

**U.S. Chemical Safety and
Hazard Investigation Board**

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**Donald Holmstrom
Investigation Supervisor
Office of Investigations**



January 12, 2010

By Electronic Mail and First Class Mail

Dr. Lawrence Schovanec
Interim Dean
College of Arts and Sciences
Box 41034
Texas Tech University
Lubbock, TX 79409- I 034

Dear Dr. Schovanec,

As you know, the U.S. Chemical Safety and Hazard Investigation Board (CSB) is conducting an investigation, pursuant to the authority of 42 U.S.C. § 7412(r)(6)(C)(i), of the incident that occurred at the Texas Tech University, Chemistry Building, Memorial Circle & Boston, Lubbock, TX 79409-1061 on January 7, 2010. This letter serves as notice to Texas Tech University that the facilities, equipment, and information described in this letter are relevant to the CSB's investigation and may be inspected and/or tested by the CSB, under the authority of 42 U.S.C. § 7412(r)(6)(L)(ii). This letter also serves to confirm the CSB's understanding with respect to the site and relevant evidence related to this incident.

Federal law authorizes the CSB to enter Texas Tech University's property and "do all things therein necessary for a proper investigation," including inspecting "records, files, papers, processes, controls, and facilities" and taking relevant samples. In lieu of the CSB seeking custody of certain evidence at this time, Texas Tech University and its agents (hereinafter collectively, "Texas Tech") will ensure that relevant evidence (defined in part below) is preserved from alteration or destruction, so that the CSB has the opportunity to exercise its statutory investigative authority.

Texas Tech will take special care to preserve tangible objects, including lab equipment, samples of substances, records, files, and papers (regardless of format), that were involved in the January 7, 2010 incident or are potentially relevant to the CSB's investigation thereof. Without limiting the preceding general obligation, the CSB specifically understands that Texas Tech will preserve, in as-found condition, the lab notebooks, tools, instructions, notes, logs, characterization data, EHS waste records, safety procedures, training records and lab inventories.

The CSB recognizes that Texas Tech has taken or may be taking actions ("immediate incident response activities") it deems reasonably necessary to place the laboratory in a standby mode safe from threat of serious harm to life, property, or the environment. The CSB expects that Texas Tech will notify the CSB contacts designated in this letter, in advance whenever possible, of all such future actions. If such actions require that the facilities and/or equipment described in

the preceding paragraph, which would otherwise be preserved, be changed from their as-found conditions, Texas Tech will document all such changes and provide the documentation of changes to the CSB.

In addition, the CSB understands that all physical evidence collected during this investigation will be stored in a secure location to be identified by Texas Tech and made known and accessible to the CSB. Access by any parties to the physical evidence stored in such location shall be documented in an evidence control log, annotating who accessed what evidence, what (if any) alterations to the evidence occurred, and the duration of each visit. That log shall be made available to the CSB at the agency's request. Before accessing the stored physical evidence, both the CSB and Texas Tech will notify the other party and offer the other party the opportunity to be present at the time the evidence is accessed.

The designated CSB contacts for all notifications described in this letter are as follows:

Primary Contact: Donald S. Holmstrom
Investigator-in-Charge
(202) 413-2690 (cell)
(303) 236-8701 (office)
Donald.Holmstrom@csb.gov

Alternate Contact: Mary Beth Mulcahy
Investigator
(202) 591-6275 (cell)
(303) 236-8705 (office)
MaryBeth.Mulcahy@csb.gov

As the CSB investigation continues, the agency may identify additional specific tangible objects, substances, or records that it intends to inspect and/or test. The CSB will notify Texas Tech of such items and expects that those items will be preserved in the manner described in this letter.

Thank you for your anticipated cooperation with the CSB's investigation.

Sincerely,



Donald Holmstrom
Investigator-in-Charge

Cc: John Bresland, CSB Chair
Chris Warner, CSB General Counsel
Ronald Phillips, University Counsel
Dr. Taylor Eighmy, Vice President for Research
Randy Nix, Director of Environmental Health & Safety
Guy Bailey, President
Bob Smith, Provost
Grace Hernandez, Chief of Staff
Dr. Dominick Casadonte, Jr., Chairman, Dept. of Chemistry & Biochemistry
Dr. Naz Karim, Chairman, Dept. of Chemical Engineering
Dr. Louisa Hope-Weeks, Associate Professor of Chemistry
Justo Adame, Supervisor

Dr. Brandon Weeks, Associate Professor of Chemical Engineering
Jared Martin, Senior Safety Officer
Sally Post, Director of Communications and Marketing
Mary Diaz, Associate Vice President of Communications and Marketing