

# Congress of the United States

Washington, DC 20515

July 7, 2014

The President  
The White House  
Washington, D.C. 20500

Dear Mr. President:

On June 19, 2014, the Committee on Oversight and Government Reform held a hearing entitled “*Whistleblower Reprisal and Management Failures at the U.S. Chemical Safety Board*,” to examine waste and mismanagement at the U.S. Chemical Safety and Hazard Investigation Board (CSB). This hearing was the culmination of an eight month joint investigation by the Committee on Oversight and Government Reform and the Committee on Science, Space, and Technology. The findings of the joint investigation with respect to the leadership of CSB Chairman Rafael Moure-Eraso were disconcerting. It was our hope that at the June 19 hearing, Chairman Moure-Eraso would address our concerns and restore confidence that the CSB is accomplishing its important mission. He did not. We are writing to bring the findings of the joint investigation, and the hearing record, to your attention so that you can consider whether Chairman Moure-Eraso is the right person to continue to lead the CSB.

The joint investigation found that under Chairman Moure-Eraso, CSB leadership engaged in a pattern of hostility toward career staff and whistleblowers who reported concerns to the U.S. Office of Special Counsel. Chairman Moure-Eraso took extraordinary steps to thwart an Office of Inspector General investigation into whistleblower retaliation, including using appropriated funds to hire outside counsel to assist his effort to withhold key documents from the IG. This incident is symptomatic of the larger problem that is plaguing the CSB: a hostile work environment that is undermining the agency’s ability to investigate industrial chemical accidents efficiently and effectively.

The joint investigation further determined that Chairman Moure-Eraso is responsible for creating a work environment at CSB that caused an exodus of highly-experienced career investigators. This, in turn, caused the quality and pace of chemical accident investigations to slow. Investigations languished for years, and the CSB failed to perform its most important function—to release timely recommendations that might prevent future catastrophic accidents that result in deaths, injuries, and property damage.

The hostile work environment at the CSB is a byproduct of Chairman Moure-Eraso’s posture towards his colleagues on the Board and his hostility towards staff with dissenting opinions. Moure-Eraso manipulated and ignored internal agency regulations and protocols enacted to ensure the CSB would function as a collegial, non-partisan, independent agency. Simply put, the CSB is an agency in crisis.

During the June 19, 2014, hearing, a former Board member testified that she resigned because, under Moure-Eraso's leadership, the "dysfunction" at CSB reached an intolerable level, and she had "no hope of it improving."<sup>1</sup> In her words, "[t]he agency is broken; it needs to be rebuilt."<sup>2</sup>

Chairman Moure-Eraso's testimony on June 19, 2014, did not inspire confidence that he can fix the agency. Rather than acknowledge the challenges that have diminished the effectiveness of the CSB, Moure-Eraso was defiant. He attempted to shift the blame and downplay the significance of his battle with the IG. For instance, rather than pledging to cooperate with the IG's ongoing investigation of whistleblower retaliation allegations relating to Moure-Eraso and his top lieutenants, Moure-Eraso described his battle with the IG as "an obscure legal point that is being discussed that IG and the lawyers could deal with."<sup>3</sup> Chairman Moure-Eraso's testimony heightened our concerns to such an extent that a bipartisan group of Committee Members suggested that he should be replaced.

For example, in response to Chairman Moure-Eraso's attempt to justify his management style, Rep. Gerald Connolly said:

**This is about a staff that is out of control. This is about a dysfunctional culture. This is about lack of leadership at the top, Dr. Moure-Eraso. This is about a board not doing its job and a staff substituting itself for the board, which is supposed to be the governance of the agency; and no wonder the public must have some eroding confidence in your ability to fulfill your mission.**

\* \* \*

**[Y]our reaction, sir, since February 10th and today, under oath before this Committee, I think raises serious questions about your fitness to hold your job.<sup>4</sup>**

During a discussion about the CSB's failure to complete an investigation into an August 2012 fire at the Chevron refinery in Richmond, California, Rep. Jackie Speier stated that the delay "shows a lack of ability to do the job."<sup>5</sup>

With respect to where the blame lies for CSB's various shortcomings, Rep. Jason Chaffetz stated, "I think several people have cited that most of that management problem resides in one particular situation."<sup>6</sup>

---

<sup>1</sup> *Whistleblower Reprisal and Management Failures at the U.S. Chemical Safety Board: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (June 19, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* (emphasis added).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

Chairman Darrell Issa summarized the feelings of many on the dais that day when he stated that a change in leadership at CSB is necessary. He stated:

I believe there has been a strong case made in our investigation, a strong case made here today, and I think Mr. Connolly made a strong case in his discussion with you. **You have failed in your requirement to be a chief executive. You failed in your requirement to be a board leader. You failed in your requirement to hire people who faithfully do the job in the way expected of an independent agency.**

**You have failed to deliver the kind of results in the way of timely resolution of your basic charter**, which is to do these investigations and bring them to conclusion in a way in which industry and the American people know that the changes, so it doesn't happen again, are continuing. Six and a half years to close something out, four years to close something out, that is four years of vulnerability on whatever caused these horrific incidents to occur.

Therefore, I personally will do something I don't do. I don't do it with cabinet officers, I don't do it regularly. **But I really believe it is time you go, that you really need to ask whether or not, in your last year, you can actually undo the damage of your first five.**<sup>7</sup>

Additional information obtained by the Committees after the hearing has also called into question Chairman Moure-Eraso's commitment to restoring trust in the CSB. On several occasions during his testimony on June 19, 2014, Moure-Eraso claimed to be following Energy and Commerce Committee Ranking Member Henry Waxman's recommendation to establish a "Work Improvement Committee (WIC)."<sup>8</sup> In response to questions from Ranking Member Cummings, Moure-Eraso stated:

We established a group, an independent group, freely open group that we call the Work Improvement Committee, that has been chosen among all the staff, that have been meeting since December, and that we have assigned a management consultant . . . to establish processes and systems to improve the quality of work in the agency.<sup>9</sup>

It is our understanding that the WIC disbanded months ago. And, not until after the June 19, 2014 hearing did Chairman Moure-Eraso ask for nominees to serve on a new WIC. The joint investigation of the CSB is ongoing, and we are evaluating the veracity of Moure-Eraso's claims with respect to the WIC, as well as a number of his statements during the hearing. The joint investigation is also monitoring CSB management to ensure that there is no retaliation against employees who provided information to Congress.

---

<sup>7</sup> *Id.* (emphasis added).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

CSB has a vital public safety mission—to investigate industrial chemical accidents, report on the causes of the accidents and make recommendations to prevent future tragedies. Chairman Moure-Eraso’s leadership is making it difficult for the agency to fulfill its mission. Immediate change in CSB leadership is necessary to allow this besieged agency to heal and regain focus on its public safety mission. Enclosed for your reference is a copy of the joint staff report regarding the CSB, entitled “*Whistleblower Reprisal and Management Failures at the U.S. Chemical Safety Board*”. Thank you for your attention to this matter.

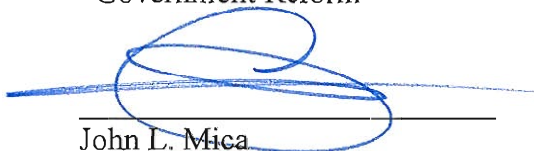
Sincerely,



Darrell Issa  
Chairman  
Committee on Oversight and  
Government Reform



Lamar Smith  
Chairman  
Committee on Science, Space,  
and Technology



John L. Mica  
Member of Congress



Michael R. Turner  
Member of Congress



Jason Chaffetz  
Member of Congress



Paul A. Gosar  
Member of Congress

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member  
Committee on Oversight and Government Reform

The Honorable Eddie Bernice Johnson, Ranking Member  
Committee on Science, Space, and Technology