



Chemical Safety and Hazard Investigation Board

Office of General Counsel

Memorandum

To: Board Members

From: Christopher Warner

Cc: Leadership Team

Subject: Board Action Report – Notation Item 846

Date: May 18, 2011

On April 28, 2011, Notation Item 846 was calendared. This item would have resulted in the adoption of the investigation report and recommendations on the DuPont – Belle, West Virginia incidents of January 2010. Comments submitted by Members Wright and Bresland are attached to this memorandum.

Voting Summary – Notation Item 846

Disposition: CALENDARED

Disposition date: April 28, 2011

	Approve	Disapprove	Calendar	Not Participating	Date
R. Moure-Eraso	X				4/27/2011
J. Bresland			X		5/9/2011
M. Griffon				X	
W. Wark				X	
W. Wright			X		4/28/2011

Notation No.: 846
Subject: Adoption of Investigation Report on the DuPont-Belle, WV Incidents

[continued from preceding page]

Therefore, pursuant to its authority under 42 U.S.C. § 7412(r)(6)(C)(i) and (ii), the Board hereby votes to adopt the attached proposed investigation report and recommendations as the Board's Investigation Report and Recommendations on the DuPont – Belle, West Virginia incidents of January 2010.

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

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

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

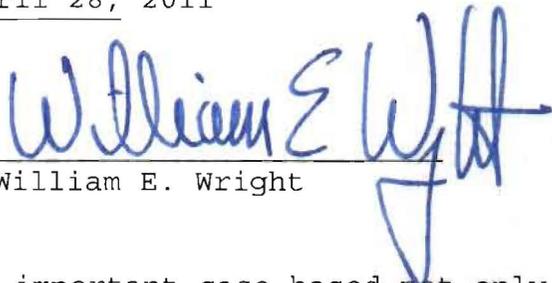
I **DISAPPROVE** this notation item.

A dissent is attached.

I will not file a dissent.

I am **NOT PARTICIPATING**.

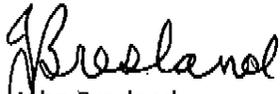
Date: April 28, 2011

Member: 
William E. Wright

This is an important case based not only on the fact that it involved a fatality but also involved a company that was thought to be one of the best with respect to safety within the industry. The number and types of incidents contained in this report demand that we hold a public meeting to release these facts vice using the Chair's preference for a Notation Item vote. If we were to use Chairman Eraso's logic here (staff workload and too many open cases) to require us to make a notation item vote, we will likely never hold anymore public meetings again because the number of open unfinished cases continues to grow (in excess of 20 now) and the staff numbers continue to decline as people are choosing to leave the agency. Accordingly, I calendar this item and request a public hearing of the facts.

John Bresland Comments on vote on Notation Item 846

On Monday, May 9, 2011 I voted to calendar Notation Item 846, Adoption of Investigation Report on the DuPont-Belle, WV Incidents. My reason for this vote is that I believe that there are issues in the report that should be presented at a public meeting so that the company management, employees and the community are fully knowledgeable on the causes of the three incidents that occurred in January, 2010. An approved Notation vote will not necessarily permit a public airing of the issues in the report.



John Bresland

May 9, 2011



U.S. Chemical Safety and Hazard Investigation Board

MEMORANDUM

April 27, 2011

To: Board Members

From: Rafael Moure-Eraso

A handwritten signature in black ink that reads "Rafael Moure-Eraso". The signature is written in a cursive style.

Cc: Leadership Team

Subject: Notation Item 846

Attached for your review and vote is Notation Item 846. This item provides for the adoption of the investigation report and recommendations resulting from the investigation of three incidents that occurred in January 2010 at the DuPont plant in Belle, West Virginia.

Due to current staff workloads and the number of open cases, I believe that it is preferable to consider this investigation report by a notation vote. Provided that the Board approves the report, I would still plan to proceed with a community-based release of the report (and video) in Charleston, West Virginia, where there is significant public interest in the case. Such a release would foster open communication with the affected community, but would require less staff preparation time and be less costly than a full-scale public meeting.

The draft investigation report was subject to internal and external quality control reviews, consistent with the CSB Data Quality Guidelines. The quality assurance process is summarized and documented in the Investigation Product Review Verification and Certification form attached to this memorandum. Inquiries about the quality review process, or requests for additional documentation, should be made to Johnnie Banks.

You may also direct any other questions about this item to Johnnie Banks. Please return your completed vote sheets to Chris Kirkpatrick as soon as possible, but no later than the close of business on May 11, 2011. Thank you for your attention to this item.

Investigation Product Review Verification and Certification

Investigation Product: E.I. DuPont de Nemours & Co., Inc.

Investigation Supervisor: John Vorderbrueggen

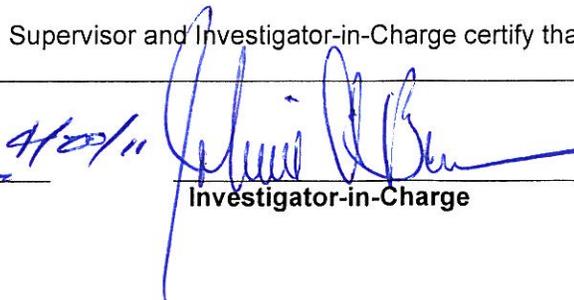
Investigator-in-Charge: Johnnie A. Banks

Review step:	Investigator-in-Charge (Initial / Date)	Investigation Supervisor (Initial / Date)
Reviewed the accuracy and completeness of the case file information to be used in the preparation of the product.	JNB / 8/13/10	JSE 4/20/11
Reviewed the draft investigation product to verify that it is based upon and supported by evidence in the case file.	JNB / 8/13/10	JSE 4/20/11
Considered, and resolved comments received from, the internal staff review process, including reviewers from the Office of Investigations; Office of Recommendations; Office of General Counsel; and Office of Congressional, Public, and Board Affairs. [Attach summary of comment resolution and remaining significant issues.]	JNB 9/23/10 10/6/10	JSE 4/20/11
Held a review meeting to discuss comments from the internal staff review process.	12/21/10 JNB	JSE 4/20/11
Completed Technical Editor review.	12/8/10 JNB	JSE 4/20/11
Provided a copy of the draft product to each Board Member for preliminary review. Resolved or addressed Board Member comments. [Attach summary of comment resolution.]	1/19/11 - 2/3/11 JNB	JSE 4/20/11
Provided a copy of the draft product to the company or companies that are its subject and: <ul style="list-style-type: none"> • <input checked="" type="checkbox"/> Received confirmation that the draft product does not contain trade secrets or confidential business information (CBI); or • <input checked="" type="checkbox"/> Deleted from the draft product information claimed to be trade secret or CBI. [Attach summary of claims and deleted information]; or • <input checked="" type="checkbox"/> Determined in writing that information claimed to be trade secret or CBI is not actually confidential. [Attach written determination.] 	JNB 4/5/11	JSE 4/20/11
Provided a copy of the draft product to the company or companies that are its subject for comments on factual and technical accuracy. Resolved all factual and technical accuracy issues raised. [Attach summary of comment resolution.]	ACC 3/22/11 OSHA 3/30/11 CGA 3/29/11	JSE 4/20/11
Provided a copy of the draft product to other external parties (as specified in the Data Quality Guidelines and Investigation Protocol) for comments on factual and technical accuracy. Resolved all factual and technical accuracy issues raised. [Attach summary of comment resolution.]	REVIEW & COMMENTS FROM DENNIS HENDERSHOT 2/28/11 - 3/19/11	JSE 4/20/11
Held recommendation recipient meetings (if applicable).	ACC-3/22/11 CGA 3/29/11 DUPONT 3/19/11 OSHA 3/30/11	JSE 4/20/11

Certification:

The undersigned Investigation Supervisor and Investigator-in-Charge certify that the review steps listed above have been fully and satisfactorily completed.


Investigation Supervisor


Investigator-in-Charge

4/20/11
Date

**U.S. Chemical Safety and
Hazard Investigation Board**



Hon. Rafael Moure-Eraso
Chairperson

Hon. John S. Bresland
Board Member

Hon. Mark Griffon
Board Member

Hon. William B. Wark
Board Member

Hon. William E. Wright
Board Member

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

Notation No.: 846

Voting Period: April 27 – May 11, 2011

Subject: Adoption of Investigation Report on the DuPont-Belle, WV Incidents

Whereas,

1. The Board is authorized by 42 U.S.C. § 7412(r)(6)(C)(i) to “investigate . . . and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury or substantial property damages;”
2. The Board is further authorized by 42 U.S.C. § 7412(r)(6)(C)(ii) to “issue periodic reports to the Congress, Federal, State and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of accidental releases and proposing corrective steps to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible;” and
3. CSB staff have prepared the attached proposed investigation report, including recommendations, based upon their investigation of three incidents that occurred in January 2010, at the DuPont plant in Belle, West Virginia.

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Notation No.: 846
Subject: Adoption of Investigation Report on the DuPont-Belle, WV Incidents

[continued from preceding page]

Therefore, pursuant to its authority under 42 U.S.C. § 7412(r)(6)(C)(i) and (ii), the Board hereby votes to adopt the attached proposed investigation report and recommendations as the Board's Investigation Report and Recommendations on the DuPont – Belle, West Virginia incidents of January 2010.

_____ I **APPROVE** this notation item **AS PRESENTED**.

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

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

_____ I **DISAPPROVE** this notation item.

_____ *A dissent is attached.*

_____ *I will not file a dissent.*

_____ I am **NOT PARTICIPATING**.

Date: _____

Member: _____