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“We can no longer continue to risk the lives of millions of Americans by using, transporting and storing highly toxic chemicals when there are safer alternatives commercially available. It is time for the nation’s big chemical companies to stop making the dangerous chemicals that can be replaced by safer substitutes or new technologies currently in the marketplace...And if they won’t do it, Congress should do it for them in the Chemical Facility Anti-Terrorism Act of 2008.”

--- Association of American Railroads, February 2008

September 8, 2008

Dear Senator Collins,

Thank you for your August 19th response to our August 6th letter urging you take leadership on chemical security legislation. We regret however, that your response was very disappointing. Your continuing opposition to legislation that would eliminate catastrophic risks undermines the security of thousands of vulnerable American communities. And your defense of the U.S. chemical industry is misplaced. Almost 90 percent of the chemical facilities that put neighborhoods at risk are NOT chemical manufacturers but rather “users” of these chemicals.

Among the communities at risk are those living near approximately 3,000 water treatment plants. All these plants are **explicitly exempted** from the temporary law you negotiated. Many of these each threaten thousands of citizens due to their use of chlorine gas, some put more than 1 million people at risk.

You say you oppose this legislation because “Congress should not dictate specific industrial processes.” However, the legislation you voted against, Senator Lieberman’s compromise amendment, did not “dictate specific industrial processes.” As we said in our August 6th letter his amendment allowed each chemical plant to choose its own alternative. As a result, the temporary law you negotiated also **prohibits** the Department of Homeland Security (DHS) from requiring where appropriate the most ironclad security measures.

As you noted in your letter, in 2006 the federal government admitted it “desperately needed comprehensive authority” to address security at U.S. chemical plants. But as you know, the 2006 legislation you negotiated was far from “comprehensive.” It was only a 740 word “rider” on a DHS spending bill. By contrast, your bill (S. 2145) was over 130 pages long. Today we still need comprehensive legislative authority.

You also failed to mention that the temporary law expires on October 4, 2009 leaving no program in place unless Congress enacts permanent legislation this year or next. In your own February 7, 2007 comments on the DHS’s proposed regulations, you said Congress intended to “revisit the complex issue of chemical security within three years to enact more comprehensive authorizing legislation...” But after two years legislation has yet to move in the Senate.

In the House, the “Chemical Facility Anti-Terrorism Act of 2008” (H.R. 5577) was adopted on March 6th by the Homeland Security Committee in a bi-partisan vote. H.R. 5577 conditionally requires the use of safer technologies IF they are shown to be feasible, cost effective and will not shift risks to other U.S. facilities. H.R. 5577 also allows each facility to select the safer technology best suited for their plant.

On August 6th we presented your office with about 10,000 petition signatures from across the U.S. Signers asked that you support legislation to reduce or eliminate the consequences of an attack on a U.S. chemical facility by using safer more secure chemicals and technologies. In addition we asked you to use your leadership to persuade Republican colleagues, such as Senators George Voinovich (R-OH) and James Inhofe (R-OK), who voted for similar legislation in 2002 but now oppose it.

Today, almost seven years after September 11th, the potential for loss of life and economic disruption from such an attack is staggering. The U.S. Army Surgeon General study estimated that 900,000 to 2.4 million people could be killed or injured in a terrorist attack on a U.S. chemical plant in a densely populated area.

The good news is that since 1999 almost 300 U.S. chemical facilities have converted to safer more secure chemicals that have **reduced the consequence of an attack** to nearly zero. More than 85 percent said they converted for less than \$1 million. The most famous success story is Washington, D.C.'s wastewater treatment plant which put 1.7 million people at risk until it converted to harmless liquid bleach 90 days after the 9/11 attacks.

In Maine at least two facilities have converted to safer chemicals or technologies since 1999 - Great Northern Paper in East Millinocket & the Monson Co. in South Portland. Before converting they each put 3,200 and 75,000 people at risk, respectively. The bad news is that at the pace of voluntary conversions it will take more than 70 years to protect the communities surrounding the 3,400 chemical facilities that each put 1,000 or more people at risk according to the DHS.

Enlightened businesses agree. In February the Association of American Railroads, issued a statement saying, ***"It's time for the big chemical companies to do their part to help protect America. They should stop manufacturing dangerous chemicals when safer substitutes are available. And if they won't do it, Congress should do it for them in the Chemical Facility Anti-Terrorism Act of 2008."***

Congress must enact permanent comprehensive legislation that will reduce or eliminate these hazards not simply continue to gamble on more guards and fences. That means enacting a law that protects communities by making use of solutions that have already eliminated risks to millions.

We hope you will reconsider your support for this legislation.

Sincerely,

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