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MEETING

STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

REGULAR MONTHLY BUSINESS MEETING

Stanislaus County Administration Building

Board of Supervisors Chambers

1100 H Street

Modesto, California

Wednesday, April 24, 1996

9:30 a.m.

Janet H. Nicol
Certified Shorthand Reporter
License Number 9764

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APPEARANCES

BOARD MEMBERS PRESENT:

Daniel G. Pennington, Chairman
Robert C. Frazee, Vice Chairman
Wesley Chesbro
Janet Gotch
Paul Relis

STAFF PRESENT:

Patti Bertram
John Blue
Ralph Chandler, Executive Director
Ken Decio
Don Dier
Judy Friedman
Dan Gorfain
Suzanne Hambleton
Charlene Herbst
Marlene Kelly, Committee Secretary
Dorothy Rice, Chief Deputy Director
Virginia Rosales
Marge Rouch
Diana Thomas
Kathryn Tobias
Lorraine Van Kekerix
Clint Whitney
Paul Wiliman
Patty Zwarts

PUBLIC SPEAKERS:

Matthew Cotton, CCQC
Mike Daley, Triad Energy Resources
Gordon Dewere, County of Stanislaus
Evan Edgar, CRRC
Marshall Elizer, City of Modesto
Keni Friedman, City of Modesto
Hans Lemcke, Pacific States Steel
Cohn Lennard, City of Walnut
Ray Simon, County of Stanislaus
Sandy Stevens, C&H Sugar

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PROCEEDINGS

BOARD CHAIRMAN PENNINGTON: Can we come to order, please. Good morning and welcome to the April meeting of the California Integrated Waste Management Board. Would the secretary call the roll, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Here.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Here.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Here.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Here.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Here. Thank you.

BOARD MEMBER CHESBRO: Mr. Chairman.

BOARD CHAIRMAN PENNINGTON: Yes.

BOARD MEMBER CHESBRO: Before you start with the agenda, I just wanted to offer my congratulations to you on your reappointment and your confirmation by the Senate, or at least the Senate Rules Committee. I guess it’s not done yet, but the major hurdle. And say welcome to the Board for a four—year term.

BOARD CHAIRMAN PENNINGTON: Thank you very much, Mr. Chesbro.

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We have a quorum.
And does any member have any ex partes to report this morning?

BOARD VICE CHAIRMAN FRAZEE: Mine are all recorded.

BOARD MEMBER RELIS: No.

BOARD MEMBER GOTCH: I have three more to record. I have a written correspondence from the City of Walnut, Jeffrey Parker, regarding support of SB 1676. And written correspondence from Madera, actually from Charles Youngclaus, Madera Disposal Systems, dated 4-18—96, regarding the Fairmead Landfill. And then finally the letter from Maribel Mann from NRDC, regarding inventory of solid waste facilities. Thank you.

BOARD CHAIRMAN PENNINGTON: Those also, were they circulated to all the Board members?

BOARD MEMBER GOTCH: I believe all of them were. The City of Walnut was.

BOARD CHAIRMAN PENNINGTON: I thought I had the City of Walnut.

BOARD MEMBER RELIS: Mr. Chair, I'm told it's hard to hear in the audience. We'll have to all make an effort to speak up.

BOARD CHAIRMAN PENNINGTON: Shout.

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BOARD MEMBER GOTCH: Let me make one more then, if I may. An oral communication with Evan Edgar of CRRC, Charles Youngclaus of Madera Disposal Systems, and Jill Nishi of Madera County Environmental Health regarding Fairmead Landfill and what occurred on April 22nd.

BOARD CHAIRMAN PENNINGTON: Very well. Are there any others?

BOARD MEMBER CHESBRO: I'm afraid so.

BOARD CHAIRMAN PENNINGTON: Go ahead.

BOARD MEMBER CHESBRO: I have in addition to the written ones that Ms. Gotch indicated, I also received a letter from Gerald Lee Palmer of BCP Associates regarding 50 percent diversion goal; Robert Filler of Arid Operations regarding Mesquite Landfill; Larry Sweetser of Norcal regarding the AB 1220 regulations; Evan Edgar of CRRC on LEA advisories; and Greg Voelm of Business for the Environment, regarding paper recycling. Those were written. Verbal, Terry Leveille of Terry Leveille and Associates regarding Senate Bill 2147; Katie Gerber of Community Recycling on various pieces of legislation, a number of bills that are before us today; Bruce Goddard of the Alameda County Waste Management Authority on AB 2323; Cohn Lennard, representing Diamond Bar, on Senate Bill 1676; Rick Best of CAW; and Don Peterson of Stanislaus County regarding Assembly Bill 2706.

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And on the Fairmead Landfill I spoke to Evan Edgar of CRRC; Jill Nishi, Madera County LEA; and Charles Youngclaus of Madera Disposal Systems.

BOARD CHAIRMAN PENNINGTON: Any others? Okay. Thank you.

As a reminder, I'd like to remind you all that anybody who wishes to speak on any of the items before the Board this morning, there is some speaker slips in the back of the room and if you'll fill them out and give them to the Board secretary she'll then give them to us and get them on.

Speaking of the Board secretary, I want to thank her for all that she does for us and wish her a happy Secretary's Day.

BOARD SECRETARY KELLY: Thank you.

BOARD CHAIRMAN PENNINGTON: And we bought her dinner last night so we don't have to do lunch today.

I have a few other announcements about today's agenda. Items 5B, SC, 5D, 5G, 5J, 5L, SN, 50, 5Q, 5T, 5U, and I'm not reciting the alphabet, 38, 41, 45, 57 and 58 have been pulled from today's agenda.

Item 7, the consideration of the '95 Ca1MAX Match of the Year Award will be heard following the approval of the consent agenda.

We will recess around 11:30 to participate in a facility tour and we'll reconvene at about 1:30. For anyone

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who would like to participate in the tour, maps are at the back of the room. Okay.

BOARD MEMBER GOTCH: Mr. Chair.

BOARD CHAIRMAN PENNINGTON: Yes.

BOARD MEMBER GOTCH: Question about the pulled items. Did you include Item 58 in that list?

BOARD CHAIRMAN PENNINGTON: Yes.

BOARD MEMBER GOTCH: Okay. Thank you.

BOARD CHAIRMAN PENNINGTON: Any other questions about the pulled items? Okay.

We have a couple of special guests from the land of water, wealth, contentment, health, Keni Friedman, city councilwoman.

MS. KENI FRIEDMAN: Good morning. Keni Friedman, Modesto City Council.

Welcome to Modesto. You couldn’t have picked a more perfect day. We’re delighted to have you here.

As you probably well know, Modesto was one of the first cities in the State of California to have curbside recycling, and so it was very easy for us to move into the 939 mandates and we’re delighted we could do it. We feel that we started the process and we’re continuing with it right now.

We have met our mandates and we’ll continue to do so. In fact we’re doing a huge composting operation, which

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Marshall Elizer will fill you in on in a few minutes. In addition to that, we want to thank you for all the support you've given us. You've given us several grants, which have enabled us to do a lot within our community as far as recycling and we're delighted to have those grants and delighted that we can apply for them and get them.

In addition to that you're going to be going on a tour this afternoon and we're quite pleased with what you're going to be seeing during that lunch hour and we will be joining as a City Council to go on that tour with you.

Besides that, I want you to know that I am on the San Joaquin Valley Unified Air Pollution Control District and some of the things you're doing do affect that particular district. And we are trying to comply with those regulations.

But, again, thank you for being here. Thank you for designating us as an economic development site. And we are working on that as well.

BOARD CHAIRMAN PENNINGTON: Thank you very much. Now we'll hear from the Supervisor Ray Simon, Stanislaus County.

MR. SIMON: Good morning, Chairman Pennington, and ladies and gentlemen of the Board.

Before I give you a welcoming statement, I would

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caution you to move your microphones as close as you can to yourselves, because in this particular board room, you can't hear in the back of the room for some unknown reason unless you have it almost swallowed.

on behalf of the board I would certainly like to thank you for choosing the Stanislaus County and certainly the City of Modesto for this location as this month's Board meeting. Chairperson Paul had another meeting. She is engaged in a welfare of children program that is quite extensive and couldn't be here this morning. And then they turned to Vice Mayor Tom Mayfield and he has laryngitis and a throat virus, which he said I gave to him, so he asked me to come here this morning.

Our successes in the area of waste management are many and I'd just like to highlight a few for you this morning.

We have a cooperative development of our planning documents and long—range waste management planning strategies. Our household hazardous waste collection, food processing residue use and recycling market development programs are extensive, as well as the countywide working task force dealing with waste management.

We also are proud of the City-County Resource Recovery Center that has operated in an excellent fashion for almost seven years, and our unified approach to waste

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diversion program implementation and public education is outstanding, as well as our achievement in monitoring waste reduction goals.

As a matter of fact, Stanislaus County has one of the only two approved alternative disposal-based reporting systems in the State of California. The success of these programs benefit each of our communities and certainly has contributed to Stanislaus County's ability to exceed the 25 percent waste reduction goal established for us by Assembly Bill 939.

We're grateful for the advice and certainly grateful for the cooperation that you have given us.

The subjects you have to deal with are complex, and we have a great deal of sympathy for things you have to deal with on a day-to-day basis. We hope you're able to resolve all of those in our county today.

And we hope you enjoy a luncheon, I guess that's going to be sponsored for you. I'm going to be there, so I hope to meet each of you individually.

And, again, welcome to Stanislaus County and good luck on your agenda.

Thank you.

BOARD CHAIRMAN PENNINGTON: Thank you, Mr. Supervisor.

Let me just add a personal note that I feel like

my roots run very deep here in Stanislaus County. My mother was born here in Modesto. My grandmother was born on a farm in Turlock where the Stanislaus State University is now. The Geer family, my family is the Geers and there's a very good road out here, Geer Road. So I feel like I'm home. I started in the newspaper business here. And so it's nice to be back.

MR. SIMON: Very good. As I mentioned earlier, I knew your parents. So, again, welcome back.

BOARD CHAIRMAN PENNINGTON: Stanislaus County has also produced some pretty good people, aside from yourself and Don Mayfield. The Secretary of the Department of Food and Ag, Ann Veneman, is from Stanislaus County. And the late Claire Berryhill was from here. Henry Voss, Dick Lyng, who is the Secretary of Agriculture, U.S. Agriculture, is from here. Jack Feneman, I don't know if I mentioned him, he was undersecretary of the old HEW. So Stanislaus County has made its contributions to the political world, that's for sure. It's nice to be here. Now we're going to hear from the integrated waste manager in Modesto, who is Marshall Elizer.

MR. ELIZER: Thank you very much. Good morning, Chairman Pennington and Board members. Appreciate the opportunity to give you a little

overview about the City of Modesto's program. Actually going to do that with a few slides. I'll move through them rather quickly because I heard someone say recently if you took all the speakers in the world and laid them end to end, you probably ought to leave them that way.

Being mindful of that, I will move to the slides quickly and welcome you and thank you again, as Ms. Friedman did, for all your help to the City of Modesto in implementing our programs for the integrated waste management.

So if we can get the slides turned on. I'm hoping this technology will work. I'm sort out of my environment. Our city hail is on the opposite corner and coming to the board chambers I'm not sure exactly how it works.

BOARD CHAIRMAN PENNINGTON: I feel like I'm on the bridge of the Starship Enterprise.

MR. ELIZER: This way the Board and everyone can see.

The City of Modesto does have an aggressive integrated waste management program.

And now if I can find the clicker.

Source reduction is a key for us and we've been actively promoting source reduction through backyard composting and waste-efficient yard care for quite a long time. Classes are offered once each month at the local

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college, Modesto Junior College, and bins are available to the public at a discount from the City.
Each of the 49 public schools in the city also is provided with at least one compost bin.
Here you can see some of the children working in their compost container.
We've also assisted in several educational school projects that have promoted the use of compost and gardening. In this case kids are planting flowers bought with money from selling recyclables. The compost used in the planting was donated by Gilton Solid Waste, the facility the Board will be touring later today.
Also, thanks to a grant from the Board, the City has been able to provide each of the local schools with a worm bin and information on vermicomposting. It's amazing how interesting worms are to small children. They get a kick out of it and it's been one of our most popular programs and we cannot keep up with the demand.
The City staff also provides other source reduction information to residents, via flyers and information booths at community events and some of that information has been provided to you here at the desk.
Recycling programs. As Ms. Friedman has already mentioned, Modesto has strong roots in waste diversion through recycling, beneficial reuse and in 1971 the curbside

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recycling program was begun. We have a comprehensive network of recycling centers and scrap yards where most of the City's recycling takes places. Materials accepted at these centers range from a typical plastics, paper, glass, metals to construction and demolition waste.

Currently diversion is 27 percent.

In the composting area, there are presently two permitted composting facilities in Stanislaus County that are used by Modesto residents, Gilton Resource Recovery that you'll be having lunch at today, and Grover Environmental Products. The City is an active participant with Grover Environmental Products, Stanislaus County Cooperative Extension and the Stanislaus County Compost Demonstration Project.

We have a problem. I understand the slide tray was dropped as it was being installed, so everything is out of order, but it keeps things interesting for me.

This obviously is not of the City. This is an example of the composting facility that we are -- we have some test sites for co-composting and I'll talk about it in just a minute and we're headed towards this type of facility that's currently under design, going out to construction this summer.

We have a compost program that is taking several different waste streams and bringing them together. We have

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a tree trimming program where we pick up about 12,000 tons a year from streets and alleys in the city. We pick up with claws and packers and transfer it and get it chipped and get it transferred to our compost facility.

This is the slide I was missing. This is the coordinated demonstration project that was funded through the Integrated Waste Management Board. It's been in three years in practice and it's working well. Of course, we're learning a lot from that.

Our program is taking 68,000 tons of yard waste a year and 17,000 tons of biosolids from our wastewater treatment facility and producing co-compost, taking five different waste streams from leaves and tree trimmings and yard waste and co-compost and biosolids and creating the co—compost that we plan to be marketing in a year, a year and a half.

This is rather unattractive, but it is one of our piles in an alley we have ——— we're trying to attract everything we can from the residents and get it into the compost stream.

The biosolids come from our water quality control plant and are extracted at the primary facility and also at the secondary facility through our oxidation ponds. This is our new 2,000 acre secondary treatment site where the biosolids are removed after settling.

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Diversion by co-composting in Modesto will be 14 to 17 percent.

Transformation has already been mentioned, but obviously all of our solid waste has been automated, our pickup automated, and taken to the waste energy facility. And you're aware of that, I think, that facility and the credit of ten percent that helps us achieve our 25 and 50 percent goals.

Also have an aggressive used motor oil program collected at curbside. We have several different certified collection centers around, up to 16 now. Here's a picture of a few. That program is growing rapidly.

Also are aggressively advertising the program. Here you can see just simply the bus bench and other billboards and radio and television, any medium we can use to promote this program we have.

One of the reasons is we have in this town 9100 rockwells. Really they're vertical french drains. Most of our stormwater is percolated back into the groundwater and it is essential for us, maybe more so than others that have point source control, we have 9100 locations where that can get back into the groundwater. And we -- it's extremely important that we keep that discharge, that stormwater clean and those inlets clean.

Here's some of the materials that have been used

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in support of the program. Generally they've been funded through grants from the Board.

And this is one of those that got put in backwards, but the photograph does allow you to see the schematic of the rockwell system and how the water percolates back.

And we also are aggressively promoting the household hazardous waste and waste oil program and helping children to understand that through several different school programs.

That concludes the slide presentation.

I'll just close by thanking you again for coming to Modesto for a meeting. If there's anything we can get you, help you with, we'd be happy to do so. If you're able to come back again this way next year, we'd like you to tour our facility as well in addition to those you'll be seeing today.

Thank you.

BOARD CHAIRMAN PENNINGTON: Thank you very much.

BOARD MEMBER RELIS: Mr. Chair, I'd like to ask a question.

Last night I was down here and met with some farmers about composting in the area. And the subject of biosolids came up. And I know this has been an area of the state where there's been some reluctance to use biosolids.

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So I wonder what your experience tells you for your co-composting efforts, how do you look to marketing that material to agriculture in this area?

MR. ELIZER: Several things. Our biosolids have been used on fills since the '40s. Been used by major growers and local growers for nearly 50 years. And that is a fact that over 50 percent of the biosolids in the country are reused or recycled.

And we know there's some local concern about that, but we think we have the history, the EPA regulations, the State studies, the recently released study by the National Academy of Science, funded by food processors and growers, confirmed that it's a safe and effective practice. And it's a beneficial reuse and we think it's at the heart of what AB 939 and the entire integrated waste management is about.

It's also available on the store shelves today as one brand is Nitrohumus. Most people use it, they don't know exactly what is in it, but when they do, they're surprised.

But we've got all the confidence in the world that we have got the right material, we have got all the tests done, got all the waste streams coming together and we have a marketing plan to use that.

And it's been two years in the making. We just haven't idly jumped into this. The study and the

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background, and the steps along the way we're now in the process of building the facilities.

We're really confident about the material we're going to produce, the quality. We actually certified some of the material last year as Class A exceptional quality, certified fertilizer designation, called Mo-Grow. So if you see it on shelves, you know where it comes from.

BOARD CHAIRMAN PENNINGTON: Yes, Mr. Chesbro.

BOARD MEMBER CHESBRO: I just wanted to echo the comment that Modesto is way ahead of its time in terms of the beginning of the curbside recycling program. In the two years following Earth Day 1970 a whole lot of college towns got recycling programs going and I worked with one of those up in Arcata, Humboldt State University, but Berkeley and Santa Cruz and Davis and places like that were best known for getting going, but for the most part they established these drop—off programs.

Modesto, not being your college town, but really being a slice of middle America, I think had the vision to look way ahead and realize that this was something that addressed a problem, a coming issue and a coming problem and not only jumped into the fray, but also I think pioneered the whole idea of convenient homeowner recycling with a curbside program and really set the pace for the rest of the state, which finally 20 or 25 years later has been catching

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up.
So I wanted to echo that earlier comment and really commend the City for its -- and the residents here, for their long-time foresightedness on seeing the benefits of this program.
MR. ELIZER: Thank you very much. And I'll pass it on. I've been here five years, so I can't take much of that credit, but I'll certainly pass it on to those that have been here.
BOARD CHAIRMAN PENNINGTON: Anybody else? Thank you very much.
Next we have local cooperative planning and implementation efforts by Mr. Gordon Dewere, director of the Environmental Resources, Stanislaus County.
MR. DEWERE: Good morning.
Stanislaus County truly does have an integrated approach and we're real proud of the fact that it is a true collaborative and collective effort amongst the County and the nine cities that exist in Stanislaus County.
Rather than elaborate on the programs that exist within Stanislaus County, what Marshall indicated to you in terms of Modesto's program is typical of what you see in the unincorporated area and the other eight cities within Stanislaus County. We work very close together with the cities and the business community.

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The diversion rate for the other eight cities and the unincorporated area at the present time ranges from 26 percent to almost 50 percent. So we're real proud of those accomplishments.

Again, rather than elaborate, what I'd like to do is give some recognition and introduce to you the key players that really brought this success to Stanislaus County and the nine cities.

I think I want to start with some of the city representatives. Kay Dunkel, who is here from the City of Ceres. Ron Bremer, who is here from the City of Hughson. And Tom Farr, who is here from the City of Turlock. Councilmember from the City of Riverbank is Sandra Benitez. Very good. Welcome.

City of Modesto, couple of key players from the staff has been Dale Davis and Jocelyn Reed.

Unable to be here today are representatives from the City of Oakdale, City of Waterford, City of Patterson, but they've really been key to our successes.

Members of the local task force and business community who are here today, again who have been critical to our success, we have Bob Bennett with Tri—Valley Growers. Bob. Karen Henry with Ogden Martin Systems.

And of course critical to all of this have been our haulers, those folks who are responsible for the

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day-to-day operations. Our curbside program, I think Stanislaus County also was probably the first county in the United States, we can only find really one other and that was in Florida who had curbside recycling programs, including used waste oil, available to every single resident in the unincorporated areas. So for a rural community ag related that's quite an accomplishment.

Bert Bertolotti, with Bertolotti Disposal. Steve Bonzi with Bonzi Disposal. Harold Reno with Modesto Disposal. JoAnne McKissen, where's JoAnne, with R and R Disposal. Alan Marchant, Turlock Disposal. And the Gilton folks you'll meet today at lunchtime.

Our county staff, Jami Aggers and John Nichols with our county public works department.

So these are the folks that have really sort of been responsible for the behind—the—scenes successes of our programs.

I did want to leave you with some really interesting statistics that I want you to think about on your way back to Sacramento tonight or tomorrow.

We've talked a lot about our successful resource facility. Some statistics I want to leave you with that are kind of fun.

This facility has been in operation since the late '80s and has been responsible locally for conserving 200

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million cubic feet of landfill space. So if you drive back to Sacramento, which is 70, 75 miles, and you think in terms of either 99 or 1-5, okay. That's equivalent to whatever freeway you take, four to six lanes, 70 miles, both north and southbound lanes, okay. Covering those lanes in about six to seven foot of garbage, okay. That's what we've conserved in landfill space since the late '80s.

In addition, the energy that's been produced by that facility is equivalent to the burning or would have been the equivalent to the burning, therefore the conservation, of a very precious natural resource, 200 million gallons of crude oil is what we've conserved through the energy produced in that facility.

Welcome to Stanislaus County. Look forward to seeing you throughout the day.

Thank you.

BOARD CHAIRMAN PENNINGTON: Thank you.

Any questions?

(Applause.)

BOARD MEMBER CHESBRO: I failed to mention Santa Barbara and Paul Relis starting a program I believe in 1970 or '71 as well. And I wanted to --

BOARD MEMBER RELIS: Thank you.

BOARD CHAIRMAN PENNINGTON: Thank you.

BOARD VICE CHAIRMAN FRAZEE: Mr. Chair, I'd like

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to make a comment at this point also, because so often when we talk about transformation or waste to energy the common perception is that if a jurisdiction does that then they're not going to do anything else. It's an invitation to waste resources and burn them all. And I think this county has proven that it can be both involved in recycling and reuse and ultimately use transformation for the balance of the waste stream and the two are working hand in hand. I think it really served to destroy that theory that this is so prevalent out there that we shouldn't allow any more transformation projects because they're going to deter recycling.

BOARD CHAIRMAN PENNINGTON: Thank you, Mr. Frazee. Now we'll move into the reports of the Board's committees and we'll start with the Legislation and Public Education Committee and Board Member Janet Gotch.

BOARD MEMBER GOTCH: Thank you, Mr. Chair. The Legislation and Public Education Committee met on April 18th to consider 14 State legislative measures. Of these measures, ten are before us today for consideration. Four are on the consent calendar and six are for Board discussion.

As for the other four bills, one, AB 2706, was information only.

Two of the bills we took positions on in LPEC died

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in Assembly committees yesterday, AB 3285 and AB 3436. The day before yesterday.

And Senator Marks requested we pull his bill, SB 1545, from the agenda pending some additional amendments.

On today's Board agenda we will discuss six State measures. Two of these measures, AB 3303, House, and SB 1712, Calderon, were forwarded to the Board without recommendation because of outstanding issues which staff was directed to address today.

The committee took a 3-0 neutral position on SB 1676, Mountjoy, and did not put the bill on consent pending further clarification.

The final three bills before us today are AB 2323, Sher, which codifies the Board's existing alternative daily cover policy. The Board took a support if amended position on the bill. The bill passed the Assembly Natural Resources Committee the day before yesterday, 15 to 0.

AB 2744, Ackerman, which rolls back the recycled plastic post—consumer material levels for the Board's trash bag program to ten percent, the committee voted two to one to oppose this measure.

And finally AB 3358, Ackerman, is a Board—sponsored measure which makes code cleanup changes in various areas related to solid waste management. The committee voted to support this bill. However, Californians

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Against Waste continues to express concerns about the definition of disposal issue. We'll be covering that today. And that concludes my report. Thank you.

BOARD CHAIRMAN PENNINGTON: Thank you, Mrs. Gotch. Next we have the Local Assistance and Planning Committee, chaired by Wesley Chesbro.

BOARD MEMBER CHESBRO: Yes, Mr. Chairman. The Local Assistance and Planning Committee received updates from the Diversion, Planning and Local Assistance Division and Waste Prevention and Market Development Division.

The committee considered at its meeting 38 planning documents, which represented 29 jurisdictions. All of those plans are on the consent calendar today.

With the approval of this month's plan, the Board will have approved 342 SRREs, conditionally approved 54, and still outstanding disapprovals is now at the number of six. So this represents an approximately 98 percent approval or conditional approval rate. So that we keep getting closer and closer to that 100 percent and keep shrinking that margin of disapproved SRREs.

The committee also approved two regional agency agreements, which are, I think quite significant. One was for the County of San Benito and the cities of Hollister and San Juan Bautista. And the other agreement joins the

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Counties of Yuba, Sutter and the City of Gridley, which is in Butte County. So it represents I think the first cross—county regional agreement, which actually involved jurisdictions in three different counties working together. With the approval of these regional agreements, the Board will have approved five regional agencies. And I believe there are a number more on the way. Most of these jurisdictions that are regionalizing are finding that they can save considerable amount of money on programs, achieve significant efficiencies in reaching the 50 percent collectively, as opposed to petitioning the Board for reductions or waiting to see if they can successfully make it on their own.

The committee also received updates on the disposal reporting system and the Uniform Waste Characterization Method Project. The Waste Characterization Method will be considered at next month's Planning and Board meetings.

On the waste prevention front, which I like to ask for reports at the committee and at the Board because I think frequently even though it's at the top of the hierarchy it doesn't get the attention it deserves, so the reason I come back a lot of times to report these things is I think it's important for us to respond to the legislative mandate by keeping it on the front burner.

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Over the past month staff kicked off the development of an office paper reduction campaign kit for use by both public and private sector paper generators, business and government. The kit will be a useful tool for local governments to use in conducting their own campaigns with the business community and targeting this significant and high value portion of the waste stream.

Staff and the Local Government Commission will be conducting three workshops on material exchange facilities, or M-E-F-s, MEFs, I guess you call it, as opposed to MRFs. MEFs are places where surplus materials are collected from businesses or individuals and made available to others who can use them. And we have a number of examples that are developed around the State and those will be highlighted at workshops at Berkeley on May 7th and May 9th in Marina and May 20th in San Diego County.

And finally Pam Bone of the "Grassroots Guide to Yard Care," KVIE Channel 6's gardening show, contacted our staff to gather information on grasscycling. KVIE aired the program on April 20th covering organics management. Yard waste prevention staff supplied several hundred brochures, as well as the Board's 800 phone number and the waste prevention World Wide Web site so viewers could obtain more information on organics management and grasscycling if they wanted it through the station and through the Board.

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That concludes my report.

BOARD CHAIRMAN PENNINGTON: Thank you, Mr. Chesbro.

I apologize for all the coughing.

Next we have the Market Development Committee by Board Member Paul Relis.

BOARD MEMBER RELIS: Thank you, Mr. Chair.

The committee heard updates on three items, the implementation of the construction and demolition plan, that's the recycling of these materials; implementation of the private buy recycled plan, our interaction with private companies and corporations to increase private procurement of recycled content materials; and then the recycled content trash bag program.

In general I characterize these updates as very positive with staff performing much work in all three areas.

I'd also note that the recycled content trash program is a subject of legislative matter before us this morning.

Secondly, there are two items are on the consent agenda.

No. 42, regarding the Recycling Market Development Zone Loan Committee appointments. We have a committee that convenes periodically to review loans that are received or submitted to the Board. This is a voluntary committee of

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bankers and other experts in the loan area and they advise us as to what they think we should do regarding certain loan applications.

No. 43 regarding the status and future direction of the R-Team. That's a program that has been funded by the U.S. EPA to support the Board's efforts in linkage to recycling businesses, statewide and technical assistance.

One item not on the consent agenda is No. 44, regarding the recycling market zone program evaluation report. And we have 40 zones throughout the State of California and we felt that it was time to take a look at how we're doing with that program and make changes. The Board voted 3-0 in support of a rather complicated set of motions that deal with the staff report. We modified, we deleted in some cases and these are summarized in the packet that has been presented.

The item is not on consent because of these changes and because the committee felt the full Board should hear more about how the program will be providing assistance to individual zones and recycling manufacturers.

BOARD CHAIRMAN PENNINGTON: Thank you, Mr. Relis. Next is the Permitting and Enforcement Committee by Board Member Robert Frazee.

BOARD VICE CHAIRMAN FRAZEE: Thank you, Mr. Chair. The committee met this month on April the 17th.

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Five permit items were heard. Four of those we are recommending for consent calendar, the Clover Flat Landfill in Napa County, B and J Drop Box Landfill in Solano County, and Olinda Alpha Landfill in Orange County, and the Terra—Gro Compost Yard in Merced County.

The one that we recommend for full hearing by the Board today is the Fairmead Landfill in Madera County.

The number of items other than permits that are recommended for consent, let me rescind one of those that we had originally placed on consent, but there's a need for staff to make an additional presentation on, and that is the remediation sites under the waste tire stabilization and abatement program.

The one item that did stay on consent was the rescission of the 30-day notice of intent to withdraw the approval of the designation of the Trinity County LEA. And as Board members I think are aware, Trinity County has entered into an agreement with Shasta County to provide joint LEA services for that part of the state.

The committee also held discussions regarding chipping and grinding, mulching and other organic recycling activities that are currently not included in the compost regulations and also odor at composting facilities in light of a need to implement AB 59.

Staff will be conducting workshops and soliciting

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participation from interested parties on these issues and will be back to the Board with their findings in subsequent meetings.

And that's all I have.

BOARD CHAIRMAN PENNINGTON: Thank you, Mr. Frazee.

The Policy, Research, and Technical Assistance Committee, Mr. Relis.

BOARD MEMBER RELIS: Dormant for the month, but it will be on schedule for May.

BOARD CHAIRMAN PENNINGTON: Okay. As was the Administration Committee, which I chair, we did not meet this month.

Next we have the report from the Executive Director, Mr. Chandler.

EXECUTIVE DIRECTOR CHANDLER: Thank you, Mr. Chairman. Good morning, members.

I have four items. I'll be brief this morning.

We have one presentation as part of my director's report this morning. Let me start with that.

It's regarding the Pacific States Steel cleanup project, a project under our 2136 program. As the Board is well aware, we provided a matching grant to Pacific States Steel in March of last year.

The site is a former steel mill and a co—disposal site in Union City in Alameda County.

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The Board provided the site with a half million dollar grant, which the Community Redevelopment Agency of the City of Union City matched to the level of $767,000.

The cleanup was commenced last August and was completed in February of this year.

I think unique and special to this project was the high level of removal, recycling and reuse that took place.

I understand that over 50 million pounds of material were removed and from that, 37 million pounds, or approximately 37 percent of that material, was in fact recycled or reused.

Today we have the operations manager here to tell us more about the site. And at this time I would like to introduce Mr. Hans Lemcke, who can elaborate more on what is being characterized as one of most successful sites that the Board has overseen in the area of recycling and reuse and abating a hazardous situation.

So Mr. Lemcke.

MR. LEMCKE: I want to thank you for your time.

I'll try and be quick. My name is Hans Lemcke, operations manager from Pacific States Steel.

Behind you we have a few slides.

As was discussed, we got $500,000 from the California Integrated Waste Management Board and that is matched by the $500,000 grant from the RDA of the City of Union City and those monies were used strictly for handling

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nonhazardous solid waste. We got another $267,000 grant which was used for strictly decontamination. And then we used the value of the metal that we recycled for all demolition.

I would like to thank Marge Rouch and Jerry Oberhelman, who did a tremendous job of allowing this project to go forward within guidelines and still allow us to be extraordinarily cost effective.

I'd also like to thank Decon Environmental Services and Clayton Consultants of ——Decon is from Hayward and Clayton is from Pleasanton, for their efforts in recycling and saving substantial amounts of dollars.

The goals of the project were pretty straightforward and we accomplished them all. We recycled and reused or disposed of all the nonhazardous waste on the surface. We eliminated a significant health and safety risk in some large structures and sharp objects. We eliminated all the fire hazards. We eliminated a haven for drug addicts, gangs and criminals. And we dramatically improved the appearance of the site.

The project was ahead of schedule by a couple weeks and we are either on budget or beat budget for the total dollars that we were allowed to expend.

Next slide.

We also completed some additional work at no cost

to the project. One was replaced weather-beaten Visqueen, another was extensive interior grading, another was to consolidate precipitated dust and another was to move slag away from a flood control channel that we have on the site. As Ralph indicated, we had 50 million pounds of material that we recycled, actually addressed. Of that, 37 million were recycled. So that's 73 percent of all the volume out there was recycled and did not have to go to a landfill as garbage.

Some of the specifics on the next slide. The largest item were bricks. We had over 16 million pounds of bricks and that was made into either road base or fill for the site.

Wood, we had over about nine million pounds of wood. That was recycled and sent up to Northern California to a cogeneration plant that Wheelabrator has.

The cement category we have about six million pounds and that was recycled for road base.

Metal, around three million pounds and that was recycled for the value of the money so we could do the demolition of the buildings.

Wood impacted fill, we sorted through that and that was allowed to be used as cover.

And then we had railroad ties which we either donated to a local nonprofit railroad company, sold to a

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landscaper or crunched them up and sent them to a cogeneration plant, which is allowed as of January 1st. We also happened to go through about 2.7 million gallons of water that was recycled.

The most significant issue out here, achievement, is that we were able to save over $700,000 by recycling. If you make the comparison of recycling versus hauling to a landfill, not only were we able to substantially reduce the impact at the landfills, but the project itself on a $1.3 million project saved over $700,000 due to recycling efforts.

We were able to utilize local businesses. 19 local businesses accounted for 90 percent of all the spending.

On the next slide we had no lost time due to injuries. We met or exceeded all regulatory requirements and we had outstanding community support. And we didn't have a single complaint and we had many compliments on the project.

I'd like to take a couple minutes and show you a few slides. The first one is of the site itself. And the 61 acres that Mark is outlining is the site. That's the old steel mill. And, again, everything that we addressed was from the surface up. We have a lot of work to do which will be using RDA monies from the surface and below, but this was

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from the surface up.
To the left of that slide is the BART station, so everybody who came into Union City, BART would announce welcome to Union City and they would see this disaster. Looked like a bomb had just hit the site. Old dilapidated structures out there.
The first slide we're going to show is the precipitator. Again, all of these items, the 267 took care of the hazardous waste, 267,000. The million dollars did the nonhaz and the value of the scrap took care of the demo. The before and after, all these slides will be the exact same angle.
So that was the precipitator, which is about a 60—foot structure. First, we had to remove transformers of f the top. Then we had to consolidate the precipitator dust on the cement pad that's located right there. And then we hundred percent recycled the metal.
Next slide is a cooling tower. This is a 40-foot structure that is mostly metal and wood, primarily wood. The wood had to be contained on site because it had too much cadmium in it. But all the metal was able to be recycled.
The next slide is some acid tanks we had out there. We had acid below, tested out at one, which is very dangerous material. All that was remediated and then those tanks were 100 percent recycled.

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The next slide is a bunker C tank. That's about a 25-foot tank and has about 200,000 gallons capacity in it and we first recycled all the bunker C, which is about 10,000 gallons and then we went ahead and sliced and diced the tank and recycled it for metal.

The next slide is two diesel tanks. We used the diesel in those tanks to cut or dilute the bunker C in the previous tank and then we were able to recycle that as we recycled the bunker C. And same thing with the tanks, we sliced them up and recycled them.

Then next slide is a car crushing operation or house that was out there. It was full of oil and water, of which 100 percent was recycled. The metal was 100 percent recycled and there's substantial metal there. And all the cement was 100 percent recycled and made into Class 2 road base.

The next slide is of somebody made a bad turn out there and went into our pond. That's a front loader that we pulled out. Nobody had any interest in it, so we deconned that baby and sliced it up and recycled it.

We have an example of our largest sump, about 600 feet long, 50 feet wide, it was full of bricks and metal and wood of various types. All that was pulled out and recycled. The sump stayed, but all the material inside we were able to recycle.

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The wood piles, this is an example of one of many wood piles. We had to go through, get all the metal out, sort that out, and recycle it. The wood itself had huge structural metal pieces in it in and that had to be taken out. Then we ground up the wood and we took that to a co—generation plant at Wheelabrator in Northern California.

The next slide is of some railroad ties. We had thousands of them. They're neatly lined up here. They weren't out at the site. Again, those were either, we had a nonprofit group come in and pick up some for their railroad. The rest of them were either sold to landscapers or crunched up for cogeneration.

The next slide is the bricks. This is an example of millions and millions of bricks we had out there. Again, same thing, went through it, crushed all the bricks and either put the brick into Class 2 road base or landfill for our site as fill.

Mixed debris is the next slide. Had to go through that and sort it out. We hit as many piles as we could. There were some that were so mixed up, it just wasn't cost effective to do so, and we didn't. And that reflects the 27 percent that went to the landfills.

And in the background there is our crushed road base, to the right, the larger piles to the right. And then crushed brick on the left-hand side.

So we want to thank all of you because we could not have done any of this without your help. This is a good kickoff for us to clean up the rest of the site and the Redevelopment Agency is in the process of committing to do that.

Thank you very much.

BOARD CHAIRMAN PENNINGTON: Thank you. It appears you did an excellent job there.

BOARD MEMBER CHESBRO: Mr. Chairman.

BOARD CHAIRMAN PENNINGTON: Yes, Mr. Chesbro.

BOARD MEMBER CHESBRO: Mr. Chandler, do you know if we have looked, if our C and D recycling staff has looked at this as a case study or a model? Because certainly the high degree of recovery could be used to demonstrate to other demolition contractors and the industry and the State at what's possible. It's an outstanding achievement in terms of waste diversion. If that -- I would be surprised if it's not already happening, but if it isn't we might want to look at it as something we want to highlight in our C and D recycling program.

EXECUTIVE DIRECTOR CHANDLER: As we look at some of the strategies that are coming out of the 50 percent workshops, we're always looking at the case histories or case studies to highlight to other jurisdictions on the successful programs and this is clearly one that we will be

1 featuring on how you can deal with the C and D situation and
2 make a economic return on the way to deal with the removal
3 of this material. So good point.
4 I have a couple of remaining items if I could,
5 Mr. Chairman, members, in my report.
6 First, quick monthly update as promised to the
7 Board on the Paso Robles environmental situation as far as
8 the Board taking lead agency there. The City of Paso Robles
9 and the Board staff have agreed now on a project
10 description. The project description includes changes
11 alluded to in my report last month, that being increases in
12 tonnages from 147 tons per day to 190 tons per day and
13 potential increases in the service area as far as Santa
14 Maria in northern Santa Barbara County.
15 The project description has gone to the Department
16 of General Services and, as I explained, they have under a
17 retainer environmental consulting firms that we will use as
18 consultants for preparation in the preliminary scope of work
19 and the proposal for the whole performance of the CEQA
20 document itself. So I will keep you abreast as the months
21 proceed.
22 My next item is with what I'm referring to as a
23 regulatory structure update with the Department of Toxic
24 Substances Control. The DTSC is underway on a two-year
25 project to assess California's current hazardous waste

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program and they're referring to this as the Regulatory Structure Update or RSU.

I want to call attention to a memo that I provided Board members earlier last week describing this effort.

In short one of the primary targets of this RSU effort is to examine what we would refer to as the California—only wastes, wastes regulated by the State that are not included in the federal system of regulation as hazardous wastes. The outcome of this RSU effort could lead to changes in classification of hazardous waste that would potentially direct these wastes to Class 3 facilities and therefore to regulation by our program in the future.

Given the potential for changes that impact our program, I've sent a memo to Director Jesse Huff outlining objectives we feel are important for the department to consider in this effort. Expect to be seeing some major recommendations from DTSC on this within the next couple of months and I'll be sure to keep all members apprised and look forward to hearing more from the department as this effort unfolds.

My last area is recognition of some waste tire staff that I feel we should highlight. These staff were recognized by Cal EPA, specifically Brad Williams, Keith Cambridge of the P and E Division and Suzanne Small of the legal office received Cal EPA's Excellence in Environmental

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Enforcement Award this month for their role in developing and implementing the Board's state waste tire enforcement program.

The award acknowledged their accomplishments in protecting California's environment and the program has completed over 170 waste tire inspections and seven tire hauler investigations.

This team has also prepared 44 notice and orders that have led to 12 administrative complaints against nine sites and three haulers.

In addition, staff work on this program has led to five waste tire sites receiving successful cleanup under the 2136 program.

I want to acknowledge Brad, Keith and Suzanne for their outstanding work and service. And I understand that Brad and Keith did not make the trip to Modesto today and of course Suzanne just having her baby girl, Mary Beth, on April 16th, last week, is also on maternity leave, but I would ask the Board to join me in acknowledging the outstanding work of that team.

Finally, as Mr. Frazee mentioned in his committee report, I am recommending that you consider removing Item 53 from the consent calendar today for the narrow purpose of responding to the committee's direction. And that direction was to have Chief Counsel Tobias report on the status of

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cost recovery efforts for the sites that we're recommending for approval that had been put on consent and when you get to that item I know Kathryn is prepared to make some brief remarks about the cost recovery efforts as it applies to those four sites.

So with that consideration and that summary that concludes my report, Mr. Chairman, members.

BOARD CHAIRMAN PENNINGTON: Any questions of Mr. Chandler?

Thank you, Mr. Chandler.

Now we do move to the consent calendar and the consent calendar agenda includes the following items. 5F, 5H, 51, 5P, 8 through 37, 40, 42, 43, 46 through 48, 50 and 54, with the removal of Item 53, if anyone has no objection to removal of Item 53.

So let's see. There are two corrections I need to mention before we take up the consent. The Legislative and Public Education Committee recommendation, 5F, is deferred to Air Resources Board, and the recommendation on Item 5P is to support with amendments.

Is there any member who wishes to pull anything from the consent calendar? If not, I'll entertain a motion.

BOARD VICE CHAIRMAN FRAZEE: Move adoption of the consent calendar.

BOARD MEMBER GOTCH: Second.

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BOARD CHAIRMAN PENNINGTON: *It's* been moved and seconded.

Will the secretary call the roll, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Motion carries.

Okay. Next is item No. 7, consideration of the 1995 Ca1MAX Match of the Year Award.

Ken Decio will give the presentation.

MR. DECIO: Good morning, Mr. Chairman, Board members.

1995 is a real solid year for Ca1MAX. The staff worked real hard to promote the program. We exhibited at six trade shows, conferences. We made numerous presentations to local governments, businesses and trade associations and we think this networking helped us out quite a bit, because we were able to receive some solid

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media attention. We had articles written about Ca1MAX in The Los Angeles Times, San Francisco Chronicle and Sunset Magazine, among others.

And we think these efforts really paid off in 1995. The number of successful exchanges through Ca1MAX increased by over 500 exchanges compared to 1994. The number of tons diverted through Ca1MAX increased by over 18,000 tons compared to 1994. And the number of dollars saved by businesses through Ca1MAX increased by over $3 million compared to 1994. So we think 1995 was an excellent year for Ca1MAX.

We're also looking forward to 1996. We are hoping to put Ca1MAX on the World Wide Web to get more access to other users. We're also expanding a border region between San Diego and Tijuana called CalMex. We're working with Cal EPA on that one.

We're also holding a mini-MAX summit later on this summer. And that's in hopes of encouraging more local materials exchanges programs to develop throughout the state.

And finally we're going to focus on more increased successful exchanges reporting. That's kind of the heart of the Ca1MAX program.

The 1995 Match of Year is basically based and recognized as the outstanding successful exchanges that are

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made through our program.
In each issue of Ca1MAX there's a Match of the Catalog article that's written by Board staff and that's used to inspire or hopefully inspire readers to use Ca1MAX. Then each year one Match of the Catalog story is selected as the Match of the Year by an ad hoc award committee of the Board advisors and committee analysts. And the committee utilizes a Match of the Year score sheet, which you have in your packet there that basically rates the exchange on a number of criteria, such as the number of tons diverted and it's an ongoing exchange, et cetera.
There were five candidates that were reviewed for the Match of the Year.
First one was a father—son team, Larry and John Manhan. They own separate electronics scrap companies and by advertising in Ca1MAX they were able to recover over 50 tons of electronic scrap.
Second candidate is a 20,000 ton filtration byproduct exchange between C&H Sugar Company and Triad Energy Resources. And through Ca1MAX they were able to make this exchange.
The third candidate was Lipton Tea Company. The recycling coordinator there advertised in Ca1MAX and because of this advertisement they were able to reduce the amount of waste generated at the plant by 33 percent. And they also

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saved over $1600 a week in disposal costs.
Fourth candidate is an exchange between Campus Recycling Program at CSU Humboldt and Unocal Refinery in Rodeo. They exchanged large plastic drums at the Campus Recycling Program and they used the drums to recycle other materials.
Finally, East Bay Excavating Company, they advertised in Ca1MAX and they were able to recover thousands of tons of asphalt, concrete, sand, slag, tile, toilets and cullet.
These were all, we consider, excellent matches and the award committee then, based on a criteria sheet, selected the filtration exchange between C&H Sugar and Triad Energy Resources as the 1995 Ca1MAX Match of the Year.
We think this is an excellent exchange. First of all, it diverts a large amount of material, over 20,000 tons of this filtration byproduct, which is a diatomaceous earth material containing calcium phosphate. This will be used, incorporated as a soil amendment as a fertilizer by Triad and then they market this to agricultural entities in the upper San Joaquin Valley.
It’s also an ongoing exchange. There’s a 200,000 ton filtration byproduct pile there that is being monofilled on the property next to C&H there, and so there’s another 180,000 tons that’s going to be excavated and Triad is going

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to be able to excavate that and incorporate that into a soil amendment and fertilizer for the next two to three years. And once the 200,000 ton pile is excavated the land is going to be turned into a 1300-acre regional park that will be turned over to the East Bay Regional Park District.

And in addition to this particular transaction made through Ca1MAX, Triad also wrote a letter, Mike Daley wrote a letter about some of the efforts that he's made through Ca1MAX. He's advertised in Ca1MAX and was able to obtain over 32,000 tons of mushroom compost and horse manure in addition to other materials, simply by advertising in Ca1MAX. As he states in his letter, his business has increased by over 25 percent in the last 18 months by advertising in Ca1MAX.

So this exchange, like many others through Ca1MAX, is a result of many parties. We also want to acknowledge the LEA from Contra Costa County and also Board staff played a role in this. The main participants, Sandy Stevens of C&H Sugar Company, and Mike Daley of Triad Energy Resources, they're here in attendance.

Before we can thank them for this outstanding exchange, the Board members must vote on this consideration and staff recommends that you approve the award committee's selection and award the 1995 Ca1MAX Match of the Year to C&H

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Sugar Company and Triad Energy Resources.

BOARD CHAIRMAN PENNINGTON: Any questions?

BOARD MEMBER CHESBRO: I'll move the recommendation.

BOARD MEMBER GOTCH: I'll second.

BOARD CHAIRMAN PENNINGTON: It's moved and seconded.

The secretary call the roll, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Motion carries.

We have a small presentation that we want to do here. I think Mr. Mike Daley and Sandra Stevens, Sandy Stevens.

You're from Triad? Okay.

Here's our resolution. Here is the resolution for you. I see they've put them together here.

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Let me just read this. It says:
Whereas proper waste management is essential to the State's continued economic stability, environmental health and public safety; whereas California Integrated Waste Management laws require aggressive and integrated programs to achieve the State's waste reduction goals; and whereas the business community generates over 50 percent of municipal solid waste in California; and whereas the volunteer business participation and waste prevention, recycling and composting program is essential to achieving the State's waste reduction goals; and whereas the Triad Energy Resources and C&H Sugar Company have demonstrated their commitment to effective waste management through their use of the California Materials Exchange, Ca1MAX; now therefore be it resolved that the California Integrated Waste Management Board does hereby commend Triad Resources Inc. and C&H Sugar Company for their dedication to effective waste management and bestow upon them the 1995 Ca1MAX Match of the Year Award.
Congratulations.
(Applause.)
BOARD CHAIRMAN PENNINGTON: He said something about horse manure. I can tell you where you can find a lot of it. I thought maybe Sacramento or Washington, D.C. would be a good place.

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MR. DALEY: Can I just say one thing? Ca1MAX has really been beneficial to us. As a company I was waiting for somebody to start doing this and there was a couple companies in Oregon and different states that started something similar, but it was a broker trying to broker products and it wasn't successful. But when Ca1MAX came out with this I just got real excited. And we've been able to probably exchange 10 to 12 different products through the magazine. Then I helped people that call me, I get calls from homeowners through the magazine, you know, asking what to do with horse manure and things like this. So it's been a great magazine and I really need to commend the Ca1MAX people for putting it on. It was great.

MS. STEVENS: I'd just like to take a minute as well, sort of the other side of the fence here. I'm really pleased to accept this on behalf of C&H Sugar. C&H has been around in Contra Costa County for 90 years this year. And because of that we take pride in being a good neighbor and being a good community citizen. And by finding Mike and his operation through the Ca1MAX process has really helped us continue that. And we've turned what was potentially a real problem into a win—win situation for everyone, for the community. To be able to turn a pile of waste diatomaceous earth into a park

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site, it just doesn't get much better than that. So we're pleased. Again, thank you for the assistance from Ca1MAX.

BOARD CHAIRMAN PENNINGTON: Thank you.

(Applause.)

BOARD CHAIRMAN PENNINGTON: This is certainly the kind of thing that we hoped this would do. Are you ready for us? Can we take about a five minute break?

(Thereupon a short recess was taken.)

BOARD CHAIRMAN PENNINGTON: Can we come back to order now.

MR. GORFAIN: Mr. Chairman.

BOARD CHAIRMAN PENNINGTON: Yes, Mr. Gorfain.

MR. GORFAIN: Could I just take ten seconds and acknowledge, in addition to Ken Decio, there are several other people who need to be acknowledged for their hard work on Ca1MAX this past year. Kevin Taylor and Jeff Hunts, who heads that unit, and Bill Orr, who heads the branch in which Ca1MAX operates, and they are really committed and really benefited the success of the waste reduction efforts of the Board and I think that it should be in the record.

BOARD CHAIRMAN PENNINGTON: Thank you. Are they here today?

MR. GORFAIN: Jeff and Kevin are. I think they're

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down with the recipients of the award.

BOARD CHAIRMAN PENNINGTON: Thank you. And, yes, we acknowledge it and the record will show that. We're ready to move to item No. 5, consideration of State legislation. SB 1676, or do you have something before that?

MS. ZWARTS: Good morning, Board members. Patty Zwarts with the Office of Legislative and Regulatory Affairs.

We have scaled down the number of bills that are before you today, so I'll just start into which ones are before you for consideration numerically.

The first bill before you for consideration is AB 2323, by Assemblymember Sher. This bill passed out of Assembly Natural Resources Committee earlier this week on a vote of 15 to zero, but the author specifically requested to bring back to the committee the bill if it was amended in any form, be that technical or substantive.

This bill is sponsored by Waste Management Inc. and the bill would specify that landfill disposal does not include the application of landfill cover material under certain circumstances. For the most part this bill would codify the Board's policy on ADC with some changes. You will see reflected in the analysis three amendments that are necessary to the bill to make it consistent with the Board's

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policy.
The committee recommendation on this bill was support if amended.

BOARD CHAIRMAN PENNINGTON: Thank you. Any discussion of this bill?

BOARD MEMBER GOTCH: May I have a quick question?

BOARD CHAIRMAN PENNINGTON: Sure.

BOARD MEMBER GOTCH: When AB 2323 made it out of Assembly Natural Resources, did they include our three suggested amendments?

MS. ZWARTS: They did not. We did not have a Board position at the time for us to communicate to them. They did have it and are aware of it.

BOARD MEMBER GOTCH: Thank you.

BOARD CHAIRMAN PENNINGTON: Any indication as to how that will --

MS. ZWARTS: The chairman's staff was supportive of it and felt that they were necessary amendments to have made. I also shared them with the author's office.

BOARD CHAIRMAN PENNINGTON: Any other discussion on this?
If not I will entertain a motion.

BOARD MEMBER GOTCH: I'll move we support this bill. It codifies our existing ADC policy and reverses the recent court decision.

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BOARD MEMBER CHESBRO: Second.

BOARD CHAIRMAN PENNINGTON: Okay. It's been moved and seconded.

Secretary call the roll, please.

BOARD SECRETARY KELLY: Was that just support or was that support with amendments?

BOARD MEMBER GOTCH: Good question. I heard a couple comments and I didn't hear either of them. It's support with amendments.

BOARD SECRETARY KELLY: Okay. Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye. Moving on to Item 5.

MS. ZWARTS: With the Chairman's indulgence, I believe the technical term is support if amended.

BOARD MEMBER GOTCH: Thank you.

BOARD CHAIRMAN PENNINGTON: Right.

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MS. ZWARTS: The next bill before you is AB 2744 by Assemblymember Ackerman. This bill is on the Assembly floor. It should be heard this Thursday, I expect. This measure is sponsored by First Brands Corporation and what it would do is essentially roll back the minimum content-requirements for the Board's trash bag program from 30 percent back down to 10 percent.

BOARD CHAIRMAN PENNINGTON: Any comments on this bill?

BOARD MEMBER CHESBRO: Mr. Chairman.

BOARD CHAIRMAN PENNINGTON: Yes.

BOARD MEMBER CHESBRO: There was a representative of one of the regulated companies there who made a number of statements at the committee which were quite striking and difficult to respond to and nobody seemed to have any answers to her statements. I don't think she's here today, but I did feel that for the record it was important to try to find out what the situation was, so since the committee I did do some checking with our staff and others who know about plastic trash bags.

And I just wanted to say that the allegation was that because of the difficulty, alleged difficulty, in obtaining quality feedstock in California that the manufacturers were having to make thicker bags and therefore it was importing material that was adding to the waste

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1 stream of California as opposed to reducing the waste
2 stream.
3 And I wanted to say that I have been able to
4 determine that most people who know anything about trash
5 bags, at least that I've been able to contact, indicate that
6 thickness of the bag does not determine the bag strength,
7 the quality of the resin does. The strength of the bag
8 reflects the quality of the post—consumer and virgin resins.
9 And furthermore statutory exemption exists in
10 current statute for quality and availability of
11 post—consumer resin.
12 No manufacturer has petitioned for that exemption,
13 so the statement that the representative of the company made
14 at the committee meeting was at least not reflective of any
15 action they've taken in the past to take advantage of
16 regulatory relief they could have obtained if, in fact, what
17 she was saying was true, that they had a hard time obtaining
18 an adequate feedstock.
19 I wanted to point out that in 1993 23
20 manufacturers certified being in compliance with the law.
21 All but one manufacturer required to do so were in
22 compliance. In 1994 40 manufacturers certified having used
23 2,943 tons of post—consumer material. Again, all but one
24 manufacturer was in compliance. To date for 1995, 44
25 manufacturers are certified having used 55 tons of

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post-consumer material, as the result of this statute. All but four are in compliance with the 30 percent use requirement, two of those are above the 20 percent use requirement.

In addition to measuring compliance by the number of companies, we have over 90 to 95 percent of the market share in California represented by a small handful of companies who are currently in compliance above the 30 percent level.

So this law is working and there's really been no compelling argument made that can't be, I think, directly rebutted as to why it should be repealed.

And so I would move the committee recommendation to oppose this bill.

BOARD CHAIRMAN PENNINGTON: It's been moved.

BOARD MEMBER GOTCH: I'll second that.

Not a single manufacturer has petitioned for an exemption because of quality or availability. So I find it difficult to understand the reasoning behind rolling back the Board's plastic trash bag program.

BOARD CHAIRMAN PENNINGTON: Go ahead, Mr. Relis.

BOARD MEMBER RELIS: Mr. Chair, and members, I've looked into this too and it seems to me, first of all, I guess I was surprised that there was a legislative move on this, because I reexamined the provision in statute that if

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there were going to be any quality problem, that is 58 manufacturers having difficulty obtaining feedstock that would produce a quality bag, then they could file for an exemption. So it seems to me there's flexibility. And for that reason I can't support it.

BOARD CHAIRMAN PENNINGTON: Mr. Frazee.

BOARD VICE CHAIRMAN FRAZEE: Mr. Chairman, before the committee the vote was 2 to 1 to oppose the bill. I happen to support this bill and I had intended to do a show and tell today and I got away without my materials. But it came to light when I picked up a garment at the store recently and it had a plastic bag over it. And that plastic bag, I understand, is identical in composition to a trash bag, except that it happens to be a different color and has a different purpose. So statute requires that we treat one kind of container different than another merely because of its use and primarily because it's black and it's visible out in the landfills. So that became a big target. But polyethylene plastic is used in these bags, is used in all kinds of products and I wonder why we zero in on the one that has the least opportunity to recycle because it's used for something that's thrown away. It gets dirty in every case, where you have other kinds of polyethylene plastic that we don't put this pressure on to use recycled

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materials where strength is not a factor and where it's clean when it goes into the waste stream it will be used. So I think the law in itself on its face was silly to begin with and ought to be repealed. It's only targeted at a narrow band of a particular plastic material. Doesn't really do much.

And I think Mr. Chesbro is correct that in his statement that it's not the thickness, but the quality of resin and that's exactly the point. If the quality of the resin is not adequate, then it must be made thicker. That follows. And the case that was made before the committee is that a trash bag made out of virgin plastic, I don't remember the ratio, but it was something like 63 pounds per thousand versus ones that have the required amount of recycling material in them, goes up to 85 pounds per thousand. So it's self-defeating. We're using more material.

And to get into an item that in itself is not -- doesn't lend itself to recycling because the contamination of the plastic.

So I would urge opposition to the motion that's before us.

BOARD MEMBER CHESBRO: Mr. Chairman.

BOARD CHAIRMAN PENNINGTON: Yes, Mr. Chesbro.

BOARD MEMBER CHESBRO: Mr. Frazee has made a very

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1 compelling argument for expanding this program to cover a
2 much broader range of plastics, and I would certainly
3 support that. And we can perhaps do a support if amended to
4 change the program from a rollback to an expansion to cover
5 other types of plastic that should be included.
6 My other concern is that it has been demonstrated
7 that a vast majority of the companies are in compliance, so
8 apparently -- and the fact that there have not been
9 applications for exemptions based on lack of quality
10 feedstock, I think belies the question of whether there's
11 adequate feedstock.
12 I would like to offer, as I did with the RPPC
13 discussion, the repeal legislation, that I think it should
14 be our Board's position that if industry is having
15 difficulty obtaining feedstock, we should put ourselves in
16 the position of offering assistance to work with the local
17 governments and waste haulers in the state who generate the
18 recyclables and the recycling companies to try to make sure
19 that they're generating materials necessary to meet the
20 requirements of the manufacturers.
21 I think, may I quote the quote that is sort of
22 second or third step here, but mend it, don't end it, is
23 what the chair of the Legislative Committee said. And I
24 think clearly we can do some things to make this program
25 work better, but it doesn't argue for virtual repeal, which

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is what rolling it back to ten percent requirement would do.

BOARD CHAIRMAN PENNINGTON: Thank you.

We have a motion and it's seconded.

Will the secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: No.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: No.

The motion fails.

Next item is Item 5K, consideration of State legislation, AB 3303.

MS. ZWARTS: AB 3303 by Assemblymember House. This bill would prohibit a public employee from entering a home or business for the purposes of conducting an investigation or search without first obtaining permission or a search warrant.

This bill is in the Assembly Public Safety Committee, not set for hearing yet. It is a nonfiscal bill, so it does have some more time.

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This bill was forwarded to the Board without recommendation from the committee. And you'll see in your analysis two suggested amendments.

BOARD MEMBER GOTCH: What is the status of -- may I ask a question?

BOARD CHAIRMAN PENNINGTON: That's all right.

BOARD MEMBER GOTCH: The status of contacting the author's office with these amendments?

MS. ZWARTS: I had not contacted the author's office yet. Waiting to see if the Board would find these acceptable.

BOARD CHAIRMAN PENNINGTON: Does this impact other agencies besides ours?

MS. ZWARTS: It affects every State agency that has certain regulatory authorities.

MS. TOBIAS: May I add some clarification, Chairman Pennington?

BOARD CHAIRMAN PENNINGTON: Yes.

MS. TOBIAS: The committee asked the legal office to look at that question with respect to how it might affect local agencies as well. And let me say that what this bill is pertaining to is criminal search warrants, not civil search warrants.

So for the Board and for our LEAs or anybody at a local health department probably, I don't want to give a

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percentage, but I'm going to guess somewhere in 75 to 90 percent, generally most of us in the regulatory work that we do are dealing with civil search warrants.

The other side, of course, are criminal search warrants, which is what the law enforcement is working with.

So all of our searches, if we need to get onto somebody's property are primarily done on a civil basis, which would not be affected by this bill.

If we went in for a criminal search or if the LEAs or the local health department is going in for a criminal search, then this bill would affect them. But I think since it's affecting everybody, I don't have an opinion on whether or not the Board should support the changes in the criminal search and seizure.

But I don't feel that this really affects the kinds of entries that we make onto private property.

BOARD MEMBER CHESBRO: Mr. Chairman.

BOARD CHAIRMAN PENNINGTON: Mr. Chesbro.

BOARD MEMBER CHESBRO: So there are conceivably cases where a criminal search would be required for enforcement of the statute?

MS. TOBIAS: If you were proceeding under a statute that gave, that had criminal penalties to it, some kind of basic jail time, if you will, then you would be under a criminal search and seizure or criminal statute.

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BOARD MEMBER RELIS: And what would happen at that point?

MS. TOBIAS: That then would be affected by this bill ——

BOARD MEMBER RELIS: Pardon?

MS. TOBIAS: Then we would be affected by this bill because this is dealing with the standards for criminal search and seizure, not a civil search and seizure, as I understand it.

We had a pretty short time to look at this, between the committee meeting and now. So you are pushing the edge of my knowledge on search and seizure.

BOARD CHAIRMAN PENNINGTON: Local District Attorney would be able to handle it.

MS. TOBIAS: I beg your pardon?

BOARD CHAIRMAN PENNINGTON: The local District Attorney would be able to get a warrant?

MS. TOBIAS: Yeah. But and they would -- the standards that get changed in the bill would pertain to them. So I guess what I'm saying is we don't generally use criminal search and seizure statutes to get onto property, nor do the local agencies. They're all doing it under nuisance statutes where we have different standards.

BOARD MEMBER RELIS: So we don't have a history of where this would clearly affect us?

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MS. TOBIAS: We don't have any

BOARD MEMBER RELIS: So why are we dealing with this?

MS. TOBIAS: I'm not sure it was clear when it first came up. I think it was brought up more on the issue of does this affect us. And then the question was brought up at the meeting, how does this affect the other agencies and that's when we looked at the issue of the criminal versus the civil

We had actually looked at this bill initially to see whether we can use it to make it easier to get onto people's property, because that's a problem that we're having. If we have to go to court to get a court order to enter somebody's property, it's a lot of time on an issue where we've got some kind of imminent health hazard. It's just an extra step. So we did look at it to see and realized that this was not going to —- number one, we're not going to be able to do this, and number two, it doesn't really affect the type of entry that we get onto property.

BOARD CHAIRMAN PENNINGTON: Any other discussion?

BOARD MEMBER GOTCH: To answer Mr. Relis' question, if I'm correct, Ms. Zwarts, didn't Cal EPA ask us to look at this bill? And I think that's the reason we're looking at it

MS. ZWARTS: Cal EPA has asked all -- the

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Governor's office has asked all State agencies to look at this bill.

BOARD CHAIRMAN PENNINGTON: The chair would move that we report this, move this forward without recommendation, move it on to Cal EPA without recommendation.

BOARD MEMBER RELIS: I'll second that.

BOARD MEMBER CHESBRO: May I ask Ms. Zwarts one other question?

BOARD CHAIRMAN PENNINGTON: Certainly.

BOARD MEMBER CHESBRO: Do we know if the California District Attorneys Association has taken a position on this?

MS. ZWARTS: I don't believe so. Perhaps because it's not set for hearing. Sometimes when it gets set for hearing is when you start hearing positions on those. Within Cal EPA this would probably have the most effect on Toxics, who does do some criminal investigations.

BOARD CHAIRMAN PENNINGTON: Okay. Any further discussion?

If not, will the secretary call the roll, please.

BOARD SECRETARY KELLY: Did you get a second? I'm sorry.

BOARD CHAIRMAN PENNINGTON: Yes. Bob.

BOARD MEMBER RELIS: I did.

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BOARD CHAIRMAN PENNINGTON: Someone to my left.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: No.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: No.

I think I'm concerned that there could be the instance where this could weaken our abilities for enforcement. So I'm going to vote no.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Motion fails.

Next item is the Ackerman bill.

MS. ZWARTS: AB 3358, a fine little bill.

This bill is a Board-sponsored measure by Assemblymember Ackerman. This bill would make a number of technical and code and definitional changes in the Public Resources Code and a number of other codes and amendments that were requested by the Board.

This bill is set to be heard on the Assembly floor this Thursday.

And to remind the Board, this bill was before you

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last month and which the Board took a support with amendment position where we suggested a number of other technical amendments to the author's office.

It was sent back to LPEC for consideration of two amendments.

One, a definitional amendment, which was later dropped by staff and determined that that amendment was not needed after all, so that one was no longer a consideration, which left one amendment for consideration by LPEC. And that was a change to the used oil grant program to make it more ——— let smaller populations obtain funding for the area.

At the time of the LPEC a new issue has arisen that was included in this matter and that deals with wood waste landfills and the issue where certain landfills, seven specifically, are being billed by back fees totaling $117,000, and it was recommended by the committee to exempt them for a window period between 1989 and 1993 when AB 1220 was created.

Therefore for consideration before you today are the two new amendments. The Board again is on record for supporting the bill, and those two issues are before you, the grant, used oil grant and the wood waste issue.

BOARD CHAIRMAN PENNINGTON: Okay. Any discussion on this bill?

BOARD MEMBER GOTCH: I'll move we support this

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bill, if you're ready for a motion.

BOARD CHAIRMAN PENNINGTON: Sure.

BOARD VICE CHAIRMAN FRAZEE: Second.

BOARD CHAIRMAN PENNINGTON: It's moved and seconded. No further discussion? Secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

MS. ZWARTS: As a technical note for the Board, the Board is in support and requesting the two additional technical amendments?

BOARD CHAIRMAN PENNINGTON: Correct. Correct.

MS. ZWARTS: Thank you.

The next bill before you is SB 1677 by Senator Mountjoy. This bill is in Senate Appropriations. I expect it probably to be set for hearing next week. It is sponsored by the City of Walnut. To be noted in your

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analysis, Norcal is listed as opposition. They have, I understand, removed their opposition based on some amendments that will be going across the desk on this bill soon.

The committee's recommendation to the Board is neutral. You will also note in your analysis based on some comments of the committee members and some issues raised by Board Member Frazee, we are suggesting a technical amendment to the bill to change a definition of MRF to make it a correct definition so as not to interfere with our tiered permitting approach.

BOARD CHAIRMAN PENNINGTON: Okay. Any discussion on this bill?

BOARD MEMBER CHESBRO: Mr. Chairman, I support this bill. I've always been kind of amazed that the proponents of projects or local governments somehow think that the less public participation results in less problems, CEQA problems, for the project. It's usually the opposite. If there's problems with a project, it's better to find out and have a public process.

So while this doesn't address the broader question of facilities and it probably should, I think in general I'm in favor of more public participation in CEQA. I think it can only help.

BOARD CHAIRMAN PENNINGTON: Thank you.

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Any other Board members?
We have a public person who wishes to address us,
Cohn Lennard.
MR. LENNARD: Yes, Mr. Chairman. My name is Cohn Lennard. I'm environmental counsel for the City of Walnut and also Diamond Bar.
And very briefly we did make a full presentation at the Legislative Committee.
I would only comment to you that we are willing to work with your staff on the item and trying to work out the definition of MRFs so it doesn't interfere with your tiered permitting program.
With that I would only ask that you support the recommendation of the Legislative Committee to stay neutral, which would be consistent with the League, CRRC, CSAC, et cetera.
If there are any other questions, I'll be glad to try to answer them.
BOARD CHAIRMAN PENNINGTON: Any questions?
BOARD VICE CHAIRMAN FRAZEE: Mr. Chairman, the other issue that I raised at the time this was heard before the committee was it indicates notification of all other governmental agencies. I can't find the exact words. If you recall, the intent of the bill was to in fact notify the other cities. And I pointed out that that definition might

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include a myriad of jurisdictions that would have some kind of control in that area and maybe that part of it ought to be looked at.

MR. LENNARD: We're agreeable, Board Member Frazee, to make sure that the intent is only to go to the neighboring --

BOARD VICE CHAIRMAN FRAZEE: Land use authority.

MR. LENNARD: Neighboring land use authority as a city. It's either a city in most cases.

BOARD VICE CHAIRMAN FRAZEE: All right.

MS. TOBIAS: Mr. Chair.

BOARD CHAIRMAN PENNINGTON: Yes.

MS. TOBIAS: I'd like to mention that I think this might have an impact on the Board in terms of requiring, if the Board is acting as lead agency under CEQA, to be dealing with these requirements. So I wonder if Mr. Lennard would like to respond to that.

I'd also like to say somewhat in response to Mr. Chesbro's comment, that I too believe that the more people that participate in a CEQA document, the better. However, I do feel, based more on my professional CEQA experience, and not so much just as a Board concern, that this does somewhat open the door to requiring a constant amendment of CEQA on project after project which people want some kind of public hearing on. Up to this

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time, as you may know, this is not a public hearing requirement in CEQA. It assumes that because CEQA acts in parallel with the rest of the permitting process all the rest of any discretionary permit or approval requires a public hearing under the Government Code, so that we would -- what this does is starts kind of top of the slippery slope for looking at different projects or different kinds of approvals or permits or whatever, start amending CEQA to require these public hearings.

So that's a concern just on the CEQA basis, but I think Mr. Lennard can address that first concern.

MR. LENNARD: Mr. Chairman, if I may.

BOARD CHAIRMAN PENNINGTON: Sure.

MR. LENNARD: This was brought up last time and, as I discussed with counsel before this hearing, we're going to work with the author to make sure this bill only applies to local agencies. There is a definition of local agency in CEQA, so that it is not applicable to the Board and it doesn't get you into the problem of directing your discretion one way or the other if you end up as a lead agency. Quite honestly, you rarely do on a CEQA document, but in the event that you do, this bill is not intended to affect that.

And again I would remind everybody, as I did last time, this only applies to Environmental Impact Reports, not

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to negative decs, not to negative declarations, so it is being limited as much as we can to try and get what we believe to be is an appropriate objective.

BOARD CHAIRMAN PENNINGTON: Okay. Mr. Relis.

BOARD MEMBER RELIS: Mr. Chair, this came out of committee with a neutral, no position?

BOARD CHAIRMAN PENNINGTON: Neutral.

BOARD MEMBER RELIS: Neutral.

BOARD CHAIRMAN PENNINGTON: Neutral, 3-0.

BOARD MEMBER RELIS: If we're prepared to make a motion, I will suggest that we follow the committee recommendation and remain neutral.

BOARD CHAIRMAN PENNINGTON: You'll move that we take a neutral position?

BOARD MEMBER GOTCH: I'll second that.

BOARD CHAIRMAN PENNINGTON: Any further discussion?

MS. ZWARTS: As a technical note, would you like to consider the amendment?

BOARD CHAIRMAN PENNINGTON: Mr. Relis, it's your motion.

BOARD MEMBER RELIS: What is the point?

BOARD MEMBER CHESBRO: Neutral if amended.

MS. ZWARTS: It may sound silly, but there is such a position as neutral if amended. There certainly is.

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BOARD CHAIRMAN PENNINGTON: I think the motion is we'll be neutral.

That's your second, correct?

BOARD MEMBER GOTCH: Are you going to go with the neutral with amended?

BOARD MEMBER RELIS: Let's go neutral.

MS. TOBIAS: I do think that we need a change in local government, yeah.

BOARD MEMBER RELIS: Okay. Neutral if amended. A first.

BOARD MEMBER GOTCH: And I'll second that.

BOARD CHAIRMAN PENNINGTON: Okay. We're neutral if we're amended.

Will the secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: No.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Okay. Next item is 1712.

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MS. ZWARTS: Yes. The last item in the state item is SB 1712, by Senator Calderon. This bill is in Senate GO, hearing scheduled for May 7th. This bill is sponsored by CRRC and the Waste Management Corporation.

What this bill would do is it generally prohibits local agencies from terminating or failing to renew the franchise contract, license or permit of the solid waste enterprise without giving the enterprise a five-year written notice.

This bill was forwarded to the Board from the committee without a recommendation.

BOARD CHAIRMAN PENNINGTON: Okay. Any discussion on this piece of legislation?

BOARD MEMBER RELIS: Mr. Chair.

BOARD VICE CHAIRMAN FRAZEE: I was just going to ask a question, I guess, that I asked, there is already a five-year provision in law now. What does that affect? Why doesn't that cover the situation?

MS. ZWARTS: You're correct, there is a five-year requirement in law now, and this bill would make more specific certain things in there, as well as there's some conflicting provisions in law in interpreting how that applies and I think this bill would make it more specific.

BOARD VICE CHAIRMAN FRAZEE: Would this create a situation where a franchisee may have a three-year franchise

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and they can gain an extra four or five years by provision of this law or not? Because they can't give five-years' notification if they only have a three-year franchise.

MS. ZWARTS: Right. I'm not as familiar with the industry, how they handle franchise. This is a hard bill for us to look at because we don't normally get involved in these franchise agreements. I'm not sure. Mr. Evan Edgar from CRRC would be able to tell us how the industry works.

BOARD CHAIRMAN PENNINGTON: I see him shaking his head.

BOARD VICE CHAIRMAN FRAZEE: He's not charging up here.

BOARD MEMBER RELIS: Mr. Chair, I'm ready to make a motion.

I don't think this is our matter. I think this is between locals and the franchise parties and so I'll make the recommendation that we remain neutral without any amendments otherwise.

BOARD CHAIRMAN PENNINGTON: All right. Do we have a second to that?

BOARD VICE CHAIRMAN FRAZEE: Second.

BOARD CHAIRMAN PENNINGTON: Yes, Mr. Chesbro.

BOARD MEMBER CHESBRO: The League of California Cities, as I understand, is in opposition.

MS. ZWARTS: Indeed.

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BOARD MEMBER CHESBRO: And they believe that it reduces their flexibility when it comes time to renegotiate a contract. And I support them in that. I think that it affects us because of the fact that the cities maybe need to renegotiate the contract in order to, at the time it comes up for renegotiation, in order to get the kind of diversion programs they need to achieve the State mandate. So I think it's an important tool for them to be able to do. I'm not talking about the other provisions, which apparently, as I understand it, affect other aspects of a contract. It's just the renewal time that I think cities and counties should have the flexibility they need to get the services that they need, not have to have a five-year notice. I don't think that we have in the statute or in our enforcement program as an excuse that they couldn't get the waste hauler to renegotiate within the five years that they needed to get the services they needed to achieve 939. So I think they deserve more flexibility, not less flexibility at the local level.

BOARD CHAIRMAN PENNINGTON: Mrs. Gotch.

BOARD MEMBER GOTCH: Also, I'm sympathetic to the waste haulers, but I feel that this does limit local government's authority in the solid waste.

BOARD MEMBER RELIS: It seems to me that local government is in a strong position to argue. I'm looking at

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it strictly from the Waste Board's perspective. I'm not persuaded in the analysis that we -- this is going to jeopardize 939. It's more a matter between locals and their franchise.

BOARD CHAIRMAN PENNINGTON: Okay.

MR. EDGAR: Evan Edgar of the California Refuse Removal Council.

I'm not a franchise lawyer, but the intent of this bill is to clean up the five-year provision for annexations or where the area is an unincorporated county land and where the city wants annexation. There's been misinformation and lack of clarity on that issue.

With regard to Mr. Frazee's question, no, it doesn't limit the ability of the cities to have flexibility. On annexation where we have haulers in unincorporated and nonfranchise zones in a lot of cases in unincorporated where if the cities were to annex in an area, they have to give a five—year notice and they've been operating in that area for a long time and they should stay in that area for a long time. And it's indicative of what happened in Kings County and Mission Viejo where upon annexation where the city kicked people out without any notice. And those people were recycling. They were doing the job. So I think that we are meeting AB 939 goals in unincorporated areas and when the city does annex they hurt the programs, not help them.

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So we're very supportive of this bill and CRRC would urge your support, but I realize that you need four out of five votes, so if we get neutral, be more than happy, but opposition position would not be beneficial to the industry.

BOARD MEMBER CHESBRO: That's the first time that analysis has been put forward as to that narrowly construed situation. And frankly if I were really clear that that was the specific instance we're talking about I very likely would have a different opinion, but that's not the way it's been presented. It's been presented as much more broadly. And I'm not concerned about -- I think that restrictions on their ability to amend or change contracts midstream or somehow, that's one thing. I was talking about renewal as the issue and that's what I am sympathetic to the city and county and I think they ought to have more flexibility, not less.

MR. EDGAR: It is more global. That was the case study that CRRC supports, that's why we came to the table to open this back up again because of that case study in Kings and Mission Viejo. But it does have broad-reaching ramifications.

BOARD MEMBER CHESBRO: I said I was sympathetic to the problem you're stating here, but I'm not sure that the bill limits itself to that.

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BOARD CHAIRMAN PENNINGTON: Okay. Any further discussion?

If not, we have a motion to be neutral.

BOARD MEMBER RELIS: Period.

BOARD CHAIRMAN PENNINGTON: Period.

Will the secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: No.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: No.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: No.

BOARD VICE CHAIRMAN FRAZEE: We could be neutral without being neutral, unofficially.

BOARD MEMBER CHESBRO: I think it’s important to point out, Mr. Chairman, that there were a number of bills on consent that we did agree on. It looks like we’re having a difficulty here, but I think that there were a lot of things --

BOARD CHAIRMAN PENNINGTON: Okay. Motion fails and we’ll move on here.

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Next is federal legislation oral report.

MS. ZWARTS: Board members, I just have a very short oral report to provide to you on the federal item. We don't have any federal bills up for your consideration today, but just to bring to your attention the President has recently signed a federal law that has impact on the Board and landfills in the state. It's the Landfill Disposal Program Flexibility Act of '96, more commonly referred to as the RCRA rifle shot bill, which I prefer that title for it. I think that's because it makes very surgical changes to RCRA. I know that discussions are going on, potential changes to RCRA next year, but this is some minor changes that did sign into law.

BOARD MEMBER CHESBRO: It depends on the kind of rifle, doesn't it, how precise it is?

MS. ZWARTS: I guess that's why.

Anyways, what it does, it reinstates into law two U.S. EPA rules that were overturned by the courts in '91. It was specific exemptions given to particular types of landfills. They have now put this into law and it's been signed.

What it does specifically, it exempts small municipal landfills from certain groundwater testing requirements. The exemptions would only apply to those remote or arid communities that dispose of less than 20 tons

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of municipal solid waste daily and provided that there is no evidence of groundwater contamination from the landfill. These amendments started from some southwestern states that had interest, that had tiny landfills in very arid regions of the state.

Additionally it allows Alaska to exempt native villages from certain landfill rules if the State determines them to be infeasible or not cost effective. Of course, it does not affect California.

And lastly it exempts small landfills from methane gas monitoring and covering requirements as long as the exempting does not jeopardize human health or the environment. Again, that's a very discreet exemption for those small landfills.

And also it makes some changes dealing with hazardous waste provisions dealing with surface wells and injection wells that do not affect us at all. So I just wanted to bring to your attention that law that has been signed.

BOARD MEMBER RELIS: Mr. Chair, is the covering requirement the cap or ——

MS. ZWARTS: Daily cover, as I understand it.

BOARD CHAIRMAN PENNINGTON: Okay. Thank you.

BOARD MEMBER CHESBRO: If you've ever been to the Happy Camp Landfill and you looked at the fact that they

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have to have a tractor and a person there to do that regular cover, I mean we're talking about landfill that's about as big as this room. So I think that is the rural jurisdiction. Unfortunately, I think it would apply to those arid regions, right, so it's not going to do any good for places like Siskiyou County.

MS. ZWARTS: San Bernardino County.

BOARD MEMBER CHESBRO: Yeah. But most of the rural counties in the state wouldn't, I don't think, meet the provision in California.

MS. ZWARTS: These issues came up, if some of you recall, when the RCRA regulations were being done and some very small communities were complaining about how tight the law was, and so they asked for flexibility. And more specifically it gives flexibility f or daily cover applications, frequency of methane gas monitoring, infiltration layers for final cover and means for demonstrating financial assurance. So more specifically it does do some things for those very tiny landfills.

BOARD CHAIRMAN PENNINGTON: Okay. Very good. Thank you.

MS. ZWARTS: That concludes my presentation.

BOARD CHAIRMAN PENNINGTON: Thank you. We're about five minutes from recessing and Mr. Matt Cotton, California Compost Quality Council, asked

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to address us for three minutes before we go to lunch.
So you've got three minutes.
MR. COTTON: I'll make it a minute and a half.
don't want to dissuade anyone from lunch.
Thank you very much, Chairman Pennington. My name is Matthew Cotton, representing the California Compost Quality Council.
CCQC is an unprecedented alliance of both producers and users of compost in California. It's a nonprofit, independent, voluntary, third-party verification process, if that's not enough descriptors for you.
But let me briefly go through the ten, 11 agencies that are part of our board. We've got the California Organic Recycling Council, California Certified Organic Farmers, California Resource Recovery —— sorry, Refuse Removal Council. We're acronym driven here at CCQC. But California Landscape Contractors Association, Californians Against Waste, the Association of Compost Producers, CalTrans, the Waste Board, the National Composting Council, the California Department Food and Ag and two members from UC Davis.
I just want to announce we have kicked off a formal or pilot registration process. We're registering compost producers in California. That started on March 20th.

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Gilton Solid Waste Recovery is one of our first applicants and I think our goal and theirs is building a bridge between urban green waste and agriculture. I followed one of the Gilton trucks out here. can't think of a more specific example of that, bringing the urban green waste to agricultural areas. AB 939 may divert up to ten million tons. And our mission is to really find increased markets for that increased use and production of compost in California. So I just want to introduce that. You'll probably be hearing more about it. And if anyone would like more information, I will be in the back of the room.

BOARD CHAIRMAN PENNINGTON: Thank you very much. I think we'll now recess until 1:30.

(Thereupon the lunch recess was taken.)

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AFTERNOON SESSION

BOARD CHAIRMAN PENNINGTON: We'll reconvene the afternoon session of the April California Integrated Waste Management Board monthly meeting.

First, I want to tell everybody that if they're new here, remember the speakers' forms are in the back of the room and give them to Marlene Kelly, our secretary.

Ex partes that took place during lunch?

BOARD MEMBER CHESBRO: Mr. Chairman, I have two. Spoke with Matt Cotton regarding various legislations and regulations affecting composting, and specifically not related to composting, Assembly Bill 2706. And I spoke with Evan Edgar, representing CRRC, regarding item No. 49, Fairmead Landfill.

BOARD CHAIRMAN PENNINGTON: Okay. Mrs. Gotch.

BOARD MEMBER GOTCH: Mr. Chair, in honor of former Board Member Egigian, I'd like to ex parte a conversation that I had with Evan Edgar, although we did not discuss any Board items.

BOARD MEMBER RELIS: It's always difficult. I had - conversations with Evan Edgar and Matt Cotton on the subject of compost regulations and that's about the best I can remember.

BOARD VICE CHAIRMAN FRAZEE: Yes. Mr. Chair, I spoke briefly this morning with Webb Porter, who represents

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the San Diego Solid Waste Authority, regarding the San Martin Landfill.

BOARD CHAIRMAN PENNINGTON: I don't have any to report other than I talked to my daughter, and I don't think I have to ex parte that.

BOARD MEMBER CHESBRO: I just remembered also that two county supervisors here, Pat Paul and Mr. Simon, who I spoke to about Assembly Bill 2706, as well.

BOARD CHAIRMAN PENNINGTON: Thank you.

Now we can move on to ——— anything else?

Okay. We can move on to Item 39, consideration of adoption of emergency regulations for consolidation of the annual reporting requirements, Judy Friedman.

MS. FRIEDMAN: Good afternoon, Chairman Pennington and Board members.

This item is coming to the Board based on direction from the Board to streamline and consolidate annual reporting requirement regulations that affect local jurisdictions.

And with that, I'm going to turn the presentation over to Lorraine Van Kekerix of the Office of Local Assistance.

MS. VAN KEKERIX: Good afternoon.

These annual report regulations are coming to you. They're a consolidation of regulations that were in five

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separate articles and requirements for a number of separate annual reports, and they reduce the reporting requirements to one annual report on all the jurisdictions' planning documents.

You have a revised Attachment 2 in your agenda item.

The reason for the revision, the revisions that are in here relate to references to the emergency waiver regulations, which are Item 55 on this agenda.

Our legal office advised us that we could not have a reference to regulations which were ——— which would be approved after the emergency regs got approved. So we paraphrased a few things from the emergency waiver regulations and have placed them into this set of regulations. And that's why you have the revised attachment.

And I'll be happy to answer any questions if you have them.

BOARD CHAIRMAN PENNINGTON: Questions from Board members?

Mr. Frazee.

BOARD VICE CHAIRMAN FRAZEE: No. A motion in order?

BOARD CHAIRMAN PENNINGTON: Sure.

BOARD VICE CHAIRMAN FRAZEE: To adopt Resolution

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96—167, the proposed emergency regulations.

BOARD MEMBER CHESBRO: Second.

BOARD CHAIRMAN PENNINGTON: Okay. It's been moved and seconded.

Is there anybody, any discussions?

If not, will the secretary call the roll, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Okay. We're going to move on to Item 53, consideration of sites for remediation under the waste tire stabilization and abatement program. I'm sorry. Okay. Sorry.

Move to Item 55. That's 55, consideration of approval of the negative declaration and the proposed emergency waiver of standards regs.

Judy Friedman.

MS. FRIEDMAN: Thank you again, Chairman

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Pennington and Board members.
This item has come to the Board from the
Permitting and Enforcement Committee and there is one small
change. Staff are recommending further regulations.
With that, I'll turn the presentation over to
Lorraine Van Kekerix again.

MS. VAN KEKERIX: This set of regulations deals
with adopting regulations for waiver of standards at
landfills. This set of regulations is based on a
requirement in Public Resources Code Section 43035 that says
that the Board must develop a plan to deal with solid wastes
that result from emergencies.
There have been a number of informal reviews on
these regulations and we've had a 45—day review period and a
second 15-day review period, which ended.
And we're here before you today with a revised set
of regulations. There was one concern about ——— that was
raised at the Permitting Committee meeting about the
executive director oversight. We've worked with our legal
office and we have come before you with a revision that we
believe takes care of the concern that was raised.
We recommend that the Board adopt the negative
declaration first and then we recommend that the Board adopt
the regulations and direct staff to forward them on to the
Office of Administrative Law.

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BOARD CHAIRMAN PENNINGTON: Okay. 92

MS. VAN KEKERIX: I'd be happy to answer any questions.

BOARD CHAIRMAN PENNINGTON: Okay. Questions from Board members?

BOARD MEMBER RELIS: Mr. Chair, I'll move then adoption of Resolution 96-201.

BOARD CHAIRMAN PENNINGTON: Okay.

BOARD MEMBER CHESBRO: Second.

BOARD MEMBER RELIS: The negative dec.

BOARD CHAIRMAN PENNINGTON: Okay. It's been moved and seconded.

Any discussion on that motion?

There not being any, will the secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

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We need a second motion now.

BOARD MEMBER RELIS: I'll make that second motion, which is the approval of the proposed emergency waiver of standards regulations, that's Resolution 96—202.

BOARD MEMBER CHESBRO: Second.

BOARD MEMBER GOTCH: Second.

BOARD CHAIRMAN PENNINGTON: Ms. Gotch seconds. Any discussion on this?

Being no discussion, will the secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Okay. Now we go to Item 55 now?

44. Okay. Chair is a little confused here, which is probably normal. Okay. Item 44, consideration of Recycling Market Development Zone program evaluation report. Dan Gorfain.

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MR. BLUE: I'm John Blue.

BOARD CHAIRMAN PENNINGTON: John Blue.

MR. BLUE: Good afternoon, Mr. Chairman and members of the Board. My name is John Blue. I'm here representing the Board's Recycling Market Development Zone program.

In the spring of 1995 the Board reached its goal of designating 40 Recycling Market Development Zones. Recognizing the need for a fundamental shift in the program for plan implementation, in September of 1995 the Market Development Committee directed staff to prepare an evaluation of the RMDZ program.

In developing the report, staff surveyed zone administrators, businesses, and economic development professionals. In addition to the surveys, staff reviewed comments received on the program in earlier venues.

Staff presented a draft report to the committee at the January 1996 meeting.

The committee directed staff to prepare a more detailed evaluation of the options and recommendations and report back to the committee the revised draft.

This revised draft was presented to the Market Development Committee on April 11th, 1996. At that meeting the committee made some modifications to the objectives and the recommendations in the report and forwarded the revised

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objectives and recommendations to the Board for approval. These modified objectives and recommendations are included in Section 5 of the report, entitled "Summary of Committee Recommendations," found on page 95 of your packet. Although these revised objectives and recommendations were approved by unanimous vote, the committee chose not to place this on the Board's consent agenda because of the changes made to the staff recommendations and because of the importance of these policies to the future of the RMDZ program.

I'd like to summarize those objectives, which are intended to reflect the shift in the program from more passive-responsive role to a more aggressive and proactive one.

The first proposed objective is to extend the RMDZ loan program to the year 2005. The recommendation and support of this objective are simply a restatement of the recommendations coming out of the Board's report on the RMDZ loan program adopted by the Board in May of 1995.

The next objective is to increase the awareness of the RMDZ program. The major recommendation for achieving this objective is the development and implementation of a comprehensive marketing strategy.

Another objective is to increase the level of direct hands-on services to zones and zone businesses,

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including siting and regulatory assistance, business plan and development and product and marketing assistance, feedstock information and technology assistance, as well as financial assistance.

The recommendation that supports this objective includes the hiring of outside contractors as needed to supplement staff's expertise, particularly in the areas of management, product marketing and to seek increased cooperation of other economic development programs and efforts throughout the state.

The next objective is to provide ongoing training for Board staff and zone administrators. A major change made by the committee in this objective was to direct staff to provide all future training for Board staff and zone administrators as part of the Board's overall training process.

Other proposed objectives include finding new incentives for the zones to use to attract businesses and developing an improved tracking and reporting system to the Board and local zone activities and accomplishments.

The final objective is to secure sustained funding for implementation of the RMDZ program, including the previous six objectives.

Staff feels that approval of the objectives and recommendations as forwarded by the Market Development

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Committee will significantly enhance the performance of Recycling Market Development Zone program.

This concludes staff's presentation and staff is available to answer questions at the pleasure of the Board.

Thank you.

BOARD CHAIRMAN PENNINGTON: Board members?

BOARD MEMBER RELIS: Mr. Chair, as you know, in committee we went over this at some length, but I'd like to add that in the summary of the recommendations we note at the beginning that the program now is focused on a more quantitative basis to generate ten million in initial loan applications, approximately three million in closed loans per quarter, or 40 million in applications and 12 million in closed loans per year.

This is a preliminary goal subject to ratification or modification when staff brings forth the strategy.

But I think this signals a fundamental shift from waiting more or less to see what's out there, to an active, aggressive approach by the Board and staff to get quantitative and measure our success in that way.

And so I wanted to make sure that we all understand that this is a shift.

Staff, certainly, I think understands it.

BOARD CHAIRMAN PENNINGTON: Okay. Any other discussion?

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Mrs. Gotch.

BOARD MEMBER GOTCH: I have a question. First of all, I'd like to commend staff on the extensive work that they did on this report. The new recommendations expand the way that the program conducts business, but it doesn't really address the prospective costs on personnel needs. And I'm wondering if you can give me some idea of the fiscal effects of these recommendations?

MR. BLUE: We expect once these policies are approved by the Board, staff will be coming forward with recommendations during the Board's regular budget process. We anticipate though with the redirection of federal R-Team dollars, that the program will operate substantially within existing parameters for the next fiscal year.

BOARD MEMBER GOTCH: And then beyond that?

MR. BLUE: We'll have to come forward with an evaluation, part of the budget process.

MR. GORFAIN: And the next several months will also give us a better basis for projecting both staff and contracting costs for the program.

BOARD MEMBER GOTCH: Thank you.

BOARD CHAIRMAN PENNINGTON: Any other questions of Mr. Blue?

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BOARD MEMBER CHESBRO: My only comment would be to echo Mr. Relis' comments to say that, as you know, Mr. Chairman, the committee was unanimous in backing up the recommendation and I think we all felt pretty strongly about the direction that we've suggested here.

BOARD CHAIRMAN PENNINGTON: Would you like to move the motion?

BOARD MEMBER RELIS: Yes. I would like to move the adoption of the committee recommendation.

BOARD CHAIRMAN PENNINGTON: Okay.

BOARD MEMBER CHESBRO: Second.

BOARD CHAIRMAN PENNINGTON: Okay. It's been moved and seconded.

There being no further discussion, will the secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

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MR. BLUE: Thank you.

BOARD CHAIRMAN PENNINGTON: Next is Item 49, consideration of concurrence in the issuance of a revised solid waste facility permit for the Fairmead Landfill, Madera County.

Clint Whitney.

MR. WHITNEY: Good afternoon, Mr. Chairman, Board members.

Staff will present this item, Suzanne Hambleton and Virginia Rosales, will make the presentation.

MS. ROSALES: Good afternoon, Mr. Chairman, members of the Board.

Item No. 49 is the revised permit for the Fairmead Landfill in Madera County.

The owner is Madera County. The contract operator is Madera Disposal Systems Incorporated.

Before you you should have the updated proposed permit and also Permit Decision 96-157. The permit was not available at the time this Board item went to print.

In summary the proposed permit would allow conversion of the standard landfill method to a balefill method of operation; an incremental increase in tonnage starting at 252 tons per day for 1996, to 283 tons per day in 2001 with a peak capacity of 395 tons per day; extend the hours of operation from as early as 5:00 a.m. to as late as

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7:00 p.m.; expand the permitted area from approximately 48 acres to 116 acres, of which 77 are designated for disposal, with an estimated closure date of 2013; allow as an alternative daily cover demonstration project using geosynthetic blankets and shredded green material for balefill cover; increase the landfill final elevation from 245 feet to 310 feet MSL; allow for the acceptance of nonfriable asbestos and treated biohazardous waste. Additionally, the LEA made a change to the landfill depth from 40 BGS to 46 feet BGS, which was not mentioned in the committee or Board item, since this occurred after both these items went to print.

Staff have reviewed the updated proposed permit and supporting documents and have made the following findings.

Number one, the facility is described in the 1984 Madera County Solid Waste Management Plan and staff concludes the requirements of PRC 50000 have been met.

Number two, according to the minutes of the Madera County Planning Commission findings, the General Plan designates the area of the Fairmead Landfill and adjacent land uses as solid waste disposal and agriculture. Board staff concludes that the requirements of PRC 50000.5 have been meet.

Number three, in accordance with LEA Advisory 28

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the LEA *has* submitted a statement indicating there is no evidence that the issuance of the proposed permit would prevent or substantially impair the jurisdiction's ability to achieve their waste diversion goals.

Number four, the Madera County Department of Engineering, through General Services, acting as the lead agency, prepared an Environmental Impact Report for the Fairmead Landfill expansion, indicating that the project would not have significant effect on the environment.

Mitigation measures were made a condition of the approval.

A notice of determination was prepared, however there's no indication that this document was filed with the county clerk.

The Madera County Planning Department acting as the lead agency prepared three negative declarations. One for the landfill height increase, second for the establishment and operation of the Mammoth MRF and Transfer Station, and change in the operation of the waste management practices to the balefill at the Fairmead Landfill. The third was for the demonstration project use of alternative daily cover.

All of these negative declarations indicate that the project did not have a significant effect on the environment and mitigation measures were made a condition of approval.

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1 However, the CEQA documents did not analyze for
2 the increase in tonnage and the early 5:00 a.m. hours Monday
3 through Saturday or the extended evening hours, the
4 acceptance of the nonfriable asbestos and treated
5 biohazardous waste and the last change that occurred to the
6 proposed permit, the change in the depth of the landfill
7 from 40 feet BGS to 46 feet BGS.
8 Staff requested that the LEA and lead agency
9 submit CEQA documents which analyze for the potential
10 environmental impact for these four changes that I just
11 mentioned.
12 The lead agency has submitted an addendum to the
13 1989 EIR for the Fairmead Landfill expansion dated April
14 15th, 1996, which was submitted that same afternoon to Board
15 staff.
16 The lead agency has determined that no conditions
17 or circumstances exist in connection with the
18 clarifications, modifications or operational changes
19 identified by the addendum that would require preparation of
20 a subsequent EIR.
21 Staff have reviewed the addendum and determined
22 that the CEQA analysis is adequate for Board's
23 consideration.
24 Number five, Board staff in conjunction with the
25 LEA inspected the facility on February 14th, 1996, and found

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two violations of Public Resources Code, which the issuance of the proposed permit would correct, and also a violation of Section 17258.23, explosive gas. Landfill gas at the site boundaries exceeds the five percent limit.

This is expected to be a long-term violation.

Therefore, following the Board's policy, staff requested that the LEA issue a notice and order, which the LEA has done. This was done on April 4th, 1996. Specifies time frames and compliance with Section 17258.23.

The construction of the landfill gas extraction system and flare is expected to commence June 1, 1997, and completion and start-up is expected September 1, 1997.

Also, I would like to mention that on April 19th, Board's enforcement staff did send a notice of intent to list the facility on the solid waste facilities which violate State Minimum Standards.

Number six, preliminary closure and post—closure plans for the Fairmead Landfill were viewed complete on August 10th, 1995.

And, last, the financial mechanism is adequate and the operator liability has been satisfied.

In conclusion, staff recommend the Board adopt Permit Decision 96-157, concurring in the issuance of the Solid Waste Facilities Permit 20—AA—002.

This concludes staff's presentation.

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The LEA, Ms. Nishi, the operators, Mr. Gene Dupreau and Mr. Charlie Youngclaus, and the consultant, Mr. Wayne Pierce, are here to answer any questions you may have.

BOARD CHAIRMAN PENNINGTON: Mr. Relis.

BOARD MEMBER RELIS: Mr. Chair, members, I wanted to follow up on some comments that I made at the Permits hearing on this matter of the Fairmead Landfill and the problems associated with it.

This landfill has had a long history of chronic and significant violations, height, tonnage, boundary, acceptance of baled waste, cover and other matters, fairly long list, and many having to do with our State Minimum Standards.

Also there’s a record of a lengthy series of notice and orders issued by the LEA to correct violations culminating in a notice and order to revise the permit. The primary argument to support this approach is that revising the permit to include currently existing conditions will bring the facility into compliance. The problem I think with this is that this rewards previous bad behavior by codifying it as newly allowable conditions in the revised permit. So that we have this chronic problem and then this comes back to us to correct it. We’ve taken this matter up before in the Board over the

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1 years.
2 Now, given the history here, I would have, if it
3 were possible in this permit, to prefer an option that would
4 have held the operator to the historical permit condition.
5 In other words, we have the underlying permit with the
6 tonnage requirement and then we have this proposed
7 expansion. We have that called for in the Board's 1990
8 permit enforcement policy outline. That's an option that
9 this Board could take.
10 In this particular case, because the operator has
11 already gone above the height limitation and beyond the
12 boundaries, it's not possible practically speaking to take
13 it back to that level because that's gone, that's history.
14 The suggestions have also been made that this
15 situation could instead be handled through the LEA
16 evaluation process. Certainly I'm in favor of setting high
17 performance standards for LEAs and having rigorous
18 evaluation of their performance, which staff is in the midst
19 of doing, but the situation before us today is not what I
20 have in mind about adequate LEA enforcement and undermines
21 my confidence in this very important shift that we're making
22 to drive the permitting process more back up closely to the
23 local level.
24 And that is, I would just say the analogy of our
25 relationship in AB 939, we call it a partnership. And we're

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pursuing a partnership that vests more trust at the local level, which is fine provided that's a mutally-shared responsibility and that the standards remain high. The LEA evaluation process is important, but it doesn't address the historical permit record.

Now, regardless of the vote on the permit before us today, I'm more concerned really in what this issue raises, what this history raises and that's about the underlying policies that allow this situation to occur. Because, after all, we've asked the local party to bring the permit, make it current, and so they're really following our lead, so we share some of the responsibility in this. And so it raises in my mind whether the Board is taking a sufficiently strong enforcement stance on permits and permit violations.

I understand that staff is examining the permit enforcement policy in the context of the newly adopted permit tiers and this will be brought before the P and E Committee in the near future.

I would like to see us direct staff, and this is separate from the permit matter before us, but I'm raising it because of its relevance, I'd like to see the Board direct staff to expand this effort to include the policy issues raised today surrounding notice and orders and permit revisions for compliance purposes.

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This would allow us to begin discussing the policy implications of today's situation on a broader and more detailed basis.

And it should also include an analysis of whether parts or all of the existing or to be revised policy should be in regulations.

So I just felt that this was an appropriate context and example to bring up this broader matter, even though I know that we have the permit before us.

BOARD CHAIRMAN PENNINGTON: Perhaps we can deal with the permit and then come back to discuss this a little bit further, if you like.

BOARD MEMBER RELIS: Yes.

BOARD CHAIRMAN PENNINGTON: Mr. Chesbro.

BOARD MEMBER CHESBRO: Yes, Mr. Chairman.

I share a lot of the concerns Mr. Relis has raised.

With regard to this specific permit, my attention focuses in on the question of the gas violation as the most obvious example of the problem that I think he's raising and in that light I have some questions for staff. And I apologize, not being on the Permits Committee, if I'm not fully versed on the enforcement policy. If the answer is obvious, I'm sorry, but I'd like to know.

Why is the gas problem considered a long-term

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violation as opposed to something that can be addressed more rapidly?

MS. HAMBLETON: Suzanne Hambleton, for the record. It's a long-term violation, it has to do with how long it takes to clean it up, basically, or get it back so that it's not a violation again. So in this particular case they have to put in a type of system that will correct the problem and that will not be able, for this particular county, will not be able to start until next year due to financial reasons.

But at the same time the staff did make a determination that this particular gas problem was not an imminent health and safety threat so that it could be delayed until the county could be able to fix it.

BOARD MEMBER CHESBRO: So was it the absence of health and safety problems or the economic problems of the county that drive the decision about whether it's a long term or ——

MS. HAMBLETON: No. The long-term part is how long it takes to clean up the problem. And I think the policy, actually I might have it in front of me, is 90 days. I believe that that was what was discussed when the policy was adopted in 19 --

BOARD MEMBER CHESBRO: Anything longer than 90 days is considered a long-term violation?

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MS. HAMBLETON: Correct.

BOARD MEMBER CHESBRO: Now, it's my understanding that the permit does not include a design plan for the gas system or a requirement that the authority to construct be in place prior to us issuing the permit? Do either of those -- are prerequisites to issuing the updated permit?

MS. HAMBLETON: It's not a condition of the permit. Is that what you're asking?

BOARD MEMBER CHESBRO: Right.

MS. HAMBLETON: It is not, no.

BOARD MEMBER CHESBRO: Okay. Well, I have more comments later.

But those are concerns of mine as to why we're not -- both applies to this specific permit and the general discussion that Mr. Relis has brought up, as to why we're not viewing the updating of the permit as a vehicle to drive compliance as opposed to, as I think Board Member Relis referred to it, essentially reflecting existing -— simply updating the paperwork to reflect existing conditions, why we're not going beyond that in attempting to maximize and speed up and pin down commitments and get as much as possible in place to assure the full compliance of the facility.

I'm not necessarily arguing that it would be possible to actually have the construction completed before

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a permit is issued, but I do think that the question needs to be examined as to whether we ought to be trying to maximize the progress towards compliance as one of our objectives in issuing an updated permit and in directing an LEA as part of the work program to update permits. What are the objectives? Are they simply to reflect existing conditions or is it to attempt to bring about compliance with State Standards?

MR. WHITNEY: If I might expand just a little bit on the understanding of the gas extraction system. There's two parts, really. One is the extraction of the gas and the other is it's either disposal or the use of that gas. Most systems do both, they try to sell the energy, usually they create more than they can sell, so they put in a flare system. As I understand it, this operator will be putting in a flare system in '97. And so that's why it takes that much time to get it done.

So the question becomes are you accomplishing anything by shutting them down or some other enforcement action, when in fact a problem exists and stopping trash from coming in won't solve that problem. So it's a practical matter of how long it takes to get the mechanisms in place to get rid of the gas.

Under the new regulations, Subtitle D, there are thresholds at which landfills, even old landfills that are

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unlined, when they have to install a gas system. One I'm familiar with was 200,000 tons total, they then had to spend a bunch of money to put in a gas system. So that applies to everyone. So the mechanism here is to gradually bring everybody up to the latest standards, short of going back and pulling out all the trash and putting in liners, which is not a practical solution. So these things take time.

BOARD CHAIRMAN PENNINGTON: Okay. Any further questions?

BOARD VICE CHAIRMAN FRAZEE: Just one if I could. Is there anything in statute or the regulations that treats a balefill landfill different than a mass landfill?

MS. HAMBLETON: No.

BOARD VICE CHAIRMAN FRAZEE: There's nothing. There's some reference earlier to a previous violation associated with the balefill operation. There's nothing specifically that requires them to treat that method different?

MR. WHITNEY: Only engineering standards to meet the standards of any landfill and because you have the cubes, bales, if you will, that presents a different kind of an engineering for daily cover, intermediate cover and how you place the trash. So they are impacted in that way, but

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that's an engineering problem, not one that's in the regulations specifically addressed, that I'm aware of.

BOARD CHAIRMAN PENNINGTON: On this gas issue, I want to make sure I understand. They do have some kind of a collection system, the flare?

MR. WHITNEY: I'm not sure what they have installed. The LEA is here if you'd like to have an answer to some of these questions.

BOARD CHAIRMAN PENNINGTON: They don't have a system at all so they have to put in a collection system?

MS. ROSALES: They have methane extraction wells in place at this time, but they're not operating. Also the detection of the gas has been in the old portion of the landfill, which is preparing for closure at this time.

BOARD CHAIRMAN PENNINGTON: What is the Board's pleasure here?

BOARD VICE CHAIRMAN FRAZEE: I'll move adoption of Permit Decision 96-157.

BOARD CHAIRMAN PENNINGTON: Anybody want to second it?

I'll second it.

I agree with the speakers here, though, that it sounds like to me that we're making a permit take care of violations instead of the violations. It's kind of like

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when the Highway Patrol gets me I tell them, hey, don't worry about it, just redo the speed limit, and then I'm not out of compliance.

No further discussion?

Will the secretary call the roll.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: No.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

I do also want to make a quick comment and that's that I agree with the comments that Mr. Relis has made and that I hope that there truly has been a turning of the tides and that we see marked improvement with compliance of this facility. I feel like we have been backed into approving this, but I'm going along with it.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Abstain.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

The motion fails. So I assume that means ——

BOARD VICE CHAIRMAN FRAZEE: No.

BOARD MEMBER CHESBRO: Let me --

BOARD CHAIRMAN PENNINGTON: That's right. It

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doesn't ——

BOARD VICE CHAIRMAN FRAZEE: Point of order on this, Mr. Chairman. Is this not a situation where the motion is to concur in the issuance of the permit? Failing to overturn that permit, that means that the permit is granted?

BOARD CHAIRMAN PENNINGTON: Correct.

BOARD VICE CHAIRMAN FRAZEE: Is that correct?

BOARD MEMBER CHESBRO: Can I make one additional comment?

BOARD CHAIRMAN PENNINGTON: Yes.

BOARD MEMBER CHESBRO: Before we move on to more general discussion that Mr. Relis suggested. I want to say that I am, in spite of my vote, pleased with the progress that the LEA has made and that the facility has made a lot of progress as well, but and I hold the Board and our policy largely responsible for the fact that we have not utilized the permits the way I was talking about updating the permits, but nonetheless I think it's important from my standpoint, as I have with some other permits that have been before us, I'm not singling anyone out here, to make the point that we need to reexamine our policy with this regard. So it's not, you know, casting aspersions on the LEA and the operator necessarily. It is we bear as much responsibility for the situation as anybody

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in terms of our policy.

BOARD CHAIRMAN PENNINGTON: Do I need to clarify what we did?

EXECUTIVE DIRECTOR CHANDLER: I think for the record it would be appropriate.

BOARD CHAIRMAN PENNINGTON: Since it takes four affirmative votes to approve anything and the permit will go forward when there isn't four votes to deny it. That's correct, right? So it will go forward.

EXECUTIVE DIRECTOR CHANDLER: Do you want to say something, Suzanne?

MS. HAMBLETON: I just wanted to say that at the end of the 60-day period, just for the record, that at the end of the 60 days they can issue the permit as opposed to today.

BOARD CHAIRMAN PENNINGTON: Right. Right. Okay. Mr. Relis.

BOARD MEMBER RELIS: Well, I thought perhaps if it's —- since the permit is out of the way, it's really an issue of perhaps directing to the appropriate committee a discussion, I would hope, of the issues that are raised here regarding this NO, notice and order, and enforcement relationship so we get out of this circular, unproductive enforcement approach.

And so it's the pleasure of the Board.

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BOARD CHAIRMAN PENNINGTON: Well, I certainly would concur. I think it's an issue that we do need to look at and it seems to me that it could go to either --

EXECUTIVE DIRECTOR CHANDLER: Mr. Chairman, if I could just put a couple of points on the table.

BOARD CHAIRMAN PENNINGTON: Yes.

EXECUTIVE DIRECTOR CHANDLER: I'd like to speak to this just very briefly. And as Mr. Relis commented in his remarks earlier, we are scheduled to bring, and the government has the tendency to do these acronyms, but we're calling it the RTPEP, and that's the Regulatory Tiers Permitting and Enforcement Policy, and that is the latest version, if you will, the PEP policy that we feel is appropriate for this Board to look at as it applies to the Permitting and Enforcement Policy to the new regulatory structure in our tiered permitting program.

I know the title to hear that discussion for May is in the executive office, and so I would like to support Mr. Relis' position that that be the springboard to broaden the discussion on the PEP policy, the RTPEP, to include the issues that you just outlined. And that I think that that would be the appropriate forum to do it and I think it's a permitting issue and would recommend from the staff's perspective that we use the Permitting and Enforcement Committee as a vehicle to do just that.

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BOARD CHAIRMAN PENNINGTON: Okay. Any problems with that among the Board? I don't think we need a motion then for that.

BOARD MEMBER RELIS: Okay.

BOARD CHAIRMAN PENNINGTON: I think we're in agreement.

BOARD MEMBER RELIS: And I will leave Mr. Chandler with my prepared comments on this so that it's clear what we've discussed.

BOARD VICE CHAIRMAN FRAZEE: Mr. Chairman, let me also just indicate also my motion and my vote on this was not intended to be one that I was totally happy with, where we were going on this. I think I share everyone else's concern. It's just the difficulty in setting back the clock on things that have already occurred. And I don't -- it's the proverbial rock and the hard place. I don't know what would be achieved by in fact reconstructing the landfill and reducing the footprint or doing some of those other things. The gas violation one I think should cause some concern. My understanding that the reason that it does not present an imminent danger is its proximity or lack of proximity to other kinds of facilities. If it were in an industrial area or immediately adjacent to residences or something, I think it would be a different situation, but perhaps we can allow some time, considering the financial

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constraints of the county, to get that done.

BOARD MEMBER CHESBRO: Mr. Chair.

BOARD CHAIRMAN PENNINGTON: Yes, Mr. Chesbro.

BOARD MEMBER CHESBRO: Mr. Relis had his in writing, and since it appears we may not have a motion here, we may be just going along with Mr. Chandler's suggestion, I wanted to make sure I was as clear as I could be about what I meant.

One, the two issues that come to mind are first of all the definition of a long-term violation and short-term violation, what that means.

And, secondly, the question of to what degree should the Board be utilizing its permit update process to obtain compliance with State Standards.

Those are the two specific issues that I would like to make sure are in the mix.

BOARD CHAIRMAN PENNINGTON: Okay. I see we have Mr. Edgar here who would like to speak to us.

MR. EDGAR: Thank you, Mr. Pennington. My name is Evan Edgar from the California Refuse Removal Council. I represent over 150 solid waste companies in California with different types of permitting issues in front of this Waste Board.

One thing we depend on is certainty in policy.

What I passed out in front of you is a policy that was

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revised on July 20th, 1994, that was a flow chart. And that's the type of policy that we depend upon when we come in front of this Waste Board for different permitting issues.

What happened on the Fairmead Landfill today is indicative of this flow chart with regards to following the process that is in place, that is a policy where we had a long-term violation. It takes greater than 90 days to fix a landfill gas problem like that. They had a schedule in order to do so.

The operator acted in good faith. Since the operator took a leadership position out there, they do have a good faith effort in order to get the Fairmead Landfill into compliance.

I go by the landfill probably once a quarter and over the last two years I've seen a lot of good work and a lot of good faith. The reason we are here today is because they have a permit in hand, in order to make those good faith efforts.

You go down where the Waste Board staff recommends concurrence in the proposed permit, and we're at the point where the decision was to object or concur. And we didn't get that today. But I'm kind of confused how we have a new policy as suggested, which is probably needed, we live in this dynamic world with new issues of AB 59 and tiered

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permitting, where we should go forward with a new policy, but I guess I need a level of certainty today that the policy in front of me was dated July 20th, 1994, is that still in effect? Today we went against that policy. Can I come before the Waste Board with different project proponents over the six to nine months, during this new policy being revised, can I still depend on this? Because today I couldn't.

I guess if we do have discussion today, maybe a reaffirmation of today's policy, which didn't occur, or some guidance from staff if we can still depend on the policy. That's what I would need as industry representative with many permits coming in front of the Waste Board over the next six to nine months when this PEP policy, this new acronym, will be debated and come forth over the next six to nine months. What is the new policy?

BOARD VICE CHAIRMAN FRAZEE: Mr. Chairman. Can you give me the specifics of where we varied from this policy and what was done in handling this differently? Walk me down to that point.

MR. EDGAR: Okay. Start at the very top box, Board consideration of proposed solid waste permit of State Minimum Standards. Okay. Are there any short-term violations that have immediate threat to public health and safety.

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Well, over the years they had a track record, but over the years they fixed them up. The only thing that's left is a long—term violation, which is defined as being something takes more than 90 days to occur.

BOARD VICE CHAIRMAN FRAZEE: Let me stop right at that point. Were there not short-term violations that were causing issuance of the permit?

MR. EDGAR: No.

BOARD VICE CHAIRMAN FRAZEE: There were not? I understood that there were.

MR. WHITNEY: Yes, in effect. The issuance of this permit puts them in compliance with not having a permit revision. And there are a lot of violations there that this permit basically wraps all those up. The only remaining one is this long-term one which we can't effectively capture with this permit action. As far as this policy is concerned on the left side where it says, yes, long-term violation, in box, we have followed that procedure precisely right down that series of arrows, yes, yes, yes, yes and yes, all the way down at the bottom.

BOARD VICE CHAIRMAN FRAZEE: What I thought this whole discussion brought up by Mr. Relis was the fact using the permit process for the purpose of sort of putting under the trash pile, if you will, violations and such as height and footprint.

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MR. WHITNEY: That's what we thought, into compliance.

BOARD VICE CHAIRMAN FRAZEE: And I thought that was the genesis of the problem.

BOARD MEMBER CHESBRO: There's two different things when you say achieving compliance. One is to like change the permit paperwork to say, well, what you've been doing is now approved. That's one thing. And another thing is use the permit process to try to bring about changes in what's being done at that landfill in order to meet State Standards. And I think we do the first and it's the second one that I feel needs to be discussed whether we should be doing the second part.

MR. WHITNEY: That's exactly how we understand it as well.

MR. EDGAR: So what I'm hearing is maybe this policy in front of us was not the one being followed, that doesn't -- at the very top is that -- was another policy that we're working on. I assume that most of those short-term violations were administrative. They didn't have a permit revision. They didn't have a five—year review. So they're administrative cleanup. If you were to follow this after the administrative cleanup, the only thing that was left on the table, which is a gas violation, which is long-term, greater than 90 days. So following that term,

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the yes, yes, yes, yes, concur. So that's the policy that's been in place and that's what industry needs in regards to having the certainty of the process. And that's why I'd like to reaffirm this policy for future use until the new policy is developed.

BOARD MEMBER RELIS: Mr. Chair, I don't think we've taken any action ——

BOARD CHAIRMAN PENNINGTON: No.

BOARD MEMBER RELIS: -- on the policy, so we're status quo ——

BOARD CHAIRMAN PENNINGTON: Right.

BOARD MEMBER RELIS: -- is in effect.

What has been raised is more along the lines of enforcement, what is the Board's position, at least seems to me, the question is in this scheme here there seems to be —— there is a problem, there was a problem with at least in this member's view with enforcement and how we could bring forward something so late to the point of getting where someone could go outside of the boundaries of the landfill and raise the height without some correction occurring at the appropriate time, not after the fact. That's the thrust of what I'm trying to get at.

MR. EDGAR: Understood.

BOARD MEMBER RELIS: I'm not trying to blow open the whole process here, but to raise the issue in a

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fundamental way of how can we get on top of these things earlier? Because we had an earlier policy, I went back and looked at it, in '90 where we had the latitude to, in a case of an enforcement situation, to potentially impose the older permit level.

MR. EDGAR: I guess in more generic sense, not Fairmead, but in a generic sense where the only case is gas, because in other permits coming up in the future that landfill gas would be the sole purpose, not with respect to enforcement or other issues, but if a landfill came in front of this Board on a long-term violation significantly and only has to do with gas, would those policies work out, because the way it worked today, it didn't follow it, and I'm concerned about future permits coming forward where landfill gas is a problem.

BOARD MEMBER RELIS: So your focus is on the gas? That's a longstanding violation, is that still the ——-

MR. EDGAR: Correct.

BOARD MEMBER RELIS: --policy of this Board?

MR. EDGAR: Correct.

BOARD CHAIRMAN PENNINGTON: Thank you. Moving on to 51, Item 51, consideration of proposed financial assurance enforcement procedures for solid waste landfills financial assurance violations.

MS. THOMAS: Good afternoon, Chairman Pennington,

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1 Board members. I'm Diana Thomas, with the Financial
2 Assurance Section of the Board.
3 The item before you is the financial assurances
4 procedure. This item was originally presented to the P and
5 E Committee in January of '96. The committee then directed
6 staff to solicit comments from industry representatives and
7 LEAs.
8 We did that. We did a mail-out to all interested
9 parties. And over a 60—day period or so we received
10 comments from several individuals, actually a total of
11 seven.
12 The major comments, and I'll just go over them,
13 there's two of them, the major comments from LEAs was that
14 the procedure included some language whereby Board staff
15 would be reviewing LEA enforcement action.
16 In the spirit of the AB 1220 regulations to
17 eliminate duplication of regulations and enforcement
18 efforts, what we've done now is we have taken care of that
19 particular issue and deleted the language where the Board
20 would actually be reviewing any stipulated agreements or
21 enforcement action that the LEA will be taking.
22 The other major issue was from Evan Edgar, who
23 represents industry. His comment basically involved the
24 issue of whether or not the Board staff would take some
25 enforcement action prior to resolving discrepancies.

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What that means is when we do our evaluations, the final assurance mechanisms and the adequacy of those mechanisms, sometimes the data used may be different. Cost estimates, capacity data presented by operators may be somewhat different than that being used by staff.

I spoke to Evan Edgar and explained to him that staff would not pursue enforcement action until we resolved any of those issues with the operators. If after resolving those issues there's still a violation of the regulations, we would then pursue enforcement at that time.

We'll also be bringing this procedure to the committee, P and E Committee, and the Board in the form of regulations.

You'll notice also in the procedure that there is a section on calculating penalties. This particular section is presented as a sample. It does not necessarily mean that this is what will be noticed in the regulations as a way of actually calculating penalties, but this is a way of doing it. It's just a particular process that could be used.

That concludes my presentation and if you have any questions I'd be happy to answer them.

BOARD CHAIRMAN PENNINGTON: Questions from Board members? Okay.

We need a motion here.

BOARD VICE CHAIRMAN FRAZEE: We do have a permit

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decision. It's identified as, and I'm not sure that's what it is, 96—72. Is that the resolution?

MS. THOMAS: That's correct. That's the resolution.

BOARD VICE CHAIRMAN FRAZEE: Move adoption.

BOARD MEMBER RELIS: Second.

BOARD CHAIRMAN PENNINGTON: Okay. It's been moved and seconded.

Any further discussion? Okay.

Will the secretary call the roll, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Okay. We'll move to Item 52, consideration of contract awards for the solid waste disposal and codisposal site cleanup program, AB 2136.

Clint Whitney.

MS. ROUCH: Good afternoon, Chairman Pennington

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and Board members. I'm Marge Rouch from the Corrective Action Section. And I'm bringing you three contracts for contractors for consideration.

We went out to bid to bring in contractors for to support the 2136 program. We have followed the contract procurement procedures set up in our regulations.

And we request approval for two construction cleanup contractors and one engineering services contractor.

For the two cleanup contracts we received 14 bids. Six were eliminated because they were incomplete documents, eight were evaluated, four contractors were invited to interview with us. And from that process we selected Granite Construction and Sukut Construction.

We received 11 bids for the engineering services contract. We eliminated one due to being incomplete. We evaluated ten. We interviewed four contractors. And we chose CH2M Hill. Actually they ranked the highest for the engineering services contract.

These contracts will encumber approximately $1.7 million of this year's trust fund of 5 million.

We request approval to finalize these contracts.

If there are any questions, I'd be happy to answer them.

BOARD CHAIRMAN PENNINGTON: Questions by staff members? I mean, by Board members? I'm getting sleepy.

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BOARD VICE CHAIRMAN FRAZEE: Let me indicate, Mr. Chairman, at the committee hearing on this an issue —— or prior to that hearing an issue had been raised by one of the unsuccessful bidders about the fact that the review panel were all staff members of this agency or this Board and that they implied that there could be some unfairness in that because of the comfort level with previous contractors. I certainly would not suggest that we do anything different with this particular one, but it might be something worth looking at in the future if these come up and see if we couldn't balance out that panel with perhaps one or two people from an outside or a sister agency that would help avoid that problem.

EXECUTIVE DIRECTOR CHANDLER: I think our position was, as you recall, Mr. Frazee, that we were comfortable with that recommendation and would be looking for comparable qualifications from staff with the availability of time to dedicate to the review of any of these.

BOARD VICE CHAIRMAN FRAZEE: This is a two-year contract and that's two years down the road and it's just something I want to include in the discussion.

BOARD CHAIRMAN PENNINGTON: We also discussed the possibility of having a threshold level and then look at the dollars and cents of bidders after they reached a threshold. But I think that Mr. Frazee's idea would handle

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the problem and I think that is good.

Any other discussion?

Yes, Mr. Chesbro.

BOARD MEMBER CHESBRO: I concur in that review, having that review. And I'm also not second—guessing the staff recommendation here.

But I would like for the record, since the question got raised in reference to educate the Board members from one company's perspective, could you describe for us the cost question and how it figures into this, how do we -- I know that the quality of proposals is the primary factor, it's a professional services contract, I believe, but I'm just curious to what degree contractors have to meet a certain criteria in terms of dollar amount or just tell us how that cost question is done.

MS. ROUCH: The procedure we work under, I think has been set up deliberately in order to preclude getting a low bidder and then in a situation in quotes is we get what you pay for type of situation. So it was intended to evaluate the contractors and get a quality contractor. But after you've looked at their quality you invite the person who has the highest score in and you discuss money. And the law says that if you don't come to an agreement with them you can go to the next highest ranked bidder. When we have been talking to these folks we handle

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the cleanup contractors differently than we do the engineering services contractor. And the cleanup contractors are easier because their equipment rates are fairly set by the CalTrans rates. And so we would accept those because they're State rates. And then we negotiate anything that's different. And usually you would split the difference. If they're high, then we'd come up with something, equivalent piece of equipment, and try to bring them down to the area of that equivalent equipment. And the labor rates is what's easy with the cleanup contractors, because we pay the Davis-Bacon prevailing wage rates and that's also set in law. All we have to negotiate with them more or less is their staff rates and usually these contractors use a few of their staff to manage the projects and then they hire outside laborers local to the area of the project.

But the environmental services contractor, we ask them to come in with their list of people they propose for the project and their labor rates. We have done this, this is the third time we have gone out to bid, and we have compared today's rates against the last two contracts and we also have contract rates from CalTrans environmental contracts to compare to. And they're all fairly similar, you know, all these companies' labor charges are within $5 of each other.

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BOARD MEMBER CHESBRO: Am I correct in understanding that we're not talking about total dollar amount, because that's a budgeted amount, but how much we're going to get for our money, if you will? Is that a correct characterization?

MS. ROUCH: That's correct. These contracts are time and materials contracts, so you pay them for the time they work for you and how much labor or equipment they put onto that job and so --

BOARD MEMBER CHESBRO: A budgeted amount is drawn down essentially?

MS. ROUCH: Yes.

BOARD MEMBER CHESBRO: By the projects that we approve?

MS. ROUCH: What you may not realize is that when we get a project approved by the Board we write a work order for one of these contractors or maybe two at the same time and say this is what we would like you to do, tell us what you think it will cost. And then we also negotiate that cost. If we think they're high, we don't hesitate to tell them and usually there's a reason for it. You can tell them we think you're spending too many hours or can't you do it for less or whatever.

BOARD MEMBER CHESBRO: Okay.

BOARD CHAIRMAN PENNINGTON: Mrs. Gotch.

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BOARD MEMBER GOTCH: I have a couple questions. How many AB 2136 sites are there in the pipeline for funding?

MS. ROUCH: That you haven't heard of?

BOARD MEMBER GOTCH: That we haven't heard of, yes.

MS. ROUCH: We have three we're bringing to you next month and we are negotiating, meeting with, trying to set up about three more.

BOARD MEMBER GOTCH: All right. And do I remember correctly that we have some money left over from —— MS. ROUCH: I think that we're going to have about $500,000, that's an approximate number, I haven't checked it lately, in the Sukut contract, because I don't think we will be able to spend it all.

We have used up all of Norcal's contract.

We will use up Granite's contract.

And we will use up CH2M Hill's contract.

And then we also have some money in the loan program left. If the San Diego loan gets finalized, we'll have about, I'm guessing about 400,000 or so.

And we will also have matching grant money left.

And I was going to ask Charlene and Clint Whitney if in June I can come to you with the exact numbers and ask for guidance on redirecting the money possibly into these new

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contracts or wherever else the Board would like to see it go.

BOARD MEMBER GOTCH: That was the other question I wanted to ask, if I'm correct in wondering if that money may only be used for these projects for the 2136 projects?

MS. ROUCH: That's my understanding.

BOARD MEMBER GOTCH: That's what I thought I remembered. Okay. Thank you.

BOARD VICE CHAIRMAN FRAZEE: But we do have the ability to, by a policy change, to shift from one of the programs, the matching grant to the Board cleanup. That doesn't have to go back for a budget decision.

MS. ROUCH: I don't think so. At the beginning of this fiscal year we came to you and we proposed dividing the money up between grants, loans and contracts and that was your approval that did that and I would think that you could change the direction of the money because it's all out of the same fund, doing the same kind of work.

BOARD VICE CHAIRMAN FRAZEE: There were some questions involving the 2136 program that may require legislation and one of them that I recall was the use of the interest.

MS. ROUCH: Yes.

BOARD VICE CHAIRMAN FRAZEE: Are we sure where we are on that?

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MS. ROUCH: I don't know. Dorothy might be able to respond to that.

CHIEF DEPUTY DIRECTOR RICE: We're still pursuing that with Cal EPA and the administration as to whether they would support those changes this year. We're seeking approval to expend the money that comes in. We're seeking a number of issues with the program, but we haven't yet heard.

BOARD VICE CHAIRMAN FRAZEE: In a layman's reading of the enabling act, I come to the conclusion that we can spend that money without any further action by the Legislature, but of course it would, I think, have to be in the budget bill to identify it.

CHIEF DEPUTY DIRECTOR RICE: Not necessarily. I mean, the way the trust fund works, any funds in the trust fund --

BOARD VICE CHAIRMAN FRAZEE: The trust fund.

CHIEF DEPUTY DIRECTOR RICE: Yes. It's intended to aggregate up to, I believe, 30 million.

BOARD VICE CHAIRMAN FRAZEE: 30 million. But it just seems that the words are there that say that part of that fund is the unexpended interest on the funds.

CHIEF DEPUTY DIRECTOR RICE: We like that interpretation. We'll pursue that.

MS. ROUCH: One more piece of money, we're doing the Sand City project right now and we're putting up about

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750,000 and the JPA is putting up 250,000 and we're really spending a million and they're paying us 250,000, so that money will be in the trust fund also and I'm not sure without this legislation that we can spend that either. So we probably have about -- other than, if you consider all the money for the past three years as encumbered we should have about a million dollars in interest and payback money from other people, contributions in that fund. These are all approximate numbers.

BOARD MEMBER GOTCH: Thank you.

BOARD CHAIRMAN PENNINGTON: Any additional questions?

I'll entertain a motion.

BOARD MEMBER GOTCH: I move that we approve Resolution 96-166.

BOARD MEMBER CHESBRO: Second.

BOARD CHAIRMAN PENNINGTON: It's been moved and seconded.

Will the secretary call the roll, please.

BOARD SECRETARY KELLY: I'm sorry. I didn't hear who seconded.

BOARD CHAIRMAN PENNINGTON: Mr. Chesbro.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

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BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Okay. We'll move on to Item 52.

I do want to say that I neglected to wish Diane Thomas, who was ahead of the last one, a happy birthday.

MS. THOMAS: Thank you.

(Applause.)

BOARD CHAIRMAN PENNINGTON: 22, 21?

Item 52. 53.

EXECUTIVE DIRECTOR CHANDLER: I think we're on 53, Mr. Chair.

BOARD CHAIRMAN PENNINGTON: Item 53, consideration of sites for remediation under the waste tire stabilization and abatement program.

EXECUTIVE DIRECTOR CHANDLER: Yes. I'll introduce this item, Mr. Chair. As I indicated in my executive director's report this morning, I was recommending you consider pulling this item off consent for reasons that the committee requested of Chief Counsel Tobias to just briefly discuss the cost recovery or the status of the cost recovery

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for those four sites. I think the committee was comfortable with the staff's recommendation by virtue of putting it on consent, but I think that the additional information that you asked for is appropriate now.

So I'll turn the microphone over to Kathryn.

MS. TOBIAS: Thank you, Mr. Chandler.

When I gave this information to Sue Peterson before the meeting she asked me if I could convert it from legalese into English, but I think that if you have any questions when I finish, please ask me, but I think this will be pretty straightforward.

On the Vallejo Pull-A-Part this was the one that a number of months ago we went through an administrative hearing, received an administrative penalty of $7500. That money has never been paid. And so we now have the Attorney General is converting this from an administrative penalty to a civil penalty, which we can then lien the property.

So my understanding is that he has a default judgment from the plaintiff, which means that the plaintiff did not show up at the hearing.

So I think that the next step will be able to record a lien on that property for that fine.

On the Mission Waste Tire Pile, we have a notice and order that was issued and served on February 2nd, 1996. The final removal date in that notice and order is June

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1 30th, 1996. There has been a bankruptcy filed by the owners
2 of this property, and so we have referred this to the
3 Attorney General's office to represent us in that
4 proceeding.
5 On the Valley and Poplar site, a notice and order
6 was issued and posted on March 6th, 1996. The final cleanup
7 date was March 31st, 1996.
8 These owners have filed for bankruptcy and again
9 the matter has been referred to the AG to represent us in
10 the bankruptcy hearing.
11 on East Norman, this matter was heard by the
12 Office of Administrative Hearings on March 1st, 1996. It
13 assessed a penalty of $10,000 against the owner for illegal
14 storage of tires on the property.
15 This judgment specifically states that it is only
16 enforceable through the filing and execution of a lien
17 against the subject's property, which means that we're not
18 going after her for money, but will be doing the same
19 procedures I mentioned in the first one, going to court and
20 having it convert to a civil judgment and then putting a
21 lien on the property. And again we are referring this to
22 the AG's office to go through that process.
23 So I'd say particularly with respect to the tire
24 cleanup sites that these four sites are pretty indicative of
25 the two situations we are running into on tire sites,

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1 particularly, and that is a fair number of the owners file
2 for bankruptcy because they are smaller landowners who let
3 somebody else use their property, they don't have the funds
4 to clean up.
5 Interestingly enough, a number of the owners are
6 elderly or older so that there appears that perhaps that
7 these lessees or these people who ask to store tires on the
8 property are picking their people pretty carefully.
9 And then the other ones are ones where we've
10 pursued some kind of penalty. We're being awarded the
11 penalties, but getting the penalties is somewhat difficult.
12 So I think these, even though it's just four of
13 them, somewhat represent the average response.
14 Do you have any questions?
15 BOARD CHAIRMAN PENNINGTON: Okay. Thank you,
16 Ms. Tobias.
17 Okay. Now we're going to move to Item --
18 BOARD SECRETARY KELLY: We have to do something on
19 that?
20 BOARD CHAIRMAN PENNINGTON: That's true. I'm
21 really having a tough time.
22 BOARD VICE CHAIRMAN FRAZEE: I'll move approval of
23 the four sites for the tire abatement program.
24 BOARD MEMBER CHESBRO: Second.
25 BOARD CHAIRMAN PENNINGTON: It's been moved and

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seconded.

Will the secretary call the roll, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Now can we go to 56? Thank you.

I really do apologize. I think I'm just —-

earlier this week was a little straining and I'm losing a little energy. I may be a little off the beat here today.

Item 56, update of an implement Public Resources Code section regarding the inventory of solid waste facilities which violate State Minimum Standards.

MR. WILLMAN: Good afternoon, Board members. This is to update you on -- this is Paul Willman. I'm the supervisor of the Redlands office for the Board.

This is to update you on the current staff efforts to implement the inventory. It also seeks general direction from the Board on long-term implementation.

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Just a little background, I'm sure you're all aware of, that National Resources Defense Council lawsuit resulted in the ruling that the Board can't implement the LEA Advisory No. 14R, which is the Board-approved inventory policy unless regulations are developed. And in fact if no regulations are developed the Board must implement the inventory under a strict interpretation of the law, which basically means any facility with any State Minimum Standard violation, it should be issued and notice of intent to include them on the inventory.

Short-term issue arises in that we must meet a requirement in PRC 44104 to update and publish the inventory twice annually. And if you'll recall, in February the item was brought to you to update the inventory and it was pulled at that time due to the issuance of the judge's written decision in the NRDC lawsuit.

The bottom line is if we wait to incorporate the Board's inventory policy in the regs, it usually takes at least a year to do something like that, we would not be able to publish the inventory even once this year.

Therefore, the short-term approach at the Board's request, Board staff has begun to implement the inventory in the short term under the strict interpretation of the law.

And basically we informed -- a short discussion of the Board staff activities to do that. In the short term we

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informed LEAs of all the changes in a letter to them on April 5th. And in implementing the inventory we presented some of the changes to the CCDEH at their April 11th meeting. And the bulk of the activity is surveying the February and March LEA inspection reports. Violations from February, which were not corrected in March, were all issued a notice of intent last week. We issued 111 notices of intent.

And for your information, Mr. Relis, I know you got a couple of letters from the NRDC and they wanted to know about the 18 sites that they had referred to in their February letter. 16 of those 18 sites have been issued NOIs.

BOARD MEMBER RELIS: I appreciate your getting that letter out.

MR. WILLMAN: Sure.

Okay. So that was February and March and we're going to be doing it again in April and May. We're going to be looking at two-month increments. Any violations in April which aren't corrected in May, those facilities will get notice of intent.

Any facility that's under a notice of intent from this current round, February and March, though, would not get another one. That would be resolved.

For NOIs that were sent out last week, if the

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1 violations aren't corrected within 90 days of the operator
2 receiving that NOI, then they will be included on the
3 inventory. That will occur around the end of July, taking
4 into account they have to have mail time and things like
5 that.
6 Subsequently, in August Board staff will bring the
7 inventory forward to you to present it and publish it.
8 Some of the -- I'll just go over three of the
9 major changes real quick in the inventory implementation,
10 comparing the old policy to what we're doing now.
11 Again strict interpretation of the law replaces
12 the criteria from the old LEA advisory.
13 Notices of intent are no longer based on the
14 severity, number and duration of the violations, which was
15 detailed out in the old advisory, but they are sent for any
16 violation which is not corrected in the following month.
17 It's very simple.
18 Notices of intent issued by the Board are no
19 longer contingent upon request by the LEA. We used to rely
20 entirely on the LEAs to request issuances of notices of
21 intent and now we just automatically do it. We really don't
22 have any discretion under the strict interpretation of the
23 law.
24 And finally there's no operator appeals of the
25 notices of intent as was in there. That would have to be

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1 put in regulations if we were to do that.
2 That concludes the discussion of the short—term
3 implementation issues.
4 I'll go over the long-term options that are listed
5 here. There's four of them.
6 But do you have any questions on the short—term
7 before I go to the long-term? Okay.
8 There are four options laid out on page two of the
9 agenda item.
10 The first one directs staff to continue to
11 implement the inventory under a strict interpretation, as I
12 just explained it, without developing regulations. Staff
13 feels that the current short-term strict implementation
14 effort should be looked at over the next few months and
15 evaluated for its effectiveness and efficiency before
16 eliminating the option of developing regs. The process may
17 not be suitable in the long run, so we want to kind of take
18 a look at it before we would say, well, let's just do this
19 and not develop regs.
20 The second option would be to direct us to
21 immediately develop emergency regulations. Frankly, no
22 state of emergency can be found to justify emergency regs in
23 this case.
24 Option No. 3 would be direct staff to immediately
25 begin developing regulations to implement the inventory

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while implementing it under the strict interpretation of the law until the regs are finalized. Staff feels that we may not need regulations if the short—term solution turns out to be a effective. And of course that would be a lot of savings in staff time if we didn't have to develop regulations.

So that leads us to Option 4, which is the staff—recommended option, direct staff to continue to implement the inventory under the short—term effort and defer making a decision on the development of regulations until August when we present and publish the inventory under this system. At that time we would be able to report on how the system is going and make a recommendation as to whether regulations are necessary.

Again, if this course, current short—term effort proves satisfactory for the long-term, then, you know, that obviously wouldn't have to develop regulations. In the meantime between now and August, over the next few months, we propose to work with LEAs and get obviously get feedback from them.

I know one LEA did speak up at the committee meeting that he wanted regs developed immediately. So I know there are concerns from the LEAs out there. So we would obviously be in close touch with them during this effort if you so direct us to choose Option 4.

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1 That concludes my presentation.
2 And basically we're just looking for some general
3 direction from the Board at this point as far as these
4 options. There's no specific plan or anything that we're
5 proposing at this time.
6 BOARD CHAIRMAN PENNINGTON: Okay. Any questions
7 from Board members?
8 Is there a motion?
9 BOARD VICE CHAIRMAN FRAZEE: I just wanted to
10 indicate —- well, first of all let me make the motion on
11 Option No. 4. If there's second --
12 BOARD MEMBER GOTCH: I'll second.
13 BOARD VICE CHAIRMAN FRAZEE: I'll discuss it.
14 I don't have any problem with strict
15 interpretation. I guess I quoted once before Abraham
16 Lincoln saying the best way to eliminate an unjust law is to
17 enforce it to its maximum.
18 And I think Option 4 gives us a chance of doing
19 that. The case was in the court we were directed by the
20 court to do this and I think we should and we can find out
21 after we do it the first time if we have caused some great
22 problem out there in the public and then we can go about
23 developing regulations that would change it.
24 But in the meantime, you know, I think this is all
25 public information. I just hope that in the strict

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interpretation we don't get into a situation that would allow someone by the timing of the issuance of a order and correction of that order that they don't get listed and someone else with a equal or lesser violation gets listed because they haven't had the allowable time. So I hope we have a lead time on this so you get everything worked through the process and not treat people different in the application.

But I think we ought to give it the best shot we can on strict interpretation.

BOARD CHAIRMAN PENNINGTON: Okay. Any other discussion on the motion?

There being none, will the secretary call the roll, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD MEMBER CHESBRO: Aye.

BOARD SECRETARY KELLY: Frazee.

BOARD VICE CHAIRMAN FRAZEE: Aye.

BOARD SECRETARY KELLY: Gotch.

BOARD MEMBER GOTCH: Aye.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Aye.

BOARD SECRETARY KELLY: Chairman Pennington.

BOARD CHAIRMAN PENNINGTON: Aye.

Number 59, open discussion. Does anybody have

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anything they need to bring before the Board today?

BOARD MEMBER RELIS: I'd like to thank the people of Modesto for hosting us.

BOARD CHAIRMAN PENNINGTON: Absolutely.

BOARD MEMBER RELIS: And for Gilton for a great lunch that caused us all to temporarily expend our senses.

BOARD CHAIRMAN PENNINGTON: It's nice to be, as I said earlier, in the land of water, wealth, contentment and health.

Being no other business, we're adjourned.

(Thereupon the meeting was adjourned at 3:10 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

I, JANET H. NICOL, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing meeting in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May 1996.

Janet H. Nicol
Certified Shorthand Reporter
License Number 9764