

Peter S. Winokur, Chairman
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**DEFENSE NUCLEAR FACILITIES
SAFETY BOARD**

Washington, DC 20004-2901



June 30, 2011

The Honorable Steven Chu
Secretary of Energy
U. S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-1000

Dear Secretary Chu:

The Board has received a letter from Deputy Secretary of Energy Poneman dated June 22, 2011, in which the Department of Energy (DOE) requests access to the Board's confidential investigative files pertaining to Recommendation 2011-1, *Safety Culture at the Waste Treatment and Immobilization Plant*. As was stated in the recommendation, this investigation was conducted pursuant to 42 U.S.C. § 2286a(a)(2), the provision in the Atomic Energy Act stating that the Board "shall investigate any event or practice at a Department of Energy defense nuclear facility which the Board determines has adversely affected, or may adversely affect, public health and safety."

Since the Board began operation, confidentiality of communications from concerned employees or the public, coupled with expert technical integrity has served both the Board and DOE to ensure adequate protection of public health and safety and appropriate resolution of public health and safety concerns. Therefore, the Board declines the Deputy Secretary's request for access to the Board's investigative files.

The Board believes that DOE's need to further assess the conclusions reached by the Board in Recommendation 2011-1 can be substantially satisfied with information in the DOE's possession, control, or in the public record. This information is readily accessible without compromising the public trust in the Board. This preserves both agencies' interest in accessing information to promote safety. An objective review of the documents identified in the enclosure will serve to inform DOE's assessment of Recommendation 2011-1.

Sincerely,

Peter S. Winokur, Ph.D.
Chairman

cc: Mari-Jo Campagnone

Enclosure

ENCLOSURE

1. The Defense Nuclear Facilities Safety Board (Board) requested preservation of data on the Waste Treatment and Immobilization Plant (WTP) Project M-drive by the Secretary of Energy in a letter dated July 27, 2010. The Department of Energy (DOE) has access to relevant e-mails preserved on the WTP Project M-drive.
2. DOE has access to the report *Independent Investigation into Alleged Retaliation* conducted on behalf of Bechtel National, Incorporated (BNI), dated September 9, 2010, and underlying information.
3. DOE has access to an internal investigation conducted by URS Corporation that was issued as a report entitled *Report of Involvement in WTP Investigation*, dated August 16, 2010, and underlying information.
4. DOE has access to an independent review by the DOE Office of Health, Safety and Security (HSS) entitled *Independent Review of Nuclear Safety Culture at the Hanford Site Waste Treatment and Immobilization Plant Project*, dated October 2010.
5. DOE has access to the notes and memoranda associated with or supporting the independent review conducted by HSS. Although the HSS independent review was not an investigation, the Board suggests that DOE review the information developed during the HSS effort very closely.
6. DOE has access to BNI's completed assessment report *Nuclear Safety and Quality Culture (NSQC) Gap Assessment*, dated February 22, 2011, based on the HSS independent review recommendations.
7. Attorneys from the DOE Office of General Counsel (OGC) accompanied DOE employees to several investigation interviews and one closed hearing, and therefore have knowledge and access to testimony given and exhibits offered into the record of that part of the Board's investigation.
8. DOE has access to the notes and memoranda associated with an internal investigation conducted by the DOE OGC.
9. DOE has access to the initial complaint filed by Dr. Tamosaitis.
10. As provided by the Atomic Energy Act of 1954, as amended, DOE will have access to the public comments filed with the Board in connection with Recommendation 2011-1.
11. DOE has access to DOE investigations at other sites. For example, DOE has access to the November 23, 2010, Office of Environmental Management Type B Investigation report *Radiological Contamination Event During Separations Process Research Unit Building H2 Demolition, September 29, 2010*.