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U.S. Senate

Date: Thursday, July 29, 2021

Committee on Environment
and Public Works

Washington, D.C.

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HEARING ON THE NOMINATIONS OF STEPHEN A. OWENS, JENNIFER BETH SASS,
AND SYLVIA E. JOHNSON TO BE MEMBERS OF THE U.S. CHEMICAL SAFETY AND
HAZARD INVESTIGATIONS BOARD

Thursday, July 29, 2021

United States Senate

Committee on Environment and Public Works

Subcommittee on Chemical Safety, Waste Management, Environmental
Justice, and Regulatory Oversight

Washington, D.C.

The committee, met, pursuant to notice, at 10:06 a.m., in room
406, Dirksen Senate Office Building, the Honorable Jeff Merkley
[chairman of the subcommittee] presiding.

Present: Senators Merkley, Wicker, Kelly, Capito, Ernst.

STATEMENT OF THE HONORABLE JEFF MERKLEY, A UNITED STATES SENATOR FROM
THE STATE OF OREGON

Senator Merkley. Welcome, everybody. We now open the hearing of the Subcommittee on Chemical Safety, Waste Management, Environmental Justice, and Regulatory Oversight of the Senate Environment and Public Works Committee.

Welcome to today's hearing. We are here to examine the qualifications of three individuals nominated to serve as members of the U.S. Chemical Safety and Hazard Investigations Board, or better known as CSB. The CSB was created as part of the Clean Air Amendments Act of 1990 and became operational eight years later in 1998.

For over the last two decades, the CSB has been tasked with investigating the root causes of industrial chemical accidents at fixed industrial facilities. The CSB then offers recommendations to facilities, to local and State governments, regulatory agencies, industry organizations, and labor groups on how to prevent future accidents. The result is improved chemical safety at these facilities.

The CSB has investigated a broad array of accidents: fires at chemical plants, a steam explosion of a 2,000-pound hot water storage tank that launched the storage tank like a rocket through the roof, and unfortunately killed an employee and critically injured another. The CSB has investigated the 2010 explosion of the BP Deepwater Horizon rig in the Gulf of Mexico, which killed 11 workers and created the largest oil spill in American history. It has investigated the 2013 explosion at a Texas fertilizer plant that killed 15 and injured

more than 200.

While the CSB may not be as well-known as other agencies like the Environmental Protection Agency, it plays a critical role in the health and well-being of our ecosystem and our industrial enterprises. People's lives depend on the Board's ability to do its job by making appropriate and timely recommendations, which is why it is unfortunate that over the past few years, the CSB has not been fully equipped to carry out its mission.

Every year, roughly 200 incidents occur that the Chemical Safety Board considers investigating, but it only has enough staff and funding to investigate a handful. It is understaffed currently, with about 20 investigative positions, but only about a dozen of them filled. It has the largest backlog in investigations than it has had in the last five years.

It has more than 100 open safety recommendations that have not been finalized. If they are not finalized, they are not passed on. If they are not passed on, they are not considered. If they are not considered, they are not acted on. If they are not acted on, the odds of additional accidents goes way up, and people get maimed, and people die. The Board's work needs to be able to go forward in an efficient and effective manner.

One of the challenges is it only has one Board member right now instead of five. Well, we are here to help address that today, and I so much appreciate the three of you stepping forward to bring your expertise to this task. It is important that the Board have a sufficient number of members to act, that it has the staff of

inspectors and other positions to do its job in protecting our lives.

Earlier this year, Senator Klobuchar and I wrote to the Biden Administration, calling on them to fill these vacancies as a significant priority in protecting Americans, and so thank you to the Administration for proceeding to do so.

The nominees each bring with them a unique experience, life experience, work experience that will help guide the CSB in its work. Its work with local communities, with local governments, with other agencies, and with the scientific and chemical experts. The goal, of course, is getting the best possible recommendations.

The CSB does not write rules. It does not write regulations. It provides the nonpartisan, professionally developed scientifically informed recommendations for those agencies and companies to consider, so this is a really important role.

I would like to turn to my colleague, Senator Wicker, for any opening statement he would like to make.

[The prepared statement of Senator Merkley follows:]

STATEMENT OF THE HONORABLE ROGER F. WICKER, A UNITED STATES SENATOR
FROM THE STATE OF MISSISSIPPI

Senator Wicker. Thank you, Chairman Merkley, and I appreciate your calling today's subcommittee hearing.

I want to welcome our three witnesses today. They all have been nominated to be members of the Chemical Safety and Hazard Investigation Board, or CSB. I appreciate their willingness to serve.

The CSB is an independent, non-regulatory agency charged with investigating the root causes of chemical accidents at industrial facilities. That is what they do. Congress created the CSB to investigate accidents, understand what went wrong, and help prevent them from happening again. This investigative work is vital for the safety of our Nation's facilities and our communities.

Since becoming operational in 1998, the CSB has investigated three accidents that occurred in Mississippi, a 2002 explosion that injured three workers, a 2006 explosion that killed three contractors and seriously injured another, and fortunately, one in 2016 did not result in injuries or fatalities.

The CSB works to investigate these types of incidents in order to prevent them from happening again. The work is important and can save lives. It is therefore critical that the Board be filled with chemical process safety experts. Today's hearing presents an opportunity to hear from each of them about their qualifications for this supportive role.

I would note, earlier this week, the American Chemistry Council sent a letter expressing concern that "None of the nominees has the

necessary experience or expertise to meet its mission.” That is a direct quote. This committee has long held a high standard for these positions.

As a matter of fact, at a previous hearing, in a question for the record, my colleague and friend Senator Cardin asked the following of a past CSB nominee who was considered by this committee: “You do not appear to have the relevant private sector experience in chemical safety processes. What specific knowledge do you bring to this position that is directly relevant to the subject matters that the Chemical Safety Board considers?”

That was a quote from our Democratic colleague from Maryland, Senator Cardin. I think that is a question worth asking each nominee today, and I look forward to getting to know more about their experiences.

Thank you, Mr. Chairman.

[The prepared statement of Senator Wicker follows:]

Senator Merkley. Thank you, Ranking Member Wicker.

I would like to now introduce our nominees.

Dr. Jennifer Sass is a Senior Scientist at the Natural Resources Defense Council, where she has served since 2001. Since 2008, she has served as part-time faculty at the George Washington Milken School of Public Health. Much of Dr. Sass's work is focused on understanding and explaining the science behind toxic chemical regulation and advocating for regulations that are consistent with science, health policy, and environmental law.

She frequently provides testimony in scientific briefings for members of Congress, as well as Federal advisory committees, and is a lecturer at George Washington University's Department of Environmental and Occupational Health. Dr. Sass was a Board Member of the National Toxicology Program Board of Scientific Councilors. She holds multiple degrees from the University of Saskatchewan College of Medicine and a post-doctoral certificate from the University of Maryland College of Medicine.

Dr. Sylvia Johnson currently works for the National Education Association in the Government Relations Department, where she leads her legislative work on safe reopening of schools. Previously, she served as Assistant Director of Legislative Affairs for UAW, the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America. We just prefer to call them UAW.

Prior to working in the legislative department, Dr. Johnson worked as an occupational epidemiologist where, in addition to her work on work-related health studies, she conducted hazard assessments

and investigated incidents involving the death of workers due to either chemical biological, or physical exposures. Dr. Johnson graduated from Fayetteville State University with a Bachelor of Arts degree in Geography and double minors in mathematics and physics. She earned a Master of Science from Virginia Commonwealth University in biomedical engineering and a Ph.D. from Old Dominion University in urban health services research.

I will now turn to Senator Kelly, who is not here, so I will introduce our third individual.

Steve Owens is an attorney with Squire Patton Boggs, LLP in Phoenix, Arizona, where he focuses on environmental safety and health issues. From 2009 to 2011, Steve served as the U.S. Environmental Protection Agency Assistance Administrator for the Office of Chemical Safety and Pollution Prevention. As the Assistant Administrator for OCSPP, Steve was responsible for managing EPA's regulatory programs on chemicals and pesticides under the Toxic Substances Control Act, known here as TSCA.

Prior to joining EPA, Owens was Director of the Arizona Department of Environmental Quality from 2003 to 2009, where he made addressing climate change, protecting children's environmental health, and working closely with Arizona's tribal nations top priorities. Mr. Owens graduated with honors from Brown University in 1978 and received his law degree in 1981 from Vanderbilt Law School, where he was Editor in Chief of the Vanderbilt Law Review.

Mr. Owens served as council to the Subcommittee on Investigations and Oversight of the U.S. House Committee on Science and Technology.

During 1985 to 1988, Mr. Owens was Chief Council and later, State Director for then-U.S. Senator Al Gore. From 1999 to 2002, Mr. Owens served as a member of the Joint Public Advisory Committee of the North American Commission on Environmental Cooperation.

He is a former member of EPA's Clean Air Act Advisory Committee and EPA's Children's Health Protection Advisory Committee, as well as a former President of the Environmental Council of the States, the National Association of State Environmental State Directors.

Welcome to each of you, and we will now hear from the nominees themselves. I think, checking with my team, are we asking for five minutes of presentation? If you go a little bit long, I will kind of suggest you wrap it up. Thank you.

So, let us start with Ms. Sass.

STATEMENT OF JENNIFER BETH SASS, NOMINEE TO BE A MEMBER OF THE U.S.
CHEMICAL SAFETY AND HAZARD INVESTIGATIONS BOARD

Ms. Sass. Thank you, Senator.

Chairman Merkley, Ranking Member Wicker, members of the subcommittee, thank you for your consideration of my nomination for the U.S. Chemical Safety and Hazard Investigation Board. I am honored to be nominated by President Biden and, should I be confirmed, to have the opportunity to take up public service as a member of the Board.

With me today are my son, Nathan, and his girlfriend, Christina, both now living in California, and my husband, Michael.

My father, who lives in Canada, served in the U.S. military, as did all his brothers and then went on to graduate studies at Cornell University in the field of occupational health and safety, and eventually into government health and safety work. I credit my parents with instilling in my brother and me a strong work ethic, integrity, and commitment to public services. My parents, family, and friends are tuning in to these proceedings via webcast.

I am a senior scientist at the Natural Resources Defense Council, where, for the past two decades, I have worked to advance policies and practices to better protect the health and safety of American families in all the places that they live, learn, work, and play. I provide policy strategy, scientific review, and oversight of materials generated for our work to characterize the potential impacts of chemicals on human health and the environment.

My work informs decision-makers and stakeholders, including chemical manufacturers, product manufacturers, and other downstream

businesses that use chemicals: retailers, academic researchers, doctors and other health care workers, outdoor fishing, hunting, and recreation enthusiasts, and others.

On an almost daily basis, I engage in some form of risk analysis. I help formulate environmental health strategies. I work to build successful networks and partnerships across diverse stakeholders and interests.

I also have a part-time faculty position at George Washington University in the Department of Environmental and Occupational Health, where I teach graduate-level science policy classes. Last year, I was awarded a departmental commendation for teaching excellence. In addition to academic teaching, I provide scientific peer review for numerous professional journals and have published over 50 articles in scientific journals.

As a science policy expert, I have served on Federal science advisory committees, including the National Toxicology Program's Board of Science Councilors and also a member of the President's Council of Advisors on Science and Technology on the working group to evaluate the Federal nanotechnology strategy. My time on these committees has established effective working relationships with experts from government, academia, and the private sector, always based on honest, respectful engagement, open communication, and transparent information sharing.

The Chemical Safety and Hazard Investigation Board is both a scientific and a policy agency. The role of the agency is to make effective recommendations to prevent future similar incidences. It

must gather all relevant information from the facility under investigation, from industry and trade associations, from subject matter experts, from the community, workers, government agencies, elected officials, and others. To be successful, the Board needs to maintain positive relationships with all stakeholders to ensure that accurate, timely information is effectively gathered and shared.

Congress has made it clear that the Chemical Safety and Hazard Investigation Board has bipartisan support when it functions well and accomplishes its mandate to deliver timely reports and meaningful recommendations that support prevention strategies.

I am confident that I will be successful in carrying out my duties as a member of the Board to support its mission, should you deem me worthy of the task.

Thank you.

[The prepared statement of Ms. Sass follows:]

Senator Merkley. Thank you very much.

Ms. Johnson?

STATEMENT OF SYLVIA E. JOHNSON, PH.D., NOMINEE TO BE A MEMBER OF THE
U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Ms. Johnson. Chairman Merkley, Ranking Member Wicker, and members of the subcommittee, I am Sylvia Johnson, and I would first like to thank you for the opportunity to appear before you for my nomination by the President to the U.S. Chemical Safety and Hazard Investigation Board.

Family with me here today, I have my big brother Anthony, who is a retired Air Force veteran after serving 29 years. He retired at the top of the ranks for enlisted members as a Chief Master Sargent. I also have my cousin Tamra Louis, who is an Army veteran. My other two brothers and numerous family and friends are joining via livestream.

I grew up in rural North Carolina, raised by my parents, Herbert and Annie Johnson, who believed in the dignity of hard work and instilled in me the same. Although they did not have the opportunity to go to college, they understood the value of education and ensured that we could graduate from college and pursue our goals.

My parents are deceased now, but their influence on me is indelible. My mother worked in a shirt factory, and I remember her coming home covered in cotton dust every day. Unfortunately, she became ill and had to quit her job.

I remember her sleeping in a chair due to a debilitating lung condition that made breathing difficult. Watching my mother suffer and witnessing her death at the age of 61 left me wishing that her work environment had been safer.

There were no federal protections, regulations, or even

recommendations during her time at the factory. My mother's experience inspired me to search for answers, become an occupational epidemiologist, and endeavor to make factory working conditions safer for all workers.

Passion for public service is as deeply ingrained in me as my passion for science. My dad exemplified service to family, community, and Country. He served in the military during the Korean War in a segregated Army, but that did not diminish his pride in having served. After leaving the Army, for the next 60-plus years, he was a small business owner, first in logging and then in trucking.

He also served as a County Commissioner in Bladen County, North Carolina for 12 years and was Chairman of the Board during his final term. My dad's dedication to community and Country continue to motivate me to improve the lives of others.

I am honored and humbled to be nominated. If confirmed, I will be guided by the principles that have defined my training and career: improving and protecting public health and safety for all people.

My work in this area spans more than two decades, starting with earning a Master of Science degree in biomedical engineering with a concentration in industrial hygiene. As a doctoral student, I researched the health effects of lead poisoning in young children.

My professional experience includes investigating industrial manufacturing accidents, hazard recognition and mitigation, and understanding the connections between government agencies and health and safety.

As an Occupational Epidemiologist in the Health and Safety

Department for the United Auto Workers, I conducted workplace hazard assessments and investigated incidents involving worker deaths due to chemical, biological, and physical exposures. I have sat with grieving worker who lost a colleague to an industrial accident, and it is a gut-wrenching experience. In every hazard investigation I led, I worked with management to fix unsafe conditions so that employees were protected and the work continued.

I have worked on legislative efforts to assist those who were sickened by contaminated drinking water in Flint, Michigan. Given that my doctoral dissertation research was focused on childhood lead poisoning, I was all too familiar with the health risks of lead poisoning and how the government could assist in addressing the crisis.

Most recently, as a legislative representative with the National Education Association, I am part of a health and safety team focused on keeping educators and their students safe at school.

Health and safety issues remain a tenet of my career in legislation and advocacy. For me, promoting adequate funding for OSHA and EPA is paramount.

If confirmed to the CSB, I dedicate myself to its mission to drive chemical safety change through independent investigations to protect people and the environment. This aligns with my personal calling and is a tribute to what I learned from my parents. Workplaces must be safe and healthy, and service to others is a privilege and an obligation.

Thank you again for this opportunity, and I look forward to

answering your questions.

[The prepared statement of Ms. Johnson follows:]

Senator Merkley. Thank you, Dr. Johnson.

Mr. Owens?

STATEMENT OF STEPHEN A. OWENS, NOMINEE TO BE A MEMBER OF THE U.S.
CHEMICAL SAFETY AND HAZARD INVESTIGATIONS BOARD

Mr. Owens. Thank you, Senator Merkley, Ranking Member Wicker, and members of the subcommittee.

If I may, at the beginning, introduce a couple of members of my family that are here with me, my wife Karen Owens, who is there, along with our son, Ben Owens. Our other son, John Owens, lives in Arizona and, unfortunately, couldn't be with us here today in person, but he is with us in spirit.

I want to thank you for holding this hearing and for giving me the opportunity to be here. I am extremely honored to be nominated by President Biden to be a member of the Chemical Safety and Hazard Investigation Board.

The Chemical Safety Board is a small agency, but it has a very big and very important mission: conduct investigations and make recommendations that help ensure that chemical facilities are operated safely and that the people who work in them and the families who live near them are protected from chemical disasters.

I grew up in a poor family in Memphis, Tennessee, and I was talking with Senator Wicker about earlier. We lived in public housing for a time when I was young, and I had part-time jobs to help make ends meet.

I worked my way through college and law school with the help of work-study jobs and student loans. I was fortunate to be admitted to Brown University, where I graduated with honors, and then attended Vanderbilt Law School, where I was Editor in Chief of the Vanderbilt

Law Review.

I am currently an attorney in Phoenix, Arizona, where I practice environmental, safety, and health law. My practice includes issues and regulations relating to chemical safety, safe chemical practices, and the production, management, and safe use of chemicals at facilities.

I have always had a deep commitment to public service. During the Obama-Biden Administration, I served as the Assistant Administrator of the U.S. Environmental Protection Agency in charge of the Office of Chemical Safety and Pollution Prevention. As Assistant Administrator, I oversaw EPA's chemical regulatory programs, including implementation of the Toxic Substances Control Act, the primary Federal law regulating the chemical industry in this Country.

Our mission at EPA was to ensure the safety of chemicals, the safe production and use of chemicals, and the reduction of risk from chemicals to children, families, consumers, workers, and other vulnerable populations. Among our efforts, we prepared Action Plans on priority chemicals, issued new rules to limit risks from existing chemicals, and required testing on high-risk chemicals.

We launched the Chemical Data Reporting Rule, which requires chemical manufacturers to provide more detailed and more comprehensive data on their chemicals. We also developed a framework for prioritizing chemicals for evaluation, which led to EPA's chemical "work plan" that was incorporated into the 2016 amendments to the Toxic Substances Control Act by this Congress.

We also increased transparency for chemical information and

expanded public access to health and safety data on chemicals. We began the effort to reduce unnecessary confidentiality claims and declassify information where confidentiality is no longer warranted. We made the TSCA Inventory available to the public online and created a searchable database that gives the public access to thousands of health and safety studies and other chemical information that has been submitted to EPA.

We also worked with tribal leaders to establish the National Tribal Toxics Council to expand safer chemical initiatives in Indian Country and address unique chemical exposures on tribal lands and Alaska Native villages.

Before joining EPA, I served as Director of the Arizona Department of Environmental Quality, where I guided the department's efforts on chemical safety and its role in responding to chemical hazards and other emergency situations. I made protecting children's health and reducing children's exposure to toxic pollutants a top priority, and we worked very closely with Arizona's tribal leadership to reduce toxic exposures on reservation lands in our State.

We increased the department's emergency response capabilities and activities. We placed a high priority on providing immediate localized air quality monitoring, data collection and emergency response support wherever there was a fire, explosion, or other episode at a facility where chemicals were present in order to protect the health and safety of the surrounding community and of the first responders.

We also worked closely with Arizona's law enforcement and

homeland security officials to ensure the security of critical infrastructure in our State, including potentially at-risk chemical facilities, and I served on the Executive Oversight Committee of the Arizona Counter-Terrorism Information Center.

My experiences have underscored for me the importance of following the facts, the law, and the science in addressing chemical risks and ensuring the safety of chemical facilities. If I am privileged to serve on the Chemical Safety Board, I pledge to do just that.

Thank you again for the opportunity to be here, Senators, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Owens follows:]

Senator Merkley. Thank you very much, Mr. Owens.

Welcome to all the family members who have traveled to be with us here today.

In initiating the questioning, we are going to start with three yes or no questions that are asked of all nominees that appear before us, and so I will just ask the question, and work my way across: Mr. Owens, Dr. Sass, Dr. Johnson, in that order, through these three questions.

Do you agree, if confirmed, to appear before this committee or designated members of this committee and other appropriate committees of Congress and provide information subject to appropriate and necessary, with respect to your responsibilities? Mr. Owens?

Mr. Owens. Yes, Senator.

Senator Merkley. Dr. Sass?

Ms. Sass. Yes, Senator.

Senator Merkley. Dr. Johnson?

Ms. Johnson. Yes, Senator.

Senator Merkley. Do you agree to ensure that testimony, briefings, and documents, and electronic and other forms of communication of information are provided to this committee and its staff and other appropriate committees in a timely manner? Mr. Owens?

Mr. Owens. Yes, Senator.

Ms. Sass. Yes, Senator.

Ms. Johnson. Yes, Senator.

Senator Merkley. Perhaps most importantly, do you know of any matters which you may or may not have disclosed that might place you

in a conflict of interest if you are confirmed?

Mr. Owens. No, Senator.

Ms. Sass. No, Senator.

Ms. Johnson. No, Senator.

Senator Merkley. Okay.

We will now begin the first round of questions. I want to start with addressing the question of transparency with the public. To all nominees, what would you do as a CSB Board member to ensure that CSB is transparent to the public and provides adequate opportunities for public engagement? Who would like to jump in first?

Mr. Owens. Senator, I will be happy to go first.

Senator, thank you for that question. As I indicated in my opening statement, I have had a lot of experience in providing transparency to information. At EPA, we established a new Chemical Data Reporting Rule, which requires more information to be parted to the public. We created an online database that is searchable, so the public can have access to health and safety studies, and I think that one of the keys to any effective agency is transparency and accountability.

If I am privileged to serve on the Chemical Safety Board, we will work with the staff to identify ways in which more information can be made available to the public, more communication with the public, as well as the stakeholders and industry groups, so that the operations of the Board can be better understood and become more effective.

Senator Merkley. Thank you.

Do either of you, Dr. Sass or Dr. Johnson, anything you would

like to add to that?

Dr. Sass. Thank you, Senator, for that question. I will only add that transparency is different for different stakeholders. There are different ways to communicate with different stakeholders. So we would need to be sensitive to all those. I would commit to getting briefed on all the different ways that the Chemical Safety Board has to reach out and work to try and improve transparency where possible. Thank you for that question.

Senator Merkley. And Dr. Johnson, I will amend the question a little bit, because there is another piece of it I wanted to touch on. But in a situation where an accident involves a community, maybe it is, for example, an explosion at a fertilizer plant that affects a community, is there any particular way that the CSB should make sure that the community itself has a chance to share their perspectives and information?

Ms. Johnson. Thank you, Senator, for the question.

Absolutely. I think that transparency has to be an integral part of what the CSB does. As Dr. Sass indicated, depending upon who the stakeholders are, obviously there would be a process by which that happens. But it would be imperative that the surrounding community have full transparency of what has happened and what we are going to do about it to protect them in the future. Part of the mission of the Chemical Safety Board is not only to protect the environment, but the public as well.

Senator Merkley. Thank you very much, Dr. Johnson.

I want to turn next to the issue of scientific integrity, and

kind of non-partisan and immunity to political interference. What actions would you take to assure that the scientists, the investigators, who are also scientists, at the agency are free to conduct and communicate their research without political interference, and that scientific and technological findings are not suppressed or distorted at the CSB?

Dr. Sass, would you like to begin on that?

Ms. Sass. Thank you, Senator, for that question. Thank you for raising that issue because it is so important. The integrity of science is fundamental to earning the trust of the public and stakeholders. I would commit myself to being fully briefed. There are laws and rules and regulations that agencies have to follow, as well as practices. I would look forward, should I be confirmed, to getting fully briefed on those. Thank you.

Senator Merkley. Dr. Johnson?

Ms. Johnson. Thank you, Senator, for the question. In the event that you described, I would commit to, if I am confirmed to the Chemical Safety Board, to gather all of the data and be transparent, and exhibit the highest level of integrity. Because integrity is what drives me. I am also driven by data and science and numbers. So I commit to ensuring.

Senator Merkley. Dr. Johnson, if you got a call from an Assistant Secretary who said, we want to do a big press release on such and such of an issue, so can you speed up the work and really modify the recommendation, your draft recommendation, to give us a little more political punch, what would your response be?

Ms. Johnson. My response to that would be that I am driven by science and data and integrity and I would have to delve into what is going on and based on the findings and the facts, that would guide my decision on whether or not to release the information. I would be guided by facts.

Senator Merkley. Thank you.

Mr. Owens, would you be supportive of the CSB developing a scientific integrity policy?

Mr. Owens. Yes, Senator. I would be. When I worked at EPA and also the Arizona Department of Environmental Quality, I had the privilege of working with many career-trained scientists. I am not a scientist myself. I learned that the best thing I could do as a manager and as a director of the office as well as an agency, is to give them the support and direction that they need, to stand by them when they are making their scientific decisions and ensure that they are focused on their mission and not worrying about outside interference.

Senator Merkley. Thank you.

Our Ranking Member, Senator Wicker.

Senator Wicker. Thank you very much.

Mr. Owens, you grew up in Memphis. Where did you go to high school?

Mr. Owens. Messick High School, sir.

Senator Wicker. That is about an hour and a half from where I grew up, in Pontotoc, Mississippi.

Mr. Owens. Yes, sir. I know Pontotoc well.

Senator Wicker. Dr. Johnson, you grew up in Bladen County?

Ms. Johnson. Yes, Senator.

Senator Wicker. Which town?

Ms. Johnson. Elizabethtown, except I really grew up beside the road, because we didn't even have a traffic light. So I grew up in the suburbs of Elizabethtown.

Senator Wicker. The outskirts, okay. That is two counties away from Wayne County, where I spent four years in the U.S. Air Force.

Ms. Johnson. Yes.

Senator Wicker. So I identify with at least two members of the panel here.

Let's just ask, two groups that have concerns about your qualifications have spoken out, the American Chemistry Council and the Petrochemical Manufacturers have expressed concern about your qualifications. As I mentioned in my opening statement, they said the nominees do not have "the necessary experience or expertise to meet its mission."

So let me start with you, Mr. Owens. In your practice, have you dealt with industrial accidents?

Mr. Owens. Senator, thank you for the question. I have not dealt specifically with an industrial accident. I have done preventive work with clients to prevent industrial accidents. My practice includes advising a number of companies, both chemical manufacturers, chemical processors, and other large chemical users on ways to comply with existing regulations, including OSHA's process safety management standard, the Department of Homeland Security's

counterterrorism facility standards and some of the other applicable regulations that EPA and other agencies comply with.

So I have advised them on how to comply, how to avoid having accidents in the first place. I look forward to the opportunity to work with them, work with stakeholders if I am privileged to serve on the Chemical Safety Board.

Senator Wicker. Is it your position that there are professional investigators on the staff that will be able to take care of the investigation?

Mr. Owens. Thank you, Senator, for the question. Yes, sir, I believe that is the situation.

As a member of the Board, I would view my responsibility to support the career staff there who are the trained investigators of the Chemical Safety Board to do the hands-on work and develop the recommendations and provide those up to the Board. We would evaluate those recommendations to ensure that they are practical and reasonable and can be put into effect.

I would think that as a Board member, the best role is to provide that kind of support to the career technical staff who are trained engineers in many cases.

Senator Wicker. Okay.

Dr. Johnson, let me give you a minute five, to answer. Have you ever interacted with the CSB in either your role at the NEA or the UAW?

Ms. Johnson. Thank you, Senator, for the question. During my time at the NEA, I have not interacted with the CSB. During my time

at the UAW, I did not interact with the CSB.

Senator Wicker. Is the criticism of these two organizations fair, do you think?

Ms. Johnson. In terms of?

Senator Wicker. They have said that none of you are qualified based on experience, to serve on this Board.

Ms. Johnson. I would say that that is not accurate in my case. During my time at the UAW as an epidemiologist, I worked with labor and management, I have investigated chemical accidents, I have trained workers on how to remain safe from chemicals, how to safely store chemicals.

Senator Wicker. Were these accidents industrial accidents?

Ms. Johnson. They were industrial accidents, yes.

Senator Wicker. Where?

Ms. Johnson. There was an industrial accident at a Chrysler plant in Kokomo, Indiana, where I had 95 workers who were sick from exposure to metalworking fluids. I worked on a study at a plant that is now closed that was in Huntsville, Alabama, with exposure to benzene.

Senator Wicker. Perhaps you could supplement your answer since I only have 38 seconds.

Dr. Sass, is the criticism about your qualifications unfounded?

Ms. Sass. Senator, thank you for the question. Thank you for caring about the qualifications of the members of the Chemical Safety Board to carry out its mission to protect and prevent accidents and protect safety.

The Chemical Safety Board has always enjoyed bipartisan support, because in Congress' wisdom it recognized that the CSB's mission was best achieved by a multidisciplinary Board. And it includes someone with my skill set. It is part of the description that Congress included when it described what a functioning Board would look like. I bring to that Board health and toxicology skills and science policy skills as well as a broad view that is required for a thorough Chemical Safety Board investigation and meaningful recommendations to all stakeholders.

I commit to you to listening to all concerned stakeholders, including the private sector and its trade associations to support industry, the economy, jobs, and the communities that surround those industries and the health of those members of the communities and their families by having a working, functioning Chemical Safety Board staff and Board. Thank you.

Senator Wicker. Thank you, ma'am. And thank you, Mr. Chairman.

Senator Merkley. Thank you. We will turn to Senator Kelly.

Senator Kelly. Thank you, Mr. Chairman.

Mr. Owens, I want to again say how pleased I am to see an Arizonan nominated to serve on the CSB. I want to say thank you for your willingness to serve in this very important role.

For those of you who don't know, Steve brings decades of experience working on issues in chemical safety and regulatory oversight to the Board from his time being, and this may have come up, leading the Arizona Department of Environmental Quality and then working on these issues at the EPA.

Mr. Owens, I often talk on, at this committee, about how the regulatory and environmental challenges faced by Arizona often look different than those in other States. I am especially pleased that you are able to bring your perspective as a former Arizona regulator to this Board.

Could you share how you plan to bring your experience working in Arizona to your time on the CSB?

Mr. Owens. Thank you, Senator, for the question. It is good to see you again. I appreciate the opportunity to be here with you today.

As the director of the Arizona Department of Environmental Quality, I oversaw the emergency response functions of the agency and the role that the agency had in responding to events such as a fire, explosion, or other episode at a chemical facility. We provided air quality monitoring information and collected the data that we needed. We worked with local law enforcement as well as plant officials and members of the surrounding community to ensure that members' families who lived near those facilities had the information they needed and that we took appropriate action as the State environmental protection agency where it was required.

Senator Kelly. Thank you.

I next want to ask all three nominees about the importance of the CSB's work to help communities prepare for emergency situations at chemical facilities. To date, CSB has conducted 16 investigations and made 46 recommendations seeking to help industry, first responders, and regulators proactively plan for emergency situations at facilities

where there is a lot of risk. Despite this work, too often local first responders, especially in rural and disadvantaged communities, still struggle when faced with chemical fires or similar emergency situations.

What more do you believe CSB can do to engage local communities to ensure that recommendations made around emergency preparedness are understood and implemented? Why don't we start with Dr. Johnson?

Ms. Johnson. Thank you, Senator, for the question.

It is my belief that engaging stakeholders and keeping open lines of communication on a consistent basis is important to guide the work of the CSB. If I am confirmed to the CSB, I commit to you that that would be a priority for me in terms of reaching out to stakeholders.

I am from a rural community, and I totally understand what you are talking about in terms of being able to have that outreach or that reach into those communities, because it is vitally important.

Senator Kelly. Thank you.

Dr. Sass, would you like to add anything?

Ms. Sass. Senator, thank you very much for the question and for thinking broadly about all of the stakeholders for Chemical Safety Board recommendations, including both those that receive the recommendations and those that are impacted by the recommendations, like communities and America's families.

I share your concern for protecting those families, and I commit to you to get fully briefed on all the different ways that the Chemical Safety Board has now for communicating and outreach, both in terms of timeliness as well as accuracy of information, and to ensure

that the Chemical Safety Board uses its resources wisely to carry out its mission to protect those families.

Senator Kelly. Thank you.

Mr. Owens?

Mr. Owens. Thank you, Senator, for the question. Yes, I believe that transparency and accountability for the Chemical Safety Board would be extremely important in providing information to the families that live near chemical facilities when there has been an incident. It is especially important so that they understand not only what has happened at the facility but where the investigation is going, what the status of that investigation is along the way, so that they can understand better what action is being taken to prevent similar episodes in the future.

Senator Kelly. Thank you. I yield back the remainder of my time, Mr. Chairman.

Senator Merkley. Thank you, Senator Kelly.

Senator Capito?

Senator Capito. Thank you, Mr. Chairman. Thank you all for your willingness to serve, and thanks for being here today.

Congress created the Chemical Safety Hazard and Investigation Board, or CSB, to investigate accidents and determine the conditions and circumstances that led up to these accidents. The Board certifies the causes or cause of the accident so that similar things can be prevented.

Investigative work is vital for the safety of our Country's facilities and our communities. I am from West Virginia. We have a

lot of chemical facilities, and we have had several accidents. We are a global leader in chemical manufacturing, and this industry provides thousands of jobs in West Virginia, particularly in the area and community where I live.

I am committed to make sure that everybody has the right skills and technical expertise. Learning from past mistakes is critically important. Working with the communities is absolutely essential, quickly with the communities. That is one of the things we have learned. Leaving things in limbo with communities who have been affected by something immediately is probably one of the worst things that you can do to a community, and lack of communication.

I know that this has been covered a little bit, so I am going to skip Dr. Johnson, because I heard your reply to Senator Wicker. But can you describe, Dr. Sass, a time you led or participated in either an industrial, chemical, or transportation facility accident, just to give me an example of something like that, if you have done that? Then we will go to Mr. Owens.

Ms. Sass. Thank you, Senator Capito. Thank you for making time to come to the hearing. I really appreciate that and your interest in the Chemical Safety Board and its mission.

As a science and science policy expert, my role has been to work with communities, both communities on the ground, in local areas, in States and local areas as well as different kinds of federal interest stakeholders who are interested in chemical policy, chemical regulation, as chemicals get reviewed, and the way chemicals are used.

I also have worked with users of chemicals in downstream chains

and retailers and products and consumer products. My role has been to understand the movement of chemicals through the economy, through the supply chain, and from manufacturers to downstream users, and to work with those stakeholders to ensure that they are used in the safest way possible.

Senator Capito. So you haven't actually been part of an accident investigation. While I have you, apparently in 2019, you tweeted "Shame on the EPA Chemical Safety Office for posturing to the American Chemistry Council corporate toxic chemical manufacturers and polluters! Mission fail." This was in response to a tweet documenting that the head of EPA's Chemical Office spoke to the industry about her commitment to "implementing TSCA in an open and transparent way."

Why is that posturing?

Ms. Sass. Thank you, Senator, for that question. I have to apologize that I do not recall the full context of that. But I will only comment that it is important to me, both personally and in my professional work, that the federal agencies communicate with communities, with all stakeholders, and that includes communities, as well as those that receive the recommendations of something like a Chemical Safety Board.

Senator Capito. But I don't think that you can have sufficient implementations of something like TSCA if you are not also talking to the manufacturers and the producers and other people who are intimately involved. How can you only talk to -- I mean, I started out with talking about community involvement and how important that

is. How can you only talk to the community and not talk to the people who understand the processes? That seems like that is what you are saying here.

Ms. Sass. Senator Capito, I agree with you that talking to all stakeholders and gathering all information is important. Again, I don't remember the exact context of that particular tweet. But I do commit to you to fully consult with all stakeholders.

Senator Capito. Okay, so maybe we will ask an additional question and get some clarification.

Ms. Sass. Sure, that would be fine. Thank you.

Senator Capito. Mr. Owens, the first question. I think you answered this, but I might have missed it. I know you have worked in this area.

Mr. Owens. Thank you, Senator. I appreciate the question. I actually want to clarify something I said in response to Senator Wicker's question. Certainly as the director of the Arizona Department of Environmental Quality, I oversaw emergency responses. In fact, in my first year as DEQ director, we had an episode that was investigated by the Chemical Safety Board, a chlorine leak at a chlorine facility in the west valley, in Maricopa County.

Our agency was not directly involved in it, because the air quality permit was issued by the Maricopa County Air Pollution Control Department. But we worked hand in hand with them to ensure that citizens that live near that facility, there was an evacuation as well, that everyone was taken care of and that the appropriate information was provided to the community along the way.

More recently, as a private practitioner in Phoenix, I have worked with companies, not just in Arizona, but across the Country, who manufacture chemicals, who use chemicals. While I told the Senator I have not been personally hands-on involved in an accident investigation, I have worked with the individuals at those companies who have been involved in accident investigations, and have advised them on compliance with the regulations, including on release reporting requirements and on remedial actions that need to be taken by those facilities.

As part of that, I have ensured that they have either stayed in compliance, if they weren't in compliance before, or come into compliance if they weren't into compliance to begin with.

Senator Capito. Thank you. Thank you, Mr. Chairman.

Senator Merkley. Thank you very much, Senator Capito.

I am sorry Senator Kelly has left, because I wanted Mr. Owens to have a chance to display his Arizona flag while Senator Kelly was here. Obviously, a proud citizen of that State.

I want to address the backlog and whether, as potential Board members, you feel that we need to catch up or reduce that backlog in order to get recommendations out the door so that more accidents are prevented. That backlog has been described as the largest backlog in the last five years, and that there are 100 open safety recommendations.

My understanding of that, which I hope is right, is that there are draft recommendations but they haven't been completed and officially shipped out the door.

What is your viewpoint on this backlog and the importance of actually completing recommendations and sending them out the door to the appropriate agencies and organizations? Why don't we start with Dr. Johnson?

Ms. Johnson. Thank you, Senator, for the question. As it pertains to the backlog at the Chemical Safety Board, if I am confirmed, I commit to doing my part to uncover why that backlog exists, and do my part to also ensure that the backlog gets addressed.

I also commit to work with this committee in so doing. It is important to both the public and this committee to figure out what the root cause of the backlog is. I understand that each existing case that is backlogged obviously has a set of circumstances for which there may be some explanation. So my job if confirmed to the Chemical Safety Board would be to take a deeper diver and look into that.

Senator Merkley. Thank you.

Dr. Sass?

Ms. Sass. Thank you, Senator.

I do also, like Dr. Johnson, commit to understanding better the delay. As a scientist, I certainly want to have timely information, but accurate information as well. I also understand that there are many stakeholders in the public that are concerned about that issue. So I would commit to looking into that. Thank you.

Senator Merkley. Thank you.

Mr. Owens?

Mr. Owens. Thank you, Senator, for the question. Like my colleagues here on the panel, I have not had the opportunity to be

fully briefed on or briefed at all on the reasons for the backlog there. I do know from the public record that exists that there are roughly 19 open investigations at the Board.

As I have said in my comments already, I believe that transparency and accountability for the Board are very important. If I am privileged to serve on the Board, we will work to not only understand the reasons for that backlog but work to move investigations and recommendations forward as expeditiously as possible.

Senator Merkley. I think about the fact that when a recommendation sits on the shelf, enacted, but it hasn't been shipped out, there may be other accidents that occur because of the failure to do so. Of course, that is the whole goal here, is to prevent industrial chemical accidents.

I want to turn to the issue of environmental justice. A lot of chemical facilities that use chemical industrial facilities are located in fence line communities. Is there a sense or a role for the CSB in understanding the potential impact on the community of safety issues at a nearby industrial facility?

Ms. Sass. Senator, thank you for that question. I know that fence line communities, environmental justice communities, the terms can be a little different. In this case, I think we are really focused on the fence line communities around facilities.

They also include not only families that live near these facilities and are impacted by potential accidents but they also include people that work at those facilities, people that live, go to

school, do their daily activities around those facilities.

So I think it is very important for a functioning Chemical Safety Board to consider all of the stakeholders when it does its investigations, and gather all of the relevant information. That would include from the facility, from managers, from employers, from the employees, from the community and from other professionals with specific expertise in those areas in order to make as informed decisions and recommendations as possible. I would commit to doing that.

Thank you.

Senator Merkley. Thank you.

Anyone else want to jump in and share thoughts on this?

Mr. Owens. I will take a stab at it. Thank you, Senator, for that question.

As I said, I think one of the most important things a Board like the Chemical Safety Board can do, and any agency for that matter, that is reviewing chemical safety issues, is to keep the surrounding communities informed, as well as work closely with all the stakeholders.

As Senator Capito indicated, and as you indicated as well, a recommendation that isn't made isn't much of a recommendation. So if I am privileged enough to serve on the Board, as a member of the Board, I would look forward to working with the career professional staff there and the other Board members to figure out ways that we can be more transparent and have more engagement and active involvement, so that the surrounding communities, the families that live near those

facilities, will understand more what happened, why it happened, and what is being done to prevent it from happening again.

Senator Merkley. Thank you all. I certainly think about how many of these accidents can affect the community. Fires, toxic smoke from fires, releases of gases like chlorine gas, so on and so forth, explosions. So the sensitivity to the communities, as you put it, the fence line communities, is certainly appropriate.

I want to close with thinking a little bit about the background each of you bring. Mr. Owens, you have been, if I understand your testimony correctly, and I just want to affirm this, you have been advising companies on how to prevent chemical accidents and ensure chemical safety. Did I understand that correctly?

Mr. Owens. Yes, Senator.

Senator Merkley. And the role of this Board is to prevent chemical accidents and advise on chemical safety, am I correct on that?

Mr. Owens. Yes, Senator, that is my understanding.

Senator Merkley. So your experience certainly is directly relevant?

Mr. Owens. Yes, Senator, I believe so.

Senator Merkley. And Dr. Johnson, I understand from your testimony, again, I want to make sure I read this correctly, that you have conducted workplace hazard assessments and investigated chemical accidents? Did I understand that correctly?

Ms. Johnson. Yes, Senator.

Senator Merkley. And while as a Board member, you wouldn't be

actually doing the hazard assessments and/or investigating the chemical accidents, you would be overseeing the work of professional scientists who would be doing hazard assessments and investigating chemical accidents?

Ms. Johnson. Yes, Senator.

Senator Merkley. So your background is very relevant to the work of this Board?

Ms. Johnson. I would say so, yes.

Senator Merkley. And Dr. Sass, you have a graduate degree in occupational health and safety. I understand from your testimony that occupational health and safety has been a significant kind of core of your professional life, and that you have worked to inform decision makers and stakeholders, including chemical manufacturers, on chemical exposure and safety issues.

Do I have that correct?

Ms. Sass. Yes, sir.

Senator Merkley. So that role of occupational health and safety, that kind of theme in your professional work, and the fact that you have worked to inform decision makers and stakeholders on chemical exposure and safety issues, seems directly related to the core mission of this Board, am I correct in that?

Ms. Sass. It is, Senator, yes. Thank you.

Senator Merkley. Okay, thank you all for that.

I am going to turn to my team now, who I am sure is going to guide me in the official closing comments here.

So in closing, thank you for your time and your testimony, your

willingness to bring your expertise to bear on this important mission. Some final housekeeping: I would like to ask unanimous consent to submit for the record a number of reports and articles related to today's hearing.

Hearing no objections, it always helps when no one is present to object, then we will have those submitted.

[The referenced information follows:]

Senator Merkley. Additionally, Senators will be allowed to submit questions for the record through the close of business on August 12th. We will compile those questions; we will send them to all of you, our nominees, and ask you to reply by August 26th.

With that, the hearing is adjourned.

[Whereupon, at 11:08 a.m., the hearing was adjourned.]