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HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
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June 18, 2014

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah Cummings
Ranking Member
Committee on Oversight and Government Reform
2471 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa and Ranking Member Cummings:

I understand that the Committee on Oversight and Government Reform is holding a hearing tomorrow to examine management challenges at the U.S. Chemical Safety Board (CSB). As you prepare for this hearing, I thought it could be helpful to share with you the work I have done over the last several months to understand these challenges and identify solutions to improve the management of this important agency.

In 1990, I helped establish the CSB as part of the reauthorization of the Clean Air Act, and I have long supported its critical mission: to conduct independent investigations into the root causes of the most serious chemical accidents in the United States. I believe that when the CSB functions well, the nation benefits by understanding the causes of chemical accidents and how to prevent them.

Last fall, I became concerned that governance issues at the agency could threaten this important mission. The 2013 federal employee viewpoint survey for the CSB showed a remarkable decline in employee morale and confidence in CSB's senior management. I also learned that the CSB had had a series of conflicts with several other federal agencies, including the Environmental Protection Agency, the Justice Department, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives. These conflicts generally involved gaining access to information.

In order to better understand the challenges facing the CSB, I sent a letter in November 2013 to Chairman Rafael Moure-Eraso and the two sitting Board Members at the time, Mark Griffon and Beth Rosenberg, asking questions about decision-making, investigative planning,

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and communication within the agency. Each responded separately and identified areas they would like to see improved.

Over the course of the next several months, my staff engaged in a dialogue with the Chairman and Board Members to forge a productive path forward. My staff also spoke with several senior managers at the CSB. As a result of this investigation, it became clear that fostering open communication between the Chairman and Board Members would be an essential step in improving agency governance.

Accordingly, I made recommendations in seven areas where the Chairman and Board Members should try to communicate openly and deliberate jointly for the benefit of the agency. Those recommendations are attached. They include recommendations to schedule regular briefings for the Board Members on CSB investigations and for the Chairman to consult with the Board Members on matters that affect CSB's core mission, such as negotiations with other federal agencies on information-sharing. I also recommended that the Chairman and Board Members work together to prioritize outstanding investigations and develop a formal investigations protocol for the agency.

My staff shared drafts of these recommendations with the Chairman and the Board Members before they were finalized to provide them an opportunity to comment. The Chairman and Board Members offered comments, which influenced the final recommendations. My goal was to foster better communication through concrete steps, which would allow the Board to take even bigger strides in the coming months.

Since I began this oversight process several months ago, there are signs of progress at the CSB. One Board Member resigned, which is regrettable, but the President has nominated two new Members. The agency has voted to finalize the reports for two major investigations, the Deepwater Horizon explosion and the Tesoro refinery fire in Washington. The Deepwater Horizon report in particular breaks new ground in its understanding of one of the causes of the massive Gulf oil spill. Going forward, I am hopeful that the CSB will implement my recommendations and that this will contribute to a turnabout at the agency.

I believe that the best oversight makes constructive recommendations to improve agency performance. That is what I have tried to do through my oversight of the CSB, and I hope you will take a similar approach. Your hearing will serve a valuable purpose if it provides an opportunity to discuss constructive ideas for improving CSB's internal management and operations so that the agency can focus on its core mission and investigative work.

Sincerely,



Henry A. Waxman
Ranking Member

Recommendations from Rep. Henry A. Waxman to
The Chemical Safety Board

May 2, 2014

Regular Briefings and Meetings: The Chairperson should provide, and board members should attend, a weekly leadership meeting. At these meetings, senior CSB staff should provide an update on the status of major projects. The Chairperson should ask the board members prior to the leadership meeting whether there are topics they would like addressed and should ensure they are covered in the meeting.

The board members should request additional nondeliberative briefings if they believe there are issues that were not adequately addressed at the weekly leadership meetings. The Chairperson should facilitate prompt scheduling of any requested briefings.

In addition, the Chairperson should meet individually with each board member at least once a month.

Other Agencies: The Chairperson should inform the board members when another federal agency makes a nonroutine request for documents, information, or action from the CSB (unless the request relates to an internal investigation of the CSB and the investigating body has requested confidentiality). Any decision to challenge or reject a request should be elevated to the board for consideration.

MOU: The Chairperson should consult with the board members to develop a consensus approach to the interagency negotiations going forward (under EO 13650) to develop a Memorandum of Understanding. The Chairman should ensure the board members are briefed monthly on the status of the MOU negotiations and keep them apprised when major developments occur. The final MOU should be brought before the board for approval.

Chevron Investigation: The Chairperson (or a mutually agreed senior staff person) should meet individually with the board members to resolve concerns about the Chevron investigation report and to develop a proposal that could be brought before the board and adopted by consensus. If consensus cannot be reached on all matters, the Board should act on the items for which agreement exists. This proposal should be developed in time to be brought before the board for action as soon as feasible but no later than May 30, 2014.

Investigations Plan: The Chairperson should consult with the board members to establish a mutually agreed investigations plan for the agency. This plan should be established as expeditiously as possible but no later than July 31, 2014.

Investigation Protocol: The Chairperson should consult with the board members to establish a mutually agreed process for updating the agency's investigation protocol. This process should be started as expeditiously as possible but no later than July 31, 2014.

Board Order 28: There is a debate over the powers of the Chairperson and the board members under Board Order 28, which has the potential to interfere with implementing these recommendations. If there is a vacancy in the senior staff that would be subject to Board Order 28, the Chairperson and board members should seek consensus on the appointment as a matter of comity, thereby avoiding a need to resolve disputes about the application of the board order to appointments and the respective rights of the Chairperson and board members on this matter.