

The TWA 800 Project

David Tochen
General Counsel, National Transportation Safety Board
490 L'Enfant Plaza SW
Washington DC, 20594
June 26, 2014

Dear Mr. Tochen:

The TWA 800 Project Investigative Team has received a copy of your June 19, 2014 letter on behalf of the NTSB Board Members telling the TWA 800 victims' family members that the Board has declined to allow the Team to make an oral presentation before them because it is "not warranted in light of the existing evidence and the availability of the transcript and supplemental information from the January presentation."

We are writing this open letter of protest to the National Transportation Safety Board to document once again our deep concerns about the NTSB's failure to address several critical issues that we have repeatedly raised in our ongoing correspondence with the NTSB since we submitted our petition in June 2013. Unless otherwise specified or agreed to, we will also now be publicly documenting (#NTSBMisconduct) our ongoing efforts to have the NTSB address our concerns as well as the NTSB's responses.

First, regarding the malfeasance in which Managing Director David Mayer engaged during the official investigation of TWA Flight 800, we would like to point out the fact that his subordinates reviewing our petition have been placed in an untenable conflict of interest position of having to conduct a fair and unbiased review of our evidence and information about Dr. Mayer's malfeasance while reporting to Dr. Mayer or his subordinates. This has gone on for more than one year now.

NTSB staff members, including current NTSB Managing Director Dr. David Mayer, engaged in serious malfeasance during the official Flight 800 crash investigation. Some of this malfeasance had to do with altering evidence and misrepresenting eyewitness accounts at the Flight 800 Sunshine Hearing. Dr. Mayer's malfeasance directly relates to our petition, which not only details what he did but shows that an NTSB finding based on that malfeasance is erroneous. It is also important to consider that a subordinate of Dr. Mayer has been assigned to review our petition, which puts that subordinate in a conflict-of-interest position. Once again (we have mentioned this in several of our missives to you) we remind you that as long as Dr. Mayer remains NTSB Managing Director, this subordinate remains in an untenable conflict of interest position and cannot be expected to faithfully review his superior's documented malfeasance and how it may or may not have resulted in an erroneous probable cause of the crash. The inaccurate records of evidence that Dr. Mayer's malfeasance created must be corrected before the additional evidence we have submitted can be factored into the record and a new probable cause based on accurate records of the evidence to be considered.

Additional details of Dr. Mayer's malfeasance are included in the attached the Affidavit of senior NTSB investigator (Ret.) Hank Hughes. This Affidavit also contains details of other malfeasance as well as supporting documentation for the entire contents of the Affidavit.

We also note with dismay that virtually no one from the NTSB who attended our oral presentation at a January 10, 2014 meeting was technically qualified to consider that information, which is why we have requested a presentation to the Board Members. Our requested oral presentation before the board is provided for under 49 C.F.R. § 845.41(c). Your recent indication that our January 2014 meeting with unqualified NTSB staff adequately meets the criteria listed in that CFR section is incorrect. In fact, prior to our presentation and in a November 4, 2013 email, you specifically stated that this "meeting would not be conducted pursuant to the procedures described in NTSB regulations at 49 C.F.R. § 845.41(c)."

The Board's conclusion that making our oral presentation before them is not warranted in light of "the availability of the transcript and supplemental information from the January presentation" is incorrect. The supplemental information that our team provided was specifically designed for presentation with attending live oral narration. Simply reading the transcripts of that meeting and browsing a computer folder with various files from our presentation is by no means sufficient to clearly and fully grasp our position or understand the critical facts and evidence presented. The computer files themselves include three animations, various KML Google Earth files, and a power point file. None of these files were synchronized with the transcript and were not designed, named or labeled to supplant the oral part of our presentation. With just the transcript and supplemental materials in hand, the Board will not have everything it needs to thoroughly and completely review our presentation because the oral part of it—which is critical—is missing. Given the Board's response, it is clear that the Members are unaware of this and should be informed forthwith. Further, given that the oral presentation is legally supported by 49 C.F.R. §845.41 (c), we would require a positive or more tenable response from the Board Members.

This denial of our legally supported request with an untenable explanation follows a year-long series of other activities and responses to other requests and submissions of additional evidence that raise serious questions about the nature of the NTSB's review of our petition. Below is a chronology of our correspondence with the NTSB over the past year that details additional facts and actions that deeply concern us:

June 19, 2013: TWA 800 Project Petition filed with NTSB detailing how and why the NTSB probable cause for the crash is untenable. The petition also provides examples of NTSB Managing Director David Mayer's malfeasance during the original investigation including critical eyewitness evidence omissions and misrepresentations as well as probable debris field evidence tampering.

June 20, 2013: Former NTSB Managing Director appears on CNN Situation room. Virtually every response he gives to questions about the TWA 800 Project Investigative team's work, petition and documentary is inaccurate. The Team's correction of all of Mr. Goelz's responses can be found here: <https://www.youtube.com/watch?v=9wE18rMbXKA#t=444>. In one example of Mr. Goelz's misrepresentations of the facts to CNN anchor Jake Tapper and CNN's audience, he said that "almost all the witnesses say this: 'I heard a sound, I looked up, and then a saw a streak of light.'" Given the speed at which sound travels, certain eyewitnesses saying they heard a sound first, could not have seen a missile, because the missile would have already engaged its target by the time they heard the sound. The truth is that the overwhelming majority of eyewitnesses who reported seeing a streak heard no sounds at all prior to or while watching the streak. The sounds reached them much later, which is consistent with a missile strike.

June 22, 2013: Former FBI Assistant Director and lead TWA 800 investigator for the FBI James Kallstrom appears on Fox News Channel's "Geraldo at Large" program and defames whistleblower and senior NTSB investigator (Ret.) Hank Hughes who submitted the petition on behalf of the TWA 800 Project team. Regarding eyewitnesses, Kallstrom, like Mr. Goelz, said that "80% heard a sound first.". Again, as shown above, this is not true.

July 3, 2013: In response to our petition and documentary as well as the swell of media attention surrounding both, the NTSB holds a media briefing event regarding TWA 800 at the NTSB Training Center in Virginia where the TWA 800 reconstruction is presently stored. Neither the TWA 800 Project team members nor any victims' family members who signed the petition are invited to this event. When veteran journalist and TWA Flight 800 documentary director Kristina Borjesson requests attendance, she is denied by the NTSB because, as the NTSB informed her, this a "media only event and space is limited". Two family members who did not sign the petition and a web blogger who historically have been friendly with the NTSB are allowed to attend. At this press briefing, the NTSB plays an inaccurate crash sequence animation that shows TWA 800 perform an impossible climb after exploding and while on fire. This impossible climb was cited by current NTSB Managing Director David Mayer as the explanation for what nearly 200 eyewitnesses reported seeing rise upward prior to any midair explosions. Also at this briefing, the NTSB's Dr. Joseph Kolly misinformed media representatives that explosives like those used in missile warheads would not have been detectable on wreckage since he incorrectly believed they would have dissipated completely while under water.

July 19, 2013: On behalf of the TWA 800 Project, Dr. Tom Stalcup emails NTSB Chairwoman Deborah Hersman a formal letter requesting that she correct the inaccurate information presented at the July 3, 2013 media briefing as well as the inaccurate statements made on major news networks by former FBI and NTSB officials Kallstrom and Goelz respectively. To counter Dr. Kolly's inaccurate statement regarding explosives dissipating in water, Dr. Stalcup cites a Lawrence Livermore Laboratory study [<https://e-reports-ext.llnl.gov/pdf/244673.pdf>] that says explosives like those detected in TWA

800's wreckage are “practically insoluble in water” and a United States Agency for Toxic Substances report that says “the solubility of RDX [another explosive detected in TWA 800 wreckage] in water is low to negligible. Dr. Stalcup also objected to the NTSB allowing two select family members to speak at the NTSB event. The NTSB did not invite family members who signed the petition, the very document that triggered the NTSB press conference.

July 31, 2013: After two weeks and multiple phone calls to Chairwoman Hersman in an attempt learn if she received Dr. Stalcup’s emailed letter, Dr. Stalcup emails Chairwoman Hersman again to see if she received the letter and to request the opportunity to brief the Chairwoman and/or any NTSB investigators. Chairwoman Hersman apologizes for the delay and acknowledges receipt of Dr. Stalcup’s letter, saying that a response is being prepared.

August 9, 2013: In response to the two family members of crash victims the NTSB allowed at their press conference who made statements supporting the NTSB’s position and denouncing efforts to reopen the investigation, many other victims' family members participate in a Skype video message supporting the TWA 800 Project Investigative Team’s petition and ongoing investigation. The following YouTube video link of these Skype messages of support was provided to Chairwoman Hersman:
<http://www.youtube.com/watch?v=MGV207dsGo4&feature=youtu.be>

August 19, 2013: NTSB General Counsel David Tochen responds to the Team’s letter requesting that the NTSB correct the inaccuracies presented at their July 3, 2013 media event. Regarding Dr. Kolly's inaccurate statements about explosives solubility in water, General Counsel Tochen references a highly slanted, out-of-context, and inaccurate segment of the NTSB's Final Report on the crash of TWA Flight 800. Tochen quoted this excerpt from the NTSB’s final report: “Residues of explosives found on the accident airplane would dissipate completely after two days of immersion in sea water”. Apparently, Mr. Tochen was unaware that the FAA study upon which this quote was based was invalid because testing was not conducted in ocean water where TWA 800 crashed, but off of a dock in New Jersey bay water that was teeming with microbial life. The authors of the FAA study even indicated that the microbes were primarily responsible for the explosives dissipating in at least one test. Other problems with this FAA study include the methods used to deposit explosives on representative aircraft components, which were criticized by an expert familiar with explosive material transfer. The two-dimensional metal fence used to capture explosives was not representative or nearly as efficient at capturing explosives as a three dimensional 747 full of passengers and luggage. NTSB General Counsel Tochen also quoted this misleading statement from the NTSB final report: “none of the damage characteristics typically associated with a high-energy explosion of a bomb or a missile warhead (such as severe pitting, cratering, petaling, or hot gas washing) were found on any portion of the recovered airplane structure.” This statement is ONLY true when contact-fused missiles are considered that explode on impact with their targets. Proximity-fused missiles that explode a significant distance from their targets do not leave these signatures. Instead, they leave other signatures such as wide spread spike-tooth fractures that WERE found throughout the

aircraft and are described thoroughly in our petition to the NTSB. When the explosive evidence is considered along side the spike tooth fractures, inward penetrating holes, high-velocity debris on radar, together with the non-existent close-in explosion damage, that is clear evidence of a proximity-fused missile engagement.

The crux of the issues surrounding explosives and missile signatures is that NTSB investigators with no experience identifying proximity-fused missile evidence were led to believe that the lack of signature evidence of a shoulder-fired contact fuse missile meant that there was no missile evidence. This is not the case. There was explosives, radar, and metallurgic evidence consistent with a proximity fuse missile, not a contact fuse missile, but this fact was, it seems, pointedly ignored during the official crash investigation. So for the NTSB to claim that “none of the damage characteristics typically associated with...a missile” were present is incorrect. In the late 20th century when TWA 800 crashed, missile engagements over open bodies of water, such as the US shoot-down of an Iranian Airbus over the Persian Gulf in the 1980's, proximity-fused missiles were not only typically used, they were almost exclusively used. Two proximity-fused missiles fired from the USS Vincennes destroyed the Iranian commercial aircraft, which was full of civilian passengers.

At this point, our Team demands to know how many experts qualified in identifying proximity-fused missile damage to commercial airliners have been assigned to review our petition, who those experts are and the details of their backgrounds and previous professional experience.

NTSB General Counsel Tochen finally informed Dr. Stalcup informally in the Spring of 2014 that the NTSB is not planning to correct any of its inaccurate statements made at the July 3, 2013 NTSB press briefing.

September 19, 2013: Dr. Stalcup writes to Chairwoman Hersman detailing evidence of corruption, malfeasance, and possible illegal activity on the part of NTSB Managing Director Dr. David Mayer. Stalcup argues that in light of Dr. Mayer's irrefutable malfeasance and the fact that one of Mayer's subordinates was assigned to review the Team's petition detailing his malfeasance, Hersman should rule to reopen the investigation regardless of what Dr. Mayer's subordinate recommends.

September 20, 2013: NTSB Chairwoman Hersman responds to Dr. Stalcup telling him that she has assigned NTSB General Counsel David Tochen to respond to the September 19th letter and all future correspondence on “[Hersman's] behalf”.

November 2013: Stalcup contacts NTSB General Counsel David Tochen to request a face-to-face meeting with NTSB staff members reviewing the Team's petition. Stalcup argues that without a direct question and answer session between the Team and NTSB technical staff, the staff may not fully understand the implications of the evidence and analysis presented in the petition.

November 20, 2013: NTSB General Counsel Tochen responds positively to the Team's request to make an oral presentation, but says that the presentation would not be in accordance with NTSB regulations at 49 C.F.R. § 845.41(c).

January 10, 2014: TWA 800 Project Team members Senior NTSB Investigators (Ret.) Hank Hughes, former top TWA safety official Captain Robert Young, Dr. Tom Stalcup and key eyewitness Joseph Delgado meet with the NTSB at their Washington D.C. Headquarters. No NTSB staff members assigned to review the petition attended the meeting. Instead, only NTSB Managers and lawyers who were not qualified to assess the evidence in the Team's oral presentation attended. Dr. David Mayer's deputy Stephen Klejst was present, along with Director of NTSB Office of Communications Thomas Zoeller, Deputy Director of the Office of Aviation Safety Dana Shulze, General Counsel David Tochen, and Assistant General Counsel Benjamin Allen.

Recommendations made by the TWA 800 Project team included: 1) that the NTSB perform metallurgic testing on aircraft aluminum to determine the minimum speed and approximate size of objects required to create representative "spike tooth fractures". These fractures were found throughout the TWA 800 wreckage and deemed by the NTSB to have resulted from a "high energy" event, but no testing to replicate the fractures has ever been conducted; 2) that the NTSB request from the Department of Defense any and all classified radar evidence from the night of the crash. NTSB Communications Director Thomas Zoeller confirmed that the NTSB does have employees with the proper clearance to review such classified radar evidence. To date, the NTSB has not informed the Team that they have followed up on either request.

Critically and for the first time, the Team directly compared NTSB debris trajectory data with FAA radar data from the crash and presented the results in three separate animations. Not a single NTSB debris trajectory came close to matching the FAA radar evidence, which means that the NTSB theory for the crash is incorrect. It also means that the NTSB has never provided any explanation or data to explain the high-speed debris plume recorded on radar. Very significantly, the time, position and trajectory of the radar-recorded debris that created the debris cloud matches precisely with the position and timing of the failure of both black boxes and the aircraft's transponder, as well as many eyewitness observations of a south-bound object that exploded at or very close to TWA 800, initiating its destruction.

Eyewitness Joseph Delgado, for the first time, spoke to NTSB officials. He provided detailed observations that matched those in his initial FBI eyewitness interview summary documents recorded within hours of the crash. Significantly, he clarified that his observations were not limited to a very narrow two-degree arc, as NTSB Managing Director David Mayer misinformed the NTSB Board during the original investigation. Indeed, Mr. Delgado described seeing an object rise off the surface and collide with another airborne object on the precise trajectory to where TWA Flight 800 was flying. Since the NTSB determined that Mr. Delgado did in fact see TWA Flight 800 fall to the ocean in flames, it is a near certainty that the object he saw that was struck by the

surface-launched object was TWA Flight 800.

At this same meeting, the Team presented a Google Earth analysis of a drawing made during one of Mr. Delgado's FBI interviews. The analysis confirms that the collision occurred on a line of sight precisely where TWA Flight 800 lost electrical power.

The TWA 800 Project Team also asked to give an oral presentation before the full NTSB Board.

January 21, 2014: The TWA 800 Project Team sent a follow-up letter to the NTSB with explanations and documentation answering questions NTSB staff had asked during the oral presentation. Attached to this missive was a letter from former CIA Director George Tenet to former NTSB Chairman Jim Hall (both of whom were serving at the time Tenet's letter was written) noting that Dr. David Mayer “worked closely” with the lead CIA analyst responsible for the now-discredited CIA animation that attributed a rising streak of light seen by eyewitnesses to the jetliner itself on fire. The letter from George Tenet indicates that Dr. David Mayer's documented malfeasance regarding the eyewitness evidence may be related to the CIA's malfeasance in misrepresenting that same evidence. It is important to note here that the TWA 800 Project Team currently possesses internal CIA documents confirming that the CIA team responsible for producing the animation knew that it was inaccurate prior to releasing it to the general public.

March 6, 2014: After waiting one month for the NTSB to send a transcript of the oral presentation, answers to issues raised and confirmation of actions taken per the Team's request, the TWA 800 Project Team wrote to NTSB General Counsel David Tochen requesting a transcript of the oral presentation meeting and a listing of who at the NTSB received the additional evidence and materials that the Team presented. Since no qualified staff members were present at the meeting, the Team wanted to be certain that appropriate NTSB officials had received their information. The NTSB was also informed that if the NTSB resorted to amending the debris trajectory data to fit the radar evidence, that it would also have to identify what portions of the aircraft were being simulated and explain why they were not recovered where the radar evidence indicated they should have been.

March 7, 2014: NTSB General Counsel David Tochen responds in a short three paragraph letter with transcripts of the January 10th meeting attached and a denial of the Team's request to give an oral presentation before the full Board. None of the Team's other longstanding requests or recommendations were addressed.

March 11, 2014: NTSB Chairwoman Hersman announces her resignation from the NTSB, effective April 25, 2014.

March 28, 2014: More than twenty TWA 800 victims' family members write to Chairwoman Hersman and the other NTSB Board members requesting that the Board reconsider its decision denying the TWA 800 Project Team the opportunity to give an oral presentation to the Board. The family members wrote: “It has been nearly eighteen years

since we lost our loved ones aboard TWA Flight 800; a very long time to wait for a conclusive determination of what caused this tragedy. We think that this oral presentation would give the Board the opportunity to do its due diligence to the fullest extent possible. The TWA 800 Project's team of investigators have worked so long and hard to gather the additional, critical evidence and they deserve this full hearing. Surely listening to and viewing their presentation as well as taking the opportunity to question them thereafter can only help the Board's deliberations on this matter."

June 19, 2014: The NTSB Board members respond to the family members nearly three months later, denying their request and stating that the oral presentation before the Board is not warranted in light of the existing evidence, the transcripts of the January 10th, 2014 meeting between the Team and the NTSB staff and the supplemental information provided by the Team.

June 27, 2014: This letter (originally provided to the NTSB on June 26, 2014) is being published as an open letter of protest, since confidential communications with the NTSB have resulted in little to no significant or positive actions on the NTSB's part. The most positive action the NTSB has taken thus far was allowing the Team to meet with NTSB staff on January 10, 2014, but that was undermined by the fact that no technically qualified NTSB staff members assigned to review the petition were present.

Again and most critically we reiterate in this letter the NTSB's apparent failure to address the malfeasance of current Managing Director David Mayer, and to explain how the Team's petition and Dr. Mayer's malfeasance could possibly get a fair and unbiased review by his subordinates assigned to review it. How can the NTSB credibly confirm that Dr. Mayer's subordinates will look into his malfeasance and how it affected the NTSB probable cause determination and findings without fear or favor? Specifically, our petition shows that NTSB Finding 8, which directly resulted from Dr. Mayer's malfeasance, is erroneous. A serious, technically accurate investigation into Dr. Mayer's malfeasance is necessary to understand how and why it is erroneous. The request to do so was made within the original petition, but the TWA 800 Project Team is not aware of any actions taken by the NTSB that would indicate any such investigation has taken place.

To summarize our dealings with the NTSB over the past year, virtually all of our requests have been denied: 1) We have thus far not been allowed to brief or communicate directly with technically qualified NTSB staff reviewing our petition; 2) we are currently being blocked from giving our legally supported oral presentation to the full NTSB Board; 3) there is no indication that any classified Department of Defense radar data has ever been requested or analyzed; 4) there is no indication that any of our recommendations regarding metallurgic testing have been performed to determine how the many "high energy" fractures occurred on the aircraft; 5) there is no indication that any NTSB employee has seriously reviewed the eyewitness evidence, contacted any eyewitnesses or investigated current NTSB Managing Director David Mayer's malfeasance related to that evidence; and 6) there is no indication that any NTSB employee has seriously reviewed the debris field wreckage location data or current NTSB Managing Director David

Mayer's possible malfeasance related to that evidence. 7) The NTSB has never fulfilled our repeated requests to correct the inaccurate information provided to the press and public by its representatives and former staff members.

The NTSB's inaction on these critical items and the ongoing government and press falsification of the record of evidence in the case of the crash of TWA Flight 800 has compelled us to write this open letter of protest and send it to the NTSB along with Mr. Hank Hughes's comprehensive Affidavit detailing malfeasance on the parts of Dr. Mayer and other investigators during the investigation into the 1996 crash of TWA Flight 800.

Please be advised that a notarized hard copy of the attached Affidavit of Mr. Hank Hughes along with attending Exhibits and supporting documents will be Fedexed to you forthwith.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

/Tom Stalcup/
Tom Stalcup, PhD

/Henry F. Hughes/
Henry F. Hughes, Senior NTSB Investigator (Ret.)

On behalf of the TWA 800 Project Investigative Team
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Enclosed: Affidavit of Henry F. Hughes