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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

July 18, 2008

Dear Senator McCain,

The first failure the 9/11 Commission Report identified was the failure of imagination. Today, almost seven years after September 11th, we have failed to adopt a comprehensive program that would **reduce the consequences of a terrorist attack** on U.S. chemical plants. The potential loss of life and economic disruption from such an attack is staggering. --- The 20,000 who died in the 1984 Bhopal disaster made that horribly clear. In 2004 the Homeland Security Council estimated casualties from an attack on a chlorine facility would kill 17,500 people, seriously injure an additional 10,000, send 100,000 to the hospital and cause an additional 70,000 evacuations.

After failing to enact comprehensive legislation for five years, Congress enacted a 740 word “interim” statute in 2006 that will expire October 4, 2009. This law actually **prohibits** the Department of Homeland Security (DHS) from ensuring that high-risk chemical plants use methods to **reduce the consequences of an attack**. This “interim” law also **exempts thousands of chemical facilities**, including almost 3,000 water treatment facilities, many of which put major cities at risk. The best method to reduce the consequences of an attack is switching to safer chemicals or processes.

We are writing you to ask for your help in making this law truly protective of communities at risk. In particular, we were very disappointed to see your response to the 2007 League of Conservation Voters presidential candidates questionnaire in which you said, **“A government controlled chemical substitution program or approaches such as requiring the thousands of facilities across the country that use or store chemicals to prove to the government that safer materials don’t exist could become exercises in excessive bureaucracy and paperwork...”**

“Excessive bureaucracy and paperwork” are familiar excuses raised by special interests attempting to avoid new regulations. They are also grossly exaggerated. However, in this case, the use of safer technologies would actually reduce the regulatory obligations of a facility. But even if more paperwork were required, it would be a small price to pay to eliminate catastrophic risks to millions of American so that finite security resources could be focused on targets that cannot be converted into non-targets.

Almost 90 percent of the high-risk chemical facilities are **users** of chemicals, **not makers** such as Dow and Dupont. So the chemical manufacturers have a conflict-of-interest in lobbying against their customers switching to safer chemicals or processes. In a survey of Washington, D.C. lobbying efforts we identified 238 lobbyists registered to lobby on chemical security legislation on behalf of the chemical industry in 2007. Notably, the congressional liaison for your presidential campaign, John Green and four members of his firm Ogilvy Government Relations, represented the American Chemistry Council (ACC) on chemical security legislation in 2007. Their efforts helped delay legislation another year. In light of this conflict of interest, your support for truly protective chemical security legislation would also demonstrate your independence from these special interests.

As you may recall, in December we sent you a Greenpeace questionnaire in the hope that you might reconsider your position on chemical security. Unfortunately we received no response until February when your campaign informed us that you “have a policy about questionnaires and accordingly will not be

responding to this one.”

Since then a new bill, the “Chemical Facility Anti-Terrorism Act of 2008” (H.R. 5577) was adopted by the House Homeland Security Committee on March 6th. H.R. 5577 allows each high-risk facility to choose the safer process best suited for their plant. They are also not required to implement these methods unless they are: feasible, cost effective and do not shift risks to other facilities. In fact, if they adopt safer technologies they may be eligible to be dropped from DHS regulations altogether.

Not surprisingly the chemical manufacturers oppose H.R. 5577. They are stalling until next year when they will try to make permanent the much weaker “interim” regulations that they helped to write. H.R. 5577 is not unlike a 2001 bill (S. 1602) which was unanimously adopted by the Senate Environment and Public Works Committee in July of 2002. Republicans who voted for it included Senators Voinovich (R-OH) and Inhofe (R-OK).

However, since late 2002 Senators Voinovich (R-OH) and Inhofe (R-OK) have been leading opponents, making it very difficult for legislation to move. Here again your support for a law that actually **reduces the consequences of an attack** could be very persuasive to your colleagues. In fact, a 2002 proposal by Environmental Protection Agency (EPA) helped encourage the Senate Environment and Public Works Committee’s unanimous vote for S.1692.

You also have examples in your home state of Arizona of at least three chemical facilities that have converted to safer technologies since 1999, including the Southeast Water Reclamation Plant, Sanmina-SCI and the Blue Water Pool Chemical Co. Before converting they each put more than 1,000 people at risk. 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.

EPA data suggests the task is manageable. Just four industrial chemicals account for 55 percent of the processes that threaten communities nationwide. They are: chlorine, ammonia, sulfur dioxide and hydrogen fluoride (HF). According to EPA, chlorine disaster scenarios account for a majority of the more than 90 chemical plants that each put one million or more people at risk. Two of these are located in the Phoenix, Arizona metro area. According to chemical facility reports a catastrophic release of chlorine gas can remain dangerous for up to 20 miles.

But if we rely only on voluntary conversions it will take more than 70 years to address the 3,400 chemical facilities that the DHS says each put 1,000 or more people at risk. Only a new security standard that requires high-risk chemical plants to **reduce the consequences of an attack** will protect American communities in a timely manner. Enlightened business leaders agree. In February, the **Association of American Railroads** said, **“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.”**

We look forward to hearing from you at your earliest convenience.

Sincerely,

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