



## Chemical Safety and Hazard Investigation Board

### Office of General Counsel

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#### Memorandum

To: Board Members  
From: Christopher Warner *Chris Warner*  
Cc: Leadership Team  
Subject: Board Action Report – Notation Item 794  
Date: October 22, 2010

On August 23, 2010, the Board approved Notation Item 794, thereby adopting the Investigation Report and Recommendations on the Xcel Energy Cabin Creek hydroelectric plant chemical fire, pursuant to its authority under 42 U.S.C. § 7412(r)(6)(C)(i) and (ii).

#### Voting Summary – Notation Item 794

**Disposition: APPROVED**

**Disposition date: August 23, 2010**

	Approve	Disapprove	Calendar	Not Participating	Date
<b>R. Moure-Eraso</b>	X				8/23/2010
<b>J. Bresland</b>	X				8/23/2010
<b>M. Griffon</b>	X				8/24/2010
<b>W. Wark</b>	X				8/19/2010
<b>W. Wright</b>				X	



## Chemical Safety and Hazard Investigation Board

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### Memorandum

To: Board Members

From: Rafael Moure-Eraso

A handwritten signature in black ink that reads "Rafael Moure-Eraso".

Cc: Leadership Team

Subject: Notation Item 794

Date: August 18, 2010

Attached for your review and vote is Notation Item 794. This item provides for the adoption of the report and recommendations resulting from the CSB investigation of the multiple-fatality chemical fire that occurred on October 2, 2007, at the Xcel Energy Cabin Creek hydroelectric plant near Georgetown, Colorado.

The draft investigation report was subject to internal and external quality control reviews, consistent with the CSB Data Quality Guidelines. The quality assurance process is summarized and documented in the Investigation Product Review Verification and Certification form attached to this memorandum. Inquiries about the quality review process, including the resolution of Board and staff comments, should be made to the Investigator-in-Charge, Don Holmstrom.

As a standard part of the quality assurance process, the two companies involved in this incident – Xcel Energy and RPI Coating – were each offered the opportunity to review the draft report and submit comments on it. However, both companies opted not to participate and the CSB received no comments from them. Instead, the two companies engaged in extended litigation, unprecedented in the CSB's nearly 13-year history, seeking a Federal court order to block publication of the CSB report. On June 30, 2010, the U.S. District Court in Colorado issued a written ruling in the CSB's favor, confirming the agency's right to publish its public safety investigation report on the tragic Cabin Creek incident.

You may direct any questions about this item to Don Holmstrom. Please return completed vote sheets to Chris Kirkpatrick as soon as possible. Subject to Board approval, I intend for the CSB to release the Xcel report and recommendations next Wednesday, August 25. Accordingly, I ask that you promptly consider and vote on this item. Thank you for your cooperation in this important Board matter.

## Investigation Product Review Verification and Certification

Investigation Product: Xcel Energy Report

Investigation Supervisor: Don Holmstrom Investigator-in-Charge: " "

Review step:	Investigator-in-Charge (Initial / Date)	Investigation Supervisor (Initial / Date)
Reviewed the accuracy and completeness of the case file information to be used in the preparation of the product.	DSH / 8/18/10	DSH / 8/18/10
Reviewed the draft investigation product to verify that it is based upon and supported by evidence in the case file.	DSH / 8/18/10	DSH / 8/18/10
Considered, and resolved comments received from, the internal staff review process, including reviewers from the Office of Investigations; Office of Recommendations; Office of General Counsel; and Office of Congressional, Public, and Board Affairs. [Attach summary of comment resolution and remaining significant issues.]	DSH / 8/18/10	DSH / 8/18/10
Held a review meeting to discuss comments from the internal staff review process.	DSH 8/18/10	DSH 8/18/10
Completed Technical Editor review.	DSH 8/18/10	DSH 8/18/10
Provided a copy of the draft product to each Board Member for preliminary review. Resolved or addressed Board Member comments. [Attach summary of comment resolution.]	DSH 8/18/10	DSH 8/18/10
Provided a copy of the draft product to the company or companies that are its subject and: <ul style="list-style-type: none"> <li>• Received confirmation that the draft product does not contain trade secrets or confidential business information (CBI); or</li> <li>• Deleted from the draft product information claimed to be trade secret or CBI. [Attach summary of claims and deleted information]; or</li> <li>• Determined in writing that information claimed to be trade secret or CBI is not actually confidential. [Attach written determination.]</li> </ul>	DSH 8/18/10 Xcel and RPI did not respond in time provided in letter	DSH / 8/18/10
Provided a copy of the draft product to the company or companies that are its subject for comments on factual and technical accuracy. Resolved all factual and technical accuracy issues raised. [Attach summary of comment resolution.]	DSH 8/18/10 Xcel + RPI - no response	DSH 8/18/10
Provided a copy of the draft product to other external parties (as specified in the Data Quality Guidelines and Investigation Protocol) for comments on factual and technical accuracy. Resolved all factual and technical accuracy issues raised. [Attach summary of comment resolution.]	DSH 8/18/10	DSH 8/18/10
Held recommendation recipient meetings (if applicable).	DSH 8/18/10	Not with Xcel + RPI who released the CSB report draft in violation of letter
<b>Certification:</b> The undersigned Investigation Supervisor and Investigator-in-Charge certify that the review steps listed above have been fully and satisfactorily completed.		

Donald A. Holmstrom  
Investigation Supervisor

\_\_\_\_\_  
Investigator-in-Charge

8/18/10  
Date



## Chemical Safety and Hazard Investigation Board

Rafael Moure-Eraso, Ph.D., CIH  
Chairperson and CEO

John S. Bresland  
Board Member

Mark Griffon  
Board Member

William B. Wark  
Board Member

William E. Wright  
Board Member

### CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD MEMBER VOTING RECORD

**Notation No.:** 794

**Voting Period:** Urgent Notation Item, August 18 – August 25, 2010, but votes are requested as soon as possible.

**Subject:** Xcel Cabin Creek Incident Investigation Report and Recommendations

Whereas,

1. The Board is authorized by 42 U.S.C. § 7412(r)(6)(C)(i) to “investigate . . . and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury or substantial property damages”;
2. The Board is further authorized by 42 U.S.C. § 7412(r)(6)(C)(ii) to “issue periodic reports to the Congress, Federal, State and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of accidental releases and proposing corrective steps to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible”;
3. The CSB has conducted an investigation of the October 2, 2007, chemical fire at the Xcel Energy Cabin Creek hydroelectric plant near Georgetown, Colorado, that resulted in the deaths of five workers; and
4. Based upon their investigation of the Xcel Cabin Creek fire, CSB staff have prepared the attached proposed investigation report, including safety recommendations.

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Notation No.: 794  
Subject: Xcel Cabin Creek Incident Investigation Report and Recommendations

[continued from preceding page]

Therefore, the Board hereby votes, pursuant to its authority under 42 U.S.C. § 7412(r)(6)(C)(i) and (ii), to adopt the attached investigation report and safety recommendations as the Board's Investigation Report and Recommendations on the Xcel Energy Cabin Creek hydroelectric plant chemical fire.

\_\_\_\_\_ I **APPROVE** this notation item **AS PRESENTED**.

\_\_\_\_\_ I **CALENDAR** this notation item for discussion at a Board meeting.

\_\_\_\_\_ *Some of my concerns are discussed below or on the attached memorandum.*

\_\_\_\_\_ I **DISAPPROVE** this notation item.

\_\_\_\_\_ *A dissent is attached.*

\_\_\_\_\_ *I will not file a dissent.*

\_\_\_\_\_ I am **NOT PARTICIPATING**.

Note: An urgent notation item is either adopted or disapproved when the affirmative or negative votes of a majority of the participating members are received by the Office of General Counsel.

Date: \_\_\_\_\_

Member: \_\_\_\_\_