



## Chemical Safety and Hazard Investigation Board

### Office of General Counsel

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#### Memorandum

To: Board Members

From: Christopher Warner

Cc: Leadership Team

Subject: Board Action Report – Notation Item 828

Date: February 21, 2011

On February 11, 2011, the Board approved Notation Item 828, thereby adopting the Investigation Work Plan for the Deepwater Horizon Incident. Dissenting statements submitted by Members Wark and Wright are attached to this memorandum.

#### Voting Summary – Notation Item 828

**Disposition: APPROVED**

**Disposition date: February 11, 2011**

	Approve	Disapprove	Calendar	Not Participating	Date
R. Moure-Eraso	X				2/11/2011
J. Bresland	X				2/11/2011
M. Griffon	X				2/11/2011
W. Wark		X			2/15/2011
W. Wright		X			2/14/2011

Notation No.: 828  
Subject: Deepwater Horizon Incident Investigation

6. A safe offshore petroleum exploration and production industry is of critical importance to the long term energy independence of the United States;
7. The DWH Incident Investigation has consumed significant resources of the CSB and will continue to do so;
8. The DWH Incident Investigation team has prepared a proposal that outlines the full scope of the DWH investigation and the anticipated final products and deadlines, as shown in the attached Deepwater Horizon Incident Investigation Work Plan; and
9. The Board would like to proceed with the proposed Deepwater Horizon Incident Investigation Work Plan, including the proposed investigation scope, products, and timetable.

Therefore, the Board hereby votes to adopt the attached proposed Deepwater Horizon Incident Investigation Work Plan.

I APPROVE this notation item AS PRESENTED.

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

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

I DISAPPROVE this notation item.

A dissent is attached.

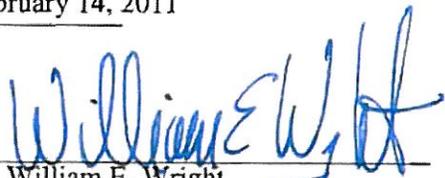
I will not file a dissent.

I am NOT PARTICIPATING.

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

Date: February 14, 2011

Member:

  
William E. Wright

Dissent based on following facts:

- a. Regulatory report has no factual basis - appear to be gathering best of what others do as answer vice following facts in case. Not sure we have even interviewed DOI (BOEMRE) and or aware of what they intend to do.
- b. Question wisdom of investing millions of dollars of scarce resources for limited results
- c. Requested Congress to provide \$5.6M to conduct root cause analysis - to date no funding received
- d. Question value added in pursuit of this case in light of many other reports, books, etc.
- e. Believe full written report to be published by Jan 2012 is ambitious goal

Dissent of Board Member William E. Wright on Notation Item # 828 (Deep Water Horizon)

Although the CSB held a regulatory forum in Washington DC in December 2010 I cannot see any factual basis that leads us to proffer recommendations to change the regulatory scheme in offshore drilling. We appear to be simply gathering information from other areas of the globe and formulating what a good regulatory scheme should be vice determining in advance that this particular scheme is problematic and responsible in part for this incident. Until we establish a valid foundation in this regard using a causal fact- based reason to pursue recommendations for changes to the regulatory process we should not be exploring such alternatives. I believe we have the cart in front of the horse on this one. Particularly in light of the fact we have not to my knowledge even interviewed BOEMRE on what was in place at the time of the incident, what changes are currently being formulated, and what future changes are planned to change in this area. Records searches are one way to determine facts but I believe we should be interviewing people who have extensive knowledge in this area to determine if such a regulatory reform is necessary.

Additionally, I question the wisdom of spending scarce resources to pursue a case that may yield limited value at this point in time. Especially when we wrote Congress and requested \$5.6M to conduct a root cause analysis. To date no additional funds have been provided nor have we sought emergency funds to conduct this investigation. In essence we have taken the funds out of hide including diverting personnel from other work. It begs the question of "What is the value added here?" There are myriad reports, books, and documentary films out about this case now and wonder if our investment today will yield worthwhile results in January 2012.

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9. The Board would like to proceed with the proposed Deepwater Horizon Incident Investigation Work Plan, including the proposed investigation scope, products, and timetable.

Therefore, the Board hereby votes to adopt the attached proposed Deepwater Horizon Incident Investigation Work Plan.

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**.

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Date: 2/15/11

Member: William B. Wank

My proposed counter-notation item, which never went to a vote, is attached and describes my reasoning for disapproving this notation item which would continue the DWH investigation.

WBank



U.S. Chemical Safety and Hazard Investigation Board

MEMORANDUM

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February 11, 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 828

Attached for your review and vote is Notation Item 828. This item provides for Board approval of the Deepwater Horizon Incident Investigation Work Plan.

Please direct any questions about this item to Daniel Horowitz. Please return your completed vote sheets to Chris Kirkpatrick as soon as possible, but no later than the close of business on Friday, February 18, 2011. Thank you for your attention to this item.

**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.: 828**

**Voting Period:** Urgent Notation Item, February 11 – February 18, 2011, but votes are requested as soon as possible.

**Subject:** Deepwater Horizon Incident Investigation

Whereas,

1. The CSB has been conducting an extensive investigation into the explosion that occurred on April 20, 2010, at the BP Macondo well installation on the U.S. Outer Continental Shelf in the Gulf of Mexico, which killed eleven workers and resulted in significant environmental damage (known as the “Deepwater Horizon (DWH) Incident Investigation”);
2. In June 2010, the U.S. House of Representatives Committee on Energy and Commerce had requested that the CSB conduct a root cause investigation of the DWH incident, using the CSB’s investigative experience and knowledge of BP’s safety history, culture, and organization developed from the CSB’s investigation of a catastrophic 2005 explosion at BP’s Texas City Refinery;
3. In response to the House Committee’s request, the CSB Chairperson at the time, John Bresland, agreed to initiate a formal CSB investigation;
4. For the past eight months, CSB investigators have been examining a wide variety of factors in the DWH incident, including technical issues, safety system performance, organizational factors, safety culture, contractor management, and the effectiveness of laws, regulations and enforcement;
5. The DWH Incident Investigation team has reported to the full Board that the findings from this investigation have the potential to impact chemical safety, worker protection, and environmental protection on a national and international level;

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**Subject:** Deepwater Horizon Incident Investigation

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8. The DWH Incident Investigation team has prepared a proposal that outlines the full scope of the DWH investigation and the anticipated final products and deadlines, as shown in the attached Deepwater Horizon Incident Investigation Work Plan; and
9. The Board would like to proceed with the proposed Deepwater Horizon Incident Investigation Work Plan, including the proposed investigation scope, products, and timetable.

Therefore, the Board hereby votes to adopt the attached proposed Deepwater Horizon Incident Investigation Work Plan.

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

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

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

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

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

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

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

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

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

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

**U.S. CHEMICAL SAFETY AND HAZARD  
INVESTIGATION BOARD**

**Deepwater Horizon Incident Investigation  
CSB2010-04-I-OS  
Investigation Work Plan Summary**



**February 2011**

### Executive Summary

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The Deepwater Horizon (DWH) incident is one of the most significant chemical incidents of the current era and certainly one of the worst environmental disasters in U.S. history. The CSB has a lengthy history of serious chemical incident investigations that result in recommendations that improve work practices, safety standards, and regulation. Congress requested that the CSB investigate the DWH incident in-part based on the agency's experience in conducting major chemical incident investigations such as the BP Texas City, Texas, incident in 2005. As House Energy and Commerce Committee Chairmen Waxman and Stupak noted, the CSB's BP Texas City investigation provides experience and knowledge of BP's safety history, culture and organization, which allows our agency to play a vital role in preventing future accidents. Although BP is a common factor between Texas City and DWH, our investigation focuses on all companies involved in the incident. As with the BP Texas City investigation report and recommendations, the CSB DWH investigation has the potential for long-term, fundamental chemical safety impacts on an international scale. The CSB is the only independent federal safety agency investigating the DWH accident and, unlike other entities investigating the DWH, the CSB has the unique ability to provide ongoing support for recommendations follow-up and tracking.

### CSB Investigation to Date

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The CSB is well underway in its independent root cause investigation of the April 20, 2010 DWH explosion and fire. The team is examining a wide variety of issues, including technical factors, safety system performance, human and organizational factors, safety culture, and the effectiveness of laws, regulations, and enforcement.

To date, the CSB investigative activities have largely focused on analysis of evidentiary records and interview testimony from witnesses, BP, Transocean, and Halliburton management, governmental entities, industry groups, and other associated organizations. The CSB is also actively participating in the examination and testing of equipment and evidence, including the blowout preventer (BOP). A team of industry experts, including petroleum engineers and other technical experts with more than 30 years of industry experience, is currently providing technical support to the CSB investigative team in New Orleans. On December 15, 2010, the CSB held a regulatory forum, Regulatory Approaches to Offshore Safety, to obtain testimony from a number of international regulators, companies, trade associations and unions concerning effective regulatory approaches and views on possible regulatory improvements in the US offshore sector. As the team continues to collect and analyze evidence, several investigative topics have developed. These include high-level management decisions, regulator competence and effectiveness, and risk management.

### Projected Work Products

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The team believes that several issues pertaining to the current offshore regulatory regime must be addressed in an expeditious manner, and thus plans to develop two work products: 1) a Regulatory Report that focuses solely on regulatory issues; and 2) a Full Report that will examine technical, human, and organizational factors, as well as safety system and safety culture deficiencies. The team work plans for these products explain the timeline and related deliverables in more detail. The team plans to issue the Regulatory Report in late May 2011 and the Full Report in mid-January 2012.

The Regulatory Report will focus on assessment of the U.S. offshore regulatory regime and, as appropriate, opportunities for strengthening the regulatory oversight of offshore exploration and production. It will include an analysis of the statutes and regulations that were in place at the time of the incident as well as recent changes to the agency formerly known as MMS. It will also explore the effectiveness of independent safety agencies in other sectors and international offshore regulatory models. To identify the attributes of an effective regulatory system, the CSB plans to conduct an independent assessment of international offshore safety regimes in Australia, the UK, Norway, Canada, and Brazil. The team plans to study their use of a safety systems approach that focuses on major accident prevention and places risk management responsibility on owners and contractors. The Regulatory Report will conclude with a synthesis of these findings and analyses and propose corresponding interim or urgent recommendations.

As the team's work plan explains, preliminary data suggests that many of the key lessons learned from the Texas City investigation are also important inquiries in the DWH investigation. To that end, the Full Report will focus on a number of technical, safety system, and human factors issues that were causal to the DWH explosion and fire. The team will assess whether key safety systems, such as hazard evaluation and management of change, were appropriately implemented on the DWH. The Full Report will also include an analysis of the blowout preventer and other safety equipment to determine how its failure contributed to the incident. The team is specifically interested in the blowout preventer because of its perceived function as a "fail safe" device and its key role in the offshore safety implementation of barriers.

The team is also examining whether the companies involved, as well as the regulators, had a sufficient focus on major accident prevention separate and distinct from personal injury incidents such as slips, trips and falls. Additionally, the team is studying whether and how these companies used safety indicators in their corporate governance, management contracts, and industry benchmarking practices.

The Full Report will also examine a number of regulatory issues not covered in the Regulatory Report, including the leasing/permitting process and contractor responsibility for rig safety. In all of these areas, the CSB will examine current industry guidance and best practices to propose recommendations where such guidance is lacking.

## **Deepwater Horizon Incident Investigation**

The CSB believes that these two reports will make a significant and unique contribution toward major accident prevention in the offshore industry distinct from other groups' currently available and planned reports on the incident.