U.S. CHEMICAL SAFETY BOARD

PUBLIC BUSINESS MEETING

WEDNESDAY, MAY 6, 2015

WASHINGTON, DC

U.S. CHEMICAL SAFETY BOARD MEMBERS PRESENT:

MARK GRIFFON, Member, U.S. Chemical Safety Board
MANNY EHRLICH, JR., Member, U.S. Chemical Safety Board
RICK ENGLER, Member, U.S. Chemical Safety Board

STAFF PRESENT:

RICHARD C. LOEB, General Counsel

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(Time not provided)

MEMBER GRIFFON: Good morning, everybody. My name is Mark Griffon and I'm a board member presiding over this public meeting. I'd like to also introduce my colleagues on the Board. Member Rick Engler is to my right.

MR. ENGLER: Good morning.

MEMBER GRIFFON: Member Manny Ehrlich to my left.

MEMBER EHRLICH: Morning.

MEMBER GRIFFON: We three constitute the Board. Having established a quorum of the three board members, this public business meeting will now (inaudible).

Mr. Richard Loeb, the Board's General Counsel will serve as the parliamentarian for this meeting. And Richard Loeb's right here.

Okay. Before we get started I just want to take care of a few of the housekeeping items. First, if we have an emergency, we're going to exit through the door where you came in,
down the stairs. And our point of gathering is
actually sort of behind me on 22nd and
Pennsylvania. So out the front door and to 22nd
and Pennsylvania. We'd gather on the corner. I
don't think that will happen, but just in case.

A couple other important points. The
restrooms [are] also just out these doors and I
think to either side on the hallway. And we will
let you back in. I think someone's out there to
make sure you can get back in.

Finally, there's a sign-up sheet out
(inaudible) maybe a lot of you saw it, for
attendance and also for public comment. So if
you want to make a public comment today, if you
could please sign up. That way we'll have an
idea of how many commenters we have at the end of
the meeting.

Also, for those online, or for those
on the phone lines, it's a listen-only phone
line, so if you have public comments to make,
we'd ask that you send them in via email to
comments@csb.gov and we will make them part of
the final transcript. So we'll incorporate those
into the record.

   Okay. So now I'd just like to start
the business part of the meeting. And I think in
the hallway there was an agenda provided, and
I'll just quickly go through the items on the
agenda. We're going to have opening statements
by myself and Members Ehrlich and Engler. We
have proposed amendments to 40 CFR 1600. We have
proposed CSB public business meetings scheduled
for 2015 to 2016. We have a notation item 2015-
07 related to the Board governance that we're
going to take on the table today for
consideration. We have status reports on the
development of an overall investigation plan and
a process for updating the CSB's investigative
protocol. And last, consideration of a CSB
Action Plan. And then, finally, public comment
and a short closing remark that I'll make.

   So with that, I just want to make a
short opening remark. As many may know, my two
colleagues on the Board recently voted to
delegate interim administrative and executive
authorities to me in the absence of a
chairperson. I am honored that my two colleagues
delegated these authorities to me and pledge to
work with them to set the stage for the next
chairperson and board.

I believe this is a very important
meeting and hope that it sets the stage for
greater openness and transparency of the CSB.

There are two primary items on the
agenda today: One involves the governance of the
Agency and the second involves some proposed
amendments to our operating regulations, 40 CFR
1600. One primary purpose of this meeting is to
reset the board orders on governance --- so those
in place prior to the motion that was passed in
the January 28th meeting held in Richmond,
California. The events of this meeting are
pretty well documented and I don't need to repeat
them all here, however, I do want to stress that
the result of that meeting was a new board order
on governance which eliminated 18 board orders
and consolidated the power in the chairperson.

The motion that I will propose today

intends simply to reinstate the governance

orders. It does not propose any changes to those

orders. It should be noted that many of the

orders related to governance have stood the test

of time, many being in place over a decade.

I strongly believe that while the

chairperson is the chief executive of the board

and shall exercise the executive and

administrative authorities or functions of the

Board, this must be done with the oversight of

the Board as a whole. These checks and balances

are the essential elements of the governance of

the Agency. The call for these checks and

balances was stressed in a letter from Senator

Frank Lautenberg in 1999 when he said that the

chairperson must perform the executive functions,

quote, "under the direction and approval of the

Board as a whole."

The other primary item involves

proposed amendments to our operating regulation,
40 CFR 1600. The two amendments are straightforward. One is to assure when a board member votes to calendar an item to discuss that item in a public meeting, that the item must be brought to a public meeting for discussion. Sounds fundamental, but I think we have to clarify it. Secondly, it is to require at a minimum that the Board have quarterly business meetings, like this meeting that we're in today.

Both elements are intended to improve openness and transparency of the work of the Board. Although these types of changes to our regulations don't require a public comment period, if the motion passes, the proposed rule would be available in the Federal Register for a 30-day public comment period.

In conclusion, I want to stress that process does affect product, and I believe that if we stabilize our governance and management procedures, it will be a very positive effect on the efficiency and effectiveness of the Agency. And I look forward to working in my last few
months here at the Agency with my colleagues on
the Board to do just that. Thank you very much
for attending this meeting. And with that, I'll
turn it over to -- I can't read that name, but --
I wasn't going to do that, but let me turn it
over to you for opening remarks and then I'll --
we can deal with that, yes.

MEMBER EHRLICH: Good morning. I have
met a number of you before and I'm glad you're
able to attend this meeting today. I'm going to
tell you a little bit about me, some of which
you've probably heard before, some of which may
be new.

First of all, I've been in the
chemical industry for 50 years, which is quite a
feat for a guy that's 44.

(Laughter)

MEMBER EHRLICH: So I told NACD last
week when I met with them that [when] I started
this job -- I was 6'2" and before my five
appearances before Congressional hearings. You
see what you got left. Okay?
Anyhow, most of my experience, all of
my experience for the most part, is in the
industrial sector. In the chemical world I work
for companies like International Specialty
Products, BASF. I ran the Emergency Response
Training Center in Colorado. I worked for a
company in Pittsburgh by the name of Pitt Penn
Corporation. My areas of expertise; and I'm
always careful about using that word "expert,"
include manufacturing safety and health,
emergency response, human resources. I spent a
number of years in human resources. And I spent
a lot of time negotiating labor contracts for
International Specialty Products.

I have some goals here at the Agency.
As you know, we're tenured on a five-year basis,
which in reality is not a terribly long time to
get things accomplished. But first and foremost
my goal is to foster the mission and move the
mission of the Agency forward and support our
staff.

We have a wonderful staff here. We
have wonderful people. They do a hell of a job.
I'm sure you've read the reports and seen the
videos, and I don't know how you can not think
that it's just absolutely incredible. I told one
of the groups I talked to recently that I kind of
refer to them as "kids." They're all in their
20s and 30s and I think I can take the right to
do that since I'll be 73 in a couple months. But
they're a wonderful group of people. Very
talented, very knowledgeable.

And for those of you who are here from
our staff, why don't you at least raise your
hands and identify yourself, if you would,
please?

I don't hear anything.

MS. COHEN: Hillary Cohen,
Communications.

MS. WENZEL: I'm Kara Wenzel,
Assistant General Counsel.

MS. ROBINSON: Bea Robinson, the
Financial Director.

MS. TYLER: Lucy Tyler (phonetic),
Investigator

MS. ANENBERG: Susan Anenberg, Deputy Managing Director for Recommendations.

MR. HOROWITZ: Daniel Horowitz (phonetic), Managing Director.

MS. BOUZIANE: Michele Bouziane, Assistant General Counsel.

MS. TINNEY: Veronica Tinney, Recommendations.

MR. KASZNIAK: Mark Kaszniak, Recommendations.

MEMBER EHRlich: Great. Some people to get to know. They do a great job. My support of staff comes in areas obviously where I have some background and some expertise. Emergency response happens to be one of them. It's a very important issue to me. And I've spent probably 20 of the 25 last years dealing with emergency response issues, not totally unrelated to what the Board does.

I have a lot of experience in organizational development and human resources,
and I'm glad to see you're here from the ACC, because I've been working with them for 25 years, right?

I have an objective to try to bring more business emphasis to the Agency. I think [of] the board [of] directors; and I don't know that we have consensus on this, so I'll just throw it out as my thought, I mean, we need job descriptions. We need goals and objectives. We need to be held accountable. Okay? And we need to be here to support our staff as opposed to having our staff support us. They're stuck with us, as I told the people in the meeting yesterday. We get here. We're here for five years. They have no say on who comes through the door, or for that matter, pretty much who leaves, but I think we need to realize that the staff is what gets the work done here. Okay?

So, public outreach is very important to me. I'm going to continue to do that. And again, I thank you all for coming and hope that this meeting is profitable for you as well as for
What I suggested to Mark was --

MEMBER GRIFFON: I figured it would be difficult to introduce everybody because we got a lot of people on the phone lines, so I don't want to do that.

MEMBER EHRLICH: Okay. All right.

MEMBER GRIFFON: All right. Thanks, Mr. Ehrlich. Mr. Engler?

MR. ENGLER: Thank you, and thank you all for coming today to this important meeting. We really appreciate the engagement and involvement of you individually, but also of the key constituencies of the Board including industry, labor, community, environment, technical and professional associations, universities and others. I don't think that we can operate effectively without your engagement. And I mean that as a general approach to board governance moving forward. A small agency like ours with less than roughly 40 people simply can't operate unless it has an effective
participation and engagement by all of our key constituencies, so that your role is quite vital in what we do, whether it's the current composition of the Board or the future composition of the Board.

I have devoted much of my adult life to principles involving the right to know about chemicals in the work place and in the community, to assure that people have information about what they may be exposed to and what steps they can take to protect themselves, and also to ensuring that there is participation by all parties at the table, meaning that in various parts of society there's often power in balance. And in the CSB we have an opportunity to ensure that everyone has a voice and that their voice is heard, not to the detriment, but to the reinforcement of sound scientific principles and the issuance of our reports and recommendations and how we proceed as an agency.

And so, I am deeply committed to public participation. I have been throughout my
career. I hope to continue that in my (inaudible) and thank you for your engagement again today.

MEMBER GRIFFON: Thank you, Mr. Engler.

Okay. So the agenda that we passed out, I'm going to take things a little out of order, but bear with me. I'll introduce them carefully.

So Item 3 on the agenda we're actually going to take up first. And I just want to give a bit of background on this, because I'm not sure everyone's familiar with our terminology and everything.

So Notation Item 2015-07 does relate to the board order, board governance, but the notation item, as we did a notation vote internally, was to rescind the entire motion of the January 28th (inaudible), which included a new board order on governance, which was Board Order 2015-01, which also canceled the 18 board orders that I talked about. It also included a
new board order on recommendations and a part of
a board order on scoping. It's part of our Board
Order 40 on investigative protocol, a chapter of
it called "Scoping." And it also canceled three
[investigations, the Horsehead,] Silver Eagle and
CITGO investigations. So that notation vote
internally was calendared and calendaring -- now
we're bringing it to the table in our public
meeting. So just to give that clarification.

Now I'd like to put forward a motion.

Now that the items on the table, I would like to
make a vote to reinstate the governance actions
that were rescinded in the motion made at the
January 28th, 2015 meeting. Therefore, I move to
reinstate all board orders that were rescinded by
the January 28th, 2015 motion and to rescind
Board Order 2015-01 while acknowledging that
Board Order 2015-01 and its contents were in
effect from January 28th, 2015 to today, May 6th.

PARTICIPANT: Second.

MEMBER GRIFFON: And I have a second
for the motion, so the motion goes to the floor
for discussion. Is there any discussion of the motion?

PARTICIPANT: Yes, I have a question. Aren't you making the exception for the three incidents that we discussed about? Aren't they excluded from this motion?

MEMBER GRIFFON: I'm sorry. The second -- I missed my final part of the motion. Sorry about that. The following items that were revised on January 28th, 2015 are not rescinded by this action. That's Board Order 22, the scoping protocol, and the administrative closure of the Horsehead investigation. So we're not rescinding those pieces either. And I would assume your second still stands?

PARTICIPANT: Yes, certainly.

MEMBER GRIFFON: Okay. So, sorry. Sorry about that. Needed to clarify that.

So just to summarize, because these are complicated ways of maneuvering through this. But essentially what this motion would do is to reset to the board orders that were in place
prior to the January 28th meeting, reinstate the
18 board orders that were canceled in that new
Board Order 2015-01, cancelling Board Order 2015-
01. What it would not do is -- I have accepted
that the proposed Board Order 22 at that meeting
in California was okay with me. I've also
accepted the scoping protocol as presented in
that meeting. So we're not asking to reopen
those. Finally, it's not asking to reopen the
Horsehead investigation. That would have
remained administratively closed.

And subsequent to the meeting, the
January 28th meeting, myself and I think the rest
of the board members got additional information
about Horsehead. I talked to several staff about
that case, and it is apparent that there was a
lot of agreement amongst the senior investigative
staff that the consulting product that was
produced is probably the best we're going to [do]
right now with that case because of several
reasons, including the investigators that worked
on it are no longer here. Evidence is cold, I
guess we could say. And so, I think that -- at 
least my motion is to propose to keep that 
administratively closed. But it was worth 
looking through more analysis that was done by 
the teams as they looked at the evidence file to 
support that administrative closure. 

So, any other comments about the 
motion?

MEMBER EHRLICH: Yes, I wanted to talk 
to Richard (inaudible).

MEMBER GRIFFON: Well, you'd have 
to --

MEMBER EHRLICH: (Inaudible) pose a 
question.

MEMBER GRIFFON: Yes.

MEMBER EHRLICH: When I discuss how 
and why I go for a certain issue a certain way, 
does that come now in the discussion or does it 
come afterwards?

MR. LOEB: You can -- so you can it in 
both ways. You can say -- state your position 
now.
MEMBER EHRLICH: Okay. I wanted to state my position on 2015-01. Unfortunately, a lot of people saw that board order as an attempt to get the chair tremendous power. It was never intended to do that, and in fact it did not do that. And I believe strongly in what was done at that time, so my vote will reflect that accordingly -- will accordingly reflect that.

MEMBER GRIFFON: Okay. Thank you.

Mr. Engler, any comments on the motion?

MR. ENGLER: I support the motion in full. I have a different interpretation of what happened that day. Among them (inaudible) was fully and completely violated, that the other elements of the motion, including the practical ones at this point on the safety study, on the Horsehead study, et cetera, are now appropriate and I'm prepared to vote in favor.

MEMBER GRIFFON: Okay. So if there's no further discussion, I'll call it to a vote and --

MR. LOEB: Call the question?
MEMBER GRIFFON: Call the question.

MR. LOEB: And the question is on the calendaring of Notation Item 2015-07 relating to Board governance, issuance of two board orders and scoping investigations as stated by the presiding member, and the administrative closure of three investigations: CITGO -- I'm sorry.

MEMBER GRIFFON: That's separate.

MR. LOEB: Right. Okay. We'll hold that separately.

MEMBER GRIFFON: Yes.

MR. LOEB: And the -- well, let's just leave it at that and I'll take call of the vote.

MEMBER GRIFFON: Okay.

MR. LOEB: Mr. Engler?

MR. ENGLER: Yes.

PARTICIPANT: I'm not clear on --

MEMBER GRIFFON: Do we need clarification on that?

PARTICIPANT: I'm not clear on --

MEMBER GRIFFON: I'm going to --

PARTICIPANT: Yes, take (inaudible).
MEMBER GRIFFON: I'm restating the motion so we're clear what we're voting on. The motion is to reinstate the governance actions that were rescinded in the motion made in the January 28th, 2015 meeting. Therefore, I move to reinstate all board orders that were rescinded by the January 28th, 2015 motion to rescind Board Order 2015-01 acknowledging that it's been in effect from January 28th until today. Also the following items that were revised in the January 28th, 2015 meeting are not rescinded by this action: That's the Board Order 22, the scoping protocol and the administrative closure of Horsehead. We'll deal with the other ones in a second.

PARTICIPANT: Thank you.

MEMBER GRIFFON: All right.

MR. LOEB: I'll call the roll yet again.

MEMBER GRIFFON: Right. Right.

MR. LOEB: Mr. Engler?

MR. ENGLER: Yes.
MR. LOEB: Mr. Ehrlich?

MEMBER EHRLICH: No.

MR. LOEB: Presiding Member Griffon?

MEMBER GRIFFON: Yes.

MR. LOEB: The motion passes two to one.

MEMBER GRIFFON: All right. Thank you. The next item I have is the Silver Eagle/CITGO question. And this very simply I move to reopen the Silver Eagle and CITGO cases for the purposes of establishing a CSB safety study. The individual cases will remain closed. And is there a second on that motion?

PARTICIPANT: Second.

MEMBER GRIFFON: Hearing a second, I'll bring it to the floor. Any discussion?

(No audible response)

MEMBER GRIFFON: I can start the discussion.

(Laughter)

MEMBER GRIFFON: I think it's important to clarify this also: that Silver Eagle
and CITGO, both those cases, in my view, are very
important cases for the CSB. The CITGO case
involves use of hydrochloric -- or releases of
hydrochloric acid from alkylation units. There
were multiple incidents at that CITGO facility.
We certainly think it's important. I think
there's been a lot of interest expressed by many
stakeholders about that case.

Silver Eagle, also a refinery. This
involved a question on -- a particular question
on siting and effects of off-site from releases,
or in this case an explosion. And there was
significant damage to some houses in this
particular incident at Silver Eagle in Utah.

And so, while again there is a problem
with the Agency, these cases are old. Most of
the investigators are no longer here; some may
be. What was proposed at one point in the
Agency's action plan was to incorporate these
within a refinery safety study. And so this is a
similar motion to not lose these cases, but we're
not going to do full investigations on each one,
but they're going to be pulled in and
incorporated into a larger safety study. And
that's the motion on the floor, and seconded.
And I support that motion.

Any other discussion or comments?

Rick?

MR. ENGLER: No.

MEMBER GRIFFON: All right. So we'll
call the question, right? And again, the motion
is to reopen the Silver Eagle and CITGO cases for
the purposes of establishing a CSB safety study.
The individual cases will remain closed.

MR. LOEB: Thank you. Call the
question. Call the roll now. Mr. Engler?

MR. ENGLER: Yes.

MR. LOEB: Mr. Ehrlich?

MEMBER EHRLICH: Yes.

MR. LOEB: Presiding Member Griffon?

MEMBER GRIFFON: Yes.

MR. LOEB: Unanimous.

MEMBER GRIFFON: Okay. It's boring,
but it's our business.
MEMBER GRIFFON: This is good. This is what we want.

Okay. Third item is 40 CFR 1600, proposed amendment to 40 CFR 1600. Just to -- I can characterize it a little bit and I'll open it up if members have motions on this, but essentially this -- the two proposed amendments that we're considering today are to address the question of calendaring notation items. And this has been a problem, in my view anyway, for quite some time as the Board, where a notation item, an internal written vote can be calendared. The essential role of calendaring, or the rationale for it is sound and good. I think the spirit has been lost a little bit in how it's been used internally.

So the idea is if you have a written vote and a member, any member wants to have a discussion on that item in a public meeting rather than just doing a written vote, they can calendar the item and bring it to a public
meeting. And we think that at least one of the motions is to require that by a time certain these items are brought up on the agenda at a public meeting.

The second part of this simply -- the second amendment is simply to require quarterly -- at a minimum quarterly public meetings of the Board. Again, more transparency of our work and how we do it. And I think many people I've talked to support that.

So, I don't know if -- anyone have a motion on that?

PARTICIPANT: Are you going to handle those as two separate motions?

MEMBER GRIFFON: I think it's one motion right now. Do you have -- yes, it's one motion that he's proposing.

PARTICIPANT: And does that cover all the issues of 1600?

MEMBER GRIFFON: Yes.

PARTICIPANT: Okay.

MEMBER GRIFFON: Motion?
MR. ENGLER: I have a motion. I move to adopt proposed amendments to 40 CFR Section 1600. If these two amendments are approved by the Board, they'll be noticed in the Federal Register as a proposed rule with requests for public comment. And I would like to add one note that as an independent agency we're not actually required to go through a major process that we are going through now. We're doing this because we believe that you should have input and that the broader public should have input on this. And I'm not sure how many conditions. Independent agencies that are exempt from such participation requirements just dispense with them, but we think it's -- at least a number of us think it's the right thing to do.

So specifically, the proposed amendments read as follows: "Amend 1600.5, Quorum and Voting Requirements, Section (b), Voting, by adding the following at the end of the section: If a board member votes to calendar a notation item, the Board must consider the
calendared notation item at a public meeting of
the Board within 90 days of the date of which the
item is calendared. A notation vote to schedule
a public meeting may not be calendared. The
Chairperson shall add any calendared notation
item to the agenda for the next CSB public
meeting if one is to occur within 90 days or to
schedule a special meeting to consider any
calendared notation item no later than 90 days
from the calendar action."

"And second, to amend 1600.5, Quorum
and Voting Requirements, by adding a new Section
C, Public Meetings and Agendas. The chairperson
or in the absence of the chairperson a member
designated by the Board, shall schedule a minimum
of four public meetings per year in Washington,
D.C. to take place during the months of October,
January, April and July.

"I. Agenda. The chairperson, or in
the absence of the chairperson a member
designated by the Board, shall be responsible for
preparation of the final meeting agenda. The
final agenda may not differ in substance from the items published in the Sunshine Act notice for that meeting. Any member may submit agenda items related to CSB business for consideration at any public meeting and the chairperson shall include such items on the agenda.

"At a minimum each quarterly meeting shall include the following agenda items: (1) Consideration and vote on any notation items calendared since the date of the last public meeting; (2) a rescind by the Board for completion of all open investigation studies and other important work of the Board; and (3) a rescind and discussion by the Board of the progress in meeting the CSB's annual action plan.

"Publication of agenda information.

The chairperson shall be responsible for posting information (inaudible) agenda item that is appropriate for public release on the CSB website no later than two days prior to a public meeting."

I so move.
MEMBER GRIFFON: And seconded. Okay.

So the item is on the floor for discussion. Any discussion on the proposed amendment?

MEMBER EHRLICH: I have some discussion. Does anybody else have any discussion?

MEMBER GRIFFON: All right. Go ahead.

MEMBER EHRLICH: As you all know, we are without a chair right now. There has been a chair nominated by the President and she has undergone her Senate testimony and is awaiting confirmation. Putting these issues into effect now would mean doing it in the absence of a chair, which means that when; and hopefully it's when and not if, Ms. Sutherland gets confirmed and appointed, she would be faced with all of this type of information in front of her. And it may not necessarily be to her liking, which would mean we have to go back to revisit the process again. I just think putting this in place in the absence of a chair is not the right thing to do.

MEMBER GRIFFON: Any other comments?
MR. ENGLER: My attempt at making at
this motion is to look at broad principles of
public transparency and public accountability.
And I would hope that any chair of any federal
agency makes a commitment at all times to
transparency, to openness and at a minimum has a
reasonable schedule of public meetings,
encourages a structure that fosters congeniality
and collaboration among not only the staff of the
agency, but among the board members, and I think
this offered in that spirit.

That (inaudible) the reason we're
going through this is to get further comment on
this. I've already noticed what area which I
would like to tweak that I think is important,
but there will be a process to do that. There's
a 30-day comment period for further public input.
I would encourage you all to comment on this
proposal. I would encourage you to comment as
soon as possible and not wait to the last minute,
because it will be an ongoing process for looking
carefully and preparing responses to comments.
I know there could be an issue the
chair might, a future chair or some chair might
not like it, but it seems to me that this
document, and however we might revise it, it's a
question of [how] our government operates. It's
a question of how we see the world operating and
how democracy works. And whether it's the
American Chemistry Council, the United Steel
Workers, or the National Fire Protection
Association, or any of the folks -- and I don't
mean to single them out so much as that I know
that folks are in the audience. This is an
opportunity for you to come to a meeting and say
something, to have your piece, to hold us
accountable.

I said on March 4th at the
Congressional hearing that I welcomed
accountability and I hope that the meeting today,
the adoption of this rule or a similar one by the
Board continues that approach. I welcome
accountability from Congress and from the public
and from all those concerned about our mission to
help ensure the prevention of catastrophic
chemical accidents. So I fully support this
proposal.

MEMBER GRIFFON: Thank you. And I
also support the motion, I think for many of the
same reasons Rick Engler brought up. I think we
want improved transparency, and I would hope the
future chairperson would support that. And for
over four years I've been asking for these sort
of business meetings. I think stakeholders want
to hear from us and we owe it -- as Rick says,
owe it to the public, to the stakeholders to be
accountable to them and to give them regular
updates on what we're doing and where we stand on
our investigations. And I think that's the
reason we made these two amendments, both focused
on transparency and openness, nothing more, but
nothing less. So I also support the motion.

Any further comment?

MR. ENGLER: I guess I want to make
one more point for the record. I have found
(inaudible), deliberately found it because I'm
overwhelmed with paper, but Notation Item No. 3, Board Directive 19 from December 27th, 1999, a unanimous vote by four members of the Board representing a diversity of stakeholders to conduct regular public business meetings of the Board, to meet in, quote, "an open forum on the first Thursday of every month." So at some point in our history this stopped happening and it seems to me it's something that should be starting up anew.

MEMBER GRIFFON: Yes?

MEMBER EHRLICH: I do have one more comment. Clearly I'm not opposed to transparency and openness. I think it's vital, but my overwhelming concern about enacting this in the present without a chair takes precedence over other issues in this motion.

MEMBER GRIFFON: Thank you. If there's no further comments, I'll call the question, or actually -- it's a lengthy motion, so I don't know that we're going to --

MR. LOEB: Yes, why don't you just
MEMBER GRIFFON: Summarizing the motion, which is two amendments. The motion is to make two amendments to 40 CFR 1600 involving the calendaring question, as well as regular quarterly business meetings. And this is as a Notice of Proposed Rulemaking. Right.

MR. LOEB: I'll call the roll. Mr. Engler?

MR. ENGLER: Yes.

MR. LOEB: Mr. Ehrlich?

MEMBER EHRLICH: No.

MR. LOEB: Presiding Member Griffon?

MEMBER GRIFFON: Yes.

MR. LOEB: The motion is adopted by a two to one vote.

MEMBER GRIFFON: Okay. Thank you.

The next item is I believe a proposed schedule of business meetings for this upcoming -- the several months in front of us. So we want to talk about a proposed schedule of CSB business meetings. And I think Mr. Engler has a motion on
MR. ENGLER: Yes, I move to adopt a schedule for public business meetings and I would like to note that these dates were discussed and cleared essentially with all board members who would be on the Board at the time of the meeting in advance, so we do not anticipate conflicts. So I move to adopt the schedule.

The schedule appears on the back of the agenda that you should all have. So the motion is actually appears on the back of the agenda. This constitutes the entirety of the motion.

MEMBER GRIFFON: And I second the motion. And I'll bring it to the floor for discussion. Any discussion on the item?

(No audible response)

MEMBER GRIFFON: I just want to clarify that as you look at it and the proposal is to put out a schedule for the next basically calendar year. So it goes up through April 2016. This is a motion to set this year's calendar
separate and apart from the (inaudible) proposed. 
So that's all (inaudible).

MEMBER EHRLICH: Yes, Rick is right.

We did discuss this, and so these dates just 
didn't magically fall out of the sky. But I have 
to say again that they're subject -- there's a 
caveat subject to the appointment and the wishes 
of a new chair.

MEMBER GRIFFON: Rick, any more 
comments on this item?

MR. ENGLER: Just to be clear about 
one informational issue. It's not that we 
haven't had meetings, right? There have been 
some very important meetings on recommendations 
and reports. Just to be crystal clear, these are 
for public business meetings here.

MEMBER GRIFFON: And so, let's call 
the question, which is to move to adopt a 
schedule of (inaudible) in the Washington, D.C. 
office, which is included on the back of your 
agenda.

MR. LOEB: And I'll call the roll.
MEMBER GRIFFON: Thank you.

MR. LOEB: Mr. Engler?

MR. ENGLER: Yes.

MR. LOEB: Mr. Ehrlich?

MEMBER EHRLICH: Yes, with the caveat as explained. Yes.

MR. LOEB: Is that --

MEMBER GRIFFON: Yes.

MR. LOEB: I wasn't calling you yet.

(Laughter)

MR. LOEB: I think the question that's been called is are you adopting these seven dates?

MEMBER EHRLICH: Yes.

MR. LOEB: Okay. That's a yes.

All right. Now, Presiding Member Griffon?

MEMBER GRIFFON: Yes.

MR. LOEB: Okay. And the motion is adopted.

MEMBER GRIFFON: Okay. All right. I think we should be done before 1:00 p.m., or a
lot of time for public comment. That's the other option.

Let's see. (Inaudible) item I have is our -- it's Item 4 on your agenda, which is the status reports on the development of an overall CSB Investigation Plan and the process for updating the CSB's investigation protocol.

And really this -- certainly we can all discuss this, but I don't see a vote here yet. So I just wanted to give an update on this and maybe some clarification for the record. What I'm looking for is the development (inaudible) management systems for monitoring our investigations.

And the way I see this, we've had many discussions about. I've brought this up several times as something that I think is important to our Agency for management of these cases. And this would basically be a comprehensive plan, instead of individual investigation work plans a comprehensive plan that allows for the staff and management to understand where cases are at at
any given point in time. As many of you know
that follow our work, oftentimes we can have a
major deployment like (inaudible) and that's
going to involve a great number of investigative
staff. If we're pulling them off of other
investigative work, reports that they're working,
obviously timelines are going to slide.

So this is just a very internal sort
of thing that we just need an overall management
system to monitor this and to allow for regular
reports to the Board on what the status is of all
cases.

MR. ENGLER: Can I add --

MEMBER GRIFFON: Yes.

MR. ENGLER: -- what I think is a
clarifying comment?

MEMBER GRIFFON: Yes.

MR. ENGLER: I think what's important
to realize is that when we talk about a
management system, or whatever art has in mind in
a plant, we're not talking about the internal
workings of a particular investigation. We're
talking about some type of management plan to
follow the progress of each of these particular
investigations. Whether we go a Microsoft
solution or a Gantt chart, or whatever it is, I
think it should be clear that's what he's talking
about.

MEMBER GRIFFON: That's right. That's
right. I agree. And any comments? I do have a
motion on this, but it's -- my motion is just to
establish a CSB internal task force to develop
this overall investigation plan and tracking
system. And that's a simple motion on that. Any
second? Second on the motion anybody?

MR. ENGLER: Second.

MEMBER GRIFFON: Okay.

MEMBER EHRLICH: Yes, I guess the
question I have in my mind is do we really need a
motion as opposed to setting this as part of our
goals and objectives to get it done? I mean,
we're all agreed it has to be done. Do we need a
motion to get it done?

MEMBER GRIFFON: My position on that
is that it's just affirming that the Board is committed to this and we all agree that it needs to be done and we're setting it as a priority by a vote, a formal vote. That's all.

MEMBER EHRLICH: Okay.

MEMBER GRIFFON: I don't think it's any further instruction than that, but yes.

MEMBER EHRLICH: Okay.

MEMBER GRIFFON: Rick, any other comment?

(No audible response)

MEMBER GRIFFON: So just to call the question on this, it's a move to establish a CSB internal task force to develop an overall investigation plan and tracking system.

MR. LOEB: I'll switch it around a little. Mr. Ehrlich?

MEMBER EHRLICH: Thank you. Yes.

(Laughter)

MR. LOEB: Mr. Engler?

MR. ENGLER: Yes.

MR. LOEB: Presiding Member Griffon?
MEMBER GRIFFON: Yes.

MR. LOEB: All right.

MEMBER GRIFFON: Thank you. And the last item likewise is just an update. And we got and I appreciate -- staff provided us recently with an updated version of our 2015 Action Plan. I have some questions. I think other board members may have (inaudible). Also I think it's at this point a document that shouldn't be released. It's got investigator names and things like that on it. So it's an internal document at this point.

What I'd ask is that -- and this isn't a motion, but just that we all, the Board, get comments to staff in the next week or two regarding that plan, and then we finalize and try to bring it to a vote. And whatever vote on I think should be in a format such that it can be put in the public. So we might have to modify some parts of the internal plan.

And I think it's worth stopping here and just saying that the first part of the plan
-- and this gets back to just acknowledging, as Mr. Ehrlich said, the hard work that our staff has done. Even in some tumultuous times in the recent past they have put out many products, along with our videos, and these (inaudible) sort in the first half of this plan now.

And unfortunately I don't have all of them in front of me, but some highlights include closing out our Chevron investigation. We had [two] investigations, US Ink in New Jersey and Millard. We closed out those reports. I'm sure I'm going to miss things doing this off the top of my head. We also did significant work of closing out some of our recommendations. That's why we're doing this business, right, is to get recommendations adopted. And we have successes in that area.

So I don't want to let this meeting go by without at least acknowledging that we've done some good work. And not to forget the videos. People love our videos. We put out several in this half of year. And I (inaudible) every time I go to speak
at a conference people speak very highly of our videos and use them often.

And so this is a good side. And my hope is that -- as I said in my opening remarks, that process matters and process can affect our product. And I think that the better [we] stabilize our governance and our management systems it's going to just improve our efficiency and effectiveness in getting our work done. And I think all of us support getting back to the mission work and having that go forward more smoothly. So I just wanted to say that, that that's part of the draft action plan and the staff deserves a lot of credit for getting all this stuff done in the midst of this, what is becoming a hot city again.

(Laughter)

MEMBER GRIFFON: Any other comments on that, Mr. Ehrlich or --

MEMBER EHRLICH: No.

MEMBER GRIFFON: So there's no motion on that, but we will take that up for a vote at a
future time and the Board will get comments to
the staff on that 2015 action on the final draft.

Okay. So speaking of efficiency, this
is well before 1:00 and we're at the point of
public comments on the agenda.

Yes, we can take a five-minute comfort
break.

PARTICIPANT: Or a 10-minute.

MEMBER GRIFFON: Ten-minute comfort
break. Come back at 10:30. But we do want to
hear from you, so I hope everybody stays for
public comment.

(Whereupon, the above entitled matter
grew off the record briefly.)

MEMBER GRIFFON: Okay. Bringing the
meeting back to order, and we have our quorum
back.

So I'll start with public comment. I
have five people signed up, but [at] the end I'll
give an opportunity if anybody else wants to make
comments. Now, usually we limit these to a
couple of minutes, but we have time today, so I
1 would say two to five minutes. But be fair.

2 There are others here that want to talk, so be

3 fair to your other folks in the room.

4 The first person is John Morawetz.

5 And as you introduce yourself -- we have the

6 podium, which is right under a microphone. I

7 think that's the best way to do it. If you could

8 just say your name and spell your name for the

9 record and your organization.

10 MR. MORAWETZ: Talk into the

11 microphone?

12 MEMBER GRIFFON: Talk into the

13 microphone. Yes. Yes.

14 (Laughter)

15 MEMBER GRIFFON: You got to go up over

16 your head, John.

17 MR. MORAWETZ: Okay. My name is John

18 Morawetz, the Director of the Chemical Worker

19 HAZMAT Training Center in Cincinnati. The

20 Chemical Worker Council is part of the United

21 Food and Commercial Workers Union.

22 A few comments: One, I'm very glad we
had this meeting. I've been at one. It's been some time. I was at one public meeting. It probably was seven, eight years ago here in Washington, D.C. where we came in and had some discussion about various issues.

A few points. One is this is a forum going to be a full board. And I think the board various reasons in various times there's not member board making decisions, I think that for point about three out of a potentially five.

I would just say then a particular behinda closed doors.

is a role, there are exceptions to when it can be not happening in closed doors. Even though there and the public knowing what happens, things were act in terms of government governance being open decades ago in the '70s. It's a very important sunshine act, the sunshine act was passed I think would just comment that I think in terms of the board already about some of the questions. I disagree, as there's been disagreement on the where we can discuss things and agree to a few points. One is this is a forum discussion about various issues.

Washington, D.C. where we came in and had some probably was seven, eight years ago here in some time. I was at one public meeting. It had this meeting. I've been at one. It's been
in some situations may delay a decision, but I think it's totally appropriate to make decision with a Board that is confirmed, that is active, especially because at this point of the two open positions there is no other confirmed candidate. I hope they are confirmed, but there is no other. So the Board has to function. Down the road it may change, but that's the function of democracy and a five-person board.

The other general comment is in terms of a small agency, 40 people; I don't know exact number in millions of dollars, but it's a relatively small federal agency, how to effectively do the work. We have an interest. Some people may or may not know, in a incident. Four people got killed in one of our facilities in Houston in November. And CSB is investigating it. And I think I expect it will be a great report, as the vast majority of them are.

As I've said in many public meetings, there's root causes and there's recommendations, recommendations that are not just why at La
Porte/Houston methyl mercaptan will -- this incident will not happen, but rather DuPont may be corporate-wide, which has been raised by CSB staff, but also many chemical processes. Are there broad recommendations to improve how safety is done?

But the reality is is we know there are 4,000 workers who are killed every year by traumatic injuries, and CSB cannot investigate all of them. Many of them are not appropriate for CSB, but even those that are it's a limited staff and the question is leverage as far as I can see it. What is your decision logic? Which investigations do you want to do? Which ones when you send a team out are you then going to do a full report? Which ones are going to be safety bulletins, case studies? Which ones are you going to string together for a particular reason, as you've done with nitrogen, combustible dust. And with United Food and Commercial Workers Union with ammonia we're thinking about asking -- communicating to the CSB about looking at a large
number of ammonia spills in the country.

   So with that, that's really what I
have to say. I have one particular question that
maybe you could answer. I notice that you have
eight days between the two June meetings.
Clearly the June 10th meeting is with stakeholder
dialogue, but if somebody on the Board could
explain a little bit more why these two meetings
are being held especially for those of us who are
from out of town as to why they're so close
together and they can't be next to each other, if
possible. Anyway, thank you.

   MEMBER GRIFFON: And this is generally
public comment. I don't want to get into a Q&A,
but just to explain that, the stakeholder, the
focus there is to have a discussion with
stakeholders, a round table type of meeting. And
the other one is purely a business meeting. So
they're different types of meetings and just the
scheduling that's how it worked out.

But we want the stakeholder meeting
scheduled for June 10th is also going to be off
site out of our offices. And the hope is to get
some input from all our stakeholders on how to
best do a study looking at -- to sort of inform
our strategic planning process for the next
strategic plan that's developed for the Agency.
So that's one of the goals in that.

MR. MORAWETZ: Thank you. I just hope
in the future that to make the meetings, open
meetings as accessible as possible to people
outside Washington, D.C. consideration is given
to making them on consecutive days. Thank you.

MEMBER GRIFFON: Thanks. The next
person on my list is Jeff (phonetic) Ruch of
PEER.

MR. RUCH: I'm Jeff Ruch, R-U-C-H.
I'm the Executive Director of Public Employees
for Environmental Responsibility, which is a
national organization representing state, local,
federal employees, many of whom have dedicated
their careers, and in some cases their
livelihoods depend upon improved safety in our
industrial chemical facilities.
As we all know, the Chemical Safety Board has been through a recent period of extraordinary division and disruption. And what I'm concerned with is that the majority doesn't appear to have learned any lessons from the recent past. The majority today has done apparently exactly what the outgoing chair was accused of doing in January 2015, which was rigging the rules for your successor as one member's term ends, and worse, you're doing it in order to stymie the role of the incoming chair.

Today's action can only be seen as an unwarranted affront to the President's appointee for the chair, Vanessa Allen Sutherland. Moreover, it's done in a way that doesn't clarify and maybe further muddies a whole host of knotty issues concerning the inherent executive authority of the President's appointee. In short, all it does it appears to -- and maybe that's the intent -- to perpetuate a culture of conflict in this small troubled agency.

Now, as I understand it, this Board
was modeled on the National Transportation Safety Board. NTSB, which has an enviable record, has a strong chair. Today's action moves in a completely different direction. Moreover, it effectively places the chair in a position of being subservient to the members and prescribes (inaudible) administrative authority while at the same time imposing new administrative duties and it raises the question, which is why even have a chair if the person's hamstrung as the Board apparently designed it.

In more than 17 years of operation CSB board members have not established any formal roles or expectations for their own jobs. Individual board members have no accountability for being productive or even attending. Without formal defined duties board members spend an inordinate amount of time politicking and engaged in internal machinations frankly of the sort that I think are in display here today. If you look at the content of this meeting, very little that had to do with actual safety of industrial
operations and almost all it had to do with the
[administrivia] that we would think that this
Board would be above.

   Back in 2002 the Board was under the
purview of a much different Inspector General
than it was now, probably mercifully so. That
was the IG from FEMA, the Federal Emergency
Management Agency. That IG published a
comprehensive report on the inability of board
members to properly govern the agency, including
the lack of appropriate delegations of authority
to the staff to accomplish the Agency mission.
That report noted that CSB members spend, and
apparently continue to spend, a disproportionate
amount of their time on routine administrative
functions rather than the Agency's core mission.

   Now, whatever the alleged
mismanagement decisions of the outgoing chair, we
are heartened to see the Agency in recent months
turn out a record number of reports in the past
year. Now that report production appears to have
slacked off. The Board is again spending a lot
of time talking about governance, administrative issues while potentially catastrophic chemical releases such as the recent Exxon Refinery incident in L.A. go unaddressed.

Finally, for all the talk of transparency, we have public comments that come after the action and public comments are only received from those are in a building on K Street. It's the form of transparency without the substance of it. In short, we would urge you to rethink the course you're on. And a full copy of my comments are available in the lobby.

MEMBER GRIFFON: Thank you.

PARTICIPANT: Mark, could I just say one sentence for the record to indicate that there was a deployment to Exxon in Torrance, that there's a continuing investigation. This is a major priority of the Board.

MEMBER GRIFFON: Okay. Thank you.

Next I have Jerry Pogee (phonetic).

MR. POGEE: Hi, I'm Jerry Pogee. I'm in a serious situation of déjà vu having been a
founding board member of the Chemical Safety Board, having argued for its creation in the 1990 Clean Air Act. I recall distinctly a meeting in 1999 in which I took out my checkbook and purchased a room across the street at George Washington University, because the then-chair and his chief operating officer were in denial about the role of the Board, as a whole and the governance of the Agency. And I just view with great gratitude that you've broken a log jam that has resulted in an enormous catastrophic failure for this Board.

The fact of having a bipartisan branch of Congress demand that the President throw out a chairman and ask that the general counsel and the Managing Director go means that you have to confront the worst situation that's ever been had in this Agency. And I salute you for the work that you've done today. It's part of a pathway towards reformation.

You have to advocate for regular public meetings because you've lost the trust of
people in Congress, people from those committees who will come into meetings like this wanting to hear what stakeholders have to say, even if they don't stand up in public. They want to listen to it on their own computers as they're doing their work on the Hill. So this is an essential breath of fresh air.

And I salute you for elevating the Sunshine Act, because we had a situation where this Board has fallen into disrepute to the extent that the President has had to remove the chair of the Board for actions that were deemed harmful enough that an entire bipartisan committee of investigation in the House of Representatives said it's time for you to go.

I salute you for the actions that you voted upon today. I think it's so important that you end a reign of extraordinary disrespect for what I think is the essential value associated with being a board member.

And, Mr. Ehrlich, I want you to understand that being nominated by a president,
being confirmed by the U.S. Senate, each of you
in that fashion makes your positions an
extraordinarily valuable position for the
institution of the Chemical Safety Board. And
that means when you take your oath of office, you
begin your work, you can't wait for others to
catch up. There is no time like the present for
starting the work of the Agency. And please
dissuade yourself from thinking that we should
wait for a nominee to come through. Nobody can
guarantee the time schedule in the Senate. Mr.
Engler and you can perhaps most fervently recall
how much time it took between your official
nominations and your ability to take office. So
there's no time to wait for a next chair to come.
You have to act right now.

You have some serious remaining issues
that I'd love to see get calendared for future
Board meetings. First is the role of the board
members, the Board as a whole, in hiring and
evaluating the performance of Senior Executive
Service staff. When a Congressional committee
asks for the — the President; because I don't
believe he has the authority to do so, to remove
a general counsel and a managing director, it's a
statement that something has gone horrifically
awry at the highest levels of management in an
agency. And the evidence needs to be gathered as
to what happened and why.

Even the matters that you're dealing
with today speak to a question of performance at
those high levels. When you're retiring an
investigation and saying that the staff left and
we didn't have the information with which to
continue to pursue the investigation, that's an
indictment of your management competency to do
what is the core work of an agency. And you
can't turn around and say, well, the staff is
doing great work if you're in the position of
having to retire an investigation without
completion.

So you have work to do. Gather the
evidence of what went wrong and why, make sure
that there's no future investigation going to be
conducted that can be announced with press releases, with lofty comments about how we're going to get to the bottom of it, only to be retired years later in the darkness of nobody remembering how we got there, nobody remembering who was assigned to do that work. That is really quintessential. If you're going to recoup the reputation of this agency, you have to profess fidelity to your ongoing work. You have to choose wisely and well. But you've got a lot of work to do to make sure that that doesn't happen.

There also is a need for accountancy for the excessively long durations to complete investigations. The Macondo Well blowout occurred five years ago. What value is CSB's ongoing investigation going to contribute to the larger system of safety? As soon as an event occurs of a monumental catastrophic nature the clock starts ticking for your ability to leverage good recommendations. And you have to play a complex balancing game where the thoroughness of investigation has to be balanced with the urgency
of meeting recommendations needs ASAP.

So I think you've got some manifest problems. Just look at your ongoing investigation website for the CSB and things that are taking so long are an indictment of management problems in the inability to get things done in a timely fashion.

You also need to think about re-calibrating the process for deciding to investigate. I looked at the letter that was sent in response to two Congressmen about the ExxonMobil incident in California and that letter was responding to them in March for an incident that occurred two weeks earlier in February and the announcement is we're going to send a team, you've lost the initiative.

One of the best investigators ever for the National Transportation Safety Board, Charlie Batten, his advice to me when we were starting out was get there ASAP while everybody's in a rocked backed situation trying to understand what happened and begin to ask your questions. If you
come two weeks later, people have lawyered up and they've created a group think that avoids gathering the most cogent investigative evidence for you to draw your best conclusions. So that sits on your website right now and kind of an indictment to the good investigators that are out there as an organization that doesn't quite have its way set well.

And then even with the closing of the Horsehead, you know, remember that point I made earlier. If investigative staff leave, there has to be a plan of knowledge maintenance such that you don't use as an excuse Joe (phonetic) left. The investigation is gone. That's not how you're supposed to build an investigative team.

And then finally, because we know that Member Griffon in particular has a short tenure, I think it's very urgent that the three of you before you leave come to the conclusion about how you're going to assign presiding membership with you voting should there not be a new chair and new board members. I mean, we're in a difficult
position right now for the overall system of chemical safety in having CSB be at a very low point and be doubtful in the minds of many as to whether it can continue its work. All the matters I've raised today should be calendared as items for open discussion because that really will demonstrate your authenticity to want to rescue this institution. Thank you.

MEMBER GRIFFON: Thank you, Dr. Pogee.

MEMBER EHRLICH: I have a comment on that. I appreciate your comments directed to me. The only exception I want to take to what you said has to do with the staff. I have run organizations that have budgets 10 times what this organization is, like $150 million chemical plants. This is the best staff, both senior and operating staff that I've worked with in my 50-year career. Thank you.

MEMBER GRIFFON: Okay. Next on our list for public comment is Carli Jensen with U.S. PIRG.

MS. JENSEN: Okay. Good morning. My
name is Carli Jensen. I'm an attorney. I work for U.S. Public Interest Research Group, also known as U.S. PIRG. I'm the Toxics Program Coordinator and I'm currently working on our chemical security campaign. I'd like to thank the Board for having this meeting and taking public comments. My comments are a little more forward looking and speak more to the overarching priorities of the CSB going forward in the next year.

As you know probably better than anyone, we have thousands of chemical facilities across the country that use and store chemicals that pose grave health and safety risks to the people who live, work, study and play in the surrounding communities, as well as to the workers in those facilities. Nationwide there are over 100 million people who are currently living in the danger zones around these chemical facilities.

And as you also know, the CSB's mission is to investigate the root causes of
these chemical accidents and make recommendations
to regulatory agencies, including the EPA. The
CSB website states that Congress designed the CSB
to be non-regulatory and independent of other
agencies. So its investigations might, where
appropriate, review the effectiveness of
regulations and regulatory enforcement.

The frequency and severity of the
chemical incidents across the U.S. show that
without a doubt it's appropriate at this time for
the CSB to review the current EPA regulations and
the other voluntary standards that are currently
intended to prevent chemical incidents at these
facilities.

The current regulations and voluntary
standards are not keeping us safe. There have
been over 350 chemical accidents in the past two
years alone killing at least 79 people and
hospitalizing at least 1,500 more. These numbers
are a stark indication that these regulations and
the current regulatory enforcement are not
protecting people whose lives and health are put
at risk every day by these dangerous chemical facilities.

To prevent more of these chemical incidents and make these facilities less attractive targets for terrorists the CSB should recommend that the EPA work quickly to make a strong rule requiring chemical plants to switch to the safest cost-effective chemicals and technology available. As you guys also know, many dangerous chemicals and technologies that are used (inaudible) have safer alternatives that could reduce or completely eliminate the risk.

Safer alternatives include things like reducing temperatures or pressures to minimize the risk of explosion, changing the flow of chemical processes to avoid dangerous byproducts, storing smaller amounts of dangerous chemicals or replacing dangerous chemicals with benign ones. All of these changes reduce the danger of a chemical accident and make these facilities less attractive terrorist targets. And a great example of switching to safer alternatives is
what Clorox did. I think between 2009 and 2012
it switched from dangerous chlorine gas to high-
strength liquid bleach in its bleach
manufacturing processes. And this completely
eliminated the risk of a dangerous chlorine gas
release.

And despite the opportunity to
dramatically reduce the threat posed by chemical
plants the Federal Government has failed to
remedy these deadly security gaps. In 2006
Congress failed to pass comprehensive chemical
security legislation that would have required
plants to switch to these safer alternatives when
feasible opting instead for weak regulations that
still leave our communities at risk. We need a
strong national rule requiring chemical
facilities switch to the safest cost-effective
chemicals and processes available. And a strong
statement from the CSB in support of this could
go a long way to making our communities safer.
Thank you.

MEMBER GRIFFON: Thank you. Thank
you, Ms. Jensen.

And the last person I have on the
sign-up sheet is Jim Frederick (phonetic).

MR. FREDERICK: Thank you. I'm Jim
Frederick. I'm the Assistant Director of Health
Safety Environment with the United Steel Workers
Union. And I want to thank the Board for calling
this meeting today. The Steel Workers are one of
the stakeholders that came to participate in the
meeting today and appreciate the opportunity to
do so.

The Steel Workers and our members do
appreciate the work of the Chemical Safety Board
and we also -- as has been stated a couple of
times in the comments today, we do appreciate the
professionalism of this Chemical Safety Board
staff. When called upon to come to one of the
facilities that represent following a
catastrophic event when the staff come to the
facility to investigate an incident or accident.

We also look forward to the June 10th
stakeholder meeting. We look forward to an
opportunity for additional interaction as a stakeholder in that forum to provide more detail on some of the specific incidents that have taken place, some of the cases that have taken place and to provide more content detail on those matters. The meetings today being more of the business meeting. This is more the administrative items that have occurred and we do appreciate that the business meeting needed to take place.

We're glad that you've taken the time out of your schedule to hold a public meeting on the business matters. Holding the business meeting is a vital part of the CSB's process and we want to make certain that you continue to hold the business meetings as you've taken steps to do so today.

Regarding the proposed rule that you've presented and put forward today, while we only received that this morning, we will certainly take the time to review that and put serious thought and contemplation toward that and
provide comments back. As Board Member Engler asked, we'll try to do so sooner rather than later in the 30-day comment period. But we certainly will take that seriously and provide comments back as a stakeholder.

Regarding the governance issues that were addressed today, we support the actions that were taken today by the CSB to reset the governance matters. We appreciate the positions of all board members that currently serve and we hope that further deliberation will continue to discuss these matters in the future. We want to ensure openness for public debate for the Board, not only for the individuals that currently serve as members, but we also want to make sure that it's for the members that currently serve and also for members that are nominated, but it's for the Board itself, not for future members. This is a matter for the Board, not for nominees. And we need to keep that in close consideration moving forward.

Pertaining to those closed cases, I
just wanted to make a couple of comments. Two of
the three were pertaining specifically to steel
worker represented facilities. First, pertaining
to the Horsehead facility, that's a topic of a
number of (inaudible) from the board members and
then the public commenters. The one specific
item I wanted to bring to light is in the future
I would hope that all employees of the CSB and
the board members themselves will take to heart
something that's very important, and that is
please do not make promises to the stakeholders
that you can't meet. On a number of occasions
the people at the facility were promised dates
that reports would be issued. None of them were
met.

Today the facility no longer exists.

This case in particular -- as Board Member
Ehrlich and I have talked about over lunch a few
weeks ago, this case happens to be very close in
proximity to where I live. I live very close to
this facility. The facility is gone. It's
leveled. The facility no longer exists. The
people that work there don't work there anymore. And they were promised over the course of the last several years on a number of occasions by staff, high-level staff in this organization as well as by former board members, that they would be provided reports on dates that were provided to them, and that never happened. So in the future I hope that that is something that is taken to heart by all involved in future cases.

On rolling into the other cases, into a safety model and input for a safety process, I think that's a good model to move forward, and we specifically are very supportive of one specific concern and again have talked with members of the Board on this matter, and it specifically pertains to the concern pertaining to hydrogen fluoride use in refining. And hopefully that's going to be a central part of the investigation moving forward and look forward to being a stakeholder in that role. As those on the Board are aware, we've done quite a bit of work on that already, have provided it to the Board and look
forward to being part of that process moving forward.

So finally, to kind of wrap this up, we as a stakeholder hope that these business meetings continue and that deliberation of the Board and its mission is done in full public disclosure and that the full public disclosure of the business meeting will only help to facilitate the better coordination of the mission of the safety portion of the Chemical Safety Board. So thank you for your time.

MEMBER GRIFFON: Thank you, Mr. Frederick.

So that's everyone I have signed up, but I'll open it up to the floor if there's anyone that wants to make a public comment.

Rick? And can you just state your name for the record and your organization?

MR. HINE: Certainly. My name is Rick Hine (phonetic). I'm legislative director for Greenpeace and I want to first thank you all for having this meeting. I'm looking forward to the
next and future meetings like this. I think that will increase the interest in participation of the public and the process that you're engaged in, which is essential.

For far too long this agency I think has been neglected in funding and by other agencies and the remit to both investigate accidents and recommend ways to prevent them is a critical need, something that is in the statute that created you in the Clean Air Act, Section 112. And that section also has authority for EPA, something I want to reinforce with you -- and we've recommended this in the past, but we urge the Board to recommend that the EPA issue regulations, which they are now considering for the first time since 2002, to require primary prevention of chemical facilities, all chemical facilities. This could have great benefits to preventing catastrophic refinery accidents as well as other chemical facilities around the country and would establish a real hierarchy of prevention that we think would lead to other
measures downstream in the production process. Currently EPA is operating under 
Executive Order 13650, which was issued by the 
President August 1st, 2013 giving the Agency and 
all federal agencies really an open invitation, 
but also a direction to modernize their polices, 
regulations and standards. And the EPA, as I 
said, finally noted on OIRA's website plans to 
issue regulations this September. We think it's 
too late to start proposing regulations in 
September, that they should move that up this 
summer to June as they are also proposing to 
issue regulations on refineries. 

We think that it is not expecting too 
much of an agency that drafted similar 
regulations in 2002 under Christine Todd Whitman 
and then had those revoked by the Bush OMB. And 
so, simply issuing rules under 112(r)(7)(A), that 
would require primary prevention and in fact 
could require what's called inherently safe 
technology, or sometimes methods to reduce the 
consequences, but policies that will actually
without any doubt eliminate catastrophic hazards.

As Senator Lieberman said, it's the only foolproof measure that we can take that would both prevent the catastrophic event.

Also it has great security benefits, but that isn't necessarily your arena. The EPA does have security authority under the Clean Air Act. And so we urge you to give the EPA a kick in the pants to get going on this and to do it strongly and not just issue what we expect in the next few weeks an alert to the agency similar to February 2000, which is simply voluntary.

Volunteerism has not worked. Hundreds of plants have increased in the number since that time. There were over 355 accidents since the West Texas disaster that triggered this executive order, many of them fatal. And we all know that it's just a matter of when and where a catastrophic event far exceeding West Texas could occur. And that kind of prevention policy will help not only eliminate many of those, but again, as I said, affect downstream impacts that will
prevent pollution, which industry opponents have accused us of actually having an agenda to prevent pollution.

We think that's a good hidden agenda. We're not hiding that. But I think the benefits are so many. And in one study that we had done by an independent financial firm found that in fact those who oppose this are dead wrong about jobs. It would actually increase jobs. And that's why the Coalition to Prevent Chemical Disasters is in favor of this kind of regulation. The major unions working on this are. And we all know that it will not only benefit, but it will also secure jobs because the facility will then have renewed investment attractiveness and billions of dollars of less potential liability.

Anyway, thank you again for allowing me to submit comments today. I'm sorry I was late to the meeting. I was at a doctor's appointment. Thanks.

MEMBER GRIFFON: Thank you, Mr. Hine. Are there any other folks in the room?
Peg Seminario? And please just state your and
name and --

MS. SEMINARIO: Good morning. My name
is Peg Seminario. I'm Safety and Health Director
for the AFL-CIO. I actually hadn't planned on
speaking this morning, but given the opportunity,
just a couple of comments.

First, I want to thank you for having
this meeting today. We all know, you all in
particular, you know, that the Board's been
through some really, really tough times. And in
that process, unfortunately, I think as much as
those of us who have supported this Agency over
decades and know that it's had a very troubled
history and unfortunately at different points in
time it's been harder and harder for those of us
who support you to answer questions of what is
going on over there, I mean, quite frankly.

And so, what has happened here has had
an impact, as Jim Frederick has said, on the
investigations, but it's also had a real impact
on the credibility of the Board and the trust,
the public's trust in what you do. And so, as
you're going forward and putting together your
action plan, putting together your process and
your tracking of investigations, I think with all
of this you have to have very, very high at the
top of the list how what you're doing here is
going to rebuild the trust of the public and the
trust of the Congress in the work that you do.

It's very painful to see what the
Board has gone through because the Board
throughout its history has done such important
and really meaningful work when it comes to the
investigations and the recommendations and
changing the conditions in work places and, you
know, the safety in communities. And so, that
work has to continue.

So, I do think that by having regular
meetings provides an opportunity to show at each
stage what progress is being made and to make
that very public, and also to be inviting of the
comments and the input from those in the safety
and health and the chemical security community
who really do look to you for assistance, but
also leadership. We're here to help you do your
job. And so, don't be afraid to ask and get that
input. I think if anything the Board has become
really much too insular over the last few years,
and I won't go into the problems that that's
resulting.

But by having an open process and
having clear priorities and having the Board
accountable to the public and to the people that
you are responsible for providing recommendations
and hopefully getting those recommendations
implemented that these processes will go a long
way to, one, making progress, but most
importantly rebuilding the trust that the public
and the Congress have in this Agency and the
terrific and important work that you do. Thank
you.

MEMBER GRIFFON: Thank you. Thank
you.

Are there any other public comments?
(No audible response)
MEMBER GRIFFON: Thank you. And I know that we received at least one other comment online. I'm not sure if we got further email comments. But the comments that were submitted via (inaudible) included in the record, so I'm not going to read -- there's one from -- Former Member Bill Wright sent a comment, and that will be included in the record also.

So, thank you. I just want to close now and just say thank you to all of you, including the people online. We do also want to hear from you. I know it's a listen-only line today. And the next version of this meeting hopefully we'll have more lead time and we can make that work out.

But I want to pick up on the last public comments that were made, that I think what I'm trying to do in my last months here is to stabilize governance management, but most importantly I think the Sunshine is key to this and having these regular business meetings and doing this process in the public. I think it
will begin to restore trust in our stakeholders and we can deal with these business issues in a public setting. Maybe take a few lumps along the way, but don't shy away from them. Deal with them in the public meetings and address them and move on and restore trust. And I think are very good words for us to think about and to close on.

And I think I believe what we've done here today is at least a step in that right direction. And I hope that these business meetings, as I've been asking for for a number of years, become a norm and that it's not seen or viewed as a burden internally either. I know they require resources to pull these things together, but I think it should just be a normal way of us doing our business. It's so important to hear from all of you and to update all of you also on a regular basis. And I'm very happy that we've accomplished some of that today and I'm hopeful that it will remain in effect beyond my short remaining tenure.

So I'll ask, Mr. Ehrlich and Mr.
Engler, if you have a brief closing also. Then
we can adjourn.

MEMBER EHRLICH: Well, first of all, thank you for coming. I appreciate your comments and we will go back and talk about them and take them under advisement. And look forward to working with your organizations individually as well. Thank you very much for your input.

MEMBER GRIFFON: Thank you. Mr. Engler?

MR. ENGLER: Just a couple of other things. The proposal that we handed out today will be placed on the CSB website. Right? I mean, just to clarify.

MEMBER GRIFFON: Yes, and also published in the Federal Register within a few days.

MR. ENGLER: So with that, if you know someone who's been involved firsthand in a CSB investigation or some other stakeholder that would like to comment, I would encourage you to alert them to what's going to be on the website
soon so they can make comments.

    Again, please submit comments. Please
do it sooner rather than later so we can get to
work addressing them. I hope I can speak, but I
think I can speak for the other board members. I
plan to read every single comment that's
submitted and to look at it carefully.

    Also, on a slightly different matter,
in mid-June, but very much related, it's my
understanding that there's going to be a webinar
set up by the EPA on the status of making
progress on the President's executive order.
Speaking for myself, I have some concerns about
the extent of progress on that order. I would
encourage people to watch that webinar and to --
if you're not on, I guess it's the EPA list, to
see where things are. The catastrophe of West
focused public attention on this issue. There's
a time right now that hopefully some positive
advances can come out of that process initiated
by President Obama. So mid-June is the apparent
date of when that webinar is going to be, and
again we encourage people to tune into that.

So I would just add my thanks and

appreciation for you coming and for all your

thoughts and comments that we will take to heart.

MEMBER GRIFFON: And thank you all

again and we hope that some of the dry matters

here today don't discourage you from

participating in the next one. We really want

you to come back and participate in these

meetings whether it be here or on the phone line.

I think this is a great process and I'm very

happy to do this one. And thank you all again.

And with that, I'm going to adjourn

the meeting.

(Whereupon, the above-entitled matter

went off the record.)
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MATTER: Public Business Meeting

DATE: 05-06-2015

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Neal R. Gross