate protection that we can identify, and so
 2 there's no need to have an open recommendation or a new
 3 one.
 4 BOARD MEMBER ROBERSON: So I would say I think
 5 the question may be even more simplistic. The
 6 Department has revised its order. It has incorporated
 7 changes we both like and dislike, which means it's
 8 probably perfect, and they are developing their
 9 assessment plans to go out and internally identify for
 10 themselves where their facilities stand.
 11 And so I think the question is, do they have
 12 tools that are either in place or they are putting in
 13 place, and is the recommendation necessary? Will it
 14 drive anything beyond that?
 15 And so from an adequate protection
 16 standpoint -- and we know this because our staffs and
 17 even some Board Members are still evaluating their
 18 demonstration and training exercises -- the question
 19 is, will implementation bear the fruit that we sought,
 20 because that was the fruit that we sought, not just the
 21 paperwork changes, the actual demonstration in the
 22 field, will it bear out with or without the
 23 recommendation?
 24 CHAIRMAN SULLIVAN: Okay. So I'm back to the
 25 point which I was at once already where I was about to

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1 call for final remarks. There have been no motions.
 2 There has been no actions said here. Once again,
 3 Mr. Santos is going to delay me from going to that
 4 point.
 5 BOARD MEMBER SANTOS: Yeah, I am confident that
 6 our oversight role will continue. I mean, we have
 7 resident inspectors as well as staff that are going to
 8 be deployed to the field to look at issues. If issues
 9 come up, we can always exercise our statutory role.
 10 I think to continue on the current one will
 11 just distract from those limited resources we have. So
 12 I would like to make a motion to propose that we close
 13 the current Recommendation 14-1.
 14 CHAIRMAN SULLIVAN: All right. Well, I'll
 15 second that so we have a purpose for -- so we can have
 16 a discussion on it. So there is a motion and a second
 17 to close the existing recommendation.
 18 Discussion? Ms. Connery?
 19 BOARD MEMBER CONNERY: So, shockingly, I am
 20 going to vehemently oppose closing the recommendation
 21 before we even have the hearing that we were supposed
 22 to have to have a conversation with the Department of
 23 Energy. I see the relationship with the defense -- we
 24 provide an oversight role, but we are also in constant
 25 dialogue with the Department, and they get to make the

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1 choice as to what is a cost-benefit analysis, and we
 2 shouldn't be second-guessing that. We should put
 3 forward our best analysis of the safety issues at those
 4 facilities.
 5 Again, we identified in 14-1 and we continue to
 6 identify structural challenges within the Department
 7 that mean that they have issues with adequate
 8 protection. If we close this recommendation and can't
 9 come to an agreement on a new recommendation, because
 10 we don't see that there's an issue of adequate
 11 protection, or we cycle the staff again with another
 12 recommendation that we either send forward or don't
 13 send forward, I think this sends a terrible signal to
 14 the Department of Energy about our commitment to follow
 15 through on recommendations that the Board felt strongly
 16 upon at the time, and simply, you know, if you posed it
 17 at one point in the past or you weren't the author of
 18 it, once the Board decides to go forward with the
 19 recommendation, I think it's incumbent upon us to see
 20 it through.
 21 We haven't even seen the final deliverable, and
 22 I understand Ms. Roberson's point as to whether that
 23 will happen or not with -- if we close the
 24 recommendation. I'm not confident that it will happen
 25 if we close the recommendation, and so this is -- this

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1 is a tool we have in the toolbox, it's a tool we
2 started using, and I think that it is problematic to
3 close the recommendation before the Implementation Plan
4 is even finished, as flawed as the Implementation Plan
5 was, particularly before we have a conversation with
6 the Department of Energy, which was supposed to have
7 taken place today.

8 CHAIRMAN SULLIVAN: Mr. Hamilton?

9 VICE CHAIRMAN HAMILTON: I'd like to address
10 Ms. Roberson and ask her to field a question, because
11 you were the one here -- three of us weren't here when
12 2014-1 was created, and you were kind of the remaining
13 advocate for it, so I'd like to ask you -- and I'll
14 also say, I appreciate your comments about the context
15 of the times that 2014-1 was created.

16 2014-1 was an amalgam of things, no one
17 specific item that in itself would rise to the level of
18 adequate protection, but a host of things,
19 collectively, that did. And a lot of those things, as
20 Mr. Roscetti has pointed out, have been chipped away,
21 corrected, but not all of them, and certainly it's not
22 a complete implementation, and there's a lot of
23 shortcomings.

24 But given all of that, if we were to start from
25 scratch today, do you think we would have enough of

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1 that amalgam of things to once again rise to the level
2 that 2014-1 did, if that makes sense?

3 Thank you.

4 BOARD MEMBER ROBERSON: Well, in my own
5 opinion, I think we could have an amalgam -- to use
6 your word, Mr. Hamilton -- to rise to the level of
7 potential challenge to adequate protection, primarily
8 focused on execution. I think the order's been
9 changed. Like I said, there are things we like; there
10 are things we don't like. It's not our order, it's
11 their order, and I would say in the order itself, it is
12 a good basis.

13 I will also say, when the Board issued the
14 recommendation, it not only believed but said so in the
15 recommendation that the previous order could have
16 worked as well, too. So the focus was always on the
17 demonstration of assurance and the capability to
18 respond. And I do, based on our staff reviews, believe
19 we have challenges, and I do believe we could. Might
20 it look different than this recommendation? For sure,
21 it would, in my mind.

22 VICE CHAIRMAN HAMILTON: Thank you.

23 CHAIRMAN SULLIVAN: Mr. Santos?

24 BOARD MEMBER SANTOS: Yeah, I just want to
25 clarify my motion a little bit, just to make it a

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1 little bit more complete and tie up some of the
2 elements that we've talked about.

3 I think what I'm really after is a
4 communication to the Secretary of Energy that can
5 communicate the intent to, you know, close the
6 recommendation but use that communication as an
7 opportunity to encourage their response on their
8 continued commitment to emergency preparedness and
9 response and maybe use it to highlight some of the
10 additional issues associated with implementation or
11 structural issues that I described here.

12 So my motion is to task the staff to generate a
13 letter to the Secretary of Energy that communicates the
14 intent of the Board to close the recommendation and
15 communicate some of the other outstanding issues that
16 we will continue to be providing oversight to.

17 BOARD MEMBER CONNERY: A point of order,
18 Mr. Chairman?

19 CHAIRMAN SULLIVAN: Yes, Ms. Connery.

20 BOARD MEMBER CONNERY: So that's fundamentally
21 different from the motion that was made and seconded,
22 so I would move to table the first motion until after
23 the second motion is --

24 CHAIRMAN SULLIVAN: All right. So once there's
25 a second to table, then we can't talk about the first

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1 motion anymore. We have to vote on the motion to table
2 immediately by our procedures.

3 So just before we get to that point, I tend to
4 agree. I seconded a motion that I think was about five
5 words, and now we're not at five words, so -- yeah?

6 BOARD MEMBER SANTOS: Point of discussion? I
7 think they don't conflict.

8 CHAIRMAN SULLIVAN: Well, they don't, but they
9 weren't the same motion.

10 BOARD MEMBER SANTOS: That's correct. There's
11 different ones.

12 CHAIRMAN SULLIVAN: Okay.

13 BOARD MEMBER SANTOS: Let's treat it as
14 separate.

15 CHAIRMAN SULLIVAN: All right. So,
16 Mr. Hamilton?

17 VICE CHAIRMAN HAMILTON: I'd like to ask about
18 the word "intent" in what the General Counsel has typed
19 up here -- well, except it's now not showing -- there.
20 It says -- that's the other -- nope, never mind -- "to
21 communicate intent of Board." I don't know that that's
22 what Mr. Santos said, but please clarify.

23 BOARD MEMBER SANTOS: I may have used that
24 word. Let's go back to --

25 CHAIRMAN SULLIVAN: We're at an odd procedural

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1 place. We're creating a motion two that hasn't been
 2 seconded while we already have a motion one that hasn't
 3 been tabled. So I am going to second the motion to
 4 table, take it off the table, later.
 5 BOARD MEMBER SANTOS: Yes.
 6 CHAIRMAN SULLIVAN: So without further
 7 discussion, the question is to table the first motion.
 8 MR. BIGGINS: On the question to table the
 9 first motion, Mr. Chairman?
 10 CHAIRMAN SULLIVAN: Yes.
 11 MR. BIGGINS: Vice Chairman Hamilton?
 12 VICE CHAIRMAN HAMILTON: Yes.
 13 MR. BIGGINS: Board Member Connery?
 14 BOARD MEMBER CONNERY: Yes.
 15 MR. BIGGINS: Board Member Roberson?
 16 BOARD MEMBER ROBERSON: Yes.
 17 MR. BIGGINS: Board Member Santos?
 18 BOARD MEMBER SANTOS: Yes.
 19 MR. BIGGINS: Mr. Chairman, the first motion is
 20 tabled.
 21 CHAIRMAN SULLIVAN: Okay, so that's tabled.
 22 Maybe we'll take it off later in this meeting.
 23 Meanwhile, we are in the process of creating a much
 24 more wordy motion, Mr. Santos.
 25 BOARD MEMBER SANTOS: Yes, let me brainstorm a

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1 little bit before we go to the motion stage because it
 2 gets too formal, too quick.
 3 My intention is to have the Board make an
 4 affirmation on whether the recommendation shall be
 5 closed, okay? And then once we have that affirmation
 6 and decision, then a second part would be to
 7 communicate that decision to the Department in some
 8 sort of formal letter. So I am looking for help to
 9 formalize those motions that will get that
 10 accomplished, but I am entertaining discussions. Go
 11 ahead, Ms. Connery.
 12 CHAIRMAN SULLIVAN: Ms. Connery is arriving
 13 with help.
 14 BOARD MEMBER CONNERY: Ah, no. Actually, this
 15 is probably not going to be helpful, but I don't feel
 16 it's appropriate to vote on a motion to close a
 17 recommendation prior to having a conversation or voting
 18 on a motion about a communication, because if we vote
 19 to approve your first -- now tabled -- motion to close
 20 the recommendation and we don't vote to approve your
 21 second, more wordy motion, then we will be in a
 22 situation of closing the recommendation with no
 23 communication to the Secretary, and I don't believe
 24 that is your intent, and it's certainly something I can
 25 tell you that I would never support.

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1 BOARD MEMBER SANTOS: I understand. The second
 2 one is more of a formality, because we're transcribing
 3 this meeting, so they will know.
 4 CHAIRMAN SULLIVAN: I'm still trying to figure
 5 out what you really want with the second one, and I'll
 6 say I'm not sure it makes a whole lot of sense to --
 7 BOARD MEMBER SANTOS: I would like to move to
 8 table the second one so we can start the second one
 9 over.
 10 CHAIRMAN SULLIVAN: Okay, we don't even have a
 11 second one to table, because we don't have a motion
 12 that has been seconded.
 13 BOARD MEMBER SANTOS: Okay.
 14 CHAIRMAN SULLIVAN: So no need to table
 15 something that isn't complete yet. I'm just trying to
 16 figure out what you were really trying to accomplish.
 17 So my comment on it is that if you want to task the
 18 staff to generate a communication, well, that's one
 19 thing. Then the question becomes, what is the
 20 substance of the communication?
 21 One of the things that I understood that you
 22 wanted to put as substance was that the Board intended
 23 to close the recommendation, and I'm not sure what the
 24 value of that would be, because if I were the Secretary
 25 and I got that and -- I'd say, okay, fine, just go

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1 ahead and close it. So what is it that you want to
 2 communicate to the Secretary?
 3 BOARD MEMBER SANTOS: I'll repeat the two
 4 steps. One, whether it is the sense of the Board we
 5 can have an affirmation or not, whether the Board
 6 closes the recommendation or not, that's one
 7 affirmation, whether the Board decides to close it or
 8 not, that's one.
 9 CHAIRMAN SULLIVAN: I'm still confused. Is
 10 that your first -- is that the one that we currently
 11 have on the table, which is to close it?
 12 BOARD MEMBER SANTOS: I would like to ask for
 13 an affirmation of the Board to close the
 14 recommendation.
 15 CHAIRMAN SULLIVAN: Yeah. You keep using the
 16 word "affirmation." That's what I'm trying to figure
 17 out. What does that mean?
 18 BOARD MEMBER SANTOS: Make a decision.
 19 CHAIRMAN SULLIVAN: You want the Board to close
 20 the recommendation?
 21 BOARD MEMBER SANTOS: Yes.
 22 CHAIRMAN SULLIVAN: That's the one that we've
 23 already tabled. All right, what is this second motion
 24 then about?
 25 BOARD MEMBER SANTOS: The second one would be

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1 to task the staff to generate a communication letter to
2 the Secretary of Energy that communicates that
3 decision.

4 CHAIRMAN SULLIVAN: All right. Well -- and is
5 there anything that you're seeking to put in that
6 letter, other than the Board has closed the
7 recommendation?

8 BOARD MEMBER SANTOS: We could include -- and
9 we can have a discussion on it -- our ongoing and
10 continued oversight efforts in this area.

11 CHAIRMAN SULLIVAN: Okay. So there's a motion
12 for this second motion, but the second motion has not
13 been seconded yet.

14 BOARD MEMBER SANTOS: It shouldn't be because
15 it's dependent on the first one that hasn't been made
16 yet. So can I make a motion to -- this hasn't been
17 tabled.

18 CHAIRMAN SULLIVAN: You are full of motions,
19 aren't you?

20 BOARD MEMBER SANTOS: Yes.

21 CHAIRMAN SULLIVAN: Okay. What do you want to
22 do now?

23 BOARD MEMBER SANTOS: Ask the Board to close
24 the recommendation. That's one motion.

25 CHAIRMAN SULLIVAN: All right.

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1 BOARD MEMBER CONNERY: That's been tabled.

2 CHAIRMAN SULLIVAN: Well, it's been tabled, but
3 we can take it off the table. So if you -- all right,
4 so as I understand it, there really is no second motion
5 here that you want to consider. You're just
6 telegraphing that if the first one gets approved, then
7 you want to make another one.

8 BOARD MEMBER SANTOS: Correct.

9 CHAIRMAN SULLIVAN: All right, now I got it.

10 So, then, the correct thing to do -- and we're
11 not necessarily there yet -- would be just to make a
12 motion to take the first one off the table, which would
13 then put it back into the discussion mode and for
14 possible action.

15 BOARD MEMBER SANTOS: Yes. I would like to
16 make a motion to untable.

17 CHAIRMAN SULLIVAN: All right.

18 How am I doing, Mr. Parliamentarian?

19 MR. BIGGINS: There's a motion that has not
20 been seconded to remove from the table and continue
21 discussion of the motion to close recommendation
22 2014-1. So if there's a second, you can proceed with
23 the motion to remove from the table.

24 CHAIRMAN SULLIVAN: All right. So I'll make a
25 second, but unlike the motion to table itself, we can

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1 talk about this one before we vote on it. So we have a
2 motion and a second to take off the table the first
3 motion, which was a motion to close the recommendation.

4 Ms. Connery?

5 BOARD MEMBER CONNERY: So the reason why I
6 motioned to table it is because I don't think that
7 that's a conversation that should be had until we have
8 a conversation about what else would happen after that.
9 So my motion to table was not specifically to table it
10 until after Mr. Santos decided what his second motion
11 was; my motion to table was a motion to table it until
12 after this meeting, and if somebody wants to put
13 forward an RFBA to close the recommendation, we would
14 do so through notational voting or perhaps have a
15 subsequent conversation about alternatives to motion to
16 close.

17 I think it's premature to have a motion to
18 close at this point in time when we have not exhausted
19 a conversation about what would replace it and what we
20 would want to do going forward to ensure the adequate
21 protection of this recommendation without replacing it
22 with something else.

23 CHAIRMAN SULLIVAN: Okay. So we're still
24 talking about the motion to take off the table. Any
25 other Board Members who want to comment before we take

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1 a vote on whether or not to take the first motion off
2 the table?

3 Ms. Roberson?

4 BOARD MEMBER ROBERSON: No. You answered my
5 question. I just wanted to make sure what we were
6 discussing. I'm good.

7 CHAIRMAN SULLIVAN: Okay. Seeing none, General
8 Counsel, would you call the roll?

9 MR. BIGGINS: Mr. Chairman, the motion is to
10 remove from the table and allow further discussion on
11 the motion to close recommendation 2014-1.

12 So on the question of removing from the table,
13 Mr. Chairman?

14 CHAIRMAN SULLIVAN: Yes.

15 MR. BIGGINS: Vice Chairman Hamilton?

16 VICE CHAIRMAN HAMILTON: Aye.

17 MR. BIGGINS: Ms. Roberson?

18 BOARD MEMBER ROBERSON: Yes.

19 MR. BIGGINS: Mr. Santos?

20 BOARD MEMBER SANTOS: Yes.

21 MR. BIGGINS: And Ms. Connery?

22 BOARD MEMBER CONNERY: No.

23 MR. BIGGINS: Mr. Chairman, four votes in
24 favor; one vote opposed. The motion carries.

25 CHAIRMAN SULLIVAN: Thank you.

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1 So now we are back to the motion which was to
 2 close the Recommendation 2014-1. Again, we are still
 3 deliberating. Any other Board Members want to say
 4 anything about whether or not we should close the
 5 recommendation?
 6 (No response.)
 7 CHAIRMAN SULLIVAN: Hearing none, General
 8 Counsel, will you call the roll?
 9 MR. BIGGINS: Yes. So the question is a motion
 10 to close Recommendation 2014-1. This is Docket Number
 11 2017-200-025.
 12 On the question, Mr. Chairman?
 13 CHAIRMAN SULLIVAN: Yes.
 14 MR. BIGGINS: Vice Chairman Hamilton?
 15 VICE CHAIRMAN HAMILTON: Aye.
 16 MR. BIGGINS: Board Member Roberson?
 17 BOARD MEMBER ROBERSON: Yes.
 18 MR. BIGGINS: Board Member Santos?
 19 BOARD MEMBER SANTOS: Yes.
 20 MR. BIGGINS: And Board Member Connery?
 21 BOARD MEMBER CONNERY: This will shock you.
 22 No.
 23 MR. BIGGINS: Mr. Chairman, four votes in
 24 favor; one vote opposed. The Board has voted to close
 25 Recommendation 2014-1.

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1 CHAIRMAN SULLIVAN: Thank you.
 2 Mr. Santos?
 3 BOARD MEMBER SANTOS: Brainstorming, no motion
 4 yet. I would like to have the staff generate a formal
 5 communication to the Secretary of Energy to communicate
 6 our decision and recommendation, to explain our ongoing
 7 and planned oversight efforts in this area, and to
 8 encourage a response regarding their continued
 9 commitment to the importance of a robust, sustainable
 10 emergency preparedness.
 11 So I would like to consider making a motion to
 12 do that, to task the staff to generate a correspondence
 13 to the Secretary of Energy to communicate our decision
 14 on the recommendation through our normal correspondence
 15 process.
 16 CHAIRMAN SULLIVAN: So I'm trying to refresh my
 17 memory, but we had an occasion where we had a
 18 recommendation on a waste treatment plant that we
 19 ultimately closed because we felt the recommendation
 20 was not -- you know, years had gone by, circumstances
 21 had changed, and the recommendation, as it was written
 22 a few years prior, was no longer structured in such a
 23 way as to make the needed improvements.
 24 So we wrote a letter that closed the
 25 recommendation but made clear that the Board really

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1 wasn't happy with the circumstances and indicated that
 2 we might at some point make another recommendation.
 3 The "at some point" is a very long time frame with a
 4 waste treatment plant, so we haven't done so yet.
 5 So I'm looking to Ms. Roberson if she can help
 6 me with her institutional memory, but I think it was --
 7 was it 2010-2 or 10-1? 10-1, I think.
 8 BOARD MEMBER ROBERSON: 10-1, I believe. I
 9 think -- it was 10-2, okay. So I stand corrected.
 10 CHAIRMAN SULLIVAN: Okay, so it was 10-2. So
 11 we could -- I could -- I have the Internet here, I
 12 could probably call up our closure letter on that, but
 13 it sounds to me like you're talking about something
 14 similar. Are you, Mr. Santos?
 15 BOARD MEMBER SANTOS: Yes.
 16 CHAIRMAN SULLIVAN: Okay. So let me see if I
 17 can get that quickly.
 18 In the meantime, if anybody else has any
 19 comments or wants to add anything to this while I'm
 20 trying to find our closure letter on that one.
 21 BOARD MEMBER ROBERSON: Well, I have a question
 22 for Mr. Santos and any other Board Member. While
 23 you're looking that up, although the circumstances were
 24 a little bit different, Mr. Sullivan, in that they
 25 changed their design approach, in this case, I am

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1 assuming what we would want to do is just communicate
 2 we're going to continue to monitor their activities to
 3 develop and execute their assessments and take
 4 corrective action based on the results of those.
 5 BOARD MEMBER SANTOS: That is correct.
 6 BOARD MEMBER ROBERSON: Is that what you
 7 intended?
 8 BOARD MEMBER SANTOS: Yes, but if the Chairman
 9 finds a useful example that will help get us started,
 10 that's fine. But, yeah, that's the intention.
 11 CHAIRMAN SULLIVAN: All right. Well, I have
 12 been frustrated by our own IT because the page for
 13 2010-2 says we closed it on January 28th, 2014, but it
 14 doesn't have a link to the closure letter, so I'm sure
 15 I'll be able to find it at some point, but -- while
 16 trying to do that and -- all right, so somebody else
 17 can keep talking, then, while I'm looking for the --
 18 for the letter.
 19 BOARD MEMBER ROBERSON: Mr. Chairman?
 20 CHAIRMAN SULLIVAN: Yes.
 21 BOARD MEMBER ROBERSON: We could just put words
 22 into the proposal to use that letter as a model.
 23 CHAIRMAN SULLIVAN: All right. Well, feel free
 24 to keep working with the General Counsel to get a
 25 motion here that somebody may second.

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1 BOARD MEMBER ROBERSON: It's your
2 recommendation, Mr. Santos. Do you want to add
3 anything?

4 So I suggest adding, at the end of this one, to
5 use the closure letter for recommendation -- I'll wait
6 until we have it.

7 CHAIRMAN SULLIVAN: All right. Meanwhile, I am
8 going to make a motion that we get rid of our website
9 and just use the department rep's website that has the
10 letter.

11 BOARD MEMBER SANTOS: I'll second that.

12 BOARD MEMBER ROBERSON: Are we voting?

13 BOARD MEMBER SANTOS: Are we voting now on your
14 motion?

15 CHAIRMAN SULLIVAN: So I just -- well, for the
16 sake of discussion, so on January 28, 2014, we closed
17 Recommendation 2010-2, which dealt with pulse jet
18 mixing at a waste treatment and immobilization plant,
19 and we noted that the Department of Energy had
20 developed an entirely new approach, and based on the
21 approach, the Board found that the individual
22 sub-recommendations in Recommendation 10-2 were no
23 longer relevant but then stated four underlying issues
24 that the Board felt remained unresolved, and finally
25 concluded with the fact that the Board would continue

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1 to monitor and review the design and construction and
2 will advise as necessary to ensure the adequate
3 protection of the public health and safety.

4 So let's see now what we have for wording, and
5 so, General Counsel, would you read what you think is
6 the motion that Mr. Santos is making?

7 MR. BIGGINS: The motion is to task the staff
8 to generate correspondence to the Secretary of Energy
9 that communicates the Board's decision to close
10 Recommendation 2014-1 and explains the Board's ongoing
11 and planned oversight efforts in this area and
12 encourages a response regarding the Board's continued
13 commitment to the -- DOE's --

14 BOARD MEMBER SANTOS: Yes.

15 MR. BIGGINS: -- DOE's continued commitment to
16 the importance of a robust, sustainable emergency
17 preparedness. The staff are directed to use the
18 closure letter to Recommendation 2010-2 as a model.

19 BOARD MEMBER SANTOS: He said preparedness and
20 response, just to --

21 MR. BIGGINS: Emergency preparedness and
22 response.

23 BOARD MEMBER CONNERY: Mr. Santos, I have a
24 question about -- I'm sorry, he's moving that --
25 "encourages a response." Are you stating that you want

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1 a reporting requirement from the Department or are you
2 saying we'd just encourage them to write back to us
3 whenever they feel like it?

4 BOARD MEMBER SANTOS: Yeah, we cannot control
5 if they want to write back or not, but I'm just
6 noticing that the previous Secretary had made a
7 commitment regarding the importance in this area. All
8 we can do is encourage to get the stats on the current
9 Administration.

10 BOARD MEMBER CONNERY: Well, you asked about
11 tools in our toolbox. We have a tool that is a
12 reporting requirement in our toolbox. So we have the
13 ability to have the Secretary write back to us or
14 communicate back with us --

15 BOARD MEMBER SANTOS: Yeah.

16 BOARD MEMBER CONNERY: -- rather than just
17 encourage.

18 BOARD MEMBER SANTOS: Yeah. I'm okay at this
19 time. Can we add the -- yeah, do we need a deadline
20 for this, within -- like a deadline for the staff to
21 provide the communication, the correspondence?

22 BOARD MEMBER ROBERSON: So let me just make
23 sure I'm clear on the last question. Ms. Connery asked
24 you if you actually wanted an affirmative response from
25 the Secretary, and you said no?

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1 BOARD MEMBER SANTOS: It's up to them. We
2 cannot force them to write to us.

3 CHAIRMAN SULLIVAN: We can, actually, as
4 Ms. Connery was pointing out. It's the reporting
5 requirement in the statute.

6 Okay, I'm trying to figure out if we have a
7 motion that has been seconded yet, and thereafter, we
8 can do --

9 BOARD MEMBER SANTOS: I would like to add a
10 deadline to -- for the staff to deliver that, so within
11 15 days of this action.

12 CHAIRMAN SULLIVAN: Fifteen days? Fifteen
13 calendar days?

14 BOARD MEMBER SANTOS: Fifteen business days.

15 CHAIRMAN SULLIVAN: Fifteen business days,
16 which is three weeks, plus a holiday? Do we have a
17 holiday in the next 15 days? Okay, maybe not.

18 BOARD MEMBER SANTOS: We can add that.

19 CHAIRMAN SULLIVAN: Okay, all right. So do I
20 have a second on this motion?

21 BOARD MEMBER CONNERY: Can I make a friendly
22 amendment before you second?

23 CHAIRMAN SULLIVAN: Well, no need to friendly
24 amend a motion that is not yet under discussion.

25 BOARD MEMBER CONNERY: I understand. So I will

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1 restate my question to Mr. Santos and make a request
2 that he adds a reporting requirement in his proposal.

3 BOARD MEMBER SANTOS: I'm not trying to
4 formalize it. I'm not -- it's not like the need for
5 new information. It's simply their commitment to this
6 area. So it's not like they have to generate new
7 reports or information or anything like that. I don't
8 think it's necessary.

9 CHAIRMAN SULLIVAN: Well, we seem to be
10 deliberating the motion, which is --

11 BOARD MEMBER SANTOS: Yeah, yeah, that's
12 different.

13 CHAIRMAN SULLIVAN: -- kind of the cart before
14 the horse. So do we have a second?

15 (No response.)

16 CHAIRMAN SULLIVAN: If there's no second, then
17 the motion will die right here.

18 BOARD MEMBER ROBERSON: Well, I want to make a
19 friendly amendment, but I'm not quite sure where we
20 are.

21 BOARD MEMBER SANTOS: Go right ahead.

22 BOARD MEMBER ROBERSON: I mean, I'd just ask
23 you to consider we actually do have an action out
24 there. I don't know why we wouldn't ask for a
25 Secretary's affirmation to complete the assessment

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1 plans. They don't need our recommendation, but I think
2 it is important for them to carry on. They don't need
3 the Board driving them. I would like to know that they
4 are going to complete --

5 BOARD MEMBER SANTOS: So you would like a
6 reporting requirement on the specific deliverable?

7 BOARD MEMBER ROBERSON: I would just like the
8 Secretary's affirmation that that is their plan. Does
9 that make sense?

10 BOARD MEMBER SANTOS: But for a specific
11 deliverable they committed to or just a general -- if
12 you can give me some specifics.

13 BOARD MEMBER ROBERSON: Okay. So one can argue
14 whether they made a commitment or not, but what they're
15 doing is they're developing CRADs -- and I am not even
16 going to say what a CRAD is -- and then they are going
17 to assess their emergency response activities and
18 identify what actions to take in response to the
19 recommendation.

20 BOARD MEMBER SANTOS: So you will like to see
21 the results of the assessments?

22 BOARD MEMBER ROBERSON: No. I would just like
23 the Secretary's assurance that they are going to
24 continue the emphasis on emergency preparedness by
25 completing their activities. Does that make sense?

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1 BOARD MEMBER CONNERY: So can I rephrase that?
2 So you are basically saying that you want them to
3 complete the IP as written, even with a closed
4 recommendation?

5 BOARD MEMBER ROBERSON: That would work.

6 BOARD MEMBER SANTOS: I see. So ensure -- so
7 where it says "encourage a response regarding" -- so
8 including -- can you add at the -- at the last part of
9 the sentence -- is that where it is? -- right there,
10 "including," and then can you insert -- do you see what
11 I'm saying?

12 BOARD MEMBER ROBERSON: Yeah. I do understand
13 what you're saying. Ah, you know --

14 BOARD MEMBER SANTOS: An affirmation? I just
15 want to -- I just want to -- we're brainstorming here.
16 We can go back and forth. So let me try to see if I
17 get what you said. Including an affirmation of their
18 commitment to complete the actions as specified or
19 detailed in their Implementation Plan?

20 BOARD MEMBER ROBERSON: Close enough.

21 BOARD MEMBER CONNERY: And we're still only
22 encouraging a response on that or, Ms. Roberson, are
23 you saying that you would like to require them to do
24 that through a reporting requirement?

25 BOARD MEMBER ROBERSON: I would like to

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1 convince Mr. Santos to have a reporting requirement.

2 BOARD MEMBER SANTOS: So instead of "encourage"
3 a response, we will have to change that, then, to --

4 BOARD MEMBER ROBERSON: Yes, if you take --

5 BOARD MEMBER SANTOS: -- "require" --

6 BOARD MEMBER CONNERY: -- or "include" a
7 reporting requirement.

8 BOARD MEMBER SANTOS: To require?

9 CHAIRMAN SULLIVAN: This is just asking the
10 staff. They'll figure it out.

11 BOARD MEMBER SANTOS: Yeah. Yeah. Require,
12 via a reporting requirement, a response.

13 CHAIRMAN SULLIVAN: Okay.

14 BOARD MEMBER SANTOS: It's kind of wordy right
15 now. Is that okay?

16 CHAIRMAN SULLIVAN: Well, it is your motion.
17 Okay. Mr. Santos, when you are done, I will
18 once again ask for a second.

19 BOARD MEMBER SANTOS: Yeah, let's try that.

20 BOARD MEMBER ROBERSON: Second.

21 CHAIRMAN SULLIVAN: All right. So we have a
22 motion and a second. So now we are discussing this
23 motion.

24 All right. I'll just start out by saying I
25 think it is -- I think if I were the Secretary, I would

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1 feel -- I would feel that it was completely unnecessary
2 for this Defense Board to ask for an affirmation of my
3 commitment to emergency preparedness and response.

4 I think that the Secretary would certainly be
5 committed to it and is certainly going to say that he's
6 committed to it, and requiring, via reporting
7 requirement, that he say that I think is unnecessary
8 with a cabinet-level official.

9 BOARD MEMBER SANTOS: In principle, I don't
10 disagree with what you're saying, but, you know, we
11 don't have a letter from him with those statements. We
12 have it from prior -- with prior secretaries. So this
13 is a good opportunity to talk to the Board directly.

14 BOARD MEMBER CONNERY: Yeah. I'll just point
15 out that this simply directs the staff to generate
16 something. I'm sure the staff can figure it out.

17 CHAIRMAN SULLIVAN: Well, again, we have a
18 Secretary who was nominated by the President and
19 confirmed by the Senate, so I don't think he has to
20 turn around and then tell us that, no, no, he really
21 intends to do the job.

22 BOARD MEMBER SANTOS: No, again, part of my --
23 of my purpose with this, you talked about leadership,
24 you talked about the models, the message it sends all
25 the way down. I think it's important to -- and it will

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1 be a very powerful tool for everybody to have that in
2 black and white. That's all.

3 CHAIRMAN SULLIVAN: I understand what you're
4 saying. I just disagree with it.

5 BOARD MEMBER SANTOS: Okay.

6 BOARD MEMBER ROBERSON: So I actually do feel
7 strongly that we should ask for the Secretary's
8 commitment to complete the actions. It is -- generally
9 speaking, we Board Members can all have different
10 opinions, but I think, in total, we did not vote to
11 close the recommendation because we think everything
12 that needs to be done is done. I voted to close it
13 because I'm not sure we need the Board driving through
14 a recommendation to do what needs to be done.

15 CHAIRMAN SULLIVAN: Okay. So if the words up
16 there said that we were "seeking a reporting
17 requirement, requesting whether or not, despite the
18 Board's closure, the Secretary intended to complete the
19 actions that -- from the Implementation Plan, and, if
20 so, to tell us when they -- he expects that they will
21 be complete," that I could support.

22 It is the rest of those words up there that I
23 think are asking the Secretary to make a statement to
24 us that I don't think the Secretary owes us. I think
25 he owes that to the United States Senate, I think he

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1 owes that to the President, but I don't think he owes
2 it to us.

3 BOARD MEMBER CONNERY: So a cheap and easy way
4 to fix that is a response regarding DOE's commitment
5 to -- blah-blah-blah -- through an affirmation of DOE's
6 commitment, and then rely on the staff to formulate the
7 words, which will go into Orange Folder, which we would
8 then be able to amend, but the commitment to the
9 importance of a robust sustainable emergency
10 preparedness and response, including through an
11 affirmation to complete the action or -- sorry, skip
12 "including" -- but through an affirmation.

13 In other words, that affirmation would be the
14 DOE's continued commitment to the importance of a
15 robust, sustainable emergency preparedness and
16 response.

17 BOARD MEMBER SANTOS: So you're proposing a
18 friendly amendment to replace the word "including" with
19 "through"?

20 BOARD MEMBER CONNERY: Yes, and I would believe
21 that would also obviate the need for the comma.

22 BOARD MEMBER SANTOS: Okay.

23 CHAIRMAN SULLIVAN: Hang on a second there.
24 Mr. General Counsel, I think you are jumping the gun.
25 There was a friendly amendment proposed. We have to

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1 wait to see if it's been accepted before we change the
2 words. Did you --

3 BOARD MEMBER SANTOS: I accept that.

4 BOARD MEMBER CONNERY: I'm hoping that
5 alleviates your concerns, Mr. Chairman.

6 CHAIRMAN SULLIVAN: No, it doesn't. I would
7 propose a friendly amendment that deletes everything
8 between the word "regarding," so where it says "the
9 Board's ongoing and planned efforts in this area and to
10 require, via a reporting requirement, a response
11 regarding," and then I would just go from there down to
12 "DOE's commitment to complete the actions as specified
13 in the Implementation Plan."

14 So that's -- I would -- yeah, you need one of
15 those "regardings" in there. You could use either of
16 the DOEs, but see where we have got "DOE" and -- in the
17 fourth line and "DOE" in the fifth line? And one of
18 those can stay, and one can go, and then everything
19 else in between would go. That's -- that would be my
20 friendly amendment.

21 So right now you have blocked, Mr. General
22 Counsel, the word "regarding," and that needs to be
23 unblocked. That's my proposed friendly amendment.

24 BOARD MEMBER SANTOS: That's fine. I can
25 accept that.

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1 CHAIRMAN SULLIVAN: Is there other discussion?
 2 (No response.)
 3 CHAIRMAN SULLIVAN: Mr. General Counsel, would
 4 you now read the motion as it exists?
 5 MR. BIGGINS: The motion before the Board is to
 6 task the staff to generate, within 15 business days, a
 7 correspondence to the Secretary of Energy that
 8 communicates the Board's decision to close
 9 Recommendation 2014-1 and explains the Board's ongoing
 10 and planned oversight efforts in this area, and
 11 require, via a reporting requirement, a response
 12 regarding DOE's commitment to complete the actions as
 13 specified in the Implementation Plan to Recommendation
 14 2014-1. The staff are directed to use the closure
 15 letter to Recommendation 2010-2 as a model."
 16 CHAIRMAN SULLIVAN: Okay. We have a first and
 17 a second. Do we have any further discussion?
 18 (No response.)
 19 CHAIRMAN SULLIVAN: Mr. General Counsel, will
 20 you call the roll?
 21 MR. BIGGINS: Mr. Chairman?
 22 CHAIRMAN SULLIVAN: Yes.
 23 MR. BIGGINS: Vice Chairman Hamilton?
 24 VICE CHAIRMAN HAMILTON: Nay.
 25 MR. BIGGINS: Board Member Roberson?

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1 BOARD MEMBER ROBERSON: Yes.
 2 MR. BIGGINS: Board Member Santos?
 3 BOARD MEMBER SANTOS: Yes.
 4 MR. BIGGINS: Board Member Connery?
 5 BOARD MEMBER CONNERY: Yes.
 6 MR. BIGGINS: Mr. Chairman, four votes in
 7 favor; one opposed. The motion passes.
 8 CHAIRMAN SULLIVAN: Thank you.
 9 Are there any other motions that Board Members
 10 wish to make?
 11 Any other discussion at all on the agenda
 12 topic?
 13 MR. BIGGINS: Mr. Chairman, I would note just
 14 for the record that that is Docket Number 2017-100-085.
 15 CHAIRMAN SULLIVAN: Thank you.
 16 All right. Hearing no other discussion, I am
 17 going to summarize that we have passed two motions.
 18 One was to actually close the recommendation. I think
 19 there is some general staff tasking that will be
 20 associated with that to update the website. And
 21 secondly, we are going to generate correspondence to
 22 the Secretary, as stated in the motion that just
 23 passed, that will include a reporting requirement.
 24 Was there any other tasking or other items that
 25 any Board Member believes needs to be restated for the

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1 record before we conclude the meeting?
 2 MR. BIGGINS: Mr. Chairman?
 3 CHAIRMAN SULLIVAN: Yes.
 4 MR. BIGGINS: There were five questions that
 5 the staff took for the record. Shall I repeat those?
 6 CHAIRMAN SULLIVAN: Yes, please.
 7 MR. BIGGINS: So from Board Member Santos:
 8 Your testimony indicated implementation at some of the
 9 DOE sites have inconsistently implemented the
 10 Implementation Plan. Please provide some examples of
 11 where the Implementation Plan has been inconsistent.
 12 From Board Member Connery: What parts of DOE
 13 Order 151.1D -- delta -- are sites able to opt out of
 14 without headquarters approval?
 15 From Board Member Santos: Work plan oversight
 16 of exercises and program reviews at a number of defense
 17 nuclear facilities, I will have to get the specific
 18 list to you.
 19 And Board Member Connery: EA has stated that
 20 the new proposed core risk management process no longer
 21 requires clear and quantitative expectations for risk
 22 management. And the response was, I will have to get
 23 the specifics of the risk management approach and
 24 provide it to the Board.
 25 And from Chairman Sullivan: Has the Office of

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1 Enterprise Assessments done any assessments at the
 2 sites, and if they have done them, did they find any
 3 deficiencies?
 4 That's all I have, Mr. Chairman.
 5 CHAIRMAN SULLIVAN: Okay. So to clarify that
 6 last one, that was since the first report of
 7 deficiencies was given to the Board in May of 2016.
 8 Okay. Any other comment or discussion on those
 9 questions for the record?
 10 (No response.)
 11 CHAIRMAN SULLIVAN: All right. Again, before I
 12 move on, I want to ask the Board Members if they want
 13 to hold the record of our two votes open for written
 14 comment to be added afterwards?
 15 BOARD MEMBER CONNERY: Yes.
 16 CHAIRMAN SULLIVAN: If so, I would propose
 17 three business days.
 18 BOARD MEMBER CONNERY: Yes.
 19 CHAIRMAN SULLIVAN: Okay. So if there is no
 20 objection, Mr. General Counsel, hold the record open on
 21 those two votes for three business days to provide for
 22 Board Member written comment.
 23 That's not a motion. We're not going to have a
 24 motion and a second. We're just going to -- that was
 25 just a unanimous consent, that we will do that.

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1 MR. BIGGINS: We will note that on the voting
2 records, Mr. Chairman.
3 CHAIRMAN SULLIVAN: Thank you.
4 Mr. Santos?
5 BOARD MEMBER SANTOS: Can you comment on the
6 record of public -- other public comments or materials
7 that would like to be provided to this meeting? Is it
8 closing with the meeting or is it going to keep open
9 for 30 days after this meeting?
10 CHAIRMAN SULLIVAN: Typically we have held
11 hearing records open for people to comment. The
12 meeting will be done, so there isn't much value of
13 having public comment afterwards.
14 BOARD MEMBER SANTOS: I would like to ask the
15 Board -- I would like to make a motion to keep the
16 record open for 30 days.
17 CHAIRMAN SULLIVAN: All right. So there's a
18 motion. Do we have a second?
19 (No response.)
20 CHAIRMAN SULLIVAN: All right.
21 BOARD MEMBER SANTOS: That will do it.
22 CHAIRMAN SULLIVAN: No motion, no second. We
23 won't vote.
24 BOARD MEMBER SANTOS: Thanks.
25 CHAIRMAN SULLIVAN: All right. So is there

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1 anything else, Board Members? If not, I am going to
2 call for --
3 BOARD MEMBER ROBERSON: I was just going to
4 make sure -- I heard Mr. Santos say 30, and I heard
5 Ms. Connery say three. Did we -- you said no --
6 BOARD MEMBER CONNERY: I was just saying three
7 for --
8 BOARD MEMBER SANTOS: It's different things.
9 One is for comments on our votes. The other one is for
10 any public comments or any other member that would like
11 to provide any comments, similar to what we do with
12 hearings.
13 CHAIRMAN SULLIVAN: All right. So if there is
14 no other discussion, I am going to call for --
15 BOARD MEMBER SANTOS: So we are treating it
16 differently than a hearing for that purpose.
17 BOARD MEMBER ROBERSON: I do have a comment on
18 Mr. Santos' --
19 CHAIRMAN SULLIVAN: Go ahead.
20 BOARD MEMBER ROBERSON: -- proposal. I do
21 think 30 days is a long time, but I do support keeping
22 the record open for some period of time.
23 BOARD MEMBER SANTOS: What's reasonable?
24 BOARD MEMBER ROBERSON: Seven business days.
25 BOARD MEMBER SANTOS: Okay. I'll make a motion

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1 to keep the record open for public comments for seven
2 days.
3 CHAIRMAN SULLIVAN: I presume you are going to
4 second that?
5 BOARD MEMBER ROBERSON: I second it.
6 CHAIRMAN SULLIVAN: Okay. So now we have a
7 motion and a second to keep the record open for seven
8 business days to allow for the public to provide
9 additional comment.
10 All right. Is there further discussion on that
11 motion?
12 (No response.)
13 CHAIRMAN SULLIVAN: If not, General Counsel,
14 will you call the roll?
15 MR. BIGGINS: Motion to keep the record open
16 for seven business days to allow the public to submit
17 written comments.
18 On the question, Chairman Sullivan?
19 CHAIRMAN SULLIVAN: No.
20 MR. BIGGINS: Vice Chairman Hamilton?
21 VICE CHAIRMAN HAMILTON: Aye.
22 MR. BIGGINS: Board Member Roberson?
23 BOARD MEMBER ROBERSON: Yes.
24 MR. BIGGINS: Board Member Santos?
25 BOARD MEMBER SANTOS: Yes.

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1 MR. BIGGINS: Board Member Connery?
2 BOARD MEMBER CONNERY: Yes.
3 MR. BIGGINS: Mr. Chairman, the vote is four
4 approved; one disapproved. The motion carries.
5 CHAIRMAN SULLIVAN: Okay, thank you.
6 Is there any other business before the Board?
7 (No response.)
8 CHAIRMAN SULLIVAN: All right. Then before we
9 adjourn, I give the opportunity to each Board Member to
10 make an individual comment. I'll start with the Vice
11 Chairman.
12 VICE CHAIRMAN HAMILTON: Thank you,
13 Mr. Chairman.
14 I would like to re-address what we talked about
15 early on in the meeting regarding a distinction between
16 improvement or continuous improvement and corrective
17 action.
18 When the Board judges that the adequate
19 protection of the public health and safety is at risk,
20 we appropriately recommend corrective action to the
21 Secretary. That corrective action is typically
22 subjective, and five Board Members will probably come
23 to six different answers, but it does have an end
24 state.
25 Improvement, and especially continuous

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1 improvement, sounds noble. It reminds us of W. Edwards
2 Deming or Hyman Rickover, and certainly there is a role
3 for this approach in some organizations. But when the
4 Board measures success with the continuous improvement
5 yardstick, without a well-defined end state, we are
6 wandering into problematic territory.

7 The Board is independent from the Department of
8 Energy and, as such, is actually accountable for
9 neither safety nor production. The Secretary of Energy
10 is. The Board must not, therefore, wander into
11 continuous improvement space. To do so would put us in
12 the position of creating endless costs on DOE without
13 any accountability for the results of those costs.
14 This is clearly not what Congress had envisioned when
15 they created the Board.

16 Recommendation 2014-1 casts a broad and wide
17 net. I was personally not part of the development
18 process, as I mentioned before, so I have kept some
19 distance from being too critical of it. I especially
20 appreciate Ms. Roberson's comments on how it came
21 about; Ms. Connery's comments on needing to follow
22 through to an end state; and Mr. Santos' comments that
23 you need some depth in response because local
24 facilities can very quickly become overwhelmed.

25 That said, I'm skeptical that there is a clear

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1 end state for a recommendation as broad as was 2014-1,
2 and when it is this broad, we run the risk of
3 substituting a clean end state to correct a situation
4 with one of continuous improvement. And as I've said,
5 DOE's continuous improvement is not our mission.

6 Thank you, Mr. Chairman.

7 CHAIRMAN SULLIVAN: Thank you.

8 Ms. Roberson?

9 BOARD MEMBER ROBERSON: Thank you,
10 Mr. Chairman.

11 First of all, I'd like to express my
12 appreciation to my fellow Board Members for engaging in
13 the conversation. I think it was valuable. I learned
14 some things from them, and hopefully I added some value
15 for their consideration.

16 There are two things I want to say. One is the
17 action we just took should not be read as a lessening
18 of concern or focus on emergency response or
19 preparedness; simply that this recommendation may have
20 achieved or is set to achieve the majority of what it
21 can achieve and that the Board needs to look elsewhere
22 if it believes further action should be taken.

23 The assurance of emergency preparedness and
24 response is the last defense to ensure adequate
25 protection of the public, and I certainly, as a Board

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1 Member, will continue to stay focused in my trips, the
2 interactions with the staffing, with DOE, this will
3 always be a part of what I consider and look at.

4 The second thing I would like to say is I think
5 it's important for the Board to routinely assess the
6 impact of its actions and to be flexible enough to
7 react to what we see actually happening, and I think
8 that's what we did here today.

9 Thank you.

10 CHAIRMAN SULLIVAN: Mr. Santos?

11 BOARD MEMBER SANTOS: Thank you, Mr. Chairman.

12 I want to echo some of the comments from fellow
13 Board Members. This is an extremely important area for
14 us, the Board, and the complex as a whole, in providing
15 adequate protection to the health and safety of the
16 public.

17 Similar to what Ms. Roberson was saying, my
18 view on this was on the recommendation itself as a
19 vehicle to focus resources and actions, and to me it
20 kind of hit diminishing returns, but not distract
21 whatsoever from the importance to provide continued
22 oversight and presence in this area.

23 We are a very small agency with limited
24 resources. I want us to be flexible and nimble and not
25 get too caught up with too much paperwork and documents

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1 that have now created as this legacy of a piece of the
2 recommendation. So I think it's important once in a
3 while to reset, refresh, but still continue to maintain
4 focus on this area, and similarly, continue to travel
5 to the sites and witness some of the emergency
6 exercises out there.

7 I look forward to make sure that the workforce
8 culture is one that takes it equally as important,
9 whether it's safety culture or mission focus, that
10 emergency preparedness is not an afterthought or a list
11 of checkbox requirements. This is very important, that
12 it is in the forefront of the workforce out there, and
13 I know everybody's committed to do that.

14 But part of my action today was to make sure we
15 remain flexible and nimble and don't get bogged down
16 by a lot of the administrative aspects of it, but to
17 continue to look at this area. And if we see issues,
18 that we don't hesitate to use our tools given to us by
19 Congress to communicate to the Secretary of Energy in
20 its role.

21 Thank you.

22 CHAIRMAN SULLIVAN: Ms. Connery?

23 BOARD MEMBER CONNERY: Since I am next to last,
24 I don't want to take up too much time.

25 I am clearly disappointed in the outcome of

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1 today's meeting because even though we have a
 2 commitment to potentially correspond with the Secretary
 3 about completing the items in the Implementation Plan,
 4 there's still another vote to be taken, so that is
 5 actually not a foregone conclusion, that we will
 6 communicate. And I think when you have a turnover in
 7 administrations, it's incumbent upon the Board to be
 8 able to remind the new staff and the new political
 9 appointees of the issues and items that they have been
 10 tracking for a long time.

11 So I wouldn't have minded having this
 12 conversation after we received the last of the IP and
 13 after we had a conversation with the Department of
 14 Energy, but to take this action now I think is
 15 premature, but I respect the input from my fellow Board
 16 Members and their viewpoints. We are a board of five
 17 with different views, so I obviously would have to move
 18 forward with what the Board chose to do.

19 With regard to endstate, I think it is our
 20 responsibility to make sure that in this case the
 21 endstate is that the Secretary of Energy and the
 22 Department have the ability to oversee the emergency
 23 preparedness and response of all of its defense nuclear
 24 facilities. I don't think they are there at this point
 25 in time. It's not enough to say that we've got things

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1 in motion, that we've got an order in place, and that
 2 we're putting together CRADs. It's incumbent upon us
 3 to remind the Secretary of his role in protecting the
 4 public health and safety and in providing oversight to
 5 those facilities.

6 CHAIRMAN SULLIVAN: So I am pleased that the
 7 Board chose today to close this recommendation because
 8 I never felt confident that we had put a finger on
 9 exactly what was an issue of adequate protection in
 10 this recommendation, aside perhaps from the need to
 11 update the DOE order, which has been done.

12 And I say that based on the fact that since
 13 this recommendation, the staff has looked closely at
 14 Savannah River, at Los Alamos. The staff has done
 15 several exercise reviews at Y-12, Pantex, Hanford,
 16 Idaho. Outside of Pantex, we have not found issues
 17 that we could attribute to adequate protection.

18 So if those issues don't exist, that we can
 19 find, then I don't know what we're actually trying to
 20 tell the Secretary if we say, generally, there's a
 21 problem. I think it will always be true that an area
 22 such as this can become a problem if there isn't
 23 adequate direction coming out of the headquarters,
 24 there's an adequate emphasis being put on it by
 25 leadership, but that will always be true, and since

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1 leadership will always change, I don't think there's
 2 anything that we could do that would systemically
 3 ensure that leadership will always put the emphasis on
 4 that we would want them to do.

5 So short of that, I think that the only thing
 6 this agency can do is continue to look for deficiencies
 7 at specific places and point those out and trust that
 8 the leadership of the Department, which, again, is put
 9 in place by the President and the United States Senate,
 10 that that leadership will ultimately put the pieces
 11 together that need to be done in their building in
 12 order to ensure that the people in their building are
 13 making sure that they don't continue to see these
 14 problems cropping up over time.

15 And I think that's their role, and that's the
 16 role they have, and it's not our role to be able to
 17 tell the Secretary how the Secretary should actually
 18 make his people do their job.

19 So thank you. With that, I will conclude, and
 20 that concludes this meeting. We are adjourned.

21 (Whereupon, at 2:54 p.m., the public meeting
 22 was adjourned.)
 23
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CERTIFICATE OF REPORTER

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 2
 3
 4 I, Susanne Bergling, do hereby certify that the
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