

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY
RESOLUTION NO. 2019 - 43**

**A RESOLUTION REQUESTING THE U.S. DEPARTMENT OF ENERGY RESCIND OR
SUBSTANTIALLY REVISE ORDER 140.1 TO REMOVE RESTRICTIONS ON THE
DEFENSE NUCLEAR FACILITY SAFETY BOARD'S ACCESS TO INFORMATION**

WHEREAS, the Defense Nuclear Facilities Safety Board (DNFSB or the Board), an independent oversight organization within the executive branch, was created by Congress in 1988 to monitor public health and safety issues at the defense nuclear facilities managed by the Department of Energy (DOE), and to inform and advise the Secretary of Energy in providing adequate protection of public health and safety at such facilities, which include the Los Alamos National Laboratories (LANL); and

WHEREAS, the DNFSB is charged with reviewing and evaluating the content and implementation of health and safety standards, as well as other requirements, relating to the design, construction, operation, and decommissioning of the DOE's defense nuclear facilities; and

WHEREAS, the amendments to the Atomic Energy Act that created the DNFSB requires the Secretary of Energy to "fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this subchapter" (42 U.S.C. Section 2286c(a)); and

WHEREAS, the DOE, on May 14, 2018, issued, without public notice or opportunity to comment, Order 140.1, "Interface with the Defense Nuclear Facilities Safety Board," (the Order), which purports to govern DOE and DOE Contractors' interaction with the DNFSB and the DNFSB's access to information regarding the design, construction, operation, and decommissioning of the DOE's defense nuclear facilities, and

WHEREAS, the Order as written could limit or impede the DNFSB's access to information related to the public health and safety at DOE's defense nuclear facilities and changes the process by which the DOE and DOE contractors will interface with and provide information to the DNFSB, and which cancelled DOE Directive 2001 DOE M 140.1-1B; and

WHEREAS, the Order limits the DNFSB's access to information it requires to fulfill its statutory oversight responsibility to make recommendations to the Secretary to help ensure the health and safety of local communities and workers at DOE's defense nuclear facilities; and

WHEREAS, U.S. Senators Tom Udall and Martin Heinrich (D-New Mexico) and State Senator Jeff Steinborn expressed their deep concerns regarding the Order in a letter to the DNFSB and called for suspension of the Order pending public comment; and

WHEREAS, the Santa Fe County Board of County Commissioners issued a formal letter on September 25, 2018, calling for suspension of the Order pending an opportunity for members of the DNFSB and Congress, as well as the public to express their concerns at public hearings across the country; and

WHEREAS, the DNFSB held a public hearing in Albuquerque on February 21, 2019, at which Santa Fe County Commissioner Anna Hansen presented the attached comments (Exhibit A) that identify four mechanisms by which the Order could improperly impede or restrict the DNFSB's access to information it needs to perform its critical statutory function; and

WHEREAS, any weakening of the DNFSB or restriction of its access to critical information regarding operations at LANL or other DOE defense nuclear facilities could be detrimental to the overall health of the significant number of Santa Fe County residents who receive their water from the County water utility via the Buckman Direct Diversion which is downstream from LANL or who work at or near LANL.


NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County, that:

1. The Board shall send a letter, consistent with this resolution and the contents of Exhibit A, to the Department of Energy (DOE) Secretary urging him to suspend DOE Order 140.1 and reissue an order that fully complies with the Defense Nuclear Facilities Safety Board's (DNFSB) legal authority under statute to continue to protect workers and the community.

2. The County Manager shall submit copies to the New Mexico Federal Congressional delegation and to New Mexico Senator and Chair of the Radioactive & Hazardous Materials Committee Jeff Steinborn of both this Resolution and the letter submitted to the DOE in opposition to this Order.

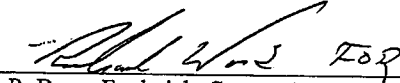
PASSED, APPROVED, AND ADOPTED ON THIS 12th DAY OF MARCH, 2019.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

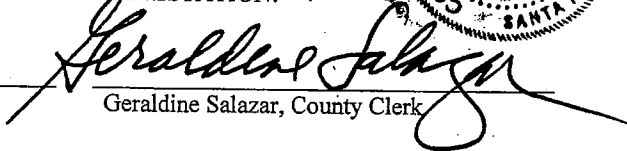

Anna T. Hamilton, Chair



APPROVED AS TO FORM:


R. Bruce Frederick, County Attorney

ATTESTATION:



Geraldine Salazar, County Clerk



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for Record On The 13TH Day Of March, 2019 at 10:56:43 AM And Was Duly Recorded as Instrument # 1880977 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Deputy  Geraldine Salazar
County Clerk, Santa Fe, NM