



Office of the Chairman

# National Transportation Safety Board

Washington, D.C. 20594

**MAR 26 2008**

Honorable James L. Oberstar  
Chairman  
Transportation and Infrastructure Committee  
U.S. House of Representatives  
2165 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Oberstar:

I am in receipt of your letter of March 19, 2008, regarding the Board's decision not to hold a public hearing on the I-35W bridge collapse last summer. In light of your longstanding interest in the matters of this agency and positive influence on the capabilities of our organization, we respect and value your opinion highly.

Please let me assure you, the Safety Board's decision to continue to expeditiously move the investigation toward conclusion instead of conducting a public hearing was an extremely difficult one. The Members of the Board spent two months reflecting on the recommendation of staff and carefully and thoroughly reviewed all of the information before voting on this issue. In the final vote, a majority of Members voted not to hold the hearing, in acceptance of the investigative staff's recommendation that such a hearing was not necessary for the investigation, and in recognition that expedited completion of the Board's investigative report was paramount. Although the Board's vote was not unanimous, the Board's longstanding practice has been that the majority vote becomes the position of the Board, and, as Chairman, I am obligated to represent the Board's majority position. But as you know, while individual Members may dissent from the majority view, the majority vote of the Board prevails under rules governing this agency, very similar to the legislative voting process with which you are quite familiar. An atmosphere of candid internal debate and discussion in the past has worked well with our Members, and I believe will continue into the future.

Since the I-35W bridge collapse in August 2007, there has been significant public interest concerning the cause of the accident. The NTSB was created to be an independent Federal agency whose primary mission is to objectively, carefully, and in the most expeditious manner possible, determine the probable cause of an accident, and more importantly, issue recommendations to prevent such an accident from recurring. The recommendation we issued

on January 15, 2008, is a good example of how the Board releases recommendations anytime it is appropriate to disseminate a valuable safety message. The strength of the Board is our independence and ability to rigorously focus on evidence and facts to reach technically sound conclusions. In this instance, the highly experienced career staff of the Board states that they believe the investigation is developing sufficient information and understanding of the mechanics of the I-35W bridge collapse, and of the Federal and State bridge design and inspection processes, to complete the investigation without the need for a public hearing. Staff believed that in this circumstance, a public hearing would unnecessarily delay the outcome of the investigation and, in turn, delay a final report that will likely contain additional recommendations for improving bridge safety nationwide.

Although public hearings are one investigative tool used by the Board, they are more often exceptions rather than a routine aspect of our major accident investigations. As I know you are aware, many people erroneously believe that a Safety Board public hearing is like a town hall meeting, with members of the public giving their opinions. It is actually a hearing that is open for public observation, not participation. Those who testify are technical experts selected and called by the Board.

During Board deliberations on this matter, an internal memorandum explaining the staff's views and recommendation was presented to the Board Members. The agency generally considers this memorandum and exchanges between staff to be deliberative documents between staff and Members and does not publish such materials. This reflects an effort to encourage free and frank communication between professional staff and Members of the Board. During our conversation, I indicated to you that I would ascertain if we could share this memorandum with you. The memorandum is deliberative and thus would normally be considered "for official use only." It is and has always been the practice of the Safety Board to exclude these interim deliberative documents from public release, and that is the information we initially provided to you. However, I have considered this matter further since our conversation. Due to the disclosure of other internal documents, which you cite in your letter, our desire to ensure openness in this quite public investigation, and with the concurrence of our General Counsel, I have directed staff to provide you and the other Members of Congress with a complete record of the deliberative discourse. This includes the original staff memorandum; a commentary from our Vice Chairman to staff; staff's reply to that commentary; a second deliberative memorandum from the Agency Managing Director to the Board; joint dissenting commentary from Member Deborah A.P. Hersman and Member Katherine O'Leary Higgins; and finally, a concurring commentary from Vice Chairman Robert Sumwalt, which was joined by Member Steven Chealander and me. We will now make these materials available to all other requesters as well.

In response to your request that we reconsider our decision not to schedule an interim hearing on this investigation, I asked the agency's Managing Director to poll the applicable investigative staff on the matter. The investigative staff of the Office of Highway Safety and the Office of Research and Engineering repeated their belief that an interim hearing would not improve upon the information they have gathered and would unduly delay resolution of this case.

I then shared your letter and discussed your concerns with Vice Chairman Sumwalt and Member Chealander. Both reasserted their belief that a hearing was not called for, a position that I, too, continue to share.

A recent event demonstrates how important it is that the Board reach accurate conclusions concerning the bridge collapse and provide the information as rapidly as possible to the end users--the States--so they can take action. As you know, last week the Minnesota Department of Transportation (MNDOT) closed the U.S. Highway 23 bridge in St. Cloud, Minnesota. MNDOT took this action after inspectors found gusset plate deformation or bending on the 51-year-old steel truss bridge. The gusset plate bending was discovered due to an extensive and systematic review of Minnesota's steel truss bridges that continues today. This review is a direct byproduct of the investigative efforts of the Safety Board and MNDOT and the Safety Board's January 2008 recommendation. Similar reviews and examinations are being conducted by States nationwide.

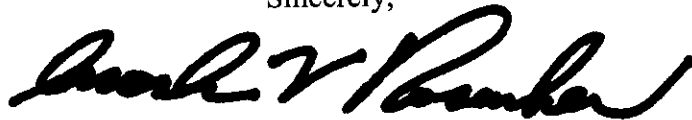
The Safety Board has throughout its history had dedicated staff as well as Board Members who care deeply about the safety of the traveling public. The rigorous process the Board takes to determine probable cause has made the Safety Board one of the best investigation bodies in the world. When the probable cause for this accident is determined, and we believe that will be later this year, it will be based on our best scientific and technical analysis, and the results of extensive research activities across many organizations assisting our efforts. As you said in your letter to us in January 2008, the lessons we will learn from this final report will give us a greater understanding of what happened, and it will help us to prevent a similar tragedy from occurring.

Finally, I agree with you that the public would welcome information and discussion of how the design of the I-35W bridge was approved, why the bridge failed, whether we need to take steps to prevent other tragedies, whether there have been improvements in bridge design and the design approval process since the 1960's, and whether we are now devoting sufficient financial and staff resources to ensure continued bridge safety. This discussion will be held in public when the investigation is complete. Staff will present a draft report with findings, a proposed probable cause, and recommendations, in an open public meeting, available free of charge via webcast. During the meeting, you can be certain that the Board Members will engage in open, public debate regarding all of these concerns. The public will have an opportunity to see how our process works and how the Board fully considers the evidence in our possession. As with the public hearing, the public may not verbally participate. I am confident that our product will again prove itself objective and transparent, open to public scrutiny, and subject to the broadest peer review.

I hope this letter addresses your questions and concerns. The vote by the Board Members represented a thorough and thoughtful process whereby all concerned sought to best advance the ongoing bridge collapse investigation. As the enclosed documents demonstrate, there were many reasonable arguments on both sides of this issue, and the decision was a difficult one.

However, I am confident that all of us, though we may disagree on our approach, intend above all else to serve the best interests of the public and transportation safety. Please feel free to contact me should you have any additional questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark V. Rosenker". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Mark V. Rosenker  
Chairman

Enclosures