

U.S. Chemical Safety and Hazard Investigations Board

Business Meeting

January 29, 2020

CSB Headquarters Office - Washington, DC

U.S. CHEMICAL SAFETY BOARD MEMBERS PRESENT:

KRISTEN KULINOWSKI, INTERIM EXECUTIVE AUTHORITY

RICK ENGLER, MEMBER

STAFF PRESENT:

Tom Goonan, General Counsel

OPERATOR: Welcome to the Chemical Safety Board public meeting. My name is Brandon and I'll be your operator for today. At this time, all participants are in a listen-only mode. Later, we will conduct a question and answer session, during which you can dial *1 if you have a question. Please note this conference is being recorded. And I will now turn it over to Dr. Kulinowski. You may begin.

MEMBER KULINOWSKI: Thank you, Brandon. Good Afternoon. We will now call to order this business meeting of the U.S. Chemical Safety Board, CSB.

Before we begin, I'd like to highlight safety information. Please take a moment to note the locations of the exits at the side and back of the room. I also ask that you please mute cellphones so that these proceedings are not disturbed. Thank you.

I am Kristen Kulinowski, Interim Executive Authority of the Board. Joining me today is Board Member Rick Engler, for his final CSB Business Meeting. Also with us today is our General Counsel, Tom Goonan, and other members of the staff.

Today, we meet in open session, as required by the Government in the Sunshine Act, to discuss operations and agency activities.

The CSB is an independent, non-regulatory federal agency that investigates major chemical incidents at fixed facilities.

Our investigations examine all aspects of chemical incidents, including physical causes related to equipment design, as well as inadequacies in regulations, industry standards, and safety management systems. Ultimately, we issue safety recommendations, which are designed to prevent similar accidents in the future.

Today's agenda for new business includes the release of a safety video focused on a 2017 fatal incident at the PCA plant in DeRidder, Louisiana. The video features interviews with CSB Board Member Engler and Steve Sallman, Assistant Director of the United Steelworkers, USW. Mr. Sallman is in the room with us today.

Thank you for joining us.

If you are in the room and wish to make a public comment at the end of the meeting, please sign up using the yellow sheets at the registration table. Those on the line will have an opportunity to make a comment following the operator cues. The operator will unmute your line upon request. You may submit public comments by email to meeting@csb.gov to be included in the official record.

You will also notice that there are several documents available at the sign-in table for you to take with you.

I now recognize Member Engler for any opening remarks.

MEMBER ENGLER: Thank you. This is my last meeting of the five-year term. I'll have some remarks later in the meeting. Thank you.

MEMBER KULINOWSKI: Thank you. We'll begin with investigations and recommendations updates.

The CSB deployed three times since the last Business Meeting in late October. All three deployments were to incidents in Texas. The latest occurred just five days ago, at the Watson Grinding and Manufacturing facility in Spring Branch, Texas, in the Houston area. A fire and explosion event occurred at approximately 4:24 a.m. on Friday, January 24th, fatally injuring two workers and causing extensive property damage to the facility and surrounding neighborhood.

Member Engler and I, and other members of the staff, were able to visit the facility earlier this week to formally open our investigation and tour the site. Although I had seen photos and videos from news sources, it was another experience altogether to stand amidst the wreckage and contemplate how powerful the explosion was to have caused such catastrophic damage. It was yet another reminder of the importance of managing chemical hazards and of our mission of prevention. I don't have much more to report

today about this particular incident, but as our investigation moves forward, we will provide information as we are able.

The second deployment since our last meeting was to the TPC Group facility in Port Neches, Texas, which experienced a release of hydrocarbons on November 27, 2019, that resulted in a fire and multiple explosions. The release occurred in the South Unit of the facility. The incident resulted in multiple injuries and property damage to both the facility and surrounding area. Again, the blast was powerful enough to have damaged buildings offsite in both the previous two cases.

Our investigation team is performing on-scene investigative activities, interviewing personnel, and reviewing relevant documents. And we will also have more to say about this going forward.

On October 26, 2019, Aghorn Operating Incorporated experienced a loss of containment at a pump station that resulted in the release of hydrogen sulfide. One worker and one member of the public were fatally injured by the release.

The CSB deployed a team to the facility and conducted initial investigative activities. And currently, the team is drafting testing protocols and collecting information and documents from the company.

Full status of our open investigations and current actions related to recommendations can be found on the table outside the room.

I will now recognize Member Engler to provide an update of ongoing audits by the EPA Office of Inspector General, and the appropriations for the agency for Fiscal Year 2020. Before doing that, I will note that we welcome news of the new Inspector General being confirmed. His name is Sean O'Donnell. We have had cordial and productive relationship with our Inspector General. We thank the out-going Acting Inspector General, Chuck Sheehan, and look forward to working with Mr. O'Donnell as we go forward. Member Engler.

MEMBER ENGLER: Thank you, Dr. Kulinowski. I'll start with an update of ongoing audits by the EPA Office of Inspector General.

As of January 30th, 2020, CSB is currently working with the Inspector General on one audit. There have been no changes to the audit status listed below.

That's the Federal Information Security Modernization Act, FISMA, Audit. CSB reviewed the Fiscal Year 2019 FISMA draft report. The report made two recommendations.

Define and document risk management procedures for identifying, assessing, and managing information technology supply chain risk.

CSB concurs with this finding and expects to complete its documentation by April 30th, 2020.

Secondly, define and document incident handling capabilities for the eradication of security incidents, as required by the National Institute of Standards and Technology, Special Publication 800-53, Revision 4, Security Control.

The CSB also concurs with this finding and expects to complete its documentation by January 31st, 2020.

Concerning our budget, CSB's Fiscal Year 2020 budget is \$12 million. Our financial team is working on the agency's 2021 budget request, which will be submitted to Congress in early February.

We are grateful to the Congress for continuing to fund the agency's safety mission.

MEMBER KULINOWSKI: Thank you, Member Engler. I also note, since we're talking about Congress, we had a hearing in our Oversight Committee in the Senate about...to hear stakeholder perspectives on the importance of Chemical Safety Board. I thank the Committee for its attention to our agency and for the very positive remarks offered by both Committee Members and the

witnesses testifying about the importance of our agency and the need for us to return to full strength at the Board level.

This brings us to the New Business section of the meeting. The only item on this agenda is that we will be unveiling the full video focusing on the 2017 fatal incident at the Packaging Corporation of America containerboard facility in DeRidder, Louisiana. And we will now play the video. People who are calling in remotely can find this on our website.

[VIDEO PLAYS]

MEMBER KULINOWSKI: This and all of our CSB videos can be found on our website or on our YouTube channel. That concludes our New Business. Now it's time for public comments.

At this time, I would like to open the floor for public comment related to the CSB's activities. Please present your comments within three minutes. We will begin with the list of people in the room who signed up to speak earlier today and then go to those on the phone. I also have two comments submitted in writing that I will read aloud. Those listening on the phone can also email your comments to meeting@csb.gov.

UNIDENTIFIED: There's no comments, but Steve has a comment.

MEMBER KULINOWSKI: Okay, so there are...no one signed up but Mr. Sallman...

STEVE SALLMAN: First, I just want to thank the Chemical Safety Board, Dr. Kulinowski, Board Member Rick Engler, the entire CSB staff, as well as all of the staff who worked on the video.

As I watch that video, I reflect back to the day when we received the call about the triple fatality and what all we walked through and went through with the Board, with all of those people that's involved. And to watch that and relive that is something that you don't really want to revisit. But we have to revisit it. And I'm so thankful and our union is so thankful for this video that we're going to bring attention to process safety management, not only from a regulatory standpoint, but also as a best safety practice.

And having workers and the representatives involved in a process hazard analysis is critical. People need to know what they are working with and the hazards associated with it. And process hazard analysis is something that is critical, that should also be done in the workplace, not just because it's regulatory; it's required. It's the right thing to do. And if we can get more of these videos... I know that the industry will not only see this differently and do more to protect our workplaces and, more importantly, the workers.

But I just want to provide the Steelworkers' great appreciation to all involved for making this video. I know there was the one prior, too, on hot work, but this really helps bring an emphasis to process hazard analysis, process safety management. And I just...I just want you to know how much that this is going to make a difference, not only in our union, but the industry here in the U.S., but also globally.

We've had other unions that we interact with that are eagerly watching for this in the industry. So this isn't just going to improve health and safety in the United States. This is going to be a global impact. And I just can't thank you all enough. So I just wanted to publicly thank you.

MEMBER KULINOWSKI: Thank you, Mr. Sallman. Yes, please state your name and affiliation.

ALEXIA FERNANDEZ CAMPBELL: I'm Alexia Fernandez Campbell with the Center for Public Integrity. And I have a question about the future of the Board and what's going to happen with the open investigations if another Board Member is not confirmed before Mr. Engler leaves.

MEMBER KULINOWSKI: Yes, so that's a week. [laughs] So I know that the Senate just raised awareness of this issue today, earlier today in their hearing. And so I will be the sole remaining Board

Member until a Chair or other Board Members are confirmed. And I'm going to do everything in my power to maintain as...as many of the functions of the CSB as are permissible by law. And I'll be exploring that with legal counsel.

Let's go to the phones. Are there any questions on the phones, or comments?

OPERATOR: Thank you. We now begin the question and answer session over the phone. If you have a question or a comment, please dial *1 on your telephone keypad. If you'd like to be removed from the queue, please press the pound sign or the hash key. If you're on a speaker phone, please pick up your handset first, before dialing. Once again, if you have a question or a comment on the phone please dial *1.

Yeah, we have Richard Rosera on line. Please go ahead.

RICHARD ROSERA: Hello. I wanted to find out how many current investigators you have and how many you are budgeted for this year and whether you're going to open up any recruitment for investigators.

MEMBER KULINOWSKI: Yes, we continue to pursue investigator hiring in a very vigorous fashion and we will be...expect that we will be announcing another job announcement soon, shortly. We also will likely have several more investigators coming onboard in the

next month or two, who are working through the final...final issues needed to clear them. So that will bring us up to...

MEMBER ENGLER: Seven, with supervisors

MEMBER KULINOWSKI: Ten with the three additional people coming onboard.

RICHARD ROSERA: Okay. Thank you very much.

UNIDENTIFIED: I have a question from a Robert Underwood that I'm just going to read.

MEMBER KULINOWSKI: Okay, question from the email. Go ahead.

UNIDENTIFIED: "What is the status of the Loy Lange Box explosion in St. Louis?"

MEMBER KULINOWSKI: The Loy Lange investigation is still open and we continue to move forward with that. We're hoping to close that one out this calendar year.

I also have two comments that were submitted via email. One from a Kevin Druley[?]. "Dr. Kulinowski referenced her appreciation of Congress's efforts to help the agency 'return to full strength'. What is the CSB's understanding of a possible timeline for this and bringing new members onboard? With Member Engler's final meeting today, how will the agency proceed going forward?" I believe I covered that last point in response to another question.

The first point is the possible timeline. This is completely outside of our control. And so the Chair nominee is pending, awaiting a full Senate vote. And so I would direct your question to Leader McConnell.

Second comment, a little bit lengthier, that we received via email. A statement from Rick Hind, former Greenpeace Legislative Director.

"With the conclusion of Richard Engler's term on the U.S. Chemical Safety & Hazard Investigation Board, a leading voice for disaster prevention will be lost at the CSB. In addition, the CSB will now be left without a quorum to carry on essential mandated responsibilities of the agency. Yet, we all know that lethal chemical facility events will not stop occurring during whatever period of time it takes for new Board Members to be approved by the U.S. Senate.

"It is irresponsible of the President and the U.S. Senate to give so little priority to this essential agency, given the millions of workers and nearby communities across the U.S. who remain at daily risk of a catastrophic event. Investigating the cause of accidents and proposing remedies and new policies to prevent future disasters is the core mission of the CSB.

"The White House and Senate need to ask how many lives...lost lives they will allow before that mission becomes a reality. On February 12th, it will be 11 years since there was a fatal U.S. commercial airline disaster in the United States. That success is due to 'tombstone' engineering and new safety rules that grew out of accident investigations of fatal crashes. Few knew that such a safety record would be achievable when the National Transportation Safety Board was founded in 1967.

"Moreover, the U.S. Environmental Protection Agency estimated that there are, on average, 150 serious chemical facility events a year in the U.S., and all too often we know after the fact that these events and/or the consequences of them are entirely preventable.

"It is long past time that plant workers, community residents, emergency responders, and disrupted local businesses at risk were protected by safety rules that include a decade...a goal of zero deadly chemical disasters for at least a decade.

"Thank you for the opportunity to provide comment. Rick Hind, former Legislative Director of Greenpeace."

Let's go back to the phones and see if there are any additional comments.

OPERATOR: Yes, we have from Beaumont Enterprise, we have Jacob Dick. Please go ahead.

JACOB DICK: Hi, I was wondering if you could tell me whether there's been any further updates, whether investigators on the ground in Port Neches have been able to investigate the plant further, now that they have started to decommission some of the storage vessels.

MEMBER KULINOWSKI: We don't have anything new to report on this time, but it is still an active and important investigation for us. And as we have new information to release, we can be in touch.

Anybody else?

OPERATOR: No further questions on the phone.

MEMBER KULINOWSKI: Any further questions in the room? Or comments? Okay, this concludes the public comment period. Thank you to everyone who's provided a comment here today. I now recognize Member Engler for any closing remarks.

MEMBER ENGLER: Thank you Dr. Kulinowski.

Last Monday I visited the disaster site, along with Dr. Kulinowski and Executive Director Klejst... And I visited the site at the Watson Grinding Company in Houston, where workers Frank Flores and Gerardo Castorena had been killed in an explosion hours

before the day shift arrived, a couple of days earlier. The blast leveled much of their workplace. I viewed the wreckage of the facility and the damage to the working-class neighborhood nearby. It was a powerful reminder that we must prevent chemical disasters and why CSB's mission is so important.

Next Wednesday, February 5th, ends my five-year term and my service as a Member of the CSB. Thank you all here and on the phone for your indulgence as I offer some observations about our work.

The accomplishments of this small agency, of which I am very proud, are the result of the collective dedication and effort by staff and Board Members.

During the past five years, these CSB accomplishments include issuance of 17 investigation reports or other products, often with videos. Some of these CSB reports of particular significance, in my view, were the 2016 Macondo reports on the Deepwater Horizon disaster. It examined, among many topics, the importance of worker participation and called for an improved regulation to protect offshore oil and gas workers and the environment, including whistleblower protection.

The 2016 West fertilizer report highlighted risks to inadequately trained firefighters and vulnerable schools and communities.

The 2017 Exxon-Mobil report discussed hazards involved with refinery catalytic cracking units and a near miss that might have led to a catastrophic release of hydrofluoric acid.

The 2018 Arkema report discussed underestimating risks of our increasingly severe weather.

The 2019 DuPont report showed that a major multi-national company that advised other firms on safety had itself a broken facility safety management system.

And the 2019 Pryor Trust report addressed dangers in onshore oil and gas production and called on OSHA to issue safeguards for this largely unregulated industry.

CSB reports discussed the critical need to comprehensively identify and assess hazards to prevent harm to workers, communities, and facilities. And our reports made valuable recommendations that, if adopted, would help achieve CSB's vision of "a nation safe from chemical disasters."

In addition, the CSB: Issued factual updates early in investigations to inform the public about the disasters in their communities;

Contributed to the issuance of California's rule to strengthen process safety at California's 14 oil refineries, which can provide lessons for much needed reform of OSHA's Process Safety Management Standard in the future;

Urged action by US EPA to address the catastrophic risks of a release of hydrofluoric acid, used in many oil refineries, including in: Torrance, California; Superior, Wisconsin; and Philadelphia, Pennsylvania--all CSB investigation sites.

We won a unanimous ruling by the Ninth Circuit Court of Appeals that ExxonMobil must provide information to CSB concerning HF use at the site of the 2015 refinery explosion.

We passed a revised Board Order on employee and union participation during CSB investigations. While opportunities for worker participation are mandated by the 1990 Clean Air Act amendments that created CSB, this CSB policy became publicly available for the first time in 2018.

We published digests on important safety topics, including ones on the role of standard setting organizations, state governments, and employee engagement in process safety.

And, last, but quite important, put an end to past abuses by improving Board governance procedures, including the right for all Board Members to add issues to public meeting agendas.

These and other accomplishments have helped to rebuild broad public support for CSB's mission and bipartisan Congressional confidence in our work. That was reflected, of course, this morning by the testimony in support of the mission and work of the CSB and to achieve a quorum by three organizations, some of which don't always agree on everything. But United Steelworkers, the American Chemistry Council, and the Center for Chemical...Chemical Process Safety. And I thank all three of those organizations and the representatives this morning at the Environment and Public Works Committee hearing, for their important support and testimony.

So this has led to a \$1 million budget increase for each of the last two years, despite Presidential proposals for each of the last three years to eliminate the agency.

Again, these accomplishments reflect the work of the CSB staff and Board Members. I express my enormous appreciation for what you have done, and what I know you will do in the future.

For CSB to recommend high-impact strategies to prevent incidents across industries and nationally, CSB investigations and studies must identify underlying incident causes. These can include production pressures, inadequate safety systems, lack of worker, union, and safety department authority, and gaps in regulatory safeguards. Indeed, CSB investigations often examine

such underlying causes and the circumstances linked to incidents, with broad recommendations for safety change.

CSB is making substantial progress in rebuilding our investigative staff, primarily through hiring engineers with important industry experience. I suggest that CSB should also hire investigators with expertise in human factors, safety systems, and economics/risk assessments that can examine these underlying causes as well. Moreover, discussing these factors should be a prominent part of Board and staff investigation scoping discussions and public dialogue. And I leave the Board and Dr. Kulinowski and our staff with that one suggestion.

Finally, some thank yous. First, thank you to President Obama for nominating me to this position of public service.

Thanks again to CSB's staff and to CSB investigators, both past and present. Investigations are our core mission. Investigators have a challenging job, under tough conditions. They do it well.

Appreciation to Board Member Kulinowski for taking on the responsibility of being CSB's Interim Authority and leading the agency with such a steady hand.

Thanks to many who invited me to speak about CSB and chemical safety. I learned much from those discussions.

And thank you to the many individuals and organizations that actively support CSB's work and sometimes, and appropriately, speak out when they believe we can do better. These include community groups, environmental and environmental justice organizations, local and national labor unions and federations, professional societies, industry associations, and the family organizations who rightly urge us to name their loved ones in our reports. To all of you, keep up your critical support.

It's been a privilege to serve as a CSB Member of the Board. Again, thank you all.

MEMBER KULINOWSKI: Thank you, Member Engler. I'll just take a moment to reflect, now that I will soon be the only Board Member, back four-and-a-half years ago, when I first joined the Board and what I found was four very different individuals coming from four very different backgrounds, as the Board at the time. Chair Sutherland, Member Ehrlich, who just recently rolled off the Board in December, and of course, Member Engler.

And I learned so much from each of them. I learned different things from each of them. And it was fascinating to me to view our work through their different lenses. Through that of an attorney and government executive, someone with over 50 years of industry

experience, Member Engler's labor and environmental and worker orientation from his prior career, and my unique experiences.

So that has...that has been truly an enriching experience for me and I will miss that. And I hope that kind of diversity is replicated in the future.

So with that, I will thank Member Engler for his passion for our mission and service to the nation. And then there was one.

And I also want to thank everyone here for attending today's meeting.

Please continue to monitor our website, www.csb.gov, and sign up for CSB news alerts via email, as we approach April, for information on the time and agenda of our next meeting. Our meetings are also noticed in the Federal Register.

All of us share a strong interest in preventing chemical incidents in the future. I thank you for your attendance, and with that, this meeting is adjourned.

OPERATOR: Thank you. Ladies and gentlemen, this concludes today's conference. Thank you for joining. You may now disconnect.