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I'd like to thank Chairman Waxman, Subcommittee Chairman Stupak and the committee members for inviting me to testify today on the impact the Institute Bayer CropScience August 28, 2008, fire and explosion has had on the surrounding communities.

I am Pamela Nixon, the Environmental Advocate with the West Virginia Department of Environmental Protection. I've been employed by the WV DEP since November 1998, and serve as the liaison between the Department and the public. In essence I work closely with individuals and communities regarding environmental concerns.

I am not a West Virginia environmental regulator, enforcement officer, or a public relations officer for the department. My role at the WV DEP is to be the ombudsman for community members.

On the night of August 28, 2008, I was visiting friends in the east-end of Charleston, over 10 miles away, when around 10:30 PM we felt and heard a loud rumble. Not knowing the cause, the statement was made, "At least it didn't break the windows." When I arrived home around 11:00 PM it was being reported that there had been a major explosion and fire at the Institute plant, but there was no additional information on actions the public should take for their safety. It had been thirty minutes, why was there no shelter in place called?

You see, I had lived in West Dunbar, less than one mile from the plant, between the years 1979 to 1990. The Institute area includes three small communities – Institute, Pinewood Park and West Dunbar; and it includes the campus of West Virginia State University, a historically Black university with an enrollment of 5,000 students.

Bayer CropScience is located on the west end of Institute, on the north bank of the Kanawha River. Directly across, on the south side the river is the unincorporated town of Jefferson, and to the west of Jefferson is the town of St. Albans. Due to their close proximity to the plant, those communities are not strangers to chemical emergencies. Depending on the velocity of the wind, it would take less than 15 minutes for a plume from the plant to blow across them.

Long-time residents know to stay off the phones and listen to the news for safety instructions during a chemical emergency, but as minutes began to tick by, my phone began to ring. (You see, before I worked with the WV DEP I was a grass-roots clean-air and community safety activist.) I could hear the anxiety in their voices, and also the frustration and anger *that this was happening again*. Some of the callers said they were

going to Charleston to stay at a hotel until it was safe to return. Others called to see if I had additional information, there was no valid safety information being reported.

I knew what they were feeling. It is like a wave that engulfs you when you hear an explosion, feel your home shake, see the smoke and the glow of the fire in the sky, not knowing what will happen next and fearing for the safety of your family. I know what they felt. When you live that close to a chemical plant you learn that every minute counts.

As I stated described earlier, plant sits along the river valley floor, two roadways also follow the valley floor – MacCorkle Avenue on the south side, and Route 25 on the north side of the river. Along the side of the hill is I- 64, and interstate highway. In the Kanawha Valley, West Virginia, due to the terrain you have to plan your path of egress whether it is a chemical emergency or a car accident blocking your way.

For decades people in the Institute area were asking valid health and safety questions. even before the 1984 Bhopal tragedy. The very same questions that were asked in the 80's and 90's, were asked by different individuals during the public forums held after last year's fire and explosion.

Back in 1984, when we saw on TV thousands dead of people in the streets of India, we were appalled and saddened. Then when we heard it was the result of a run-away-chemical reaction at a US run chemical plant, and that the same chemical process was being run near our homes, there was an extreme urgency to have our questions answered.

- Is it safe for our families to live here?
- What were the chemicals involved the plume?
- What are the potential health risks?
- When will the plant stop producing and storing dangerous chemicals in our neighborhoods?
- Is it safe to eat the vegetables in our gardens?

Back in 1984, there weren't any community right-to-know laws. With no forum from which to speak, in 1985 community members and faculty members from the university (but at that time it was a college) organized to form the group People Concerned About MIC. With everyone working together, the group was empowered to:

- Host meetings for company officials to explain why there was a chemical release
- To participate in national discussions to develop community-right-know laws
- Partner with universities, medical doctors and PhDs to develop and conduct a health survey
- Utilize right-to-know laws to access crucial information on Chemicals that impact the communities
- Join the Kanawha Putnam Emergency Planning Committee and participate in the risk management plan roll-outs that were used to enhance the emergency plans
- Participate in the Sub-area Community Improvement Council, sponsored by Bayer Crop-Science and other companies in the Institute chemical complex

Information was finally getting to the community. Some members began to feel they were having meaningful input in the talks with the companies. But over the past few years community members have murmured that they were beginning to loose ground in their ability to get information. When chemical releases occur residents say information is not in a timely manner. At times it takes weeks even months before the company will list the chemical names and provide the health risks.

In the past two years there have been two notable chemical releases in the Institute area that traveled outside the fence-line. One occurred on December 28, 2007, the other was August 28, 2008. During both events emergency responders complained that they were not given enough information from Bayer CropScience to make informed decisions about actions to take to protect the public.

After the December 2007 incident Bayer CropScience vowed to provide emergency services with detailed information during a release. On February 27, 2008, Bayer officials described the December 2007 incident to the Sub-area Community Improvement Council. They were told the chemical was thiodicarb, also known as Larvin, a hazardous material used in insecticides.

After the much criticism about August 2008 incident, Bayer apologized and again vowed to provide detailed information of releases. However, on October 26, 2008, the news media informed Kanawha emergency services personnel of a MIC event that had occurred at Bayer CropScience around the end of September 2008.

This became such an issue that West Virginia's governor proposed an industrial incident legislation which passed into law during this year's 2009 Legislative session. This law now requires businesses to report industrial incidents to 911 emergency centers within 15 minutes or be fined up to $100,000.

So it is no wonder that folks in the Kanawha Valley, particularly Institute residents have lost confidence in Bayer CropScience providing early notification on chemical releases that happen at their plant.