



U. S. Chemical Safety and Hazard Investigation Board
Office of Investigations
MEMORANDUM

To: CSB Board Members

February 10, 2014

CC: Chairman Rafael Moure-Eraso

From: Investigation Supervisors and Team Leads

Subject: Rebuilding Trust

We are writing to you as the entire CSB Investigation Team Leads/Supervisors group to express our serious concerns regarding Board members behavior that has done significant damage to the morale of investigative personnel and the mission of the CSB. We are the lead investigators, team leads and supervisors of the agency responsible for leading and managing the conduct of incident investigations and studies, producing draft reports, and reconciling the opinions of the Board so that a final report is approved and prevention of injury, death and harm to the environment is furthered. Since 2010, as agency leaders, we have initiated a number of processes and tools to seek Board input and guidance early on in our investigations so that the final draft reports have been fully vetted and the Board member views have been reconciled. These processes include the full availability of investigative records and correspondence; the development of scoping documents and recommendations briefs; the circulation of draft reports; and the use of logic tools, report outlines, and Board briefings. Board/staff communications must have the goal of reaching resolution and implementing safety improvements expeditiously. We are dedicated to ensuring that all the Board Member input is addressed and the CSB mission is advanced.

Vital to this process are staff/Board candor, transparency and honesty—without these values the process breaks down and trust is lost. Both the Board and staff must trust that the process is operating to honestly resolve issues. It is in the spirit of honest communication that we write to you to express our profound disappointment that our trust is broken.

We are seriously concerned that over the last number of months Board member actions and behaviors have impaired the Board/staff relationship and effective performance of the agency's mission. Some examples:

- In June 2013 Board Member Rosenberg traveled to the Denver office and held unannounced private meetings with individual investigators. In these meetings she stated that she was working to remove Chairperson Rafael Moure-Eraso and Daniel Horowitz from their positions. She stated she was interested in assuming the role of Chair. She had similar follow-up conversations with staff on several occasions. These communications had a severely disruptive impact on the investigative staff.

- During the resolution of Board comments in September 2013 for the NDK investigation, Board Member Griffon spoke to a member of the investigative team and stated he was delaying the approval of the report so that Daniel Horowitz would not receive credit for the report and attainment of his annual goals.
- In October 2013 Board Member Griffon met with the Director of the Western Regional Office (WRO) in Denver. At that meeting the Board Member Griffon made a request to retard progress on the reports being developed out of the WRO. He stated the completion of significant reports made Chairman Moure-Eraso look good which he viewed as a negative outcome. The WRO Director replied that the staff's job is to complete high quality reports in a timely manner.
- During the NDK public meeting in November 2013 Board Member Griffon stated publicly that the delay in the release of the report was a failure of planning. Board Member Griffon did not mention that the lead drafter of the report, who was the only investigator deployed to the incident still on the investigative team, was out for a lengthy maternity leave and also dealing with the death of her mother and additional staff resources were unavailable. A 50-year mechanical engineer and ASME committee chair who spoke at the public meeting noted that the technical analysis conducted by the CSB was challenging and time-consuming, recognizing that incident investigations can be protracted. Board Member Griffon then uttered to nearby personnel "is that guy on Horowitz's payroll?"
- In recent conversations with staff, Board Member Rosenberg stated that Rafael Moure-Eraso may be gone by September 2014. She also said that it may be the case that no reports such as Chevron, Deepwater, and Tesoro are approved until then.
- In the last year, Board Members Rosenberg and Griffon have initiated or engaged few investigation team leads and supervisors in conversations about questions or concerns concerning CSB investigative reports—often by-passing team leads to converse with individual investigators. Many report reviews have only superficial evaluative remarks such as "I am not convinced" or "you have not adequately addressed this issue" that provide little substantive direction for improvement or alternative policy approaches. In the December 2013 Chevron draft review it was obvious that neither board member had read the report prior to a key quorum meeting—Board Member Griffon asked if he had been sent the draft. Board Member Rosenberg's written comments only extended to the Executive Summary of the report.
- As described herein board member actions are working to delay reports--it is all the more disheartening to hear those same Board members working actively to reach out to stakeholders and the public to complain that reports are being delayed through poor planning or ineffective leadership. While the Chair has ultimate authority over deployments, the other two board members tacitly supported or did not oppose deploying the staff to a number of new investigations adding to the investigative backlog. We remain concerned that investigators are deployed to new incidents at a rate that maintains a backlog of investigations while the Board

has not seriously addressed closing administratively old cases the agency has been unable to place on our annual action plan for a number of years.

- Leading up to the January 15, 2014, Chevron Public Meeting Board Member Rosenberg assured two CSB staff members on separate occasions that she supported the safety case regulatory recommendations and would vote for the draft Chevron regulatory report. One assurance of support was made just hours before the meeting. Board Member Griffon did not state his voting position to CSB staff. Five hours into the meeting Board Member Griffon presented a prepared typed motion to postpone the vote to address various issues which was seconded by Board Member Rosenberg. The motion had not been shared with the leadership or staff and many of the issues were presented to the staff for the first time in the motion. Half of the issues in the motion were taken directly from a letter by Congressman George Miller to the Board directing the staff to investigate regulatory issues related to Cal/OSHA and Contra Costa County. Many of the issues were either addressed in the CSB draft, not causally related to the Chevron incident or in the case of abatement, subject to a dispute between Congressman Miller and the Governor of California. This interjection of outside political influence raises a concern over the independence of the CSB. While some on the Board had been provided the Congressman Miller letter in advance, the CSB investigators saw the letter for the first time at the start of the public meeting. Similarly, a letter received by some Board members from Professor Nancy Leveson addressing the report's recommendations was not provided to the staff but was referenced by Board Member Rosenberg in her opening remarks. The Leveson letter was also referred to and submitted into the record by former CSB Chairman John Bresland, who acknowledged in his written comments that he was a Chevron contractor. Chevron outside legal counsel conferred with Professor Leveson about submitting the letter. Board Member Rosenberg also cited as key evidence an email she received from a UK writer, Rory O'Neill, but has yet to share that email with the investigators. The failure to provide the staff with what are asserted to be key documents and seek responses, providing misleading assurances about member positions on issues or support for reports, and the failure to substantively engage the investigative staff on issues, questions and concerns—all speak to a seriously broken process. In fact, the actions by two board members in the Chevron review process and public meeting can only be explained by what appears to be a planned effort to mislead and publically embarrass the staff and agency. These actions not only harm the agency that you are sworn to serve but damage the cause of our preventative mission and the credibility of the work produced by the CSB and its staff. These actions ultimately weaken our agency's credibility with stakeholders, including organizations that many of us have worked with for decades.
- In a letter to Congressman Larson dated January 27, 2014 Board Members Griffon and Rosenberg stated the investigative team "cut and paste" sections of the Chevron report in the Tesoro draft. The staff only learned about the letter from press reports and these concerns were never addressed to the staff. While the letter implies the safety case is a new issue inserted into the Tesoro report, the staff has

been submitting detailed Tesoro plans and drafts that address the safety case since May 2013. This negative reference is offensive to a hard working staff--the safety case section of the Tesoro draft is a unique analysis of the Tesoro causal factors, Washington L&I regulatory gaps and how the safety case would play a more preventative role. The regulatory section also compares the Tesoro incident to Chevron arguing that issues related to both incidents make a strong argument for the needed fundamental reform.

We are writing because it is our hope that these behaviors will cease and the broken trust can be rebuilt. We have serious concerns that these problems, if uncorrected, will likely lead to the departure of many of the investigative staff who do the actual work of the agency. We propose that the board members address in the upcoming facilitated Board meetings meaningful solutions to the problems we have described. To assist in this effort the investigative staff leadership proposes the following:

1. Board members and staff will not speak ill of agency employees outside of the agency. Under no circumstances will board members engage staff in the manner described in this memo. The CSB should develop a personnel conduct and communication policy for the agency.
2. Board members must work sincerely and diligently to comprehensively review reports in a timely way and further the mission by pitching in to reduce the investigative backlog. Board member reviews should be conducted within suggested time frames—this is their most important task. Board members will work through and thoroughly engage the investigative team leaders and supervisors to resolve issues and concerns. A CSB Board Order or regulation that describes board member duties, responsibilities, timely completion of requested work, and appropriate conduct should be implemented.
3. Board members must be open and transparent with the staff about their views and positions. Board members should declare their positions and intentions prior to a public meeting and absent some unforeseen circumstances those views should be consistent with votes cast. These requirements should be placed in a Board Order or in a CSB regulation on the report reviewing process.
4. Board members must cease and desist from the extreme negative trashing of the agency to the public and stakeholders that places political posturing above the safety mission of the agency. All agency personnel must acknowledge that we are **all** responsible for the successes and failings of the agency. A failure by Board members to take responsibility for agency performance is a failure of leadership. The Board and staff should receive required periodic training on appropriate employee conduct, behavior and communication.
5. The Investigation Team Leads/Supervisors group requests to meet with the board members to discuss this letter and pursue avenues for needed agency reforms.

We conclude by assuring you we are willing to actively work toward the improvements in organizational performance we have described. Only by working together will we be successful and trust be regained.