

U.S. CHEMICAL SAFETY BOARD

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CHEVRON RICHMOND REFINERY

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PUBLIC MEETING

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WEDNESDAY,

JANUARY 15, 2014

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U.S. CHEMICAL SAFETY BOARD MEMBERS PRESENT:

RAFAEL MOURE-ERASO, Ph.D., Chairperson,
U.S. Chemical Safety Board

MARK GRIFFON, Member, U.S. Chemical Safety
Board

BETH J. ROSENBERG, Sc.D., M.P.H., Member,
U.S. Chemical Safety Board

STAFF PRESENT:

DANIEL M. HOROWITZ, Ph.D., Managing Director

RICHARD C. LOEB, General Counsel

*HILLARY COHEN, Communications Manager

DON HOLMSTROM, Director, Western Regional
Office

*AMY McCORMICK, Contracting Officer

AMANDA JOHNSON, Investigator

DAN TILLEMA, Team Lead

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1 P R O C E E D I N G S

2 (6:30 p.m.)

3 CHAIRPERSON MOURE-ERASO: And

4 that's kind of a reflection of the magnitude
5 that these problems can have. In here, we
6 have problems with the air. In Charleston,
7 West Virginia, they have serious problems with
8 the water.

9 Before we go any further
10 (inaudible), it's necessary that we review the
11 safety exits. If nothing happens to us and
12 everything is normal, you will leave the
13 building the way you entered.

14 But if something goes wrong, you
15 have to be aware that there is two exits here,
16 two emergency exits, in addition to the two
17 ones that are in the front over there. We are
18 supposed to do that in the safety meeting.

19 I would like to introduce my
20 fellow board members and the people that are
21 here on the panel. I am Rafael Moure-Eraso.
22 I am chairperson of the U.S. Chemical Safety

1 Board.

2

3 And with me I have, to my left,
4 Dr. Beth Rosenberg, CSB board member. I have,
5 to my right, Mark Griffon, which is also a CSB
6 board member. The three of us are, at this
7 time, the board of the Chemical Safety Board.

8 Also with me here, to my right, is
9 the General Counsel of the Chemical Safety
10 Board. And, you know, he is going to be
11 helping us to deal with any legal or any
12 matters that relate to how to run the meeting.
13 Mr. Richard Loeb is here, sitting to my right.

14 Also here is the investigative
15 team with the director of our Western office
16 is sitting to my left and our medical director
17 and our communications director is sitting to
18 my right. We'll go into details in those
19 presentations when they are to speak.

20 I don't know if all of you were
21 able to see an agenda. There is an agenda of
22 how we're going to proceed that I am going to

1 read as follows, the agenda.

2 The first thing I would like to do
3 is I am going to give you some introductory
4 remarks from the Chair. I am sure you all
5 know that we released the last draft of our
6 federal report, this precisely one that we are
7 looking today, at a press conference here on
8 December the 16th, 2013.

9 The objective of that press
10 conference and releasing the report then was
11 to ask for public comment on the contents of
12 the report and specifically on the
13 recommendations of the report.

14 And the comments are in and can be
15 reviewed on the CSB Website with our specific
16 responses that we have to the comments that
17 were presented.

18 The period that we asked for
19 people to send comments were from December
20 16th through January 3rd. And we got a
21 substantial amount of comments that we
22 reviewed.

1 We have considered and we have
2 incorporated suggestions from these comments
3 in the final report that we are discussing
4 today.

5 The comments that we received were
6 from the State of California, from California
7 OSHA, I'm sorry, from Federal OSHA, from the
8 Chevron Company, from the University of Texas
9 A&M, the Mary K. O'Connor Center for Process
10 Safety.

11 We have comments from the American
12 Petroleum Institute for the United Steel
13 Workers Local 5 which is the one that
14 represents the workers here in Richmond and
15 also comments from the United Steelworkers
16 International.

17 We have comments from the Center
18 for Chemical Process Safety, from the American
19 Institute of Chemical Engineers. We have
20 comments from the American Fuel and
21 Petrochemical Manufacturers, the American
22 Chemical Council, the Western States Petroleum

1 Association, the California Refinery Action
2 Collaborative and from 15 individuals that it
3 was their statement.

4 The work of our staff has been the
5 diligent and difficult work of trying to
6 understand and incorporate the suggestions
7 that we thought that were relevant into our
8 final report.

9 That report today is going to be
10 presented officially. And we are then voting,
11 the Board is going to vote for approval or
12 disapproval of the recommendations as they
13 appear in the report.

14 The reasons that we are here, that
15 we deployed to this problem and initiated
16 these investigations, is because we believe
17 that we have a fundamental refinery safety
18 problem in the United States.

19 In 2012 alone, the CSB tried 125
20 significant process safety incidents at the
21 U.S. petroleum refineries. Seventeen of these
22 took place in your State, in California. The

1 current regulatotry system clearly is not
2 working to make these facilities as safe as is
3 possible for you.

4 Refineries account for the highest
5 number of reportable accidents among the
6 facilities who are covered by the EPA risk
7 management program rules in the whole United
8 States. Refinery is the Number 1 industrial
9 group that has the most frequent accidents
10 that are reportable in their R and P.

11 We have examined a Swiss MS.
12 REYNOLDS: report. Swiss Re is a great
13 insurance company that looks at production
14 worldwide. And this company reported, with
15 data from 2005, that the dollar cost of losses
16 for accidents in U.S. American refineries was
17 almost three times that same cost of losses
18 from refineries from the European Union. So
19 we do have a problem in refineries.

20 In the world of the CSB, six of
21 our current 13 ongoing CSB investigations are
22 in U.S. refineries.

1 The OSHA, after our recommendation
2 on the BP Texas City explosion in 2005,
3 initiated a new emphasis program on process
4 safety management that looks at refineries.

5 And we took a sample of refineries
6 in the United States. And they have serious
7 problems of compliance with the process safety
8 management to be in this study that is called
9 the Emphasis Program for refineries.

10 All of these facts are presented
11 in detail, properly annotated, in the CSB
12 investigation report that we are voting on
13 today and that can be found outside.

14 Our CSB report finds that the
15 regulatory system in the U.S., we find it
16 wanting. The CSB report today calls for
17 sweeping changes in the way refineries are
18 regulated in California.

19 Our investigation team will
20 outline this report to you in detail. I urge
21 you to listen carefully to the special
22 recommendations that the Board will consider

1 for the State of California to establish a
2 more rigorous safety management regulatory
3 framework for petroleum refineries.

4 You will be hearing about what
5 will be a new approach in this country for
6 refinery regulation, the Safety Case regime.
7 The principles the Safety Case framework
8 actually use regulatory systems in the United
9 Kingdom, in Australia and in Norway.

10 The applications of similar
11 principles of the Safety Case regime are also
12 found in the United States. You will look at
13 the safety management of the Nuclear
14 Regulatory Commission and of NASA principles
15 of Safety Case are applied there. And they
16 are now conforming to the U.S. experience of
17 safety management.

18 By adopting our recommendation of
19 the Safety Case regime, the State of
20 California could become the National test bed
21 for refinery safety regulation designed to
22 prevent catastrophic failures.

1 Over the years, the CSB has
2 gathered a lot of data on the root causes of
3 biochemical accidents and has evaluated the
4 opportunities of the refinery and chemical
5 industry regulatory system.

6 I believe all of us on the Board
7 appreciate the work of our investigatory team
8 that has focused on this root cause and has
9 looked at all the issues that I am presenting
10 to you today.

11 We also would like to applaud the
12 work of the government of California
13 interagency task force for their proactive
14 approach to protect workers and public safety
15 in California following our interim report
16 last April and for the progress that they have
17 us on our recommendations to this particular
18 report.

19 Now, I would like to call on my
20 colleagues of the CSB Safety Board for any
21 opening remarks. So Member Rosenberg?

22 MEMBER ROSENBERG: Thank you.

1 Good evening. The CSB found that Chevron had
2 been warned at least seven times over a decade
3 that pipes were subject to sulfidation
4 corrosion and they should be inspected and, if
5 necessary, replaced.

6 All three board members, as well
7 as Congressman Miller, agreed that the pipe
8 failure was really a management failure to
9 heed any warnings of its own employees and
10 evidence from experts. Chevron's management
11 failure has yet to be explained.

12 And now we are proposing a
13 different regulatory regime which has been
14 widely touted as a new, improved safety
15 regime.

16 There are many appealing aspects
17 of the Safety Case regime which you will hear
18 about tonight. While I do not oppose trying
19 to implement some of the positive aspects of
20 the Safety Case regime in California, I have
21 reservations.

22 The idea of industry making the

1 case to a competent regulator that it can
2 carry out its business safely and having labor
3 provide checks and balances is a very nice
4 model if all three parties have somewhat equal
5 power. Safety Case regime can work if labor,
6 Government and industry are balanced.

7 I have real concerns that if we
8 implement the Safety Case regime, we will
9 simply be duplicating the same power relations
10 of weak labor, weak Government and strong
11 industry in a different format.

12 In the offshore oil industry in
13 the U.K., Safety Case has shown to improve
14 safety, not so on onshore facilities.

15 Dr. Nancy Leveson, an MIT
16 professor of engineering systems who served on
17 the Baker Panel that was convened by the CSB
18 in the aftermath of the BP Texas City incident
19 in 2005, says in her public comments that,
20 "The available evidence indicates that the
21 Safety Case offers no superior protection
22 against process safety incidents."

1 In fact, the poor use of Safety
2 Case has been faulted in numerous accidents.
3 An independent review of the 2006 loss of the
4 RAF Nimrod which resulted in 14 fatalities
5 leveled harsh criticisms of the Safety Case
6 regime including that, "The Safety Case regime
7 has lost its way, led to a culture of paper
8 safety at the expense of real safety."

9 Rory O'Neill, long time labor
10 activist in the U.K., editor of Hazard
11 Magazine and good friend of the United
12 Steelworkers, in a recent email sarcastically
13 referred to the magic Safety Case because it
14 was falling so far short of expectations.

15 In an email yesterday, O'Neill
16 said the Safety Case is, "Amounting to
17 enormous piles of paper submitted to an agency
18 with few and rapidly declining resources to
19 scrutinize them and fewer still to detect
20 compliance."

21 On the other hand, what we have
22 now is not working. And you deserve something

1 better. I understand your eagerness to try
2 something new. This report is a very good
3 start to exploring a new possibility about
4 what a Safety Case regime could be.

5 But the public comments, as well
6 as what I've learned about Safety Case in the
7 last year, give me pause. there is much more
8 to learn from other countries that have a
9 Safety Case regime about how it actually works
10 in practice. I'm uneasy with the fact that
11 Safety Cases are not public documents. So you
12 and I can't see them.

13 Three months ago, I asked you
14 Judith Hackitt, the head of HSE which is U.K's
15 OSHA, about the role of labor in Safety Cases.
16 She said that Safety Cases are mainly
17 negotiations between companies and the
18 Government, and labor isn't really involved,
19 nor is the public.

20 I cannot, in good conscience,
21 recommend something where labor and
22 communities might be weakened in any way.

1 Further, even if you decide to implement the
2 Safety Case regime, it will take years to
3 train regulators in industry and figure out
4 how it dovetails with regulations. Safety
5 Case regime is a long term plan. You need
6 more immediate remedies that have not been
7 implemented.

8 Contra Costa County has been
9 touted as a model program in refinery safety,
10 yet there were failures.

11 The CSB investigators know the
12 gaps in the safety program and made two
13 recommendations in our previous report but
14 left some gaps without remedies.

15 These include the need for more
16 resources to allow reasonable staffing levels
17 with adequate salaries for inspectors and for
18 inspectors to have direct enforcement
19 authority rather than having to refer
20 violations they find to the district attorney
21 with a recommendation for enforcement. The
22 CSB could investigate this problem quickly and

1 make appropriate recommendations.

2 The issue of timely abatement has
3 been brought up in this state. Currently, the
4 employer is not obligated to correct a
5 violation if the employer files an appeal.
6 And we know litigation can take years. If the
7 violation presents a serious hazard, it makes
8 no public health sense for a known hazard not
9 to be corrected.

10 Washington State has a version of
11 the timely abatement and even when an appeal
12 is filed while still giving employers due
13 process rights. OSHA supports this.

14 Assembly member Nancy Skinner and
15 Senator Loni Hancock passed such a bill last
16 year that was vetoed by the Government. But
17 thankfully, they have not given up and will
18 re-introduce it. We at the CSB should be
19 involved in this effort.

20 These few issues of resources for
21 Contra Costa County inspectors expanding
22 enforcement authority and timely abatement are

1 remedies that the CSB could make
2 recommendations on now.

3 So to summarize, this report is a
4 very, very good start in illustrating the
5 benefits of Safety Case regime. The staff is
6 to be commended for their excellent work thus
7 far.

8 I don't think we, that is both the
9 staff and the Board, have had time to
10 adequately examine the down sides of Safety
11 Case regimes in practice and how we can
12 prevent them from occurring here.

13 More importantly, there are clear
14 short term remedies that need our immediate
15 attention to protect workers and the public.
16 Thank you.

17 (Applause)

18 CHAIRPERSON MOURE-ERASO: The
19 statement of Board Member Griffon is next.

20 MEMBER GRIFFON: Thank you, Mr.
21 Chairman. Good evening. I'm excited to be
22 here in Richmond once more to discuss some

1 possible solutions which could go a long way
2 to preventing another incident like the one
3 that took place in August 2012.

4 I want to start by stressing what
5 I mentioned in the meeting that we had in
6 April of 2013. These type of incidents at
7 refineries around the U.S. are far too common.

8 I also say, again, that I believe
9 a significant factor contributing to the
10 incidents in the refinery sector is the age of
11 the facilities.

12 The fact that was stressed in the
13 U.K. health and safety executive study, which
14 showed that 50 percent of the major hazard
15 loss of containment events were primarily due
16 to aging plant mechanisms such as corrosion,
17 erosion and fatigue. Any regulatory solution
18 we consider must consider this important
19 factor.

20 Chevron was clearly aware of a
21 corrosion problem and yet repeated warnings
22 were dismissed. If Chevron management had

1 listened to their own experts, this incident
2 may have been prevented.

3 I am very interested in gaining a
4 better understanding of what appears to have
5 been management's failures. And as Dr.
6 Meshkati from the University of Southern
7 California noted in his comments to the CSB,
8 the oil refinery industry's safety culture,
9 and its senior management safety consciousness
10 and genuine commitment are the keys to moving
11 above and beyond the bare minimums achieved by
12 regulatory compliance.

13 These type of management failures,
14 it seems to me, are independent of the
15 regulatory framework in place. I look forward
16 to our final report on Chevron which will
17 cover these organizational questions.

18 So, we're here tonight to discuss
19 the regulatory findings and recommendations
20 for the County and the State.

21 When we first made our decision to
22 investigate the incident, a big factor was the

1 effect the incident had on the community and
2 the effectiveness of the Contra Costa County
3 Health Services model. After all, this model
4 was a model held up and touted by the CSB for
5 years.

6 In the CSB, their report, an
7 entire section was dedicated to describing the
8 Contra Costa model. And yesterday, someone in
9 Charleston, West Virginia, was calling for
10 implementation of CSB recommendations for
11 Kanawha County to adopt a model like the
12 Contra Costa County.

13 We need to know if this model
14 didn't work. And we need to, if possible,
15 make recommendations to improve the
16 effectiveness of the Contra Costa Industrial
17 Safety Ordinance.

18 The draft regulatory report makes
19 many very interesting findings with regard to
20 deficiencies in the current process safety
21 regulations and provides a good description of
22 an alternative model for Safety Case.

1 While the staff deserves credit
2 for their extensive research, the report
3 leaves many questions unanswered. Comments
4 received from a wide spectrum of stakeholders
5 and experts in just the past several weeks
6 indicate more study is needed.

7 The American Fuel and Petroleum
8 Manufacturers said the CSB should continue to
9 study and analyze different regulatory
10 regimes.

11 Professor Michael Baram of Boston
12 University said discussing implementation
13 issues would also correct an obvious imbalance
14 in the report. And Mike Wright of the United
15 Steelworkers said a great deal more work needs
16 to be done before a Safety Case system can be
17 fully considered as a regulatory model for
18 California.

19 I agree with these comments. It
20 also seems clear that many of the elements of
21 Safety Case may have applicability to the
22 current regulatory approach. This raises the

1 question should the CSB advocate for total
2 reform of the regulatory regime to a Safety
3 Case regime? Or should we propose to
4 strengthen the current regulatory approach?

5 I would argue this is not an
6 either/or proposition. We can and should do
7 both. In the near-term, I think it is
8 important to put forward options that
9 strengthen the current regulatory approaches.

10 For example, it seems to me that
11 an adequately resourced agency with a
12 sufficient number of highly qualified
13 inspectors is needed in the current system as
14 well as a possible Safety Case regime.

15 And also, it seems reasonable to
16 me to give the current regulator the authority
17 to require generally accepted best practices.
18 Perhaps such a change does not require a
19 regime change.

20 Considering recommendations to fix
21 the current regulatory approach may require
22 further work on the part of the CSB. But it

1 is also much more likely to have a more
2 immediate effect on improving safety for
3 California, and Contra Costa County refineries
4 and the communities near the refineries.

5 It is critical that the CSB
6 consider these more immediate options for both
7 Cal/OSHA and the Contra Costa Health Services.

8 I believe the Safety Case approach
9 is a very interesting model which may be the
10 future for process safety for highly hazardous
11 facilities in California and in the United
12 States. However, it is also clear to me that
13 much more needs to be studied, especially with
14 regard to implementation.

15 The draft report focuses on the
16 strengths of the Safety Case approach abroad
17 but falls short in addressing obstacles or
18 challenges to implementing such a regime in
19 California or the United States.

20 Please don't misinterpret my
21 statement to be against the concept of Safety
22 Case. In fact, quite the opposite is true.

1 I believe it has some very appealing
2 attributes.

3 But I also believe that for this
4 report to have the greatest impact it needs to
5 be more complete. The report needs to address
6 the criticisms head on and include a complete
7 assessment of challenges and potential
8 obstacles to implementation in California.

9 To close, I would like to say we
10 have a unique opportunity to consider reforms
11 of process safety, not only in California but
12 across the Nation.

13 The multi-agency working group
14 established under the Executive Order 13650
15 specifically asked for input on whether OSHA
16 and EPA should consider implementation of a
17 Safety Case regulatory model.

18 Additionally, OSHA has an open
19 request for information regarding the PSM,
20 process safety management requirement. A
21 strengthened CSB report could provide near-
22 term solutions as well as a path toward

1 broader reform. Thank you.

2 (Applause)

3 CHAIRPERSON MOURE-ERASO: Thank
4 you, Member Griffon. Following the agenda, we
5 have another request from the various elected
6 officials and the representatives to address
7 this group.

8 The first person that I would like
9 to give their statements is Mayor McLaughlin,
10 Mayor of the City of Richmond. So Mayor
11 McLaughlin?

12 (Applause)

13 MAYOR MCLAUGHLIN: Hello.
14 Welcome, everyone. I want to welcome you all,
15 the community, everyone here, the
16 organizations.

17 I want to thank the CSB for
18 holding your public meeting here. I want to
19 thank the CSB staff for your long, hard hours
20 in investigating this and, of course, the
21 Board in their review and investigation of all
22 the matters that are related to the oil

1 industry's problems and impact to that.

2 We feel, in Richmond, and we know
3 other areas of the Bay, and other areas of
4 California and our Nation suffer from it as
5 well.

6 Now, the Richmond Chevron Refinery
7 is the second largest oil refinery in the
8 State of California and the largest in the Bay
9 area. And in Richmond, our residents have
10 suffered decades of severe consequences from
11 its presence.

12 For too long, we've lived in the
13 shadow of this polluting industry, suffering
14 the impact of what comes out of the smoke
15 stacks. And it's rained into our air and into
16 our lungs. And we've suffered the impact of
17 incidents that have sent us into our homes
18 sheltering in place.

19 So I'm here today to stand with
20 community members, community organizers, and
21 responsible members of the scientific
22 community to say that it's essential that the

1 oil industry be held accountable to us.

2 Children in Richmond already
3 suffer disproportionately from severe asthma.
4 They are hospitalized for this condition at
5 twice the rate of children throughout the
6 County.

7 After August 6th, 2012, the day of
8 the fire, time and time again I have heard
9 testimony from residents about how the fire
10 has impacted their lives, burning eyes,
11 breathing difficulties, other respiratory
12 problems and concerns about other very, very
13 serious symptoms as well.

14 In fact, we know over 15,000
15 residents went to local hospitals with a host
16 of serious symptoms. And, of course, 19
17 workers nearly escaped with their lives. So
18 we know that this was a horrible incident. We
19 know that the horrible black plume of toxins
20 spread across Richmond and way beyond.

21 It's great that the CSB staff has
22 recommended such a progressive and aggressive

1 approach to safety. That is what is needed in
2 our community that has suffered for too long
3 with the risk and health impact of this
4 refinery.

5 So I'm very grateful to the CSB
6 staff for its work on investigating the fire
7 of 2012 which, by the way, was only the most
8 recent of dozens of incidents that have
9 occurred from Chevron Richmond refinery over
10 the past 20 years.

11 They are recommending, as you
12 heard, the Safety Case regime which is already
13 used in European countries. It's used by the
14 U.S. Nuclear Regulatory Commission, and it's
15 used by NASA. It needs to be used by the oil
16 industry as well.

17 It shifts the focus to prevention,
18 and it shifts the burden to the industry. We
19 want the industry to show us how major hazards
20 and risks will be reduced as low as reasonably
21 practicable. The industry needs to move from
22 a reactive approach to a preventative

1 approach. And that's exactly what's being
2 recommended.

3 Now, these recommendations are
4 very important to us here in Richmond.
5 Because we have a long history of an
6 environmental justice movement. And this new
7 Safety Case is absolutely what is needed.

8 And we should not move forward
9 with any permits for any projects of any oil
10 industry, I should say, not only of any
11 projects here at the Richmond Chevron
12 Refinery. We should not move forward with any
13 permits until the Safety Case regime is
14 implemented.

15 (Applause)

16 MAYOR MCLAUGHLIN: And I want to
17 say that that's already being worked on in
18 terms of the Industrial Safety Ordinance. I
19 know the Health Department in the County is
20 working and the community groups. And I will
21 be supporting that we intensely insert into
22 this ordinance the Safety Case regime.

1 And I know we have our Vice-Mayor
2 and Council Member, Council Member Rogers,
3 Vice-Mayor Beckles, that are on our committee
4 to review the ISO, the Industrial Safety
5 Ordinance. And that is what I know I will be
6 looking for in that ordinance.

7 So I want to end with basically
8 saying, you know, in Richmond, we're on the
9 cutting edge of a lot of progressive issues.
10 And that's because we want nothing short of
11 environmental justice, economic justice and
12 social justice.

13 We have no choice. This is our
14 home. We're the ones that hear the sirens.
15 We're the ones that are forced to pull our
16 kids off the streets when the sirens go off
17 and come into the homes and, you know, duct
18 tape the doors and the window and stay in our
19 homes, as if we're in prison, until we're told
20 all's clear, never knowing how much harm is
21 out there, what the toxins are, what the risk
22 is to us, and our children and grandchildren.

1 We're the ones that cannot stand
2 by and let an incident like what happened on
3 August 6th, 2012, ever, ever happen again.

4 Chevron is a multi-billion dollar
5 company. It has the means to do what is right
6 in a preventative way. So we know they can do
7 a whole lot better. We call on the Board to
8 please know that this is right for our
9 community.

10 We will move ahead anyway,
11 regardless. But we call on you to do what is
12 necessary for our rights, our safety and our
13 health. And so we will move forward to do the
14 right thing for our community with the elected
15 officials who are committed to stand by our
16 community.

17 We thank you for your
18 investigation. We hope you vote to move
19 forward with all the recommendations. And
20 with that, we call on Chevron to do better,
21 because we demand it of you.

22 (Applause)

1 CHAIRPERSON MOURE-ERASO: Thank
2 you very much, Mayor McLaughlin. The next
3 person is the Vice-Mayor Beckles.

4 (Off microphone discussion)

5 VICE-MAYOR BECKLES: Good evening,
6 everyone. So glad to see so many faces here
7 tonight supporting our community. That's
8 really a beautiful thing. So my name is
9 Jovanka Beckles. I'm the current Vice-Mayor
10 of the City of Richmond.

11 You know, for many years the only
12 places that people of color could afford or
13 were welcome in were the areas that others
14 regarded as too dangerous or too unpleasant.

15 So it's no surprise that the
16 makeup of the community closest to Chevron is
17 disproportionately people of color and low
18 income individuals. It's also no surprise
19 that we have to fight so hard to get Chevron
20 to take the steps that truly protect these
21 communities.

22 Now, how many of you know that,

1 chemicals into the air of people who are
2 already suffering from high asthma rates.

3 The Chemical Safety Board has
4 identified the problem as not just one of
5 Chevron's neglects. The CSB is saying that we
6 don't have a regulatory system that actually
7 protects us from the dangers inherent in the
8 refinery process.

9 The Board is recommending a
10 doctrine of a more rigorous safety management
11 program for refineries in California,
12 specifically, well, the talk of the framework
13 that's already being done in the U.K.

14 However, as a member of the
15 committee, the safety ordinance committee, I'm
16 insisting, I'm insisting that the Safety Case
17 procedures be implemented in the ISO for
18 Contra Costa County.

19 Now, this would be the first step.
20 We realize that. Board Member Rosenberg is
21 actually correct, because without a stronger
22 (inaudible) that represents the people and not

1 corporations can this protect us.

2 So I thank you all so much for
3 being here and a big, big thank you, big thank
4 you to the Chemical Safety Board for your work
5 on behalf of us. And we certainly hope you
6 will vote on behalf of us. Thank you.

7 (Applause)

8 CHAIRPERSON MOURE-ERASO: Thank
9 you, Vice-Mayor Beckles. I would like to go
10 now to Barbara Johnson from the Office of
11 Congressman George Miller. Ms. Johnson?

12 (Off microphone discussion)

13 MS. JOHNSON: Thank you very much
14 for the opportunity to bring Congressman
15 Miller's message to you here tonight. It's a
16 little lengthy, so I'll get right to it.

17 "Dear Chairman Moure-Eraso,
18 Members Griffon and Rosenberg, I want to thank
19 the CSB for coming back to Richmond. I regret
20 that I'm unable to be there this evening, as
21 we have votes in Washington, D.C. today.

22 "I'm grateful to the CSB for

1 breaking ground on the discussion over Safety
2 Case model as a possible alternative to the
3 existing regulatory framework that is failing
4 to prevent all too frequent major accidents,
5 and fires and releases from oil refineries.

6 "There are objective indicators
7 worth noting. Financial losses at U.S.
8 refineries which pour into insurance data have
9 been three times higher than in European Union
10 countries and the Far East.

11 "What is new and different about
12 the Safety Case is that facilities must
13 demonstrate to an expert regulator that they
14 have assessed major accident hazards, have put
15 in place barriers and safety management
16 systems and that these systems are working.
17 Importantly, this demonstration is tied to
18 consent to operate.

19 "According to experts, the Safety
20 Case model has reduced major accidents at
21 offshore oil platforms. However, what is of
22 particular interest is this, have major

1 accidents been reduced at the oil refineries
2 after the Safety Case regime was implemented.
3 It would be helpful if CSB could provide that
4 data to clarify that point.

5 "While this report lays a valuable
6 foundation for further discussion on processes
7 and safety reforms, I would be remiss if I did
8 not note that there are near-term
9 opportunities for improvement in Cal/OSHA and
10 the Contra Costa County Health Services
11 programs that were excluded from the CSB
12 report. I would respectfully ask that you
13 consider these changes prior to finalizing
14 this report.

15 "Before we examine the role of
16 regulators, it's important to keep in focus
17 that the root cause of the August 6th, 2012,
18 fire was, at its core, a management systems
19 failure.

20 "We know that there was failure to
21 conduct inspections with 100 percent of piping
22 at risk for sulfidation corrosion as called

1 for in Chevron's internal procedures and in
2 industry guidance. Why did management fail to
3 adopt these recommendations from its
4 metallurgists and materials engineers?

5 "Chevron is filled with
6 extraordinary engineering expertise, but to
7 this day it remains puzzling how knowledge
8 about catastrophic failures caused by
9 sulfidation corrosion, coupled with red flags,
10 were not credited in the decision making
11 process that allowed paper-thin piping to
12 remain in use.

13 "It has been nearly a year since
14 Cal/OSHA assessed nearly a \$1 million fine
15 against Chevron. It is the largest fine in
16 Cal/OSHA's history.

17 The agency issued 25 citations,
18 including 11 in the most serious category
19 designated as willful and serious. Those
20 include Chevron not following its own policies
21 to replace the corroded pipe, not implementing
22 its own emergency procedures and pervasive

1 violations in leak repair procedures such as
2 the failure to replace pipe clamps at the
3 turnaround or sooner.

4 "Clamps are commonly used as
5 temporary repairs to allow refineries to fix
6 leaking pipes without having to shutdown the
7 operation. But they are just that. They're
8 temporary.

9 "Cal/OSHA found Chevron left
10 clamps in place far longer than the previous
11 turnaround in violation of well-accepted
12 industry guidance. Cal/OSHA ordered the pipe
13 clamps to be replaced by March 4th, 2013.

14 "Yet ten months later, I'm advised
15 that some of the clamps put on valves and
16 pipes carrying hydrocarbons and hydrogen have
17 yet to be replaced and that Chevron will not
18 replace these until the next turnaround in
19 late 2014.

20 "This begs a number of questions.
21 Why is this the case nearly a year after
22 Chevron was cited? Who has assessed whether

1 there is an acceptable risk of keeping these
2 clamps in place?

3 "Under the California labor code,
4 an employer is not obligated to correct a
5 Cal/OSHA safety violation if they file an
6 appeal. Chevron appealed its citations on
7 February 19th, 2013, and the legal requirement
8 to correct these violations has now been
9 blocked until the litigation is completed.
10 Litigation can take years to resolve.

11 "The California model is not the
12 only model. Oregon and Washington State both
13 require timely abatement when an appeal is
14 filed while giving employers due process
15 rights.

16 "Assembly Member Nancy Skinner and
17 Senator Loni Hancock have passed a bill last
18 year that requires employers to correct
19 serious and willful safety violations while
20 litigating appeals unless they can demonstrate
21 to Cal/OSHA or a judge that the health and
22 safety of workers will not be adversely

1 affected by postponing the abatement.

2 "This framework ensures affected
3 workers and their unions have a voice in that
4 decision. Regrettably, this bill was vetoed
5 by the Governor.

6 "I would respectfully add that the
7 CSB, prior to finalizing this regulatory
8 report, assess the issue of timely abatement
9 and consider making recommendations to the
10 Legislature and the Governor on this matter.

11 "This should not be a new issue,
12 as my staff raised this issue with the CSB
13 last October. Further, timely abatement will
14 be an issue whether or not Safety Case regime
15 is adopted.

16 "An employer's ability to
17 effortlessly block timely abatement during the
18 pending of an appeal is at fundamental odds
19 with worker and public protection.

20 "The failure to close this
21 loophole and require abatement while employers
22 litigate led to the needless deaths of two

1 barge track workers near Pleasanton last year.

2 "In the opinion of many experts,
3 Contra Costa has the best Industrial Safety
4 Ordinance at the County level anywhere in the
5 country.

6 "When the fire broke out on August
7 6th, 2012, and a shelter in place order was
8 issued, the CSB deployed to assess what went
9 wrong but also advised my office that, in
10 light of this release, they wanted to see if
11 the Industrial Safety Ordinance and Contra
12 Costa's Health Services program had
13 opportunities for improvement.

14 "I was pleased that CSB provided
15 Contra Costa County and the City of Richmond
16 with two recommendations regarding the Safety
17 Case ordinance, ISO, in its interim report.

18 "I understand Supervisor John
19 Gioia and Richmond City officials are working
20 diligently to implement these recommendations,
21 particularly strengthening requirements for
22 process hazard analysis and demonstrating the

1 use of inherently safer systems.

2 "CSB staff has identified other
3 gaps in the Contra Costa safety program.
4 However, recommendations were not included in
5 the regulatory report before us today. These
6 include the need for Contra Costa Health
7 Services to have direct enforcement authority
8 under the Industrial Safety Ordinance.

9 "Since enforcement under the ISO
10 has to be referred to the district attorney
11 and his office has to decide whether to bring
12 such action in court, enforcement actions are
13 rare at best.

14 "When inspectors do find
15 violations, they are generally limited to
16 issuing recommendations. By contrast, Contra
17 Costa Health Services has authority to
18 directly enforce the California Accidental
19 Release Program regulations.

20 "It is logical to expand the
21 County's enforcement authority and also cover
22 the ISO. Now, the CSB assessed whether the

1 ISOs could be more effective if Contra Costa
2 Health Services had the authority to bring
3 enforcement actions on its own instead of
4 making recommendations when violations are
5 identified.

6 "If so, it's timely to issue a
7 recommendation that could strengthen," I'm
8 sorry. "If so, is it timely to issue a
9 recommendation that could strengthen the
10 enforcement?"

11 "The need for added resources to
12 assure comprehensive facility inspections, the
13 hazardous materials program has a budget of
14 only \$1.2 million and was allocated a mere
15 five employees to carry out inspections in the
16 seven major facilities covered on the ISO plus
17 38 other facilities covered under CalARP.

18 "As a result, hazardous materials
19 program officials can only inspect a fraction
20 of the operating units in refineries.

21 "CSB's report identified low
22 salaries as a barrier to fill in vacant

1 positions. Due to low salaries, one in five
2 positions has been vacant for three years. It
3 would be helpful if CSB could assess and make
4 specific recommendations regarding appropriate
5 levels of staffing, options for funding
6 sources, such as increasing fees, and the need
7 for adequate salaries to attract and retain
8 qualified engineers.

9 "The cornerstone of the Safety
10 Case is the authority for regulators to
11 require operators to raise the bar on safety
12 performance as new technology, scientific
13 findings and management systems are developed.

14 "CSB identified a weakness in the
15 County hazards materials program which limits
16 its compliance reviews to the regulations and
17 does not generally go beyond these, even when
18 there's well established data that shows that
19 the risk can be feasibly reduced.

20 "It would be helpful if CSB could
21 provide recommendations that would strengthen
22 the ISO by authorizing the hazardous materials

1 program officials to require refineries to
2 adopt best industry practices or standards as
3 part of its toolkit.

4 "In conclusion, I want to thank
5 CSB for coming back to Richmond, sharing its
6 expertise and ideas for reforms. I believe
7 the Safety Case merits consideration by the
8 state. And I'm pleased that the Governor's
9 Refinery Task Force will be studying it
10 carefully.

11 "At the same time, I would ask
12 that the CSB strengthen the recommendations in
13 this draft regulatory report by making
14 findings and recommendations to require timely
15 abatement as part of the California labor code
16 and to improve the Industrial Safety
17 Ordinance.

18 "These added measures, if adopted,
19 would provide near-term protections that
20 workers and residents need and deserve.
21 Sincerely, George Miller, Member of Congress."
22 Thank you very much for your time.

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(Applause)

CHAIRPERSON MOURE-ERASO: The next elected official is a representative of Supervisor, John Gioia, Mr. Terrance Cheung.

MR. CHEUNG: Good evening, Supervisor Gioia regrets he cannot be here this evening. He's in Sacramento attending to some county matters.

"Dear Chairman Moure-Eraso and Members Griffon and Rosenberg, I want to thank the U.S. Chemical Safety Board for its thorough investigation and interim recommendations regarding the August 2013 Chevron fire.

"The protection of residents and workers around refineries can be improved and more needs to be done to stop major fires, accidents and releases. Our community deserves nothing less than the safest facilities possible.

"As a member of the California Air Resources Board, the Bay Area Air Quality

1 Management District and the Contra Costa
2 County Board of Supervisors, I appreciate the
3 proactive role taken by the CSB to make
4 recommendations to improve our local
5 regulations with a goal of improving safety.

6 "Let me assure you that the March
7 2013 interim report's recommendations to
8 strengthen our local industry Industrial
9 Safety Ordinance to require the use of
10 inherently safer systems have been taken
11 seriously.

12 "A joint committee of city and
13 county officials has worked to draft
14 amendments to the ISO to implement your
15 recommendations. And I expect that those
16 amendments will go before the Board of
17 Supervisors and City Council in the next
18 months for adoption.

19 "The December 2013 draft final
20 report discussion on whether a better
21 regulatory model, such as a Safety Case
22 regime, could improve refinery safety

1 performance is important and should be
2 considered.

3 "The frequency of major refinery
4 accidents in the U.S., including here in
5 California, makes it timely to re-examine
6 whether there are more effective regulatory
7 models.

8 "However, there are some other
9 immediate opportunities to improve our local
10 Industrial Safety Ordinance that you may want
11 to consider in your recommendations.

12 "Many refinery safety experts,
13 including your own CSB staff, believe that
14 Contra Costa County has the most effective
15 Industrial Safety Ordinance in the United
16 States.

17 "CSB staff has identified other
18 areas that could be strengthened in our local
19 Industrial Safety Ordinance but are not
20 included in your draft report. I believe your
21 report should consider further discussion and
22 recommendations regarding these issues.

1 "First, the most effective
2 enforcement would be accomplished if Contra
3 Costa County Health Services had direct
4 enforcement authority under the ISO.

5 "Currently, enforcement of the ISO
6 is referred to the district attorney who has
7 the discretion to bring enforcement actions in
8 Court. Under the existing provisions of the
9 ISO, violations discovered by inspectors are
10 generally addressed through recommendations.

11 "Contra Costa Health Services does
12 have direct authority to enforce the
13 California Accidental Release Program
14 regulations, CalARP. It would make sense to
15 expand the county's enforcement authority to
16 include the ISO to correspond with its direct
17 enforcement authority under CalARP.

18 "Second, additional resources are
19 needed to assure comprehensive inspections, as
20 the County Hazardous Materials Program
21 officials can only inspect a fraction of the
22 operating units in refineries.

1 "The existing \$1.2 million
2 Hazardous Materials Program budget only
3 supports five professional staff to conduct
4 inspections of the nine major facilities
5 covered under the ISO and the other 36
6 facilities covered under the California
7 Accidental Release Prevention Program.

8 "CSB staff has identified low
9 salaries as a barrier to filling the long
10 vacant positions and the need for individuals
11 with sufficient expertise.

12 "Having CSB make specific
13 recommendations regarding the need for
14 additional resources and appropriate levels of
15 staffing and salaries would help support local
16 action to raise the fees needed to properly
17 fund the vital program.

18 "Third, potential expansion of the
19 ISO to authorize improvements which go beyond
20 the regulations. The existing Industrial
21 Safety Ordinance limits its compliance review
22 to the regulations.

1 "I would ask that the CSB further
2 analyze and consider recommendations to
3 strengthen the ISO by authorizing Contra Costa
4 Health Services to require refineries to adopt
5 the best industry practices or standards as
6 opposed to simply asking such facilities to
7 consider such improvements.

8 "Let me briefly address the
9 Governor's work group on refinery safety. To
10 his credit, Governor Brown has established a
11 work group to look at refinery safety. The
12 work group issued a draft report in July of
13 2013 that included many recommendations to
14 address refinery safety and responding to
15 refinery accidents.

16 "A task force composed of federal,
17 state, local agencies has been formed to
18 address the findings of the report. The task
19 force will be making changes to the
20 regulations that will include addressing the
21 findings from the CSB's interim report on the
22 August 2012 Chevron fire investigation. The

1 task force will also be investigating the
2 implementation of the Safety Case regime for
3 California.

4 "I thank the CSB for supporting
5 the effort of the task force by loaning a CSB
6 employee to assist the task force.

7 "In conclusion, I want to thank
8 you for all your efforts to improve the safety
9 of workers and community and sharing your
10 staff, and expertise and thoughts.

11 "I encourage the Chemical Safety
12 Board to build upon the foundations set forth
13 in your August 2013 draft report by making
14 additional recommendations where the ISO can
15 be strengthened immediately.

16 "The issuance of your final report
17 presents an immediate opportunity to make
18 further recommendations to improve the current
19 regulatory structure to achieve near-term
20 improvements in safety.

21 Yours very truly, Supervisor John
22 Gioia, Contra Costa County." Thank you.

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(Applause)

MR. CHEUNG: An electronic copy of this was sent to Hillary early this afternoon.

CHAIRPERSON MOURE-ERASO: Thank you. Thank you to Mr. Gioia and to you, Mr. Cheung. I appreciate your presentation.

And the last person from elected officials that I have here is an old friend from CSB, Mr. Jim Rogers. And he has a question.

(Off microphone discussion)

MR. ROGERS: Thank you. My name is Jim Rogers. I'm a member of the Richmond City Council, also a member of the joint city/county committee that is charged with developing recommendations to improve our current county ISO.

I want to comment on, there are a number of very thoughtful comments that I heard, but one of them I just want to emphasize. It's really worth repeating.

One of the comments we heard

1 tonight was that regardless of the plan, if
2 there's not people keeping after it,
3 enforcing, bird-dogging, whatever, it's not
4 going to work very well. I don't care whether
5 it's process safety management, whether it's
6 Safety Case, whatever it is, it's not going to
7 work well.

8 And the reality is that the
9 political system with refineries is that we
10 have an explosion, people pay attention. And
11 it's really important, I think, not just to
12 pay attention in the year or two after we have
13 the explosions, and the fires and the
14 releases, but to pay attention every year.

15 Because these things are a time
16 bomb ticking. And it's important that we
17 don't forget about it. You know, maybe we go
18 two, or three, or four years, five years,
19 whatever, with no incident. Well, it's still
20 a problem. And we still need to be vigilant.

21 So I'm proud that our community's
22 here, and there is concern about this. There

1 is a lot of thought going into it. And it's
2 a topic that needs a lot of thought.

3 And I think we're here tonight, we
4 have people who are clearly only interested in
5 safety. And there's different opinions about
6 the Safety Case idea as far as whether it's
7 actually ready for prime time or that it needs
8 to be looked at, et cetera, et cetera.

9 We have a very good ordinance in
10 the ISO. As a county supervisor many years
11 ago, as the author of the precursor which was
12 the Good Neighbor Ordinance that was replaced
13 by the ISO, and I think that even though it is
14 a good ordinance, compared to other parts of
15 this Country, it obviously didn't get the job
16 done on August 6th.

17 So we need to make changes. We
18 have made progress in the committee. We have
19 adopted many of the recommendations that we've
20 heard so far from the CSB. I at least am
21 hearing some tonight that I wasn't aware of.
22 And I will be taking those back to the

1 committee for looking at including them.

2 A couple of those would be getting
3 a better way to ensure that we do have
4 adequate enforcement. And to me it's pretty
5 simple. Chevron simply needs to pay for it.
6 And that's just the end of the story.

7 If there's regulation, whether
8 it's a question of more bodies or better paid,
9 more highly qualified bodies, whatever it is,
10 Chevron needs to pay for it.

11 And the CSB is right on target
12 that you should have people who have the same
13 level of professionalism and training as the
14 people in the industry side that they're
15 dealing with. I think that's a great
16 recommendation and one that we should be
17 supporting.

18 The timely abatement issue is one
19 which we need to look at. I believe we have
20 the authority to do that as part of our police
21 power here. And I will certainly be
22 recommending that to the committee.

1 The direct enforcement by County
2 staff is another good idea. Again, I will be
3 bringing it up to the committee as a
4 suggestion for something that we should
5 pursue.

6 When we are looking at these
7 issues, I think it's important to remember
8 (phonetic) that are a lot of very complicated
9 details.

10 And we've heard tonight that there
11 are people like Congressman Miller, some of
12 the union leaders who were mentioned earlier,
13 your Board has some different ideas about a
14 very complicated question about whether the
15 Safety Case regime is ready to be rolled out.
16 And I certainly respect those differences.

17 I think that if we're going to try
18 and move forward with this, I think that it's
19 important that we move forward in a united
20 front.

21 I think if we move forward in a
22 situation where some people are saying, yes,

1 we're ready for Safety Case and then a
2 majority of your Board says, no, you're not
3 quite ready, Congressman Miller doesn't think
4 we're ready, I frankly don't think that's
5 going to go very well.

6 And so my suggestion would be to
7 really do a full court press, try to work
8 through these issues, try to deal with some of
9 the flaws that were seen in the report,
10 provide perhaps some of the safeguards so that
11 the Safety Case doesn't become just another
12 paper shuffle as is what obviously happened
13 prior to August 6th.

14 There was lots of documentation
15 that things that should have been
16 investigated, should have been looked at under
17 our ordinance, in fact weren't.

18 And it wasn't a problem with the
19 ordinance. The ordinance said they were
20 supposed to be looked at and analyzed in a lot
21 of detail. And they weren't. They got a one
22 line, quick run over.

1 So I'm in favor of us moving
2 forward together. I think at the end of the
3 day that the Safety Case regime is a more
4 promising way to go. And I think that we
5 should be moving towards that.

6 At the same time, as Supervisor
7 Gioia indicated in his statement, that doesn't
8 mean that we can't move forward immediately
9 with the short term changes to our ISO to
10 improve that.

11 So I appreciate your time,
12 appreciate your effort. And I will be looking
13 forward to moving forward with the committee
14 and bringing recommendations back to the city
15 and the county to strengthen our ISO as much
16 as possible in the short term and hopefully to
17 have a united front where we can move forward
18 with the state and implement the Safety Case
19 regime.

20 CHAIRPERSON MOURE-ERASO: Thank
21 you very much.

22 (Applause)

1 CHAIRPERSON MOURE-ERASO: The next
2 part of the agenda is we are going to at last
3 hear from the horse's mouths, the people that
4 have been working for two years to put this
5 together and have done a tremendous job in
6 presenting us with two rule reports and have
7 a third on in preparation on the explosion of
8 August 2012. It is the investigative team of
9 the Chevron incident.

10 I would like to introduce our
11 director of the western office of the CSB that
12 had the investigative team under his
13 responsibility. And his name is -- a lot of
14 you have interacted with him -- is Mr. Don
15 Holmstrom.

16 And I would like to ask him to
17 introduce the members of the investigative
18 staff and to proceed with their presentation
19 of the report. So, Mr. Holmstrom?

20 MR. HOLMSTROM: Thank you,
21 Chairman Moure-Eraso. Good evening, thank you
22 for attending tonight's presentation on CSB

1 staff's presentation on the Richmond Refinery
2 accident.

3 My name is Don Holmstrom. I'm the
4 U.S. Regional Office Director. Our offices
5 are in Denver, Colorado.

6 Joining us here tonight is the
7 lead investigator, Dan Tillema, and also
8 Investigator Amanda Johnson. We will be
9 presenting findings and conclusions from our
10 draft regulatory report.

11 The report discusses the
12 regulatory gaps that exist relating to the
13 oversight of petroleum refineries in the U.S.
14 and in California. And it proposes the Safety
15 Case regime as a regulatory alternative to
16 control major hazards and reduce risk.

17 We would like to thank everyone
18 who submitted comments on the draft report to
19 the CSB. We carefully reviewed all the
20 comments and implemented changes accordingly
21 which are reflected in the report being voted
22 on by the Board this evening. And I believe

1 there's copies of those comments as well as
2 the staff response that were available on the
3 tables outside.

4 In tonight's presentation, members
5 of our investigation team will present our key
6 investigative findings followed by our
7 proposed recommendations.

8 The Board will have the
9 opportunity to ask the investigation team
10 questions. We will then hear statements by
11 the public. Finally, the Board will vote on
12 whether to adopt the draft Chevron Regulatory
13 Report and propose recommendations.

14 The need for regulatory change was
15 prompted by the August 6th, 2012, Chevron
16 incident. The seemingly small controllable
17 leak in the crude units for (inaudible) pipe
18 resulted in a very large fire at the Chevron
19 Richmond Refinery that burned for hours.

20 The pipe that was leaking was
21 actually extremely thin due to sulfidation
22 corrosion. This was not known to the

1 operations and emergency response personnel
2 who initially responded to the leak.

3 The severe thinning occurred
4 because the leaking pipe component had a very
5 low silicon content which greatly increased
6 the sulfidation corrosion rate of the steel.

7 This incident endangered the lives
8 of 19 Chevron fire fighters and operators. It
9 also impacted this community, causing over
10 15,000 residents to seek medical attention.

11 Over the last decade, there have
12 been considerable problems and significant
13 deadly incidents at petroleum refineries. In
14 2012 alone, the CSB has tracked 125
15 significant process safety incidents at U.S.
16 petroleum refineries. Seventeen of these
17 major incidents occurred in California.

18 The United States is experiencing
19 significantly more incidents at its refineries
20 in comparison with other countries.
21 Specifically, the U.S. has experienced
22 financial losses from refinery incidents that

1 are at least three times that of industry
2 counterparts in other countries.

3 The CSB has investigated some of
4 these major refinery incidents. CSB
5 investigated incidents that resulted in
6 multiple fatalities including the 1999 Tosco
7 Avon Refinery that resulted in four fatalities
8 -- that was in this County, Contra Costa
9 County, California -- the 2005 BP Texas City
10 Refinery incident that resulted in 15
11 fatalities, a 2005 Valero incident that
12 resulted in two fatalities, the 2010 Tesoro
13 Anacortes Refinery incident that resulted in
14 seven fatalities.

15 These are just a small fraction of
16 the refinery incidents that have occurred over
17 the last 15 years.

18 I will now turn over the
19 presentation to Investigator Dan Tillema to
20 discuss the key findings and conclusions of
21 the CSB's draft Chevron Regulatory Report.
22 Dan?

1 INVESTIGATOR TILLEMA: Thank you,
2 Don. CSB identified, in its Chevron
3 investigations, many causal findings that
4 allowed the core SICA (phonetic) piping at
5 the Chevron Richmond Refinery to rupture.

6 These findings highlight
7 regulatory gaps in the U.S. and California.
8 First, Chevron did not perform damage
9 mechanism hazard review to fully evaluate all
10 damage mechanisms in the refinery.

11 Second, the numerous
12 recommendations made over the years to replace
13 or inspect the Coresight(phonetic) deadlines
14 were never implemented. It just points to
15 organizational failures within Chevron.

16 Chevron also did not thoroughly
17 evaluate its process safeguards, such as
18 equipment material construction, to ensure
19 that they were effective.

20 Inherently safer design was never
21 employed prior to the incident to reduce the
22 risk from sulfidation corrosion, despite the

1 company's expertise in this area.

2 Finally, Chevron's corrective
3 actions developed from MOCs in incident
4 investigations did not effectively identify
5 and control process hazards.

6 In our presentation, we will show
7 how these process safety gaps causal to the
8 Chevron incident reflect California regulatory
9 weaknesses that could be best addressed
10 through the transition to a more rigorous,
11 performance based, regulatory approach already
12 in place around the world and in some U.S.
13 industries.

14 During the course of the Chevron
15 investigation, the CSB has found that the U.S
16 and California process safety regulatory
17 systems are ineffective which allowed
18 Chevron's process safety failures to occur.

19 The following slides identify the
20 CSB's key regulatory findings and conclusions.
21 Key Finding 1, the existing U.S. and
22 California process safety regimes rely on a

1 safety and environmental management system
2 framework that is primarily activity based
3 rather than goal based, risk reduction to as
4 low as reasonably practicable, CalARP or
5 equivalent.

6 The PSM standard does not
7 effectively establish goals to prevent
8 accidents or reduce risk. Only two of the 14
9 elements of the PSM standard, process hazard
10 analysis and mechanical integrity, contain
11 some goal setting components.

12 Key Finding 2, the existing
13 regulatory regimes for petroleum refineries in
14 the United States and California are static.
15 They're unable to adapt to innovation, newly
16 defined hazards and technical advancement.

17 Throughout the existence of the
18 Chemical Safety Board, the CSB has made a
19 number of process safety related
20 recommendations to both Federal OSHA and the
21 EPA.

22 However, none of these

1 recommendations have been implemented by these
2 agencies. In fact, there have been no
3 substantive changes made to the PSM or RMP
4 regulations in the past 20 years.

5 Key Finding 3, the existing
6 regulatory regimes for petroleum refineries in
7 the U.S. and California do not ensure
8 continuous improvement by effectively
9 incorporating lessons learned from major
10 accidents, nor do they have the authority to
11 require companies to address newly identified
12 safety issues as a result of such incidents.

13 In addition, these regimes do not
14 effectively bless or promote industry use of
15 major accident performance indicators to drive
16 industry to reduce risk or measure progress.

17 Key Finding 4, the existing U.S.
18 and California regimes do not require the use
19 or implementation of inherently safer systems
20 or the hierarchy of control.

21 Under both the PSM and RMP
22 regulations, an employer must control hazards

1 when conducting a process hazard analysis for
2 PHA of a covered process. However, there is
3 no requirement to address the effectiveness of
4 the controls or the hierarchy of control.

5 These are important concepts when
6 focusing on preventing hazards. Thus, a PHA
7 that meets the regulatory requirement may
8 inadequately identify or mitigate major hazard
9 risk.

10 Key Finding 5, the existing U.S.
11 and California regimes do not effectively
12 involve the workforce in hazard analyses and
13 prevention of major accidents.

14 For example, the CSB has found
15 that staff who were aware of sulfidation
16 corrosion impact, and others who were highly
17 knowledgeable and experienced in sulfidation
18 damage mechanism causes and hazards, were not
19 involved in the most recent crude unit PHA and
20 did not affect decisions concerning control of
21 sulfidaton corrosion during the turnaround
22 process.

1 Key Finding 6, the existing U.S.
2 and California regimes do not grant the
3 regulator the authority to accept or reject a
4 company's hazard analysis, risk assessment or
5 proposed safe guards prior to permission being
6 granted to the company who operates, which is
7 key for prevention.

8 Under the current system, the
9 regulator typically verifies compliance with
10 regulations reactively, that is following a
11 complaint or accident.

12 There is no requirement under the
13 current systems to submit PHAs to the
14 regulator. And the regulator is not
15 responsible for accepting the quality of the
16 PHA or the effectiveness of the proposed
17 safeguards.

18 And finally, Key Finding 7, the
19 existing U.S. and California regimes do not
20 employ the requisite number of staff with the
21 technical field knowledge and industry
22 experience to provide sufficient direct safety

1 oversight of petroleum refineries. CSB found
2 that there is a significant discrepancy in the
3 compensation between California regulators and
4 the Chevron Richmond Refinery personnel that
5 they interact with.

6 The CSB has addressed this issue
7 in our reports and is encouraged that the
8 California State Legislature has approved
9 funding for at least 15 new positions at
10 Cal/OSHAS's process safety unit.

11 The CSB's attempt to improve the
12 current PSM standards have been unsuccessful.
13 The regulation creation and regulation
14 updating process is too slow and burdensome to
15 be able to adequately respond to new technical
16 hazards and findings in the petroleum refining
17 industry.

18 The Safety Case regime requires
19 continuous risk reduction and is therefore a
20 better approach to preventing major accidents
21 at petroleum refineries.

22 The alternative, the occurrence of

1 a potentially catastrophic incident, is just
2 not an acceptable outcome for society.

3 In addition, the Safety Case
4 regulatory approach is already used to
5 regulate major hazards in the United States.
6 Both the nuclear industry and NASA use Safety
7 Case-like regulatory approaches. These
8 approaches require risk reduction with
9 specific targets similar to as low as
10 reasonably practicable.

11 I will now turn the presentation
12 over to Investigator Amanda Johnson to discuss
13 the Safety Case regime.

14 INSPECTOR JOHNSON: Thank you,
15 Dan. Noted process safety expert, Andrew
16 Hopkins, defines the Safety Case as a
17 verifiable case that the company makes to the
18 regulator.

19 The Safety Case includes
20 identification of hazards and their control,
21 demonstration by the company to the regulator
22 that its process safety strategy properly

1 manages risk and adoption of industry best
2 practices by the company.

3 The CSB has identified several key
4 features of the Safety Case regime shown in
5 this graphic. The first key feature we will
6 discuss is duty holder safety responsibility.

7 The duty holder must prepare a
8 written case for safety, known as the Safety
9 Case report, that identifies the hazards, and
10 risks and describes how they will be reduced
11 to as low as reasonably practicable, or ALARP.

12 The Safety Case report must
13 demonstrate how inherently safer design
14 concepts have been applied in the design
15 decision statement.

16 Safety Case reports are meant to
17 be evergreen documents that request continuous
18 improvement in risk reduction. Regulators
19 review the Safety Case report and must accept
20 them for the facility to operate.

21 In the United Kingdom, the
22 regulator reviews the Safety Case report at

1 least once every five years or sooner as
2 significant changes are made to a facility.

3 The second key feature is
4 continuous risk reduction to as low as
5 reasonably practicable or ALARP. The owners
6 and operators of covered facilities must
7 reduce risks to ALARP and demonstrate to the
8 regulator how they have done so in the Safety
9 Case report.

10 Typically, the definition of ALARP
11 is determined by best practice. So
12 ultimately, the regulator can require the
13 company to go above best practice to achieve
14 ALARP. This can occur when the industry best
15 practices are overly permissive and lack
16 minimum requirements to prevent hazards.

17 The third key feature of the
18 Safety Case regime is adaptability and
19 continuous improvement. This allows the
20 regulator to go above and beyond current
21 industry standards without requiring rule
22 making.

1 The adoption of the Safety Case
2 regulatory regime in California would allow
3 regulators to require inherently safer
4 material construction. For example,
5 regulators could require that carbon steel
6 systems and sulfidation corrosion environments
7 be upgraded to control damage mechanism
8 hazards, all without required rule making.

9 The fourth key feature of the
10 Safety Case regulatory regime is active
11 workforce participation. The Safety Case
12 regime provides for the election of safety
13 representatives and creation of safety
14 committees.

15 It also uses a tripartied
16 approach with active and equal participation
17 from the regulator, industry and labor. This
18 ensures that all factors of the workforce are
19 involved in continuous risk reduction.

20 This needs to be noted in the
21 Chevron interim report, the important role
22 transparency plays between industry and the

1 public in improving health and safety for the
2 facility and the surrounding communities.

3 The CSB recommended that
4 California establish a multi-agency process
5 safety regulatory program for all California
6 petroleum refineries to further include public
7 accountability and transparency.

8 Under the current system, key
9 records and corrective actions related to
10 refinery mechanical integrity inspection and
11 repair work arising from PHAs, turnarounds and
12 maintenance related shutdowns are not
13 currently made available to the public.

14 The CSB has found the public is
15 largely in the dark under the current case.
16 Under the Safety Case, many regimes collect
17 and require indicating data and companies are
18 required to make Safety Case report summaries
19 publicly available.

20 These are high level documents
21 that are published online and summarize safety
22 assessments, hazardous materials, hazards and

1 control measures, potential major incidents,
2 emergency response and safety management
3 systems.

4 The fifth key feature of the
5 Safety Case regime is the use of process
6 safety indicators. Currently, OSHA primarily
7 relies on recordable injury and illness rates.
8 These are personal safety measurements that
9 are not sufficient to measure the potential of
10 a major process safety incident.

11 The Safety Case regime allows
12 regulators to collect and analyze computer
13 data, release the data to the public, use the
14 data to target inspections and drive
15 continuous improvement.

16 The sixth key feature of the
17 Safety Case regime is regulatory assessment,
18 verification and intervention. The Safety
19 Case authorizes regulators to review and
20 accept or reject Safety Case reports.

21 The regulator can place a great
22 emphasis on inherently safer design and a

1 hierarchy of control when deciding to accept
2 or reject a Safety Case report.

3 The regulator also has the power
4 to reject a Safety Case report if a company
5 has not reduced risk to ALARP or as low as
6 reasonably practicable.

7 And finally, the regulator can
8 conduct (inaudible) and inspections to ensure
9 that a company is following the Safety Case
10 report.

11
12 The final key feature of the
13 Safety Case regime is ensuring a well funded
14 and qualified regulator is in place with skill
15 sets such as chemical engineering,
16 metallurgical and corrosion expertise, and
17 human factors, among others. This is
18 essential to having a highly functioning
19 Safety Case regime.

20 The regulator must be able to
21 interact with equal technical company
22 management. The regulator must also be able

1 to independently and sufficiently evaluate
2 risks identified by the company. To do this,
3 the regulator must retain technically
4 competent, experienced and well-trained staff
5 to correctly evaluate Safety Case reports.

6 Implementing the Safety Case
7 regime in California will take some time and
8 will not be an easy process. To ensure
9 effective implementation on the Safety Case
10 regime, major stakeholders must be committed
11 to the project.

12 The Safety Case report must be
13 treated as an evergreen document that
14 accurately reflects the new process hazards
15 and risks. And the Safety Case report must
16 not be treated as a check the box activity by
17 companies.

18 The transition to a Safety Case
19 regime must also be carefully planned and
20 managed. It may take several years to
21 effectively implement.

22 That concludes our investigation

1 presentation. Donald Holmstrom will now read
2 the team's proposed recommendations.

3 MR. HOLMSTROM: Thanks, Amanda.
4 The team proposes to the Board the following
5 recommendations.

6 Recommendation Number 1 to the
7 California State Legislature, the Governor of
8 California, develop and implement a step-by-
9 step plan to establish a more rigorous safety
10 management, regulatory framework for petroleum
11 refineries in the State of California based on
12 the principles of the Safety Case framework in
13 use in regulatory regimes such as those of the
14 United Kingdom, Australia and Norway, and as
15 described in this report and with the
16 following minimum components.

17 A, a case for safety written by
18 the duty holder or the employer, if you will,
19 that includes a systematic analysis and
20 documentation of all major hazards and
21 effective control methods implemented to
22 reduce those risks to as low as reasonably

1 practicable, or ALARP.

2 B, a thorough view of the Safety
3 Case report by technically competent
4 regulatory personnel that requires
5 modifications and improvements to the document
6 as necessary prior to acceptance.

7 C, audits and preventative
8 inspections by the regulators to verify
9 effective implementation of the Safety Case
10 elements.

11 D, a risk management approach that
12 requires analysis and effective implementation
13 of safeguards using the hierarchy of controls
14 to protect people and the environment from
15 major accident hazards. The effectiveness of
16 the safeguards will be demonstrated through
17 the use of leading and lagging process safety
18 indicators.

19 E, ability to adapt and implement
20 safety requirements in response to newly
21 identified hazards, advances in technology,
22 lessons learned from major accidents and

1 improved safety codes without the need for new
2 rule making.

3 F, determines when new or improved
4 industry strengths, standards and practices
5 are needed and initiates programs and other
6 activities such as forums to develop the
7 timely development and implementation of such
8 standards and practices.

9 G, used as a tripartied type
10 model where the regulator, the company, and
11 the workers and their representatives play an
12 equal and essential role in the direction of
13 preventing major accidents.

14 H, a regulatory model and
15 accompanying guidance based on the U.K.'s
16 Safety Committee regulations, 1977, and the
17 Health and Safety Consultation Employees
18 regulations, 1996, which set out the legal
19 framework for the rights and responsibilities
20 of workers and their representatives on health
21 and safety related matters, and the
22 establishment of safety representatives and

1 the establishment of safety committees to
2 serve health and safety related functions.

3 The elected representative should
4 have a legally recognized role that goes
5 beyond consultation and activities such as the
6 development of the Safety Case report, process
7 hazard analysis, management of change,
8 incident investigation, audits and the
9 identification and effective control of
10 hazards.

11 The representative should also
12 have the authority to stop work that is
13 perceived to be unsafe or that presents a
14 serious hazard until the regulator intervenes
15 to address the safety concern.

16 Workforce participation and
17 practices should be documented by the duty
18 holder and submitted to the regulator.

19 I, requires the reporting of
20 information to the public to the greatest
21 extent feasible, such as a summary of a Safety
22 Case report, a process hazard analysis, a list

1 of safeguards implemented and standards
2 utilized to reduce risk and process safety
3 indicators that demonstrate the effectiveness
4 of the safeguards in the management systems.

5 J, an independent, well funded,
6 well staffed, technically competent regulator.

7 K, a compensation system to ensure
8 the Safety Case regulator has the ability to
9 attract and retain a sufficient number of
10 employees with the necessary skills and
11 experience to ensure regulator or technical
12 competency, periodically conducting market
13 analysis and bench marking review to ensure
14 the comparison system remains competitive with
15 the California petroleum refineries.

16 Recommendation Number 2 to the
17 California State Legislature and the Governor
18 of California. Work with a regulator,
19 petroleum refining industry, labor and other
20 relevant stakeholders in the State of
21 California to develop and implement a system
22 that collects, tracks and analyzes process

1 safety leading and lagging indicators from
2 operators and contractors to promote
3 continuous safety improvement.

4 At a minimum this program shall,
5 A, require the use of leading and lagging
6 process safety indicators that actively
7 monitor the effectiveness of process safety
8 management systems and safeguards for major
9 accident prevention, including leading and
10 lagging indicators that are measurable,
11 actionable and standardized.

12 Require that the reported data be
13 used for continuous process safety improvement
14 and accident prevention.

15 B, analyze the data to identify
16 trends and poor performers and publish annual
17 reports with the data at the facility and
18 corporate level.

19 C, require companies to publicly
20 report required indicators annually at the
21 facility and corporate level.

22 D, use process safety indicators,

1 one, to drive continuous improvement for major
2 accident prevention by using the data to
3 identify industry and facility safety trends
4 and deficiencies. And two, to determine
5 appropriate allocation of regulatory resources
6 and inspections.

7 And E, be periodically updated to
8 incorporate new learnings from worldwide
9 industry improvements in order to drive
10 continuous major accident safety improvements
11 in California.

12 Recommendation Number 3, to the
13 Federal Chemical Facility Safety and Security
14 Working Group and to the Occupational Safety
15 and Health Administration.

16 This report highlights significant
17 advantages of the Safety Case regime over the
18 existing process safety management standard to
19 prevent potentially catastrophic chemical
20 accidents that are relevant to OSHA's response
21 to Executive Order 13650.

22 In the development of OSHA EO

1 response, incorporate a written plan that
2 includes the evaluation of the issues raised
3 in the findings, conclusions and
4 recommendations in this report concerning
5 Safety Case regime.

6 The CSB notes that the Safety Case
7 has now been listed by the Federal Working
8 Group as one of the options for reform under
9 the Executive Order and that they are
10 currently seeking public input.

11 That concludes our investigation
12 presentation. We would now like to take any
13 questions from the Board. Thank you.

14 CHAIRPERSON MOURE-ERASO: Thank
15 you.

16 (Applause)

17 CHAIRPERSON MOURE-ERASO: As it is
18 our custom, and after the presentation of the
19 staff, the Board members ask questions of the
20 staff about the report. So I would like to
21 start with Board Member Griffon if you have
22 any questions for them.

1 MEMBER GRIFFON: I'll keep it
2 brief, because I think we probably have quite
3 a few people that want to make public
4 comments.

5 I was looking at your slide. I
6 wish I had the slide number, talking about
7 publicly reported process safety indicators
8 data. And I wondered what do we know about
9 the performance of, did we look at any of
10 these metrics with regard to refineries?

11 I know there's some stuff in here
12 on the offshore experiments. But if it's
13 detailed indicator data, did we look at this
14 for refineries? And what did it show, or
15 should we include it in the report?

16 MR. HOLMSTROM: The report looks
17 at the different countries and the indicators
18 or reports on it, for Norway, for example, it
19 reports that Norway has noted a significant
20 decrease in hydrocarbon releases offshore.

21 The PSAs, the regulatory agency
22 that manages safety both onshore and offshore

1 in Norway also has some preliminary numbers
2 from onshore that look favorable. But they
3 have not released those.

4 In conversation with them, they
5 said that they believe the regime is headed in
6 the right direction. But they do not have
7 their, system for implementing those
8 indicators has not been in place long enough
9 for them to publish definite numbers in that
10 regard.

11 In the United Kingdom, they have a
12 much more lengthy period of using indicators
13 offshore. They have, for example, tracked
14 hydrocarbon releases which would be an issue
15 that would be both an issue for offshore oil
16 and gas production and onshore processing.

17 And they found offshore that
18 they've noted a decline in the number of
19 hydrocarbon releases that's fairly significant
20 over a number of years. Onshore, the COMAH
21 has put into, which is the onshore program for
22 major accident prevention, they put in place

1 an indicator program that's being implemented
2 over time.

3 The first phase of that
4 program is to require that the onshore duty
5 holders or employers collect data internally
6 that will be revealed to COMAH when they visit
7 the facility or if there's an intervention or
8 inspection.

9 And they plan by, I think, 2015 to
10 have a program in place where they'll report
11 that data to the regulator which currently
12 isn't in effect.

13 So the offshore program's much
14 more developed. I think one of the major
15 underpinnings that has been raised earlier was
16 that there's some significant difference
17 between onshore and offshore safety.
18 Particularly it involves production systems,
19 offshore versus refining offshore.

20 A lot of the same equipment,
21 there's separation that's occurring, there's
22 exchangers, there's valves, there's pressure

1 vessels, control valves, et cetera. So
2 releases offshore of hydrocarbons on a
3 production platform would have some of the
4 similar process safety issues as you would
5 have in a process plant. And so we think that
6 those sorts of examinations are issues
7 offshore.

8 Certainly, all those countries we
9 just named believe the Safety Case is an
10 appropriate regime onshore or offshore and has
11 implemented it in both areas, sometimes in
12 steps over time.

13 But certainly, as it exists now,
14 the system is fairly widespread throughout the
15 world, we would note, including recently the
16 Presidential Oil Spill Commission which was a
17 bipartisan commission recommending the Safety
18 Case for offshore production in the United
19 States.

20 MEMBER GRIFFON: And just a
21 follow-up, Don. Is there any reason why the
22 refinery sector seems to be lagging the

1 offshore in reporting stuff currently, or were
2 there programs put in place --

3 MR. HOLMSTROM: I think the
4 programs were put in place later, as we
5 understand it. And we can, you know, we can
6 certainly provide you with that data. We have
7 an actual document related to the
8 implementation of the COMAH program.

9 And the other issue is COMAH
10 typically, I'm sure if you submitted an
11 inquiry to them they could provide that data.
12 But they have actually much broader coverage
13 under the COMAH program than just oil
14 refineries, not only chemical plants but
15 beyond even what's covered under the process
16 safety management program in the United
17 States.

18 For example, they cover chemical
19 storage facilities, storage tanks, large
20 storage tanks. We're obviously investigating
21 one of those right now in West Virginia.

22 They also cover power plants. We

1 investigated the Clean Energy incident. So
2 it's a much broader coverage of what they
3 consider to be higher hazard facilities than
4 is covered under, currently on our PSM and RMP
5 in the United States.

6 MEMBER GRIFFON: And my last
7 question is did we, I know this is difficult
8 given the locations of these regimes, but in
9 preparation for this meeting I was attempting
10 to review a full Safety Case report. And I
11 think I stumbled upon one that I could get my
12 hands on.

13 Most of them, as you said in your
14 presentation, the summary reports are publicly
15 available, but the full reports aren't. I
16 found one for offshore.

17 I was just curious if it's
18 (inaudible), and I understand it's
19 international travel. But did we get an
20 opportunity to review any Safety Cases for
21 refineries or actually get, you know, on scene
22 and see how they're actually implemented?

1 You know, as I went through this
2 offshore one, it strikes me also, it makes me
3 wonder about the worker involvement component.
4 There's some very high level analysis in a lot
5 of these documents. And it strikes me that,
6 you know, how are the workers really going to
7 be "involved" in blessing these things, so to
8 speak?

9 So I'm not sure. I think maybe in
10 these regimes the worker involvement component
11 is a bit overstated. And it might be an
12 improvement, but I just wonder about that, if
13 you've have visited any of these facilities
14 yet?

15 MR. HOLMSTROM: Okay. I'm glad
16 you brought up both of those points. Because
17 I think, while there may be different views on
18 these issues, I think the recommendations
19 address them explicitly.

20 So let me first say that, in terms
21 of the question of the Safety Case, we have
22 received, I think, a good part of, there's a

1 couple of Safety Cases from one of our
2 contractors who works in Australia. And we
3 have reviewed a couple of those.

4 But you're right, the Safety Cases
5 are not typically, as a whole, made public.
6 And one of the issues is Safety Case reports
7 can have confidential business information and
8 trade secrets in them. So that's one issue.
9 And there are Safety Case summaries that are
10 published online.

11 The second issue is the
12 involvement of the workforce. We've had
13 extensive, as you might imagine, conversations
14 with a number of unions in Australia, Norway
15 and the United Kingdom.

16 And it's very clear that they're
17 involved in a number of activities that lead
18 up to the development of the Safety Case. And
19 it's also clear that they're very supportive
20 of the Safety Case.

21 I know there was some commentary
22 earlier about possible concerns about the case

1 from unions, but if they interviewed, for
2 example, leaders of the RMP Union and Unites
3 in the United Kingdom, they clearly are
4 supportive.

5 In fact, one of the concerns that
6 those unions had was that, in a recent UE
7 initiative to implement a version of the
8 Safety Case, they defended their regime, as
9 did the industry, as being highly effective.

10 And the trade association, Oil and
11 Gas UK in the United Kingdom, defended the
12 regime as being very effective as well as both
13 of the unions I mentioned. So, in all
14 conversations, they're supportive. And
15 actually, in a CSB forum they've been very
16 supportive.

17 In terms of the participation
18 element and also the Safety Case transparency,
19 we recognize that there may be differences
20 there. But we have made it very clear in the
21 recommendations that there should be
22 significant transparency.

1 In fact, the recommendations call
2 for the involvement of the workforce in the
3 development of the safety case.

4 If there's any ambiguity or
5 differences there, clearly the recommendations
6 are calling for that, as well as a number of
7 the other elements that would lead up to the
8 development of the Safety Case.

9 The second question is about
10 transparency. We believe there is a
11 significant degree of transparency. But if
12 there may be disagreement to the extent or how
13 deep that is, we have made it very clear on
14 the recommendations that there should be
15 transparency to the public to the greatest
16 extent feasible.

17 So one of the things that's true
18 about the Safety Case is there's a number of
19 elements that one could take out of the Safety
20 Case and implement in another regime.

21 Transparency could be one. It's
22 not necessarily inherent to the Safety Case.

1 Worker participation and real empowerment's
2 not inherent, necessarily, to just the Safety
3 Case.

4 But the Safety Case as a whole
5 brings up all these strands together and I
6 think creates a stronger binding, if you will,
7 for an overall regime.

8 And clearly, in our
9 recommendations we're making it very clear
10 that we believe that transparency should be to
11 the greatest extent feasible.

12 What has always been the issue
13 with transparency -- and we deal with it all
14 the time in the CSB, because we receive all
15 kinds of documents, we like to make a number
16 of them public -- is questions about
17 confidentiality, confidential business
18 information and trade secrets.

19 And so like, for example, in our
20 BP Texas City investigation, we made public
21 about 150 documents, somewhere around there.
22 And we went through a CBI process. So we know

1 these documents can be released.

2 But sometimes it's more time
3 consuming, because you have to go through a
4 process to review any confidential business
5 information which, at least in our view under
6 typical legal analysis, it's a fairly narrow
7 analysis. And sometimes it becomes more
8 expansive when it becomes a back and forth
9 over what that is.

10 So those would be the only
11 limitations. So that's the intention of the
12 recommendations, is not to have any
13 limitations. And I think our recommendations
14 make it very clear that the workforce in this
15 triparthied and their representatives, the
16 union, should be involved in the development
17 of the case as well as all the supporting
18 documents.

19 And including, which we think is
20 even more critical and which is identified by
21 the unions in the United Kingdom, Australia
22 and Norway is very critical, is participation

1 as elective representatives represented by the
2 Government which goes much further than
3 anything that exists currently in the United
4 States where they have the authority to
5 address hazards, conduct investigations. And
6 that authority is recognized by the regulator.

7 Also, we recommend in the report
8 the authority to stop unsafe work, and also we
9 recommend that that work cannot commence,
10 which is the case in a couple of the countries
11 that have the Safety Case, until the regulator
12 intervenes. So we did address it in the
13 recommendation statement.

14 MEMBER GRIFFON: Thank you, thank
15 you.

16 CHAIRPERSON MOURE-ERASO: Board
17 Member Rosenberg?

18 MEMBER ROSENBERG: Okay. You sort
19 of addressed it, but I'm going to harp on it,
20 because it is what I harp on.

21 I believe that the single most
22 important criterion for a safe workplace is

1 the voice of labor. And I would like to know
2 from you why you think that a Safety Case
3 regime will give workers more power in this
4 country than they have now, the fear of
5 retaliation will be less.

6 MR. HOLMSTROM: Sure. I think
7 some of us who, you know, participated in the
8 development of the concept of the Safety Case
9 on the staff level, worked in plants and are
10 very familiar with the world of worker
11 participation.

12 I think that what we hear from
13 unions such as the Steelworkers and others, is
14 that current regime has the word developing
15 procedures for participation. But it's not
16 real empowerment. And it doesn't provide
17 workers with the ability to actively affect
18 safety.

19 What we noted in this
20 investigation is that workers and union
21 representatives pointed out in previous
22 incidents that there were problems with

1 sulfidation corrosion, and those issues
2 weren't addressed.

3 Clearly, under the Safety Case,
4 elected worker representatives would have the
5 power not only to raise that to the company,
6 they would have a regulatory recognized power
7 to raise that to the regulator.

8 And they would also have the power
9 to shutdown on safe work until the regulator
10 intervened. That is a much greater power than
11 exists.

12 Currently, the power that exists
13 in the United States is largely a result of
14 the strength of the group within the plant as
15 well as the, you know, regulatory mechanisms
16 that exist and in collective bargaining
17 agreements.

18 And those are certainly important
19 mechanisms for worker participation. But we
20 think, and we certainly heard, and we had
21 extensive conversations with workers in
22 Norway, United Kingdom, Australia and other

1 countries, that these elected representatives
2 was the key element for them and the safety
3 committees.

4 They've also established broader
5 groups. Within the United Kingdom, for
6 example, there's an organization called Step
7 Change for Safety which is, it's a tripartied
8 group consisting of the regulator, affected
9 companies and the trade unions and worker
10 representatives, a bunch of worker
11 representatives.

12 They've produced a lot of
13 guidance. They have a number of training
14 sessions for worker representatives. And they
15 have also written guidance, I think, which we
16 have circulated internally that's under the
17 sponsorship of the HSE of how to improve
18 worker representation and worker empowerment.

19 I don't think we've seen anything
20 like that in the United States that's
21 comparable, where actual workers are writing
22 documents under the auspices of OSHA, or EPA

1 or any other regulatory agency where they're
2 actually making recommendations and conducting
3 advocacy on the behalf of workers. And
4 they've spoken very eloquently to us about how
5 critical that is and how it's stabilized.

6 MEMBER ROSENBERG: Thank you.

7 CHAIRPERSON MOURE-ERASO: Thank
8 you. I have one question also. I don't know
9 if it's a logical question, you know. I have
10 been aware watching, the two years worth of
11 this investigative group, this investigative
12 team at Chevron, the exhaustive effort to make
13 recommendations that the investigative team
14 feels are priorities based on the facts that
15 we're investigating.

16 They have been practice for
17 organization, the CSB, to make recommendations
18 based on investigated facts and findings.
19 Today, there has been a number of additional
20 recommendations that, very interesting
21 recommendations that have been presented by a
22 number of the elected officials at this point.

1 And they have been suggested today at this
2 meeting.

3 However, to my knowledge, they are
4 not based on the specific findings that we're
5 investigating in this report, since there is
6 still a third pending report in Chevron.

7 Do you think, I'm asking the team,
8 would it be possible to investigate those new
9 recommendations that are presented here as
10 something that we should consider that could
11 inform, I mean, that we can investigate our
12 findings that could inform the suggestions,
13 recommendations that we are here in this long
14 distance being discussed today?

15 MR. HOLMSTROM: Well, that's a
16 good question. In every investigation we try
17 to make a distinction between causal findings
18 due to what actually occurred and what we
19 might call audit findings and things that are
20 problems or issues in the investigation.

21 And we try to focus on those
22 things that are the most closely related to

1 causation. Certainly in the course of our
2 investigation, there are things that have been
3 presented to us that are issues that people
4 have raised.

5 As a group of investigators who
6 are scientifically minded, we try to steer
7 tightly to those things that we think have
8 some causal relation. And we have tools like
9 logic trees, and Aximaps and cause and effect
10 diagrams that help guide us in that area.

11 We certainly think that some of
12 the issues tonight that have been raised are
13 important. And in fact, some of them, as we
14 stated in our interim report, we plan to
15 address.

16 One of those was the issue of the
17 history of using clamps in the facility. We
18 stated in the interim report that we're
19 concerned that that's a safety culture issue.
20 It's also, obviously, a process safety issue.

21 And the investigation team, Dan
22 and his team, are taking steps and have been

1 taking steps to collect information on that.
2 And we have set up interviews for February to
3 find out information about that issue in terms
4 of clamps.

5 And just so you're aware, we're
6 looking, you know, putting a clamp on a piece
7 of piping or equipment typically represents
8 what we would believe is a process safety
9 failure, a mechanical integrity failure.

10 And so it should be analyzed. Why
11 did that happen, why did you have a release or
12 a leak or anything that wasn't detected and
13 fixed prior to being put on a clamp? And so
14 that's also a cultural issue. Why were there
15 so many clamps?

16 Well, they're looking not only at
17 the clamps that had a due date and weren't
18 replaced, which I think were the ones that
19 OSHA looked at, but the broader issue is a
20 larger number of clamps. And how does that
21 issue impact a reflection of safety cultures?

22 So that's certainly something

1 we're going to look at. And certainly, as
2 part of that, there'd be a question of the
3 existing clamps that, you know, what is their
4 status, not only from an abatement perspective
5 but also a process safety perspective.

6 What is the plan for removing the
7 clamps, fixing mechanical integrity issues,
8 and what is the history there? And how does
9 that relate to any potential recommendations,
10 either related to process safety culture or
11 other issues?

12 So certainly we're going to be
13 examining that issue as a broader cultural
14 issue. And how it connects to this incident
15 is, when the initial small leak occurred, the
16 first inclination of evidence we have was that
17 people were considering placing a clamp on the
18 leak.

19 So certainly, as a cultural issue,
20 that leak, consider a clamp. With a clamp you
21 remove insulation, and that's when the serious
22 release occurred. So I don't know if that --

1 CHAIRPERSON MOURE-ERASO: No, no.
2 Because this is just a question. I would like
3 to now go to the public comments phase of
4 this. I would like to ask our Managing
5 Director, Dr. Daniel Horowitz, to please try
6 to manage the public comments.

7 DR. HOROWITZ: Okay. That is a
8 difficult assignment, Mr. Chairman, but I'm
9 happy to do it.

10 A number of people have signed up.
11 Could we have a show of hands of people who
12 have not signed up but who are interested in
13 commenting as well? Just a handful, okay.
14 Well, why don't we forge right ahead.

15 And we can start with Alice
16 Busching Reynolds, Deputy Secretary for
17 California State EPA. Ms. Reynolds?

18 MS. REYNOLDS: Yes.

19 DR. HOROWITZ: Thank you.

20 MS. REYNOLDS: Good evening, Mr.
21 Chair and members of the Board.

22 DR. HOROWITZ: Do you mind, and

1 I'm going to ask this of all the commenters to
2 please spell out your name for the court
3 reporter, who is essentially transcribes this?

4 (Off microphone discussion)

5 MS. REYNOLDS: Good evening, Mr.
6 Chair and members of the Board. My name Alice
7 Reynolds. My last name is spelled R-E-Y-N-O-
8 L-D-S. I'm the Deputy Secretary for Law
9 Enforcement and Counsel at California
10 Environmental Protection Agency. I'm also a
11 member of a California interagency refinery
12 task force.

13 And first I wanted to thank you
14 for the opportunity to speak with you today.
15 Refinery safety is something that is obviously
16 very important to the state.

17 And the task force values the
18 careful attention that the CSB staff gave to
19 this investigation. And we have appreciated
20 the opportunity to collaborate with staff over
21 the past months.

22 In the aftermath of the August

1 6th, 2012, fire at the Chevron Refinery, like
2 CSB, California also took action. We convened
3 a working group on the primary safety led by
4 the Governor's office.

5 The working group included
6 participants from 13 agencies and departments.
7 It met over a period of nine months with
8 industry, labor, community, environmental,
9 academic, local emergency response and other
10 stakeholders.

11 And the group issued a draft
12 report entitled Improving Public and Worker
13 Safety at Oil Refineries in July of 2013. The
14 Governor's working group expects to release
15 the final report later this month.

16 The report states the findings of
17 the working group, and it also does more than
18 restate existing practices and problems. It
19 includes goals that are not out of reach and
20 not unrealistic.

21 There are real achievable ways to
22 improve public and worker safety through

1 enhanced refinery oversight and also to
2 strengthen emergency preparedness in
3 anticipation of any major incident.

4 The working group findings
5 reflected significant concerns about ongoing
6 refinery practices and prevention of major
7 accidents.

8 All of the investigations of this
9 incident have identified incomplete or
10 inadequate policies and procedures at the
11 Richmond Refinery and failure to evaluate pipe
12 safety problems during the process hazard
13 analysis and failure to act on internal
14 reports about hazards.

15 The working group identified four
16 main areas in need of improvement, a need for
17 improved coordination between agencies,
18 including improved data, and information
19 sharing and improved oversight of refineries.

20 The second area is to strengthen
21 emergency response and preparedness, including
22 needed improvements in hazardous material area

1 plans and air monitoring.

2 The third area is the need for
3 changes in safety prevention, including needed
4 improvements to the Cal/OSHA Process Safety
5 Management Program and the California
6 Accidental Release Prevention Programs for
7 risk management and program regulations as
8 well the need for greater resources from
9 enforcement of these regulations.

10 Fourth, the need for enhanced
11 community education and alerts, including
12 greater public and worker input into decision
13 making.

14 These findings led to a series of
15 recommendations. And to implement the
16 recommendations, an interagency refinery task
17 force was created at Cal/EPA. The first
18 meeting of the task force was held in August
19 2013 with two additional meetings this fall
20 and multiple meetings of work groups.

21 There are nine state agencies or
22 departments represented along with partners

1 from U.S. EPA, seven local unified program
2 agencies or (inaudible) and four air pollution
3 control districts.

4 The task force has formed two work
5 groups, one on emergency preparedness and
6 response and one on safety and prevention.
7 These work groups have created work plans, and
8 time lines and are working to revise existing
9 regulations and guidelines.

10 And we're also planning for public
11 meetings early this year in the Bay area of
12 Southern California and Kern County.

13 Additionally, while the working
14 group was completing its process, several
15 enforcement actions were also proceeding
16 following the July 2012 incident.

17 Approximately six months after the
18 incident, on January 30th, 2013, Cal/OSHA
19 issued 25 citations to Chevron, including 11
20 willful, serious citations and almost \$1
21 million in civil penalties.

22 On August 5th, 2013, the

1 California Attorney General and the District
2 Attorney for Contra Costa filed a criminal
3 action and plea agreement against Chevron
4 stemming from the August 6th incident.

5 In response to the complaint,
6 Chevron agreed to pay \$2 million in fines and
7 restitution and pleaded no contest to six
8 misdemeanor counts. The U.S. Environmental
9 Protection Agency also issued findings of
10 violation in December of 2013.

11 We look forward to continuing to
12 work with the Chemical Safety Board as well as
13 labor, business, environmental groups and the
14 community to do our utmost to assure that
15 California refineries take stronger action to
16 eliminate fires or releases that threaten
17 workers and communities. Thank you.

18 CHAIRPERSON MOURE-ERASO: Thank
19 you.

20 DR. HOROWITZ: Thank you, Ms.
21 Reynolds. Next is Dr. Gina Solomon, also of
22 Cal/EPA. And do, please, spell your name for

1 the court reporter.

2 DR. SOLOMON: Absolutely. Good
3 evening, Mr. Chairman, members of the Board.
4 My name is Gina Solomon. My last name is
5 spelled S-O-L-O-M-O-N. And I'm the Deputy
6 Secretary for Science and Health at the
7 California EPA. And I'm also one of the
8 members of the interagency refinery task
9 force.

10 And I wanted to talk a little bit
11 about what we are doing concretely right now
12 to try to fix our current system. I wanted to
13 also mention, I heard in the initial comments
14 there was this issue of where the burden for
15 safety lies in the different systems.

16 And I want to emphasize that the
17 burden for assuring safety, even in our
18 current system, lies on the industry, as
19 members of the Board well know. And, of
20 course, the burden for trying to assure that
21 that really happens is on the agencies.

22 And so we've identified a whole

1 series of things that we can implement now to
2 fix the standards that we have while we look
3 at other models that are out there.

4 And so the first steps that we're
5 taking closely follow recommendations made by
6 CSB in your interim report. So thank you very
7 much for that guidance. We're moving forward
8 with an effort to amend both the PSM and the
9 Cal/ALARP regulations to require the conduct
10 of root cause analysis following significant
11 incidents or releases.

12 And root cause analysis needs to
13 involve workers in the process and also be
14 made publicly available so that community
15 members can better understand the causes, the
16 root causes of incidents if they do occur.

17 But the other pieces are even more
18 focused on prevention, the issue of corrosion,
19 obviously central to the Richmond fire. The
20 Governor's working group identified the need
21 to require damaged mechanism hazard reviews as
22 a component of process safety.

1 So refineries would be required to
2 more systematically assess and address issues
3 like corrosion. And so we are moving forward
4 with that recommendation.

5 We also are looking at human
6 factors such as fatigue, for example -- not
7 metal fatigue but people fatigue, both are
8 important -- by requiring that management
9 change procedures, look at management
10 organizational change, staffing changes,
11 reorganization, operations, maintenance,
12 health and safety or emergency response.

13 And those issues will be
14 incorporated as we move forward with our regs.
15 In addition, we're incorporating some goal
16 based continuous improvement approaches that
17 really are very much consistent with those
18 that we see in Safety Case regimes.

19 So we're going to go ahead with a
20 proposal to put those into our existing
21 regulatory framework. One of these is
22 including a requirement for periodic safety

1 culture assessments.

2 So this involves both workers, so
3 bottom up, and also management, top down,
4 culture of safety within individual companies.
5 And there are tools that are out there to
6 measure that. So we think we can do this.

7 Additionally, we're working on
8 applying the concept of inherent safety as
9 recommended by CSB to refineries. It's
10 another distinctive component that's
11 consistent with the Safety Case.

12 We're looking at terms such as
13 ALARP, as most reasonably practicable, and
14 other terms in situations where we, you know,
15 in the PSM regulations. And then we're also
16 looking at, in situations where inherent
17 safety cannot be achieved for good reasons,
18 then we're looking at regulatory requirements
19 like the hierarchy controls or layer
20 protection analysis that will assure that
21 we're moving toward this culture of continuous
22 improvement which we agree is exactly where we

1 need to be going.

2 The Governor's report identified
3 the Safety Case regime along with some other
4 issues as topics for future investigation.
5 And we are committed to doing that future
6 investigation.

7 We are acting immediately to
8 incorporate some elements of the Safety Case
9 regime. But other pieces, the wholesale
10 adoption of the Safety Case, would require a
11 major shift in California law, obviously, and
12 would also require some extensive additional
13 resources for regulatory agencies that we're
14 also working on. And that's what my
15 colleague, Dr. Wilson, will be speaking about
16 as well.

17 And so we also are going to be
18 looking at whether the Safety Case can be
19 implemented in a transparent way with
20 appropriate worker involvement and appropriate
21 public access.

22 So as we undertake this

1 evaluation, we're very interested in
2 continuing to work with CSB, to continue to
3 consult with you as we share the common goal
4 of moving towards safer design, safer
5 technology and enhanced protection to prevent
6 incidents like this from happening again in
7 the future.

8 If we can possibly do anything
9 then we'll do that. So thank you very much
10 for your time this evening.

11 DR. HOROWITZ: Thank you, Dr.
12 Solomon. And next I think we'll have Dr.
13 Michael Wilson who is the chief scientist with
14 the Department of Industrial Relations. And
15 please do spell your name, even though it's
16 Wilson.

17 DR. WILSON: Thank you. It's Mike
18 Wilson, W-I-L-S-O-N. Chairman Moure-Eraso,
19 and members Rosenberg and Griffon and CSB
20 staff, on behalf of the California Department
21 of Industrial Relations and DIR Director
22 Christine Baker, thank you for your leadership

1 in responding to the challenge of ensuring the
2 safety and security of the Nation's process
3 industries.

4 And thank you for your work here
5 in California and your investigative work of
6 the Richmond Chevron pipe rupture and fire.

7 We would also like to extend our
8 appreciation for the support that you have
9 offered California by deploying CSB process
10 safety expert, Mr. Bill Hoyle, from
11 Washington, D.C. to California. I cannot
12 overstate how important Mr. Hoyle's expertise
13 has been to California and our efforts to
14 date. Thank you.

15 As you know, the Department of
16 Industrial Relations oversees state programs
17 that are charged with protecting the health
18 and safety of California's 18 million workers.
19 Worker health and safety is often, of course,
20 inextricably linked to that of the community.

21 DIR is home to Cal/OSHA where
22 California's process safety management unit

1 resides, overseen by state-wide district
2 manager, Clyde Trombettas.

3 The DIR office of the director
4 together with our Cal/OSHA PSM unit is
5 participating in the leadership of the
6 Governor's interagency refinery task force
7 which was convened by Governor Brown
8 immediately following the incident at Chevron.

9 And as you've heard from the
10 Deputy Secretaries Solomon and Reynolds, the
11 task force consists of 13 state and local
12 agencies and departments and has basically
13 been charged by Governor Brown with
14 evaluating, and where necessary making changes
15 to the state's regulatory structure to ensure
16 that what happened here does not happen again
17 in California.

18 We appreciate that the resources
19 of the Chemical Safety Board are limited. We
20 know that it represents a significant
21 commitment on the part of the Board to
22 undertaken an investigation such as you've

1 done here. That is, one that uncovers not
2 only what happened at Chevron technically but
3 why.

4 Understanding the why of an event
5 requires answering complicated questions about
6 a plant's safety culture, its systems of
7 values and priorities, its mechanisms for
8 meaningful worker participation and for
9 transparency and accountability with the
10 community.

11 It requires understanding how a
12 plant decides when, and where and how much to
13 invest in maintenance and safety. The answers
14 to these questions are extraordinarily
15 valuable, because they are the factors that
16 dictate the path that an industrial facility
17 will follow.

18 That path can lead ultimately to a
19 catastrophic incident as we've seen here and
20 it can lead to the highest possible level of
21 attention to protecting worker, community and
22 environmental health.

1 I can assure you that the efforts
2 of your team, led by Dan Tillema and Don
3 Holmstrom, that you've taken to answer these
4 kinds of questions and bring light to the
5 underlying drivers of the Chevron fire are of
6 great value to our work here in the State of
7 California.

8 In responding to the Chevron
9 incident in our work with the Governor's task
10 force, the Department of Industrial Relations
11 has focused on three priorities. And I'll
12 mention each of those just briefly in the
13 context of your recent report.

14 Our first priority following the
15 incident was to take immediate action to
16 investigate potentially eminent worker and
17 community health and safety hazards at the
18 Chevron facility and throughout the California
19 refinery sector.

20 In early 2013, our Cal/OSHA PSM
21 unit, under Mr. Trombetta's direction,
22 inspected 2,000 pipe clamps in use at the

1 Chevron facility, launched a statewide
2 leak/seal special emphasis program targeting
3 the state's refineries and conducted 3,600
4 hours of inspections at nine refineries
5 statewide.

6 This year, we're defending our 25
7 citations at Chevron and about a million
8 dollars in civil penalties. And we're
9 enforcing the terms of Chevron's three year
10 probation pursuant to Contra Costa County's
11 criminal misdemeanor settlement.

12 This includes reviewing corrosion
13 reports for about 300 piping systems at
14 Chevron with our partners at Contra Costa
15 Health Services and U.S. EPA. We'll be
16 conducting ultrasonic verification testing on
17 a subset of piping to confirm the veracity of
18 these reports.

19 Our second priority is that we're
20 talking steps to increase funding to our PSM
21 unit. We recognize that overseeing process
22 safety requires resources.

1 Facilities that handle large
2 quantities of hazardous materials, often under
3 high temperature and pressure, employ hundreds
4 and sometimes thousands of workers. They're
5 often situated in close proximity to populated
6 areas and they're extraordinarily complex,
7 both technically and organizationally.

8 Major incidents are relatively
9 infrequent. But when they do occur, we have
10 seen time and again they have major
11 consequences for worker and community health
12 and safety. As your report describes, these
13 facilities therefore require special
14 regulatory oversight.

15 California is unique among U.S.
16 states in that we've developed our own process
17 safety management standard and have committed
18 resources in our PSM unit implementing that
19 standard.

20 California is the only state and
21 the only OSHA program nationally with a
22 dedicated PSM unit whose technical staff focus

1 exclusively on process safety. We're proud of
2 that fact, and we also acknowledge the immense
3 challenges our PSM staff are up against.

4 In answer to these challenges, the
5 California State Legislature directed Cal/OSHA
6 to adopt a means of assessing annual fees from
7 refineries to support regulatory oversight.
8 Governor Brown included authority in his 2013
9 state budget for Cal/OSHA to assess these fees
10 each year based on an individual refinery's
11 crude oil input as a proportion of the state's
12 goal of production.

13 We finalized emergency regulations
14 to take this action last year, and we are now
15 using these fees to increase the operational
16 capacity of our PSM unit. This steady source
17 of funding, supported by the industry itself,
18 is critical to efforts to modernize process
19 safety in California. And we believe the same
20 could be said for the U.S. as a whole.
21 Funding is our third priority.

22 We recognize that the state's

1 process safety regulations are in need of
2 modernization. As you've made abundantly
3 clear, the process safety management standard
4 is over 20 years old and much has changed in
5 our understanding of process safety.

6 We're seeking to do two thing in
7 our revisions, and you've heard earlier from
8 Dr. Solomon. One is provide a framework
9 within which the industry will continually
10 improve its safety performance.

11 Second is to provide our PSM
12 technical staff with the best possible tools
13 and information they need to do their job in
14 protecting worker and community health and
15 safety.

16 As we've found, many of the PSM
17 improvements we're contemplating have already
18 been put in place by leading companies in the
19 refinery sector.

20 And many of them have been
21 informed by improvements in the Federal PSM
22 standard that are under consideration by

1 Federal OSHA as part of President Obama's
2 Executive Order 13650 on improving chemical
3 facility safety and security written in the
4 wake of the West Texas disaster. We look
5 forward to working with the Obama
6 Administration in support of the Executive
7 Order.

8 As we work on regulatory changes,
9 we appreciate the Board's calling attention to
10 the Safety Case approach which has been
11 implemented by refineries operating in the
12 U.K., Australia and Norway.

13 Through the task force we are
14 establishing a work group to collect and
15 review data on the Safety Case regime and its
16 potential applications in California.

17 And in the interim, as Board
18 members Rosenberg and Griffon have noted,
19 we're evaluating the ways in which our changes
20 to the PSM standard can incorporate key
21 elements of a Safety Case approach today.

22 In closing, I'll say that our

1 objective here in California is to craft a
2 modern regulatory framework, a national model,
3 within which the state's refineries will
4 prioritize and continually improve their
5 safety, health and environmental performance
6 consistent with the highest industry standards
7 worldwide.

8 That concludes my remarks. And
9 once again, thank you for your
10 professionalism, and for your good work and
11 for you attention this evening.

12 CHAIRPERSON MOURE-ERASO: Thank
13 you.

14 DR. HOROWITZ: Thank you. And
15 next I think we'll have Randy Sawyer, the
16 Director of the Contra Costa Hazardous
17 Materials unit. We heard you were unwell, so
18 happy to see the Safety Case has restored you
19 to health.

20 (Laughter)

21 MR. SAWYER: I should hope so.
22 But bear with me. My voice may go away for a

1 moment. Good evening. My name's Randy
2 Sawyer, S-A-W-Y-E-R. And thank you, Chairman
3 Moure-Eraso and members of the Board for
4 allowing me to speak this evening.

5 My job is the chief environmental
6 health and hazardous materials officer for
7 Contra Costa County. Contra Costa County is
8 home for four petroleum refineries and several
9 medium to small chemical facilities. Contra
10 Costa hazardous materials staff implements the
11 City of Richmond and the County's Industrial
12 Safety Ordinances.

13 These ordinances go beyond the
14 requirements of the California XRE's
15 prevention program, OSHA, Cal/OSHA's process
16 safety management and U.S. (inaudible)
17 management.

18 The ordinance requires a regular
19 facilities review from the (inaudible) system,
20 expense on human factors. It requires root
21 cause analysis as part of an incident
22 investigation. It requires facilities to

1 perform a safety culture assessment. And all
2 the processes and processed unit within the
3 refinery are subject to the ordinance.

4 The county adopted the ordinance
5 in January of 1999, and the City of Richmond
6 adopted the ordinance in January 2002. During
7 the 1990s there wasn't any average of a high
8 severity accident annually in Contra Costa
9 County. Since the ordinance was adopted by
10 the county, there's been only one high
11 severity accident, the August 6th, 2012,
12 Chevron fire.

13 There have been other less severe
14 accidents, but there has been general decline
15 in these accidents since 1999. I believe that
16 you can compare the success in industrial
17 safety favorably to the Safety Case being
18 implemented by the United Kingdom's health and
19 safety executive.

20 Even with this success, the August
21 6th, 2012, fire occurred. The Chemical Safety
22 Board, in their interim report on the

1 investigation of the fire, made a number of
2 recommendations to improve the Industrial
3 Safety Ordinance.

4 The City of Richmond and the
5 county staff have been working together and
6 making the necessary changes to address the
7 recommendations.

8 The Chemical Safety Board has been
9 willing to review drafts of these changes to
10 make sure that we are addressing their
11 findings and recommendations. I think these
12 changes will make the requirements of the
13 ordinance stronger.

14 I also remember the State's
15 refinery safety task force in which you've
16 heard more details from earlier speakers this
17 evening.

18 I thank the Board and their staff
19 for raising the question is there a better way
20 to prevent accidents such as the August 6th,
21 2012, fire and proposing a possible solution
22 to this question.

1 I believe that this question needs
2 to be addressed. I believe that all accidents
3 are preventable. I also believe that the
4 actions being taken by the city, county and
5 state, when implemented, will improve the
6 existing programs of the prevention of
7 refinery accidents.

8 Is this enough to do? Where
9 additional changes need to be made, such as
10 the implementation of the Safety Case regime,
11 will need to be determined.

12 It is my belief that, no matter
13 what the regulatory requirements are,
14 ultimately it comes down to the safety culture
15 within the facility and how successful the
16 facility will be in preventing such accidents.

17 If the facility has a good safety
18 culture, it will not matter. The regulatory
19 requirements of the facility would do, the
20 facility would then do whatever it's required
21 to do ending such accidents. I thank you this
22 evening for allowing my comments.

1 CHAIRPERSON MOURE-ERASO: Thank
2 you, Randy, appreciate it.

3 DR. HOROWITZ: Thank you. Next is
4 Ann Werboff, of the United Steelworkers. Ms.
5 Werboff, are you here?

6 (Pause)

7 MS. WERBOFF: Hi, my name is Ann
8 Werboff. That's spelled W-E-R-B-O-F-F. And
9 I represent the United Steelworkers Local 675.

10 Our union has 5,000 members in
11 Southern California and Nevada. Our members
12 work at the five refineries in the Greater Los
13 Angeles area, including the Chevron El Segundo
14 Refinery.

15 We are here today because what
16 happened at the Chevron Richmond Refinery
17 could just as easily have happened in the El
18 Segundo Refinery.

19 We believe that corrosion is
20 widespread in the industry, as evidenced by
21 the large number of temporary piping repairs
22 that are not permanently repaired for years.

1 Further, the industry's own
2 insurers acknowledge an accident rate that is
3 three times higher for U.S. refineries than
4 those cited in other countries. Clearly, our
5 current accident prevention programs here in
6 the U.S. are not as effective as they are
7 elsewhere.

8 The key findings in the Richmond
9 incident, that the pipe ruptured due to
10 sulfidation corrosion and that Chevron
11 management was aware of this corrosive pipe,
12 were also found to be true for the El Segundo
13 Refinery.

14 The El Segundo Refinery is located
15 at one end of a downtown business district and
16 is within six blocks of the town's elementary
17 and high schools. If this incident had
18 occurred there, the impact on the workers and
19 the local communities in El Segundo and the
20 neighboring city of Manhattan Beach would have
21 been very similar to that of Richmond. And
22 that is the reason we are here today, that I

1 came up from Los Angeles.

2 So the CSB has recommended the
3 Safety Case approach to reduce risks. And we
4 feel there are three components that need to
5 be included to be effective which have been
6 raised here today. And we want to support
7 them.

8 One is the active funding and
9 resources including personnel for regulatory
10 agencies. As a Safety Case system involves
11 Government inspection teams to ensure industry
12 compliance, sufficient resources must be
13 provided. And one potential source of
14 revenues could be these uncovered employers.

15 The second is the tripartied
16 approach, you know, in which workers and their
17 representatives are on equal footing with
18 industry and regulators.

19 Workers have intimate knowledge of
20 the plant in which they work and are the first
21 ones to respond to and be potentially hurt by
22 incidents or near misses. So a new regulatory

1 framework must ensure a meaningful role for
2 workers.

3 And thirdly, for the question of
4 accountability of industry, because again, it
5 is industry, not regulators, who are
6 responsible for safe workplaces. A properly
7 regulated Safety Case approach would put the
8 burden for safe workplaces where it belongs,
9 on the owners and the managers of the work
10 sites.

11 And we want to thank you for
12 letting us provide comments this evening.

13 CHAIRPERSON MOURE-ERASO: Thank
14 you very much.

15 (Applause)

16 DR. HOROWITZ: Thank you. Next is
17 Ron Chittim of the American Petroleum
18 Institute. Mr. Chittim?

19 MR. CHITTIM: Good evening, my
20 name is Ron Chittim, C-H-I-T-T-I-M. And I'm
21 a senior policy advisor with American
22 Petroleum Institute. API appreciates the

1 opportunity to be here tonight to provide
2 comments on the CSB draft regulatory report.

3 The API represents more than 550
4 companies involving all aspects of the oil and
5 natural gas industry. API members are
6 significantly affected by the efforts of the
7 CSB and are regularly called upon to respond
8 to and implement CSB's recommendations.

9 While API applauds CSB's continued
10 efforts to fulfill its core mission by
11 conducting investigations of accidental
12 releases and timely sharing of its findings,
13 API has a number of concerns about the CSB
14 recommendation to California related to the
15 establishment of the Safety Case approach.

16 The API believes the current OSHA
17 process safety management regulations are
18 effective and that an overhaul in PSM standard
19 is unwarranted.

20 The PSM standard is a consistent
21 and well understood framework that has been
22 used by manufacturing facilities for over 20

1 years. Changing to Safety Case would add
2 complexity and uncertainly with no
3 demonstrated benefit.

4 Even now, Federal OSHA is working
5 to enhance and improve the existing PSM
6 standard. OSHA is requesting information from
7 stakeholders regarding potential revisions to
8 the PSM standard. These efforts to improve
9 the PSM standard should be explored before the
10 introduction of an entirely new and different
11 regulatory approach.

12 To the extent CSB sees areas for
13 improvement, API encourages CSB to continue
14 its focus on enhancements to the current PSM
15 standard.

16 One avenue to identify potential
17 improvements for the PSM program effectiveness
18 is for CSB to look at the NSTB/FAA model for
19 lessons learned that can be applied to CSB's
20 interactions with other Government agencies.

21 Concerning criticisms that the
22 current PSM standard lacks adaptability and is

1 slow to respond to needed safety changes, we
2 must note that, unlike other countries, such
3 as Norway or the U.K., in the U.S. new
4 regulations and regulatory revisions must go
5 thorough notice and comment rule making which
6 just takes time.

7 Of particular concern to API is
8 the lack of meaningful data that demonstrates
9 that the Safety Case approach produces better
10 safety performance than the PSM standard.

11 In fact, CSB acknowledges that
12 there have been few objective studies
13 conducted on the impact of the Safety Case
14 regulatory approach on safety performance,
15 onshore and offshore.

16 The CSB draft report also
17 recognizes that the existing data mainly
18 relates to offshore operations which increases
19 API's concern about applying Safety Case to
20 refineries.

21 If Safety Case or other regulatory
22 regimes are to be considered, all the relevant

1 U.S. regulatory bodies should first collect
2 meaningful data that can be used to justify
3 further consideration of regulatory
4 alternatives.

5 A major difference that we should
6 note in the two regulatory programs is the
7 role of the regulator. For OSHA, the
8 regulator performs more of an enforcement type
9 role, whereas in the Safety Case approach, the
10 regulator performs more of an acceptance or
11 permissioning role where a site's case is
12 accepted by the regulator.

13 The Safety Case approach would
14 require a significant increase in the number
15 of technically competent, well-resourced
16 regulators to review the hazards identified in
17 the site's case and to evaluate the
18 effectiveness of the controls used to manage
19 the risks.

20 This difference in the roles would
21 be costly, very difficult to implement,
22 without a clear and corresponding benefit.

1 But in either case, as has been stated several
2 times today, it is the site operator that
3 ultimately determines how to ensure safe
4 operations.

5 So in conclusion, as CSB correctly
6 notes, Safety Case is not perfect and no
7 regulatory system will be perfect in its
8 implementation.

9 In light of this acknowledgment,
10 API thinks the CSB should focus its limited
11 resources on incident investigations and
12 reports rather than expending resources
13 advocating for new regulatory programs.

14 API thinks the current PSM program
15 is effective but can be made better and that
16 the OSHA request for information needs to be
17 carried out and the results analyzed which may
18 lead to improvements in the PSM standard.

19 Additionally, API thinks there's
20 lack of data at this point to support the
21 adoption of a Safety Case in the U.S. Safety
22 is a continuous improvement journey. And we

1 acknowledge more can be done to improve safety
2 under the current PSM system.

3 The effectiveness of any safety
4 program is only as good as the commitment made
5 in its preparation, its implementation and its
6 execution. And the site operator is
7 ultimately responsible to ensure safe
8 operations. Thank you for your attention.

9 (Applause)

10 DR. HOROWITZ: Thank you, Mr.
11 Chittim. And I do want to remind our
12 listening audience, watching audience on KCRT
13 that you're welcome to submit your comments by
14 email as well. And you can send those to
15 csbmeeting@csb.gov or to public@csb.gov. And
16 we'll be happy to read those comments or
17 summarize them and provide them into the
18 record.

19 And we did receive one online
20 comment from Mr. Rick Hind, the Legislative
21 Director of Greenpeace in Washington, D.C.
22 And he writes, "Thank you for holding this

1 meeting."

2 And he, to get right to his
3 question, says that in the CSB's draft report
4 you recommended that California implement new
5 chemical facility rules to prevent these
6 disasters by requiring them to use the safest
7 chemical processes available.

8 The EPA has the authority under
9 the Clean Air Act, Bhopal Amendment, 112R I
10 believe he means, to require safer chemical
11 processes at plants like Chevron, nationwide.
12 And he notes that EPA is currently considering
13 rule making in this area.

14 And he asks, "Will you also
15 recommend that the EPA implement new chemical
16 facility rules to prevent future disasters by
17 requiring them to use the safest chemical
18 processes available as you recommended for
19 California?"

20 And I wonder if I could ask the
21 team, because it's an important question, how
22 does the Safety Case system handle the issue

1 of inherently safer technologies? And perhaps
2 how is it handled in the United Kingdom, for
3 example?

4 MR. HOLMSTROM: Yes, the CSB has
5 actually distributed to a number of people the
6 assessment guidelines that are used by
7 inspectors for onshore facilities within the
8 United Kingdom.

9 And inherent safety is one of the
10 basis of assessments for the Safety Case in
11 the United Kingdom for high hazard facilities.
12 In fact, in the United Kingdom, if you look at
13 the specific guidelines they actually look at
14 the design stage which is currently not under
15 the purview across the safety management
16 standard or through the existing plan.

17 So they engage in conversations
18 about inherent safety when the plant is being
19 designed which I think most people would
20 recognize is the most effective time period to
21 implement inherent safety before the plant is
22 designed and built.

1 And they've looked at inherent
2 safety throughout the life cycle of the plant
3 including not only just inherent safety but a
4 hierarchy of control. Inherent safety in the
5 hierarchy of controls is the most preferred
6 control mechanism. Because at its strongest,
7 it substitutes or eliminates the hazard.

8 But there are a number of other
9 controls that are effective for controlling
10 hazards that are much more respected, for
11 example, engineering or design rather than
12 relying on administrative controls, such as
13 following a procedure or responding to an
14 alarm which the CSB has noted, in many
15 investigations.

16 (Inaudible) control when things
17 have failed that operator accident or
18 responding to alarms is often identified in
19 PHAs as a control measure. For example, that
20 was true in the BP Texas City case in the high
21 level that occurred in the blowdown drum that
22 controls air.

1 The safeguards were listed as
2 operator action and alarms which are the
3 lowest and the least effective controls. And
4 there's nothing in the current process safety
5 management standard that would require
6 strengthening those particular safeguards.

7 So we identified, on the other
8 hand, on the Safety Case, that they actually,
9 as part and parcel of how they accept their
10 cases, we find inherent safety to be a key
11 element.

12 DR. HOROWITZ: Okay, thank you.
13 And those of you who are watching on TV,
14 csbmeeting@csb.gov. Let's go back to our
15 audience here in the room.

16 And next is, I apologize in the
17 pronunciation, Lipo Kentasa (phonetic),
18 representing the Asian Pacific Environmental
19 Network.

20 MR. KENTASA (phonetic): It's Lipo
21 Kentasa and --

22 DR. HOROWITZ: Okay.

1 MR. KENTASA: (Inaudible).

2 DR. HOROWITZ: Okay, thank you.

3 Please go ahead, sir.

4 MR. KENTASA: Hello, all the
5 Board. I'm Camo (phonetic) and also the
6 resident of Richmond. And my name is Lipo
7 Kentasa. And I'm a member of APEN.

8 I don't have anything to add
9 except just wanted to thank you for the Board
10 and the staff who do the investigation. And
11 we support your recommendation all the way.

12 And this is something for us who
13 are resident here want to hear for many, many
14 year, long time ago. We want to see this
15 recommendation be. Not only want to see the
16 recommendation, we want to see the
17 implementation right now as what we want to
18 see. And we want to thank you.

19 CHAIRPERSON MOURE-ERASO: Thank
20 you.

21 (Applause)

22 DR. HOROWITZ: And next is Dr.

1 Henry Clark of the West County Toxics
2 Coalition. Nice to see you again, Dr. Clark.

3 DR. CLARK: Good evening, members
4 of the U.S. Chemical Safety Board. Welcome
5 to Richmond.

6 West County Toxics Coalition is
7 one of the oldest environmental justice
8 organizations in the country. We've been
9 around for about 30 years. We've worked with
10 communities not only here in Richmond but
11 throughout the United States as well as our
12 community in West Texas, okay.

13 First of all I want to say, in
14 regard to this Safety Case model that you
15 have presented to us, it sounds pretty
16 decent. I will say that , most of the
17 provisions.

18 I am concerned about the trade
19 secret part of it, you know. This community
20 here, especially in the environmental justice
21 groups here that have been dealing with
22 Chevron over the years, you know, we've

1 always had a problem with the refinery or
2 regulatory agencies, how a trade secret that
3 denied relevant information to us to make
4 some determination as to the impacts of
5 refinery expenses on our community.

6 So I don't see why we would choose
7 to accept a trade secret aspect of this
8 proposal. And we've always rejected it
9 before. So I'm not convinced on that part.

10 The other issue of concern is this
11 committee that you referred to with the
12 workers and other people on it. And you've
13 been focusing on the labor aspect of it, that
14 labor may not have adequate resources to have
15 a technical person there to evaluate this
16 case.

17 Well, you know, as far as I'm
18 concerned, the company should provide the
19 resources for labor and anybody else that's
20 part of that committee to have the
21 appropriate technical people there to be able
22 to assess that proposal. Otherwise, it's

1 nonsense, okay.

2 And you referred to a regulator.
3 I don't quite understand what you mean in
4 that regard. We have a lot of regulatory
5 agencies that do inspections there at
6 Chevron.

7 You have the Bay Area Air Quality
8 Management District. From what I understand,
9 it has a permanent inspector there at the
10 refinery on a daily basis. You have Mr.
11 Randy Sawyer from the county that's doing
12 some inspections there.

13 Plus EPA, from what I understand,
14 does a, I believe it may be every five years,
15 but like an overhaul, overall inspection of
16 refineries. And so when you refer to the
17 regulator having some authority to do
18 something, what do you mean? Are you meaning
19 that all of those regulatory agencies
20 individually or collectively are in some way,
21 what are you actually talking about?

22 You know, and in terms of the

1 enforcement part of it over there, Council
2 member Jim Rogers indicated enforcement is
3 really important in this whole process.
4 Because we've seen this here a revolving door
5 syndrome of regulators working for some
6 regulatory agency today, and then tomorrow
7 they're working for Chevron or some other
8 company.

9 And we don't want that type of
10 nonsense to continue to occur. We want some
11 real enforcement. And I'm concerned, you
12 know, the bottom line is that the buck stops
13 with the local people, our decision makers
14 that issue permits to Chevron and other
15 companies to operate.

16 They definitely need to be in the
17 process and decisions need to have the
18 necessary resources to do whatever necessary
19 evaluations that needs to be done to protect
20 the public health and safety of residents in
21 this city.

22 Now, the other point is this here,

1 you know. We're talking about trying to do
2 some things to protect public health and
3 safety through this here Safety Case model.

4 But there's the other point here
5 that I think we're sort of overlooking. Even
6 on a daily basis, even say Chevron or any
7 other company came up with a plan, you know,
8 with this committee and all of that. You
9 know, this deal really doesn't get to the
10 overall problem. Because there's such a
11 thing as environmental justice, okay.

12 And under former President
13 Clinton's Executive Order 12898 on
14 environmental justice which the City of
15 Richmond has also adopted a similar
16 environmental justice order, as well as the
17 State of California. And most environmental
18 justice laws are based on President Clinton's
19 Executive Order which basically says that no
20 community or people should be
21 disproportionately impacted by environmental
22 policies, okay.

1 Well, the fact is that communities
2 here like North Richmond where I come from
3 and others here already are. We're already
4 disproportionately impacted. So in terms of
5 when Chevron got a big major modernization
6 project coming up, like right now the draft
7 environmental impact report's supposed to be
8 out, I believe, next month. And the city and
9 Chevron is expecting the project to hopefully
10 be approved by July.

11 Yet we're talking about, even if
12 this here safety model is adopted, you know,
13 years before it's implemented. So what does
14 that do for this major expansion or
15 modernization that is happening right now at
16 Chevron in our community, you know?

17 That in spite of the fact that all
18 of these environmental justice laws that are
19 on the books say that we should not be
20 disproportionately impacted, yet, you know,
21 they're trying to come around the corner
22 through the back door and still increase the

1 disproportionate impact by some cap and trade
2 pollution trading scheme which would allow
3 them to increase greenhouse gas emissions and
4 associated toxins that would create a hot
5 spot, in spite of the fact that the City of
6 Richmond here has adopted the precautionary
7 principle and this environmental justice
8 argument.

9 So that's just being nipped in the
10 bud. That's why the local power here in our
11 City Council should enforce the regulations
12 and the laws that they have adopted.

13 And if you're for environmental
14 justice and the arguments that you have
15 adopted, then you should draw the line,
16 period, and not allow the ongoing
17 disproportionate impact on communities of
18 color here in the city, like my community in
19 North Richmond, period.

20 Otherwise, we just still up here
21 talking and playing games and, you know,
22 putting on the dog and pony show for the

1 cameras. And our people in our community
2 continue to suffer and die from asthma and
3 cancer.

4 So we want to see some real
5 action. I wanted to see, you know, this
6 precautionary principle enforced here in
7 Richmond, the environmental justice laws on
8 the book enforced here in Richmond and stop
9 the ongoing pollution of our community, and
10 our people and putting us at risk.

11 The other point that was mentioned
12 is about these listening sessions that's
13 going on around the country here under the
14 Executive Order 13650 that President Obama
15 just signed after the West Texas disaster
16 here, you know.

17 So here again, that's all
18 irrelevant to the refinery and other chemical
19 companies here in our community. And so here
20 again, we're going to be waiting for years
21 before those recommendations are looked at
22 and put into practice.

1 Also that here again, leaves us
2 vulnerable and which, in my opinion, is where
3 the city council should step in and enforce
4 their laws on the environmental justice.

5 One other point on the enforcement
6 for the other document, again, we'll mention
7 that the district attorney has enforcement
8 authority here in Contra Costa County which
9 the District Attorney is an elected official
10 and has been doing little or nothing to hold
11 Chevron or companies accountable.

12 The July 26th, 1993, sulphuric
13 acid disaster at General Chemical Company has
14 sent over 20,000 people to local hospitals.
15 Now, the DA and the county was on the hot
16 seat after that. They were threatening to
17 file criminal charges against General
18 Chemical Company.

19 But the company paid a \$5.5
20 million fine rather than face criminal
21 charges. And money went to build the Center
22 for Health in the North Richmond community.

1 I noticed that none of these
2 hearings or anything, the DA or any
3 representative is here, you know. And the
4 community and the city, we need to put the DA
5 also on the hot seat to enforce these
6 criminal charges.

7 These people, you have all these
8 residents already at the refinery. You mean
9 to say that they didn't know that Chevron had
10 all these patched up pipes and that was, you
11 know, corroded. But, you know, they had the
12 authority to do something then. But they
13 didn't do nothing, period.

14 The bottom line is, is this here.
15 Far as the West County's Toxins Coalition is
16 concerned, we want protection of our
17 community. We ain't playing no softball,
18 we're playing hardball. We're not going to
19 accept no more disproportionate impact,
20 putting our community and our people at risk,
21 period.

22 If you and the city and these

1 other regulations don't do the job, we'll do
2 the job. Because as we said, you know, ain't
3 no power like the power of the people.
4 Because the power of the people don't stop,
5 period. And we're going to stop this
6 nonsense.

7 (Applause)

8 DR. HOROWITZ: Thank you, Dr.
9 Clark. Next Greg Karras, Communities for
10 Better Environment.

11 MR. KARRAS: Thank you, good
12 evening. I'm Greg Karras, K-A-R-R-A-S,
13 senior scientist with Communities for a
14 Better Environment, CBE.

15 I want to thank you for your
16 continued service to our community tonight
17 and suggest an answer to perhaps the most
18 divisive argument the industry has raised
19 against your reports, proposed
20 recommendations.

21 Before I do that, just to be
22 clear, CBE has joined with the Refinery

1 Action Collaborative in supporting the report
2 and the recommendations in writing. We still
3 support that and urge your adoption tonight.

4 We see the strengthening
5 recommended amendments, probably most
6 specifically laid out by Congressman Miller
7 and Supervisor Gioia as being consistent
8 with, further to and maybe even prerequisite
9 for fully implementing the Safety Case that
10 we don't see.

11 And we understand the
12 recommendation to be an advisory one that the
13 State of California, Dr. Wilson and his
14 colleagues, would be charged with actually
15 fleshing out and developing with hopefully
16 full participation of the public, community
17 and the workers.

18 So on that basis, we do, Richard,
19 still feel that it's appropriate to adopt
20 tonight with those amendments and with the
21 either/or if you want.

22 We also really appreciate, I

1 really appreciate the emphasis on the root of
2 the problem being an imbalance of power. Oil
3 corporations get to decide to cut corners.
4 Workers and communities who live there, where
5 the bankers around the companies don't live,
6 bear the brunt of it. That's what we need to
7 fix.

8 And in that spirit, I would say
9 that the solution is very closely tied to the
10 most divisive argument that, to sort of quote
11 the way your staff put it on Page 104,
12 "There's no will in the U.S. to ensure that
13 regulators have the tools, resources and
14 competence to effectively regulate."

15 So I want to suggest that that's
16 at the nub of some of the friendly debate
17 we're having tonight and that there's an
18 answer to that I'd like to suggest.

19 Where I come from, your father
20 might come home dirty and shaking late one
21 night and try to explain to his kids about
22 the explosion at the plant that killed his

1 co-workers that day.

2 First time that happened to me I
3 was about six years old. The workers are a
4 part of the community, right. And before
5 Chevron's higher sulphur crude slate
6 accelerated the corrosion that burst the pipe
7 that led to the disaster last August, CBE
8 warned public officials about the higher
9 sulphur crude increasing incident risk. So
10 did workers. We're part of the same
11 community.

12 Now, and you've heard some about
13 this from other speakers, so I'll be brief,
14 Chevron proposes a project that could further
15 increase the sulphur content of the crude,
16 the corrosiveness of the crude.

17 At the same, it's fighting to get
18 a delay in fixing the corrosion clamps that
19 are widespread problems and safety violations
20 throughout the refinery.

21 CBE is following up on the court
22 orders that we've won demanding that Chevron

1 be transparent and that there be a full
2 review of the implications of that project.
3 That's our role.

4 The workers in the workers union,
5 meanwhile, have joined into that appeal on
6 the side of OSHA fighting Chevron in this
7 case to try to make sure those clamps get
8 replaced in that safety hazard.

9 Again, we sometimes have slightly
10 different roles. We sometimes have friendly
11 differences of opinion. Workers are part of
12 the community. We're in this together.

13 And statewide, the combination of
14 aging infrastructure that we agreed is a big
15 part of it, and the shift to even more
16 corrosive crude, is a ticking time bomb.

17 This is an urgent situation.
18 Communities are grappling with it in oil
19 projects in multiple communities here in the
20 Bay Area right now.

21 That's unfortunately not that
22 unusual in this state where wholesale oil

1 switch is going on in this, as you know,
2 somewhat broken regulatory system. We're
3 grappling with it.

4 Here in the Bay Area the
5 refineries' workers' union has joined us
6 through the Refinery Action Collaborative to
7 tell all of the local agencies that are
8 reviewing these projects that are going
9 forward that we want to see transparency,
10 full disclosure of changes in the crude slate
11 and their impacts.

12 That just happened last month
13 formally. That's noteworthy for several
14 reasons. But ultimately, it would not have
15 happened except that workers are part of the
16 community.

17 So the answer to this question, do
18 we have the will, the 10,000 or so refinery
19 workers in California are part of communities
20 numbering in the millions. And together we
21 have the will to protect our health, our
22 safety, our lives and our children. Big oil

1 is wrong about that. Please adopt this
2 report tonight.

3 (Applause)

4 DR. HOROWITZ: Thank you, Mr.
5 Karras. And next is Guy, is it Bjerke?

6 (Off microphone discussion)

7 DR. HOROWITZ: Oh, how did I get
8 that right? Please do spell it though,
9 because --

10 MR. BJERKE: I will.

11 DR. HOROWITZ: -- they're not all
12 as good as I am.

13 MR. BJERKE: All right. Thank you
14 very much. Hello, my name's Guy Bjerke, B-J-
15 E-R-K-E. And I'm with the Western States
16 Petroleum Association.

17 Thank you for providing an
18 opportunity for us to comment on the U.S.
19 Chemical Safety and Hazard Investigation
20 Board's regulatory report.

21 The Western States Petroleum
22 Association is a non-profit trade association

1 representing companies that explore for,
2 produce, refine, transport and market
3 petroleum, petroleum products, natural gas
4 and other energy supplies in California,
5 Arizona, Nevada, Oregon, Washington and
6 Hawaii.

7 Our members operate the major
8 refineries in California and are committed to
9 safe and reliable operations and open to
10 suggestions to enhance the safety of our
11 industry, our workers and our neighbors.

12 Learning from incidents is an
13 essential element of the process safety
14 management framework. And the U.S. Chemical
15 Safety Board reports have been important
16 sources of lessons learned.

17 WSPA submitted written comments
18 with the American Petroleum Institute on
19 January 3rd. And I agree with the comments
20 presented to you earlier tonight by Ron
21 Chittim of API.

22 Today, I just wanted to make a

1 couple specific comments on your report's
2 recommendations that California replace its
3 current process safety management regulatory
4 scheme with an alternative regulatory regimen
5 known as the Safety Case.

6 In short, WSPA believes your
7 recommendations concerning changes to
8 regulatory oversight can be integrated into
9 the existing PSM and risk management program
10 regulatory framework.

11 By so doing, we can accomplish
12 additional safety gains and continually
13 foster better relationships with employees
14 and communities without introducing any
15 unintended consequences and burdens
16 associated with a complete overhaul of the
17 existing regulatory framework.

18 Changing the regulatory approach
19 to the Safety Case without a better
20 understanding of what one gains from the
21 action will add complexity and uncertainty
22 with no demonstrated benefit that is readily

1 understood.

2 This added complexity may even
3 increase risk due to conflicting priorities
4 created by potential overlay of new
5 regulations. Efforts to improve the existing
6 PSM regulatory program should be explored
7 before pursuing the introduction of an
8 entirely new and different regulatory
9 approach.

10 For example, we believe that
11 industry could better achieve the proposed
12 benefits of the Safety Case from additional
13 skilled regulators at the state level who can
14 more actively participate in assuring
15 effective implementation of existing PSM and
16 RMP programs, secondly, by improving
17 processes to effectively manage risk through
18 assessment safeguards and mitigation.

19 Our members are actively working
20 and cooperating with the Governor's task
21 force. They are actively working and
22 cooperating with the City of Richmond, with

1 the County of Contra Costa in improvements to
2 the industry safety ordinance. And we
3 believe that better integrating the PSM and
4 RMP requirements will achieve the goals
5 outlined in this report.

6 To the extent the CSB sees other
7 areas for improvement, WSPA stands ready to
8 dialogue. And we appreciate the meeting that
9 we had with Don, Amanda, earlier this year to
10 discuss the report. We appreciate the
11 efforts the staff has taken to reach out to
12 our industry to include us in the discussions
13 and in the process.

14 WSPA would like to thank the CSB
15 for coming out tonight, for hearing and
16 taking input. And we look forward to working
17 with you to improve the safety of our
18 industry. Thank you very much.

19 DR. HOROWITZ: Thank you. And
20 next we have a question email from Mr. John
21 Morawetz. And he is the Health and Safety
22 Director for the International Chemical

1 Workers Union.

2 And he welcomes the report. He
3 says the presentation of the Safety Case
4 deserves significant deliberation before
5 acceptance. And he asks a question.

6 And he writes, "From tonight's
7 presentation and initial reading of Andrew
8 Hopkins, Australian Professor, a leading
9 proponent of this model, one of the key
10 elements is employee involvement which is a
11 part of the CSB recommendation for
12 tripartied review.

13 "How does the CSB believe the
14 Safety Case will be effective in non-union
15 facilities where it is unlikely there will be
16 meaningful worker involvement or ability to
17 raise suggestions that are not welcome by
18 some of their supervisors or in direct
19 opposition to stated supervisor positions?"

20 And I know we looked at this both
21 from the standpoint of the unionization rate
22 at the 15 California refineries as well as

1 how it might work in non-union facilities.
2 So I wonder if the team would like to answer
3 Mr. Morawetz's question?

4 MR. HOLMSTROM: Well, first of
5 all, it's in our report that the unionization
6 rate in California refineries is, I think,
7 over 75 percent. And we know that the
8 unionization rate in, I think, Norway is well
9 over 50 percent. The U.K. is 20-some
10 percent, Australia I think is similar.

11 And so there is already, I think,
12 a basis for workers who are represented to
13 use that representation in the course of
14 participating in a more rigorous safety
15 management regime.

16 The other thing I would add to
17 that is that the Safety Case applies worker
18 empowering and participation elements that
19 would apply to facilities where workers were
20 not represented.

21 And what we heard actually from
22 the union representatives in the U.K. and in

1 Norway, although offshore Norway is mostly, I
2 think, almost entirely unionized, is that
3 even in those facilities, because they
4 interact, workers and representatives get
5 together in groups like Step Change for
6 Safety. They interact, and they feel that
7 they have important exchanges with them, and
8 develop better relations and understand some
9 of the advantages and disadvantages of their
10 various positions.

11 And they feel they can work
12 together to improve safety. So they think
13 overall it is a positive reform, because it
14 empowers workers in both union and non-union
15 locations.

16 That's what we hear from unions in
17 the United Kingdom and Norway. Obviously
18 they would feel, when they expressed to us
19 that they have more significance, more say
20 and more influence when they're represented.
21 Because they have the power of their
22 membership behind them.

1 DR. HOROWITZ: Thanks. Next is
2 Kim Nibarger of the United Steelworkers.

3 MR. NIBARGER: My name's Kim
4 Nibarger, N-I-B-A-R-G-E-R. Good evening, Mr.
5 Chairman, fellow Board Members.

6 I'm a health and safety specialist
7 for the United Steelworkers International
8 Union. We're the union that represents the
9 operators and proprietary maintenance
10 employees at the Chevron Richmond Refinery.

11 Our members are responsible for
12 approximately two-thirds of domestic oil
13 production in this country in over 70
14 refineries. We also represent many more
15 workers in highly hazardous chemical plants
16 which fall under many of the same safety
17 regulations.

18 A Safety Case requires, as does
19 the OSHA process safety management PSM
20 standard, a written plan that the company is
21 required to comply with. As proposed by the
22 CSB, the Safety Case requires that the

1 company manage identified risks, keep as low
2 as reasonably practicable or ALARP.

3 PSM requires companies to follow
4 practices that are recognized and generally
5 accepted good engineering practices, RAGAGEP.

6 And so the union reviewed a number
7 of accidents in the petroleum industry dating
8 back to the early days of PSM. We noted one
9 commonality. Companies had a failure to
10 execute. They did not follow their written
11 plans.

12 It's the obligation of the company
13 to operate in a responsible manner. With
14 that in mind, the International Union had
15 some comments about the implementation and
16 workability of the recommendations contained
17 in this report.

18 The advent of the implementation
19 of the process safety management standard
20 gave all of us in the refining business great
21 hope of improving safety in the industry.

22 For a few years, accidents seemed

1 to be on the decline, having just experienced
2 the terrible accidents in the U.S. at
3 Phillips Chemical complex and the ARCO
4 Channelview Refinery.

5 Refiners seemed intent on
6 developing plans to meet the intent of the
7 performance based PSM standard. The early
8 OSHA inspections at PSM regulated facilities
9 seemed to follow a more prescriptive format,
10 that which the compliance officers were used
11 to performing.

12 That seemed to push the refiners
13 to obtaining documentation to support the
14 elements of the standard. For example,
15 training used to be pretty effective hands-
16 on, face to face. And that was turned into
17 computer based training.

18 It was easier to generate a sign-
19 in list by completing a trackable computer
20 program that to be sure every individual got
21 their name on a physical piece of paper.

22 Management of changes were easier

1 to pull up for the regulator if it was a
2 check the box activity on the computer rather
3 than a rigorous exercise performed in the
4 field with operators and engineers on what
5 will the potential downfall be if we make
6 this change and how can it be remedied.

7 Process hazard analyses were in
8 the review cycle and too often, when
9 reviewing potential hazards, the consensus
10 was, well, that doesn't happen here. It
11 hasn't happened here, so it was dismissed as
12 not being able to happen.

13 That same attitude is taking place
14 with risk analysis. Because it had not
15 happened in the facility, the risk was
16 assumed to be acceptable, even though
17 research would have told you it had happened
18 at several other refineries.

19 Managing risk has turned into
20 taking a risk. The companies have written
21 plans on how they are to meet the elements of
22 the PSM standard. A Safety Case would

1 require a written plan by the company on how
2 they would manage risk to as low as
3 practicable.

4 If refiners are not following
5 their current written plans, what makes you
6 think they will follow the written Safety
7 Case?

8 There are some good elements in
9 the PSM standard, and there are good elements
10 in the Safety Case. The Safety Case should
11 certainly be explored and considered. But
12 there may be more immediate benefit in trying
13 to beef up the elements of the PSM standard
14 that are weak.

15 And we have a list of some of the
16 things that we think need to be beefed up.
17 In the meantime, we cannot let the perfect be
18 the enemy of the good or forego useful
19 incremental changes in the search for a more
20 major change.

21 There are many things that Federal
22 OSHA, Cal/OSHA and currently through the

1 county Industrial Safety Ordinance could do
2 to improve the regulation of oil refineries
3 and other high hazard plants short of
4 adopting a full Safety Case framework.

5 It may be easier improving what is
6 in place, considering the litigious
7 environment we now face with nearly every
8 OSHA citation going to a solicitor under
9 contest and sometimes waiting years for a
10 trial date.

11 Meanwhile, the workers are exposed
12 to the hazards the company was cited for
13 while they fight over a legal interpretation.

14 More focus needs to be put on
15 including the workforce in helping the
16 company make improvements to safety for the
17 workers and the community.

18 The Safety Case language we have
19 reviewed from the U.K. has the same weak
20 consult language as does the PSM standard.
21 The USW would recommend convening an expert
22 panel to review the first recommendation and

1 explore the advantages and drawbacks of
2 implementing the Safety Case or adding some
3 clarity to and expanding the current PSM
4 standard to include some form of the Safety
5 Case.

6 We fully support the second
7 recommendation in this report on leading and
8 lagging indicators and have expressed our
9 willingness to work with the industry on that
10 matter so long as the process is fair and
11 gives us and other stakeholders a significant
12 voice.

13 As for the third recommendation,
14 the International Union is fully engaged in
15 responses to the request for information for
16 Executive Order 13650 and would like to see
17 the kind of improvements we are seeking in
18 OSHA's PSM standards to be rapidly
19 incorporated and embraced.

20 We look forward to working with
21 the CSB, the State of California and the
22 refiners nationwide to make this industry as

1 safe as it can be. Thank you.

2 (Applause)

3 DR. HOROWITZ: Thank you, Mr.
4 Nibarger. And Lionel Trepanier, I believe it
5 is, emails. And he's been very persistent in
6 getting his email through from the Utah Tar
7 Sands Resistance in a lengthy email, Mr.
8 Chairman.

9 So I think, with your permission,
10 we'll include it in the record. And I'll
11 just summarize his comment which is that they
12 generally agree with and support the CSB's
13 recommendations for substantial changes to
14 the way oil refiners are regulated.

15 But they must "vigorously
16 protest," their words, that the CSB is not
17 making similar recommendation in Utah. And
18 he notes Chevron's sulfidation incident in
19 Utah as well as other refinery incidents that
20 have occurred there and notes that Utah has
21 only six compliance inspectors in process
22 safety management.

1 And they support the CSB's
2 recommendation, and they ask for it to be
3 extended to the Government of Utah.

4 Next is Sandy Saeteurn from the
5 Asian Pacific Environmental Network. Thank
6 you. Could you spell your name please?

7 MS. SAETEURN: Yes. First name is
8 Sandy, last name is Saeteurn, S-A-E-T-E-U-R-
9 N, and Sandy Saeteurn, Richmond resident and
10 community organizer for the Asian Pacific
11 Environmental Network, APEN.

12 For those of you who aren't
13 familiar with APEN, we're an organization
14 that's 20 years old. Our mission is to
15 organize low income immigrant and refugee
16 communities here in Richmond, Oakland, as
17 well as across the State of California on
18 environmental justice issues.

19 And first off, APEN would like to
20 thank the CSB for conducting a thorough
21 investigation and providing real solutions
22 and recommendations that the community can

1 rally behind.

2 And today, we're here not only
3 with our Richmond fellow residents and the
4 community here, but we have our brothers and
5 sisters from our neighboring refinery cities.

6 And we're all here tonight because
7 we want the same thing. We want
8 environmental protections. We want justice.
9 And so we're all scared, of course. I know
10 I'm scared. I grew up here in Richmond,
11 lived right across the street from the
12 refinery, had to deal with a lot of incidents
13 that, you know, me as a kid growing up here
14 shouldn't have to be dealing with.

15 I had tons of health issues
16 growing up. And now I'm raising a family
17 here. So I definitely am concerned. I know
18 all of our community members are as well.
19 And we look to all of you, the regulatory
20 agencies, our elected officials and the
21 Government to do your job and protect us.

22 So tonight, as a Richmond resident

1 and an APEN representative, I'm proud to say
2 I, we, support the Safety Case regime. We
3 urge the Board to adopt the staff
4 recommendations, and we also look forward to
5 more imitation and engagement on the
6 development of strong health and safety
7 models. Thank you.

8 DR. HOROWITZ: Thank you.

9 (Appause)

10 DR. HOROWITZ: And next we have a
11 question email from Charlotte Brody, who is
12 the Vice-President for the BlueGreen
13 Alliance.

14 And she writes, "Do you agree that
15 one of the key components for the effective
16 use of the Safety Case is parity of power
17 that allows triparthied safety management and
18 decision making? If you do, how do you think
19 we get there in our current regulatory
20 environment?"

21 And she writes, "Thank you for
22 your work and for this public meeting."

1 Would anyone like to address that question,
2 as to how do you achieve the tripartied
3 system?

4 MR. HOLMSTROM: Well, I mean, we
5 think that, as we say in our report, that the
6 elements are already there. That in
7 California you have, I mean, you've heard
8 from, I think, the two major locals, both in
9 the comment period and also here tonight,
10 engage very eloquently about issues they're
11 facing that the two unions have.

12 So I think that that element is
13 certainly strong and very committed to
14 improving the system.

15 I think we've heard from the
16 regulators here tonight that they're also
17 committed to improving the system. And I
18 think the comment that I heard earlier about
19 having the will to change is an important
20 one.

21 And I think there's always a lot
22 of reasons to not take action. But I think

1 what I observe from the various parties here
2 in California ever since we engaged out here
3 last August was a strong will to change, and
4 improve and prevent these incidents from
5 occurring from a number of different
6 stakeholders.

7 And we've heard that from industry
8 as well. We've heard a strong desire from
9 industry that these incidents are not
10 acceptable from their perspective. And
11 they're going to do everything they can to
12 prevent them.

13 So I think that, from the will
14 standpoint, I think it's off the charts from
15 what we've seen. And that's been our
16 experience. And I think, as one speaker said
17 earlier, it's at the execution stage. And I
18 think that's where we're at right now. And
19 that's obviously always a critical stage,
20 when people (inaudible).

21 DR. HOROWITZ: Thank you. And
22 we'll go back to the room. Next is Nicole

1 Heath of the Contra Costa Hazardous Materials
2 Program, I guess it is. Ms. Heath, are you
3 here? Ms. Heath? Well, maybe not.

4 Next is Gail Bateson, Worksafe.
5 Ms. Bateson?

6 MALE PARTICIPANT: She's over in
7 the comment section.

8 DR. HOROWITZ: Oh, there you are.

9 MS. BATESON: Thank you, good
10 evening. My name is Gail Bateson. It's
11 spelled B-A-T-E-S-O-N. I'm the executive
12 director of Worksafe. We're a statewide
13 advocacy group.

14 But I wanted to mention that I
15 also previously worked for almost two decades
16 with the Oil, Chemical and Atomic Workers
17 Union on their PSM curriculum and also with
18 the Labor Occupational Health Program
19 developing their human factors curriculum to
20 implement the countywide Industrial Safety
21 Ordinance.

22 I'd like to begin by thanking the

1 CSB members, and Chair and the staff for
2 coming out to the community, and not only for
3 that but for the work that you do and for
4 your work to really get through these
5 investigations, to find the root causes of
6 incidents but also for your consideration of
7 some new perspectives and approaches to
8 prevention.

9 Overall, while I think the Safety
10 Case approach is appealing, I actually agree
11 with several of the written comments on the
12 Website that point out that there are some
13 important underlying conditions that must be
14 in place before we can move away from the PSM
15 standard and embrace more of the Safety Case
16 approach, in particular, Steve Gill of the
17 U.K., and Naj Meshkati and many of the
18 comments made by Ms. Rosenberg.

19 I think at best it's a very long
20 term goal. And given the current state of
21 Cal/OSHA I think we're far from ready,
22 although I certainly appreciate the steps

1 outlined by Mike Wilson earlier. I think we
2 need to take a real assessment of where we
3 are right now.

4 But there are some short term
5 immediate recommendations that, if enacted,
6 could lay the foundation for, down the road,
7 integrating more of a Safety Case approach.

8 And a couple of these are, first,
9 to recommend to the Governor that California
10 reform its labor code to require the timely
11 abatement of serious violations. This was
12 raised by Congressman Miller.

13 This is a law that exists in
14 Oregon, and Washington and really throughout
15 the country through the IMAGE (phonetic)
16 program. And it's working very well at all
17 three locations. And we know this because we
18 have, through our office, interviewed the top
19 officers of all three of those programs.

20 So it really helps a great deal to
21 have that kind of recommendation coming from
22 the CSB to the Governor.

1 A second related point is that CSB
2 had a recommendation that Chevron make
3 certain changes in all of their (inaudible)
4 facilities. Now, I understand this is fairly
5 typical recommendation you make. It's
6 important to note that in California we still
7 do not ever have a repeat citation policy
8 which really ties the hands of the agency
9 when it finds similar violations at other
10 facilities in California, such as the people
11 who came up here from Los Angeles.

12 So having a repeat policy that's
13 at least as effective as Federal OSHA, with
14 Cal/OSHA's enforcement agency much more teeth
15 right away, not only across the refineries
16 but across the chemical plants and all the
17 facilities in California. Federal OSHA's
18 repeatedly raised this with Cal/OSHA through
19 its annual FAME audits.

20 We have had a lot of talk about
21 different regulatory regimes. But they will
22 really only work with effective enforcement

1 and adequate staffing.

2 And it's important to mention that
3 Cal/OSHA does have a couple of very special
4 strong tools. One is it actually does have
5 authority under its PSM to address inadequate
6 process hazard analyses and to cite the
7 companies for these. And they have done that
8 on some occasions. So that authority exists.

9 California is also unique to have
10 what we call orders prohibiting use, OP use
11 (phonetic). And as you know, that was used
12 in the Chevron Refinery to shutdown a unit
13 for eight months. So there're some really
14 great tools we have.

15 But what we really need is more
16 adequate staffing. And I think that we need
17 more than just more inspectors in this
18 isolated PSM unit but also throughout the
19 agency for when the citations get appealed.
20 Then you need to have the legal unit and
21 other experts come in and defend. So it just
22 can't be the PSM unit itself.

1 So if you look at what Federal
2 OSHA thinks we should have on benchmarks for
3 Cal/OSHA for inspectors it's 805. If you
4 look at what we should have if we had the
5 equivalent of what Oregon or Washington has,
6 we'd have close to 900.

7 But what do we have, in fact, 165,
8 and no real plan to change that except for
9 the latest budget which has 12 new safety
10 engineers, which I assume are going to the
11 PSM unit.

12 So we really need specific
13 instructions from you of what would be
14 adequate staffing if we're going to look for
15 the more aggressive safety regime approach.

16 Similarly, we commend your
17 recommendation to move for the more
18 triparthied model. But again, we agree with
19 some of the comments by Naj Meshkati about
20 the importance. In order to have true
21 employee involvement, that above that you
22 have to have genuine management commitment

1 and a safety culture.

2 And that means not just have the
3 operating plants here in California, but at
4 the parent company at the international level
5 where the major financial decisions are made
6 about investments in maintenance and
7 operations.

8 Employees may be participating on
9 some of these teams to do PHAs and some of
10 the follow-up recommendations so it can look
11 like there's employee involvement. But as
12 the interim CSB report showed, upper
13 management at Chevron often ignored internal
14 recommendations.

15 Years ago when I was working for
16 OCAW, I learned from workers at the Richmond
17 Refinery about how draft PHA reports were
18 always far more detailed with all kinds of
19 specific findings and recommendations.

20 But when the final PHAs were
21 reviewed and issued, as they generally do by
22 the legal department, they were much more

1 general and much less useful in terms of
2 pinpointing what the actual problems were.

3 So the problem was not employee
4 involvement but management commitment to
5 addressing hazards in a serious way.

6 Finally, I support the concept of
7 leading and lagging indicators. It's a great
8 idea that can be done immediately. It can
9 provide a more comprehensive set of factors
10 to consider when targeting inspections. And
11 Cal/OSHA already has the discretion in their
12 mandate to do that.

13 So finally, I just wanted to say,
14 and I think Henry mentioned it too about the
15 General Chemical spill, if anyone was around
16 here for that, California should expand this
17 initiative not only to protect people living
18 near refineries but also chemical plants that
19 kind of alter the whole jurisdiction of PSM.

20 And again, I want to thank you for
21 coming out tonight to Richmond to hear from
22 the community.

1 DR. HOROWITZ: Thank you, Ms.
2 Bateson.

3 (Applause)

4 DR. HOROWITZ: Next is Eduardo
5 Martinez representing the Richmond
6 Progressive Alliance. Mr. Martinez?

7 MR. MARTINEZ: Good evening. My
8 name is Eduardo Martinez, M-A-R-T-I-N-E-Z.
9 Environmental and community organizations,
10 residents of Richmond and Contra Costa
11 County, thank you for your investigation of
12 the Chevron fire and Chevron's managerial and
13 organizational culture that allowed the fire
14 to happen.

15 We thank you for your
16 recommendations to improve the safety
17 practices of the oil industry in the United
18 States. We welcome the Safety Care regime as
19 a method to shift from a system of crises
20 management to a system of best practices for
21 safety.

22 What we have today is a static

1 regulatory system that is managed by a strong
2 industry, a weak labor force and a weak
3 Government representation.

4 We see the strength of the oil
5 industry and the influence they wield in
6 public opinion and policy with their lobbyists
7 and their advertising. We see their strength
8 in the millions of dollars they spend on
9 local elections.

10 We see the weakness in unions when
11 industry is able to ignore their efforts and
12 their recommendations. We see the weakness
13 of unions when Government interferes with
14 their efforts to exert their power.

15 We see the weakness of our
16 Government when our legislators are unable to
17 hold the industry accountable, when our
18 Government can only fine Chevron less than
19 what they spend in a local election for
20 criminal actions for the fire created by
21 negligence.

22 So Richmond is in a special place

1 in that the city issues permits to Chevron
2 projects. Under the current system, these
3 permits have been approved on the words of
4 Chevron representation. But that must end.

5 Chevron must finance independent
6 regulators chosen by the city with guidance
7 of unions and local environmental groups.
8 And if Chevron does not meet the Safety Case
9 requirements, the regulators should have the
10 power to stop any processing in the sections
11 that fail the inspections.

12 Concern was voiced over a weak
13 Safety Case regime, but the flexibility of
14 the Safety Case regime would enable changes
15 which is not the case now.

16 The Contra Costa community has
17 awakened. We will make sure that we have a
18 strong Safety Case regime by pushing our
19 Government to do the right things necessary
20 for safety and by supporting our unions.

21 The unions are our first line in
22 defense against the excesses of industry. As

1 citizens, community members, we'll monitor
2 the actions taken by all involved in ensuring
3 our safety. Let's make this happen, thank
4 you.

5 (Applause)

6 DR. HOROWITZ: Thank you, Mr.
7 Martinez. And next we'll go to Diane Bailey
8 of the Natural Resources Defense Council.
9 Ms. Bailey?

10 Good evening, Chairman Moure-
11 Eraso, and Board members and staff. My name
12 is Diane Bailey. I'm a scientist with the
13 Natural Resources Defense Council. And we're
14 also members of the Bay Area Refinery Action
15 Collaborative.

16 I'm here today in strong support
17 of the CSB recommendations, including the
18 Safety Case. We're very grateful that you
19 came here to this community tonight and that
20 you're making a very serious effort to
21 address and improve refinery safety.

22 I want to echo and highlight just

1 briefly some of the comments that you've
2 already heard tonight. First, I'll note
3 Board member Griffon's comments about how
4 it's really not an either/or choice between
5 the Safety Case and regulation. We need
6 both. And we agree.

7 We support the staff's
8 recommendations on the Safety Case with many
9 of the strengthening recommendations that
10 you've heard here tonight, particularly from
11 the representatives of Congressman Miller and
12 Supervisor Gioia's office.

13 These were things like improved
14 enforcement, for example, giving the Contra
15 Costa County more authority for direct
16 enforcement, providing sufficient resources
17 for more qualified inspections and
18 inspectors, requiring the refineries to adopt
19 best practices and also timely abatement.

20 These are just some of the
21 strengthening provisions that I think that
22 you've heard a lot tonight. We really need a

1 proactive approach to refinery safety to
2 replace the current reactive approach.

3 Chevron, in its comments, says
4 that the current safety measures are working
5 just fine, and they support the status quo.

6 However, as your staff noted, in
7 2012 we saw 125 refinery safety incidents, 17
8 of which were in California, including the
9 August 6th, 2012, fire at Chevron Richmond.
10 And that sent 15,000 residents to the
11 hospitals as we've heard so much. And that's
12 the status quo, and the status quo must go.

13 As California faces the import of
14 ever dirtier, and more corrosive and more
15 dangerous crude oils, it is now more
16 important than ever that refinery safety be
17 improved.

18 I'll note that we strongly
19 support the many comments that the
20 steelworkers have made. We think that the
21 voice of the workers at refineries is really
22 essential to informing this process and

1 continuing to improve safety measures.

2 It's essential that the oil
3 industry be held accountable. We cannot let
4 the incident of August 6th, 2012, ever, ever
5 happen again. This is what the community
6 deserves. Thank you.

7 (Applause)

8 DR. HOROWITZ: Thank you, Ms.
9 Bailey. And next we go to Ross Nakasone, I
10 believe it is, of the BlueGreen Alliance.
11 Did I say that correctly, sir?

12 MR. NAKASONE: The BlueGreen
13 Alliance, yes.

14 (Laughter)

15 MR. NAKASONE: Ross Nakasone with
16 the BlueGreen Alliance, N-A-K-A-S-O-N-E.

17 DR. HOROWITZ: Yes, thank you.

18 MR. NAKASONE: Good evening. I'm
19 the California policy organizer with the
20 BlueGreen Alliance. The BlueGreen Alliance
21 (inaudible) via email is a national non-
22 profit that unites ten of the largest unions

1 here in the United States as well as four of
2 the larger environmental groups as well,
3 including NRDC and the Sierra Club.

4 We also are a partner in the
5 Refinery Action Collaborative of the Bay
6 Area. And we support the analysis and
7 direction of the CSB report on the Chevron
8 incident.

9 And specifically we commend the
10 report for accurately recognizing that
11 Chevron management repeatedly neglected to
12 respond to warnings, concerns and
13 recommendations issued by workers and
14 technical staff at the Richmond facility.

15 Even though Richmond Chevron
16 workers recommended employing inherently
17 safer systems due to management of change
18 process, Chevron management ignored those
19 recommendations.

20 We also commend the report's
21 acknowledgment that the California process
22 safety management standard needs to be

1 strengthened in order to prevent such
2 disasters from occurring again. (Inaudible)
3 referencing sulfidation corrosion as has been
4 discussed before.

5 And we also agree with the report
6 in recognizing that Cal/OSHA's ability to
7 sufficiently inspect the facilities and
8 report regulations is hampered by severe
9 under-staffing and under-funding of the
10 agency.

11 And so in accord with all of that,
12 I'd like to highlight the three
13 recommendations that would make an effective
14 system, and you've heard them before.

15 But I think they're worth
16 mentioning again, adequate financial and
17 personnel resources for Government agencies
18 to ensure more robust enforcement and
19 oversight and strong enforceable
20 requirements, including job protection, to
21 ensure meaningful worker involvement in
22 directing or preventing future accidents and

1 to clear focus and outcomes that are measured
2 by group safety rather than box checking.

3 Again, thank you so much for all
4 your work and the staff's work. It's really
5 quite a tremendous effort. And thank you for
6 your leadership.

7 DR. HOROWITZ: Thank you very
8 much.

9 (Applause)

10 DR. HOROWITZ: Next we'll go to
11 Andres Soto of Communities for a Better
12 Environment and the Richmond Progressive
13 Alliance. Mr. Soto, are you here? Oh, there
14 you are.

15 MR. SOTO: Good evening, Mr. Chair
16 and members of the Board, for coming here to
17 Richmond. I would like to thank you very
18 much, as well as for the work of your staff,
19 the diligent work that they've been doing to
20 examine really the causes of this.

21 And essentially it validates what
22 we in the community have been saying for

1 years, that Chevron and, by extension, the
2 industry in general, the WSPA folks and API
3 folks, that they put profits ahead of health
4 and safety.

5 They put profits ahead of the
6 health and safety of the community members,
7 of the labor force, and they squeeze every
8 penny that they can to enrich their
9 shareholders.

10 I had the benefit of attending the
11 Chevron shareholders meeting in 2013 in San
12 Ramon at their headquarters, their corporate
13 headquarters. I had to pass through a
14 phalanx of security, metal detectors, all
15 sorts of things.

16 And then once I got inside there,
17 it was really a parallel universe. Their
18 world is not the same as our world. And
19 those of us who are in the community and have
20 lived here in the shadow of these refineries,
21 have endured the flaring, endured the
22 consistent pollution, not just the episodic

1 pollution but also the persistent pollution
2 that has injured our community, not only
3 through cancers and asthma and all other
4 sorts of autoimmune diseases, but also the
5 way they have injured our democracy.

6 And particularly, this gets to the
7 question of the political will to actually
8 enforce some of these changes, make these
9 changes and make them enforceable as your
10 staff has recommended.

11 We, here in Richmond, just in the
12 last election, Chevron spent \$1.2 million
13 which is more than the record fines they paid
14 for this incident. And that's in a local
15 city council election. Imagine what they're
16 spending in Sacramento, not to mention
17 Washington and all the other state capitals.

18 So that's the challenge that you
19 guys have presented to us and that we are
20 going to take on. And that's the challenge
21 that we are going to have to present to our
22 elected officials, you know.

1 We need the transparency of this
2 regulatory scheme, not just for the workers
3 but for the community. This issue, this
4 hiding behind the skirt of trade secrets is
5 really not a system that is going to impact
6 our community in a positive way.

7 And we have to strip that away.
8 Because these guys trade this stuff back and
9 forth. They're a cartel. We know that
10 because of the way they're planning their
11 bringing in of the North Dakota Bakken and
12 the tar sands into the Bay Area via rail, the
13 rolling pipelines, and the dangers that
14 presents.

15 That's not your bailiwick right
16 now. I guess that would be the NTSB, your
17 counterparts. But, you know, that makes our
18 lives complicated here.

19 But here in the Bay Area, we're
20 very lucky, because we have a long history of
21 experience in learning about this stuff. The
22 information presented in these reports has

1 been tremendously educational to our
2 community and to this region in general.

3 And so I want to thank you. I
4 urge you to adopt the recommendations of your
5 staff. If you need to take these necessary
6 recommendations or amendments that seem to
7 really reinforce what everybody is saying,
8 then go ahead and do that.

9 But I think we want to begin
10 implementing the Safety Case right here in
11 Richmond, right now. We want to do it
12 through our Industrial Safety Ordinance in
13 Richmond and Contra Costa County.

14 We need to have one in Pittsburgh,
15 because of the WesPac project and then,
16 ultimately, in Solano County because of
17 Venetia and, of course, our counterparts in
18 Southern California.

19 So I'll leave it at that. But
20 because of your great work, we want to
21 present you guys with some plaques of our
22 thank you for your great work.

1 (Applause)

2 CHAIRPERSON MOURE-ERASO: I
3 gratefully would like to say that we accept
4 them, with a lot of pride.

5 (Laughter)

6 CHAIRPERSON MOURE-ERASO: This is
7 one of the best reactions that we get from a
8 community for our work. And we are very,
9 very proud to have received this from you.
10 Thank you.

11 MR. SOTO: Well, thank you very
12 much. And once again, thank you to you and
13 your whole team.

14 (Applause)

15 DR. HOROWITZ: Thank you, Andres.
16 And next up is John Bresland, representing
17 Process Safety Risk Assessment. And Mr.
18 Bresland is a long time former CSB Board
19 member and also made the journey from West
20 Virginia with me, I guess, today, although
21 not on the same airplane.

22 MR. BRESLAND: Yes. It seems much

1 safer to be here at the --

2 (Laughter)

3 DR. HOROWITZ: It does indeed.

4 MR. BRESLAND: I don't have any
5 plaques for you. Maybe I brought a message
6 that they don't quite appreciate us as much
7 as the one that can (phonetic).

8 Good evening, my name is John
9 Bresland, spelled B-R-E-S-L-A-N-D. I'm a
10 former chairperson and Board member of the
11 Chemical Safety Board. I had the pleasure of
12 serving the CSB for ten years.

13 I appreciate this opportunity to
14 make a statement regarding the CSB's
15 recommendation that California implement what
16 is known as the Safety Case.

17 I have over 40 years experience
18 with process safety, both in industry and
19 with the U.S. Government. Throughout my
20 career, including my tenure at the CSB, I've
21 focused on effective ways to prevent or
22 minimize the consequences of process safety

1 accidents such as fires, explosions and toxic
2 releases.

3 I know that incidents like these
4 hit close to home. As a CSB Board member I
5 met with families whose lives were forever
6 changed because of catastrophic accidents.

7 I understand the fear, the anger
8 and the uncertainty that grips the workforce
9 and the surrounding community following these
10 types of events.

11 I share the common desire of
12 workers, employers, elected officials and
13 communities to ensure that the facilities
14 operate safely. And most importantly, I
15 recognize that changes are required to
16 prevent process safety accidents from
17 occurring.

18 Calls for regulatory changes are
19 appropriate. It is important, however, to
20 ensure that we do not make decisions in haste
21 or simply for the purpose of change. To be
22 credible, findings and recommendations

1 arising from incident investigations must be
2 grounded in rigorous scientific and
3 engineering principles.

4 Arguments used to support them
5 must be supported by data and evidence that
6 has been subjected to rigorous technical
7 scrutiny.

8 Only then can we be certain that
9 we've identified the true root causes of an
10 incident and have developed effective
11 recommendations to prevent a recurrence.

12 Unfortunately, the CSB Safety Case
13 recommendations fall far short in this
14 regard. There is no empirical evidence that
15 the Safety Case is more effective at
16 preventing process safety incidents than
17 other regulatory approaches, including
18 California's process safety management
19 standard.

20 The CSB admits as much when it
21 states in the report that, "There have been
22 few objective studies conducted on the impact

1 of the Safety Case regulatory approach on
2 safety performance."

3 As a result, the CSB is left to
4 promote the benefits of a regulatory regime
5 unfamiliar to U.S. regulators and industry
6 alike through what is little more than a
7 limited survey of anecdotal reports and
8 personal opinions.

9 I'm not alone in my concern. A
10 number of highly regarded safety experts have
11 urged the CSB not to approve this
12 recommendation.

13 Dr. Nancy Leveson, for example,
14 has worked in the area of system safety for
15 34 years. She is currently a professor of
16 aeronautics and astronautics and a professor
17 of engineering systems at the Massachusetts
18 Institute of Technology.

19 In the area of public accident
20 investigation, she served as a senior
21 consultant for the Commission on Deep Water
22 Horizon and as a member of the Baker Panel.

1 Dr. Leveson has written a letter,
2 mentioned already this evening, has written a
3 letter to the CSB which expresses her strong
4 reservations about the Safety Case. And I
5 have a copy of her letter for introduction
6 into the record for this evening's meeting.

7 Dr. Leveson states that there is
8 insufficient objective evidence that the
9 Safety Case is superior to other regulatory
10 approaches or that it more effectively
11 promotes and improves process safety.

12 Careful evaluation in comparison
13 of the efficacy of the available approaches,
14 including the Safety Case, simply has not
15 been done.

16 She adds, "Most papers addressing
17 or promoting the use of the Safety Case
18 regimes ignore the fundamental question of
19 whether a Safety Case regime is effective,
20 let alone more effective than other
21 approaches.

22 Unfortunately, the draft

1 regulatory report suffers a similar
2 deficiency in that CSB has offered little
3 more than personal opinions regarding the
4 effectiveness of the Safety Case regime
5 supported by reference to other personal
6 opinions.

7 A far more thorough empirical
8 analysis is required before the CSB should
9 recommend such a sweeping change. In fact,
10 Dr. Leveson believes that, if anything, the
11 weight of the available evidence indicates
12 that the Safety Case offers no superior
13 protection against process safety incidents.

14 She observes that (inaudible)
15 Safety Cases have been faulted in numerous
16 accident reports. For these reasons, Dr.
17 Leveson very recently confirmed to me her
18 belief that, "This idea of using Safety Cases
19 in the U.S. is a very odd one."

20 I'm also concerned that the CSB
21 has not adequately considered or disclosed
22 the burdens and potential consequences of the

1 fundamental change that it is proposing. The
2 CSB report fails to consider the very real
3 potential for diminished safety reforms
4 during a transition to the Safety Case.

5 The Safety Case cannot be achieved
6 by executive directive. It can only be
7 implemented through legislative action. It
8 will take years to implement and comes at a
9 significant cost.

10 Every dollar spent by the State of
11 California to implement the Safety Case
12 approach is a dollar that is not spent on
13 other efforts including the existing process
14 safety programs.

15 Every hour spent by an inspector
16 learning how to implement the Safety Case is
17 an hour not spent on an on-site inspection.
18 Without clear empirical data showing a
19 guaranteed benefit, these tradeoffs are not
20 acceptable.

21 Dr. Leveson again shares my
22 concerns. She is worried that the agency

1 does not fully appreciate the resources that
2 the State of California would need to
3 implement the Safety Case recommendation.

4 Dr. Leveson believes that the
5 effective implementation of the Safety Case
6 would require California to allocate millions
7 of dollars to the hiring and training of a
8 significant number of additional regulators
9 and inspectors.

10 I believe that the CSB needs to
11 first conduct a rigorous technical study of
12 the different regulatory regimes so that it
13 can develop a meaningful data on which it can
14 then base a recommendation.

15 If there is a demonstrated benefit
16 to the Safety Case, elected officials and
17 regulators can then make an informed decision
18 about whether its benefits outweigh the
19 costs.

20 But the CSB is aware Federal OSHA
21 is working to improve the PSM standard
22 through a recently issued request for

1 information.

2 Furthermore, President Obama has
3 signed an Executive Order establishing a
4 federal multi-agency chemical facility and
5 safety and security working group with a
6 mandate to further improve chemical facility
7 safety and security in coordination with
8 owners and operators.

9 With these efforts underway, a
10 better approach would be for CSB to study the
11 Safety Case while exploring efforts to
12 improve the existing process safety
13 management program.

14 And for these reasons, I
15 respectfully oppose the CSB recommendation
16 directed to the State of California to
17 implement the Safety Case. Thank you for the
18 opportunity to speak here this evening.

19 DR. HOROWITZ: Thank you. Was
20 there a --

21 (Applause)

22 DR. HOROWITZ: -- a letter that

1 you wanted to --

2 MR. BRESLAND: I'll get it for
3 you.

4 DR. HOROWITZ: Okay. George R.
5 Monterrey, Mr. Monterrey?

6 MR. MONTERREY: Yes, my name is
7 George Monterrey. And it's spelled M-O-N-T-
8 E-R-R-E-Y. And thank you, CSB Board, for
9 letting me speak here tonight.

10 I represent PEC, Pittsburgh Ethics
11 Council. And in Pittsburgh we are upset that
12 our city council would consider a dangerous
13 product like WesPac and not notifying us
14 about this project.

15 WesPac is trying to refurbish and
16 build a huge storage and transfer terminal
17 for crude oils brought in by rail and barge
18 on an old and decrepit PG&E plant that has
19 not been in service for two decades.

20 And, it being so close to our
21 homes, schools, parks and churches, we stand
22 in support of the Chemical Safety Board's

1 recommendation for Safety Case regime before
2 any crude oil related project can start up.

3 If we have the Safety Case regime
4 now, WesPac's dirty crude by rail could not
5 go forward. So Pittsburgh would like you to
6 adopt the Safety Case regime.

7 And in closing, the gentleman that
8 spoke, all the gentleman that spoke for the
9 petroleum industry, they're still for the
10 crude.

11 (Applause)

12 DR. HOROWITZ: Thank you, Mr.
13 Monterrey. Next is Mr. Roger Lin of CBE.
14 Mr. Lin?

15 MR. LIN: Good evening, members of
16 the Board. I'm Roger Lin, L-I-N. I'm an
17 attorney with Communities for a Better
18 Environment. Thank you again for coming to
19 Richmond. I won't keep you long, just three
20 really quick points.

21 First, your staff's thorough and
22 extensive work correctly (phonetic) done by

1 the current refinery safety system is broken.
2 We need systems in place that would never
3 allow Chevron management to ignore the advice
4 of its own safety inspectors.

5 Second, the Safety Case regulatory
6 regime properly shifts risk management
7 responsibility to the company and its
8 employees and requires continuous risk
9 reduction. This community needs the Safety
10 Case.

11 Most of all, and in all due
12 respect to the prior chairperson of the CSB,
13 it replaces the relatively insignificant
14 fines that are basically like chump change to
15 the refineries with an actionable license to
16 operate. We need this.

17 Third and finally, to effectively
18 implement this new regulatory regime, it's
19 essential to obtain real and meaningful
20 community and worker participation. These
21 are the eyes and ears that will assist
22 regulators to ensure effective

1 implementation.

2 And as the Board's highlighted
3 tonight, the opinion of workers and community
4 must be given the same participatory weight
5 as industry and regulators.

6 If there are any doubts about the
7 effectiveness of this participation, remember
8 that this community, this community busted
9 Chevron for trying to hide the company's
10 switch to refining a lower quality oil feed
11 supplement.

12 And the Court of Appeal agreed
13 with us. We can get there without
14 litigation. But first we have to have that
15 equal weight participation.

16 Finally, this problem is real,
17 urgent and just as big, if not bigger, than
18 the required solution. Thank you again for
19 your time. Please adopt your staff's
20 recommendation. As I said, they're a great
21 start.

22 (Applause)

1 DR. HOROWITZ: Thank you, Mr. Lin.
2 Melvin Willis, ACCE. Mr. Willis? Thank you.

3 MR. WILLIS: Good evening, members
4 of the Board and staff, Melvin Willis, W-I-L-
5 L-I-S.

6 The last time you guys were out
7 here and came up with those great
8 recommendations for modernizing refineries as
9 nationwide recommendations, I sat here before
10 you and told you that when those
11 recommendations were made on the pipe that
12 exploded in 2012, happened in actually 2002.
13 I was 12 years old when those recommendations
14 were made.

15 And then in 2012, ten years later,
16 it was still left unattended, you know, pure
17 negligence. And nothing was done at the age
18 when I turned 22.

19 This is definitely something that
20 is really needed. I've heard arguments
21 saying that the current standards are okay
22 today but clearly not, if under those same

1 standards 15,000 people went to the hospital
2 and almost 19 workers have lost their lives
3 under those standards.

4 So just, you know, I don't want to
5 take any more of your time. You guys have
6 heard it all.

7 But one thing that I would ask
8 that be put on these recommendations for your
9 consideration is that when you recommend
10 these to the cities, states and other
11 entities that you say that these
12 recommendations should be immediately
13 adopted. Thank you very much.

14 (Applause)

15 DR. HOROWITZ: Thank you, Mr.
16 Willis. And next we will go to Mr. Andy
17 Katz. Mr. Katz, are you here?

18 MR. KATZ: Good evening, Board
19 members. My name is Andy Katz. I'm a
20 director at the East Bay Municipal Utility
21 District, and I'm a Clean Air advocate for
22 Breathe California, a public health

1 organization.

2 And we're here to support the
3 community, and the workers and the Chemical
4 Safety Board's recommendations. And I
5 encourage you to adopt the report in front of
6 you.

7 Your report is supported by your
8 findings. And your findings are supported by
9 the facts. Your report very well illustrates
10 the failures in the current system, the
11 failure of the facility to prevent the
12 disaster on August 6th, 2012, a failure to
13 perform adequate maintenance and the failure
14 to implement inherently safer technology that
15 would have prevented the sulphide corrosion
16 that was a major cause of the refinery
17 explosion.

18 The report goes into a number of
19 excellent issues. It discusses the
20 coordination between the agencies,
21 transparency and the empowerment of workers
22 through the tripartied system.

1 It's important to emphasize what
2 you've talked about in terms of regulator
3 competence and resources. But what's most
4 important about the Safety Case is ensuring
5 that there will be inherently safer
6 technology as a core component of the Safety
7 Case.

8 The demonstration to the regulator
9 that there must be the safest standard
10 achieved, that's a major improvement compared
11 to the current system and will help keep the
12 community safe, help keep the community
13 healthy and protected from future disasters.

14 I fully encourage the authority to
15 adopt the report in front of you to ensure
16 that we have the community's health and
17 safety protected.

18 I also encourage you to look at
19 the recommendations made by the elected
20 officials, Mayor McLaughlin, Vice-Mayor
21 Jovanka Beckles, Supervisor John Gioia and
22 Congressman Miller and follow through with

1 their recommendations in a subsequent report.

2 Because the issues have been
3 raised, such as Cal/OSHA improvements, the
4 ability for Cal/OSHA to be able to abate
5 violations in a faster fashion, inter-agency
6 roles, especially the ability of local
7 agencies to be able to take enforcement
8 actions, and many of those other suggestions
9 documented in their written letters.

10 It's very important to follow-up
11 on these issues. And I encourage those to be
12 looked at in a forthcoming report following
13 adoption of your current report tonight.

14 The follow through of the Chemical
15 Safety Board would be much appreciated. All
16 of your great work today, you fully deserve
17 the plaques that you were given tonight and
18 hopefully much more appreciation that those
19 symbolize.

20 Your independent voice and your
21 technical capacity has brought a real change
22 to the conversation, a real call to action.

1 And I thank you so much for providing those
2 resources and that momentum to this
3 community. Thank you.

4 (Applause)

5 DR. HOROWITZ: Thank you very
6 much, Mr. Katz. And now we'll go to Mike
7 Parker of the Richmond Progressive Alliance.
8 Mr. Parker?

9 MR. PARKER: Mike Parker, P-A-R-K-
10 E-R. It's a funny thing about regulation and
11 politics. Change only happens really in
12 spurts in response to incidents when the
13 public is focused on it and paying attention.

14 The net result of asking for
15 delays, and dragging things out and
16 perfecting things before things happen is, in
17 reality, a way to kill things. That's
18 because the public will not continue to focus
19 on this because there will be other incidents
20 and other problems that will happen.

21 Therefore, what I'm saying is that
22 the calls for delay by and large are calls

1 for maintaining the status quo. And that's
2 the one thing we cannot afford in the system.

3 So I urge adoption of what you
4 have here and it's clearly safer. After all,
5 it's only a recommendation. It just starts
6 the process somewhere else. This isn't the
7 final answer. All these things can be worked
8 out as it goes through the process. And then
9 we move on.

10 And we then move on to the kinds
11 of issues that were raised by Ms. Rosenberg
12 and Mr. Griffon, which is that any regulation
13 will fail if there are not two things.

14 The first is that if unions are
15 weak, they cannot protect the workers in
16 those plants who have to be the people who
17 are the onsite inspectors. And if they have
18 to be the whistle blowers and if the unions
19 cannot protect them as whistle blowers, we
20 have no safety regime at all.

21 Because outside regulation can
22 only go so far. There have to be people

1 onsite who know the process and are working
2 with it. And they have to be protected.

3 Secondly, even if the regulators
4 are trained and paid well, and I'm all for
5 doing that, they will still be a revolving
6 door with the industry, as we've seen with
7 the banking industry and every other
8 regulation that's taken place in this
9 country, unless the political authority that
10 is behind these regulators is concerned first
11 with the needs of the people rather than the
12 needs of the corporation.

13 When Chevron controls the
14 Government through its campaign
15 contributions, its lobbying activities and
16 various other ways of buying community
17 support, it doesn't really matter if we have
18 good trained regulators.

19 We still will get the same thing.
20 Namely, we'll get Chevron doing what it wants
21 to do in the name of higher profits.

22 So it would be good if the report

1 would note that problem and put in there that
2 something has to be done about the
3 contributions and the political power that
4 Chevron and the oil industry have as a result
5 of their money.

6 Only then, only when the public
7 understands that that really is their safety,
8 that they elect people who are willing to
9 represent the people rather than the
10 corporations, can we really make these kinds
11 of operations safe. Thank you.

12 FEMALE PARTICIPANT: Bravo.

13 (Applause)

14 DR. HOROWITZ: Thank you, Mr.
15 Parker. And how about Tarnel Abbott, Mr.
16 Tarnel? Ms. Abbott?

17 MS. ABBOTT: Yes. That's Tarnel
18 Abbott, it's T-A-R-N-E-L A-B-B-O-T-T. Thank
19 you very much for --

20 DR. HOROWITZ: And representing
21 the Richmond Progressive Alliance also,
22 ma'am?

1 MS. ABBOTT: Yes.

2 DR. HOROWITZ: Thank you.

3 MS. ABBOTT: But I'm also
4 representing myself as a citizen of this
5 city, resident, long-term resident. I do
6 want to thank the CSB for coming to Richmond
7 and spending a lot of time on this issue.

8 I was pretty close when the fire
9 happened. And I also sought medical
10 attention. But because I did not go to an
11 ER, I went the next day and saw my doctor, my
12 visit was not recorded or counted.

13 I'm probably not the only one. So
14 let me say that 15,000 people went to get
15 medical help, it's at least 15,000 and maybe
16 more.

17 The toxic load in Richmond is
18 severe. It's from the Richmond Refinery,
19 it's from the port, it's from other
20 industrial sources. The people in this
21 community have an over-burden, a health over-
22 burden, an overload.

1 I worked for 22 years at the
2 Richmond Public Library as a librarian. And
3 I lost so many colleagues to cancer that it's
4 absolutely heart breaking, young people. And
5 it's continuing.

6 I do think Chevron is partly to
7 blame for that. My son had asthma, and I can
8 tell you now that he moved away, he doesn't
9 have asthma anymore.

10 In terms of the trade secrets,
11 Chevron has used proprietary information to
12 basically not allow testimony in a public
13 courtroom. And so I would be very wary about
14 that.

15 In terms of enforcement, the prior
16 speaker, Mr. Parker, said it beautifully,
17 because Chevron spends so much money on the
18 local elections it's very hard for the local
19 body to be the objective regulator that they
20 need to be.

21 They need to do the regulations,
22 but somehow the real teeth have to be

1 separated from the corruption of the
2 democratic process that happens when
3 elections are bought. And they are bought.

4 It's utterly shocking and
5 disingenuous when industry expresses fear
6 that the Safety Case approach might even
7 create more risk. That is just the most
8 ludicrous thing I've heard.

9 As I see it, the Safety Case
10 approach is something that strives towards
11 prevention of accidents, and because it sends
12 up the inclusion of the workforce into the
13 recommendations.

14 And they are the ones on the front
15 line who do know what's needed. I think
16 these are very good recommendations, and I
17 urge you to adopt it. Thank you very much.

18 (Applause)

19 DR. HOROWITZ: Thank you very
20 much. And next we'll go to Jeff Kilbreth,
21 Richmond Progressive Alliance. Mr. Kilbreth?

22 MS. ABBOTT: He's gone.

1 DR. HOROWITZ: He's gone, okay.
2 And Roger Lin, well, this is a duplicate.
3 Did you have an additional comment or perhaps
4 you just signed up twice?

5 (Off microphone discussion)

6 DR. HOROWITZ: He left. Okay,
7 very good. And next is Martin MacKerel,
8 Sunflower Alliance, Mr. MacKerel?

9 MR. MACKEREL: Thank you. Yes,
10 it's Martin MacKerel, A-C, capital K-E-R-E-
11 L.

12 DR. HOROWITZ: Oh.

13 MR. MACKEREL: You can say it
14 either way, that's fine.

15 DR. HOROWITZ: Okay.

16 MR. MACKEREL: So, yes, I'm with
17 the Sunflower Alliance and 350 Bay Area
18 working on climate and environmental justice.

19 I did have one comment for the
20 gentleman from WSPA and API. Please stop
21 exploring for fossil fuels. We already have
22 five times the amount in service than we can

1 safely burn. Thank you.

2 So regarding the Safety Case
3 regime, so I mean, look at some of the stuff
4 that's happened lately. We have the
5 explosion a year and half ago. We've been
6 seeing these bomb trains with Bakken shale
7 oil, just can't stop exploding, back two the
8 last couple of weeks.

9 We have this just absolutely
10 ridiculous disaster in West Virginia. It's
11 clear that there's a lot of industry that's
12 just out of control and that, across the
13 board, regulation is inadequate.

14 And I really hope that this can be
15 part of a sea change of how society interacts
16 with industry and really make the case. We
17 need to absolutely change the way we look at
18 things and have safety first.

19 And I think there's, you know,
20 this idea that somehow the Safety Case regime
21 would be more dangerous, it's ludicrous. And
22 I think there's one thing in there, if I

1 understand it correctly, that I think I see
2 why the corporations really don't like it,
3 which is to say that if things are unsafe the
4 regulators have the power to stop production.
5 That's what -- am I incorrect on that?

6 FEMALE PARTICIPANT: That's true,
7 but they don't do it.

8 MR. MACKEREL: Of course they
9 don't do it. So we're going to have to push
10 them on that. But the power is there.

11 So, I mean, Chevron could just
12 brush off a million dollar fine. Stopping
13 production would actually hurt them, and
14 actually they would have to stop with the
15 rest of the issues.

16 But at any rate, I think, you
17 know, we're in a crazy time right now. We're
18 facing myriad really complex crises. And
19 it's a time where we need, we need unlikely
20 heroes.

21 And we have, for example, here in
22 the Bay Area, the Bay Area Air Quality

1 Management District, which is kind of an
2 oddball regulatory agency, has really stepped
3 up to the plate and been really far sighted
4 about helping to regulate greenhouse
5 emissions and have a plan for the future,
6 actually reducing them.

7 And so I hope that, on this front
8 of chemical, you know, regulation, that the
9 CSB can do a similar thing. Thank you very
10 much.

11 (Applause)

12 DR. HOROWITZ: Thank you, Mr.
13 MacKerel. Next we have Ethan Buckner of
14 Forest Ethics. Mr. Buckner?

15 MR. BUCKNER: Hi there. My name's
16 Ethan Buckner. It's E-T-H-A-N B-U-C-K-N-E-R.
17 I'm the U.S. organizer for Forest Ethics.
18 And first I'd like to thank the CSB staff for
19 your tireless work -- it may be tired at this
20 point --

21 (Laughter)

22 MR. BUCKNER: -- to draft this

1 report, the interview today. And I strongly
2 urge the CSB to adopt this report.

3 And there are many reasons why
4 adopting a Safety Case regime is critical to
5 protect workers, and communities and
6 environments. And I'd like to highlight one
7 particular aspect of the CSB's
8 recommendations that's essential, especially
9 here in the Bay Area and across the United
10 States.

11 The need for regulatory regime is
12 adaptable and continuously improved. If
13 regulations cannot keep up with a rapidly
14 expanding and changing industry, cities like
15 Richmond, Pittsburgh, Venetia, Rodeo,
16 communities that all here in the Bay Area are
17 facing proposals for expanded infrastructure,
18 will be at much greater risk for repeats of
19 the August 12th fire or worse.

20 We need regulations that can
21 specifically address the rapid increase of
22 unconventional, dirty and dangerous crude oil

1 being brought here into the Bay Area,
2 including tar sands from Alberta, noting that
3 the (inaudible) has a significantly higher
4 sulphur content than traditionally applied
5 crude. And it's been identified that
6 sulfidation was a significant cause of
7 corrosion to the pipes in the 2012 fire, and
8 also oil coming from North Dakota's Bakken
9 fields which is highly volatile and
10 dangerous, as pointed out by a letter just
11 released this past week by the Department of
12 Transportation and evidenced by countless
13 derailments and explosions, notably the Lac-
14 Megantic explosion that leveled the small
15 town and killed 47 people.

16 It's an industry that's intent on
17 maximizing profit at the expense of community
18 and worker health and safety. And we need a
19 strong regulatory regime to counter that.

20 We can't afford a reactive
21 approach of refinery regulation if this
22 approach is demonstrably ineffective. We

1 cannot afford to wait for another disaster.
2 We must take bold action to protect the
3 health and safety of workers and communities.

4 So I urge the CSB to approve this
5 report. And I urge municipal and regional
6 decision making bodies, particularly the
7 Contra Costa County Board of Supervisors and
8 the Bay Area Air and Quality Management
9 District to withhold any permit, to withhold
10 any oil expansion permit until Safety Case
11 regime is effectively adopted and
12 implemented. Thank you very much for your
13 work.

14 (Applause)

15 DR. HOROWITZ: Thank you. And
16 next is Stephanie Harvey, I believe,
17 Communities for a Better Environment. Ms.
18 Harvey? Is Ms. Harvey here?

19 (Off microphone discussion)

20 DR. HOROWITZ: Okay. And then
21 we'll go to Katrina Ruk, Council of
22 Industries. Ms. Ruk?

1 MS. RUK: Yes.

2 DR. HOROWITZ: Is it Rok or Ruk?

3 MS. RUK: It's Ruk.

4 DR. HOROWITZ: Oh, okay.

5 MS. RUK: Ruk, sorry. And it's
6 Katrinka, K-A --

7 DR. HOROWITZ: Katrinka, I'm
8 sorry.

9 MS. RUK: Yes. I have a letter
10 I'll give you.

11 DR. HOROWITZ: Okay.

12 MS. RUK: I want to say good
13 evening and --

14 DR. HOROWITZ: Could you just
15 spell it for the --

16 MS. RUK: K-A-T-R-I-N-K-A.

17 DR. HOROWITZ: R-U-K?

18 MS. RUK: R-U-K.

19 DR. HOROWITZ: All right, thank
20 you.

21 MS. RUK: I want to thank you for
22 having the opportunity to speak today. I am

1 Executive Director of the Council of
2 Industries.

3 We are based in Richmond, and
4 we're a trade organization that represents
5 members in the West County area, industrial
6 facilities and other businesses. I also live
7 in Richmond, for the past 25 years.

8 Calls for regulatory changes to
9 improve industrial safety are appropriate as
10 that scenario where continuous improvement is
11 always warranted.

12 However, it's important that
13 proposals for a change in the safety regime
14 are considered and applied at the appropriate
15 level of Government to ensure that we do not
16 make decisions in haste or simply for the
17 purpose of change.

18 It is not that the Safety Case is
19 wrong or inherently flawed as a regulatory
20 approach. But it does need to be applied to
21 a broad level of industrial facilities to
22 ensure the best outcome in improving

1 industrial safety.

2 The CSB's report addresses its
3 recommendations to the State of California
4 rather than local or regional jurisdictions,
5 since the complexities of this issue are best
6 suited to be assessed at the state and
7 federal level.

8 It is unnecessary for the city to
9 act on its own, given the role that the State
10 is playing. Indications are that Cal/OSHA is
11 already working with the CSB regarding these
12 recommendations, and both the city and Contra
13 Costa County should be considered as
14 important stakeholders in the State's
15 process.

16 For the city to take ownership of
17 the complexity and cost of such a regulatory
18 overhaul, and the ultimate administration of
19 the safety regime that is unique to the City
20 of Richmond, would result in additional
21 layers of regulation with no guaranteed
22 benefit.

1 This approach would also undermine
2 the focus the city has on implementing the
3 recommendations the CSB already made to
4 Richmond in Contra Costa County to revise the
5 Industrial Safety Ordinance.

6 Industrial safety is a complex and
7 serious issue. Clearly by the amount of time
8 you all have spent on this, it shows that it
9 needs to be managed at the appropriate level
10 of government.

11 The city does not currently have
12 the capability, and it would be complicated
13 for the city to develop the capability to
14 manage a safety program that is not aligned
15 and consistent with other Government safety
16 oversight programs.

17 The Council of Industry believes
18 the City of Richmond and Contra Costa County
19 should participate in the Cal/OSHA process to
20 consider the CSB's recommendation to adopt
21 the Safety Case rather than pursuing local
22 adoption. Thank you for allowing me time to

1 speak.

2 DR. HOROWITZ: Thank you, Ms. Ruk.
3 Next we go to Joseph Pillao (phonetic). Mr.
4 Pillao, are you here, sir?

5 MR. PILLAO: Joseph Pillao, I'm
6 speaking for myself. I live in Richmond. I
7 want to thank the CSB for all its hard work
8 and voluminous information.

9 The Safety Case requires a five
10 part process. And I believe a fatal flaw has
11 been demonstrated tonight. We've heard from
12 labor, we've heard from the community. Where
13 is the 800 pound gorilla?

14 Chevron representatives are in
15 this auditorium. They chose not, they chose
16 not, they have not the character to come
17 forward tonight and address the findings and
18 recommendations of your report. What we'll
19 get tomorrow is their usual pablum of
20 (inaudible).

21 And there's a second
22 problem, absence in this room. The CSB

1 report acknowledges that the solution to the
2 safety problem is essentially political.
3 Government at various levels will be required
4 to adopt and enforce new safety rules. This
5 will be very difficult and is demonstrated by
6 the absence.

7 In the audience tonight you don't
8 see Chevron's chief political apologists,
9 Councilman Nat Bates and Councilman Corky
10 Booze. And without the change in the
11 political regime, all of these
12 recommendations will, when suggested, go to a
13 committee where all the issues die. Thank
14 you.

15 (Applause)

16 DR. HOROWITZ: Thank you, Mr.
17 Pillao. Next we will go to Roberta
18 Sweckerman (phonetic) or Swickerman
19 (phonetic). Ms Sweckerman? Roberta
20 Sweckerman?

21 (No response)

22 All right. And how about Sylvia

1 Gray-White? Is there a Sylvia Gray-White.

2 MALE PARTICIPANT: She's here.

3 (Pause)

4 MS. WHITE: Good evening. My name
5 is Sylvia Gray-White. I'm a member of CBE
6 and the RPA. And I live in Richmond,
7 California.

8 I wanted to first thank
9 the Chemical Safety Board for developing a
10 much needed way to increase our safety. And
11 I'm in total agreement with moving forward
12 with this procedure.

13 What is the real cost of Chevron
14 to the City of Richmond, California? We've
15 all heard numerous reports about how over
16 15,000 people sought medical treatment after
17 the August 6th, 2012, fire.

18 But have you heard any reports
19 that over 15,000 people received proper and
20 adequate treatment? No, you didn't hear
21 that. Because it didn't happen. How can
22 they treat you if they don't know what

1 chemicals are in your body, even though the
2 law requires that all companies that cause
3 chemical emissions inform the medical
4 community what the chemicals are and the
5 possible health issues that may occur?

6 Chevron has not done this. Can
7 you make them do this? If you ask for a test
8 for chemical toxicity, your doctor will say
9 he doesn't know what to test for. And he
10 doesn't.

11 I had to go for treatment three
12 days after the fire. The air was just that
13 polluted. We had three Spare the Air dates
14 after the fire.

15 The medical staff at Doctors
16 Hospital took my blood pressure which was
17 much higher than usual, they told me to take
18 an Ibuprofen and a cough drop. That was it.

19 They had no idea, and I had no
20 idea what was in my body. Even the Bay Area
21 Air Management District wouldn't tell us what
22 is in our bodies. They only test the air one

1 day a week. Yet we breathe 24 hours a day,
2 seven days a week.

3 The day of the fire was not one of
4 the days that they monitored. They don't
5 even test for chemicals like benzene which
6 are emitted every day. My daughter has
7 Hodgkin's Lymphoma. The multiple safety data
8 sheet says specifically that benzene causes
9 Hodgkin's Lymphoma.

10 She recently had a successful bone
11 marrow transplant to get rid of the cancer.
12 She is still healing though, because of the
13 effect of seven straight days of chemotherapy
14 included in the bone marrow transplant
15 procedure.

16 This challenge has been a part of
17 her life and my life for the past eight
18 years, just from breathing the air before the
19 fire. Her illness developed before the
20 August 6th, 2012, fire.

21 I had to retire from my job
22 because of getting sick from breathing the

1 air in Richmond, before the fire also. I
2 have many friends and relatives who are also
3 suffering from the daily polluted air.

4 The current emission regulation
5 standards are not strict enough. Please
6 investigate this and remedy. There is no
7 adequate monitoring of the rules that are in
8 place.

9 It has also been reported that no
10 deaths occurred as a result of the fire. How
11 can you say that when there's no reference to
12 the chemicals emitted and no one is
13 monitoring them.

14 Before the fire, Richmond citizens
15 have been getting sick and dying. Richmond
16 is said to have the highest cancer rate in
17 California.

18 I found out last year that Chevron
19 has representatives on the Board of Directors
20 for both Doctors Hospital and Kaiser
21 Hospital. They should be working together to
22 reduce the physical challenges, but that is

1 not happening, because they don't want
2 Chevron's name to be implicated.

3 No one is being tested for heavy
4 metals emissions, not even employees of
5 Chevron. Testing of heavy metals should be
6 required for all refinery employees and
7 should be provided for all Richmond citizens.
8 Because even if the pipes inside are up to
9 standard, we still have to breathe the air
10 going in and coming out of the refinery.

11 I live way across town in East
12 Richmond Heights and took a heavy metals hair
13 analysis test last year which showed I have
14 lead, mercury and arsenic in my system in
15 spite of my daily detoxing, according to my
16 (inaudible) doctor. Reports with that, the
17 hair analysis test is good, because it does
18 record what is stored in your body cells.

19 I've lost over \$100,000 because of
20 Chevron, because I couldn't get to work. I
21 get sick driving to work, stop by Kaiser
22 Emergency a couple of hours and then go to

1 work around noon. I had to retire.

2 How much is Chevron costing other
3 Richmond families? Richmond reportedly is
4 underemployed. I believe that Chevron
5 emissions play a major part in this.

6 Heavy metals exposure affects you
7 physically and mentally. If it happened to
8 me, it could happen to everybody else.

9 Chevron has violated our rights,
10 our civil rights. We are all entitled to
11 life, liberty and the pursuit of happiness.
12 Breathing air full of toxic chemicals has
13 drastically reduced our quality of life, even
14 in (inaudible). It's bound our liberty,
15 consequently, there is no happiness.

16 We have had 27 Spare the Air days
17 in the last few months. Citizens are
18 prohibited from burning anything in their
19 fireplaces on these days unless it is their
20 only source of heat.

21 Yet, during the same period, there
22 are no restrictions on Chevron. Smoke is

1 still polluting the air 24 hours a day, seven
2 days a week. Why? This has gone on far too
3 long and has hurt and destroyed so many, many
4 people.

5 We need drastic changes in
6 operation, monitoring and enforcement. I'll
7 say that again in case you didn't hear it.
8 We need drastic changes in operation,
9 monitoring and enforcement.

10 Thank you once again, though, for
11 your acknowledgment of how much our city has
12 suffered and seeking to restore our community
13 and our health. Thank you.

14 (Applause)

15 DR. HOROWITZ: Thank you. And
16 next is Claudia Citren.

17 MS. CITREN: I guess I'll be last
18 one, so thank you for bearing with Richmond.
19 And I'm Claudia Citren, C-I-T-R-E-N. I'm a
20 Richmond resident.

21 First of all, I'm glad that
22 someone of the committee thought of giving

1 you an award. You deserve it, not only for
2 bearing with us, but also for educating the
3 community.

4 And that's the point I wanted to
5 get to which was brought up earlier about
6 transparency. If you run against walls with
7 government, and if it's even difficult for
8 our Congresswoman, Ms. Miller, to establish
9 changes, continue what you're doing with the
10 community.

11 I hope you're impressed by the
12 sheer presence of non-profit agencies, I had
13 no idea. Continue involving social media.
14 Be transparent.

15 I did an experiment yesterday. I
16 called EPA, Clean Air Board, I called all of
17 the agencies who should know about Chevron by
18 now. And I asked can you tell me which
19 chemicals were released?

20 I have 25 phone numbers now. And
21 one of the executive secretaries, after I
22 told her that I would call the Governor's

1 office, which I did, got behind and she
2 called me back. And she said, yes, there's a
3 lot of documents out there. It's at the
4 bottom of a document.

5 If you manage to continue to
6 educate the community, if you manage to
7 continue to counsel the representatives of
8 Richmond in how to proceed, you're going to
9 have a lot of experts here.

10 And if you continue to work on
11 transparency, if you continue to fight for
12 what the Richmond residents want, what the
13 general public is by law allowed to know, we
14 can do what you can't do. And we will do
15 what you can't do. And I hope that makes
16 your work a lot easier.

17 Because, and I'll finish, because
18 we are in an age where corporations are
19 afraid of the general public. Because we can
20 do what you can't do. So keep involving us
21 and keep counseling. Thank you.

22 (Applause)

1 DR. HOROWITZ: Thank you, Ms.
2 Citren. And is there anyone here who did not
3 sign up who'd like to speak now? Just come
4 up to the mic if you haven't talked. Sir,
5 yes. Come up, sir.

6 MR. GREAVES: My name is Steve
7 Greaves. I'm a pre-school teacher here in
8 Richmond. I've taught for ten years here in
9 the city.

10 DR. HOROWITZ: Could you spell
11 your name, sir?

12 MR. GREAVES: G-R-E-A-V-E-S.

13 DR. HOROWITZ: Thank you.

14 MR. GREAVES: So I have about 45
15 students each year, half of them in the
16 morning and half in the afternoon.

17 And probably more than half of my
18 children, when they are absent, their parents
19 say it's because of asthma. And the children
20 were all born in this community. Four are in
21 a nearby community.

22 And I think that's a factor to

1 look at too in terms of the disproportionate
2 pollution that people have to suffer in this
3 community. Thank you.

4 DR. HOROWITZ: Thank you, Mr.
5 Greaves.

6 (Applause)

7 DR. HOROWITZ: Anyone else who
8 would like to speak who hasn't spoken?

9 (No response)

10 CHAIRPERSON MOURE-ERASO: I would
11 like to continue the agenda, but first we're
12 getting five minutes. So let's reconvene in
13 five minutes please.

14 (Whereupon, the foregoing matter
15 went off the record at 3:49 p.m. and went
16 back on the record at 3:53 .m.)

17 CHAIRPERSON MOURE-ERASO: Okay,
18 the next item on the agenda, and I think we
19 can do here, Ben (phonetic), please. Ben,
20 would you, here.

21 The next item of the agenda is
22 we're going to proceed with the vote on the

1 report. So to get to this voting, I would
2 like to start.

3 I move that the Chemical Safety
4 Board vote to approve the Report Number
5 2012031 California and the following
6 recommendations included therein.

7 The first recommendation is
8 2012031CAR21 that refers to the Safety Case.
9 The second recommendation is 20120311CAR22
10 that refers to indicators of safety. And the
11 third one is 2012031 California R23 that
12 refers to a recommendation to OSHA to
13 consider the Safety Case in their
14 deliberations on the Executive Order in
15 chemical safety.

16 So in order for to have discussion
17 on this, I need to have a second to this
18 move.

19 MEMBER ROSENBERG: I second.

20 CHAIRPERSON MOURE-ERASO: Okay, we
21 heard a second from Member Rosenberg. So do
22 we have any discussion?

1 MEMBER GRIFFON: Yes. I'd just
2 like to make a motion to postpone the vote on
3 this report until the CSB more fully
4 addresses some serious issues raised both in
5 the public comments submitted to the Agency
6 as well as the comments made tonight.

7 Specifically, this motion to
8 postpone directs the staff, through the
9 Chairman, to do the following.

10 The CSB staff shall be directed to
11 investigate and make recommendations with
12 respect to the effectiveness of oversight and
13 enforcement by the State of California and
14 the Contra Costa Health Services.

15 One, does Cal/OSHA have sufficient
16 authority to require timely abatement of
17 hazards associated with serious and willful
18 violations?

19 Two, should Contra Costa County
20 Health Services have direct enforcement
21 authority under the Industrial Safety
22 Ordinance?

1 Three, does Contra Costa County
2 Health Services have sufficient resources to
3 conduct comprehensive inspections and retain
4 technically qualified personnel?

5 Four, does Contra County Health
6 Services have sufficient authority to require
7 facilities to undertake feasible risk
8 reduction measures such as best practices
9 which go beyond minimum regulatory
10 requirements?

11 Two, the staff shall convene a
12 multi-disciplinary expert panel selected by
13 the full Board, similar to the Baker panel
14 established after the BP Texas City incident,
15 to provide the Agency with an assessment of
16 the following topics regarding regulatory
17 process safety in refineries in California.

18 One, to address questions raised
19 in the comments received by the CSB, the
20 panel shall assess the available process
21 safety performance data to evaluate the
22 effectiveness of the Safety Case regulatory

1 model for refineries.

2 Two, assess the challenges of
3 making Safety Case operational and effective
4 with regard to the following topics. A, what
5 is the role of transparency and community
6 involvement under this regime?

7 B, how are workers empowered as
8 part of the tripartied model? Have there
9 been retaliatory actions taken against
10 workers for their involvement and what
11 protective measures are in place?

12 C, are safety committees mandatory
13 or optional in non-union work places? How
14 are safety committee members selected and
15 under what authority?

16 D, is there a public database of
17 incident and near-miss reporting? How are
18 process safety performance indicators
19 developed and used? Are these made public?

20 E, how are standards for minimum
21 levels of risk set? ALARP goes into the
22 risks beyond minimum levels.

1 F, what are the enforcement
2 methods used by regulators under the Safety
3 Case? For example, what are the enforcement
4 tools beyond withdrawal of consent to
5 operate?

6 G, What are the key transition
7 issues that were addressed facilities in
8 operation at the time Safety Case was adopted
9 abroad in other regimes?

10 Finally, the panel shall be
11 established and complete its assessment
12 within 120 days. Such assessment shall be
13 considered by the CSB and incorporated in the
14 Chevron regulatory report as appropriate.
15 And that's my motion to postpone.

16 CHAIRPERSON MOURE-ERASO: But, you
17 know, there's a little problem here. We have
18 a motion on the floor that has been moved
19 appropriately and has been seconded.

20 MEMBER GRIFFON: Right.

21 CHAIRPERSON MOURE-ERASO: And what
22 you are saying is that we postpone the vote.

1 I mean, that doesn't, it's not directs on the
2 motion's on the floor that has been seconded?

3 MEMBER GRIFFON: It's a procedural
4 recommendation to postpone for a definite
5 period of time, according to Robert's Rules.

6 CHAIRPERSON MOURE-ERASO: Well, I
7 mean, how do you propose that the motion that
8 has been seconded be addressed, that either
9 you are approving it, or disapproving or how
10 are we going to do it. You know what I'm
11 saying? What we should do is to postpone
12 action on this. That is --

13 MEMBER GRIFFON: That's right.
14 I'm sorry, could you say your opinion on the
15 record, General Counsel?

16 MR. LOEB: You have two competing
17 motions right now. You have the first
18 motion, it was the motion that you moved and
19 that was seconded by Member Rosenberg. You
20 can take a vote on that.

21 And then you have a second motion.
22 And the second motion, we haven't had a

1 second on that yet. So you have a second
2 motion.

3 MEMBER GRIFFON: The first
4 motion's the main motion, that's a procedural
5 motion.

6 MR. LOEB: There're two competing
7 motions here.

8 CHAIRPERSON MOURE-ERASO: Well,
9 you know, what do the Robert's Rules or Order
10 arguing here? What I would like to, let's
11 cut to the chase here.

12 We have a report that has been
13 presented with two or three specific
14 recommendations. There has been some
15 suggestions, we included your suggestions
16 here. But a lot of other things need to
17 happen for having a vote on the specific
18 issues of this investigation.

19 So what I would need to deal with
20 this is, since this is the second part of a
21 three part report, what I propose is that we
22 vote this second recommendations of this

1 report as we have here.

2 And other recommendations that you
3 are making here to do additional
4 considerations, we consider in the third
5 report. And we evaluate it the way that you
6 want to evaluate it in the third report.

7 Because it seems to me that what
8 we have here in front of us is the results of
9 the specific investigation with non-specific
10 results with three recommendations.

11 So if anything additional has to
12 be considered, you have up here three pages
13 of additional considerations that you want to
14 happen.

15 Why don't we postpone that, as you
16 suggest, to be considered in the third report
17 that will be the final report of Chevron,
18 with that for consideration.

19 MEMBER GRIFFON: You know, for the
20 recommendations to Contra Costa and those
21 other regulatory recommendations that may
22 have some merit. But, I mean, the second

1 whole part of that is for further information
2 to consider Safety Case.

3 There are questions on the Safety
4 Case. And to move this report forward, with
5 outstanding questions out there, I think, I
6 just want to, I think Jim Rogers put it
7 right. I want to be in a place where we can
8 all come to agreement on this and get behind
9 the report.

10 And I think a little more work may
11 be not insignificant. But more work and a
12 more balanced report will get us there.

13 CHAIRPERSON MOURE-ERASO: Well, if
14 you feel so strongly about the difficulties
15 with the report as it's written, you have the
16 choice of voting no, you know. And then we
17 can come to a head.

18 But, you know, you are proposing
19 three pages of additional work that is going
20 to go to the staff, personally, to be
21 considered in this investigation. That is a
22 list of things that could perfectly be

1 addressed on the third report that is not
2 finished.

3 It seems to me that, I don't see
4 any reason that if you feel like you cannot
5 agree on what we are saying in this report
6 and these recommendations here, if you vote
7 no, I don't know what the other vote is going
8 to be. And then move again into a proposal
9 to consider the third report.

10 MEMBER GRIFFON: I mean, I don't
11 want to get into the Robert's Rules too much
12 either. But the motion to postpone does take
13 precedence. And that should be, once that's
14 on the table, if it's seconded, once that's
15 on the table that's what's discussed.

16 But, you know, I think that the
17 idea here is, I don't want to be in a
18 position to vote no. I want to be in a
19 position to vote to postpone for a definite
20 time to address these specific things where I
21 can come forward and be in a position for all
22 of us to vote yes.

1 CHAIRPERSON MOURE-ERASO: But you
2 are proposing this as an amendment to the
3 motion that I made?

4 MEMBER GRIFFON: It's not an
5 amendment. It's a procedural motion.

6 (Off microphone discussion)

7 CHAIRPERSON MOURE-ERASO: Yes.
8 But, I mean, do I have to accept the
9 procedural motion that he's proposing?

10 (Off microphone discussion)

11 CHAIRPERSON MOURE-ERASO: Well, do
12 you have a second?

13 MEMBER GRIFFON: I can't second my
14 own motion. But --

15 MEMBER ROSENBERG: I second the
16 motion.

17 CHAIRPERSON MOURE-ERASO: Okay, so
18 we have a second. Okay, so we are going to
19 work within the procedures of the change that
20 you have recommended.

21 MEMBER GRIFFON: That's a, hold
22 on, a procedural motion that's seconded

1 (inaudible)?

2 MEMBER ROSENBERG: Yes.

3 CHAIRPERSON MOURE-ERASO: Okay, so
4 we vote the procedural motion first. Could
5 you please conduct the vote?

6 MR. LOEB: The vote is on
7 procedure. Just to be clear, there is a
8 motion on the floor made by the Chairman a
9 moment ago to adopt the report and three
10 recommendations. That was seconded by Member
11 Rosenberg.

12 There is a second motion. the
13 motion is a motion to postpone the first one.
14 That was also seconded by Ms. Rosenberg. So
15 the first vote will be on the motion to
16 postpone as read by Member Griffon. So we
17 should proceed with that. Member Griffon?

18 MEMBER GRIFFON: Aye.

19 MR. LOEB: Member Rosenberg?

20 MEMBER ROSENBERG: Aye.

21 MR. LOEB: Mr. Chairman?

22 CHAIRPERSON MOURE-ERASO: No.

1 MR. LOEB: The motion to postpone
2 has the vote. And that motion passes.

3 CHAIRPERSON MOURE-ERASO: So that
4 negates the vote, the motion that I made
5 first?

6 MR. LOEB: The second motion,
7 which was seconded, both motions were
8 seconded. But the second motion preempts the
9 first motion.

10 MEMBER ROSENBERG: The goal is to
11 make the report stronger. That's the goal,
12 in short order.

13 (Off microphone discussion)

14 CHAIRPERSON MOURE-ERASO: Okay, so
15 thank you to the Board members for their
16 involvement and their work. And I think you
17 have, if there is no more motions to
18 consider, I declare this meeting adjourned.

19 (Whereupon, the meeting in the
20 above-entitled matter was concluded at 4:07
21 a.m.)

22

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