

**AIHA/ Deep South Section Meeting Minutes**  
**October 19, 2006**  
**Gonzales, LA**

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There were 24 attendees at this meeting.

Silton started the meeting by greeting the attendees. He announced that Alan Rovira will fill the 2007 President- Elect position. The membership was asked to submit nominations for the other 2007 board positions. Silton announced that the *December Social* is scheduled for Thursday, 12/7/2006.

**Student Award**

Wayne LaCombe presented the *Fred S. Venable Award* to Tulane University graduate student Cheol-Woong Kwon, for his numerous academic achievements in the Dept of Environmental Health Sciences.

Background:

B.S. in Environmental Engineering M.S. in Environmental Engineering  
Worked 3 years as a research scientist for Korea Institute of Science and Technology  
Worked with NIOSH on a project regarding isocyanate surface contamination in various worksites

Began attending Tulane University in 2001

- Currently pursuing Doctoral of Science in IH
- Preparing a dissertation on wood dust analysis by Diffuse Reflectance Infrared Fourier Transform Spectroscopy (DRIFTS).
- Student Membership in AIHA (2001 to present)
- Recommended by long-time member of DSS, Dr. Roy Rando

Wayne also presented Cheol with a plaque from the AIHA/ Deep South Section. Pictures were taken.

**Presentation**

Keith McCarroll introduced the partners of the Kean Miller Law Firm. Each attendee received a folder prepared by Kean Miller that included speakers' biographical sketches and handout of their Power Point presentation.

Speakers Brad Myers and Glenn Farnet consolidated environmental incidents from various local (and non-local) companies to illustrate all aspects of defending oneself and one's company against lawsuits. The following key points were mentioned and/ or discussed.

***What to Expect:***

- Plaintiffs and/ or prosecuting attorneys questioning occupational/ environmental health & safety professionals on their credibility and various points of the response efforts
- Exaggerated claims of “wrong-doing” and company negligence
- Lawsuits from transient employees months/ years after they have finished working at facilities
- Class- Action lawsuits to be filed as soon as 48 hours following an incident

***Have close relationships with—prior to any incident:***

- Community
- Media
- Toxicologists
- Nearby Facilities

***Have In- Place:***

- Area maps of facility and surrounding community, as well as historical sampling data
- A designated (and trained) company spokesperson to address all media
- A designated scribe to record all emergency response data, notes, and information
- Standard operating procedures (SOP) and emergency response plans (ESP) prior to an incident

***Avoid:***

- Making inaccurate and unsupported statements—whether in earlier reports to government authorities or to the media
- Communicating *estimations* of “worse-case” scenarios involving release concentrations
- Relying solely on air monitoring models for chemical concentrations, making evacuation decisions, etc

***Things to do—once an incident has occurred:***

- Report to government agencies
- Activate emergency response plan—follow plan
- Contact the company legal department as soon as possible
- Get an industrial hygienist (company employee is acceptable) in the field to obtain “real” data to supplement any air monitoring models

### *Things to Know:*

- Beginning on 12/01/2006, under federal law, all electronic mail is to be treated as formal documents and can/ will be subpoenaed for a lawsuit
- It's easier to defend yourself/ your company when you had plans in place, followed those plans, communicated accurate information to agencies and community, obtained "real data," and make every effort to contain an incident.

### Q&A:

Wayne—How large are the impacts of a company having prior OSHA, DEQ or EPA violations in lawsuits?

- The impact depends on the types of violations. Non-incident related violations will have minimal impact because they will not aid the plaintiffs in supporting your errors in their cases. Inform the legal department of all company violations.

Steve—More often, in the absence of big events, it is hard to pinpoint possible sources of complaints (from permanent employees and contractors). How does a company defend itself against employee lawsuits?

- To have data in an area where that employee works, a company must have a plan in place (that includes monitoring) to obtain data in all work areas. Hold on to your data—do not discard.

Ralph—Company policies may vary for short-term (acute) and long-term (chronic) emissions. Higher chemical concentrations may be permissible in acute releases. How can lawyers use those policies to defend the company?

- Lawyers will look at the policy that is more appropriate for the lawsuit. OSHA standards will also be used to help defend the company. Having ERP's always helps. Also, it is very helpful to have a toxicologist explain acute versus chronic exposures and related health effects.

Andry—Have you [as lawyers] had cases in which outside agencies collected "bad" data (due to incorrect operation of sampling instruments) that became harmful to the company's defense?

- The community will always side with an agency against a company if there is conflicting data. Even though company employees may be more qualified to operate sampling instruments, conflicting data will be a problem because in a lawsuit, the company is considered at fault.
- Contact the responding agencies and find out what type of instruments they are using. Then, ensure that the company has comparable or better instruments.

- Also, be aware that responders—such as police and firemen/ firewomen—can also be plaintiffs in a lawsuit against a company!

Silton gave both Brad and Glenn AIHA/ Deep South Section umbrellas as a “Thank You” from the membership for their presentation. Yaisa took pictures.

\*\* Please direct any questions about meeting minutes to [deepsouthsection@yahoo.com](mailto:deepsouthsection@yahoo.com)