



Los Alamos Study Group

Nuclear Disarmament • Environmental Protection • Social Justice • Economic Sustainability

**Comments submitted to the Defense Nuclear Facilities Safety Board (DNFSB)
Department of Energy's (DOE) Interface with the DNFSB and DOE Order 140.1
Public Hearing
21 February 2019**

Thank you for allowing me this opportunity to speak this evening. My name is Trish Williams-Mello and I am representing the Los Alamos Study Group. My colleague and husband, Greg Mello, would be here tonight as well, however, he is in Washington, DC for another few days.

I have corresponded and met personally with DNFSB board and its staff almost from the time of its inception in 1988. And all of you have known Greg and I and the Study Group for many years. We have been the DNFSB's champions and defenders for the majority of that time. However, when we see mistakes being made; or policies that desperately need changed or discontinued; or staff and board who are guiding the DNFSB down a path of destruction we will speak up, write letters, inform the press, and generally not turn loose until things change for the better.

Specific comments:

On May 14, 2018, DOE adopted Order 140.1, which greatly restricts DOE communications with the DNFSB, eliminates direct communication between the DNFSB and DOE contractors (the sole operating staff in all DOE and National Nuclear Security Administration (NNSA) nuclear facilities and for the sites overall), and eliminates DNFSB oversight of Hazard Category 3 nuclear facilities, which comprise about 60% of DOE's nuclear facilities overall.

DOE's internal [roll-out briefing](#), leaked to the Study Group, provides more background and detail. For example, the Los Alamos National Laboratory (LANL) management and operating contractor at that time was part of the team that designed the Order.

This Order would eliminate formal DNFSB oversight for the majority of defense nuclear facilities, those judged by DOE not to have potential public health and safety consequences in the event of accidents (i.e. those categorized by DOE as "Hazard Category 3" and below).

The Order ends all formal DOE cooperation with DNFSB as regards worker safety *per se*, both workers in defense nuclear facilities as well as co-located workers in other facilities nearby. The only formal cooperation with the Board that is allowed under the Order is that which bears on public health and safety.

On August 28, 2018, the DNFSB held a hearing on the Order, at which the DOE witnesses on hand made clear that while informal cooperation and suggestions about worker safety are always welcome, DOE is no longer under any obligation to formally respond to DNFSB requests and concerns unless public health and safety are implicated.

DOE witnesses were Undersecretary Dan Brouillette, Associate Under Secretary for Environment, Health, Safety and Security Matthew Moury, and Ike White, Chief of Staff for NNSA Administrator Lisa Gordon-Hagerty.

Upending three decades of prior mutual agreement and practice, in this Order DOE defines the "public" as not including workers.

At that August 2018 hearing, the four DNFSB board members took turns condemning the new Order overall and in eloquent detail -- at times vehemently.

In their closing statements Board members made clear their varied dissatisfaction with the responses they received from the DOE witnesses.

At the outset of the hearing it was noted by the Acting Chair that the new Order appeared to conflict with the Board's [enabling legislation](#). We agree and want to state for the record that this order is illegal.

On August 15, 2018, in testimony before the New Mexico Legislature's [Radioactive and Hazardous Materials Committee](#) (RHMC), Craig Leasure, Principal Associate Director of Operations and Business for LANL told RHMC Chairman Jeff Steinborn, in response to Steinborn's question as to his role in crafting the Order, that "I helped with the order as one of the people on the team, but it is a federal order." (from Study Group audio recording).

The staff cut, recent Order, and related prior actions to weaken the Board are taking place as the Trump Administration seeks to ramp up acquisition of production facilities for new nuclear weapons, in particular for the production of plutonium cores of warheads ("pits"), the mission of the former Rocky Flats Plant.

Safety concerns loom large in plutonium pit production. LANL's aging main plutonium facility (PF-4) has been dogged by persistent safety problems that have been and remain a [focus](#) of DNFSB concern.

LANL proposals to build underground factory "modules" to expand pit production capacity "rely solely on the passive confinement capability for accident mitigation and assumes that no active safety systems would be required" ("[Pu Pit Production Engineering Assessment](#)," p 2-43). Emergency fire water supply and electrical power "will not be designed, procured, or installed to nuclear code and standards".

NNSA also seeks to transform an existing radiological facility (the [Radiological Laboratory, Utility, and Office Building](#), RLUOB) into a Hazard Category 3 nuclear facility [without having designed or built the facility to nuclear standards](#). Under DOE O 140.1, this facility (and its workers) would lie outside DNFSB's purview and apparently the DOE would not have to respond to design review by DNFSB of [any](#) of these facilities, because a) RLUOB is to become a HazCat 3 facility and b) even though the underground modules are to be HazCat 2, they are presumed to create no public health risks (being underground) and hence have no active safety-class systems to mitigate those risks.

We believe the Board should make it clear to Congress, which created the Board in 1988, that under the terms of this Order the Board will be unable to protect DOE atomic energy defense workers from nuclear hazards. At a minimum Congress should expand DNFSB's mandate to explicitly advise DOE on worker safety and health at all defense nuclear facilities, in parallel to DNFSB's explicit public safety and health mandate.

What is being done in the name of decreasing 'red tape' is a travesty, and very dangerous for workers. It will increase, not decrease, bureaucratic burdens.

As of June 17, 2018 the Department of Labor had approved 1,599 unique worker occupationally-related death claims from survivors of LANL workers, according to the [Alliance of Nuclear Workers Advocacy Groups](#) (ANWAG, personal communication). Considering that documentation of occupational illness and death is more difficult for the early years of Los Alamos, this is almost certainly an underestimate of worker mortality due to work at LANL. This very roughly works out to one committed occupational fatality every two weeks for 61 years.

I have included a copy of ANWAG's formal comments on DOE Order 140.1 as part of my written comments. I have also included the Study Group's formal comments, Parts 1 and 2, dated August 27 & 30, 2018, our press release dated August 28, 2019, and our letter to Congressional colleagues, dated August 30, 2019 as part of my written comments as well.

Greg Mello: "There is no doubt that killing the Safety Board, or turning it into a zombie agency, is exactly the idea of those who have proposed these so-called 'reforms.' There have been continued efforts to kill or maim the DNFSB since the G.W. Bush administration. These have waxed and waned with political circumstances. The Board's internal enemies -- those responsible for repeated efforts to destroy the Board or the Board's effectiveness -- were appointed by Obama but activated under Trump.

There is no question that the present Order was drafted in order to remove the DNFSB as an obstacle to Trump Administration plans to jump-start nuclear weapons production, particularly the construction of new facilities for production of plutonium pits (nuclear warhead cores).

Destroying the Safety Board is likely to result in collapse of nuclear weapons work itself, but what kind of tragedies will families have to endure in the meantime, or afterward? A community can be destroyed as readily with nuclear accidents and worker illness as with a bomb."