



**CITGO Refining and Chemicals Company L. P.**  
**Corpus Christi Refinery**

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December 2, 2009

***Privileged and Confidential Deliberative Communications***  
***- FOIA Exempt Communication - DO NOT DISCLOSE -***

Robert J. Hall, PE  
U.S. Chemical Safety & Hazard Investigation Board  
2175 K Street, N.W.  
Washington, DC 20037

**Re: Response to Notice of Intended Public Release of Video of Corpus Christi Refinery  
Alkylation Unit**

Dear Mr. Hall:

This is in response to your message to us of November 24, 2009, advising that the Chemical Safety Board (CSB) anticipates releasing its Urgent Recommendations this week and, in connection therewith, has informed us of its intention to release portions of the videotape of the fire at CITGO's Corpus Christi Refinery ("the Alkylation Unit fire" or "the incident") which occurred on July 19, 2009. It is CITGO's position that posting the video of the Alkylation Unit fire would not only sensationalize this unfortunate accident but would also raise substantial issues of national security, it conflicts with ongoing investigations by other agencies and is questionable at best given the sheer relevance and propriety of such a disclosure.

As we informed you by telephone, CITGO is understandably concerned about the CSB's intention to release this video as part of its Urgent Recommendations which we have been told will be placed on its website this week. As you are aware, CITGO has fully cooperated with the CSB throughout this investigation and has stated on many occasions our intention to continue to cooperate in assisting the CSB in both understanding the sequence of events which led to the Alkylation Unit fire and in determining the root causes for the incident. We fully understand and support the CSB's mission to provide accurate information to the public in the form of published findings, which findings should be the result of a full and fair process of review and investigation. At the same time, however, Congress has made it clear that the public has a legitimate interest in being protected from the potential adverse consequences associated with fires and explosions or other catastrophes that have resulted from terrorism, sabotage or actions contemplated by the Homeland Security Act. To that end, Congress has made it clear, and the public interest demands, that refineries and other facilities with the potential for catastrophic events, are appropriately secured and protected from actions that could jeopardize the safety and well-being of refinery employees and the public. CITGO believes that disclosure of the site-specific video is detrimental to maintaining facility security due to the level of detail included in

the video and the accessibility of such information on the web, which detail is not generally available to the public and is generally restricted by CITGO's internal security procedures as mandated by the Office of Homeland Security. Disclosure of this information by the CSB may provide a means for parties with interests adverse to CITGO and the oil industry to determine ways to compromise critical operations by gaining a better understanding of the manner, means and consequences of events involving critical operations at locations such as the Corpus Christi Refinery.

One of the duties of the Undersecretary of Homeland Security is to "recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal government and in cooperation with State and local government agencies and authorities, the private sector and other entities." Homeland Security Act, P.L. 107-296, Section 201(d)(6). Homeland Security has considered the locations of the various infrastructure "Protected Critical Infrastructure Information" (PCII) that cannot be disclosed to the public. In response to the CSB subpoena in this matter, CITGO averred, "Additionally, CITGO requests that all information provided herein be treated as security sensitive pursuant to any applicable Board or Department of Homeland Security laws, rules or regulations." As it noted in producing the video, CITGO contends that the videotape information which was released to the CSB in connection with this investigation was intended to be accorded the security sensitive status that the Homeland Security Act requires.

In addition to the above, we believe that releasing videos at this early point in time, while the Occupational Safety and Health Administration (OSHA), Environmental Protection Agency, and the Texas Commission on Environmental Quality continue their investigations, threatens to compromise those investigations as well by the premature disclosure of information and recommendations which will undoubtedly be the subject of those agencies' findings and conclusions. Indeed, the CSB's Memorandum of Understanding with OSHA specifically provides that: "To the extent possible, CSB will coordinate its public statements, the timing of Board meetings, and the release of public reports with OSHA, so that such actions do not hinder or jeopardize ongoing enforcement actions by OSHA." Disclosure of the videotape runs afoul of the Memorandum of Understanding with OSHA and should not be issued without the concurrence of that agency.

As you know, CITGO attempted to work cooperatively with both OSHA and the CSB in the development and execution of the Evidence and Site Control Agreement dated July 29, 2009, in which all of the parties agreed to fully cooperate to assure proper collection and storage of evidence and the provision of information which enabled both OSHA and the CSB to conduct orderly and thorough investigations with respect to the incident. Such information was provided by CITGO voluntarily to both the CSB and OSHA in good faith with the understanding that the information would be treated with all appropriate confidentiality and discretion and with due regard for the absolute need to maintain the security of the refinery at all times. The CSB's stated intention to release sensitive videotape of the Alkylation Unit fire over CITGO's objection causes us to question the good faith of the CSB and to call into question CITGO's decision to fully cooperate with the CSB in helping to complete their investigations in a timely manner. It may undermine the Board's work in the future with the entire industry as it demonstrates to industry that the Board will take advantage of cooperation to the company's detriment through the release of confidential and sensitive information.

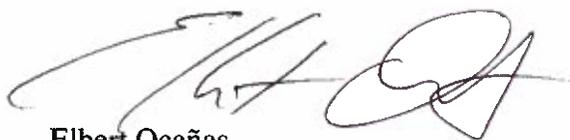
Additionally, public disclosure of the videotape could have a significant impact on potential third-party litigation arising out of the July 16 fire by sensationalizing the event through public disclosures, the effect of which could compromise the ability of any potential jury to fairly and objectively evaluate facts and law through the orderly presentation of evidence at trial.

Finally, posting the videotape on the CSB's website serves no legitimate purpose and is clearly irrelevant to the subject matter of the CSB's Urgent Recommendations. The videotape serves no recognizable purpose nor provides any justification for either of the CSB's Urgent Recommendations.

We are hopeful that, once you have considered the above information, you will make the decision not to release the videotape of the July 16 fire at CITGO's Corpus Christi Refinery. We are asking you to provide this information to Members of the CSB for their consideration prior to your making any final decisions with respect to disclosure of the video as part of your Urgent Recommendations.

Sincerely,

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Elbert Ocañas', written in a cursive style.

Elbert Ocañas  
Senior Corporate Counsel  
CITGO Corpus Christi Refinery

cc: Christopher Warner, Esquire