

**Testimony of Carolyn W. Merritt, Chairman and Chief Executive Officer
U.S. Chemical Safety Board
Before the Subcommittee on Interior, Environment, and Related Agencies
U.S. House of Representatives Committee on Appropriations
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Mr. Chairman, Ranking Member Tiahrt, and distinguished members of the Committee: I am Carolyn Merritt, Chairman and CEO of the U.S. Chemical Safety Board. The Board is an independent, nonregulatory federal agency that investigates major chemical accidents at industrial sites. Currently we have five appointed board members and 33 professional staff to accomplish the mission.

Although the CSB is among the smallest of micro-agencies, we have a very broad mandate from Congress. We are the federal agency that is charged with determining the root causes of major chemical accidents, issuing public reports that contain our findings, and developing safety recommendations designed to prevent future accidents.

Our mission, simply put, is to save lives that will otherwise be lost from chemical fires, explosions, and releases. We are a small but highly efficient agency that needs some additional resources in order to fulfill our mandate.

The CSB's investigations are unique in their scope, breadth, and impact. In each investigation, we look beyond simple violations of rules to ask the more challenging question, what needs to change in our country to prevent a similar accident from happening again elsewhere?

The CSB was established by the Clean Air Act Amendments in 1990 and received its first funding in fiscal year 1998.

In a typical year, more than six hundred chemical accidents occur at industrial sites around the country and are reported to us. Based on our resources and personnel, we investigate about eight to ten of the most significant accidents each year that cause loss of life, injuries, public evacuations, or other serious impacts. Many other significant accidents go uninvestigated because of a lack of resources.

Today I appear before you to ask for an increase in our budget. The increase is substantial in percentage terms, but in absolute terms, it is modest. The Board's budget stands today at \$9.1 million, and we ask for an increase to \$10.51 million for fiscal year 2008.

We seek funding for five new technical positions to conduct more investigations and safety studies, and we also seek funds to continue and expand our highly successful video outreach program.

I would like to reflect for a moment on how far this agency has come in the almost five years since the president appointed me as CSB chairman in August 2002. What I will relate to you is, I believe, a very impressive success story in the federal government.

In the summer of 2002, the agency was almost five years old. It had issued a total of nine investigation reports, one safety study, and 82 safety recommendations. Only 38 of these safety recommendations had been closed successfully. The CSB suffered from well known management problems that prompted some appropriators to even consider defunding the agency.

The picture today, almost five years later, is dramatically different. We have issued a total of 36 investigation reports, four safety studies, and 436 safety recommendations. And we have now closed 215 of those recommendations based on successful safety actions by recipients, and another 64 recommended safety actions are underway. Each of these successful safety recommendations results in new safety programs and standards, improved plant designs, or better communication of hazards that will save lives in the future.

By this May, every single one of our open investigations will be less than one year old. And by the end of this fiscal year, we expect to have five additional reports, bringing the total to 41.

Mr. Chairman, these facts alone show that our last five years have been at least three times as productive as our first five. This success results from the dedication and skill of our staff and board and from the sound financial and workforce management that I have insisted upon since my first day in office.

We have accomplished this tripling of productivity on an annual budget that essentially remained flat for the entire five-year period. Our 2002 budget of \$7.8 million is equivalent to about nine million in today's dollars – just 1.7% less than our current appropriation.

Despite our greatly increased efficiency, we still have a deep shortage of personnel. As a result, major chemical accidents occur around the country and in many cases we have no investigators available to deploy.

The latest example came on December 6 of last year, when a huge propane explosion killed three workers, injured 46 others, and devastated one of Milwaukee's oldest and most important manufacturing facilities. The accident occurred less than two weeks after we deployed a third of all our investigators to a chemical plant explosion in Massachusetts that damaged or destroyed about a hundred homes and businesses. When the Milwaukee explosion happened, there was essentially no one left to staff or lead a credible investigative team.

It is precisely because of situations like this that the Board needs more investigative staff. When the board was first conceived in 1989, an early bill would have authorized \$12 million for the agency, equal to almost \$20 million in today's dollars. As discussed in the CSB's legislative history from 1989, at that time \$12 million was around half the \$25 million budget of the National Transportation Safety Board. Today, the NTSB is a \$75 million agency with almost 400 employees, while the CSB is scarcely one-tenth that size.

We also seek funding for two new positions to conduct safety studies. Some of our most important contributions come not through individual accident investigations but from nationwide

studies. For example, we just completed a study of combustible dust hazards that identified more than 280 dust fires and explosions that killed almost 120 people, and we recommended new workplace safety standards to prevent future explosions. Currently, however, we can only conduct such nationally significant studies by diverting our already small investigative staff, in essence robbing Peter to pay Paul.

Mr. Chairman, the good news is that even with its current resources, our small agency is having a major impact on safety not just in the United States but around the globe. Our investigation of the disastrous explosion at the BP Texas City refinery in March 2005 is causing great changes as major corporations focus as never before on sound safety management. That is the message I hear from corporate leaders, union officials, and boards of directors everywhere I go.

In August 2005, in its first-ever urgent recommendation, our board called on BP to create an independent safety panel, chaired by former Secretary of State of James Baker, to examine the company's safety culture and oversight throughout North America. Their report, which was issued six weeks ago, is already being hailed as one of the most significant documents ever on safety and corporate governance. As one BP executive put it recently in an interview, "Other energy companies are using it to improve their operations."

Our agency's own BP investigation has led to a number of other important recommendations, including ones to OSHA and the petrochemical industry to improve siting practices and to eliminate the kind of unsafe venting equipment that directly caused the explosion in Texas City, which cost 15 lives and injured 180 other workers.

And the CSB has many other successes to report, from persuading New York City to overhaul its century-old fire codes, to getting states to take better measures to prevent dust explosions, to alerting the gas cylinder industry to a serious valve design problem that has caused at least four catastrophic industrial fires around the country. In 2005, the CSB presented important testimony before the Senate Homeland Security and Governmental Affairs Committee alerting lawmakers to the country's dangerous lack of preparedness for a major chemical release, an early warning on this critical issue which is only now gaining widespread attention.

One of the greatest services our agency performs is simply getting the word to other businesses, large and small, about the causes of major accidents and the measures to prevent them. Following our BP investigation, for example, we have made a concerted effort to alert corporate leaders to the adverse safety impacts of overzealous cost-cutting applied to maintenance and training budgets. And there are many other examples.

Obviously we live in an electronic era. Last year, we began complementing our lengthy written reports with short, computer-animated safety videos. People can view or download these videos over the Internet, and we will send anyone who asks a free DVD with all our videos.

We ourselves have been astonished by the response to this new program. For each person who reads one of our written reports, we are getting roughly a hundred people who watch the videos and use them for improved training, engineering, and process design. In just over a

year, we have had more than 665,000 hits or downloads of the videos from our website, CSB.gov, and we have distributed more than 24,000 DVDs like this one to executives, managers, engineers, safety trainers, firefighters, and other officials.

Many hundreds of people have written to the agency explaining how much they value this service by the agency. I would draw the Committee's attention to just a handful of those comments, from more than 3,800 we have received. From a south Texas site of one of the world's largest oil companies, we heard this:

To demonstrate the importance of the videos produced by the CSB, [we have] made it mandatory for all 1000 of the people at our facility to watch and discuss the videos in a plant wide "time-out for safety" meeting. We are bringing in the shifts early just to watch this film ... I cannot begin to thank your organization enough for the work that you do. Your videos are a huge success with our employees in driving safety forward.

And from the safety manager at a major polymer company in Ohio, we heard this:

The CSB animations are exceptional learning, re-learning, and awareness tools for chemical plant safety topics ... we have forwarded the CSB [videos] to our 500+ employees & contractors including operators, maintenance personnel and many staff people Taxpayer money was never better spent! Thanks and keep them coming!

A small specialty chemical company in Connecticut writes:

I believe your animations & videos are phenomenal. As a small company it is cost prohibitive to purchase multiple videos for training which identifies consequences like the animations you provide. I believe personally and as a safety professional in the chemical industry that the videos you provide are invaluable.

Finally, a California power company writes:

We just recently viewed the Sterigenics video and watched the reaction of the employees. Your presentation was so clear and well presented that everyone was in complete awe after seeing it. The safety message appeared to sink in much better than any other type of presentation that we have seen.

Each of these videos that we produce, at a budgeted cost of \$35,000 each, represents an investment that can potentially prevent multiple tragic and costly accidents at workplaces around the country. However, until now the Board has neither sought nor received any additional funding for this unique program; we have funded it almost exclusively using small unspent balances from elsewhere in the agency.

Finally, in addition to more resources, we are seeking language to discontinue an appropriations rider that has existed since 2000, which establishes an inspector general for the CSB, a role currently filled by the EPA inspector general. It is essentially unprecedented for an agency our size to be under continuous audit by a 300-person inspector general office from a cabinet-level department. While Congress had reasons for creating this arrangement back in 2000 – when the CSB was confronting the difficulties of starting up – it has long outlived any usefulness.

The CSB has had six consecutive clean financial audits since 2000 and has now built a solid record of mission accomplishment with a skeletal staff. Since 2002, the IG's program audits have not uncovered any significant deficiencies or made any significant recommendations. Now five years later, it is inefficient and burdensome to have an inspector general endlessly scrutinize and second-guess routine agency decisions.

Recently, the inspector general has had more staff available to conduct routine audits of the 38-person CSB than we have had staff available to complete our BP investigation, the largest and most complex project in agency history. Mr. Chairman, the irony of this situation speaks for itself. Our agency staff are keenly aware of this paradox, and it is demoralizing to them to have to spend much of their time responding to IG questioning instead of performing mission-critical work.

Last year, both the House and Senate Committees adopted language that would have ended the inspector general arrangement, but because no appropriations bill was passed the issue remains unresolved. The board strongly and unanimously urges the Committee to adopt last year's House-enacted language. My staff is at your disposal to fashion any audit arrangement that meets the Committee's needs and is more appropriate to an agency of our size and mission.

Mr. Chairman, I recognize that many worthy departments and programs come before you seeking resources. In our case, the sums needed to investigate major accidents are far, far less than the cost in lives and dollars that those accidents inflict. The accident at BP has reportedly cost hundreds of millions of dollars in property damage and business interruption and \$1.6 billion for the settlement of litigation by victims. BP shareholders – including many large pension funds and institutions in the U.S. and Europe – face a stock valuation that has fallen almost \$60 billion, at a time when its rival Exxon has grown by \$100 billion. Many analysts argue that concerns about safety performance have had a major impact on BP's share price. Most importantly, hundreds of victims in Texas now face lives permanently scarred by the loss of loved ones, the loss of health or limbs, and the loss of productive employment.

The American public also pays a price for these accidents in the form of higher gasoline costs throughout the country. The explosion just two weeks ago that shut down the Valero McKee refinery in west Texas, which the CSB is investigating, is contributing to a major spike in the prices Americans pay at the pump – up to 50 cents a gallon in some regions. These increases are costing the American public \$100 million a day, according to a leading oil industry analyst.

I raise these facts to make the point that society has a great stake in preventing these tragedies. Almost always there are simple, straightforward, and affordable measures that could

prevent these accidents. But unless they are thoroughly and independently investigated – and the findings made public – businesses may not act with appropriate knowledge or urgency to avoid these disasters.

When our 2008 budget is enacted, I expect to have left office and returned to private life. However, I ask you today, in this my final appearance before the appropriations Committee, to increase the funding for the Chemical Safety Board. I ask not because I personally will be in office to observe the benefits of this increase; I ask because after five years, I recognize that the agency simply cannot deliver in full upon its statutory promise without additional resources. And finally, we ask for these resources because they represent a sound and prudent investment to protect American communities, industrial workers, and businesses at risk.

I thank the Committee for its consistent and unfailing support, and I thank both Congress and the president for the privilege of serving as CSB chairman for the past five years. I will be more than happy to answer the Committee's questions. Thank you.