

**Statement of CSB Board Member Rick Engler (New Business)**  
**CSB Public Meeting – February 21, 2018**

Thank you Chair Sutherland.

Over our twenty year history, CSB has made advances in transparency, participation, and collaboration, three pillars of “Open Government”.<sup>1</sup> Our website, in addition to posting all CSB investigation reports and recommendations, includes information on all Board Notation (or paper) votes, Board Member voting records, Board Orders and rules that govern our operations, and transcripts of Board public meetings. Our public meetings in the field, which are part of specific CSB investigations, allow family members of victims, facility management, union representatives, technical experts, elected officials, and the public at-large to offer information, raise issues, and explain their viewpoints.

In 2015, CSB’s rules were amended to add a requirement for the Chairperson to place notation item votes that have been calendared to the agenda of a public meeting within 90 days of the calendared notation vote.<sup>2</sup> The rule also adds a requirement for the agency to conduct a minimum of four public business meetings per year in Washington, D.C., in addition to any public meetings held in communities where CSB investigations take place.

We are also issuing more information about our initial findings earlier in the investigative process. More CSB materials are translated into Spanish. Public meetings have provided an opportunity for public comment, generally at the conclusion of the meeting. And we hope, after technology upgrades, to live stream our public meetings.

There is a specific area, however, where CSB transparency and participation can, in my view, be easily improved. A Notation Item is a paper ballot that can be used to record the votes of CSB Board Members on various matters, including investigative report approval and our annual budget.<sup>3</sup> Notation Items are prepared by the staff. Notation Items proposes changes to the status of CSB safety recommendations. If such a Notation Item is calendared, sending the issue to a public meeting for a Board vote, there is no requirement that any document explaining the staff's specific rationale for the proposed change be available to the public *before* Board discussion of that item takes place. Only after a final Board vote is a Recommendations Status Change Summary posted on our website for the public to see.

This transparency gap was illustrated by our October 16, 2017 public Board meeting that focused on the proposed staff status changes to Recommendation 2010-10-I-OS-15 to the U.S. Department of the Interior, which focused on increasing worker participation and ensuring whistle-blower protection for offshore oil and gas workers.<sup>4</sup> It resulted from CSB's investigation of the Deepwater Horizon disaster at the Macondo well in 2010, an incident that killed 11 workers, seriously injured 17 others, and was arguably the largest environmental disaster in U.S. history.

The public present in the meeting room or listening by telephone on October 16 had little information before the discussion. If they had read the Federal Register Sunshine Act notice or a CSB email alert about the meeting, they could go to the CSB website and read the recommendation and learn its *current* status. In this case it was "Open—Awaiting Response or Evaluation/Approval of Response".

Yet they would not be able to learn anything in advance of the Board discussion about what changes were being proposed by CSB staff and the staff's rationale for a status change. This lack of information is a transparency gap which could discourage public participation. Such participation could potentially be expressed through a prepared oral comment at the meeting or, perhaps more useful for Board review, through a written submission to CSB a few days before the meeting.

To address this, I intend to propose, at our next public meeting, that for all calendared Notation Items concerning recommendation status changes, that a modified status change summary be posted on CSB's website no less than ten days before the date of the public meeting when that item is on the agenda. This would allow interested parties, including the recommendation recipient, as well as government agencies, trade associations, unions, environmental groups, professional organizations, technical and policy experts, and the public at-large, opportunity to submit factual information and written viewpoints in advance of Board discussion and voting. Additionally, I plan to propose that such public comments received be posted on our website. This proposal would be through an amendment to Board Order 22 ("CSB Recommendation Program") and possibly to our rules, as well. <sup>5,6</sup>

This proposal would create little new work for the small, three person staff of CSB's Recommendations Department. While they would have to develop a new document for public posting, there would need to be just three small wording changes to the already prepared Recommendations Status Change Summary for it to be made publicly available before a meeting. Specifically, the word "Proposed" would appear on the document's title; the "Date of

Status Change” would say “pending”; and the word “Proposed” would appear on “Section C. Board Analysis and Decision”.

If we did receive written public comments after posting this new document online, according to our Office of General Counsel, we are under no legal obligation to develop agency documents in response. I emphasize that this proposal would **only** apply to proposed Recommendation Status Changes **that have been calendared by a Board Member for discussion at a public meeting, not** all proposed Recommendation Status Changes. Since January 1, 2015 to date, there have been 107 proposed Recommendation Status Changes.<sup>7</sup> Of these, only two have been calendared for substantive reasons.<sup>8</sup> These two status change proposals addressed significant chemical safety issues: reactive chemical hazards and worker participation/whistleblower protection in the offshore oil and gas industry. Both involved recommendations that were of substantial public interest.

Receiving public information or viewpoints would not interfere with the Board’s independence. Assessing quality of chemical safety information and considering diverse public viewpoints is an essential Board Member role. I am confident that CSB Board Members will continue to meet this responsibility.

CSB could benefit from hearing from other stakeholders, not just the recommendation recipients who communicate with CSB as our staff prepares status change proposals to the Board for voting. We have a straight-forward and practical opportunity to hear from the public and consider their information, expertise, and concerns.

In closing, I request that this statement be posted on the CSB website and I look forward to hearing the views of my fellow Board Members on this proposal. Thank you.

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<sup>1</sup> In 2009, President Obama instructed the Office of Management and Budget to issue an “Open Government Directive. According to this Directive: “The three principles of transparency, participation, and collaboration form the cornerstone of an open government. Transparency promotes accountability by providing the public with information about what the Government is doing. Participation allows members of the public to contribute ideas and expertise so that their government can make policies with the benefit of information that is widely dispersed in society. Collaboration improves the effectiveness of Government by encouraging partnerships and cooperation within the Federal Government, across levels of government, and between the Government and private institutions.”

<sup>2</sup> See <http://www.csb.gov/assets/1/7/2015-18318.pdf>

<sup>3</sup> For more information about notation voting, see [http://www.csb.gov/assets/Record/Board\\_Order\\_001-Quorum\\_\\_Voting\\_\\_and\\_Meeting\\_Procedures1.PDF](http://www.csb.gov/assets/Record/Board_Order_001-Quorum__Voting__and_Meeting_Procedures1.PDF)

<sup>4</sup> See transcript at [http://www.csb.gov/assets/1/7/CSB\\_-\\_Business\\_Meeting\\_-\\_10-16-17\\_PDF.pdf](http://www.csb.gov/assets/1/7/CSB_-_Business_Meeting_-_10-16-17_PDF.pdf)

<sup>5</sup> See [http://www.csb.gov/assets/Record/CSB\\_Board\\_Order\\_022\\_FINAL\\_20161.pdf](http://www.csb.gov/assets/Record/CSB_Board_Order_022_FINAL_20161.pdf)

<sup>6</sup> See <http://www.csb.gov/assets/1/7/2015-18318.pdf> and [http://www.csb.gov/assets/Record/CSB\\_Board\\_Order\\_022\\_FINAL\\_20161.pdf](http://www.csb.gov/assets/Record/CSB_Board_Order_022_FINAL_20161.pdf)

<sup>7</sup> Analysis by Board Member Rick Engler based on review of voting records at [http://www.csb.gov/records-details?F\\_Category=3&Type=1](http://www.csb.gov/records-details?F_Category=3&Type=1)

<sup>8</sup> Ibid.