

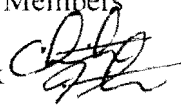


U.S. Chemical Safety and Hazard Investigation Board

Office of General Counsel

Memorandum

To: Chairperson and Board Members

From: Christopher Kirkpatrick 

Cc: Chris Warner
Manuel Gomez
Daniel Horowitz
Bill Hoyle
Ray Porfiri
Don Holmstrom

Subject: Board Action Report – Notation Item 377

Date: August 19, 2005

On August 11, 2005, the Board approved Notation Item 377, thereby adopting, and authorizing the immediate issuance of, the urgent safety recommendation to BP. The dissent of Board Member Visscher is attached to this memorandum.

Voting Summary – Notation Item 377

Disposition: APPROVED

Disposition date: August 11, 2005

	Approve	Disapprove	Calendar	Withhold	Not Participating	Date
Chairperson Merritt	X					8/11/2005
Member Bresland	X					8/11/2005
Member Visscher		X				8/15/2005

Reasons for voting against Notation 377

While Board Order 22 does provide for making “urgent” recommendations, such “urgent” recommendations are limited to situations where (1) an issue is identified “that is considered to be an imminent hazard and has the potential to cause serious harm unless it is rectified in a short time frame” or (2) “a hazard is identified that is likely to exist in a large segment of industry such that the probability of an incident is significant.” The recommendation indicates that it is based on the first test (“imminent hazard”). The Board’s sweeping finding that BP’s safety management and “culture” constitute an “imminent hazard” establishes a very broad definition for that term that is inconsistent with what appears to be intended by the Board Order.

The Board’s “urgent” recommendation implies that the Board has information that problems at Texas City have spilled over to, or are an indication of, the same or similar problems at other BP refineries, which we do not have. Directing attention away from Texas City may in fact in some ways distract BP’s efforts to turn around the Texas City facility. Further, the recommendation is based on “findings” that do not appear to encompass all that is known thus far about the circumstances and causes of the accident at the Texas City refinery. Finally, the recommendation’s call for a “private/public” inquiry into areas that potentially involve operational and managerial issues and decisions raises numerous questions and issues (for example, confidentiality of statements) that have not been adequately considered in my view, but may lead to very different expectations on the part of the Board and BP in fulfilling the recommendation.