

U.S. Chemical Safety and Hazard Investigations Board

Business Meeting

February 23, 2016

CSB Headquarters Office - Washington, DC

U.S. CHEMICAL SAFETY BOARD MEMBERS PRESENT:

VANESSA ALLEN SUTHERLAND, CHAIR

RICK ENGLER, MEMBER

MANNY EHRLICH, MEMBER

DR. KRISTEN KULINOWSKI, MEMBER

STAFF PRESENT:

KARA WENZEL, ACTING GENERAL COUNSEL

VANESSA ALLEN SUTHERLAND: Joining me today are Board Members Rick Engler, Manny Ehrlich, and Dr. Kristen Kulinowski, and also joining me is our Acting General Counsel, Kara Wenzel, and members of the staff.

The CSB is an independent, non-regulatory federal agency that investigates major chemical accidents at fixed facilities. The investigations examine all aspects of chemical accidents, including physical causes related to equipment design, as well as inadequacies in regulations, industry standards and safety management systems. Ultimately, we issue safety recommendations which are designed to prevent similar accidents in the future.

I will now walk you through today's agenda which will end in a public comment period. First, the Board will give an update on any open investigations, studies, recommendations, or deployments. We will then discuss ongoing process safety management advocacy initiatives in California and provide updates on IG activities, finance and organizational initiatives. Next, we will update you on the CSB's action plans, a discussion of any old business and any new business. And we will conclude the meeting, as I mentioned, with public comments and closing comments from the Board.

If you are physically in the room and you want to make a public comment, there is a sign-up sheet right at the white table

that you passed on your way in here. For those who are on the phone, you may submit a public comment by e-mailing Meeting@CSB.gov to be included in the official record.

Before we begin, I'd like to point out just a little bit of safety information as well as logistics. When you came off the elevator, for those in the room, immediately to your right are the restrooms. You will need a key to get back in, but there's someone at the front desk. There are exits in the same direction. You would go towards the stairwell, following the red exit signs and the stairwells, there's one to your right and one straight ahead to your left. I also ask that you mute your cellphones, put them on vibrate or silent, so that the proceedings are not disturbed. That includes [inaudible]. I'll give you a second.

Last month we held a meeting, a field hearing, in Waco, Texas, to release our final investigation report into the fatal 2013 fire and explosion at West Fertilizer. I would like to congratulate the CSB's investigators on a job very well done. I see a couple of them in the back. We received extremely positive feedback on that report. So, completing and conducting a thorough [inaudible] investigation is extremely hard work and can be very time-intensive. Being away from their families for weeks on end following one of these accidents is a very difficult task. And the

release of that report, just literally a few weeks ago, is an accomplishment for everyone that supported that effort at the Chemical Safety Board. So I want to wholeheartedly applaud them (they don't know that I'm doing this) and thank them for their combined efforts. [Applause]

As I had previously stated, together, I think that we can certainly work to completely our reports, have a high-functioning, efficient agency, and hopefully have the most highly functioning and efficient agency in the federal government. Given our size and our budget, I am very excited to see us well surpass what might be expected of a 40-person agency. And I think that we'll continue to see the staff and the Board members work together, both in our actions and our words, to achieve operational excellence and execute on a very, very important and difficult mission. So, thank you for that.

I'd like to open it up to my fellow Board Members for any opening statements before we commence with the formal agenda.

MEMBER ENGLER: I don't have an opening statement, but I welcome you all and very pleased. I'm really pleased that we're having regular public meetings and that the public meetings exceed what's required in our regulations, pleased at the spirit of receiving and engaging with public stakeholders for some

background. It's really exceeded my expectations from being here just a few months from before.

VANESSA ALLEN SUTHERLAND: Well, thank you very much.

MEMBER ENGLER: I wanted to point that out because I'm reminded about our budget discussion earlier, that we also have to pay for more public meetings, but it does say that we do value them and we do take them very seriously. Thank you.

VANESSA ALLEN SUTHERLAND: Member Ehrlich.

MEMBER EHRLICH: I'm never without something to say. But I want to thank you all for coming on a miserable day out today. Probably didn't have anything better to do anyhow. We're glad you could all make it and we look forward to your input and I want to echo the sentiments of Rick Engler that the Board has changed direction in the last six or eight months and we're going in a terrific direction with the current Chairperson. Thank you.

VANESSA ALLEN SUTHERLAND: Member Kulinowski.

MEMBER KULINOWSKI: No opening statement for me. Just thank you all for coming.

VANESSA ALLEN SUTHERLAND: So at this time the Board will provide an update on ongoing investigations. They are also currently posted on our website, and we keep those regularly updated, so, if you want to follow them after today's meeting, we do keep the investigations

page up-to-date.

I will start with Member Kulinowski to provide an update on CSB's Freedom Industries and Williams Olefins investigations and then we will move down the line for each of us to give subsequent reports.

MEMBER KULINOWSKI: Thank you, Chair Sutherland. The Freedom Industries investigation started with the spill of a chemical into a river that affected the drinking water of 300,000 people near Charleston, West Virginia, and I anticipate that when our report is released, there might even be a little bit more interest in it than usual due to similar issues with drinking water availability to the public in Flint.

So I'm pleased to report that the investigation is continuing. Major progress has been made. All the field and lab testing has been completed. The team is awaiting a metallurgical analysis report, and a draft is currently being written by the team. Once they've written their first draft, it will start a very rigorous internal and external review process. When it comes out the other end of that, the Board will be presented a final product for our consideration. And the team has reported that they expect this to

be completed before the end of the fourth quarter of this fiscal year.

With respect to Williams, there was a CSB investigation into the boiler rupture and fire at the Williams Geismar Olefins plant in Geismar, Louisiana, currently under internal review. It has already gone through a number of stages of review and the Board has seen a draft report. It's currently taking the form of a case study and the team is responding to comments from the Board and other reviewers. That team, which is based in Denver, believes that this has been well suited for an animation to accompany the report, and also expects the final product to be slated for public release during the fiscal year.

VANESSA ALLEN SUTHERLAND: Thank you, Member Kulinowski. Member Ehrlich, can you please provide an update on Tesoro Martinez?

MEMBER EHRLICH: Yes, certainly. Thank you, Madame Chairwoman.

There were two incidents in Martinez, California, both of which involved exposure to sulfuric acid, both within a month of one another.

On February 12th, 2014, two employees of the Tesoro Martinez Refinery in Martinez, California, suffered first and second degree chemical burns when they were splashed with concentrated sulfuric

acid following a failure of a three-quarter inch tubing connector at a sample station in the refinery's alkylation unit.

Approximately 84,000 pounds of sulfuric acid were released during the incident. On March the 10th, 2014, two contract workers were sprayed with sulfuric acid while conducting planned maintenance to remove piping in the refinery's alkylation unit. Sulfuric acid sprayed on the two workers when they cut into the pipe using a portable band saw.

The investigation team completed a case study draft report in December of 2015 and circulated the product to the CSB staff for internal review. They're working hard to incorporate the feedback received and then will provide the updated draft to the Board for review in early March. A final voting version is likely in Fiscal Year 2016, which begins in October.

VANESSA ALLEN SUTHERLAND: Thank you. Member Engler, would you please provide an update on Delaware City Refining and Exxon Mobil?

MEMBER ENGLER: On November 29th, 2015, an operator at the Delaware City Refinery Company in Delaware City, Delaware, suffered second degree [burns to the] face and neck area while de-inventorying a vessel.

What's significant here is that the incident follows two other incidents, at the same facility, which occurred in August. Additionally, there was a September 2015 incident at the Paulsboro Refining Company across the river in New Jersey. Both refineries are owned by PBF Energy, which also owns refineries in Louisiana and Ohio, and is in the process of purchasing the Exxon Mobil Refinery in Torrance, California, which is the focus of a current CSB investigation.

The multiple incidents of PBF Energy refineries led CSB to initiate a short-term deployment at PBF. CSB assessment is progressing. The investigation team is preparing, under the leadership of our lead investigator, Johnnie Banks, a proposed safety bulletin that will include findings and lessons learned. A draft bulletin will be reviewed by outside experts prior to being submitted to the Board for consideration as a final product.

Exxon Mobil. On February 18th, 2015, an explosion occurred in the ElectroStatic Precipitator at the Exxon Mobil refinery in Torrance, California, which is south of Los Angeles. The explosion injured four workers, caused major property damage to multiple refinery processing units, and resulted in off-site accidental release of catalyst dust.

Debris from the ESP fell onto neighboring units within the refinery, including the hydrofluoric acid alkylation unit. During the ESP explosion, there was also a possible near miss release of HF or hydrofluoric acid when a large piece of debris fell within feet of a storage vessel containing thousands of gallons of modified HF in that unit. If the storage vessel had failed due to impact from the debris, HF would have been released. Based on the release characteristics of HF, potentially many thousands of workers and community members could have been exposed to the toxic gas with the likelihood of serious injuries and fatalities.

CSB held an interim meeting in Torrance, received public comment, and convened a panel of refinery safety experts that was very well-received. More than 300 people were present in the audience and 350 people around the country online. The PowerPoint presentation that was presented in Torrance is on the CSB's website, and the investigation team will proceed to incorporate lessons into the investigation report outline.

Most significantly, perhaps, CSB is also working with the Justice Department to enforce subpoenas related to this incident so that a full all-cause investigation can be conducted. Exxon Mobil has continued to reject many of CSB's subpoena requests directly related to the potential of an HF release onsite and into the

community. This refusal to provide information is of enormous concern to the entire Board and we are pursuing it vigorously.

VANESSA ALLEN SUTHERLAND: Thank you, Member Engler. I will now provide an overview of the remaining open investigations, which include Dupont LaPorte and the Macondo Deepwater Horizon events.

For the Dupont LaPorte event, which happened in Texas on November 15th, 2014, nearly 24,000 pounds methyl mercaptan was released at the Dupont Chemical Manufacturing facility. The release resulted in the death of three operators and a shift supervisor inside an enclosed manufacturing building. Additionally, three other workers were injured from their exposure to the methyl mercaptan, and at least three more workers experienced methyl mercaptan exposure symptoms. The investigation team is working to incorporate Board Member comments on the investigation scope, and is continuing to develop a robust causal analysis to guide completion of the investigation. They continue to review documents from Dupont.

The drill and rig explosion and fire at the Macondo well, which occurred April 20th, 2010, was a multiple-fatality incident that occurred on that oil well approximately 50 miles off the coast of Louisiana in the Gulf of Mexico, during a temporary well-abandonment activity on the Deepwater Horizon drilling rig. Control

in the well was lost, resulting in a blowout, which is the uncontrolled release of oil and gas or hydrocarbons from the well. On the rig, the hydrocarbons found an ignition source and ignited. The resulting explosion and fire led to the deaths of 11 individuals, serious physical injuries to 17 others, the evacuation of 115 from the rig, the sinking of the Deepwater Horizon, and massive marine and coastal damage from a reported 4 million barrels of released hydrocarbons.

At this time, the Board has conducted a review of the final two volumes of Macondo, those are volumes 3 and 4. Volume 3 is focused on human and organizational factors and volume 4 provides an analysis of the regulatory aspects of the incident, as well as changes that have occurred since the blowout.

The next step for the team is to contact potential recommendation recipients (which is actually already underway) and other external stakeholders, and coordinate a factual review of the two volumes by a number of industry, regulatory, workforce, and environmental organizations. After these activities, there will be a final Board review and a release of the two volumes for Board consideration and voting. The team anticipates completion of these two final phases some time by spring of 2016, so either third or fourth quarter of this fiscal year.

Next is a study that, for those who have been following the West Final Report meeting, will recall we discussed while in Texas. We are going to move forward with a land use study and I now invite Member Kulinowski to lead that discussion and overview.

MEMBER KULINOWSKI: Thank you, Chair Sutherland. West Fertilizer investigation revealed there are significant concerns about land use planning around facilities with the potential to cause significant onsite consequences. Our analysis on this incident led us to look to prior investigations for other examples where facility siting exacerbated consequences, and over a dozen other investigations were identified. Taken together, these prior incidents and the West Fertilizer incident, CSB is interested in exploring in greater depth the issue of land use planning and facility siting. [If] communities have not been studied in great detail, from the CSB's perspective, it's largely because they fall outside the scope of a single accident investigation and may not be adequately addressed by current regulations, policies, or practices.

So the CSB has worked to develop a proposal for a new study to examine this issue and consider whether and how existing regulations, guidelines, and practices can be improved to address this risk, particularly for existing chemical facilities. So the

main aims of the study will be to answer questions raised from previous investigations, such as: to what extent does the proximity of chemical facilities to communities pose a risk in the event of a catastrophic chemical release? Are existing regulations, guidelines, and recommended practices related to land use and development in close proximity to existing chemical facilities sufficient to minimize outside consequences? And, for our own purposes internally, what frameworks could be used during future CSB investigations to more systematically identify land use planning issues?

We plan to complete the study proposal award to an outside agency with expertise in land use planning and the details of that award announcement are forthcoming very soon. We'll probably announce it on our website, most likely in March. We will be engaging a contractor to conduct the study, and the projected timeline is 18-24 months from the posting of the award, of the contract.

So, in working with the team to develop some concepts on our land use study, we had a lot of conversation about what the scope of this study would be. If people in the room or in the audience, on the phone, have ideas for bounding the sources that we could

use, any information that you have that might be useful to us in the study we, I think, would all like to hear about that.

But the issue, the scope, and topic are important ones. So, for example, a potential question is: are we simply looking at existing facilities, or are we proposing policies for new facilities? And, if we are looking at existing facilities, recognizing that there are huge challenges to change existing facilities, much less lose them, what steps can be taken right now to make existing facilities safer when they're closely located to communities? Other questions are: are we looking at the broad universe of hazardous chemicals, selecting certain ones of interest? Can we realistically cover the entire United States, or should we focus on selected regions or states? And what is the status of existing databases or information sources that can be used to create the inventories of chemicals and chemical facilities?

These are some of the questions that I look forward to exploring with our internal working group and whoever is ultimately awarded the contract. And turn it over to my fellow Board Members for any additional discussion, comments.

VANESSA ALLEN SUTHERLAND: I think we've heard a lot in Texas and subsequent to the last meeting that really helped us confirm

that we are probably on the right path in contributing the land use conversation. So, I would say, in addition to Member Kulinowski's solicitation, that you all give us feedback, we also may very well want to engage along the way as far as drafts or feedback on a written product, so, I would ask that you have people within your organizations, or if you know of others who are doing concurrent efforts, that that kind of review and draft and discussion could be very helpful, even after we've whittled down the scope. Because we want to put something out that obviously is going to be useful and helpful and that can have broad applicability. So, definitely think about, as you are hearing others work through these issues, and as accidents happen in the United States that have an impact to neighboring residences, hospitals, homes, schools, etc., that you feel comfortable contributing to us. I think our team, which is a very nice compilation of investigations and recommendations staff, would welcome that kind of feedback if you are interested in submitting it to us. So, very much looking forward to that.

MEMBER: I don't have any additional comments.

VANESSA ALLEN SUTHERLAND: Member Kulinowski, was there anything else?

MEMBER KULINOWSKI: No.

VANESSA ALLEN SUTHERLAND: So, we will [now] discuss recommendations and the status. I see a couple of recommendation recipients in the room. And, so, this section will be an overall discussion of where we are, and then discussing what we have been doing since the last public meeting with regard to recommendations. Our team is small, but very, very mighty and productive. So if you have questions about this, or comments at the end, we can certainly take those during the public comment period.

The CSB currently has a ratio of 74% recommendations closed, and 26% in open status. For numbers, that's 565 that have been closed, and 198 that remain open. The status of all those recommendations are found on our website. When you go to the homepage, you can actually sort and take a closer look at the physical update, and we update those fairly regularly.

The recommendations that have been recently voted on can also be found on that page under "Recent Recommendation Status Updates," and each recommendation has a status change summary so that you can see the rationale for the Board's vote.

New recommendations have been issued. As I mentioned, we have had a few field hearings. During the Fiscal Year FY2015 that has just ended, the CSB issued [inaudible] recommendations from the Chevron, U.S. Ink, and Dupont report investigations. So far in

FY2016, we have issued 28 recommendations resulting from the West Fertilizer and Caribbean Petroleum investigations.

Notable recommendations were made to the U.S. Environmental Protection Agency, the Occupational Safety and Health Administration, the Federal Emergency Management Agency, the International Code Council, and several organizations in Texas that dealt with firefighter training standards and training development.

We have simultaneously been closing recommendations and engaging recommendation recipients to determine the status of their progress. During Fiscal Year 2015, the CSB closed 24 recommendations and, of those, 22 were closed acceptably, indicating that the recipient has successfully implemented the intent of the recommendation. So far, in Fiscal Year 2016, the CSB has closed 17 recommendations. Fourteen of those were closed acceptably, 1 was closed unacceptably, and 2 were closed "reconsider" or "superseded." Several other recommendations have been advanced. Thus far in Fiscal Year 2016, the Board has voted to move 9 recommendations to "Status: Open, Acceptable" while the recommendation recipient continues to work through the recommendation. And in Fiscal Year 2015, the Board moved 21 recommendations to the status "Open, Acceptable Action," indicating that the recipient continues to make progress towards

implementation.

So far, in closing, in Fiscal Year 2016, the CSB has voted on the status of 26 recommendations and, as I mentioned, those coming from the Chevron and U.S. Ink investigation, 11 were from the Chevron refinery fire investigation, 4 were from the U.S. Ink investigation, 4 were from the reactive hazard setting, and 1 each from Honeywell, Hoeganaes, MFG, BP Texas City, [inaudible], Kleen, and the Valero investigation. We have one recommendation related to the Reactive Hazard study, which was calendared by Board Member Engler, and will be discussed by the Board in more detail in the April 20th public business meeting. For those on the phone, hopefully you're able to hear, but we will be taking comments, etc., prior to that meeting. For those in the room, if anyone can attend and would like to contribute prior to the April 20th business meeting, please feel free to submit comments on that particular recommendation.

For deployments, the CSB has not initiated any new deployments since its last business meeting. And we are now going to talk about other important work that buttresses the investigations, recommendations, and study work that we just described. I will start with, and ask, Member Engler to commence with the California Advocacy Team update that you are going to conduct or currently

conducting with regards to California's Process Safety Management and Refinery Initiative.

MEMBER ENGLER: Thank you. CSB remains very interested in, and continues to track progress with, California's refinery safety reforms within our most wanted safety improvements program of highest priority issues. If you go to our website, you'll see there's a "Most Wanted Safety Improvements" section and it's categorized as Process Safety Management, and it applies both to innovations and forward progress both nationally and in states. It's clear from our analysis that California, of all the states, is doing the most to focus on refinery safety, in particular within the mantle of process safety and risk management advancement.

There are actually three programs in California that are being looked at, at the direction of Governor Brown, and under the mantle of the Interagency Refinery Task Force. California is a "State Plan" state, meaning that California has authority to issue its own standards under a state OSHA program as long as they meet or exceed Federal OSHA standards. So, one of them is actually the Process Safety Management Standard as it would apply in particular to petroleum refineries. Another is the California Risk Management Program under the state EPA which would apply also to refineries in

the state. And third is an additional set of proposals concerning emergency response.

All of these are at slightly different stages of rulemaking in the state. Right now, an analysis is being done for justification, as well as a cost benefit, and we anticipate that these safeguards will be actually issued by early 2017, though certainly government agencies have been known to take a little longer than that to meet certain deadlines. But we're hopeful, after further input from many of the same stakeholders that the CSB has in California, that these safeguards will be issued.

We are doing some very specific things to inform the public about these enhanced safeguards, including production of a fact sheet about the proposed changes, posting of information on the CSB website, which hasn't been done quite yet, but will be soon, development of a short video, and, after the final proposed rules are issued, offering formal comments.

I also want to note, beyond California, that there is an initiative of the federal U.S. Environmental Protection Agency, following up on the President's Executive Order, on revision to the Risk Management Program. Last week, two CSB members, including myself and staff, were briefed by Mathy Stanislaus, Assistant Administrator of the US EPA, on the general outline of their

anticipated regulatory changes to the RMP program. CSB submitted extensive comments to EPA in October of 2014, at their request, concerning what the Board believed were needed RMP improvements in response to the Executive Order. When an EPA proposal is issued for comment, I'm hopeful that the CSB will be doing a careful review, comparing our prior recommendations to EPA's current proposal, and developing further comments for consideration.

And, if I can just add, I think that. . .I think most of you know that after the West explosion and disaster, that really was the event that triggered President Obama's creation of the initiative and the Executive Order that led to agencies considering what type of changes were needed. And so I think that the EPA's changes on the RMP program offer an opportunity for some of the most significant changes of all. They will be national. They could potentially be broad in scope. They can address a wide range of issues. We're very much looking forward to seeing what EPA has to propose in detail. We've seen the broad outlines but I think the devil is in the details and in light of the hard work that the CSB staff has done in the past on this issue and past Boards have put an enormous amount of collective thought and analysis into it as well, I look forward to looking at this very carefully. It's a big opportunity for advancing chemical safety.

VANESSA ALLEN SUTHERLAND: Okay. Next we will discuss IG updates. As of February 18th, 2016, the CSB is currently working with the Office of Inspector General on 6 audits. The status of those audits are as follows.

We have our annual FISMA audit for FY2015. The CSB reviewed and provided comments in October of 2015 to the EPA IG report on our compliance with the Federal Information Security & Modernization Act. For FY2015 there were a total of 7 recommendations. One recommendation has been closed and the CSB is working diligently to close the remaining recommendations by this March. One possible delay to the closure will be the installation of a PIV reader, for any of you who have your government IDs, the little PIV card, in our Denver land room[?] for access control, which will be a significant component to the response to the IG. So there's some technical challenges. But otherwise the work authorization is in progress for other work and we are hopeful that, barring any surprises, this can be installed without technical challenge in mid-April at the latest.

Second is the CSB's Governance Project. CSB responded to the January 21st, 2016, discussion document published by the IG entitled, "CSB Needs to Continue to Improve Agency Governance and Operations." On February 11th, CSB staff met with the OIG to

discuss our response to the discussion document. Additional documents were requested and prepared and the IG agreed to rescind their recommendation on requiring the Board to vote on an annual operating budget in accordance with Board Order 28. They completed their audit before January 2016 and were not aware that the Board was already doing this and that the Board had voted both on continuing resolutions and FY2016 operating budget in that time.

Third is the Improper Payment Act audit. The IG completed their review of CSB's compliance with the Improper Payment Act for FY2015. They found that the CSB was in compliance for Fiscal Year 2015 and they also reviewed the open recommendation and action plan from their FY2013 audit and found that CSB implemented the planned action. The open recommendations will be closed on issuance of their final report. The IG will issue a draft report in March of 2016. I want to thank some of the team who is here for having closed that out in its entirety. That was no small effort.

Next is the IG review of [inaudible] hotline results. They are still in the process of preparing a draft... I'm sorry, a final report. We have not yet seen this so there may be an update on that between now and the next public business meeting.

The next audit is an audit of CSB's purchase card. Additional data was requested by the IG and provided by the CSB. They are working on a draft report, which we expect by May 31st of 2016.

And, lastly, the Fiscal Year 2016 Proposed Management Challenges and Internal Controls Weaknesses Audit. The IG has issued its notification letter. On January 21st we met with them and discussed the accomplishments that we have made in addressing FY2015 challenges and internal control weaknesses. They requested additional documents. We provided them and the call was productive, indicating that they may revisit many of the recommendations made.

Next is our finance update. We submitted our budget justification for FY2017, with the requested funding amount of \$12.4 million. The President's budget for FY2017 includes funding for the CSB at the Board-submitted amount of \$12.4 million.

Next is an organizational update. As you have heard for each of the meetings that we've had like this, I've mentioned that we want to give you periodic updates on various initiatives. And instead of going through some of them, which are ongoing and may not have any new updates month over month, that we would highlight unique ones that we either hadn't talked about in a while or that were making progress.

For this meeting, we'd like to talk about progress on updating CSB Board Orders. To date, the Board Members have voted on revisions to Board Order #4, which is Equal Employment Opportunity policy and procedures, Board Order 10, which is a general schedule Performance Appraisal program, Board Order 32, which is Reasonable Accommodations procedures, and Board Order 37, which is CSB's Telework Program, all of which were to assure that we were conforming with current law, current policy, OPM guidance, etc., and to give the Board an opportunity to take a look at content of those particular Board Orders. The final versions of each of those are posted on CSB.gov. We're in the process of updating five others.

And I want to thank the team, especially the Office of General Counsel for handling this very important effort, which is often done behind the scenes and sometimes a thankless task, but it takes a lot of work to make sure that they are not only current, practical, understandable, compliant with law, but that they help us behave in a way that's more efficient, more consistent, and more predictable. So I thank them for that.

On the Annual Action Plan, which we did update you about at the last meeting, in addition to mandatory audit reports and other requirements that the CSB must undertake annually, the CSB's Board

Members and leadership team has met to discuss key priorities, which include completing our current open investigations and dedicating time to review and update the agency's investigation protocols and deployment protocols. Many on the team have repeatedly voiced that the agency should evaluate these protocols to assure that the agency's capabilities and resources are used effectively, consistently, and efficiently, and this work has been undertaken several times in the past, and we, as a Board of four, would now like to support completing those efforts, reviewing and revising them, and fully completing and rolling it out.

So the Board and the management team have agreed that while there are many priorities on which we will work in FY16, and certainly that will bleed into FY17, the process of deploying to and investigating chemical accidents directly advances the CSB's mission, and thus focus is being placed on these protocols. I know that the team is extremely supportive and passionate about the mission and making sure that the way in which we do our work is transparent and commensurate with our [obligations? Resources?][inaudible].

With that, we have old business and a couple of other topics that will lead to public comment, the public's public comment period, I should say. For the old business portion of today's

meeting, I would like to very briefly follow-up on stakeholder

themes that were captured at the June 10th CSB meeting, and in my conversations over the last month with probably some who are on the phone and definitely many who attend our meetings regularly.

The primary themes that were captured at that June meeting, and that I have heard echoed over the last several weeks, are: continuing to have the CSB focused on timeliness of our reports and completing them. I am hopeful, as we continue to have these public business meetings and you hear the status of investigations, that we'll fill the gap between when we complete them and having you know how far along we are, and the progress that we are making.

Number two, improve engagement with local communities, which does not just mean the field meetings where we host investigations, but included listening sessions, more public accessibility of CSB expertise to increase awareness of our ongoing activities. Again, always interested in hearing your suggestions about how we might do a better job with outreach, but I think continuing to do the field meetings and, as Member Engler mentioned, I am very much, as evidenced, committed to doing more business meetings where people can engage with us. It does cost money, but it's a great way for people to continue to share whether we are being responsive to some of the suggestions and work that you all have proposed.

We've tried to continue to hold interim public meetings in Torrance, Dupont[La Porte?]. We have certainly discussed with the ongoing investigations that we described earlier, doing field meetings. So we will continue to make that a priority.

Next are the remaining four, with better communication and cooperation with stakeholders, which included trying to meet face to face more, or hold forums; [and] improved, clearer metrics for deploying investigations and recommendations. I hope that maybe some the data we provided today on recommendations will provide that level of transparency. And we will continue, as we deploy and conduct investigations, to share those both on the website and at public business meetings.

Investigation scoping. Stakeholders raised the question of whether the role of our agency is narrow and focused on root causes, or if the investigations should contain broader analysis for preventative purposes. The Board continues to hold internal discussion about the future of our investigation processes as we begin to review the investigation and deployment protocols.

And lastly, emerging issues. The Board was encouraged to increase its outreach and advocacy efforts by stakeholders for a variety of important safety topics. Some of those topics included preventative maintenance on facility infrastructure, emergency

response preparedness, worker fatigue, HF [inaudible], safety culture, academic and lab safety, and ammonia safety. Some of these are actually relevant to the current investigations that we recently closed or are currently working on. So, we will be very mindful as a Board, and staff highlighting those issues that you all have raised, and if there are other issues that are emerging that you would like to engage with us, please, again, email or let us know, because certainly we will work that into how we communicate out or share the data that we already have.

Lastly, before the public comment period, as previously discussed, the Board is involved in many investigation and operational activities that are keeping us very busy. At this time, I would like to open the floor to my fellow Board Members who may have any additional new business items before we invite public comment on the phone or in the room. I'll start this way. Member Engler? Member Ehrlich?

MEMBER EHRLICH: I'd just say that my background is in hazardous material chemistry and emergency response, and, in addition to the list that the Chairperson, Chairwoman, has mentioned, I'm going to spend a fair amount of my time in the emergency response community, trying to advocate some of the

lessons learned, particularly from West, in regards to training and focus.

VANESSA ALLEN SUTHERLAND: Member Kulinowski?

MEMBER KULINOWSKI: After, what has it been, six months on the Board. . .

VANESSA ALLEN SUTHERLAND: Happy Anniversary.

MEMBER KULINOWSKI: Yeah, right? I'm ready to go out and start talking about the work that we do here. So I will be commencing a series of trips and talks to talk about, among other issues, lab safety, careers in public services, various investigations, particularly West, which is very fresh right now, and look forward to meeting new communities with which I have not previously engaged, as well as re-introducing myself to communities I know well in this new capacity.

VANESSA ALLEN SUTHERLAND: At this time, I would like to open the phone lines and the floor for public comment related to CSB's activities. Due to the number of people who may want to comment, please remember to try to limit your comments to three minutes. We will begin with any list of people that may have signed up and if there are none, then we will open the phone line to anyone who is in the queue. Even if you did not sign up and you are in the room, we're not that formal. You can feel free to just raise your hand.

[Words missing] that we've said that you would like us to expand upon.] Let's start with the phone line and open the line and let us know if there are any questions in the queue.

OPERATOR: Thank you. We will now begin the question and answer session. If you have a question, please press *1 on your touchtone phone. If you wish to be removed from the queue, please press # or hash-key. There will be a delay as your question is announced. If you are using a speakerphone, you may need to pick up the handset first before pressing the numbers. Once again, if you have a question, please press *1 on your touchtone phone. We have a question from Richard Rizara from Rosearay EHS Services.
Your line is open.

RICHARD RIZARA: Thank you very much. Actually, it's not so much of a question as a comment. Last meeting, I had a question about posting of transcripts of the public business meetings, and I see that now that has been done on your website, on the open government section. So, thank you very much.

VANESSA ALLEN SUTHERLAND: You are welcome. We will continue to be very diligent with that. And I should have mentioned that we are continuing to refine our "En Espanol" page as a means also of trying to reach a broader audience. So thank you for that. Are

there other questions in the queue on the phone?

OPERATOR: We have no other questions at this time.

VANESSA ALLEN SUTHERLAND: Are there any questions in the room? Or comments.

RICHARD EYERMANN: To whom would we go to for the land use study? Who would we contact?

VANESSA ALLEN SUTHERLAND: If you want to submit a comment or question or resources, you can either go through public@CSB.gov, which is right on the website, which is probably, actually the best way to do it, and then we will submit to the team members who are here. We have four or five different team members who are working on it, and whomever is here, we'll make sure that it gets routed to the right investigation. Thanks for that. We're looking forward to it.

RICHARD EYERMANN: How about if we involve our Office of Program Evaluation in that?

MEMBER: Could you introduce yourself?

RICHARD EYERMANN: I'm Richard EYERMANN. I'm with the OIG.

VANESSA ALLEN SUTHERLAND: We will definitely be very excited about that. I'm sorry he did that simultaneously.

KAREN HAASE: Karen Haase, American Chemistry Council. I wanted to follow up on the comment you made about the recommendations on the reactive study, and which one has been

tabled

until the public meeting, since you were looking for public comments.

VANESSA ALLEN SUTHERLAND: Thank you for asking. And we will share. So we had a recommendation from probably many years old at this point. It might be 13.

UNIDENTIFIED: 2002, I think.

VANESSA ALLEN SUTHERLAND: Yes, 2002. So it might be 13 or 14 years old, in which we asked for the creation of a reactive hazard database that would be both available to the public and to government agencies, that there would be certain data about incidents and reactive hazards. Working with several other recipients, including ACC, there were challenges, or they provided feedback to us about some of the hosting of the information around incidents, that there might be confidentiality concerns, security concerns, and general challenges with publishing that accident data broadly to the public and having. . . meaning when I say public, I don't mean federal agencies, I mean just citizens who could access the database, as well as a little bit of additional information about whether or not that would necessarily be useful in the context of advancing safety.

We were presented with... The Board was presented with a recommendation to evaluate and vote on that recommendation. We

talked a lot about the intent of the recommendation, the progress that a recipient has made, whether we feel that the actions they've taken have been responsive, have exceeded, or still have a ways to go in closing out the recommendation. We discussed it and decided that it might be better to have a conversation because one of the recipients is not willing to make that data about accidents and incidents publicly available to the public. They decided there were some informational challenges, technical challenges, etc. And so we were going to, at the April 20th meeting, have the four Board Members deliberate.

Often in these meetings, particularly the business meetings, we project outward to the audience or to those on the phone: "this is what we're doing" and it's an update. But, from my perspective, it's just as important that these meetings be what they are supposed to be, and that's Sunshine Act meetings where, if we need to deliberate as Board Members on how to close something, when to close something, pros, cons, so we can have that thorough debate in the Sunshine Act process, because we can't deliberate through here in the office on those issues. We really. . . this is our opportunity to make sure that, before we vote, we've heard all voices, circled back to the public, and solicited feedback and commentary.

(To CSB Recommendations staff member) Do you have the exact recommendation number, off the top of your head, in case people want to take a look?

UNIDENTIFIED: No, I don't. I'm sorry.

UNIDENTIFIED: R9.

UNIDENTIFIED: It's R9. Sorry, R9.

VANESSA ALLEN SUTHERLAND: Thank you, R9.

UNIDENTIFIED: It was grouped in a notation item 216-27, so it was actually two distinct recommendations within one notation item.

VANESSA ALLEN SUTHERLAND: Yes, but one we voted on.

MEMBER ENGLER: Well, that notation item, I calendared, which had the impact of calendaring both recommendations, and doesn't necessarily mean I have a problem with both recommendations. In fact, my vote to calendar is really a vote to have this dialogue that Chairwoman Sutherland talked about. I know you were jumping up and down at the lively exchange over the first part of this meeting when we presented these reports to you. As the Chair said, this is an opportunity to explore some of these issues further, and I think that a dialogue about this, and debate about this, will demonstrate more than even reports, as solid as they are, that, in fact, the Board is going in the right direction. And I look forward to receiving any more information. I haven't made a final decision

on how I would then vote on April 20th. So, I welcome any and all

information. It's been an issue I've been concerned about, the reactive hazards, for a very long time, dating back to incidents in New Jersey in 1995, and it predates, actually, the creation of the CSB.

So, I hope you all look at this issue, look at the information on the website. There will be a calendaring statement by me on the website forthcoming, and I encourage everyone to participate in that, dialogue with us on this issue.

VANESSA ALLEN SUTHERLAND: For those who aren't familiar with our regs, I would encourage you to peruse them. Don't do that actually. Let me just summarize it for you. Each of the items that are calendared as part of a vote are required to be considered and voted at the next public meeting. So, we will, in fact. . . it's not just a debate or discussion. We will, in fact, vote on that recommendation because we are required to by law. We can calendar it, but as of April 20th, after we have had adequate discussion, pros, cons, probing, analysis, there will be a vote of that particular notation item to close that. We have to pass this recommendation out one way or another. So, I do want to make sure that when you see our agenda, when we post it in the Federal Register, always has an item of consideration and vote on any notation items calendared since the last meeting; that's a standard

Item, so then the event would have a calendared meeting. People will know, coming to our public meeting, whether or not we're going to be voting on an item. So that is what we will be doing on the 20th. Any additional comments or questions on that?

I want to thank the staff in advance for presenting these things to the Board. The fact that we want to have an open and engaging discussion about a particular topic is in no way a commentary on a lot of the thoughtful work that goes into prepping us to do that, but certainly we can approach these issues from a variety of different perspectives. So, their work is fantastic, and I think we are really just hoping to have a more broad, robust conversation about that particular topic.

Jeff, did you have your hand up?

JEFF JOHNSON: Yes, Jeff Johnson, *Chemical & Engineering News*. On the land use study, how much money have you... It could be an enormous study. Are you planning to go. . . It seems to me practically every plant that I see has, depending on how it's defined, has an issue with its location, in terms of the community. Are you going to go out to communities and try to do it that way? Or are you going to something more general? And how much money did you set aside for this kind of a study?

VANESSA ALLEN SUTHERLAND: All great questions. We don't really have a dollar figure yet. The contract hasn't been awarded. That still needs to be [inaudible] the procurement process and we would get solicitations back, the bids. So the range could be anything. It's really what people believe, based on our scope, is going to be the appropriate contract value. It's probably going to end up being more of a fixed amount, rather than trying to do this on an hourly basis and tracking, so it will probably be a number that, when we get that number, that will cover the 18-24 that Member Kulinowski described. There are people who have done these studies that would probably have a reasonable range of what we think would be too low. If they said they would do it for \$2,000, probably not going to be very robust. But if they said it was \$750,000, we're not using them either. So I think we'll figure out when we get the...

UNIDENTIFIED: Somewhere between there.

VANESSA ALLEN SUTHERLAND: But I think when we get their proposals and understand the number of people, the level of seniority, we refine the scope, and people have given us feedback to some of the questions that Member Kulinowski posed, we'll be able to whittle it down. But we're not doing. . . We aren't going

to be going out to every community, Jeff, to your point, and
doing the

survey and looking at how close buildings are. I think we're going to be looking at this from a more regulatory perspective. What is the state of building and siting today? What are some of the best practices people should think about as you are building a school closer and closer and closer to the fence line and the facility? We may expand that scope. But I don't think it's. . . We're not trying to be everything to everyone. So it's not going to be: "where are all the facilities in the country that have a potential exposure and here's a catalog and then an analysis of that," as well as, "if you're building a new facility, here's everything under the sun." I think that's kind of the rub. We want a study that's going to be tailored to what we found in our 13 investigations, which is predominantly an encroachment issue. Somebody would start out in the middle of a nowhere field and soon have 500 people who could potentially be really, really severely injured or killed because, over 50 years or 60 years, they moved right up to the fence line and don't fully understand what a fire or a catastrophic event might do to the community. Kristen?

MEMBER KULINOWSKI: There are also issues of availability of data. Whoever tackles this challenge is going to have to understand how to get the information about the facilities

themselves, their locations, their inventories. Some of that is

publicly available, but nonetheless difficult to actually access, [and] may require going to reading rooms. So we're probably going to leave it up to the contractor to figure out exactly how to address those issues, which is why we'll be looking very closely at the proposals that we get back inside.

VANESSA ALLEN SUTHERLAND: Did you want to say something?

[CROSS-TALK]

MEMBER: But we're doing both, right? We're looking at, not just encroachment [issues], but doing expansion of communities into zones of risk, call it that. It's my experience, also, that you have people learning about risks for the first time in densely populated communities where the community may have predated the facility, and so you have that scenario and situations where the facility changed something, and who knows. . . There's a debate about who was there first. So I'm hopeful that we can consider the range of situations that develop. And we might get some. . .

Perhaps we can get some age information on when some of the facilities developed and really look at some very specific data.

MEMBER KULINOWSKI: I'm also interested in the demographics of the population around these facilities, to see if there are any disparities in the siting of these facilities with respect to

certain populations of the United States. So there's a lot of

really interesting questions here and I'm very excited about it actually.

MEMBER ENGLER?: A lot of these issues were brought up through the West investigation. I've heard people say to me, well, how could you build a school 200 feet from a facility that handles 100,000 tons, or 80,000 tons, of ammonium nitrate. It didn't happen that way. And what I'd encourage you all to do, is to look at the video that's on the website now from West. It's particularly well done and it's out there. It covers all of these issues, but one of the things that the team found out when they did the investigation was, not only was siting an issue, but hazard and risk were not clearly understood. Training was not sufficient. And it didn't just happen that everything grew up around the school. The school and all of the buildings grew up around the fertilizer industry, which kept the community going. So there's a lot of sociological issues that got into this as well.

VANESSA ALLEN SUTHERLAND: True So for anyone that's interested, you can see why we would solicit feedback on the scope [Laughter] and the concentric circles of environmental justice questions. It could go out, which would change my range, Jeff, on the \$2,000 to \$750,000. [Laughter] Only in the upper category. So,

in any event, as we start to get information back on the

proposals, I suspect by our April business meeting, we will probably have a better idea about the scope and the range of this particular study.

MEMBER EHRLICH: I asked a guest today, a colleague of mine for many years, who happens to be the WMD Fire Chief for the City of New York—that's Bob Ingram in the back. I would suspect that in New York you've never had any of these issues with crowding and [Laughter]. Anything you could provide us with, or help us with, Bob, that would be great.

BOB INGRAM: Just as a point, we have a very strong fire prevention bureau, and we do not have a lot of these large-scale facilities in the city because of the population density. Most of them are outside in the surrounding counties and across the river in New Jersey. So, we've been very fortunate.

UNIDENTIFIED: Send them all to New Jersey.

UNIDENTIFIED: I'll just point out that the prevailing wind, you probably know this, from Jersey City, New Jersey, and the home of a major facility that has just lowered its off-site consequence estimate from 12 million to something like 8 million people, the wind blows from the west, so. . . Going to talk to you about that.

UNIDENTIFIED: Two or three times a year we get the flavor fragrances coming over from some of the factories over there and we'll get 10,000 911 calls.

UNIDENTIFIED: This a plant that uses large quantities of bulk chlorine so it's a little bit more than an odor issue.

UNIDENTIFIED: They have cut back on a lot of that. It's just-in-time production from what I've seen.

UNIDENTIFIED: We're talking about the same place. I'm happy to talk to you after this meeting.

VANESSA ALLEN SUTHERLAND: Robin, did you have your hand up?

ROBIN BROOKS: Yeah, on a different topic. Robin Brooks, The [inaudible] Institute. So, you mentioned both investigation reports and case studies. What's the internal process you go through, in terms of making something a case study versus a full investigation report?

VANESSA ALLEN SUTHERLAND: What a fabulous question. I would say that they're defined very discretely. The full investigation report, and I know Johnnie's going to hate me if I tap him on the shoulder in a second, but, we break them down into certain categories. So, for example, they range from the investigation report down to a safety bulletin. The safety bulletin is going to discuss one discrete area. There may be recommendations, but it's

really limited to a specific type of hazard or a specific issue. And so that's why we have, for example, the last safety bulletin on the Rainbow Experiment. And they go up from there to case study. . . . Actually, the safety alert and then the safety bulletin, then you can have a case study, then you can have a hazards investigation, and then what we call a full investigation report, which is more broad-scale, very wide, many root causes, larger reports, very typical of what I think people think of as a CSB report, like a BP Texas City or Macondo.

But if we go to an event, let's say we have a refinery incident, and we see that there are two issues, and we can address very two concrete, specific issues, that may be a case study. A case study is going to be two or more issues, so we think we can address, make recommendations, hopefully discuss chemical safety progress, get that out. And it may be a mix of site-specific recommendations, as well as more broad or sweeping recommendations. But it's going to be more limited in scope, even though the same root cause analysis and thoroughness-of-evidence question and investigation is the same.

So that's the general range of the, I'll call them products, but the general range of the deliverables that we can have based on our investigations. Did I forget anything Johnnie?

JOHNNIE BANKS: No, very thorough summation of how we do it.

VANESSA ALLEN SUTHERLAND: I'll give you twenty bucks later.

[laughter] Other questions or anyone else on the phone?

OPERATOR: We have a question from John Gufsterson from LEPC.
John, your line is open.

JOHN GUFSTERSON: Yes, I'm John Gufsterson. I'm involved with LEPC. I've had some experience with the land use issues, as well as wondering whether or not, as you consider trying to deal with this issue of what impacts it might have on the communities, that you take a look at the off-site consequence analysis work that should be being done on the hazards analysis planning under the Emergency Planning and Community Right to Know Act. Those communities that are doing that kind of analysis would be able to identify what the off-site impacts were and to mitigate those impacts by a number of things that could be done involving the plant operation itself.

One of the issues you're going to run into as far as land use is concerned is there are very few states in the United States that have a state land use law that ends up requiring that there be an analysis of bringing new facilities in and what effects it may have on the community and, as you probably. . .as it was pointed out in the West study, these are dependent substantially on what the local

zoning may very well be, and I'm sure you've already done, and in your analysis seen that that is not a uniform matter as far as the United States is concerned.

So that's one reason that I think it would be worthwhile considering taking another look at whether or not the hazards analysis requirements that are in the Emergency Planning and Community Right to Know Act are in fact being looked at by local Emergency Planning Committees, and others, to the full extent. Because that is an important factor in determining whether or not people are going to be injured or hurt, and by carrying out the mitigating matters, that could help prevent the releases from going beyond the fence line. Thank you.

VANESSA ALLEN SUTHERLAND: Thank you very much for that. Do you have any follow-up questions?

MEMBER: Just that it was a very good comment because the contrast between the EPCRA data and the off-site consequence data is striking because EPA does not maintain a national database of EPCRA information. Whereas the off-site consequence data, they do. Now, we are prohibited by federal law through amendments to the Clean Air Act, as public officials, from disclosing off-site consequence. . .that off-site consequence information in those precise terms. In fact, I think in fact we probably have less

ability to

disclose it than we did if we were private citizens where the information is accessible in federal reading rooms. But we do have a database provided by the EPA of all of the off-site consequence information. So analyzing that data, incorporating it without site-specific identification into a report, it still could be, perhaps, correlated back to names of municipalities. It's a rich source of data that we do have, and thanks to the construction of the Federal Clean Air Act and the Risk Management Provision is an essential location. So it would be a very useful source of data.

So, thank you very much for that excellent suggestion.

VANESSA ALLEN SUTHERLAND: Are there other questions on the phone?

OPERATOR: Once again, if you have a question, please press *1 on your touchtone phone. We have another question from John Gufsterson from LEPC. Your line is open.

JOHN GUFSTERSON: I think it would be very helpful to take another look at what those requirements are in terms of communicating information about the impact. Because I think one of the key matters is, there shouldn't be information having to do with the quantity and location of the particular chemicals that are involved. However, as far as the communication as to what the off-site impact might be, I believe, I haven't looked at it, but you

folks that are doing this study, I believe that that would not be a violation of what the intent of the law is. People have an opportunity to have. . .should have an opportunity, a right to know what the off-site impact might be on their community. That's part of right to know. The question as to whether or not they actually had the information as to the quantity and the location of the chemicals is another matter. So, I think that, at least, would be worth another step of inquiry. Thank you.

VANESSA ALLEN SUTHERLAND: That's a great point. I would say that after 911, more in the 2003-and-beyond range, there are lots of other constituent groups within the federal government who would want to understand the security and locations, whether that's sensitive security information. And even though we're all part of the same federal family, they don't take too kindly to non-law enforcement, or security-focused agencies, releasing the data to people.

So that was the position quite a bit at DOT, Department of Transportation, when we were working with DHS. We were working with Homeland Security and the FBI on a slew of different disclosures regarding [inaudible] communities in which crude oil trains, particularly from the Bakken region, were going to be traveling through certain neighborhoods. If they were going to be

traveling

through Chicago, and they do, or other areas where there were schools and homes and residences, why couldn't the DOT just tell people when the train was coming, what kind of crude was in it, what level of flammability and flashpoint it had, what was the volume, what time of day would the train be coming, who was the operator? And that wasn't our role, and we had quite the interagency tussle over whose role it is to share that kind of security [information]. They claim it's security information because, if I have a nefarious intent, you let go of that information and I put a charge on the track, that is a catastrophic event.

So, I think it's a really good point. We can certainly look at how we might facilitate or direct people to the right source, but, I think, as the CSB, we don't have the independent authority, just as a federal agency, to say, "this is the information we want to share and are going to share" without the real coordination with our federal brethren.

MEMBER: On this issue in particular, we have a statutory prohibition, unlike. . .that I think is very specific. That's one area that's reminding me, to the Chair, that if the Board could have a briefing to go over the regulatory. . . I forgot the precise name of the statute. It has fuel in it It's

specifically the amendment to the Clean Air Act that establishes these new restrictions, took

off-site consequence information off the . . . out of the RMP and on the website. And I think the first step for us would be to actually have an internal briefing on that. Add that to the list of internal briefings.

But I think it's important for the land use study, in fact. Because this information could be incredibly important. I'm not even getting to the issue of, as the commenter presented about, specificity or quantity, locations, but I think we still, in our work, that's one area which we still need to be all brought up to date and deal with perhaps some of the confusing aspects of the language in that amendment.

UNIDENTIFIED: I'm not that familiar with the website but I'm curious whether the regulatory restrictions are enumerated on it so that the public is aware that the agency can do certain things and is barred from doing certain other things. I think it would help in the future, for your funding and for your authority, for people to be made aware of the prohibition.

MEMBER: Right. The prohibitions, in fact, in my view, are quite narrow. There's a fact sheet on the EPA website on this and, just for the time being, if you're interested in this, go to the EPA website, go to the . . . Mark, do you know the name of

the . . . UNIDENTIFIED: I don't mind drilling it.

MEMBER ENGLER: It's the Federal Regulatory Relief Act. It's something like that. It's one of the few amendments to the Clean Air Act of 1990. It will pop up. That's the guidance that's there. And it's very specific to the issue of off-site consequences. It doesn't [inaudible] of EPCRA, doesn't apply to any of that information. It doesn't apply to toxic release inventory. It doesn't apply to state inventory. A number of states, or at least a handful of states, are still putting the information about the name of the chemical, the inventory range, the location of facilities.

I just used the EPCRA database the other day for a facility in my community and I was very upset, actually, to find that I couldn't easily get on it to realize that the facility didn't use hazardous chemicals so I ended up being reassured about where my son was buying an apartment or moving into or renting an apartment behind a plastics plant. It turns out it was a fabrication plant, etc. Very important database. But the issue that we're raising here, just to be crystal clear, is specifically on the off-site consequence information, which means the name of the facility, the at-risk zone, what that zone is, what a worst-case consequence of a release of a highly-toxic or flammable substance. It's very specific. And I'm just

going on about this because the actual comment reminded me that I think, as a Board, because of our own research and study plans, needs to be fully on top of this issue. That includes myself.

UNIDENTIFIED: So that I understand properly, in the situation where you were studying the potential release of hydrofluoric acid, [inaudible] if the vessel had ruptured, when you write that up, there would be no mention that, if there's a close-by, highly-populated community you could have sort of a mini [inaudible] incident? It could easily be possible with hydrofluoric acid.

MEMBER: If you look at our report on. . .That's [inaudible] what we actually said in the interim material that's on our website for Exxon Mobil. I don't think in any way we're holding back that information. Certainly members of the community found the information on their own through going to a federal meeting.

UNIDENTIFIED: Just to clarify one quick second. The Board is discussing a very narrow subset of data that EPA collects, and this requires reporting to EPA that they cannot specifically publicize. It is available to you as a Member. We can certainly talk about off-site consequences that we, as an agency, investigate on our own. We can do that as we have in the past.

MEMBER: Thank you.

VANESSA ALLEN SUTHERLAND: Other questions on the phone or in the room?

OPERATOR: We have a question from Mark Gyger from the Naval Safety Center.

MARK GYGER: Yes, Ma'am. This is Mark Gyger. I recall the report of the West facility indicated that the facilities were insured for about \$100,000. If that is true, what does that suggest about the insurance companies involved and the standard of practice?

VANESSA ALLEN SUTHERLAND: I think it was \$1 million.

MEMBER: It was \$1 million.

VANESSA ALLEN SUTHERLAND: It's \$1 million, although still low, and lower than it would be to insure a carnival ride in Texas. One of those things you'll see in the recommendations is actually related to the insurance companies. It was actually a finding of ours that they. . .The West facility had been dropped by one insurance carrier, and a subsequent carrier did not do an appropriate analysis of the facility and the risk inherent in how they were storing, the position and quality of materials at the facility, how it was built, when it was built up. So we actually made a recommendation that addresses your point, which is insurance-related. Not necessarily a recommendation that people

set certain

thresholds for insurance amounts, but that the analysis, the loss control survey, the review for underwriting, be a more robust process because some insurer may have caught the fact that this facility, if there had been a fire or an explosion, was very likely not to withstand any of the heat or consequences of an ammonium nitrate detonation.

So, very good question, very good point, and I think that's one of the things that, if it comes up again in subsequent investigations, we will take a look at. Because everybody shares in the responsibility of trying to keep these facilities safe. And if an insurance underwriter said, "No, we're not insuring you until you put up such-and-such type of wall, or make this out of concrete, or take these wooden bins away," who knows how that might have lessened the impact of West?

MARK GYGER: Thank you.

OPERATOR: Our next question comes from Ken Ward from Charleston Gazette Mail.

KEN WARD: Yes, thanks for taking my question. I wanted to circle back to the issue that was being discussed about off-site consequences and limitations on what information can be made public, and particularly that notion that was mentioned about tussles with

other agencies. I wanted to direct this question in particular to the Chairperson.

There was a CSB investigation several years ago here in West Virginia of a Bayer CropScience facility where there had been an explosion and fatalities with large off-site consequences. And during the course of the CSB investigation, the company, Bayer, sought to prohibit the CSB from obtaining, and then providing to the public, a large variety of information about the kinds of chemicals stored and what sorts of off-site consequences analysis had been done, and the potential for the incident that actually happened causing even greater off-site consequences.

In that situation, the members of the Board and the Chair and the staff that were then in place took a very strong stance against Bayer's use of some rather obscure Coast Guard regulations that they were citing just because the facility happened to be on the river and the CSB testified about the potential consequences of this facility at a congressional hearing and held a public meeting where these potential off-site consequences were discussed and then later provided, in response to a public records request, those specific off-site consequences analysis of the sort of incident that could have occurred there. And that work by the CSB led the company to take a variety of steps, including greatly reducing and

eventually eliminating their inventory of the same chemical that caused all of the deaths in [inaudible].

So I'm wondering, given this discussion of tussling with other agencies over what should and shouldn't be made public, I'm wondering if you would have handled that particular matter differently in the tussle with the Coast Guard and Bayer.

VANESSA ALLEN SUTHERLAND: It's hard to put myself back in West Virginia ten years ago to determine how I might have handled it differently. I will say that regardless of the fact pattern of Bayer, and, as a matter of fact, we happened to just talk about that earlier this week, ironically, I don't consider that a tussle. The fact pattern that you described is much more analogous to how we're dealing with Exxon Mobil, and, yes, we did have to deal with the whole Maritime Act issues and Coast Guard. But, I don't consider that us discussing our own investigation (near-miss issues, risk to the community as part of our investigation) necessarily a tussle.

I also don't necessarily. . .I don't really think that "tussle" is a negative. I think being mindful of where we may have [a statutory] prohibition and making sure that we are compliant with our requirements and our [regulations], making sure that we are giving the public and others information that we have, and sharing

that, because we are an independent, non-regulatory agency, and

making sure that we don't jeopardize our ongoing investigation by releasing things prematurely, is an art. And so, it's hard for me to say how I would have, or wouldn't have, dealt with there.

I think, if we had a recalcitrant operator and a federal agency with whom we had a respectful difference of opinion over jurisdiction, we would sit down and talk to them about that, as we do right now on ongoing matters, and hopefully would still have been able to come out in the same way, which was to be very vocal about the safety issues we were seeing, to potentially testify, to have the Board, who is not doing the investigation, advocate in the best way that it could.

So, I don't necessarily see we're ever going to live in a world where the federal government doesn't have conflicting or overlapping regulations or statutes. I think it's about how we end up navigating that in a way that we can continue to propel the safety messages that we think are important. To prevent these kinds of accidents is important. I don't think it's necessarily just because a federal agency says, "Hey, CSB, stand down," that we don't continue to advance our own mission where we see that that's important.

So I don't know if I answered that question, Ken, but...

KEN WARD: Can I ask a follow-up just briefly?

VANESSA ALLEN SUTHERLAND: Sure, sure.

KEN WARD: First, I certainly didn't mean the word tussle to be a derogatory or negative. A tussle or a vigorous debate can be certainly a very important thing. But I guess the nature of my question really goes to your thoughts on the notion that in some instances, and this is what the Board. . .where the Board came down in the Bayer situation ultimately, I'm wondering your thoughts on the notion that some folks, who perhaps have operations that post off-site consequences threats might, under the veil of some concern about terrorism, try to hide information that the public really needs and might want to have.

I know that I've lived here for 25 years and we haven't had a terrorist attack on a chemical plant yet, but we have had quite a lot of explosions and leaks. So, I'm wondering if you have any thoughts on whether or not those sorts of secrecy provisions can often be co-opted by people who just really would rather their dirty laundry not be aired.

VANESSA ALLEN SUTHERLAND: Oh, well, sure. And I think jurisdictional questions from operators who are under investigations are used to have us doing finger-pointing, you can't see me necessarily, yes, I think that it is possible that those who don't want information out will use the veil of confidential

business information, confidentiality, trade secrets, security.

There are a whole host of things that may be used as an effort, a veil to advance some other agenda. I think the Board continues to say that we are not in the business of punishing, bring violations, citing people for non-compliance, and to the extent we are there to help, to get root cause analysis, and will keep the information protected while we're doing that and present it in an objective way, and we're entitled to it.

I think we've seen that with Exxon Mobil in Torrance, that they put forth a lot of arguments, jurisdictional questions, near miss, not near miss. There are lots of different things that may arise as arguments, and my perspective is, you take each case as it is, and, because we are an independent, non-regulatory agency, I think we enjoy the . . . should enjoy the benefit of getting a lot of information in order to do a thorough, comprehensive investigation. And, where other agencies don't want us to have that information, we need to engage with them and have a reasonable dialogue about why that is, and help them understand our role, and our ability to try to carry out our own mission.

So, I don't know if the other Board Members... . That's my two cents. I'm sure you guys have your own thoughts. But I think we're entitled to a lot.

MEMBER: I would only add that, as we say many times, we're a small agency, and OSHA is small and EPA is small. We're much smaller, obviously, than either of those two agencies. Ultimately, chemical hazards are only going to be prevented if the public, and when I say the public, I mean the broad definition of that, from workers on the front lines in facilities, to [inaudible] communities and firefighters, to EMTs, to public health officials, to those on local emergency planning committees, etc., etc., etc., have basic information about what chemicals are used and stored in their communities and what those impacts are. And it's my belief that EPCRA established a broad national framework, as well as the Clean Air Act amendment, and that, for us to accomplish our mission as an agency, we need to lean strongly in the direction of: the public has a right to know about the chemicals used.

Does that mean there are situations where, as a practical matter, the location of specific chemicals within a particular facility, that while workers and firefighters and others might need to know to do their job, that kind of information might or might not be as essential for people in the community? I think there are distinctions to be made there. But I think, for the CSB to accomplish its mission, it can only be done with broadly defined public stakeholder groups. And therefore, our role in encouraging

information dissemination, encouraging better collection of information by federal agencies and improving right-to-know programs. For example, EPA has an enormous opportunity, following the executive order, to create a centralized database of chemical information instead of leaving it to the randomized system that we now have. I think those kinds of initiatives are incredibly important.

In an era of declining government resources, we can't look to others to do all this work, and people have to become more engaged in this process. And the first step in that is ensuring the right to know.

VANESSA ALLEN SUTHERLAND: Can I add to that? I think for the Board Members, we have the ability to do the kind of outreach and advocacy to spur that kind of conversation. But we don't necessarily have to be the central data repository for all data for all stakeholders at all times. And, I think, to the extent we can facilitate this, is "where you can go, citizens," it doesn't necessarily mean that we, the CSB, have to collect it and release it. If it's available, and we can direct people, and we can facilitate the conversation, I think it goes a long way in connecting the dots and helping those who have a shared responsibility talk to each other, rather than the CSB becoming the

sole, one arbiter for all information, for all incidents at all times for all stakeholders, because we will fail. We can't do that. And I think if you weigh in the security concerns, I think if you weigh in the subject matter expertise for some of those factors, we can, the Board and the staff in particular, can facilitate those connections and conversations, and not necessarily step into the shoes of all other agencies to make those decisions, and enter to be the lead on all issues. Do you two have anything to add?

MEMBER: I do not.

VANESSA ALLEN SUTHERLAND: For those who are in the room, it's 2:36. Do we have any additional questions on the phone? Then, I'll make one last call in the room for any final comments.

OPERATOR: I have one last question from John Gufsterson from LEPC.

JOHN GUFSTERSON: Yes, I think this past discussion has been very important because, I think what you're coming to, I hope, is the recognition that, in order to have the public have its rights and open information, it's not necessarily that they should. . .that the public should be the broad "public" but that the governing body of the local area, especially the Local Emergency Planning Committee, should have the information, should be able to

have the information as to what the potential impacts are, so that
that can play into

what is done by many fire marshals and others, that when the expansion of a plant takes place, or a new location is being considered, that part of that planning process at the local level includes the information that is out there as to a potential impact of an off-site consequence. So you can get to the issue of the zoning through something like [what] was just mentioned, by taking, for example, in your recommendations, and had it been done in West, Texas, perhaps the people wouldn't have been killed, but, to make sure that the information was available to the fire department, that, in fact, there was a . . .there were off-site consequences that would affect out to a certain distance, and also, it wouldn't have been possible in Texas, but, also for those states that have zoning laws, that the location of schools would be . . .one of the considerations would be whether or not it's close to a potential facility that would have off-site consequences.

So, there's a way of unraveling this, but it's going to take some work. Thank you.

VANESSA ALLEN SUTHERLAND: Thank you. Final call in the room. Okay. We are going to close the meeting, but, if there are any final comments in the queue, Operator, please let me know. I'm going to close out and leave, but if there's anyone who gets into the final queue, happy to entertain that comment as well.

I want to first thank the staff for helping us consistently put these meetings together. It does take a while to work to give what is only an hour update. There's a lot of preparation that goes into that. But I will say that I want to thank my fellow Board Members for their contributions, as well, today, not just in the presentation, but in sharing thoughts and perspectives. It definitely becomes clear to me that everybody here shares a very strong interest in preventing chemical accidents, but in doing that, trying to figure out best practices and learning from others.

So, I'd like to also thank everybody who's on the phone and in the room who attended today. It's no small task to sit for an hour-and-a-half to hear about the CSB, and we really appreciate your comments, your ongoing support, and engagement. We are, as I mentioned, hosting the next public meeting in April, unless something pops up, and we decide to have one in March. But, in the meantime, our website, www.csb.gov, will have additional details, not just about the meeting, but about all the topics that we discussed today, investigation updates, recommendation updates, any news that we might have on the study as that continues to unfold, and then, of course, transcripts, as soon as we can get the meeting from today transcribed and posted.

So, if there are no final questions in the queue, Operator, I'm about to close and adjourn the meeting.

OPERATOR: We have no further questions.

VANESSA ALLEN SUTHERLAND: Thank you. Thank you for your attendance. And with that, the meeting is adjourned.

OPERATOR: Thank you, ladies and gentlemen. This concludes today's conference. Thank you for participating. You may now disconnect.