U.S. CHEMICAL SAFETY
AND
HAZARD INVESTIGATION BOARD

BETHUNE WASTEWATER TREATEMENT PLANT
EXPLOSION
PUBLIC HEARING

Thursday,
December 14, 2006

DAYTONA BEACH RESORT & CONFERENCE CENTER
Tides A Meeting Room
2700 North Atlantic Avenue
Daytona Beach, Florida
Board Present:

Carolyn Merritt, Chairman and CEO
John Bresland
Gary Visscher
William Wark
William Wright
Chris Warner - General Counsel

Investigator's Panel

Robert Hall
Jordan Barab
Randy McClure
Jeffrey Wanko
Katherine Leskin

Expert Panel:

Mark Brodie
Edwin Granberry
Brian Berke
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Adjourn
(8:05 a.m.)

CHAIRPERSON MERRITT: Good morning. Welcome to this public hearing of the U.S. Chemical Safety and Hazard Investigation Board, the CSB.

I'm Carolyn Merritt, Chair and CEO of the Chemical Safety Board. With me today are our other Board members: Mr. John Bresland to my right; Mr. Gary Visscher on the end; Mr. William Wark in the middle and over here on my left is Mr. William Wright. Also, with us this morning is our General Counsel, Chris Warner and CSB Staff members whose efforts have made this meeting possible.

The purpose of today's meeting is to hear key findings from the investigation team regarding the fatal explosion that occurred at the Bethune Point Wastewater Plant on January 11, 2006. We will also hear testimony from health and safety experts.

Before we begin though, I would
like to point out some safety information. Should the exit in the back be blocked, for any reason these side exits also lead to the outside in the event of an emergency. I would also ask that if you have cell phones or pagers that you take a moment to mute them so that we are not disturbed, by ringing phones and that includes all of our press people. The exits here lead to the outside as well as the one in the back.

I think that's all. Thank you.

Restrooms are on either end of this corridor.

On January 11, 2006, two municipal workers died and another was seriously injured while attempting to remove a steel roof over a storage tank at the Bethune Wastewater Plant. The plant was operated by the city of Daytona Beach.

Highly flammable vapors coming from the tank vent were ignited by a cutting torch being used to remove the roof above. The flames then entered into the storage tank.
causing an explosion. The explosion inside the tank led to multiple piping failures and a large fire that engulfed the tank and the workers.

On behalf of the Board and the CSB, I would like to express my and our sincere condolences to the families and friends of the victims and those injured.

There appears to be a gap in workplace safety coverage for state municipal workers in Florida. The communication of hazards to workers is an important factor in maintaining a safe environment and preventing accidents such as this one that we are going to be discussing today. Today's hearing will allow the Board to publicly ask questions regarding the investigative findings and expert testimony. Information presented during the testimony will be further considered during the upcoming recommendations portion of this investigation.

I would like to acknowledge the
CSB team who has been working diligently to investigate this tragic accident.

I would also like to thank you, the audience, for expressing interest in this issue that affects workers in your city and throughout the State of Florida. If anyone in the audience wishes to make a comment or speak to the Board publicly after the panel have given their testimony, please sign up at the table in the check-in area and I will call your names at the appropriate time. We encourage you to speak. Please note though that we will have to limit your comments to five minutes to give time for those who would like to speak.

I will now recognize any other Board members for any opening statements that they might have. Are there any Board members who have any opening statements?

(No response.)

CHAIRPERSON MERRITT: Well, with that then I would like to begin and thank you,
the audience, for your attention and the
Board.

Before we continue this meeting, I
would also like to thank the City of Daytona
Beach for outstanding cooperation with our
federal investigation. I also want to let you
know that our thoughts during this time are
also with the family and the City on the loss
of Mayor Yvonne Scarlett-Golden who passed
away recently.

At this time, I would like to
introduce our investigation team. First, Mr.
Steve Salk is an investigation manager with
almost 30 years of chemical engineering
experience in the area of plant operations,
design, management, and accident
reconstruction. He also holds several
professional engineering licenses.

Mr. Robert Hall, who is our lead
investigator, is a supervisory investigator
for the CSB. Mr. Hall is a registered
professional engineer and lead investigator
for the incident at the Bethune Wastewater
treatment Plant. He has more than 25 years of
experience in design, inspection, and
evaluation of hazardous systems. His
specialty is in mechanical integrity and
regulatory compliance programs.

Thirdly, is Mr. Jordan Barab, who
is a former special assistant to the Assistant
Secretary of Labor for OSHA and has directed
health and safety programs. He is serving as
the recommendation manager for this
investigation and has special knowledge of
health and safety policy issues related to
municipal employees.

I will now ask, Mr. Hall to
present the key findings of this
investigation. Mr. Hall.

MR. HALL: Thank you, Chairman,
Merritt, and distinguished Board members.

Today we will cover three areas.
First, the investigators will report on the
incident and the major findings to the
investigation. Following the investigator's report the panel of experts in the field of public employee safety will make presentations on OSHA coverage for public employees. Lastly, we will provide an opportunity for members of the public to comment on the incident and public employee safety.

I have with me the team that investigated the incident that occurred on January 11, 2006 at the Bethune Wastewater treatment Plant here in the City of Daytona Beach. We have prepared this report for you on the incident. We will begin our investigator's report by providing an overview of the incident and our investigation followed by an animation of the incident. We will then present our major findings and answer questions for the Board.

The incident occurred on January 11, 2006 at about 11:15 in the morning. Three city workers were removing a roof damaged by hurricanes. The roof was installed over two
chemical storage tanks. One was empty and one contained methanol, a highly flammable liquid. Methanol is used as part of the biological treatment process at the plant.

The workers using an oxyacetylene torch accidentally ignited vapors coming from the methanol tank. This resulted in an explosion inside the tank. A large methanol fire ensued leaving one worker dead, one fatally injured, and a third critically injured.

This is an aerial view of the Bethune Point Treatment Plant and the accident site. Here on the right is methanol tank, it is painted red. Here is the roof that was damaged, the man lift, and the crane that the workers were using. We will talk more about these later in our presentation.

Our investigation began on January 13, 2006, two days following the incident. As part of the investigation we thoroughly photo documented the incident site. We conducted
interviews with the Bethune Point Treatment Plant and other city employees. We also interviewed employees of Camp, Dresser and McKee, the engineering firm hired by the City that designed the methanol system. We collected and examined physical evidence. We reviewed documentation, researched similar incidents in Florida, and we analyzed the regulations with respect to employee safety in Florida.

In the course of the investigation, we had the full cooperation of the City including the fire, police departments, the utilities department, and the support services department. We also appreciated the assistance and cooperation of the State Fire Marshall's Office.

From the evidence that we collected, we prepared an animation of what most likely happened on that tragic day last January. This animation is about two minutes in length. The explosion and fire began very
quickly. Most of the events depicted in this animation occurred in just a few seconds. We have slowed them down so you can see what happened.

Here is the animation.

(Presentation shown)

NARRATOR: On January 11, 2006 three workers were removing a hurricane damaged steel roof at the Bethune Point Wastewater Treatment Plant in Daytona Beach, Florida. The roof covered two chemical storage tanks: one empty, the other containing about 3,000 gallons of methanol, a highly flammable liquid.

Two of the workers were up in a man-lift basket where they were using an oxyacetylene torch to cut the roof into sections. The third worker was operating a crane to lower the roof sections to the ground.

Beneath them methanol vapor, which is invisible but colored gray here for
illustration, is venting from the top of the tank as the morning sun warmed the liquid inside. As designed, the tank vented the methanol vapor through a flame arrester. A simple device intended to prevent the contents of the tank from being ignited by a fire outside.

As the workers cut the roof, sparks from the torch showered down on to the tank. The sparks ignited the methanol vapor creating a fireball under the two workers in the open man-lift basket. The fire flashed into the flame arrester, but it was badly corroded and it failed to function. Flames spread instantly into the tank igniting the methanol inside.

The force of the explosion from the methanol air mixture inside the tank was so great it rounded out the tank bottom and lifted the tank walls. The blast ejected the level switch and flame arrester from the tank.

Plastic piping connected to the tank
fractured as the tank lifted and deformed. Methanol under pressure from the explosion spewed from the broken pipes and ignited spreading the fire.

Methanol from broken pipes sprayed the crane cab, caught fire and burned the worker inside. He died from his injuries the following day. Burning methanol vapors flowed out of the open vent on the top of the tank. In the man-lift basket both workers were now burning. One jumped or fell from the basket and died. The other worker escaped by climbing on to the roof, jumping to a lower roof, and, then, to the ground. He was gravely injured but survived after many months in the hospital.

MR. HALL: Our major findings from this investigation address issues in the following areas: A flame arrester installed on the methanol storage tank that severely corroded over time and did not work the day of the incident; a methanol system constructed of
plastic piping, a weak and brittle material compared to steel; an ineffective safety program at the Bethune Point Wastewater Treatment Plant; other chemical incidents that have occurred at public facilities in Florida; and a lack of public employee safety coverage in Florida.

I will begin with our findings on the flame arrester. This is the flame arrester that was on the methanol storage tank, at the Bethune Point Wastewater Treatment Plant, and here is where it was installed on the end of this vent pipe. After the accident, it was found on the concrete foundation next to the tank.

A flame arrester is a safety device typically installed on flammable liquid storage tanks to prevent ignition inside the tank from an external fire. This device works by channeling gas through narrow gaps between metal plates. As a flame moves through the gaps, the plates absorb heat, and cool a flame
and extinguish it. The size of these gaps and the cleanliness of the plates are critical to the performance of this device. If the gaps are too wide or the plates are dirty or corroded, they may not absorb enough energy to extinguish the flame. The manufacturer of this device recommends regular cleaning and inspection to maintain this critical element.

This is a photograph of the exterior of the flame arrester plates. These are the outside edges of the plates here. You can clearly see the dirt and corrosion buildup on these plates. Here are two photographs of the interior of the flame arrester showing the condition of the plates. Here, you can see how the plates are corroded. We measured the plates and found that nearly a half inch of the inside edge of the plate was corroded away. And here, we found portions of the plates actually missing, leaving holes where a flame could pass through.

The investigation found that the
flame arrester was made of aluminum. Several published sources indicate methanol is corrosive to aluminum. Additionally we found that there were no cleaning or inspection requirements for the flame arrester and the equipment instructions provided to the city when the methanol system was installed. The city workers at Bethune Point were completely unaware of any need to clean or inspect this device. Not surprisingly, we also found that the city had not cleaned the device since it was installed in 1993. Had this flame arrester been cleaned, and maintained in good working order, the explosion in the tank would not have occurred.

I would now like to talk about the plastic piping. The piping and valves in the methanol system at Bethune Point were made of polyvinyl chloride, a plastic material. Compared to steel, polyvinyl chloride is a weak and brittle material. As you saw on the animation, when the explosion occurred inside
the methanol tank, the plastic piping broke spraying the crane with methanol and the flame arrester blew off the end of the plastic vent pipe under the man-lift basket.

There is an overhead photograph showing the methanol tank in the upper right corner and the crane down here in the lower left. Here are the one-inch pipes where the level switch had been attached with plastic pipe. Here's the level switch that was found several feet away. When the plastic pipe broke from the explosion methanol sprayed out of these pipes on to the crane cab here and this is where the worker was when the methanol sprayed on the crane.

This is a photograph showing the tank and the vent pipe under the man-lift basket. The vent pipe is here. When the explosion occurred the flame arrester that had been on top of this vent pipe was blown off. Burning methanol vapors from the tank likely vented from this pipe directly into the open
man-lift basket where the two workers were.

Camp, Dresser and McKee, the engineering firm hired by the City who designed the methanol system, specified plastic piping and valves for the aboveground portions of the system. National Fire Protection Association Code NFPA 30, known as the Flammable and Combustible Liquids Code is a widely used code for flammable liquid systems. This code requires valves installed on tanks, as well as their connections to the tanks, be made of steel. The methanol system designed by Camp, Dresser, and McKee, did not comply with this standard.

Additionally, OSHA standard 1910.106, the Flammable and Combustible Liquids Standard, allows plastic pipe in aboveground flammable liquid systems but only when necessary. In the investigation, we observed that the methanol tank was made of steel, that steel pipe is commonly used in flammable liquid systems, and that published
data indicates methanol is compatible with steel. From this we concluded no necessity to use plastic pipe in this case existed.

Despite the OSHA and NFPA requirements, Camp, Dresser, and McKee specified and the constructor installed plastic pipe and valves in the methanol system. Had the piping and valves been made of steel, the worker in the crane likely would not have been fatally injured, and the injuries to the worker in the man-lift basket may have been less severe.

I would now like to talk about the Bethune Point safety programs. The City of Daytona Beach has a Right to Know, or Hazard Communication Training Program. The program was based on a Florida Right to Know law that was repealed by the State Legislature in 2000. We will talk more about that later in our presentation.

The investigators reviewed the City program and found that the training at
Bethune Point was conducted only seven times in the twelve years preceding the incident and not since 2002. The investigators also found no evidence that would indicate that the Bethune Point workers were trained on the flammable and explosive hazards of methanol. The investigators also found a steady decline in the number of safety training sessions offered to the Bethune Point plant workers. It should be noted on this graph, as we have shown here, training sessions in the year -- It should be noted that each of these training sessions was likely an hour or less in length.

Before 2000 there was an average of five training sessions a year and since 2000 the year the State also repealed the public safety law, there was a steady decline in the number of training sessions offered until 2004 and 2005 where there was just one training session in each of those years. Just one hour of training -- safety training -- for an entire year.
Additionally, the investigators found that the City eliminated its only safety position in 2004, further illustrating the decreasing importance of worker safety programs at the City.

Hot work is a common term used to describe activities such as welding, cutting and grinding. These are all processes that produce sparks or a flame that could ignite flammable materials and cause fires. Hot work permit programs typically require a view of the work area to identify and eliminate possible fire hazards. The investigators found that the Bethune Point Plant had no program, written or otherwise, to control hot work. In contrast, OSHA requires hazard communication training on chemicals that workers may be exposed to in a workplace. OSHA also requires a hot work program to prevent fires and explosions in a workplace. Had the City adopted and followed the OSHA standards, the workers likely would have been
trained on the hazards of methanol, and systematically checked for fire hazards where the torch was being used and this incident may never have occurred.

At this point, I would like to introduce Jordan Barab our recommendation manager and one of the investigators on this case. He will talk about public employee safety.

MR. BARAB: Thank you, Mr. Hall.

As was evident from Mr. Hall's presentation, public employees in Daytona Beach do many of the same dangerous jobs as private sector workers, and are exposed to many of the same hazardous chemicals, heavy machinery, and other hazards faced by private sector workers.

Daytona Beach is not the only municipality in Florida to have had a chemical incident. The investigators conducted a survey of publicly available records addressing just chemically related incidents.
among public employees in Florida. The investigators identified 34 serious chemical incidents at Florida public facilities over the past five years including the incident that we are discussing today. These incidents caused two fatalities, ten injuries, many of which were serious, 23 medical evaluations, and 15 community or facility evacuations.

Because this is only publicly accessible data, mostly collected through press accounts it is likely an underestimate of the true extent of the problem.

Before moving on it's important to understand the national health and safety environment in which public employees work. The Occupational Safety and Health Act of 1970 does not cover public employees. The law does, however, provide opportunities for individual states to cover their public employees and to receive federal matching funds to support the program. Twenty-four states, colored here in pink, provide what's
known as federally approved coverage of public employees and 26 states, colored here in purple, don’t.

These federally approved programs receive federally matching funds but the law stipulates that the staffing, enforcement and standards in these federally approved programs must be at least as effective as Federal OSHA.

Of the remaining 26 states that do not have federally approved OSHA programs, several have programs that covers some or all public employees but the funding, staffing, and resources of these programs vary widely.

Florida was one of the states that had a non-federally approved public employee OSHA program and a right-to-know law until 2000 when the programs were eliminated by the state legislature. To address the situation where public employees were suddenly left with no workplace safety oversight, the Governor issued an executive order in September 2000. The executive order directed certain state
agencies to voluntarily comply with a limited set of OSHA standards, not including construction standards.

Cities and counties, on the other hand, are not subject to governors' executive orders. The governor's executive order, therefore, only requested that cities and counties review existing policies, practices, and procedures, and implement any made necessary by the repeal of the state public employee health and safety program. Incidentally, Daytona Beach officials as well as other city and county officials in Florida have said they do not recall ever seeing the Governor's executive order.

It's important here to emphasize that when we speak of OSHA coverage we are not just talking about employee and employer compliance with specific OSHA standards, such as hot work mentioned before. OSHA coverage encompasses a number of other provisions including -- if you look at the first column
of this chart here -- it also includes the ability of workers to request inspections by an outside authority and to participate in those inspections. This includes individual investigations, independent investigations of serious accidents and fatalities. It includes enforcement of the law, training that's required by specific standards such as OSHA's confined space, or emergency response standards, as well as OSHA's hazardous communication training about chemical hazards. It includes protecting workers against retaliation by management for exercising their health and safety rights. OSHA coverage also includes the ability of workers to access medical and exposure records, as well as general injury and illness statistics about their work sites.

Moving to the second column headed by State, you will note that Florida State employers are now required to voluntarily comply with OSHA standards and to provide
training. But there are no inspection, enforcement, or protections against retaliation or access to health and safety records.

For cities and counties, here in the third column, even standards and training are optional.

I also want to note that the State of Florida through the University of South Florida has an OSHA consultation program that provides health and safety training and assistance to private sector and small business employers. The program is partially funded by federal government funds, but because of the federal funding the program is not allowed to offer any consultation services to Florida's public employers.

This concludes my presentation about the state of public employee health and safety protections in the State of Florida. I will now take questions from the Board.

CHAIRPERSON MERRITT: Thank you,
Mr. Hall and Mr. Barab. At this time, I would like to open the floor for the Board members. Are there any Board member questions?

MR. VISSCHER: Madam Chair?

CHAIRPERSON MERRITT: Yes, sir.

Mr. Visscher, Thank you.

MR. VISSCHER: If no one else would like to go first.

CHAIRPERSON MERRITT: Go right ahead.

MR. VISSCHER: Okay. Thanks.

Mr. Hall, I'm curious, what would have been good safety practices, had there been a safety program in this case? Can you explain how the work would have proceeded if there were practices and procedures in place?

MR. HALL: Well, there are two safety practices that come to mind that would be very important. First, is the hazard communication. As I indicated they did some hazard communication at the city but it was in effective in the way that it was done and that
they randomly chose chemicals to review and in each of those sessions they typically reviewed only one chemical. They would go through the sheet. The program itself did not instill the workers with the sense of Awhen planning a job I should go look at the information on the chemicals in the vicinity where I am working.@

So that didn=t occur and a good hazard communication program would instill the workers with the need to go look at that material and review that material before doing work in that area.

The second was the hot work, which is an OSHA requirement as well. In the hot work program workers have to do pre-job planning where they go out, evaluate and look at what are the flammable and combustible hazards in the work area and then plan the work to a manner that you don=t cause a fire or an explosion. In this case had they looked at that, recognized the flammable hazards, an appropriate action may have been to drain the
tank or to use a different method to cut the roof that did not involve a torch, an open flame or sparks.

MR. VISSCHER: Have you all looked at to what extent similar flame arresters are used elsewhere? You talked about that they were subject to corrosion, and these were obviously very corroded. Have we gotten any basis for how widespread the use of this particular flame arrester, particularly in these kinds of systems is?

MR. HALL: We did do some looking in to the flame arrester. We found a couple of things. One, with the flame arrester it wasn’t just the corrosion and the methanol but the fact that there was no requirement to clean and inspect, which is a very important requirement. Even though the flame arrester could be corroded by methanol, had they had a requirement to clean and inspect they would have discovered that very soon into the life of the flame arrester and presumably taken
action to correct it or periodically replace the Flame arrester.

We also found in reviewing a similar plant that uses methanol, similar wastewater treatment plant that they had chosen a flame arrester made of stainless steel not corroded by methanol. They also had requirements to annually clean that flame arrester.

MR. VISSCHER: Do we know whether these flame arrester are -- Are there a lot of them being used?

MR. HALL: They are widespread throughout the country in flammable liquid service tanks not, just at wastewater treatment plants.

MR. VISSCHER: One clarification question from Mr. Barab. On the chart that showed the number of incidents in Florida in five years, it lists two fatalities. Is that in addition to this incident?

MR. BARAB: No. That includes
this incident we are talking about today.

MR. VISSCHER: Oh, so these were the two fatalities.

Thank you, Madam Chair.

CHAIRPERSON MERRITT: Other questions? Mr. Wright, do you have questions?

MR. WRIGHT: Mr. Hall, I would like to know what motivates a municipality to have a safety program in general and secondly, do we have any information in this particular case as to why they eliminated that program?

MR. HALL: There are many things that would motivate a company or a municipality to have a safety program. When you have workers and workers become injured you lose a valuable resource and so protecting the workers is protecting a resource. There are also costs involved with injuries that are prevented by having a safety program. So, it's a prevention program.

The City program, basically, was not a very comprehensive program and we could
not point to any one reason for why it was declining but there just seemed to be a lack of interest in pursuing safety at the city.

MR. WRIGHT: So they lost their motivation for some particular reason or just --

MR. HALL: Well, yes. I think what we have here I think in this country in general and particularly with public employers where they are not covered by OSHA, where you don't have a -- very often where you don't have a law covering some of these issues, it becomes more or less optional to the extent -- not that it's optional whether or not to injure public employees, but cities particularly are rather restricted in terms of the funds they have to spend and they need to make some hard choices. Where there is no guidance, no strong guidance the choices can go either way. They can choose to invest a lot in health and safety or they can choose to invest in other city needs.
I think actually some of your questions may be answered better by some of the panelists we have coming up afterwards that are going to talk about some of the situations here in Florida and some of the things that motivate, particularly municipal and public health and safety programs. But, that is an excellent question. In fact, that goes to the core of what we are discussing today.

MR. WRIGHT: Thank you.

Thank you, Madam Chair.

CHAIRPERSON MERRITT: Mr. Wark.

MR. WARK: Yes. I would just like to up a little bit the previous questions. In particular, we are the U.S. Chemical Safety Board and I would like to know what lessons learned that we can apply nationally as a result of this incident?

MR. HALL: There are a number of lessons that have national implication. The first is that flame arresters and safety
devices need to be cleaned, inspected and maintained so that they maintain their functionality. That's a very important lesson for any facility that has a flame arrester.

Secondly, they should be constructed of materials that are compatible with the materials in the tank they are protecting. Additionally, plastic piping should not be used in flammable liquid service above ground. It's incompatible with that service and should not be used.

Thirdly, safety programs are very important for municipalities across the country. As Jordan mentioned, 26 states are not covered by federal OSHA. The right to know hazard communication, hot work, these are important programs of significance to all of these 26 states that do not follow the OSHA standards.

CHAIRPERSON MERRITT: Mr. Bresland.

MR. BRESLAND: Thank you, Madam
Chair.

Following up on the hot work permit issue, going back to my days in the chemical industry. I always thought that two of the most dangerous things, potentially dangerous things that can happen when you are doing work around chemicals would be the hot work, burning around flammable chemicals, and also confined space injury. In my experience with hot work, typically there would be a permit program in place where someone would have to sign off. It could be the supervisor for the project, it could be the maintenance person who was in charge of the project and it could be the safety person as well. It appears that nothing like this happened in this incident. There was no -- was there any sort of check of what the potential hazards were before the job started? Did anybody look at the job? Did anybody sign off on it?

MR. HALL: We found in the investigation one that there was no hot work
permit program at all, which is a very valuable program because of the checks that it provides as you mentioned and also that second level review of management that signs off on the job planning where you get two sets of eyes to look at the job, not just one. But there was no indication that anyone ever considered the hazards or did any planning relative to the hazards.

When we were interviewing the employees, none of the employees that we interviewed understood what the flame arrester was, that methanol vapor could vent from that flame arrester. There was just a lack of understanding of the hazard that this tank represented in the facility and that there was not considered in any job planning. We interviewed the manager of the facility, who did not review the details of the job planning. He left that to one of the workers that was planning the job.

MR. BRESLAND: Moving more to the
issue of the plastic pipe versus a steel pipe.

What would have been the outcome in your opinion of this situation had steel pipe been used instead of plastic pipe in the areas where you described it should have been used according to the codes?

MR. HALL: If the only difference had been the steel pipe instead of the plastic pipe, the steel pipe when we looked at the mechanical properties of the steel pipe, it's more than ten times the strength of the plastic as well as more than ten times the fracture toughness, which is a measure of its ability to withstand fracture. It is the opinion of the investigators that that steel pipe would have remained intact, so you still could have had the fireball outside the flame arrester and if the flame arrester was not maintained the explosion inside the tank. But, then, when the tank lifted and deformed the plastic pipes would not or the steel pipe would not likely have broken and would have
remained intact and that would have ended the incident at that point. You would not have the pressure spewing the methanol out the broken connections on to the crane and you likely would not have had the flame arrester being blown off the end of the vent pipe because the vent pipe was plastic, and that flame arrester was screwed on to the plastic threads, an extremely weak connection.

MR. BRESLAND: Thank you.

CHAIRPERSON MERRITT: I have a question about the design and engineering of the system, you mentioned that it was designed by an engineering firm, do we know that this system was designed specifically for methanol use?

MR. HALL: Yes. We do.

CHAIRPERSON MERRITT: Was it certified by a professional engineer? I know that I have done these in my history and usually the plans are certified by somebody.

MR. HALL: The drawings that were
prepared that indicated it was to be constructed of plastic pipe were sealed by a professional engineer.

CHAIRPERSON MERRITT: Can you tell me -- you said that methanol is corrosive to aluminum. In this service then is that information about the compatibility of aluminum and methanol or incompatibility of methanol and aluminum service, is that readily available somewhere?

MR. HALL: We found that information readily available in information published by an organization known as NACE, the National Association of Corrosion Engineers, which is the premier organization in this country that deals with corrosion data. And that information was readily available from NACE. It required a simple table look up.

CHAIRPERSON MERRITT: Thank you very much.

Are there any other questions by
Board members? Yes, Mr. Visscher?

MR. VISSCHER: What steps has the City taken since the incident regarding safety?

MR. HALL: The one major step that we know that they have done is they have reestablished the safety position and hired an individual with a background in safety to fulfill that position. It's likely they have taken other steps. The course of our investigation was really focused on what existed at the time of the incident, not the actions that have been taken since.

MR. VISSCHER: Thank you.

CHAIRPERSON MERRITT: Mr. Wright.

MR. WRIGHT: Mr. Hall, you mentioned that the standard permits the use of plastic pipe when necessary. Can you give me an example of when the use of plastic pipe would be necessary?

MR. HALL: In certain cases you may have a chemical that would be incompatible
with steel that would be corrosive to steel to such a point that you would need to provide some degree of protection in that sense. But there are also options there such as lined pipe, which are more expensive. But that would be a case where there would be an engineering necessity to use plastic.

MR. WRIGHT: Thank you.

Thank you, Madam Chair.

CHAIRPERSON MERRITT: We mentioned NFPA Code 30, is that commonly available? When engineering is done is it usually done with a specification that it meets all codes and standards?

MR. HALL: That is a commonly available and widely used code. In fact, the specifications that were written by Camp, Dresser and McKee actually referenced NFPA 30 for the tank construction. Yet, the same specifications said use plastic pipe. So the specifications were inconsistent within themselves in referencing a noted standard
that required steel but then still requiring plastic.

CHAIRPERSON MERRITT: Are there any other questions by any of the other Board members?

(No response.)

CHAIRPERSON MERRITT: What we will do at this point is -- we have covered the first three segments of our agenda and we will take a 15-minute break at this time during which we will set up our panel who will then address the second two segments or the last two. Which are: other chemical incidents in Florida and the lack of public employee safety coverage in Florida. We are right on fifteen after, at 10:30 exactly we will start again. So please reconvene at 10:30.

(Whereupon, at 10:15 a.m., a recess was had:)

CHAIRPERSON MERRITT: Could I ask everyone to please be seated.

At this time, I would like to
recognize Jordan Barab, who will introduce our panelists.

MR. BARAB: Thank you, Madam Chair.

We are now moving to our panel discussion where we will hear testimony from three experts on public employee health and safety. I'll introduce each of the three at the beginning and then they will make their presentations that will be followed by questions from the Board.

The first panelist is Brian Berke, President-Elect of the Florida section of the American Industrial Hygiene Association. Our second panelist is Mark Brody, Education Director for the American Federation of State, County and Municipal Employees in the State of Florida. Our final panelist will be Edwin Granberry, Vice President of Governmental Affairs for Region 4 of the American Society of Safety Engineers.

Mr. Berke.
MR. BERKE: Good morning. My name is Brian Berke. I am President Elect and past President of the Florida section of the Industrial Hygiene Association and I'm here today to discuss the national AIHA position regarding expansion of the OSHA Act to all federal and state employees.

AIHA was founded in 1939 and is the premier association of occupational and environmental health and safety professionals. AIHA's 12,000 members play a critical role on the front line of worker health and safety every day. Members represent a cross section of industry, private business, labor, academia and government.

My comments, which follow, are excerpted largely from AIHA letters of legislative support and AIHA news publications by the AIHA director of government affairs Aaron Tripler, and I have spoken to Aaron on this and he wished me good luck.

On February 13, 2003, the American
Industrial Hygiene Association offered support for U.S. House of Representatives' Bill HR536, which was titled: The Fairness of State and Local Workers' Bill. This bill was sponsored to amend the Occupational Safety and Health Act to provide coverage under the Act for employees of states and political subdivisions of states. The bill was drafted by Representative Robert E. Andrews of the First District of New Jersey. In that letter, AIHA indicated that support for the legislation was not a difficult decision. AIHA went on to say that it believes that all workers, regardless of their employer, should be provided with quality health and safety workplace protection.

The AIHA letter expressed AIHA's concern that resources which are expended by our state and political subdivisions are for citizen services and that those services are not compromised to provide worker health and safety protections. The AIHA's statement ends
with the assurance that both services to citizens and protection to employees are achievable with adequate resource allocation.

AIHA's particular focus has always been and will continue to be the necessity of ensuring that adequate resources are allocated for training, compliance assistance and other forms of workplace health and safety education to meet OSHA compliance requirements. AIHA is concerned that without adequate funding OSHA would be stretched too thin in order to provide for the additional coverage.

In a July 27, 2005, letter AIHA again offered support for the bill to amend the Occupational Safety and Health Act of 1970 to apply to federal and state government employees. That was Bill HR3473. That bill would expand coverage to all federal and state government employees and the employees of political subdivisions of the state or any intrastate government agency; this Bill was sponsored by Representative Phil English of
Pennsylvania.

AIHA once, again, cautioned about the need for additional OSHA funding to provide compliance assistance and enforcement. AIHA continues to be consistent with support as long as there are adequate resources committed.

The following comments I have are going to be largely my own. I have talked about AIHA National's position. I have had extensive -- I have an extensive background of working within the State of Florida so I just want to indicate these are my comments. They are not my present employer's, which is the Board of County Commissioners of Palm Beach County, which clearly has an excellent program. So, again, these are my comments only.

I have been involved with health and safety in Florida for over 25 years. I began my career in 1979 as a safety and health representative and later industrial hygiene.
supervisor and Florida Right to Know Committee liaison for the State of Florida Division of Workers' Compensation Bureau of Industrial Safety. At that time about 40 percent of the Bureau's activities were dedicated to public sector enforcement of which I participated. These are largely inspections and consultation.

Each year the Florida Legislature adopted pretty much pro forma the current OSHA standards, which were largely 1910 and 1926 standards for public sector coverage and that was what we used. Bureau representatives conducted regular inspections. In addition, they were known and recognized by their public sector context. I believe that the bureau's activities were largely effective and that a significant amount of anecdotal evidence indicates that we were successful in preventing deaths and significant injuries.

The Division was first organized following World War II and as most of you
know, was disbanded in the year 2000. The presence of a state program made the need for public sector safety and health programs very clear. While most of the programs were established by the larger counties and cities within the state I think that without the legitimizing effect of having something like an OSHA requirement or standards it's very, very difficult and I doubt that few independent programs would have been established without that impetus.

Today, without any regulatory emphasis I think that only the most enlightened (shall I say) public sector entities support in a significant way safety and health activities. In my experience, most public sector employees have been shocked and probably very surprised to find out that OSHA cannot enter that workplace and that they do not have jurisdiction at those work locations.

I believe that safety can only flourish where it has its advocates and the...
modern culture of providing more with reduced resources is a challenge, which few entities are up to. Unfortunately, for many, safety is considered to be something that is just common sense and only affects other people. Typical safety activities are viewed, I think, by the public as being inconvenient, costly, impractical, not particularly cost effective. The prevalence of the 'it won't happen to me' mentality is widespread but, of course, everything changes when a significant incident occurs.

I have been the manager of employee safety loss control for Palm Beach County Board of County Commissioners for five years now. The safety program was first established about 25 years ago largely as a response to regulatory pressure. During the last 25 years, Palm Beach County has grown like all of Florida. Effective safety and health programs still make sense even without regulatory pressure. Workers' compensation,
the union disputes, tort liability, certainly response to employee concerns, and not least of which is our strong responsibility to provide a safe and healthful workplace for our employees.

Presently my division is adequately funded and staffed and while we may all agree on the appropriateness of an effective safety and health program, I have no assurance that our program will continue to have the support that it has enjoyed up till now. Public sector is a political environment subject to cost cutting pressures and needs review constantly. Extreme pressures could be brought to bear on even our program in the future and our advocacy for safety and health programs within the public sector may be for naught.

A strong regulatory presence would make this task easier and the argument more convincing. It is my belief that only mandatory regulatory requirements, whether
coming from a state or federal level, are needed to support and nurture safety efforts within the public sector.

Thank you.

CHAIRPERSON MERRITT: Thank you, Mr. Berke.

Are there any questions from the Panel or Board members?

MR. VISSCHER: We will wait until the end.

CHAIRPERSON MERRITT: Mr. Brody.

MR. BRODY: Thank you, Madam Chair.

Madam Chair, Board members, my name is Marc Brody. I'm the Director of Education for AFSCME Council 79 of Florida. We are part of the American Federation of State, County and Municipal Employees. We represent 1.4 million employees nationwide and 130,000 members in the State of Florida.

Working for state and local governments is full of dangers. As a union
that represents public employees across the country, AFSCME is too aware of serious hazards that our membership face everyday in wastewater treatment facilities and other working sites.

In Florida we represent city, county, state, university, school board and private sector employees, including hospital, housing authorities, skill trades employees, clerical workers, nurses, service employees and each and every area that we represent face safety issues everyday. The tragedy that occurred at the Bethune Point Wastewater Treatment Plant dramatically reminds us once again that our members and other public employees face serious risk of injury, illness and death daily.

One of the things that we did when this first came up, is we went to our safety department out of Washington and we talked to them about what are the kinds of things that we needed to ask and look for. The questions
that they gave us were: Could this incident have been prevented? Could the incident have been prevented? Was there an effective process in place to address the dangers present on January 11, and is there an effective safety and health program to prevent deaths and injuries from other well-recognized hazards? And we will hear from this body, and you will give us the answer to those questions, I'm hoping.

Public sector employees throughout Florida do not have well functioning proactive safety programs. There is no occupational safety and health law that requires them to. Florida is one of 26 states in this country were state and local government workers are not covered by a federally approved state OSHA plan. It's scandalous that wastewater treatment workers and thousands of other state and local government workers in Florida do not have the most fundamental rights to a safe workplace that every American worker needs and
What does OSHA coverage mean? OSHA coverage means that employer must provide work and a place of employment which is free from recognized hazards that are causing or likely to cause deaths or serious physical harm to employees. Employers must comply with OSHA standards of which there are many that apply to hazards present in wastewater treatment plants. Employers must perform monitoring, maintain records, provide information and training to workers, and employers are subject to inspections and enforcement if they are not in compliance. That does not occur in the State of Florida.

There is a wide range of hazards associated with wastewater treatment operations. On one given day, workers may enter confined spaces, are exposed to potentially toxic chemicals, and have physical hazards and infectious agents. The work, equipment and machinery can cause severe harm.
with the potential of dangers that are well recognized.

What we need is an effective means to control the hazards and to protect workers and environment. In states where public employees are covered by OSHA, many of these hazards are addressed by specific standards. Unfortunately, at Bethune Point, these safety procedures were not practiced and two workers paid the ultimate price. A hazardous communication program should have been in place. That's the Right to Know that we talked about earlier. The workers should have received training in the dangers of methanol and the appropriate procedures to follow where a risk of substance was present. Workers should have received training on the physical properties of methanol including the dangers of fire and explosion, and that a cutting torch could be the ignition source if methanol was present.

Daytona Beach did not have an
effective permit system for performing hazardous tests or hot work. Current procedures should have been in place to assess conditions, determine if methanol and other substances were present, before using the cutting torch, nor does it appear that they had any implementation of a program that would talk about high aboveground work. One of the things that we talked about with our safety department is, there should have been written safety precautions. There should have been a standard that the job was evaluated before people went in and turned those cutting torches on. And certainly there should have been air testing and, again, they should have been looking for fire hazards whether it be leaks in that tank, oily rags, or whatever it was that could be combustible when you ignited something that had fire coming out the other end.

We are anxious to hear what the CSB Investigation has turned up, and what
caused the explosion. We expect that you will find multiple lapses in procedure and identified hazards. We further anticipate that many of the conditions that existed in the plant at the time of the explosion are inconsistent with the provisions of numerous OSHA standards that were applicable requirements.

As always in cases following these type of tragedies, no investigation, finding of fact, or attributing blame will bring back the lives of those who were killed or injured. However, lessons can be learned through this incident. Lessons should include changes of equipment, more effective procedures, and better training. Another conclusion must be that all reasonable steps to make a workplace safe should not be optional. This means that Daytona Beach and other jurisdictions across the State of Florida should be required to provide protection that are contained in the Occupational Safety and Health Act and
occupational safety standards.

Now, the states of New York, New Jersey and Connecticut have accomplished this by having federally approved OSHA plans that cover state and local government workers. Private sector workers, of course, are still covered by the jurisdiction of federal OSHA.

Now, what really makes this sad, what really makes this sad and disturbs us greatly, is that until 2002 Florida was covered by safety standards. We had a Florida Chapter 442, the Occupational Safety and Health that was modeled after the federal OSHA guidelines. There were some pertinent sections. But, basically, what those statutes talked about was -- They talked about preventing incidents, accidents and occupational diseases, and they had through the Department of Safety the power to assess civil penalties and fines that went up to $50,000 for those incidents if the compliance wasn’t made. This section was entirely
deleted in July of 2002 and they eliminated the Department of Safety, which was under the Department of Labor, which ultimately they eliminated also.

There were 17 sub-offices throughout the State of Florida, 144 employees in the Division of Safety were laid off. A lot of them were our members by the way. Governor Bush, legislators and business leaders had opposed the safety program for public employees, and they felt it was duplicative. Because of that we lost whatever safety issues we had.

Lacking state law, rules, or standards in occupational safety and health numerous public employees including cities, counties, school boards, and universities have adopted formal and informal policies and procedures to avoid worker accidents and promote safety. Many public-sector unions including ours have tried to include safety language in our contracts, but the problem is
that safety language, except for a few, has really no teeth and you are in no way to back it with administrative criminal sanctions and violations.

We do have safety language in the city of Daytona that says that the city agrees to comply with all safety and health laws and regulations applicable to facilities and employees. It's nice language. We are going to be going back to the table and talking about how we can put some teeth in it. In addition, to their credit they do have safety committees and those safety committees work quarterly with management participation and union participation. I believe those have been reinstated along with the person coming in to do their safety.

Not only does the city of Daytona have language, the School Board of Volusia County has language that talks about safety committees and bringing safety concerns in the form of a written document to the supervisor.
Where we do have some very good language is our university system and our university contracts talk about employees have the right to refuse to do a job if they feel they are going to risk life and limb. Of course, that borders on being written up for insubordination, but we have had some good success and, again, they do come and inspect the job and talk about whether or not that job is going to be completed or they need to do some research into doing that job. But, again, the language is not as strong as it should be and we will be working on that further.

Although the recent political climate for federal standards and state is unfriendly towards AFSCME, the AFL-CIO, AFSCME and other unions have talked about readopting the Occupational Safety and Health.

If I could go back, I just want to mention one thing that I did miss. After the demise of the Division of Safety in 2002
fatalities rose from 329 employees killed in 2000, to in 2005 404, an increase of 22.7 percent. Staggering numbers. Staggering numbers. We are very concerned about that.

Part of what we would hope that this committee would do in one of your recommendations, help us to bring forward the option that we include in your recommendations that a minimum for public service employees would be that they have safety rules based on federal OSHA guidelines implemented.

In conclusion, the lives and health of workers are worth no less if they work for public employers as they work for private employers.

We thank you for your time.

CHAIRPERSON MERRITT: Thank you, Mr. Brody.

Mr. Granberry with the American Society of Safety Engineers.

MR. GRANBERRY: Yes, ma'am. Good morning.
CHAIRPERSON MERRITT:  Good morning.

MR. GRANBERRY:  My name is Edwin Granberry, Jr., and I represent the 30,000 members of the Safety and Health and Environmental Professionals of the American Society of Safety Engineers.  I would first like to express our society's sincere sympathy to the families of the two deceased employees.

I have been a professional member of the society for 35 years and currently serve as the vice-president of Government Affairs for ASSE's Region 4. Region 4 includes the states of Florida, Alabama, Louisiana, Mississippi, Georgia and Puerto Rico.

I have been a resident of the State of Florida since 1930. I'm a consulting chemist and have more than 48 years experience in the field of chemical process, explosive safety operations -- ranging from manufacturing of nitroglycerin and high energy
rocket propellants -- processing orange
concentrate and cattle feed and finally
serving as a launch safety officer on the
Mercury, Gemini, and Apollo manned space
launches at the U.S. Air Force guided missiles
range at Cape Canaveral, Florida.

My work as a consultant has taken
me to job sites both public and private from
Key West all the way to the Panhandle and all
across the United States. My service prior to
now to the State of Florida has included two
gubernatorial appointments to the Toxic
Substances Advisory Counsel and the Florida
State Emergency Response Commission. I
assisted in formulating the Florida Right to
Know law before OSHA standard even existed.
Mr. Berke who is here at this table with me
was a member of that formulating group.

So I would believe that I do have
a firsthand comprehensive understanding of the
importance of safety for public sector
workers.
It is under the most unfortunate circumstances that we have to meet today but I hope this public meeting will bring attention to a situation that every Floridian should know and be deeply concerned about. Florida's public employees do not enjoy the same occupational, safety, and health protections by law that the rest of us do. This is a longstanding national issue of concern to the American Society of Safety Engineers. There are an estimated 8.1 million state and local government employees, who are not afforded any kind of protection given all other U.S. workers under the federal OSHA Act. That is unacceptable. ASSE will be working through our various representatives to introduce legislation in the new Congress to address this shortcoming as quickly as possible in this coming year.

This is also been an issue of concern to Florida Safety and Health professionals and ASSE members since 2000 when
Florida let sunset the administrative code provisions Chapter 442 that required public sector employees to comply with federal occupational safety and health laws. There is no doubt in my mind that if there's anything that I have learned in my long career is that employees are better protected when there is a standard that the employers know they must meet. It is not a negotiable thing. They must meet it.

We hear a lot of talk about government wanting to be efficient, to perform efficiently like business does. In the business world, merely meeting OSHA standards is considered a minimal, I repeat minimal level of protection for workers. Most large employers, as the state and many Florida municipalities would be considered, expect an even higher safety and health standard to be met. The bar must be moved higher from where it is now. Why is this?

It's because employers and I would
suspect that even municipalities must understand that a good safety program and fewer injuries actually saves money in workers' compensation and liability costs, tort litigation costs, and health insurance costs, because they understand that they additionally have a moral responsibility, that they need to make sure that their workers are able to come home every night instead of being picked up by an ambulance at a work site. Florida workers deserve no less of a commitment to safety from their employers. When I say Florida workers, I'm talking about municipal workers.

While Governor Bush required 13 major state departments to comply voluntarily with OSHA standards through executive order of 2000-292, we do not know how seriously these departments took the order, and we do not know what other agencies, municipalities and other government employees are doing in this state to protect its workers.

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With the deaths of the two workers and recommendations of CSB all of us here today should want to start a process to correct this lack of safety standards coverage for municipal employees. ASSE will urge the Florida legislature through appropriate means to establish a task force and charge this task force with researching and recommending to the 2007 session of the Florida Legislature a viable solution requiring adequate safety and health coverage for Florida's municipal sector employees.

In closing, I would like to respectfully challenge Senator Anthony Hill, Sr., and Representative Sandra Adams and Joyce Cusack, who represent Volusia County in the 2007 Florida Legislature to take the necessary steps to set up such a task force and to designate the membership from interested parties within the State of Florida. I would last, in closing, volunteer my personal services as a safety and health professional.
to serve on this task force representing ASSE.

Copies of my statement are available out at the front desk and I thank you for listening to my testimony.

CHAIRPERSON MERRITT: Thank you, Mr. Granberry.

At this time, I would like to open the floor for Board questions. Mr. Wright, do you have a question?

MR. WRIGHT: I do, Thank you, Madam Chair.

Gentlemen, given your statements, do you think or believe that the fatalities in this case would have been prevented had the State of Florida maintained its safety program?

MR. BERKE: I guess I'll start off. I think of course it's difficult to predict whether those activities would have prevented those fatalities. I think what's clear though is by having that activity a chain of events could have occurred. There
could have been more interest. There could have been more positions. There could have been more activities that certainly would have had a high probability or higher probability of preventing it. I don't think any of us can really say whether it would have definitely prevented it but certainly, without those activities we know that inevitably those types of incidents occur.

MR. BRODY: I guess I'll respond also. It just becomes very clear if the standards had been met, if people had done the things they should have done before that torch was lit there is a good possibility that they would have detected the methane and that job would not have gone forward. So, it appears that it could have been prevented.

MR. GRANBERRY: As an experienced safety and health professional, I have always believed that training is the key to almost anything, not just in health and safety issues. Training, teaching and listening is a
key to most of the world's ills. I am not on a podium right now, but I'll wax eloquent for a few seconds.

I have been a college university instructor. I served my career teaching the sixth grade at one point in my career. I have also taught chemistry and physics. It's very clear when I saw the shocking statistics of the lack of training sessions; the poor folks that were working this job did not know what was happening. Now, NFPA 51(b), which is fire prevention at cutting and welding sites, requires a fire blanket, a fire blanket over the -- you couldn't put a fire blanket over that tank. It's too big. And they had no idea that the flame arrester was deficient and defective, had never been inspected since 1993, absolutely incredible.

So they were going into a situation they had not been trained to address. They knew nothing about it.

To answer your question and I...
would mirror what Mr. Berke said, I think if the laws of the State of Florida, the statutes had existed, there would be a probability that it might have been prevented but it goes much, much further than that. A law or statute does not prevent. It's simply a guideline. And you have to have active participation by the people the law or the statute applies to. That didn't happen here at all.

MR. WRIGHT: Thank you.

CHAIRPERSON MERRITT: Any other questions?

Mr. Visscher.

MR. VISSCHER: Thank you, Madam Chair.

Mr. Berke, your local government has obviously kept a pretty active safety and health program. Would you explain a little bit why and what kind of pressures you have felt about it, if you have had those pressures?

MR. BERKE: Well, again, as I

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mentioned the program within Palm Beach County was started probably about 25 years ago and I think that good safety and health activities are a result of what we'll call advocates. I was very lucky insofar as my predecessor was very interested in it and she had a mentor who I might say is Mr. Granberry here, who had worked closely with the County to set up that program. Clearly, at that time, we had the state, which had a presence, which had activities within the county. So, it was a relatively simple sell.

The fortunate thing for Palm Beach County is it is a relatively affluent county and I think people understood the importance of it. And again, I think that's why it was started.

Again, in those days we pretty much had similar activities, almost like a corporate kind of structure. My department has eight professionals within it and we've got probably almost 6,000 employees in
constitutional offices everywhere from facilities to fire rescue and we have all kind of activities to support that. So I would have to give a lot of the credit to my predecessors and the fact that at heart the county and I think the employees are interested in safety. That's a cultural thing. I think that's a very hard thing, had it been the year 2006, to have similarly started the way that it did.

MR. VISSCHER: I think Mr. Brody and Mr. Granberry both mentioned the idea and belief that good safety programs actually save money, which I think is true and certainly safety people believe that. I don't know if there are people, if that awareness is as strong elsewhere, but it would seem to me that the absence of safety programs throughout the state, in fact, if it's premised on some sort of cost savings was, in fact, not accurate that, in fact, it ends up costing money. Has anybody that you are aware of done any kind of
analysis of whether it's -- what workers comp rates in the public sector have done since the safety program at the state level has disappeared or any other kind of cost thing that would, cost analysis that would indicate that this has not, in fact, saved either local or state government money but, in fact, has ended up costing money?

MR. GRANBERRY: I have access to data which I don't have stored in my head right now, but I believe the answer to that would be a simple, yes, that the costs of workers compensation, the cost of insurance, the cost of replacing equipment and the costs of hospitalization have increased dramatically in Florida.

MR. VISSCHER: In the public sector?

MR. GRANBERRY: Yes, sir. And we can prove that. That's not just a conjecture. We can prove it.
that --

MR. GRANBERRY: The answer is, yes, sir.

MR. VISSCHER: -- could you show us? Could you send it?

MR. GRANBERRY: Yes.

MR. VISSCHER: That would be very helpful, I think.

MR. GRANBERRY: I will jump ahead and answer, yes, we can do that.

MR. VISSCHER: Thank you, Mr. Granberry.

Thank you, Madam Chair.

CHAIRPERSON MERRITT: Mr. Bresland.

MR. BRESLAND: Yes. I've got several questions for different members of the Panel.

For Mr. Berke, a couple of questions -- I'll give you a couple of questions and you can answer them at the same time. What is the budget in Palm Beach for
your program and in a general way, what sort of safety issues would you cover in terms of municipal employees? I know we are talking here about a specific chemical hot work permit issue, but what other sorts of safety issues across the Board would you cover?

MR. BERKE: Well, to answer your question, I guess the total budget including salaries is a little bit over $1 million for my particular group. If memory serves me, we have about $160,000, $150,000 just for training efforts. I have eight professionals who are assigned to approximately 25 departments. For instance, within water/utilities we are involved with, I know some acid storage and some response should there be leaks. Training, we do annual training for them. We have an active safety committee within that department. Our large departments do that.

We get involved with quantitatively fit-testing respirators for our
1,200 fire/rescue people both for N95s and SCBA. We may have special projects based on - for instance, we have one going on to see about fall-arrest equipment for fixed ladder within the county and through that, surveyed and prioritized and are working at getting fall-arrests for that.

Any number of things. I think one of the things is my coming from private sector it was very important, while loss control is an important factor and formerly my department's only title was loss control. Employee safety is certainly at least as important if not more important at least to me and I have tried to guide traditional industrial hygiene and safety recognition and control, evaluation control of hazards at the work site and we do that through a lot of active safety committees.

Additional budgets, for instance you asked the question of budgets, clearly things as far as fixed ladders and such, fall
arrests that falls to the Department and we have been pretty successful at getting funding.

MR. BRESLAND: Do any of our counties or municipalities in the State of Florida have as comprehensive a program as the one in Palm Beach?

MR. BERKE: I can't really say. I know that I am contacted regularly by people within the state. My observation is some of them who have contacted me have perhaps one or two people. They seem to be most interested in fleet issues. Not to say those aren't important and we, for instance, do take care of fleet issues and fleet safety also. I think that it's rare for them to be trained and for them to get personnel who are trained in occupational safety and health in what I will call the traditional areas, rather than risk management and loss control.

MR. BRESLAND: Thank you.

For Mr. Brody, can you clarify the
statistics that you give on fatalities? Maybe I wasn’t thinking or listening carefully enough but you had statistics showing the number of fatalities before and after?

MR. BERKE: Yes. This comes from the Bureau of Labor Statistics. In 2000 there were 329 deaths, and in 2005 there were 404 an increase of 22 percent. Again, that’s from the Federal Bureau of Labor Statistics.

MR. BRESLAND: Which areas or which industries?

MR. BRODY: That's overall. That's overall. I got this from our public relations person. So I don't have the answer to that.

CHAIRPERSON MERRITT: It's not just Florida that's --

MR. BRODY: No. This is for Florida.

CHAIRPERSON MERRITT: For Florida? That's one a day.

MR. BRESLAND: Is that public
employees?

MR. BRODY: That was the information that I received. If you'd like I can get clarification and get back to you but that's my understanding.

MR. BRESLAND: I think it would be interesting to know just in the public sector what those statistics are, were and are.

Another question for Mr. Brody. This appears to be a political issue in terms of the coverage of municipal employees. As a chemical safety board what can we do or what do you think would --

MR. BRODY: Well, I think part of what we are going to be doing is we are going to be going forward during this legislative session and talk about bringing back safety, OSHA safety. Yes, it is a political situation. While this was going on there was a new administration. They were downsizing government, state government. They were closing agencies. Although, I don't want to
get into that particularly, it was a bad thing that they did and I think what we need to do is bring it back. So we are going to be coming forth with legislation hopefully one of your recommendations will be as we are hearing is that we would be covered under the federal OSHA standards and that public employees have that option.

Did that answer your question?

MR. BRESLAND: Even at the local level is there support for going back to the way it was?

MR. BRODY: Well, we have good relationships certainly with the city of Daytona and with Volusia County -- I don't think that people are opposed to that. The problem is, it has to do with economics and it has to do with budgets, and with all the other things that have to go out in expenditures from the cities, counties, the school boards and the universities. If nothing is happening, if there's not an accident that
brings safety to the forefront then it's not
something that's immediate and they have to
deal with the immediacy of what's going on.

Having said that, I haven't spoken
to any folks about whether they are for or
against it, but certainly I believe that
quietly there are people that would be
agreeing with us.

MR. BRESLAND: Thank you.

CHAIRPERSON MERRITT: Mr. Wark, do
you have a question?

MR. WARK: Yes, I just have one
question actually and that is: With respect
to the executive order that the governor
signed making a lot of this voluntary, have
you looked into the aspects of that with
respect to whether or not it has been
effective in any of the sectors that you would
be concerned about?

MR. BRODY: Is that my question?

MR. WARK: All three, start with
Mr. Brody.
MR. BRODY: Yes, I guess it is my question.

The problem with having a voluntary system is that's exactly what it is and different people see it differently. The voluntary system we have now with school boards is that they will talk with us quarterly. The voluntary system we have with a lot of cities and counties is they will have labor management committees and they will have their own policies. The problem is, and again, I'm not talking about Daytona but I'm talking about in general. Because safety gets put on the back burner and the safety programs are not enforced and the training is not enforced, it caused them to take people off the job to do the training, they are working short staffed. They are more concerned about salaries and not laying people off. So any money that they can use to put into those areas they are going to do, and safety suffers.
So the voluntary systems that we have seen, unless something major comes up and we end up dealing with risk managers because it's going to start costing them a ton of money for injuries, we don't see it being that effective.

MR. GRANBERRY: Most cities are not perceived as high hazard industries or locations. The average person on the street if you ask the question is working for a city garage, a high hazard occupation, the answer would be I'm sure no.

Generally, high hazard industries such as manufacturing explosives, that I am very familiar with, or nitroglycerine is considered very high hazard and you are generally allowed one mistake, and after that one mistake you can phone in from above to see what's going to happen to your family. So those types of companies have very, very stringent, very good, very comprehensible by their employees, safety and health programs.
Entities that the management doesn’t think that there is a hazard – they usually have nothing. Now, why would employees -- you have already answered the question, Mr. Hall’s presentation. Why would employees think that a cloud of methanol is going to pose a hazard to sparks? Well, they have nothing in the back of their head about LELs and UELs, that’s lower explosive level and upper explosive levels. Above and below those two numbers, gasoline, methanol, jet fuel, every flammable liquid is fairly innocuous in the limits of those two numbers. It’s terrible.

So you have to have -- I believe the question was, is there a need or is there a recognized -- is there interest in re-instituting some sort of program. I would say the answer to that right now is, no. And I think that it behooves the members of my professional society to assist whomever we may in doing something about it. Mr. Bresland
asked the question earlier about, are there other counties in Florida that have exemplary programs like Palm Beach County and the answer is, yes, and that is Hillsborough County in Tampa. They have an outstanding program.

MR. BERKE: I guess I would make two comments. The first of which is that I have no evidence that really in the public sector, at least for the people that I have dealt with, are aware of the governor's recommendations in any context. In other words, I'm not sure that in the public sector some people are even aware that the Bureau and the Department of Labor and all are no longer enough force, you know, from our standpoint. That's a little secret we would just as soon keep, we are not broadcasting it.

CHAIRPERSON MERRITT: It's out.

MR. BERKE: Yes, I understand that. I think that the other thing is that as far as an interest within public sector on safety programs, I agree with Mr. Granberry.
I don't think that there's going to be a sentiment from people. It's going to come from workers. It's going to come from health and safety professionals.

You know unfortunately, peoples' view of risk and our view of risk is a lot different. I think there was a recent article in Time that talked about why do people worry about things they shouldn't and they don't worry about things that they should. I think unfortunately one of the things about health and safety people is we are constantly indicating things that need to be done that sometimes is a surprise and is not generally viewed as being particularly important. We are accused of being nitpickers and not really important. Certainly, nobody wants to hurt employees, but without those activities and without that training I just don't think there's going to be an upswelling of interest in it. I think it's important though.

CHAIRPERSON MERRITT: One question
I have is -- and we find this all the time in our investigation. There were many accidents that happen, small accidents that happen over time and there is no accident investigation or follow-up on the hazard that was created that caused that accident to happen. In Palm County, do you have, wherever you are, do you have an accident investigation follow-up process?

MR. BERKE: Well, actually it's funny you mention that because I have been with the county for about five years and we get what we call supervisor incident forms and needless to say we always see that as the corrective action, being more careful and all this kind of stuff. As a response to that and it just happens to be fortuitous, we actually provide about a half day training to supervisors and lead people on accident investigation which goes through a very, very amended, brief, root cause analysis and, you know, cause and effect, and you know,
whatever, a few techniques to give them the idea that --first of all, one of the things is that preventing injuries and illnesses is hard work and it takes follow-up. It takes accountability. It takes a whole chain of things. And just identifying the proximal cause is clearly not going to do it. So, yes, we provide the training. Yes, we still get reports that are deficient. Yes, we have staff members that work with those people and, yes, we go out and we do, certainly, accident investigations.

On the workers' comp side, you know, what we advise people is that we should be as vigorous in making sure that people that are harmed get workers' comp as we are vigorous in making sure that people that really weren't harmed in the workplace do not receive it. So we try to be very above board but we have been pretty successful with that course. We have been doing it for about three years and we continue to do it.
CHAIRPERSON MERRITT: Well, recognition of hazards through accident investigation is certainly something that we always find is a key to prevention, because if you don't recognize the hazards then you are just flying blind and -- yes, sir. Mr. Granberry.

MR. GRANBERRY: I would like to point out, you just said a key thing that I think is extremely important. I'm sitting here looking at this podium and somebody has taped down the cords for your monitor, that's fine. But, by NFPA Life Safety Code 101 and which is part and parcel of Florida State Fire Marshal's regulations the leading edge of the platform is supposed to be highlighted and a black nosing is not a highlight. So that platform is in violation of the state fire codes.

The point of my little story is that hazard assessment, failure mode effects analysis, root cause analysis are all-
important things that started early on with
NASA. And those of you who can remember some
of the details of the Challenger -- I mean, here we have probably the most complex piece
of equipment ever designed anywhere in the world, and what happened? O-rings between two solid propellant rocket motors, because that horrible morning in January the O-rings froze.
And when polymeric materials freeze, as Mr. Hall can testify to, their physical and chemical properties change, so they failed.

So in order for a city to get excited about -- Instead of talking about deaths and fatalities and hospital cases and insurance, talk about saving money. And safety engineers, not a lot of us but most of us years ago realized that if you want to get into the CEO's head and front office, you need to talk money because they will listen to that. It has never failed for me.

MR. WRIGHT: I have a question, Madam Chair.
CHAIRPERSON MERRITT: Yes, Mr. Wright.

MR. WRIGHT: Gentlemen, in your statements you have all, if I'm correct in understanding your statements, alluded to the fact that when the state eliminated its program, and when the governor and his executive order encouraged or recommended to municipalities to review standards and to adopt those that would protect workers, that we have, in fact, in some way lost part of the safety culture. I would like it if you would give comment with respect to how you view the safety culture at the local and state levels in view of the executive order that's been passed in the State of Florida. That is, are they embracing safety? Are they ignoring safety? Is it an evil necessity? How do you view the culture today with respect to safety?

MR. BERKE: I can only speak from my experience, obviously within the county; I think our safety culture is good. It needs to
be a lot better. Reinforcement in the way of
-- I'm not inviting enforcement actions, but
reinforcement in terms of the fact that there
is a legal issue and there is right of entry I
think is important to support the programs.
I'm not aware of anything going on within the
state in terms of that much activity. I work,
and again, certainly within public sector we
have very, very little to do with the remains
of the consultation program that's at the
University of South Florida. But certainly,
the safety culture has gone down a lot.

Again, I was with the state's program
from about 1979 to '84. We would go into a
small city whether it was Leesburg or Mt. Dora
or something else. We would do our
inspections. Obviously, the quality of the
inspections were dependent on the quality of
the person who was doing it. Some were very
high level. Some were not as high as we
wanted but we kept working at it. The people
knew us. There was a relationship so that
they knew whom to call if they had some issues
and we were resources. I would surmise that
that is pretty much gone and I think that's a
shame.

CHAIRPERSON MERRITT: Mr. Granberry.

MR. GRANBERRY: You asked questions about safety culture and what our
perceptions might be of safety culture in the State of Florida. That's a very difficult
question to answer. I think anybody can give a broad general answer that covers the entire
state.

However, if you look at specific companies and specific jobs, for example, the
next time you, and this will happen even in D.C. or Maryland or Virginia, drive down the
highway and you see a power line crew working at heights on a telephone pole, power pole,
whatever, they all in warm weather in Florida are -- in Florida right now, you always wear a
long sleeve shirt. Why is that? That's to
protect your arms from electric flash, so on
and so forth.

So the crews for our state utility
companies, I don't think their culture need to
change because they have a culture. It's
already there. They have used it for years.
And they know that it's important. The places
that don't know that it is important are the
small battery shop west of Miami where they
take old batteries and dump the contents out
into the sand and they have people working
there drawing sulfuric acid out of plastic
containers and pouring it into the new
containers and then they have a tar pot and
they put a new top on the battery. And this
mom and pop shop has only three or four
employees. Safety program? They don't even
know what you are talking about.

So to say that safety culture in
Florida is broken would be incorrect. It's
broken in some places. It's wonderful in
others. Obviously, in this location, in this
instance it wasn't even there.

MR. WRIGHT: My question was more pointed to the public sector as opposed to the private sector. And I was trying to differentiate between the governor's executive order where he directed various state departments to embrace safety versus the local municipalities where he said please review or recommended that they review and adopt as necessary.

I was wondering from your professional judgment as to whether or not there is any perceptive difference between those two.

MR. GRANBERRY: In my opinion, the answer would be, yes. For example, two of the departments in the State of Florida that have to comply with safety regulations, all right - - the Department of Lottery, and the Department of Corrections, Prisons. I don't think I need to say much more.

CHAIRPERSON MERRITT: Are there
any other questions?

(No response.)

CHAIRPERSON MERRITT: If there are no other questions at this time I want to thank the panel very much for your participation and for your input. It's very valuable to us as we perceived. And while you are departing, I would like to ask if there are any members of the audience who would like to give public comment to please register and we will prepare for that public comment.

MR. BARAB: Madam Chair, I also wanted to add one thing. Just for the record, we also invited the Florida League of Cities as well as the Florida Chapter of the National Association of Counties to testify before the Board today, both of which declined.

CHAIRPERSON MERRITT: Thank you.

Anybody who would like to speak please just be recognized when I ask for that information. The first name I have here is Ricky N. Jones. If you wouldn't mind, please
state your name in the microphone and your affiliation?

     MR. JONES: Thank you, Madam Chair. My name is Ricky Nelson Jones. I'm the brother of Clyde Anthony Jones, one of the ones who was tragically killed during the incident. I'm here looking for closure and the comment I have is about the tank itself. Was the tank really a part of the treatment plant at the time or had they moved on to another way of treatment, and if so, why was it still there and filled with liquid or half filled with 3,000 gallons of liquid? Shouldn't it have been removed prior to that and by professionals instead of city workers with no training?

     CHAIRPERSON MERRITT: Thank you. We will take that comment and those will be answered in the report. Thank you, Mr. Jones. Mr. Ebbets, please state your name and affiliation.

     MR. EBBETS : Madam Chair, my name
is Charles Chobee Ebbets, I'm an attorney for
the Estate of Clyde Jones representing his
wife Casey and the family.

    I would like to make two comments
first before I then add some comments of fact
that may help this important Board. One, I
have practiced for 30 years and had to
represent similar families in other tragedies.
    I have dealt the with NTSB, the FAA, with
OSHA and I want you to know that your staff
has been the most courteous and been the most
honestly concerned about the welfare of the
victims and finding the truth of any
organization that I have had the pleasure of
dealing with and they are to be commended.
They have never breached their levels of
confidentiality, never given false hope but
shown real concern without being asked to show
that concern, and I can tell you that is
wonderfully refreshing to people charged with
the responsibility of finding answers for the
families involved.
Secondly, I want to thank you for the thoroughness of this morning's presentation. The families, the ones that I represent, certainly other families every hour that that young woman there has been alive since she was told her husband was in the situation he was, and then certainly lost him the next day, there hasn’t been an hour go by that she has not wondered why this happened. And today for her and many others it's starting the process of having clarity to what happened.

When she came to me and these are the three points I would like to add, when she came to me asking for help for her family she said to me what many people in her position recognize immediately. All the money in the world will not bring her husband back. And in answering the question of why did she lose a man like her husband and why did these other people suffer their loss, what she wants this Board to know and would say to them is, if
there's any way that what you can do can bring a message so that one other person's life is saved, one other person is not critically or severely injured, then that helps at least her and her family have comfort that her husband's loss was not in vain.

The points of fact that I would like to add for you are important points that your investigators would not otherwise know without me telling this Board. One, I don't know the backgrounds vividly of the other men, but I do know the background of Clyde Jones. You need to know that Clyde Jones was a member of the United States Army and served in the Gulf War as a Ranger. He was not an unintelligent man by any stretch of the imagination. He was not a man who would recklessly and carelessly expose himself to a risk such as this. He had been trained in the highest levels of safety, as you can imagine, to put his life in harm's way as a Ranger.

He had worked at that plant for
five years. He had with pride showed the
plant to his wife saying, this is where I
work. He never knew, never knew the dangers
of those gasses and what type of explosion
could occur. And if there's any thought about
that these people were just three stupid
people doing something careless, that even
common sense would tell you not to do, I want
this Board to know that is not a fact.

Secondly, I want you to know that
I had requested as their counsel the records
of the City of Daytona Beach regarding the
building of this plant and I was given access
to four boxes of materials through a public
records request. I don't know that your
panel, your investigators have really needed
to look there or wanted to look there but I
will tell you there is a great deal to be
learned from looking in those boxes of
materials.

What you will find is as in so
many city projects or government projects the
idea of *make it as cheap as possible* was ever-present and time constraints, get it done, was ever present, and price and cost overruns were rampant throughout the letters that are in the materials. I was shocked, and I don't know that your investigators know this but in late 2003 as they were going through necessary testing procedures to put the plant online, the flame arrester had not even been installed yet and someone discovered that and said, oops, where is the flame arrester. And there's literally a letter to that in the city records.

The second fact that I don't know that the investigators have commented on is that we that have lived in this community along the ocean's edge and know the caustic effects of the salt water environment, Floridians know that by and large, the fact is this plant was less than 200 yards from the edge of the Halifax River in a highly caustic salt environment. Everyone knew that. So the
need for regular maintenance was even heightened by where the plant was located.

Then the third point is that while the Board properly, the investigators properly identified to this Board that there was complete absence of any specific training for the dangers inherent in working around flammable gasses. In my early discovery in this case I have learned that there was absolutely no safety setup for this project whatsoever. That no city manager, no plant manager, no plant assistant manager, no one said: AOkay, we want you to remove the work. How do you propose to do it?@ I mean nothing. Not even like, what are you going out to paint? So it is such a high level of lack of concern that what my clients would ask this Board to do when it is collecting and making its recommendations, is to as strongly as it can say it, bring to the attention of places, of entities like Daytona Beach the need to do things immediately. Casey's comment
whispering to me over and over again, is tell them now, now. And I assure you that while there have been efforts to say we will do this, those efforts really aren't accounting for anything until the programs are really in place. And we would hope that this Board could do that.

Again, I want to thank you for all that you have done on behalf of this family and the other families involved.

CHAIRPERSON MERRITT: Thank you.

Mr. Jim Smith.

MR. SMITH: Thank you, very much, I'm Jim Smith of Arthur G. Gallagher Company and also on the Board of Directors for the American Society of Safety Engineers. I want to echo some of the gentlemen's comments on the CSB. First of all, you know, you have to be commended to take on a public forum like this because it's such a big problem in Florida. I deal with a lot of municipalities and governmental entities on a day-in, day-out
basis and I have a whole host of answers to many of your questions.

One of the things I'd like to suggest is that I know we talked about the safety program and a lack of that. You know, we've really got to look at who is managing that at the city or county level. I mean, if you don't have a professional managing this process, I don't care what laws you have in place if somebody doesn't know how to do hazard analysis, hot work permit designation, coordinating in this political environment, you are just going to be having rules that sit there with nobody to manage it at the local level. So that's one of the things I think you should consider.

The second thing I would consider is that I would love to see you do a survey with the county and city management people, even the Boards of these city and counties to find out, do they really even know how many workers are getting hurt every day on their
job because, Gary, your answer is that 60 percent of the claims, all claims for city and counties are worker related injuries, 60 percent. Those are data that I can show you.

The thing about it is that we've got to look at somebody managing the process especially in a political environment like the city and county government. You are always competing with dollars and cost savings, so you have to have people to be able to number one know the technical skills but also have the business savvy to be able to take that and make it work within the county and city and change those cultures that don't have it and enhance those cultures that do have it.

So I would like to offer that as a future something that CSB might want to consider. But I do want to again echo CSB's in coming forward and making this a public forum because this is something that really the governor's office, some of our legislators really need to take a look at. This really
has an opportunity -- this is not the end. This should be the beginning.

So that's the comments I would like to make. Thank you.

CHAIRPERSON MERRITT: Between, I would ask is that the data you have with regard that you were speaking of, that you submit it to for the record. We would be happy to do that.

MR. SMITH: Well, you guys can talk with me about this. Some of it is proprietary so I have to collectively put it in some generic format but if you want to talk with me off the record then we will be glad to talk and work with you and show you some of the data.

By the way, for your answer, John, there are 27 fatalities in 2005. It's on the database. You go to the Division of Workers' Compensation database. I've got a report for you. I'll hand it to you.

You can query on the Division of
Workers' Comp database -- you can query different SIT codes in terms of general government. You won't get all of the government but you will get a lot of the government. And you can actually print out that data right there. And it will show you how many total, what they call indemnity losses, how many cases, there's tens of thousands.

By the way, an indemnity case is when somebody is severe enough to be injured, they lose seven or more days of work. This is not one or two days you are out. This is seven days you are out. So there's tens of thousands of cases every single year.

It gives you the average cost of a workers' comp claim. I mean those are business value case -- you can make cases for managing this process.

But I will be glad to talk to you. I think I have given one of your investigators my card and certainly would like...
to work with you if you need any of that data.

So, Thank you.

CHAIRPERSON MERRITT: Thank you very much.

Marie Mobley, I don't know if I have pronounced that correctly.

MS. MOBLEY: That is correct.

Hello, my name is Marie Mobley, I'm with the American Federation of State, County, and Municipal Employees. I work in Miami-Dade County's Solid Waste Department. That's the sanitation department for those of you who do not know.

First of all I would like to sympathize with the family of the bereaving family and to all the bereaving families that I have worked with through the 27 years that I have worked with the county.

I have heard a lot of statements this morning and it's somewhat similar or sad that we go through a hidden safety or a hidden items as the families have just gone through.
I mean through the years that I have been there and being there now it's very few people that deal with sanitation that live past their 30 years. A lot of them hate to retire because there is no life expectancy after the 30 years. It's the natural chemicals or the hazardous conditions that we are faced with.

I mean I look at the fire department, police department, how they have certain things in their clauses to protect them or pay them while they are working under these conditions, and here we are, sanitation workers, not only in the State of Florida, throughout the states, all over the United States and anywhere that deals with sanitation, we have no protection. Not with government, with OSHA, with no one. I mean those are hidden elements that you, me or anyone does not see. It's the things that we breathe. It's how we collect. How we dispose of.

I looked in the landfills on the
way here this morning from Miami and I noticed that every landfill from Dade to Palm Beach or anywhere that I have been even to Jacksonville, Orlando, throughout the state, it's somewhere near water. And that leaching has a format of running off those landfills because there's a layer of how we do the landfills that gets into our water table. And through that process, there's a cleaning process that they have to do in order to make it acceptable for us to drink. I mean that's just one of those incidents that you can relate chemicals getting off into.

But the main thing that saddens me with the family and with the conditions that I work under and throughout all the states, as I said, for other sanitation employees, that there is nothing set up for us, no type of retirement, early retirement. No type of benefits because Miami-Dade County has specifically stated that there is no one across the southern eastern part of the United
States that receives a compensation for the type of work that we do.

Like I said, before, I'm saddened for that family, but I'm also saddened for those families that belong to me and the people that surround me that work with me and the people that do work just like I do because there is no element set in place or no protection set in place for those employees.

Thank you.

CHAIRPERSON MERRITT: Thank you.

MR. WILLIAMS: My name is Jerry Williams and I am also with American Federation of State Municipal Employees, and like we say in the panel people have said there's no regulation when the governor took the regulations out, nobody want to put safety first. They want to put making money first, money over lives. And you see it every day. Money over lives and like the man says, if you talk money then they will listen to you. If you come in there and say safety, you need
some kind of regulation they won't do it. And it's sad that people have to die before we see that we have a need for safety.

CHAIRPERSON MERRITT: Thank you.

Are there any other comments? Yes, ma'am. Please state your name and affiliation.

MS. BOHAN: Good morning, my name is Jessica Bohan. I'm a certified --

CHAIRPERSON MERRITT: Could you spell that please?

MS. BOHAN: B, as in boy, o-h-a-n, I'm a certified safety professional and also on the Board of Directors for the Certification Council of Environmental Safety Technicians. I currently work at the University of South Florida OSHA consultation program and I used to work at the State of Florida Division of Safety, which has come under quite a bit of talk this morning. I wasn't originally going to speak but it's been such an interesting and informative meeting I thought maybe my comments would be interesting
or helpful in some way.

First of all, I'd like to express my condolences to the families. I think -- may I continue in a moment?

CHAIRPERSON MERRITT: Yes.

MS. BOHAN: Thank you.

CHAIRPERSON MERRITT: Do we have another commenter?

MR. MALO: Good morning. Thank you, Madam Chair.

My name is Walter Malo, I'm safety program manager for the State Fire Marshal's office within the Division of Financial Services the State of Florida. I just want to give you a point of information because I have been hearing everybody say that public employees don't have any protection.

Firefighters do, and I'm their protection. When the Division of Safety was allowed to sunset in 2000, the State Fire Marshal Chief Financial Officer began doing what needed to be done to secure permission
and authority to create safety programs for firefighters. We have Florida Statute 633.801 through .821 and Florida Administrative Code 69A-62 which comprise the Florida Firefighter Occupational Safety and Health Act. They are the only public entity employees with that kind of protection. I just wanted to give you that kind of information.

I want to thank you for an excellent presentation. Outstanding. And, again, as others have done I want to express my condolences to the families.

Thank you very much.

CHAIRPERSON MERRITT: Thank you.

Ms. Bohan, spell it again?

MS. BOHAN: B-o-h-a-n.

CHAIRPERSON MERRITT: Bohan, Thank you,

MS. BOHAN: I think I'm okay now.

Anyway, I wanted just to say in the Division of Safety we provided a variety of services to the public sector employers.
Enforcement was one, just one component of what we did. We also provided training, assistance with developing programs such as hot work permit, lockout, tag out, confined space entry, things like that. I performed fatality and complaint investigations in behalf of both the government as well as the employees if there were complaints.

During my time, there I started in about 1995 and, of course, I lost my job June 30, 2000. There was always a real need for our services. I was located here in the Daytona Beach satellite office. We were from the Orlando Region. Some employers were better than others but they all needed some help and we were able to provide them specialized technical at no charge. And with public sector, we all keep talking about money, and here was a resource they could call and we could do things for them.

The day I lost my job, well, we knew it was coming, we watched the Senate
session very carefully, I remember thinking to myself well, who is going to watch out for these employees. I'm gone. They don't have me to call anymore. I had cases of asbestos exposure, lead exposures, trench collapses, every kind of exposure you can think of because public sector work we heard earlier a gentleman reference, it's typically classified as low hazard but there are position such as fire, police, wastewater, utility work that is high hazard. And so who would go out? Who would stop the work? Who would make the complaints? Who would make the report saying, here is how we can prevent this in the future. We were gone.

I find it -- I now work, like I said, for the USF OSHA Consultation Program. We provide services in the private sector but are not allowed by law to help the public sector. They can use our video library but they can't call me for technical advice. I can't come out and look at a job site for
them.

One thing I realized in public sector is that that work is not glamorous. There are no public sector jobs other than maybe being a high-ranking official. These people work hard for a living. Typically, they are not paid very well, but they work for every penny that they make and they are proud people and many of them have been at their jobs for many, many years.

I think it's appalling and yet I'm still astonished we have not done anything in the State of Florida since 2000 to rectify the situation. How in the United States of America can we treat our public sector employees, the ones that keep our communities functioning, we can turn the lights on. We can use the toilet. Things we take for granted. There are people out there every day working on these systems and we are not protecting them.

So it's my recommendation or
request to the Board to please look at getting away from voluntary compliance. If there was no speed limit on the road, I would drive as fast as I could.

Thank you.

CHAIRPERSON MERRITT: Thank you. Are there any other comments?

(No response.)

CHAIRPERSON MERRITT: I would like to thank everybody for your participation and for your efforts. We appreciate your attendance at this public meeting concerning the CSB's investigation of the fatal Bethune Point Wastewater Plant explosion. This has been a very informative and insightful day. Our investigation team has provided us with new information about the conditions surrounding this accident and I thank them for their continuing hard and excellent work on this and other investigations.

The Board will be considering everything that has been said today as we move
forward in developing recommendations for preventing similar future accidents.

I also want to thank each of the panelists specifically for their comments, their perspectives and their efforts for coming here today and would again like to thank the audience for your attention and your participation.

We hope to finish our investigation within the next month and will return here to Florida with our final report and safety recommendations. Did you get that? A month.

With that, I would like to thank everybody and adjourn this meeting.

(Off the record.)