

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD PERMITTING AND
ENFORCEMENT COMMITTEE

IN THE MATTER OF THE:)
)
PERMITTING AND ENFORCEMENT)
COMMITTEE MEETING)
_____)
 —

DATE AND TIME: WEDNESDAY, NOVEMBER 6, 1996
 9:30 A.M.

PLACE: BOARD HEARING ROOM
 8800 CAL CENTER DRIVE SACRAMENTO,
 CALIFORNIA

REPORTER: BETH C. DRAIN, RPR, CSR
 CERTIFICATE NO. 7152

BRS FILE NO.: 36008

APPEARANCES

MR. ROBERT C. FRAZEE, CHAIRMAN MR. DANIEL G.
PENNINGTON, MEMBER MR. PAUL RELIS, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, CHIEF EXECUTIVE OFFICER MS. KATHRYN
TOBIAS, LEGAL COUNSEL

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SACRAMENTO, CALIFORNIA

WEDNESDAY, NOVEMBER 6, 1996, 9:30 A.M.

CHAIRMAN FRAZEE: MEETING WILL COME TO ORDER, PLEASE. THIS IS THE NOVEMBER 6TH MEETING OF THE PERMITTING AND ENFORCEMENT COMMITTEE. SECRETARY WILL CALL THE ROLL, PLEASE.

THE SECRETARY: COMMITTEE MEMBERS PENNINGTON.

MEMBER PENNINGTON: HERE.

THE SECRETARY: RELIS.

MEMBER RELIS: HERE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: HERE. ALL MEMBERS PRESENT.

DO WE HAVE ANY EX PARTE COMMUNICATIONS?

MEMBER RELIS: ONLY I HAD A CALL FROM NAN DRAKE, WHO WAS IN THE AIR, SAYING THEY WOULD BE LATE FOR THEIR ITEM, THE GOLD COAST ITEM. AND THAT WAS MY ONLY EX PARTE.

CHAIRMAN FRAZEE: ON THAT ITEM, ITEM 3, GOLD COAST RECYCLING, WE WILL TRAIL THAT ITEM TO THE END OF THE AGENDA TO GIVE THE APPLICANT AN

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25 OPPORTUNITY TO GET HERE.

1 DO YOU HAVE ANY EX PARTES?

2 MEMBER PENNINGTON: NO.

3 CHAIRMAN FRAZEE: SEVERAL THINGS THAT
4 SHOULD BE NOTED. FIRST OF ALL, MY PERSONAL EX
5 PARTES THAT ARE NOT PREVIOUSLY RECORDED, CHUCK
6 WHITE WITH WMX TECHNOLOGIES ON TWO ITEMS, BOTH THE
7 ASH ITEM TODAY AND THE ALAMEDA COUNTY LAWSUIT.

8 YESTERDAY MIKE HARRINGTON WITH BAS
9 ON THE TIRE MONEY ALLOCATION. AND GORDON RAYNER,
10 R-A-Y-N-E-R, CALIFORNIA PAVEMENTS COMPANY ON
11 RUBBERIZED ASPHALT.

12 THEN WE HAVE NUMEROUS FRESH
13 COMMUNICATIONS HERE THAT I THINK EVERYONE HAD
14 RECEIVED, BUT LET ME JUST FOR THE RECORD GO OVER
15 THESE ITEMS THAT RELATE TO TODAY'S AGENDA.

16 THERE'S A LETTER DATED NOVEMBER 1ST FROM NATURAL
17 RESOURCES DEFENSE COUNCIL REGARDING THE 1220
18 REGULATIONS; A LETTER FROM SHASTA COUNTY
19 DEPARTMENT OF PUBLIC WORKS ON ITEM 7, THE ASH
20 REGULATIONS. THERE IS A PACKAGE OF LETTERS I
21 THINK EVERYONE HAS REGARDING 1220 REGULATIONS
FROM

22 CITY OF WEST COVINA, FROM THE ENVIRONMENTAL
HEALTH

23 DEPARTMENT IN KERN COUNTY, ENVIRONMENTAL
SERVICES

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24 THE CITY OF SAN DIEGO, RESOURCE MANAGEMENT
AGENCY
25 IN COUNTY OF VENTURA, AND FROM THE CALIFORNIA

1 TRADE AND COMMERCE AGENCY.

2 AND THEN, FINALLY, A LETTER FROM
3 DEPARTMENT OF HEALTH SERVICES, THE COUNTY OF LOS
4 ANGELES, AND THIS ONE DEALS WITH THE ASH
5 REGULATIONS. I THINK THAT'S ALL OF THE
6 COMMUNICATIONS THAT WERE NOT PREVIOUSLY RECORDED
7 IN THE RECORD.

8 AT THE CONCLUSION OF TODAY'S
9 COMMITTEE MEETING, THE BOARD, AS PREVIOUSLY
10 ANNOUNCED, WILL BE GOING INTO CLOSED SESSION
11 MEETING WITH REGARD TO LITIGATION. AND, MR.
12 PENNINGTON, DO WE WANT TO, DEPENDING ON TIME,
HOLD
13 THAT TILL AFTER LUNCH? IT WOULD APPEAR THE
AGENDA

14 WILL BE RUNNING UP FAIRLY CLOSE TO LUNCH AND
15 CONVENING IT RIGHT AFTER.

16 MEMBER PENNINGTON: MR. CHANDLER IS NOT
17 HERE THIS MORNING. HE'S AT THE MEMORIAL SERVICE.

18 MS. TOBIAS: I WOULD JUST SAY THAT I
HAVE

19 A 1:30 CONFERENCE CALL ON A CEQA SETTLEMENT
20 CONFERENCE FOR ONE OF OUR LAWSUITS THAT I
21 ANTICIPATE WILL TAKE AROUND HALF HOUR, 45
MINUTES.

22 SO IF THE COMMITTEE MEETING IS GOING ON AT THAT

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23 TIME, ELLIOT WILL BE TAKING IT. IF YOU FINISHED
24 IT AND YOU WANT TO GO INTO CLOSED SESSION AT THAT
25 TIME, I HAVE A LITTLE BIT OF A CONFLICT WITH
THOSE

1 TWO ACTIVITIES. MIGHT JUST KEEP THAT IN MIND.

2 CHAIRMAN FRAZEE: WE'LL KEEP ALL OF THAT
3 IN MIND.

4 ALSO, AS A REMINDER TO THOSE IN THE
5 AUDIENCE, USUAL ROUTINE, IF YOU WISH TO SPEAK TO
6 THE COMMITTEE ON ANY ITEM ON TODAY'S AGENDA, THERE
7 ARE SPEAKER SLIPS IN THE BACK OF THE ROOM. WE
8 APPRECIATE IF YOU WOULD FILL OUT ONE OF THOSE AND
9 BRING IT FORWARD TO THE COMMITTEE SECRETARY.

10 NOW, READY TO PROCEED WITH TODAY'S
11 AGENDA. WE HAVE AN ITEM RECOMMENDED FOR CONSENT
12 CALENDAR; AND INASMUCH AS IT'S ONLY ONE ITEM, I
13 THINK WE JUST TAKE IT AS IS AS THE FIRST
ITEM AND

14 VOTE ON IT AT THIS POINT. AND THIS IS THE
15 CONSIDERATION OF CONCURRENCE IN THE
ISSUANCE OF A

16 NEW SOLID WASTE FACILITY PERMIT FOR THE
KERN

17 VALLEY RECYCLING/TRANSFER STATION IN KERN
COUNTY.

18 THIS IS TOTALLY IN ORDER.

19 MEMBER PENNINGTON: MR. CHAIRMAN,
I'LL

20 MOVE ADOPTION OF THE CONSENT CALENDAR.

21 MEMBER RELIS: SECOND.

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22 CHAIRMAN FRAZEE: WE HAVE A
MOTION AND A

23 SECOND ON THE KERN VALLEY
RECYCLING/TRANSFER

24 STATION. SECRETARY WILL CALL THE ROLL,
PLEASE.

25 THE SECRETARY: COMMITTEE MEMBERS

1 PENNINGTON.

2 MEMBER PENNINGTON: AYE.

3 THE SECRETARY: RELIS.

4 MEMBER RELIS: AYE.

5 THE SECRETARY: CHAIRMAN FRAZEE.

6 CHAIRMAN FRAZEE: AYE. MOTION IS
7 CARRIED. WITHOUT OBJECTION, WE'LL RECOMMEND THAT
8 ITEM FOR CONSENT ON THE FULL BOARD'S AGENDA.

9 THEN THE NEXT ITEM, AGENDA ITEM 2,
10 IS THE CONSIDERATION OF CONCURRENCE IN THE
11 ISSUANCE OF A REVISED SOLID WASTE FACILITY PERMIT
12 FOR THE BIG BEAR SANITARY LANDFILL IN SAN
13 BERNARDINO COUNTY. STAFF REPORT, PLEASE.

14 MS. RICE: GEORGIANNE TURNER WILL MAKE
15 THIS PRESENTATION FOR STAFF.

16 MS. TURNER: GOOD MORNING. BIG BEAR IS
17 OWNED AND OPERATED BY THE COUNTY OF SAN
18 BERNARDINO, AND ITS CONTRACT OPERATIONS ARE
19 CONDUCTED BY HARETSCH CONSTRUCTION COMPANY AND
20 NORCAL.

21 THE PROPOSED PERMIT WILL INCLUDE
22 CHANGES IN TONNAGE, SITE LIFE, HOURS OF OPERATION,
23 TOTAL CAPACITY, AND ALSO DEFINE THE VERTICAL
24 LIMITS. THE TONNAGE WILL INCREASE FROM 28 TONS
25 PER DAY TO AN AVERAGE OF 100 TONS PER DAY AND A

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1 PEAK OF 250 TONS PER DAY.

2 THE SITE LIFE WILL SLIGHTLY INCREASE
3 IN THE YEAR 2000 TO 2001 OR 2. THE HOURS OF
4 OPERATION DECREASE FROM 24 HOURS A DAY TO 8 A.M.
5 TO 4:30 P.M. MONDAY THROUGH SATURDAY. THE TOTAL
6 CAPACITY IS DESCRIBED AS A ONE POINT MILLION CUBIC
7 YARDS FOR THE REMAINING CAPACITY OF 674,000 CUBIC
8 YARDS.

9 THE PERMIT DEFINES THE VERTICAL
10 LIMITS AT 7,030 FEET ABOVE MEAN SEA LEVEL. THE
11 TOTAL ACREAGE HAS INCREASED FROM THE 1979 PERMIT
12 OF 59 ACRES TO 79 ACRES WITH A DISPOSAL AREA OF 35
13 ACRES, TEN OF WHICH HAS BEEN CLOSED.

14 ENVIRONMENTAL CONTROL MEASURES FOR
15 IMPACTS ASSOCIATED WITH THIS OPERATION HAVE BEEN
16 ADDRESSED IN THE RDSI. THE LEA AND BOARD STAFF
17 DETERMINED THE FACILITY MEETS REQUIREMENTS
18 REGARDING THE CONFORMANCE WITH THE COUNTY SOLID
19 WASTE MANAGEMENT PLAN, CONSISTENCY WITH THE
20 GENERAL PLAN, COMPLIANCE WITH THE OPERATING
21 LIABILITY, AND COMPLIANCE WITH STATE MINIMUM
22 STANDARDS.

23 AS YOU KNOW, THIS ITEM WAS
WRITTEN

24 WITH NO RECOMMENDATION PENDING CEQA REVIEW.
STATE

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25 LAW REQUIRES PREPARATION, CIRCULATION, AND

1 ADOPTION OF AN ENVIRONMENTAL DOCUMENT AND AN
2 ADOPTION OF MITIGATION REPORT ON MONITORING
3 PROGRAM.

4 IN 1992 THE SAN BERNARDINO PLANNING
5 DEPARTMENT, ACTING AS LEAD AGENCY, APPROVED THE
6 MITIGATION AND NEGATIVE -- A MITIGATED NEGATIVE
7 DEC WHICH IDENTIFIED THE FOLLOWING CHANGES:
8 INCREASE IN ACREAGE FROM 58.6 ACRES TO 79 ACRES,
9 IDENTIFIED 35 ACRES FOR FILLING, A TONNAGE
10 INCREASE TO 100 TONS PER DAY AVERAGE WITH A PEAK
11 OF 125 TONS PER DAY.

12 THE 1992 NEGATIVE DEC DESCRIBED THE
13 CAPACITY -- THE REMAINING CAPACITY TO BE 386,000
14 CUBIC YARDS WITH A SITE LIFE OF 2003, DEPENDENT
15 UPON THE RECYCLING ACTIVITIES. IT ALSO DESCRIBED
16 THE HOURS OF OPERATION FROM 8 A.M. TO 5 P.M.
17 MONDAY THROUGH SATURDAY, AND AN INCREASE IN
18 EQUIPMENT.

19 POTENTIAL IMPACTS -- ENVIRONMENTAL
20 IMPACTS ASSOCIATED WITH THE CHANGES NOTED ABOVE
21 WERE MITIGATED TO LESS THAN SIGNIFICANT LEVELS
22 THROUGH MITIGATION MEASURES. PROJECT WAS

APPROVED

23 BY THE BOARD OF SUPERVISORS ON JUNE 24, 1992,
AND

24 THE NOTICE OF DETERMINATION WAS FILED ON JULY

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30 ,
25 1992 .

1 SINCE THE 1992 MITIGATED NEGATIVE
2 DEC WAS PREPARED AND APPROVED, THE FACILITY HAS
3 INCREASED THEIR TONNAGE -- THEIR MAXIMUM TONNAGE
4 TO 250 TONS PER DAY. HOWEVER, THEIR AVERAGE
5 TONNAGE REMAINED THE SAME, A HUNDRED TONS PER DAY.
6 THEREFORE, THE SAN BERNARDINO COUNTY PLANNING
7 DEPARTMENT PREPARED A SUBSEQUENT NEGATIVE DEC FOR
8 THE INCREASE IN PEAK TONNAGE. AND THIS DOCUMENT
9 ANALYZED FOR THE PEAK OF 250 TONS PER DAY. IT
10 ALSO ANALYZED FOR THE VEHICLE TRAFFIC PEAK
11 ASSOCIATED WITH THIS TONNAGE INCREASE; HOWEVER,
12 THE DOCUMENT CLARIFIED THAT THE AVERAGE TONNAGE
13 SHALL BE 100 TONS PER DAY.

14 OTHER CHANGES THAT WERE NOTED IN THE
15 SUBSEQUENT NEGATIVE DEC INCLUDE THE CAPACITY --
16 THE REMAINING CAPACITY AT 675,000 CUBIC YARDS AND
17 A CHANGE OF OWNERSHIP FROM THE U.S. FOREST
18 SERVICE. AN ADDITIONAL MITIGATION MEASURE WAS
19 PLACED ON THE FACILITY, WHICH INCLUDED -- WHICH
20 REQUIRES THEM TO SUBMIT A DUST CONTROL PLAN.

21 BOARD STAFF COMMENTED ON THE
22 SUBSEQUENT NEGATIVE DEC ON AUGUST 5, 1996, AND
THE
23 PROJECT WAS ADOPTED AND APPROVED, AND THE NOTICE
24 OF DETERMINATION WAS FILED WITH THE COUNTY ON
25 OCTOBER 15, 1996.

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1 THE PROPOSED PERMIT ALLOWS FOR THE
2 PEAK TONNAGE OF 250 TONS PER DAY, AND THEY HAVE
3 LIMITED THE AVERAGE TONNAGE, NO. 5, SPECIFICATIONS
4 ON THE PERMIT, LIMITS THE AVERAGE TONNAGE TO 100
5 TONS PER DAY ANNUALLY. ALSO, CONDITION 34 ON THE
6 PERMIT, THE LEA DEFINES WHAT THE AVERAGE TONNAGE
7 WILL BE, AND THEY DEFINE THAT AVERAGE ANNUAL
8 TONNAGE AS A TOTAL TONNAGE DURING THE LAST
9 PREVIOUS 12 CONSECUTIVE MONTHS OVER THE NUMBER OF
10 OPERATING DAYS OF THE PREVIOUS 12 CONSECUTIVE
11 MONTHS.

12 ADDITIONALLY, THE LEA HAS REQUIRED
13 UNDER THE SELF-MONITORING PART OF THE PERMIT,
14 SECTION 16, THAT THE OPERATOR SUBMIT DAILY TONNAGE
15 RECORDS TO THE LEA ON A QUARTERLY BASIS TO MONITOR
16 THIS AVERAGE TONNAGE.

17 AFTER REVIEWING THE MITIGATED NEG
18 DEC AND SUBSEQUENT NEG DEC AND THE RESPONSES TO
19 COMMENTS FOR BOTH, THE BOARD STAFF HAVE DETERMINED
20 THAT THE CEQA DOCUMENTS ARE ADEQUATE FOR THE
21 BOARD'S EVALUATION OF THE PROPOSED PROJECT FOR
22 THOSE PROJECT ACTIVITIES WHICH ARE WITHIN THE
23 AGENCY'S EXPERTISE AND/OR POWERS OR WHICH ARE
24 REQUIRED TO BE CARRIED OUT OR APPROVED BY THE
25 BOARD.

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1 STAFF HAVE REVIEWED THE PROPOSED
2 PERMIT AND FOUND IT SUITABLE FOR BOARD'S
3 CONSIDERATION AND, THEREFORE, RECOMMEND THAT THE
4 BOARD ADOPT PERMIT DECISION 96-382, CONCURRING IN
5 THE ISSUANCE OF SOLID WASTE FACILITY PERMIT NO.
6 36-AA-0057.

7 CHAIRMAN FRAZEE: THE RESOLUTION PROVIDED
8 FOR THIS THAT WAS HANDED OUT AND WAS NOT IN THE
9 PACKET STILL LISTS THE PEAK CAPACITY AS 125.
10 SHOULD THAT BE CHANGED? AM I NOT READING IT
11 CORRECTLY? OR THE WHEREAS FURTHER ON INDICATES --

12 MS. TURNER: MY COPY SAYS ON 5, PERMITTED
13 TONNAGE PER OPERATING DAY. IT SAYS AN AVERAGE
14 DAILY LOADING OF A HUNDRED TONS PER DAY, CEQA RDSI
15 PEAK DAILY LOADING AT 250 TONS PER DAY. THAT
16 PERHAPS MAYBE GIVE YOU THE WRONG --

17 CHAIRMAN FRAZEE: LET ME READ THE WHOLE
18 WHEREAS HERE. ON THE FIRST PAGE OF THE RESOLUTION
19 AT THE BOTTOM WHERE IT DESCRIBES THE MITIGATED
20 NEGATIVE DECLARATION IS WHERE THE 125, THAT WAS
21 INITIAL. AND THEN ON -- OH, LET ME SEE. ON THE
22 NEXT PAGE AT THE LAST PARAGRAPH. NO, THAT'S NOT
23 IT. I SEE THE 250 SOMEWHERE IN HERE.

24 MS. TOBIAS: PAGE 2. YOU SAW 250?
25 CHAIRMAN FRAZEE: YES.

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1 MS. TOBIAS: I GUESS WHAT I'M SEEING --
2 WELL, THAT'S 1995.

3 CHAIRMAN FRAZEE: YEAH. THE NEXT TO THE
4 LAST PARAGRAPH. SO THAT'S JUST -- THE WHEREASES
5 ARE JUST IN THE DESCRIPTION, AND THAT GETS US TO
6 THE POINT OF APPROVING THE 250.

7 MS. TURNER: YEAH. IT'S A LENGTHY -- I
8 SEE THE KIND OF CHRONOLOGICAL.

9 CHAIRMAN FRAZEE: OKAY. SO WE ARE
10 APPROVING IT FOR 250 THE WAY THE RESOLUTION IS
11 DRAFTED.

12 MS. TURNER: THAT'S CORRECT.

13 CHAIRMAN FRAZEE: ANY QUESTIONS OR
14 DISCUSSION? MOTION WILL BE IN ORDER.

15 MEMBER PENNINGTON: I'LL MOVE STAFF
16 RECOMMENDATION.

17 MEMBER RELIS: I'LL SECOND.

18 CHAIRMAN FRAZEE: MOTION AND SECOND ON
19 THE ADOPTION OF PERMIT DECISION 96-382. SECRETARY
20 WILL CALL THE ROLL ON THAT, PLEASE.

21 THE SECRETARY: COMMITTEE MEMBERS
22 PENNINGTON.

23 MEMBER PENNINGTON: AYE.

24 THE SECRETARY: RELIS.
25 MEMBER RELIS: AYE.

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1 THE SECRETARY: CHAIRMAN FRAZEE.

2 CHAIRMAN FRAZEE: AYE. MOTION IS
3 CARRIED. NO OBJECTION, WE'LL RECOMMEND CONSENT
4 FOR THIS ITEM.

5 AND ITEM 3 WAS THE GOLD COAST,
6 VENTURA COUNTY. WE'LL TRAIL THAT ONE UNTIL LATER
7 IN THE AGENDA.

8 AND GO TO ITEM 4, THE CONSIDERATION
9 OF CONCURRENCE IN THE ISSUANCE OF A REVISED SOLID
10 WASTE FACILITY PERMIT FOR THE BILLY WRIGHT
11 DISPOSAL SITE IN MERCED COUNTY.

12 MS. RICE: AMALIA FERNANDEZ WILL MAKE
13 THIS PRESENTATION FOR STAFF.

14 MS. FERNANDEZ: GOOD MORNING. THE MERCED
15 COUNTY LEA HAS PROPOSED A REVISED PERMIT FOR THE
16 BILLY WRIGHT DISPOSAL SITE.

17 THE FACILITY IS OPERATED BY THE
18 MERCED COUNTY DEPARTMENT OF PUBLIC WORKS. THE
19 REVISION OF THE PERMIT IS TO ALLOW THE FOLLOWING
20 CHANGES: EXTEND THE CLOSURE DATE FROM 1998 TO
21 2013, INCREASE THE MAXIMUM PERMITTED TONNAGE FROM
22 125 TONS PER DAY TO 400 TONS PER DAY, CHANGE THE
23 FINAL ELEVATION FROM 350 FEET TO 430 FEET MEAN

SEA

24 LEVEL, ACCEPT TIRES FOR RECYCLING, AND ALLOW THE
25 USE OF ALTERNATIVE DAILY COVER AS A PILOT

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PROJECT .

1 A PROPOSED PERMIT FOR THIS SITE WAS
2 PRESENTED AT THE MAY 10, 1996, PERMITTING AND
3 ENFORCEMENT COMMITTEE MEETING. AT THAT TIME
4 PERMITS BRANCH RECOMMENDED OBJECTION TO THE
5 ISSUANCE OF THE PERMIT SINCE AT THAT TIME OF THE
6 PRESENTATION BOARD STAFF HAD NOT APPROVED A
7 REMEDIATION PLAN FOR EXPLOSIVE GAS AT THE
8 FACILITY'S BOUNDARY.

9 IN ADDITION, BOARD STAFF DETERMINED
10 THAT THE REPORT OF DISPOSAL SITE INFORMATION WAS
11 NOT ADEQUATE FOR BOARD'S CONSIDERATION OF
12 CONCURRENCE.

13 THE LEA WAIVED THE TIME FRAMES AS
14 SPECIFIED UNDER PRC SECTIONS 44008 AND 44009. THE
15 PERMITTING AND ENFORCEMENT COMMITTEE MEMBERS
16 INSTRUCTED BOARD STAFF TO WORK WITH THE LEA TO GET
17 THESE ISSUES RESOLVED. AS A RESULT ON MAY 14,
18 1996, BOARD STAFF MET WITH THE LEA AND THE
19 OPERATOR TO DISCUSS THESE PENDING ISSUES.

20 ON OCTOBER 2, 1996, BOARD STAFF
21 RECEIVED THE PROPOSED PERMIT THAT IS BEFORE YOU.
22 ON OCTOBER 16TH BOARD STAFF APPROVED A LANDFILL
23 GAS COMPLIANCE/PLAN SCHEDULE. THE PLAN REQUIRES
24 IMPLEMENTATION OF A REMEDIATION PLAN TO ACHIEVE
25 COMPLIANCE WITH THE STANDARD BY DECEMBER 31,
1998.

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1 STAFF HAVE REVIEWED THE PROPOSED
2 PERMIT AND ACCOMPANYING DOCUMENTATION AND HAVE
3 DETERMINED THAT THEY ARE SUITABLE FOR BOARD'S
4 CONSIDERATION OF CONCURRENCE. STAFF, THEREFORE,
5 RECOMMEND THE BOARD ADOPT PERMIT DECISION NO.
6 96-215, CONCURRING IN THE ISSUANCE OF PERMIT NO.
7 24-AA-0002.

8 PLEASE NOTE THAT THE RESOLUTION HAS
9 BEEN DISTRIBUTED TO YOU. MR. JEFF PALSGAARD,
10 REPRESENTING THE LEA, IS PRESENT SHOULD YOU HAVE
11 ANY QUESTIONS. THIS CONCLUDES STAFF'S
12 PRESENTATION.

13 CHAIRMAN FRAZEE: HAVE ANY --

14 MEMBER RELIS: IT'S MY UNDERSTANDING -- I
15 MEAN WE'VE HAD A NUMBER OF VIOLATIONS HISTORICALLY
16 HERE. AND THE GAS LEVELS, AS WE DISCUSSED IN AN
17 EARLIER MEETING, ARE IN EXCESS OF WHAT THE PERMIT
18 ALLOWS, BUT THE MITIGATION MEASURES HAVE BEEN
19 IDENTIFIED. AND IT'S MY UNDERSTANDING BY ADOPTING
20 THIS PERMIT, WE WOULD BE PUTTING IN PLACE MEASURES
21 TO RESOLVE THE ENVIRONMENTAL PROBLEMS THAT DO
22 EXIST, INCLUDING THE GAS SITUATION.

23 MS. RICE: THAT'S CORRECT. WE FEEL
24 THERE'S A PLAN IN PLACE TO ADDRESS THE SITUATION.

25 MEMBER RELIS: OKAY.

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1 CHAIRMAN FRAZEE: ANY QUESTIONS?

2 MEMBER PENNINGTON: NO. I'M FINE.

3 CHAIRMAN FRAZEE: ANYONE HERE TO SPEAK ON
4 THIS ITEM? MOTION WILL BE IN ORDER.

5 MEMBER PENNINGTON: OKAY, MR. CHAIRMAN, I
6 WOULD MOVE CONCURRENCE WITH THE STAFF RECOMMEN-
7 DATION, PERMIT 24-AA-0002.

8 MEMBER RELIS: I'LL SECOND THAT.

9 CHAIRMAN FRAZEE: MOTION AND SECOND FOR
10 ADOPTION OF PERMIT DECISION 96-215. SECRETARY
11 WILL CALL THE ROLL, PLEASE.

12 THE SECRETARY: COMMITTEE MEMBERS
13 PENNINGTON.

14 MEMBER PENNINGTON: AYE.

15 THE SECRETARY: RELIS.

16 MEMBER RELIS: AYE.

17 THE SECRETARY: CHAIRMAN FRAZEE.

18 CHAIRMAN FRAZEE: AYE. MOTION IS
19 CARRIED. NO OBJECTION, WE'LL RECOMMEND CONSENT ON
20 THAT ITEM.

21 NOW, ITEM 5, THIS IS THE
22 CONSIDERATION OF ADOPTION OF A NEGATIVE
23 DECLARATION AND FINANCIAL ASSURANCE ENFORCEMENT
24 REGULATIONS FOR SOLID WASTE LANDFILLS FINANCIAL
25 ASSURANCE VIOLATIONS.

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1 MS. RICE: DIANA VAUGHN-THOMAS WILL MAKE
2 THE PRESENTATION FOR STAFF.

3 MS. VAUGHN-THOMAS: GOOD MORNING, CHAIR
4 FRAZEE, BOARD MEMBERS PENNINGTON AND RELIS. THIS
5 AGENDA ITEM BEFORE YOU IS THE ADOPTION OF THE
6 NEGATIVE DECLARATION AND STATE CLEARINGHOUSE
7 NUMBER 96092039 AND FINANCIAL ASSURANCE ENFORCE-
8 MENT REGULATIONS FOR SOLID WASTE LANDFILLS.

9 THE NEGATIVE DECLARATION WAS
10 SUBMITTED FOR PUBLIC REVIEW DURING THE PERIOD
11 SEPTEMBER 20TH THROUGH OCTOBER 23D. THE ACTUAL
12 NEGATIVE DECLARATION DOCUMENTS ARE NOT INCLUDED
13 IN
14 THIS ITEM. THEY WERE INADVERTENTLY OMITTED;
15 HOWEVER, THEY WILL BE PROVIDED AS PART OF THE
16 BOARD ITEM.

17 THE NEGATIVE DECLARATION FINDS
18 THAT
19 THE REGULATIONS WILL NOT HAVE A SIGNIFICANT
20 EFFECT
21 ON THE ENVIRONMENT. YOU WILL ALSO NOTICE THAT
22 AS
23 PART OF YOUR PACKAGE, YOU HAVE A RESOLUTION
24 WHICH
25 COMBINES BOTH THE ADOPTION OF THE NEGATIVE DEC
26 AND

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21 THE FINANCIAL ASSURANCE ENFORCEMENT REGULATIONS.

22 AT THE TIME THE ITEM WAS PREPARED,

23 WE WERE NOT AWARE THAT WE SHOULD HAVE TWO

SEPARATE

24 RESOLUTIONS. SO FOR THE BOARD ITEM, YOU WILL

ALSO

25 HAVE TWO SEPARATE RESOLUTIONS, ONE FOR THE

1 NEGATIVE DEC AND ONE FOR THE REGULATIONS.

2 THE FINANCIAL ASSURANCE

ENFORCEMENT

3 REGULATIONS PUBLIC REVIEW PERIOD WAS FROM

4 SEPTEMBER 20TH THROUGH NOVEMBER 4TH. IN YOUR

5 AGENDA ITEM, YOU HAVE FIVE COMMENTS SHOWN. I

6 BELIEVE IT'S FIVE COMMENTS. FIVE COMMENTS.

7 SUBSEQUENT TO THE PRINTING OF THE AGENDA ITEM,

WE

8 RECEIVED FOUR ADDITIONAL DOCUMENTS FROM

9 COMMENTERS. I PROVIDED YOU THIS MORNING WITH

10 THOSE ADDITIONAL COMMENTS: ONE FROM WASTE

11 MANAGEMENT, ONE FROM THE COUNTY OF SAN DIEGO,

ONE

12 FROM THE KERN COUNTY WASTE MANAGEMENT

DEPARTMENT,

13 AND ONE FROM BROWNING FERRIS INDUSTRIES.

14 AS PART OF THAT PACKET, I ALSO

15 PROVIDED YOU WITH THE RESPONSE TO THOSE COMMENTS

16 AS WELL AS THE MODIFIED TEXT OF THE REGULATIONS.

17 THE REGULATIONS HAVE BEEN MODIFIED WITH MINOR

18 CHANGES THAT DO NOT REQUIRE RENOTICING, SO THERE

19 WOULD BE VERY MINOR CHANGES.

20 AS YOU KNOW, THESE REGULATIONS ARE

21 BASED ON THE FINANCIAL ASSURANCE ENFORCEMENT

22 PROCEDURES WHICH WERE DISSEMINATED EARLIER THIS

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23 YEAR IN JANUARY. THE REGULATIONS THAT WERE
24 NOTICED IN SEPTEMBER INCORPORATED THE COMMENTS
25 RECEIVED FROM INTERESTED PARTIES ON THOSE

1 PROCEDURES. THAT INCLUDED LEA'S, AS WELL AS
2 OPERATORS AND OTHER INTERESTED PARTIES.

3 I WILL FOCUS ON THE MAJOR COMMENTS
4 THAT WE RECEIVED FROM THE COMMENTERS DURING THE
5 45-DAY COMMENT PERIOD.

6 MAJOR COMMENTS FROM THE LEA'S WAS
7 THAT THEY FELT THAT THERE WERE NO PROVISIONS IN
8 THESE REGULATIONS TO ALLOW THEM TO ADMINISTER THE
9 FINANCIAL ASSURANCE PROGRAM AND ENFORCE IT. THERE
10 ARE AT LEAST TWO LEA'S THAT WE KNOW OF WHO
11 EXPRESSED THAT CONCERN. HOWEVER, THESE PARTICULAR
12 REGULATIONS ARE NOT THE APPROPRIATE PLACE FOR THAT
13 DESIGNATION.

14 THERE ARE ONGOING DISCUSSIONS NOW
15 WITH THE BOARD STAFF AS TO WHETHER OR NOT THAT
16 COULD POSSIBLY BE DONE SOMETIME IN THE FUTURE. IF
17 IT'S POSSIBLE, THE AB 1220 REGULATIONS PACKAGE MAY
18 BE THE MORE APPROPRIATE PLACE TO PUT THAT TYPE OF
19 LANGUAGE WHERE THE BOARD MAY POSSIBLY, WITH SOME
20 AGREEMENT, ALLOW AN LEA TO ADMINISTER AND ENFORCE
21 THE PROGRAM.

22 THE OTHER MAJOR ISSUES FROM WASTE
23 MANAGEMENT, ONE REGARDING THE TIME FRAME FOR
24 SUBMITTING A RESPONSE TO A NOTICE OF VIOLATION,
25 AND I FEEL THAT WE DID ADDRESS THAT COMMENT. THAT

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1 COMMENT SPECIFICALLY INDICATED THAT THE TEN-DAY
2 PERIOD WAS NOT AN ADEQUATE AMOUNT OF TIME.
3 HOWEVER, THE TEN-DAY PERIOD IS SIMPLY THE TIME
4 FRAME FOR SUBMITTING A RESPONSE TO THE NOTICE OF
5 VIOLATION, NOT NECESSARILY COMING INTO COMPLIANCE.
6 AND IT IS A WAY OF GETTING THE PROCESS UNDER WAY
7 SO THAT WE GET SOME TYPE OF NOTIFICATION FROM THE
8 OPERATOR TO GET THE PROCESS GOING AND SEE WHETHER
9 OR NOT WE CAN GET THEM INTO COMPLIANCE WITH THE
10 REGULATIONS.

11 THE OTHER ISSUE WAS A PROVISION IN
12 THE REGULATIONS WHERE WE ALLOW CERTAIN FACTORS TO
13 BE USED TO DETERMINE THE AMOUNT OF THE PENALTY.
14 AND WASTE MANAGEMENT EXPRESSED SOME CONCERNS WITH
15 ONE OF THE FACTORS, AND THAT IS THAT THE BOARD MAY
16 CONSIDER AN OPERATOR'S INABILITY TO PAY A PENALTY
17 AS A FACTOR IN DETERMINING THE AMOUNT OF THE
18 PENALTY. SO THAT ALSO HAS BEEN LOOKED AT, AND
19 WE'RE CURRENTLY DISCUSSING THAT WITH OUR LEGAL
20 STAFF.

21 MEMBER RELIS: DOESN'T THE BFI LETTER
GET
22 INTO THAT AS WELL?

23 MS. VAUGHN-THOMAS: NO, IT DOESN'T.

24 MEMBER RELIS: I'M JUST SKIMMING IT
HERE.

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25

MS. VAUGHN-THOMAS: IT DOESN'T ACTUALLY

23

1 DISCUSS THE ISSUE OF INABILITY TO PAY.

2 MEMBER RELIS: I GUESS IT TOUCHES ON THE
3 DEGREE OF PENALTY.

4 MS. VAUGHN-THOMAS: RIGHT. RIGHT. ON
5 THE BFI COMMENTS, WE RECEIVED A 35-PAGE COMMENT
6 LETTER. HOWEVER, THE FIRST FIVE PAGES WERE
7 PERTINENT TO THIS REGULATORY PACKAGE, AND THE LAST
8 30 PAGES DEALT WITH THE SUBTITLE C AND SUBTITLE D
9 FINANCIAL ASSURANCE TEST. THAT IS, THE FEDERAL
10 GOVERNMENT IS PROPOSING TO PASS A REGULATION
11 ALLOWING THE FINANCIAL MEANS TEST FOR LOCAL
12 GOVERNMENTS, AND THEY ARE REVISING THE MEANS TEST
13 FOR PRIVATE INDUSTRY.

14 AND THAT IS DUE TO COME OUT AT ANY
15 TIME; HOWEVER, WE DO NOT HAVE THE FINAL RULE ON
16 THAT PACKAGE. AND WHAT BFI EXPRESSED IN THEIR
17 LETTER WAS THAT WE SHOULD INCORPORATE NOW THAT
18 PARTICULAR MECHANISM IN OUR REGULATORY PACKAGE IN
19 ORDER TO ALLOW OPERATORS TO TAKE FULL ADVANTAGE OF
20 THAT MECHANISM. HOWEVER, THIS PARTICULAR
21 REGULATORY PACKAGE FOCUSES ON PROCEDURES FOR
22 ENFORCEMENT RATHER THAN THE ACCEPTABILITY OF A
23 MECHANISM. THAT WOULD BE BETTER ADDRESSED IN THE
24 AB 1220 REGS AS WELL.

25 SO THAT THE OTHER FIVE COMMENTS, I

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1 BELIEVE, WERE RESPONDED TO ALSO, AND YOU WILL
2 NOTICE IN YOUR PACKAGE THAT WE PREPARED RESPONSES
3 TO THE OTHER COMMENTS FROM BFI.

4 THAT CONCLUDES MY PRESENTATION. IF
5 YOU HAVE ANY ADDITIONAL QUESTIONS, I'LL BE HAPPY
6 TO ANSWER THEM. AND STAFF'S RECOMMENDATION IS
7 THAT THE COMMITTEE ADOPT THE NEGATIVE DECLARATION
8 AND FINANCIAL ASSURANCE ENFORCEMENT REGULATIONS
9 AND FORWARD THEM TO THE BOARD FOR ADOPTION.

10 CHAIRMAN FRAZEE: JUST AS A MATTER OF
11 PROCEDURE, WE HAVE ONLY ONE RESOLUTION. SHOULD WE
12 BE TAKING TWO VOTES AT THIS POINT?

13 MS. TOBIAS: WITH THE NEGATIVE
14 DECLARATION? YES.

15 CHAIRMAN FRAZEE: EVEN THOUGH WE DON'T
16 HAVE THE RESOLUTION.

17 MS. TOBIAS: I THOUGHT WE WERE PASSING
18 THAT OUT TO THEM.

19 CHAIRMAN FRAZEE: SHE SAID IT WAS GOING
20 TO BE PREPARED FOR THE BOARD MEETING.

21 MS. TOBIAS: WELL, YOU CAN EITHER JUST
22 MAKE A MOTION TO APPROVE THE ADOPTION OF A
23 NEGATIVE DECLARATION, ACKNOWLEDGING THAT YOU DON'T
24 HAVE THAT IN FRONT OF YOU, OR YOU CAN JUST MOVE
25 THAT ON TO THE BOARD. NEEDS TO BE TWO.

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1 CHAIRMAN FRAZEE: LET'S SEE. WE HAVE
2 A -- DO YOU HAVE ANY COMMENTS FROM COMMITTEE
3 MEMBERS?

4 MEMBER RELIS: NO, NOT AT THIS TIME.

5 CHAIRMAN FRAZEE: A REQUEST FROM CHUCK
6 WHITE TO SPEAK ON THIS ITEM REPRESENTING WMX
7 TECHNOLOGIES.

8 MR. WHITE: THANK YOU, MR. CHAIRMAN,
9 MEMBERS OF THE COMMITTEE. STAFF DID SUMMARIZE THE
10 COMMENTS WE MADE, BUT I THOUGHT I WOULD LIKE TO
11 EMPHASIZE THEM BRIEFLY.

12 I THINK THE FIRST COMMENT THAT WE
13 HAD IS RELATIVELY MINOR IN NATURE, HAVING TO DO
14 WITH THE RESPONSE PERIOD ONCE YOU RECEIVE A
15 NOTICE. AND IT WAS UNCLEAR WHAT THE RESPONSE
16 WOULD BE FROM READING THE REGULATIONS, IF A
17 RESPONSE IS ALL THAT'S NECESSARY WOULD BE JUST
18 SIMPLY A LETTER BACK SAYING, YES, WE GOT A COPY
19 OF
20 THIS ALLEGATION, AND WE'RE PREPARING A LARGER
21 RESPONSE. IF THAT KIND OF RESPONSE IS
22 APPROPRIATE, THEN I DON'T THINK I REALLY HAVE A
23 PROBLEM. BUT IF THE IDEA WAS YOU HAD TO COME
24 BACK
25 WITHIN TEN DAYS AND BE FULLY PREPARED TO LAY OUT
26 EVERYTHING REGARDING YOUR DEFENSE OF THAT, I

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THINK

25 THAT WOULD BE TOTALLY INAPPROPRIATE.

1 IT SEEMED TO ME FOR THOSE TYPES OF
2 ALLEGATIONS WHERE YOU WERE SEVERAL YEARS, IF NOT
3 DECADES, AWAY FROM CLOSURE, THAT THERE'S REALLY A
4 NEED FOR IMMEDIATE TURNAROUND WITHIN TEN DAYS TO
5 PUT A RESPONSE TOGETHER ON ALLEGATIONS. BUT,
6 AGAIN, IF THE UNDERSTANDING IS SIMPLY THAT YOU
7 JUST SIMPLY ACKNOWLEDGE THE RECEIPT OF THE MESSAGE
8 AND CAN MAKE REFERENCE TO TAKING ADDITIONAL TIME
9 TO PREPARE THE INFORMATION THAT YOU NEED TO DEFEND
10 YOURSELF, THEN I DON'T THINK THAT WOULD BE OF A
11 CONCERN.

12 ALTHOUGH I GUESS MY PREFERENCE WOULD
13 BE, IF IT'S A LOW PRIORITY OR A MODERATE PRIORITY
14 WITH MANY YEARS TO CLOSURE, WHY DO WE NEED TO HAVE
15 IMMEDIATE RESPONSE WITHIN TEN DAYS IF IT'S NOT
16 EVEN A HIGH PRIORITY ISSUE? BUT WE CAN LIVE WITH
17 TEN DAYS WITH THE UNDERSTANDING AS I INDICATED.

18 THE INABILITY TO PAY ISSUE I THINK
19 IS MORE OF A CONCERN TO US IN THE SENSE THAT IT
20 APPEARS THAT YOU HAVE TWO STANDARDS. ONE FOR
21 THOSE COMPANIES OR OPERATORS THAT DO HAVE AN
22 ABILITY TO PAY, HAVE BEEN FISCALLY SOUND IN THE
23 MANAGEMENT. HOPEFULLY OUR COMPANY WOULD NEVER BE
24 IN A SITUATION WHERE WE WOULD BE FACED WITH THE
25 ALLEGATION OF IMPROPER FINANCIAL ASSURANCE
BECAUSE

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1 WE TAKE GREAT PRIDE IN ASSURING THAT WE HAVE
2 ADEQUATE FINANCIAL ASSURANCE ABOVE AND BEYOND THE
3 MINIMUM STANDARDS REQUIRED BY THE REGULATIONS.

4 BUT THOSE OPERATORS THAT MIGHT NOT
5 HAVE ADEQUATE FINANCIAL ASSURANCE AND THEN
6 COMPOUNDED BY THE FACT THAT THEY MAY NOT BE IN A
7 SOUND FINANCIAL CONDITION -- IN FACT, A SOUND
8 FINANCIAL CONDITION MAY BE -- A LACK OF SOUND
9 FINANCIAL CONDITION MAY HAVE ACTUALLY CONTRIBUTED
10 TO THE INABILITY TO COME UP WITH ADEQUATE
11 FINANCIAL ASSURANCE -- SHOULD SOMEHOW BE REWARDED
12 BY A REDUCED PENALTY.

13 THERE ISN'T ANYPLACE THAT I KNOW OF,
14 AND I HAVE ASKED THE STAFF TO TELL ME IF THEY ARE
15 AWARE OF ANY SITUATION WHERE THERE'S A SIMILAR
16 REQUIREMENT IN ANY STATE OR FEDERAL REGULATION
17 THAT GIVES RELIEF FROM A PENALTY OR A FINE. AND
18 MAYBE ONE EXISTS. I'M JUST NOT AWARE OF IT. AND
19 I WOULD LIKE TO BE SO INFORMED IF THERE IS A
20 COMPARABLE SITUATION WHERE THE INABILITY TO PAY IS
21 FACTORED INTO -- IN REGULATION.

22 NOW, THAT MIGHT BE IN THE BACK OF
23 SOMEONE'S MIND SOMEPLACE, AND YOU CAN'T PEER INTO
24 PEOPLE'S MIND, BUT ACTUALLY HAVE A REGULATION
25 STATE THAT INABILITY TO PAY IS AN APPROPRIATE

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1 CRITERIA. I WOULD JUST THINK THAT IS TOTALLY
2 INAPPROPRIATE AND THIS BOARD SHOULD REALLY DROP
3 THAT.

4 AND IF FOR NO OTHER REASON THAN A
5 PRACTICAL MATTER, DO YOU REALLY WANT TO GET INTO
6 DECIDING SOMEBODY'S INABILITY TO PAY AND THE KIND
7 OF DEBATE AND THAT KIND OF RESEARCH AND KIND OF
8 FISCAL ASSESSMENT OF SOMEONE'S BOOKS AND RECORDS
9 AND ARGUING BACK AND FORTH WHETHER THERE REALLY IS
10 AN ABILITY TO PAY. HOW WOULD YOU MAKE A
11 DETERMINATION OF WHETHER THERE'S AN INABILITY TO
12 PAY WITHOUT GOING INTO A WALL-TO-WALL EVALUATION
13 OF AN OPERATOR'S BOOKS.

14 AND SO I'M NOT SURE THAT'S REALLY
15 RELEVANT TO THIS ISSUE. IF THERE IS A VIOLATION
16 OF FINANCIAL ASSURANCE, THEY HAVEN'T APPROPRIATELY
17 PROVIDED IT, THERE'S ALL KINDS OF OTHER FACTORS
18 FOR MITIGATING A PENALTY.

19 THE RETURN TO COMPLIANCE, THE PAST
20 COMPLIANCE HISTORY OF THE OPERATOR, THESE ARE
21 APPROPRIATE FACTORS, AND WE SUPPORT THESE OTHER
22 FACTORS. IT'S JUST THAT THE INABILITY TO PAY,
23 TO
24 US, JUST SEEMS TOTALLY UNREASONABLE AND IS
COMPLETELY UNPARALLELED IN ANY OTHER REGULATION

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25 THAT WE'RE AWARE OF. THANK YOU.

1 CHAIRMAN FRAZEE: THANK YOU. IS THERE
2 ANYONE ELSE TO COMMENT ON THIS ITEM? THAT'S THE
3 ONLY SLIP WE HAD.

4 MEMBER RELIS: I HAVE SOME SYMPATHY FOR
5 THAT ARGUMENT. I MEAN WE ARE IN A ROLE OF
6 REGULATING LANDFILLS UNDER FEDERAL SUBTITLE D, AND
7 THE LAW IS REALLY IMPARTIAL REGARDING WHETHER IT'S
8 LOCAL GOVERNMENT OR WHETHER IT'S A PRIVATE PARTY.
9 IT'S VIEWED AS A REQUIREMENT. AND SO I GUESS I'M
10 EXPRESSING MY SYMPATHY, BEING MINDFUL OF THE FACT
11 THAT A LOT -- A NUMBER OF LOCAL GOVERNMENTS
12 HAVEN'T BEEN ABLE TO RESOLVE THEIR FINANCIAL
13 PROBLEMS IN SUCH A WAY TO HAVE ADEQUATE FUNDS.

14 BUT I DON'T THINK THE MESSAGE THAT
15 WE GO THROUGH A FINANCIAL MEANS TEST FOR -- IN
16 SUPPORT OF A REGULATION IS -- IN SUPPORT OF A
17 REQUIREMENT IS WHAT WE SHOULD BE DOING. IT EITHER
18 MEETS THE REQUIREMENT OR DOESN'T, AND THEN THERE
19 ARE MATTERS THAT FALL FROM THAT.

20 MS. TOBIAS: MR. CHAIRMAN, MAY I SUGGEST
21 THAT YOU MIGHT WANT TO HAVE STAFF SPECIFIC
22 RESPONSES. I THINK THAT DIANA DID ALLUDE TO THIS
23 IN HER PRESENTATION. I'M SURE, ALTHOUGH I
24 PROBABLY SPACED AND I DIDN'T HEAR IT, SHE'S DONE A
25 RESPONSE TO COMMENTS ON THE BACK OF ALL THESE.

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1 I'M NOT EXACTLY SURE WHEN SHE DID THESE, BUT I
2 THINK SHE'S DONE A VERY GOOD JOB IN RESPONDING TO
3 SOME OF THESE. SO SHE MIGHT WANT TO DIRECT YOU TO
4 PAGES WHERE SHE'S RESPONDED TO MR. WHITE'S
5 COMMENTS; AND THEN ONCE SHE'S RESPONDED, I HAVE A
6 COMMENT ON THE ABILITY TO PAY.

7 CHAIRMAN FRAZEE: CAN YOU DIRECT US TO
8 THAT ITEM?

9 MS. VAUGHN-THOMAS: I BELIEVE IT'S ON
10 PAGE 5, AND IT'S -- THE TITLE PAGE SHOULD SAY
11 FINANCIAL ASSURANCE ENFORCEMENT REGULATIONS,
12 RESPONSE TO COMMENTS. THIS WOULD BE IN THE
13 PACKAGE THAT WAS PROVIDED TO YOU THIS MORNING.
14 THE VERY FIRST PAGE BECAUSE WASTE MANAGEMENT'S
15 COMMENT WAS RECEIVED --

16 CHAIRMAN FRAZEE: WASTE MANAGEMENT LETTER
17 ON THE FRONT OF IT. OKAY.

18 MS. VAUGHN-THOMAS: PAGE 5 SHOWS THE
19 ACTUAL COMMENT FROM WASTE MANAGEMENT. ON PAGE 6
20 IS MY RESPONSE. NO. 2.

21 CHAIRMAN FRAZEE: NOW WE'RE GETTING INTO
22 IT. SEVERAL PAGES. PAGE 5 IS HERE. OKAY. NOW.

23 MS. VAUGHN-THOMAS: NOW, ON PAGE 6 IS MY
24 RESPONSE TO THEIR COMMENTS. AND NO. 2
25 SPECIFICALLY ADDRESSES THE INABILITY TO PAY ISSUE.

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1 THERE IS NO OTHER REGULATION THAT I
2 KNOW OF THAT PROVIDES THIS TYPE OF FACTOR TO BE
3 INVOLVED IN DETERMINING A PENALTY; HOWEVER, THERE
4 ARE PROCEDURES CURRENTLY IN PLACE AT THE
5 DEPARTMENT OF TOXIC SUBSTANCES CONTROL. AND I'M
6 AWARE OF THAT, OF COURSE, BECAUSE I USED TO BE
7 EMPLOYED THERE. THIS WAS ONE OF THE FACTORS THAT
8 WE USED. HOWEVER, IT IS DEFINITELY THE LAST
9 RESORT.

10 IT IS NOT A FACTOR THAT WE WOULD
11 CONSIDER UP FRONT. IF THERE WERE SOME ADJUSTMENTS
12 MADE, THERE WOULD PROBABLY BE, FOR EXAMPLE,
13 EXTENDING THE LENGTH OF TIME THAT A PENALTY WOULD
14 BE PAID, NOT TOTALLY ELIMINATING THE PENALTY, AND
15 PERHAPS NOT EVEN REDUCING THE PENALTY. SO THIS
16 DOESN'T NECESSARILY MEAN THAT THERE IS AN UNFAIR
17 ADVANTAGE WHEN USING THIS FACTOR TO DETERMINE
18 WHETHER -- TO DETERMINE THE AMOUNT OF A PENALTY.

19 MEMBER RELIS: I'M TRYING TO RECALL IF
20 WE -- WE'VE HAD CASES WHERE THE ISSUE OF WHETHER A
21 LOCAL JURISDICTION HAS HAD AN ADEQUATE FINANCIAL
22 ACCOUNT, AND I'M AWARE OF SEVERAL OCCASIONS OF
23 THAT. HAVE WE EVER COME TO THE POINT OF CLOSURE
24 OR COME TO THE POINT WHERE WE HAVE BEEN REQUESTED
25 TO TAKE ACTION, FURTHER ACTION, ON THE LACK OF

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1 FINANCIAL?

2 MS. TOBIAS: I'M SORRY. COULD YOU REPEAT
3 YOUR QUESTION?

4 MEMBER RELIS: I'M AWARE THAT IN A NUMBER
5 OF OUR PERMIT-RELATED ISSUES OR I THINK EVEN THE
6 CASE OF ONE PARTY IT WAS A LOAN OR GRANT THAT WAS
7 BEING CONTEMPLATED AND THE CLOSURE WASN'T
8 SUFFICIENT IN ONE OF THE JURISDICTIONS, AND THEN
9 THEY MADE RIGHT ON THAT AFTERWARDS. I THINK THAT
10 WAS, IN FACT, SAN DIEGO COUNTY.

11 CHAIRMAN FRAZEE: SAN DIEGO COUNTY, YES.

12 MEMBER RELIS: IN GETTING TO THIS POINT
13 ABOUT ADEQUACY, AND THEN, WELL, HOW DO YOU
14 NEGOTIATE THAT OUT UNDER THIS PROPOSAL?

15 MS. TOBIAS: I GUESS MY SUGGESTION WOULD
16 BE IS THAT, IF THIS WOULD DEAL WITH THIS ISSUE, IS
17 THAT WE BASICALLY WORK ON THIS PART OF THE REGS
18 AND MOVE IT FORWARD. IF WE CAN'T RESOLVE IT BY
19 THE BOARD MEETING, THEN BASICALLY WE'D BE LOOKING
20 AT A 15-DAY CHANGE IN THE REGS. BUT I THINK WHAT
21 WE NEED TO DO IS TO MOVE THAT INABILITY TO PAY
22 PROVISION INTO A SEPARATE SECTION THAT
23 ACKNOWLEDGES WHAT DIANA WAS TALKING ABOUT AS FAR
24 AS THAT IT IS A LAST RESORT AND IT PROBABLY
25 AFFECT -- AND THIS IS CERTAINLY UP TO YOU IN TERMS

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1 OF POLICY -- THAT IT WOULD AFFECT PERHAPS THE TIME
2 LINE IN TERMS OF PAYING IT BACK AS OPPOSED TO THE
3 AMOUNT.

4 RIGHT NOW IT'S UNDER B, SO B SAYS
5 "DETERMINATION OF PENALTY AMOUNTS MAY BE MODIFIED
6 BY THE CIWMB FOR ONE OR MORE OF THE FOLLOWING
7 REASONS." AND THEN NO. 2 SAYS "VERIFIABLE
8 DOCUMENTATION." SO THAT'S GOOD. THE DOCUMENTA-
9 TION IS IN THERE THAT THERE IS SOMETHING GOING ON
10 ABOUT THE INABILITY TO PAY.

11 MEMBER RELIS: THAT SHOULD JUST BE A
12 GENERAL BUDGET PROBLEM.

13 MS. TOBIAS: RIGHT.

14 MEMBER RELIS: WOULD BE MOST LIKELY.

15 MS. TOBIAS: I THINK IT WOULD BE GOOD TO
16 HAVE THE GUIDANCE FROM THE COMMITTEE IS WOULD YOU
17 WANT IT TO BE MOVED TO A SECTION THAT REALLY JUST
18 TALKS ABOUT LAST RESORT, AS DIANA MENTIONED, AND
19 AFFECTING THE TIME PERIOD OVER WHICH A PENALTY IS
20 PAID, NOT THE AMOUNT. I'M NOT SURE THAT THAT'S
21 EXACTLY WHAT WE MEANT TO DO IN HERE. OR DO YOU
22 NOT WANT THE INABILITY TO PAY TO BE IN HERE AT
23 ALL. AND THEN IN EITHER CASE, DEPENDING ON WHAT
24 YOUR GUIDANCE IS, WE COULD TRY TO DEAL WITH THAT
25 PRIOR TO THE BOARD MEETING.

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1 MEMBER RELIS: IT SEEMS TO ME THAT LATTER
2 POINT'S THE ISSUE. IF YOU GET INTO AN EXTENDED
3 TIME PERIOD, THAT'S KIND OF LIKE A LOAN THAT'S
4 GOING BAD, AND YOU TRY TO WORK -- YOU HAVE A
5 WORKOUT APPROACH.

6 MS. RICE: STAFF HAVE ALSO MENTIONED, AND
7 WE WOULD NEED SOME TIME TO LOOK INTO THIS TO
8 VERIFY WHETHER IT'S THE CASE, BUT STAFF WAS OF THE
9 OPINION THAT THERE MAY BE SIMILAR PROVISIONS IN
10 THE WATER CODE RELATED TO ABILITY TO PAY AS FAR AS
11 THEIR PENALTY PROVISIONS GO. SO THAT MIGHT BE
12 ALSO INFORMATIVE FOR YOU BEFORE YOU MAKE A FINAL
13 DECISION. IN OTHER WORDS, THERE MAY BE OTHER
14 PROVISIONS LIKE THAT THAT ARE UTILIZED BY AGENCIES
15 SIMILAR TO OURSELVES IN CONSIDERING, AMONG MANY
16 FACTORS, WHETHER ABILITY TO PAY IS AN APPROPRIATE
17 ISSUE.

18 MS. TOBIAS: WE IN NEGOTIATING A RECENT
19 ISSUE OR FINANCIAL ASSURANCES DID BASICALLY
20 STRUCTURE A PAYBACK OVER TIME BASED ON WHAT THE
21 ENTITY THOUGHT THEY COULD DEAL WITH. IT DID NOT
22 CHANGE THE AMOUNT THAT THEY WERE SUPPOSED TO PAY,
23 BUT BASICALLY WE WORKED IT OUT WITH THEM. THEY
24 WANTED A MUCH LONGER TIME PERIOD. WE NEGOTIATED A
25 SHORTER ONE.

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1 SO, YOU KNOW, THE THIRD WAY OF DOING
2 IT IS TO NOT NECESSARILY ADDRESS THAT ISSUE IN THE
3 REGS AT ALL, BUT TO LEAVE IT, YOU KNOW, IF THERE'S
4 SOMETHING THAT NEEDS TO BE NEGOTIATED, THAT STAFF
5 DOES THAT AND BRINGS IT BACK TO THE BOARD OR
6 SOMETHING LIKE THAT.

7 MEMBER RELIS: THAT WOULDN'T FORMALLY BE
8 IN THE REGS, BUT WE WOULD UNDERSTAND.

9 MS. TOBIAS: RIGHT. IN YOUR FINDINGS OR
10 EVEN JUST LEAVING IT OPEN FOR IT TO BE
11 SOMETHING -- BECAUSE THE WAY WE DID THE LAST ONE
12 WAS A STIPULATED AGREEMENT. GENERALLY IN A
13 STIPULATED AGREEMENT, BECAUSE THAT'S A CONTRACT OR
14 AN AGREEMENT BETWEEN THE TWO PARTIES, WE GENERALLY
15 HAVE THE ABILITY TO NEGOTIATE, YOU KNOW, WITHIN
16 THE CONFINES, OF COURSE, OF THE STATUTE AND THE
17 REGULATIONS, HOW PARTIES ARE GOING TO AGREE TO
18 DEAL WITH THAT PROBLEM.

19 SO I GUESS THERE'S THREE CHOICES:
20 ONE, LEAVE AS IS; THE SECOND, MOVE INABILITY TO
21 PAY TO A SEPARATE SECTION WHICH TALKS ABOUT THE
22 FACT THAT IT WOULD ONLY FACTOR IN AS A LAST
23 RESORT, NO. 1, AND ONLY IN TERMS OF THE REPAYMENT
24 TIME PERIOD, NOT THE AMOUNT OF THE PENALTY; OR,
25 NO. 3, DON'T ADDRESS IT AT ALL AND TAKE IT OUT.

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1 MEMBER RELIS: MR. CHAIR, I'M JUST
2 INTERESTED IN KNOWING, PERHAPS BEFORE I WOULD
3 RESPOND TO THAT, DOROTHY, YOU BROUGHT UP THAT AND
4 WE'VE BEEN INFORMED THAT TOXICS HAS SOME SORT OF
5 MEASURE, WATER MAY HAVE. I THINK WE SHOULD AT
6 LEAST KNOW WHAT THOSE PROGRAMS WERE INTENDED TO DO
7 AND WHAT BEARING THEY'D HAVE, IF ANY, ON OUR
8 SITUATION.

9 MS. RICE: IT WOULD CERTAINLY HELP US TO
10 HAVE A FEW DAYS TO LOOK INTO THAT AND PROVIDE YOU
11 A LITTLE BETTER INFORMATION. I KNOW STAFF PLACED
12 THIS PROVISION IN HERE BASED ON THEIR UNDER-
13 STANDING OF ITS USE IN OTHER APPLICATIONS. AND IT
14 SEEMS WE JUST NEED TO GET A BETTER HANDLE ON WHAT
15 THAT IS, AND THEN YOU CAN FACTOR THAT INTO YOUR
16 DETERMINATION OF WHETHER IT'S APPROPRIATE HERE FOR
17 YOU.

18 MS. TOBIAS: I WILL SAY FROM A LEGAL
19 STANDPOINT, AND I THINK I'D BE HAPPY TO LOOK WITH
20 STAFF AT THE WATER CODE AND LOOK A LITTLE BIT MORE
21 AT TOXICS, I'M A LITTLE BIT CONCERNED ABOUT AN
22 INEQUITY PROBLEM OF A DIFFERENCE BETWEEN WHEN WE
23 HAVE REGULATIONS THAT APPLY TO, YOU KNOW, ALL
24 FACILITIES EQUALLY, WHY WE'D BE, YOU KNOW, AT THE
25 LAST MOMENT DECIDING SOMETHING ON INABILITY TO

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1 PAY. SO I'LL JUST RAISE THAT, YOU KNOW, AS A SIDE
2 ISSUE, BUT I THINK LOOKING AT THE OTHER DEPART-
3 MENTS WILL BE HELPFUL.

4 MS. RICE: IF YOU LOOK AT THE CRITERIA IN
5 THE PROPOSED REGULATIONS, ALL OF THEM ARE SOMEWHAT
6 SUBJECTIVE AND ALLOW FOR CONSIDERATION OF FACTORS
7 THAT ARE OPERATOR SPECIFIC SUCH AS GOOD FAITH,
8 SUCH AS PAST COMPLIANCE HISTORY, AND THERE'S A
9 WHOLE LIST THERE. SO ON EACH OF THEM YOU WOULD BE
10 CONSIDERING ON A CASE-BY-CASE BASIS HOW THESE
11 FACTORS FIT INTO HOW YOU VIEW ENFORCEMENT FOR THAT
12 PARTICULAR OPERATION.

13 CHAIRMAN FRAZEE: COULD WE HAVE THAT BY
14 THE BOARD MEETING THEN, THAT ANALYSIS OF HOW OTHER
15 AGENCIES HANDLE THIS PROBLEM?

16 MS. RICE: YES, WE WILL HAVE THAT.

17 CHAIRMAN FRAZEE: I'M INCLINED TO AGREE
18 WITH MR. RELIS. IT SEEMS THAT THE ONLY OTHER
19 PLACE I KNOW WHERE INABILITY TO PAY IS A FACTOR IS
20 IN THE CASE OF INDIGENT DEFENDANTS, AND THAT'S
21 PRETTY EASY TO DEFINE. BUT I CAN SEE US OPENING A
22 PANDORA'S BOX, PARTICULARLY WITH PUBLIC AGENCIES
23 THESE DAYS AND THEIR BUDGET PROBLEMS, ONE AFTER
24 ANOTHER COMING IN AND PLEADING INABILITY TO PAY IN
25 THIS AREA AND NOT REALLY GETTING INTO RESOLUTION.

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1 SO I WOULD EITHER OPT FOR LEAVING IT OUT
2 ALTOGETHER AND FINDING IN THAT BROAD GENERAL
3 CATEGORY OF CONDITIONS THAT WE CAN CONSIDER THAT
4 THAT MAY CROP UP AS ONE, BUT NOT ADVERTISE THE
5 FACT THAT THAT'S AN EASY WAY OUT.

6 MR. ADAMS: AS WE CONSIDER THIS ISSUE
7 BETWEEN NOW AND THE BOARD MEETING, IT CAME UP THE
8 OTHER DAY VERIFIABLE DOCUMENTATION IS NOT GOING TO
9 BE A LETTER FROM THE TREASURER SAYING WE CAN'T DO
10 IT. WE WOULD PROBABLY REQUIRE A THIRD-PARTY AUDIT
11 BY ONE OF THE BIG FIVE OR SOMEONE LIKE THAT WHICH
12 COULD SUBSTANTIALLY COST THEM MORE THAN THE
13 PENALTIES THAT THEY'RE EVEN DEALING WITH. SO IT'S
14 NOT JUST A LETTER SAYING "I'M SORRY. WE CAN'T
15 PAY." SO THERE'S A LOT MORE TO IT THAN JUST
16 SIMPLY COMING IN AND SAYING "I'M SORRY. WE CAN'T
17 DO IT." WE'D MAKE THEM PROVE IT.

18 MEMBER RELIS: I AGREE, BUT IT'S ONE
19 THING TO HAVE UNDERSTANDINGS LIKE THAT. IT'S
20 ANOTHER TO HAVE THEM IN REGULATION. THAT'S MY
21 FUNDAMENTAL PROBLEM, AND I SHARE MR. FRAZEE'S
22 VIEW.

23 CHAIRMAN FRAZEE: I THINK IN THE ONE CASE
24 THAT WE'VE DEALT WITH SINCE I'VE BEEN HERE WHERE
25 THERE WAS A DEFICIENCY IN THE FUND, I THINK I

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1 COULD HAVE MADE A PRETTY GOOD PLEADING OF WHY THAT
2 MONEY SHOULDN'T BE PUT BACK IN THE FUND, KNOWING
3 THE AGENCY IN QUESTION. YOU KNOW, I THINK THEY
4 CAN MAKE A CASE WHY THEY DIDN'T HAVE ABILITY. YOU
5 KNOW, THAT COULD OCCUPY A LOT OF TIME AND A LOT OF
6 EFFORT IF WE STARTED DOWN THAT PATH. SO WE'LL GET
7 BACK ON THAT. THE OTHER OUTSTANDING ISSUE.

8 MEMBER PENNINGTON: I WANT TO SAY THAT I
9 CONCUR WITH YOU ALL TOO.

10 CHAIRMAN FRAZEE: SO WE'LL GET SOME
11 FURTHER INFORMATION BY THE TIME OF THE BOARD
12 MEETING.

13 THE OTHER ISSUE THAT WAS STILL
14 UNRESOLVED WAS THE SCHEDULE OF PENALTIES. IS
15 THAT --

16 MS. RICE: WE WERE SIMPLY GOING TO BE
17 WORKING ON SOME INTERNAL PROCEDURES FOR HOW YOU
18 WOULD APPLY THE SCHEDULE, RATHER THAN REVISIONS TO
19 THE SCHEDULE.

20 CHAIRMAN FRAZEE: OKAY. SO THAT WILL BE
21 FORTHCOMING. NOW, ANYTHING ELSE ON THIS? WE HAVE
22 TWO ACTIONS BEFORE US. THE FIRST ONE WOULD BE A
23 MOTION TO ADOPT A NEGATIVE DECLARATION ON THE
24 FINANCIAL ASSURANCE AND ENFORCEMENT REGULATIONS.

25 MEMBER RELIS: I WOULD MOVE ADOPTION OF

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1 THE NEGATIVE DECLARATION.

2 MEMBER PENNINGTON: I'LL SECOND THAT.

3 MS. RICE: JUST A POINT OF CLARIFICATION,
4 YOU MAY WISH TO MOVE IT TO THE BOARD WITHOUT
5 RECOMMENDATION AS THERE IS A SIGNIFICANT
6 OUTSTANDING ISSUE.

7 CHAIRMAN FRAZEE: LEAVE IT ON THE
8 NEGATIVE DEC.

9 MEMBER PENNINGTON: SINCE WE DON'T HAVE
10 IT.

11 MEMBER RELIS: WE DON'T HAVE IT, AND
12 YOU'RE RIGHT, RATHER HAVE IT.

13 CHAIRMAN FRAZEE: OKAY. THEN THE MOTION
14 THAT WE WOULD HAVE BEFORE US WOULD BE ONE TO MOVE
15 THE ITEM REGARDING THE NEGATIVE DECLARATION ON THE
16 FINANCIAL ASSURANCE ENFORCEMENT REGULATIONS TO THE
17 FULL BOARD WITHOUT RECOMMENDATION. THAT AGREEABLE
18 TO THE MAKER AND THE SECOND?

19 SECRETARY WILL CALL THE ROLL.

20 THE SECRETARY: COMMITTEE MEMBERS
21 PENNINGTON.

22 MEMBER PENNINGTON: YES.

23 THE SECRETARY: RELIS.

24 MEMBER RELIS: AYE.

25 THE SECRETARY: CHAIRMAN FRAZEE.

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1 CHAIRMAN FRAZEE: AYE. MOTION IS
2 CARRIED. AND THEN A -- THE SECOND VOTE NEEDS TO
3 BE NOT ON THE RESOLUTION, BUT AGAIN THE -- MOVING
4 THE REGULATIONS TO THE BOARD WITHOUT RECOMMEN-
5 DATION.

6 MEMBER PENNINGTON: AND I'LL MAKE THAT
7 MOTION.

8 CHAIRMAN FRAZEE: WE HAVE A MOTION TO
9 THAT EFFECT.

10 MEMBER RELIS: SECOND.

11 CHAIRMAN FRAZEE: SECOND MR. RELIS.
12 WITHOUT OBJECTION, WE'LL SUBSTITUTE ROLL CALL ON
13 THAT ITEM. OKAY. THANK YOU.

14 NOW WE'RE READY TO MOVE ON TO 6.
15 THIS IS THE CONSIDERATION OF SITES FOR
REMEDICATION

16 UNDER THE WASTE TIRE STABILIZATION AND ABATEMENT
17 PROGRAM.

18 MS. RICE: THANK YOU. GARTH ADAMS WILL
19 MAKE THE PRESENTATION.

20 MR. ADAMS: MORNING, MR. CHAIRMAN,
21 MEMBERS OF THE COMMITTEE. YOU MAY RECALL THAT
22 YOU'VE HAD NUMEROUS TIRE SITES BEFORE YOU, AND
WE
23 HAD THESE DISCUSSIONS YESTERDAY IN QUITE LENGTHY
24 POLICY COMMITTEE MEETING.

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25
OF

MEMBER PENNINGTON: WE COULD GET TIRED

1 TALKING OF TIRES.

2 MR. ADAMS: WHEN THEY WERE SPEAKING OF
3 INDIGENT PEOPLE WHO COULDN'T PAY, I WANTED TO
4 BRING SOMEONE UP THAT DIDN'T.

5 THE TWO SITES BEFORE YOU TODAY ARE
6 ONE IS LOCATED IN FRESNO, AND THAT WOULD BE THE
7 PETE NAVARRO SITE. AND THAT SITE HAS
8 APPROXIMATELY 30,000 WASTE TIRES ON SITE. AND
9 THIS SITE IS ALSO A LOCATION OF A PREVIOUS TIRE
10 FIRE THAT OCCURRED ABOUT THREE OR FOUR YEARS AGO,
11 AND ABOUT 7,000 TIRES BURNED. AND WE WILL NOT BE
12 ADDRESSING THAT ASH THAT'S CURRENTLY ON SITE. WE
13 ARE GOING TO BE REFERRING THAT TO THE COUNTY TO
14 ADDRESS AS WE PICK UP THOSE TIRES. THOSE ARE
15 TIRES THAT ARE ACCUMULATED SINCE THAT FIRE IN A
16 SEPARATE AREA, SO WE WILL NOT BE IN THAT
MATERIAL.

17 THE CURRENT OWNER ALSO HAD
PURCHASED

18 THIS PROPERTY KNOWING FULL WELL THAT THESE
TIRES

19 WERE ON SITE, SO THIS ISN'T ONE OF THOSE
20 SITUATIONS WHERE IT'S AN INNOCENT PROPERTY
OWNER,

21 AND WE WOULD BE REFERRING THIS SITE TO THE
LEGAL

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22 STAFF FOR COST RECOVERY ON ANY FUNDS THAT ARE

23 EXPENDED.

24 THE SECOND SITE THAT YOU MAY BE

25 CONSIDERING IS THE SUNSET AVENUE SITE, AND

THAT'S

1 IN SAN BERNARDINO. AND THIS IS A SUBSTANTIALLY
2 LARGE SITE. IT'S IN THE YUCCA VALLEY, AND THIS
3 SITE WAS RENTED OUT TO AN INDIVIDUAL THAT HAD A
4 HOUSE ON IT FOR USE AS A MINOR ACCUMULATION OF
5 TIRES. THE PERSON HAD ACCUMULATED OVER 250,000
6 TIRES ON THE SITE AND ABANDONED THE PROPERTY AND
7 IN DOING SO, TRASHED THE HOUSE. AND AS STAFF HAD
8 INDICATED IN THEIR BRIEFINGS, STRIPPED THE COPPER
9 WIRE OUT OF THE HOUSE, THE WINDOW FRAMES,
10 EVERYTHING, SO BASICALLY THE HOUSE IS NOT IN GREAT
11 SHAPE ANY LONGER.

12 THIS PERSON ALSO HAS INDICATED A
13 WILLINGNESS TO SIGN OVER THE PROPERTY TO THE STATE
14 JUST TO GET RID OF THE PROBLEM. I DON'T KNOW THAT
15 WE WILL BE DOING THAT. LEGAL COUNSEL CAN
16 DETERMINE WHETHER WE WANTED A SALE OF THE PROPERTY
17 OR ACTUALLY HOW WE WOULD DEAL WITH THAT. BUT THIS
18 PERSON IS A WILLING PARTY, AND SHE'S WILLING TO
19 SIGN PROPERTY ACCESS, WHICH IS UNUSUAL. IN A LOT
20 OF THEM IT TAKES A LITTLE BIT MORE WORK TO GET
21 THEM TO DO SO.

22 WITH THESE TWO -- WITH THE ADDITION
23 OF THESE TWO SITES, WE WILL JUST ABOUT BE ZEROING
24 OUT OUR '94-'95 CLEANUP CONTRACT WITH SUKUT
25 CONSTRUCTION. AND THAT CONTRACT WAS FOR THE

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1 AMOUNT OF ABOUT \$800,000. AND WITH THESE TWO AND
2 ONES THAT ARE ALREADY IN THE HOPPER AND THE ONE
3 THAT WAS STARTED YESTERDAY AT THE WATT AVENUE
4 SITE, WE SHOULD BE ABOUT ZEROING OUT. IF NOT,
5 WE'LL HAVE SOME SMALLER SITES TO COME AT THE TAIL
6 END TO ZERO THAT OUT BECAUSE THAT CONTRACT GOES
7 UNTIL ABOUT JUNE OF THIS YEAR.

8 WE ALSO HAD INCLUDED IN THERE A
9 LITTLE TINY CHART ON SOME OF THE SITES THAT THE
10 BOARD HAS ALREADY CLEANED UP, AND THERE'S THREE
11 SITES THERE. AND YOU CAN SEE THAT THE AMOUNT THAT
12 WE'VE ASKED THE BOARD FOR IN THE PAST OF UP TO \$3
13 PER SITE IS JUST THAT. IT'S AN UP TO, AND WE HAVE
14 CLEANED UP ON AN AVERAGE OF ABOUT A DOLLAR
15 TWENTY-TWO FOR ALL THREE OF THOSE SITES TO DATE.

16 AND STAFF HAVE LOOKED AT THE SUNSET
17 AND PETE NAVARRO SITE, AND INDICATIONS FROM GAIL
18 ARE THAT THOSE SHOULD COME IN ABOUT AROUND THAT
19 SAME PRICE. SO WHERE YOU SEE THE SUNSET AVENUE
20 SITE, IT'S ESTIMATED UP TO 750,000, WE REALLY
21 ANTICIPATE IT BEING MORE AROUND 300, GIVEN THAT
22 AS
23 AN AVERAGE PRICE.

24 IN THE FUTURE WE MAY REVISE THAT
UP
TO AMOUNT GIVEN OUR EXPERIENCES THAT WE'VE HAD

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AND

25 DOWN TO A LESSER AMOUNT. SO WHEN WE STARTED, WE

1 DIDN'T KNOW WHAT WE WERE GOING TO GET INTO. AS
2 YOU DIG THROUGH THESE PILES, YOU NEVER KNOW WHAT
3 YOU ARE GOING TO FIND. BUT AS WE GET A LOT BETTER
4 AT IT, AS CONTRACTORS GET BETTER AT IT, WE'RE
5 WHITTILING THIS PROCESS DOWN AND, I THINK WE CAN
6 COME FORWARD TO THE COMMITTEE AND BOARD WITH UP TO
7 AMOUNTS A LITTLE LESSER AND A LITTLE BIT MORE
8 ACCURATE SO WE CAN BETTER GAUGE THE AMOUNT OF
9 TIRES WE CAN CLEAN UP.

10 AND AS A REMINDER THAT WE DO ONLY
11 PAY ACTUAL INVOICES AND TONNAGES, SO WE DON'T
12 SPEND UP TO THREE BUCKS.

13 THE CEQA ITEM IN THIS, THE STAFF --
14 I'VE TAKEN CEQA STAFF OUT TO THE SITE, I BELIEVE
15 IT WAS, LATER IN LAST WEEK, AND THEY'RE MAKING A
16 DETERMINATION AS TO THE CEQA, WHICH PATH TO TAKE
17 IN THAT, AND WE'LL HAVE THAT FOR THE BOARD BY THE
18 20TH, THE DETERMINATION AS TO CEQA, BECAUSE IN THE
19 PAST WE'VE GONE TO EXEMPTIONS, AND STAFF ARE
20 WORKING ON THAT RIGHT NOW.

21 SO WE WOULD RECOMMEND THAT THIS GO
22 TO THE BOARD WITHOUT RECOMMENDATION PENDING THE
23 CEQA DETERMINATION AS TO WHAT WE'RE GOING TO DO
24 WITH THEM.

25 MEMBER PENNINGTON: MR. CHAIRMAN, ON THE

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1 SUNSET WASTE TIRE SITE, WILL WE GO FURTHER TO FIND
2 OUT -- I MEAN HER WILLINGNESS TO GIVE THIS PIECE
3 OF PROPERTY UP, IS THAT A RUSE TO MAKE SURE WE
4 LOOK INTO OTHER THINGS?

5 MS. TOBIAS: NO. ACTUALLY I'VE SPOKEN
6 WITH THIS OWNER SEVERAL TIMES. SHE'S AN OWNER
7 WHO, MY RECOLLECTION IS, CORRECT ME IF I'M WRONG,
8 GARTH, SHE LEASED TO SOMEBODY WHO SAID THEY WERE
9 GOING TO USE IT FOR SOME OTHER USE. AND THEN IT'S
10 MY RECOLLECTION THAT THAT PERSON ACTUALLY SUBLET
11 IT TO THE PERSON THAT ACTUALLY PUT THE TIRES ON.

12 MR. ADAMS: I DON'T KNOW ABOUT THE SUB
13 PART. SHE LEASED TO AN INDIVIDUAL AND ALL OF A
14 SUDDEN THEY'RE THERE.

15 MS. TOBIAS: I'M FAIRLY CONFIDENT THAT
16 WHAT SHE SAID WAS THAT THEY THEN SUBLEASED IT
17 WITHOUT HER KNOWLEDGE. SHE'S REALLY EXTREMELY
18 DISTRAUGHT ABOUT THE WHOLE THING AND HAS ALSO
19 BEEN

20 TOTALLY COOPERATIVE IN TERMS OF DEALING WITH US.
21 AS GARTH SAID, SHE'S GIVEN US ACCESS TO THE
22 SITE.

23 I'VE TALKED TO HER SEVERAL TIMES.

24 I DON'T KNOW AT THIS POINT EXACTLY
25 HOW WE'LL STRUCTURE COST RECOVERY WITH HER; BUT
26 AS

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24 I SAY, ALL MY CONVERSATIONS WITH HER HAVE BEEN
25 VERY COOPERATIVE AT THIS TIME. I THINK SHE
REALLY

1 JUST WANTS TO BE OUT OF THE PROBLEM, AND SHE
2 DOESN'T WANT, I THINK, ANY MORE LIABILITY THAN
3 SHE'S ALREADY GOT IN CASE SOMETHING ELSE HAPPENS
4 TO THIS SITE, SO SHE'S QUITE ANXIOUS TO HAVE IT
5 CLEANED UP.

6 MEMBER PENNINGTON: AFTER IT'S CLEANED
7 UP, WILL IT HAVE ANY VALUE?

8 MS. TOBIAS: MIGHT. SO WE'LL THAT TAKE
9 INTO CONSIDERATION.

10 MR. ADAMS: IT WILL CERTAINLY HAVE MORE
11 VALUE THAN IT HAS NOW. THE COST -- IT'S ABOUT A
12 THREE-ACRE SITE. JUST THE COST TO DO THE CLEANUP
13 IS PROBABLY MORE THAN THE VALUE OF THE PROPERTY.

14 MS. TOBIAS: SHE HAS SOME KIND OF -- WAS
15 IT A WAREHOUSE STRUCTURE? YOU SAID HOUSE.

16 MR. ADAMS: THERE'S A HOUSE ON THE SITE
17 THAT'S BEEN GUTTED.

18 MS. TOBIAS: I'M NOT EXACTLY CLEAR. I'VE
19 NEVER SEEN THE PROPERTY, BUT I THOUGHT SHE
20 INDICATED THAT IT HAD HAD SOME KIND OF BUSINESS
21 USE ON IT. SO THAT'S WHAT WE'LL BE BASICALLY
22 TRYING TO DO IS WORK OUT SOMETHING WITH HER.

23 MEMBER RELIS: ACCORDING TO THE PICTURES
24 I SAW IN THE BRIEFING AND WAS TOLD THERE ARE
25 RESIDENCES NEARBY, AND IF IT'S CLEANED UP, IT

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1 SHOULD HAVE SOME VALUE.

2 MS. TOBIAS: THE QUESTION, OF COURSE, IS
3 ALWAYS GOING TO BE FOR THE STATE, YOU KNOW, TO
4 WHAT EXTENT -- HOW MUCH MONEY DO WE WANT TO EXPEND
5 ON, YOU KNOW, TAKING OVER A SITE, PUTTING IT UP
6 FOR SALE, FOR INSTANCE, AND THOSE KINDS OF THINGS,
7 SO WE'LL BE EVALUATING THAT AND BE ABLE TO TELL
8 YOU WHAT KIND OF DEAL WE STRUCTURED WITH THEM OR
9 WITH HER.

10 MR. ADAMS: WE WOULD ANTICIPATE THAT THIS
11 SITE WOULD PROBABLY BE DONE UNDER THE SUKUT
12 CONTRACT. SINCE WE HAVE PROPERTY ACCESS, WIND UP
13 WITH THIS INDIVIDUAL, AND ONCE -- COUPLE MONTHS
14 THIS THING WILL BE GOING, SO WE SHOULD HAVE A
15 BETTER IDEA OF THE ACTUAL COSTS COMING BACK. AND
16 THEN WHAT KIND OF A STRUCTURE THAT THE INDIVIDUAL
17 IS WILLING TO DO AS FAR AS COST RECOVERY BEYOND
18 THAT PIECE OF PROPERTY.

19 MS. TOBIAS: THIS COST OF ACCESS IS KIND
20 OF A PROBLEM WITH OTHER SITES. IT'S A HIDDEN COST
21 IN TERMS OF DEALING WITH SOME OF THESE. IF A
22 LANDOWNER DOES NOT WANT US TO CLEAN UP THE SITE
23 FOR WHATEVER REASON, AND THERE ARE DIFFERENT KINDS
24 OF REASONS, IT CAN GET SOMEWHAT, NOT HUGELY
25 EXPENSIVE, BUT SOMEWHAT EXPENSIVE IN TERMS OF

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1 TRYING TO GET WARRANTS TO ENTER ONTO THESE
2 PROPERTIES. WE'VE GOT ONE THAT'S BEING FOUGHT
3 RIGHT NOW, AND, YOU KNOW, IT BASICALLY TAKES TIME
4 FROM THE AG OR THE LOCAL COUNSEL TO TRY TO GET
5 THIS. SO THE FACT THAT SHE'S WILLING AND HAS BEEN
6 WILLING AND HAS GIVEN US ACCESS, I THINK, IS A BIG
7 PLUS AS FAR AS LEGAL IS CONCERNED.

8 MEMBER PENNINGTON: OKAY. MR. CHAIRMAN,
9 I'D MOVE ADOPTION OF THE STAFF REPORT.

10 MEMBER RELIS: SECOND.

11 CHAIRMAN FRAZEE: MOTION AND SECOND ON
12 THIS. JUST FOR A BIT OF UNDERSTANDING HERE, THE
13 REASON THAT WE ARE ABLE TO STILL BE AWARDING OR
14 IDENTIFYING SITES IN THE '94-'95 BUDGET IS BECAUSE
15 A MASTER CONTRACT WAS ALREADY LET ON THAT.

16 MS. RICE: THAT'S CORRECT.

17 CHAIRMAN FRAZEE: AS OPPOSED TO THE
18 SITUATION WITH THE '95-'96 MONEY THAT ROLLED AWAY
19 FROM US WAS THE FACT THAT WE HAD NOT ISSUED A
20 CONTRACT.

21 MS. RICE: YES, THAT'S CORRECT. THERE
22 ARE CONTRACT MONIES IN PLACE THAT COULD
23 ACCOMMODATE THIS SITE. WE MAY IN THE FUTURE BRING
24 SITES TO YOU FOR YOUR CONSIDERATION BEFORE A NEW
25 CONTRACT IS IN PLACE, BUT WE UNDERSTAND WE

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1 COULDN'T BEGIN ANY WORK UNTIL THERE WAS A CONTRACT
2 IN PLACE.

3 CHAIRMAN FRAZEE: WE HAVE A MOTION BEFORE
4 US TO APPROVE THE SITES FOR REMEDIATION UNDER THE
5 WASTE TIRE STABILIZATION PROGRAM. SECRETARY WILL
6 CALL THE ROLL, PLEASE.

7 THE SECRETARY: COMMITTEE MEMBERS
8 PENNINGTON.

9 MEMBER PENNINGTON: AYE.

10 THE SECRETARY: RELIS.

11 MEMBER RELIS: AYE.

12 THE SECRETARY: CHAIRMAN FRAZEE.

13 CHAIRMAN FRAZEE: AYE. MOTION IS
14 CARRIED. THAT ACTUALLY WAS THE ADOPTION OF
15 RESOLUTION 96-466. AND WITHOUT OBJECTION, WE'LL
16 RECOMMEND CONSENT.

17 MS. RICE: WE WOULD SUGGEST NO CONSENT
18 AS
19 WE DO HAVE A CEQA FINDING OUTSTANDING. SO WE'LL
20 REPORT ON THAT AT THE BOARD MEETING.

21 CHAIRMAN FRAZEE: RESCIND THE CONSENT
22 AND
23 THAT WILL BE ON THE BOARD AGENDA.

24 (RECESS TAKEN.)

CHAIRMAN FRAZEE: MEETING WILL COME TO
ORDER. WHAT WE'RE GOING TO DO AT THIS TIME IS

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25 TAKE UP THE GOLD COAST ITEM, ITEM 3 ON THE
AGENDA.

1 THE OTHER TWO ITEMS ARE BOTH REGULATORY PACKAGES
2 AND MAY TAKE SOME TIME. FOR THIS ONE.

3 MS. RICE: THANK YOU. DAVE OTSUBO WILL
4 MAKE THE STAFF PRESENTATION.

5 CHAIRMAN FRAZEE: LET ME ANNOUNCE THIS
6 ITEM. IT'S CONSIDERATION OF CONCURRENCE IN THE
7 ISSUANCE OF A REVISED SOLID WASTE FACILITY PERMIT
8 FOR GOLD COAST RECYCLING INCORPORATED, VENTURA
9 COUNTY.

10 MR. OTSUBO: THIS ITEM IS CONSIDERATION
11 OF CONCURRENCE IN THE ISSUANCE OF A REVISED SOLID
12 WASTE FACILITY PERMIT FOR GOLD COAST. IN JUNE OF
13 THIS YEAR, THE BOARD VOTED TO CONCUR IN THE
14 ISSUANCE OF A REVISED PERMIT FOR THE TOLAND ROAD
15 LANDFILL IN VENTURA. ONE OF THE CONDITIONS WAS
16 THAT MOST OF THE WASTE FOR THAT LANDFILL COME FROM
17 TRANSFER STATIONS TO MINIMIZE TRUCK TRAFFIC ON THE
18 ROADS. AND GOLD COAST, AS WELL AS DEL NORTE, ARE
19 EXPECTED SO PROVIDE THE BULK OF THE WASTE GOING TO
20 THE TOLAND ROAD LANDFILL.

21 INCLUDED IN THIS PERMIT WOULD BE AN
22 INCREASE IN TONNAGE FROM THE CURRENT LEVEL OF 440
23 TONS PER DAY TO A MAXIMUM OF 1200 TONS PER DAY.

24 THERE'S ALSO AN INCREASE IN ACREAGE OF THE
25 FACILITY FROM ABOUT TWO AND A HALF ACRES TO AROUND

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1 7.8 ACRES.

2 OTHER MAJOR CONSTITUENTS OF THE
3 REVISION WOULD BE THE ADDITION OF A SEPARATE AND
4 ADJACENT BUILDING ADJACENT TO THE ONE THAT'S
5 CURRENTLY IN EXISTENCE. THIS WOULD ADD 44,000
6 SQUARE FEET OF ENCLOSED SPACE MAINLY FOR TRANSFER.
7 THERE WILL ALSO BE A SECOND SCALE ADDED, AS WELL
8 AS MORE ON-SITE PARKING.

9 I'D LIKE TO MAKE A COUPLE
10 CORRECTIONS TO THE STAFF REPORT. STAFF REPORT
11 INDICATES THAT THERE ARE OUTSTANDING COMPLAINANTS
12 REGARDING LOCAL ISSUES, ESPECIALLY THE CEMETERY.
13 THESE COMPLAINANTS DID GO TO THE PLANNING
14 COMMISSION AT THE TIME THAT THE CONDITIONAL USE
15 PERMIT WAS ISSUED, AND THIS HAS ALL BEEN RESOLVED.

16 SUBSEQUENTLY THE CEMETERY DID FILE A
17 SUIT IN COURT AGAINST GOLD COAST; HOWEVER, THEY
18 DID AGREE INSTEAD TO GO TO BINDING ARBITRATION.
19 THAT OCCURRED LATE LAST WEEK. IT'S MY UNDER-
20 STANDING THAT THE BINDING ARBITRATION HAS RESOLVED
21 THIS ISSUE.

22 IN REVIEWING THE CEQA COMPLIANCE,
23 BOARD CEQA STAFF REVIEWED THE MITIGATED

NEGATIVE

24 DECLARATION AND ADDITIONAL INFORMATION RECEIVED
25 FROM THE OPERATOR'S CONSULTANT ON MAY 10TH,

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JULY

1 29TH, AND OCTOBER 15TH OF THIS YEAR. AND THIS
2 INFORMATION INCLUDED TRAFFIC AND NOISE STUDIES.
3 AT THE TIME THE ITEM WAS WRITTEN, WE DID NOT HAVE
4 VERIFICATION OF THE LEA'S FINDINGS REGARDING
5 CONFORMANCE WITH THE COUNTY'S WASTE MANAGEMENT
6 PLAN AND THE CITY'S GENERAL PLAN, AND THIS HAS
7 SINCE BEEN DONE, BUT REQUIRED A MINOR CHANGE IN
8 THE REFERENCE IN THE FINDING SECTION OF THE PERMIT
9 TO SECTION 50000 RATHER THAN THE REFERRED SECTION
10 50000(A)(4). AND I WILL BE PASSING OUT A REVISED
11 COPY OF THAT PAGE. THAT'S A VERY MINOR CHANGE.

12 I'D LIKE TO ALSO ACKNOWLEDGE THE
13 WORK OF ELLIOT BLOCK AND OUR OFFICE OF LOCAL
14 ASSISTANCE FOR WORKING SO DILIGENTLY YESTERDAY TO
15 ACHIEVE THIS CHANGE IN REFERENCE. BECAUSE OF
16 THEIR WORK, STAFF CAN NOW RECOMMEND THAT THE BOARD
17 ADOPT RESOLUTION 96-463, CONCURRING IN THE
18 ISSUANCE OF REVISED SOLID WASTE FACILITIES PERMIT
19 56-AA-0123. THERE ARE REPRESENTATIVES OF THE
20 OPERATOR AND THE LEA IN THE AUDIENCE. THIS
21 CONCLUDES STAFF'S PRESENTATION.

22 CHAIRMAN FRAZEE: WE DON'T HAVE SPEAKER
23 SLIPS. IS THERE ANYONE HERE ON THIS ITEM THAT
24 WOULD LIKE TO BE HEARD? IDENTIFY YOURSELF FOR
THE
25 RECORD, PLEASE.

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1 MR. REISDORF: GOOD MORNING. MY NAME IS
2 JOSEPH REISDORF. I'M WITH AURORA ASSOCIATES, AND
3 WE'VE BEEN WORKING WITH GOLD COAST RECYCLING. I
4 DID FILL OUT A SPEAKER SLIP. MAYBE IT JUST HAS
5 SLIPPED AWAY OR SOMETHING.

6 MY ONLY COMMENTS ARE I JUST WANTED
7 TO LET YOU KNOW THAT WE ARE HERE THIS MORNING IN
8 CASE YOU DO HAVE ANY SPECIFIC QUESTIONS ABOUT THE
9 FACILITY, ABOUT THE PROPOSED EXPANSION. GOLD
10 COAST HAS BROKEN GROUND ON THE FACILITY EXPANSION,
11 AND THEY'RE VERY EXCITED ABOUT THE NEW FACILITY
12 AND THE UPGRADES AND THE IMPROVEMENTS THAT THEY'LL
13 BE ABLE TO INCORPORATE IN THE FACILITY ONCE IT'S
14 COMPLETED.

15 IT'S GOING TO BE A STATE-OF-THE-ART
16 FACILITY WITH NEW CONTROL SYSTEMS. NEW COMPACTORS
17 GREATLY ENHANCE THE PERFORMANCE AND THE ABILITY TO
18 MEET THE WASTE TRANSFER NEEDS OF THE WEST VENTURA
19 COUNTY AREA.

20 IF YOU DO HAVE ANY QUESTIONS, AS I
21 SAID, I'LL BE HAPPY TO ANSWER THOSE. ALSO,
22 REPRESENTATIVES OF GOLD COAST RECYCLING ARE HERE.
23 THEY CAN ANSWER QUESTIONS AS WELL. WE CERTAINLY,
24 AS DAVID MENTIONED, CERTAINLY APPRECIATE THE
25 EFFORTS OF STAFF TO RESOLVE THE VARIOUS ISSUES

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1 THAT CAME UP IN THE LAST MINUTE ON THIS PERMIT AND
2 APPRECIATE THEIR COOPERATION AND ASSISTANCE.

3 CHAIRMAN FRAZEE: THANK YOU.

4 MEMBER RELIS: MR. CHAIRMAN, I'D JUST
5 NOTE I THINK THAT WHAT THIS EXPANSION, APART FROM
6 THE TRANSFER, ACCOMPLISHES IS THAT THEY WERE
7 WORKING ON A CONGESTED SITE THAT WAS A RELATIVELY
8 SMALL SITE FOR THE ACTIVITIES. AND MY UNDER-
9 STANDING THAT THIS NOW GIVES THEM THE ROOM THEY
10 NEED TO OPERATE MORE EFFECTIVELY.

11 CHAIRMAN FRAZEE: I THINK ALL THE BOARD
12 MEMBERS AND STAFF CAN ATTEST TO THE CROWDED
13 CONDITIONS THAT EXISTED THERE. WE HELD OUR BOARD
14 MEETING THERE SOME MONTHS AGO AND HAD AN
15 OPPORTUNITY TO VISIT THIS SITE. SO --

16 MEMBER RELIS: UNLESS THERE'S -- I WOULD
17 MOVE CONCURRENCE IN PERMIT DECISION 96-463.

18 MEMBER PENNINGTON: SECOND IT.

19 CHAIRMAN FRAZEE: MOTION AND SECOND ON
20 THE ADOPTION OF PERMIT DECISION 96-463. SECRETARY
21 WILL CALL THE ROLL.

22 THE SECRETARY: COMMITTEE MEMBERS
23 PENNINGTON.

24 MEMBER PENNINGTON: AYE.

25 THE SECRETARY: RELIS.

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1 MEMBER RELIS: AYE.

2 THE SECRETARY: CHAIRMAN FRAZEE.

3 CHAIRMAN FRAZEE: AYE. MOTION IS
4 CARRIED. ALL THE OUTSTANDING ISSUES RESOLVED, SO
5 I THINK WE CAN RECOMMEND THIS FOR CONSENT
6 CALENDAR.

7 NOW WE'RE READY TO GO TO ITEM 7.
8 THIS IS THE CONSIDERATION OF AUTHORITY TO ADOPT
9 REGULATIONS AND STAFF OPTIONS ON THE REGULATIONS
10 OF NONHAZARDOUS ASH OPERATIONS AND FACILITIES.
11 STAFF REPORT, PLEASE.

12 MS. RICE: THANK YOU. I WILL MAKE A VERY
13 BRIEF PRESENTATION AND THEN TURN IT OVER TO MR.
14 ELLIOT BLOCK FROM OUR LEGAL OFFICE FOR THE BULK OF
15 THE STAFF PRESENTATION.

16 THIS ITEM PRESENTS AN ANALYSIS FOR
17 YOUR CONSIDERATION OF ISSUES RELATED TO THE
18 BOARD'S AUTHORITY TO REGULATE NONHAZARDOUS ASH
19 OPERATIONS AND FACILITIES. BY WAY OF VERY BRIEF
20 BACKGROUND AND CONTEXT, AT YOUR SEPTEMBER MEETING
21 YOU DIRECTED STAFF TO TAKE A NUMBER OF STEPS. NO.
22 1, TO BEGIN THE RULEMAKING PROCESS ON A DRAFT OF
23 REGULATIONS FOR NONHAZARDOUS ASH OPERATIONS AND
24 FACILITIES.

25 YOU DIRECTED THAT THE REGULATIONS BE

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1 NOTICED WITH THE OFFICE OF ADMINISTRATIVE LAW WITH
2 SPECIFIC CHANGES TO THEM REGARDING LEVELS FOR
3 MOLYBDENUM AND SELENIUM AND OTHER CHANGES. THOSE
4 CHANGES WERE MADE AS YOU DIRECTED, AND THE
5 REGULATIONS WERE NOTICED WITH THE OFFICE OF
6 ADMINISTRATIVE LAW FOR A 45-DAY PUBLIC COMMENT
7 PERIOD, WHICH BEGAN ON OCTOBER 25TH AND WHICH WILL
8 END ON DECEMBER 11TH.

9 ANY DECISIONS REGARDING THE
10 APPROPRIATE LEVEL OF REGULATION FOR ASH OPERATIONS
11 AND FACILITIES WHICH YOU MAY MAKE TODAY OR AT
12 SUBSEQUENT COMMITTEE OR BOARD MEETINGS WILL SERVE
13 AS ADDITIONAL DIRECTION FOR CHANGES TO THE DRAFT
14 REGULATIONS WHICH ARE CURRENTLY OUT FOR PUBLIC
15 REVIEW AND COMMENT.

16 YOUR DECISIONS, ALONG WITH PUBLIC
17 COMMENT RECEIVED, WILL DICTATE THE APPROPRIATE
18 NEXT STEPS FOR THIS REGULATORY PACKAGE, SUCH AS
19 ANY REVISIONS AND ADDITIONAL PUBLIC COMMENT
20 PERIODS THAT MAY BE NEEDED ON THAT REGULATORY
21 PACKAGE.

22 ALSO IN SEPTEMBER YOU DIRECTED
STAFF
23 TO INITIATE A PEER REVIEW PROCESS TO PROVIDE
24 ADDITIONAL REVIEW AND COMMENT ON THE
APPROPRIATE

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25 LEVELS FOR MOLYBDENUM AND SELENIUM TO BE

1 REFERENCED IN THE DRAFT ASH REGULATIONS. STAFF
2 HAVE BEEN WORKING WITH BOARD MEMBER OFFICES AND
3 INTERESTED PARTIES IN DEVELOPING THE PROCEDURES
4 AND TIME LINE FOR THE PEER REVIEW PROCESS WHICH
5 HAS NOT YET BEEN INITIATED BY STAFF.

6 AT THIS POINT WE'RE PLANNING TO
7 INITIATE THE PEER REVIEW PROCESS WITH A MAILING TO
8 INTERESTED PARTIES SHORTLY FOLLOWING TODAY'S
9 COMMITTEE MEETING. WE WOULD PROPOSE AT THIS POINT
10 THAT APPROXIMATELY 90 DAYS BE ALLOWED FOR REVIEW
11 AND COMMENT BY INTERESTED PARTIES AND THAT THIS
12 REVIEW PROCESS PROCEED SOMEWHAT INDEPENDENTLY OF
13 THE RULEMAKING PROCESS WHERE APPROPRIATE TIME
14 LINES WILL BE DICTATED BY THE OAL PROCESS.

15 YOU WOULD THEN DETERMINE AT A FUTURE
16 DATE WHETHER INFORMATION GATHERED DURING THE PEER
17 REVIEW PROCESS DEMONSTRATES A NEED TO REVISE THE
18 DRAFT OR FINAL REGULATIONS DEPENDING UPON THE
19 STATUS OF THOSE REGULATIONS WHEN THE PEER REVIEW
20 PROCESS COMES TO CULMINATION.

21 LASTLY, IN SEPTEMBER THE COMMITTEE
22 AND VARIOUS COMMENTERS EXPRESSED INTEREST IN
23 PRESENTATION OF A MORE FUNDAMENTAL AUTHORITY ITEM
24 REGARDING THE BOARD'S AUTHORITY TO REGULATE
25 NONHAZARDOUS ASH OPERATIONS AND FACILITIES. THIS

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1 DISCUSSION TODAY ALSO PROVIDES FOR CONSISTENCY
2 WITH BOARD PROCEDURES FOR PLACEMENT OF OPERATIONS
3 AND FACILITIES INTO THE TIERS.

4 WITH THAT BRIEF INTRODUCTION ON YOUR
5 DIRECTION TO US IN SEPTEMBER REGARDING THIS
6 AUTHORITY ITEM, REGARDING THE PEER REVIEW, AND
7 REGARDING BEGINNING THE PUBLIC COMMENT PERIOD ON
8 THE REGULATIONS, I'D LIKE TO TURN IT OVER TO
9 ELLIOT BLOCK. IN ADDITION, STAFF ARE HERE TO
10 ASSIST YOU WITH ANY QUESTIONS THAT MAY CAME UP.

11 CHAIRMAN FRAZEE: LET ME JUST SAY BEFORE
12 WE HEAR FROM ELLIOT, WE HAVE A SENSE OF A BIT OF A
13 CART BEFORE THE HORSE SITUATION, AND I DON'T THINK
14 THAT WAS ALL BAD. BUT WE HAVE HAD EXTENSIVE
15 TESTIMONY ON THIS ITEM ALREADY BECAUSE THE
16 REGULATION, DRAFT REGULATIONS, WERE OUT AND THE
17 PUBLIC WAS COMMENTING ON THEM.

18 AT THIS POINT WE'RE DEALING WITH THE
19 ISSUE OF AUTHORITY AND OUR ABILITY TO DEAL WITH
20 THAT, MAYBE ENHANCED BY THE FACT THAT WE'VE
21 ALREADY HAD EXTENSIVE TESTIMONY RATHER THAN THIS
22 HAVING BEEN THE STARTING POINT OF THE WHOLE
23 DISCUSSION. SO I THINK IT WAS PROBABLY WORTHWHILE
24 THAT WE WENT THE WAY WE DID ON THIS ITEM.

25 MR. BLOCK: GOOD MORNING, COMMITTEE

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1 MEMBERS. WHAT I PLAN TO DO THIS MORNING IS JUST
2 REALLY BRIEFLY RUN THROUGH PRETTY MUCH IN THE SAME
3 ORDER AS THE ANALYSIS THAT'S IN YOUR AGENDA ITEM
4 TODAY AND GIVE YOU ADEQUATE TIME TO ASK ANY
5 QUESTIONS YOU MIGHT HAVE. AND ALSO THERE ARE A
6 NUMBER OF PEOPLE IN THE AUDIENCE THAT WOULD LIKE
7 TO SPEAK. AND THAT ANALYSIS BEGINS ON PAGE 6 OF
8 THE AGENDA ITEM, WHICH IS PAGE 83 OF YOUR PACKET.

9 JUST BRIEFLY, JUST FOR SOME
CONTEXT,

10 I THINK IT'S IMPORTANT TO REPEAT SOME THINGS
THAT

11 THE BOARD HAS ALREADY TALKED ABOUT IN THE PAST
ON
12 THE AUTHORITY ITEMS, WHAT I KIND OF CALL
13 BACKGROUND ISSUES THAT ARE UP ON THE BOARD, AS
14 WELL UP ON THE MONITOR, ALMOST GROUND RULES, IF
15 YOU WILL.

16 BASICALLY THE BOARD, IN LOOKING
AT

17 THESE AUTHORITY ISSUES IN THE PAST, HAS FOUND
THAT

18 A MORE EFFICIENT WAY, IF YOU WILL, OF LOOKING
AT

19 THESE ISSUES IS REALLY NOT TO LOOK AT THE ISSUE

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OF

20 THE BOARD REGULATING SOLID WASTE, WHICH GETS US

21 INTO THE WHOLE ISSUE OF WHAT IS A SOLID WASTE,

AND

22 REALLY LOOK AT WHAT'S THE OPERATION OR FACILITY

23 THAT WE'RE TALKING ABOUT BECAUSE REALLY WHAT

THE

24 BOARD DOES IS -- IS DOING IS OPERATING -- IS

25 REGULATING A PLACE WHERE SOMETHING IS HAPPENING

TO

1 THIS MATERIAL.

2 SECONDLY, JURISDICTION IS A TERM
3 THAT GETS USED IN A LOT OF DIFFERENT WAYS. YOU
4 WILL HEAR ME AND I USE IT IN THE ITEM AS WELL.
5 THE TERM "GENERAL JURISDICTION" BY WHICH I MEAN
6 SORT OF THE BROADER IDEA THAT SOMETHING MIGHT BE
7 WITHIN THE BOARD'S JURISDICTION IF CERTAIN
8 FINDINGS ARE MADE, AS OPPOSED TO A MORE NARROW USE
9 OF THE TERM "JURISDICTION," WHICH I THINK IS WHAT
10 WE'VE DONE IN SOME OF THE AGENDA ITEMS, AND WE'LL
11 TALK ABOUT THAT IN A LITTLE BIT; FOR INSTANCE,
12 MANUFACTURING, WHICH WE'VE SAID IS OUT OF OUR
13 JURISDICTION.

14 WE'VE DONE THAT BASED ON CERTAIN
15 DETERMINATIONS THAT WE'VE MADE, ALTHOUGH
16 THEORETICALLY, DEPENDING HOW YOU WANT TO INTERPRET
17 STATUTE, IT WAS IN THE BALLPARK OF SOMETHING THAT
18 WE WERE LOOKING AT. LIKEWISE, EVEN IF THE BOARD
19 DECIDES SOMETHING IS WITHIN ITS JURISDICTION, IT
20 HAS THE ABILITY TO STILL MAKE A DETERMINATION THAT
21 WE WILL NOT ACTIVELY REGULATE THAT ACTIVITY.
22 THAT'S WITH THE EXCLUDED TIER. THAT'S THE
23 FUNCTION IT PERFORMS IN THE REGULATORY TIERS.

24 AGAIN, ALSO JUST BRIEFLY, BECAUSE I
25 THINK, AS WE ALL KNOW, THE MAIN ISSUE REALLY THAT

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1 WE'RE ADDRESSING IN TERMS OF AUTHORITY TODAY IS
2 LAND APPLICATION. I'LL JUST VERY BRIEFLY GO
3 THROUGH WITH THE PROPOSED REGULATIONS THE PLACES
4 WHERE WE ARE BEING CONSISTENT WITH OUR PAST -- THE
5 BOARD'S PAST DECISIONS REGARDING AUTHORITY. THE
6 PROPOSED REGULATIONS THAT ARE OUT FOR 45-DAY
7 COMMENT RIGHT NOW PLACE DISPOSAL FACILITIES FOR
8 NONHAZARDOUS ASH AND TRANSFER PROCESSING
9 TREATMENT, STORAGE FACILITIES FOR NONHAZARDOUS ASH
10 WITHIN THE TIERS, THE STANDARDIZED TIER AND
11 NOTIFICATION TIER RESPECTIVELY, AND THAT'S
12 CONSISTENT WITH THE AUTHORITY DETERMINATIONS THE
13 BOARD HAS MADE IN THE PAST ON CONTAMINATED SOIL.

14 LIKewise, MANUFACTURING AND, FOR
15 LACK OF A BETTER TERM, WHAT I'VE CALLED OTHER
16 USES, WHICH IS THINGS LIKE ROAD BASE, ICE CONTROL,
17 THOSE TYPE OF ITEMS, WE'RE SHOWING THOSE AS BEING
18 OUTSIDE THE REGULATORY TIERS. IN A SENSE THEY'RE
19 PRODUCTIVE USES OF THOSE THINGS.

20 WHICH LEADS US TO THE NEW LEGAL
21 AUTHORITY ITEM THAT WE'RE DEALING WITH HERE. SEE
22 IF I CAN DO THIS. THESE DEFINITIONS ARE ON PAGE 8
23 OF THE AGENDA ITEM, WHICH I BELIEVE THEN WOULD BE
24 PAGE 85 OF YOUR PACKETS. LAND APPLICATION IS THE
25 LEGAL AUTHORITY ITEM THAT THE BOARD HAS NOT

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1 CONSIDERED SPECIFICALLY BEFORE, WHICH I THINK HAS
2 ENGENDERED MOST OF THE COMMENTS THAT WE'VE GOTTEN
3 SO FAR ON THESE PROPOSED REGULATIONS.

4 AND THERE'S BASICALLY A BIG JUDGMENT
5 CALL THERE IN TERMS OF THE BOARD AND IN TERMS OF
6 HOW IT WANTS TO INTERPRET THE REGULATIONS AND ITS
7 JURISDICTION. WE HAD THE DEFINITION OF DISPOSAL,
8 WHICH TALKS ABOUT FINAL DEPOSITION OF SOLID WASTE
9 ONTO LAND. AND IN TERMS OF LAND APPLICATION, THE
10 ASH IS BEING PLACED ONTO LAND. IT'S FINAL
11 DEPOSITION. IT'S NOT GOING ANYWHERE ELSE.

12 AND WE HAVE THE DEFINITION OF
13 RECYCLING WHICH TALKS ABOUT TAKING MATERIAL AND
14 RETURNING IT TO THE ECONOMIC MAINSTREAM IN THE
15 FORM OF A RAW MATERIAL FOR NEW OR USED OR
16 RECONSTITUTED PRODUCTS, WHICH MEET THE QUALITY
17 STANDARDS NECESSARY TO BE USED IN THE
MARKETPLACE.

18 SO WE HAVE BASICALLY SORT OF TWO
19 ENDS OF THE CONTINUUM, AND WE HAVE A MATERIAL
20 HERE, NONHAZARDOUS ASH, WHICH IS, DEPENDING ON
HOW
21 YOU WANT TO LOOK AT IT, A LITTLE BIT OF BOTH.
22 IT'S BEING PLACED ONTO THE LAND. IT'S FINAL
23 DEPOSITION, BUT IT'S ALSO POTENTIALLY, SAY IT

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THAT

24 WAY, BEING USED FOR BENEFICIAL PURPOSE, SEEMINGLY
25 FITTING WITHIN THE DEFINITION OF RECYCLING.

1 SO IN TERMS OF TRYING TO JUST TEASE
2 OUT, IF YOU WILL, SORT OF A FRAMEWORK FOR TRYING
3 TO RESOLVE THAT ISSUE, I'VE PULLED OUT SORT OF AN
4 OUTLINE OF A COUPLE DIFFERENT QUESTIONS HERE AS A
5 WAY TO SORT OF GIVE A FRAMEWORK TO DEALING WITH
6 THIS QUESTION. AND THE NEXT COUPLE OF CHARTS THAT
7 I'M GOING TO HAVE OVERHEADS ON THAT I'M GOING TO
8 HAVE ARE ON PAGE 13 AND 14 OF THE AGENDA ITEM,
9 WHICH WILL BE PAGE 90 AND 91 OF YOUR PACKET.

10 IN TERMS OF DEALING WITH THOSE TWO
11 DEFINITIONS, THE BOARD'S GOT THREE CHOICES REALLY
12 IN TERMS OF DEALING WITH ASH APPLICATION IN TERMS
13 OF SLOTTING IN TERMS OF WHAT WE DO. DO WE PUT
14 THEM IN THE ENFORCEMENT AGENCY NOTIFICATION TIER,
15 WHICH IS WHERE THE PROPOSED REGULATIONS HAVE THEM?
16 DO WE PUT THEM IN THE EXCLUDED TIER, OR DO WE
17 PLACE THEM WHOLLY OUTSIDE THE REGULATORY TIERS?

18 AND I IDENTIFIED A COUPLE OF
19 DIFFERENT QUESTIONS THAT LEAD TOWARDS ANSWERING
20 THAT QUESTION. ONE IS, GIVEN THOSE TWO
21 DEFINITIONS, DO WE START FROM A PRESUMPTION IN
22 WHAT'S HAPPENING WITH THIS MATERIAL? IN OTHER
23 WORDS, SINCE IT'S BEING PLACED ON THE GROUND, YOU
24 WOULD PRESUME THAT IT'S DISPOSAL UNLESS IT'S
25 PROVED OTHERWISE. OR SINCE IT'S BEING ARGUABLY

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1 USED FOR A BENEFICIAL PURPOSE, DO WE ASSUME THAT
2 THAT'S, IN FACT, TRUE UNLESS IT'S PROVED TO BE
3 DISPOSAL. IN A SENSE THAT'S MORE -- THAT'S NOT SO
4 MUCH A FACTUAL QUESTION AS SORT OF A BROADER
5 CONTEXTUAL, BUT IN A SENSE WHAT THE BOARD WILL BE
6 DECIDING WILL BE, THAT WILL BE PART OF THE MIX.

7 IF, IN FACT, THE PRESUMPTION IS THAT
8 IT'S DISPOSAL UNTIL PROVEN OTHERWISE, THEN THAT
9 PROBABLY LEADS TOWARDS PLACING THESE IN THE
10 ENFORCEMENT NOTIFICATION TIER. IF THE PRESUMPTION
11 IS THE OTHER WAY, THAT WOULD LIKELY MEAN THAT IT
12 SHOULD BE EITHER IN THE EXCLUDED OR OUT OF THE
13 TIERS. I'LL TALK ABOUT THAT DISTINCTION IN A
14 MINUTE.

15 ALONG WITH THAT PRESUMPTION ISSUE IS
16 THE SECOND ISSUE, WHICH IS PERHAPS MORE INVOLVED,
17 BUT HAS A LITTLE BIT MORE DETAIL AND MAYBE A
18 BETTER ISSUE TO LOOK AT BECAUSE YOU CAN GET A
19 HANDLE ON IT. THAT'S REALLY THE QUESTION OF WHAT
20 DO WE NEED TO DO TO BE ABLE TO DISTINGUISH BETWEEN
21 DISPOSAL AND LAND APPLICATION? AND IT GETS TO THE
22 ISSUE OF THRESHOLDS.

23 ONE OF THE THINGS THAT IS CLEAR,
24 REGARDLESS OF THE BOARD'S AUTHORITY, IS THAT WE'RE
25 GOING TO HAVE TO ESTABLISH SOME SORT OF DEFINITION

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1 FOR WHAT IS LAND APPLI- -- SO ADDITIONAL
2 DEFINITION OF WHAT IS LAND APPLICATION VERSUS WHAT
3 IS DISPOSAL. AND WE'LL TALK ABOUT THIS SOME MORE,
4 AND WE'RE, I'M SURE, GOING TO HEAR ABOUT THIS FROM
5 COMMENTERS, THAT THERE ARE A NUMBER OF DIFFERENT
6 WAYS TO DISTINGUISH BETWEEN THOSE THINGS.

7 AND WHAT I'VE IDENTIFIED IS SORT OF
8 A BROADER QUESTION TO ASK IN CONSIDERING THOSE
9 THRESHOLDS, WHICH IS WHAT LEVEL OF REGULATION IS
10 NECESSARY TO ENSURE THAT SOMETHING REALLY IS LAND
11 APPLICATION VERSUS DISPOSAL? I'VE USED THE TERM,
12 FOR LACK OF A BETTER WAY TO CALL IT, VERIFIED
13 PROACTIVELY. BY THAT I MEAN ADVANCE NOTICE, THE
14 APPLICATION OF STATE MINIMUM STANDARDS, SUCH AS
15 RECORDKEEPING, PERIODIC INSPECTIONS, AND THE LIKE,
16 AS OPPOSED TO A MORE GENERAL STANDARD, WHICH I
17 ALLUDED TO AND I'LL TALK ABOUT A LITTLE BIT LATER,
18 ACTUAL AGRICULTURAL USE, YOU KNOW, MORE GENERAL
19 STANDARD THAT DOESN'T TAKE SPECIFIC ENFORCEMENT
20 MEASURES TO VERIFY.

21 AND AGAIN, THE MORE DETAILED OF A
22 THRESHOLD THAT'S NECESSARY, THE MORE THAT LEADS
23 TOWARDS THE IDEA THAT WE'RE REALLY IN A SITUATION
24 WHERE YOU WANT TO PLACE THESE OPERATIONS HIGHER IN
25 THE TIERS BECAUSE AS YOU GO LOWER, THE BOARD HAS

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1 LESS ABILITY, THE EA'S HAVE LESS ABILITY TO
2 ACTUALLY MAKE ANY OF THESE REQUIREMENTS.

3 IF THE COMMITTEE AND THE BOARD IS AT
4 THE POINT WHERE IT'S TRYING TO CHOOSE BETWEEN THE
5 EXCLUDED TIER AND PLACING THE ASH LAND APPLICATION
6 OUTSIDE OF THE TIERS, THERE'S, AGAIN, I'VE
7 IDENTIFIED A COUPLE OF DIFFERENT QUESTIONS, WAYS
8 TO HELP SORT OF DECIDE WHAT MAKES SENSE THERE.

9 ONE, AGAIN, GOES BACK TO THE WHOLE
10 ISSUE OF THE THRESHOLD, HOW DETAILED THAT IS. IT
11 SEEMS TO ME, JUST IN TERMS OF CLARITY OF THE
12 REGULATIONS, THAT THE MORE DETAILED THAT THRESHOLD
13 IS, IF IT'S GOT CERTAIN MEASUREMENTS THAT NEED TO
14 BE MET, THAT SORT OF THING, FOR INSTANCE, EVEN
15 HEAVY METAL NUMBERS, THAT SORT OF THING, THAT FOR
16 CLARITY PURPOSES, IT WOULD PERHAPS BE USEFUL TO
17 PLACE THOSE OPERATIONS IN THE EXCLUDED TIER
18 BECAUSE IT WILL ALLOW US TO IDENTIFY SEPARATELY
19 THOSE SORT OF REQUIREMENTS AS OPPOSED TO PLACING
20 THEM OUT OF THE TIERS.

21 IF THEY PLACE THEM OUT OF THE TIERS,
22 SOME OF THOSE REQUIREMENTS MAY STILL BE IN THE
23 REGULATION, BUT THEY'LL BE IN A DEFINITION
24 SECTION. SO IN OTHER WORDS, IT WON'T BE AS
25 OBVIOUS. IT WON'T BE ABLE TO SINGLE THAT OUT. SO

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1 THIS IS REALLY NOT SO MUCH A LEGAL AUTHORITY
2 QUESTION, BUT SINCE IT'S PART OF THE -- REALLY
3 PART OF THE MIX, IT'S HARD TO SEPARATE THIS OUT AS
4 AN ISSUE FROM THE DISCUSSION THAT'S GOING TO GO ON
5 TODAY, SO WE FELT IMPORTANT TO RAISE IT.

6 THE SECOND ONE, WHICH IS AGAIN A
7 SECOND QUESTION, SECOND FACTOR, WHICH IS, AGAIN,
8 NOT A LEGAL AUTHORITY ISSUE PER SE, IS THE PUBLIC
9 PERCEPTION THAT RESULTS FROM EITHER PLACEMENT IN
10 THE EXCLUDED TIER VERSUS OUT OF THE REGULATORY
11 TIERS. PLACEMENT IN THE EXCLUDED TIER DOES NOT
12 IDENTIFY -- DOES NOT NECESSARILY IDENTIFY THE
13 OPERATION THAT'S THERE AS A SOLID WASTE
OPERATION.

14 IN FACT, IN THE COMPOST
REGULATIONS

15 THEY'RE SPECIFICALLY WORDED IN SUCH A WAY THAT
16 IT
17 DOESN'T SAY THAT. WE HAVE HAD IN THE PAST,
18 PARTICULARLY WHEN DEALING WITH THE RECYCLING
LEGAL
19 AUTHORITY ITEM LAST YEAR, SOME CONCERN ABOUT
20 BEING
21 IN THE BOARD'S TIERS AT ALL AS GIVING THE
IMPRESSION THAT, IN THAT CASE IT WAS RECYCLING
FACILITIES WERE BEING REGULATED BY THE BOARD.

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IN

22 THIS CASE IT WOULD BE ASH LAND APPLICATION.

AND

23 THAT IS VERY CLEARLY NOT A LEGAL AUTHORITY

ISSUE.

24 IT'S A PUBLIC PERCEPTION. IT'S A LEGITIMATE

ONE

25 FOR YOU TO BE LOOKING AT, AND I KNOW YOU'LL

HEAR

1 ABOUT IT. AND THE CONTEXT THAT IT'S TYPICALLY
2 RAISED IN IS WHAT EFFECT THAT MIGHT HAVE ON
3 DIVERSION ACTIVITIES FROM JURISDICTIONS. OF
4 COURSE, THAT'S SOMETHING ELSE, OBVIOUSLY, THAT THE
5 BOARD CONSIDERS IMPORTANT.

6 ALMOST DONE HERE. FINALLY, THE LAST
7 THING, AND THIS IS, AGAIN, PAGE 91 OF THE PACKET,
8 PAGE 14 OF THE AGENDA ITEM. I'VE LISTED A NUMBER
9 OF ALTERNATIVE METHODS, AND THESE ARE NOT
10 NECESSARILY THE ONLY WAY TO DO THIS, BUT
11 ALTERNATIVE METHODS THAT HAVE BEEN CONSIDERED OR
12 AT LEAST MENTIONED IN THE CONTEXT OF DEVELOPING
13 OUR REGULATIONS FOR SETTING THAT THRESHOLD TO
14 FURTHER DEFINING WHAT THE DISTINCTION IS BETWEEN
15 LAND APPLICATION AND DISPOSAL. AND IN THE ITEM
16 ITSELF, OF COURSE, I MENTION CERTAIN REASONS WHY
17 NOTHING QUITE FITS PERFECTLY, IF YOU WILL, OR AT
18 LEAST SATISFIES EVERYBODY.

19 UTILIZING WASTE DISCHARGE
20 REQUIREMENTS, THE PROBLEM THERE IS THAT MOST --
21 WELL, I'LL JUST SAY MOST ASH LAND APPLICATION
22 SITES DON'T HAVE WASTE DISCHARGE REQUIREMENTS,
23 SO
24 THAT'S NOT SOMETHING THAT WE CAN LINK OUR
REGULATIONS TO. I WILL MENTION THAT I'M NOT

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SURE

25 IF WAS IT SIGNED. OKAY. JUST IN THE LAST
COUPLE

1 OF DAYS THE STATE WATER BOARD HAS ISSUED A MODEL
2 GENERAL WDR'S FOR BIOMASS ASH LAND APPLICATION,
3 WHICH INCLUDES CERTAIN REQUIREMENTS FOR HEAVY
4 METALS AND SOME REFERENCE TO AGRONOMIC PRACTICES,
5 ALTHOUGH IT IS A LITTLE BIT DIFFERENTLY -- PHRASED
6 SOMEWHAT DIFFERENTLY THAN THE BOARD'S REGULATIONS
7 ARE.

8 THAT'S A MODEL GENERAL WDR. IT WILL
9 BE UP TO THE REGIONAL BOARDS TO DECIDE IF THEY
10 WANT TO USE IT OR NOT, AND THEY CAN ALSO MODIFY IT
11 AS THEY WISH. SO IT'S OUT THERE AS A TOOL, BUT
12 AGAIN, IT DOESN'T COVER THE WHOLE FIELD. AND SO
13 IN THE INITIAL TAKE, IN TERMS OF WHAT STAFF WAS
14 DOING, BECAUSE THIS WAS BEING DEVELOPED WHILE WE
15 WERE DEVELOPING THE REGULATIONS, DIDN'T SEE THAT
16 AS AN EASY FIX. IF YOU'VE GOT GENERAL WDR'S,
AS A

17 LAND APPLICATION, YOU'RE A LAND APPLICATION.

18 WE ALSO LOOKED AT OTHER AGENCIES
19 APPROVALS, LOOKING AT FOOD AND AGRICULTURE,

COUNTY

20 AG COMMISSIONERS, BUT SIMILARLY THEY DON'T
HAVE

21 ANY SORT OF PERMITTING OR SIMILAR MECHANISM
THAT

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22 CAN BE EASILY USED TO DISTINGUISH LAND
APPLICATION

23 VERSUS DISPOSAL ON ITS OWN.

24 ANOTHER ALTERNATIVE WE LOOKED AT

WAS

25 ACTIVE AGRICULTURAL USE, AND THIS IS PRETTY
MUCH

1 BASED ON SOME COMMENTS RECEIVED EARLIER DURING
2 SOME INFORMAL WORKSHOPS THAT I'LL PHRASE VERY
3 COLLOQUIALLY, WHICH IS "I'VE GOT A FARM. WHY
4 WOULD I WANT TO HURT MY LAND? OF COURSE, I'M NOT
5 DOING DISPOSAL." THAT MAY WORK IN A LOT OF CASES.
6 IT DOESN'T ALWAYS WORK.

7 WE LOOKED AT THE IDEA OF SAYING, AS
8 LONG AS A CROP IS GROWN WITHIN A YEAR, FOR
9 INSTANCE, AS A MEASUREMENT, WHEN WE TRY TO PUT
10 THESE IN REGULATIONS, THEN THERE'S SOME PROBLEMS
11 WITH THAT BECAUSE IN SOME INSTANCES ASH IS BEING
12 SPREAD FOR A NUMBER OF YEARS BEFORE A CROP IS
13 GOING TO BE GROWN. THERE'S ALSO SOME ISSUES IN
14 TERMS OF LAND APPLICATION ON PASTURE LAND AND
15 FOREST LAND, AND IT'S ANOTHER ONE THAT DEALS WITH
16 SOME OF THE ISSUES, BUT DOESN'T QUITE TAKE CARE
17 OF
18 IT -- THE ISSUE ON ITS OWN.

19 THE PROPOSED REGULATIONS, WHICH WE
20 TALKED ABOUT AT TWO PREVIOUS COMMITTEE MEETINGS,
21 BASICALLY HAVE -- IT'S REALLY, IN A SENSE, AT THE
22 TOP END OF THE SCALE OF THE CONTINUUM. THE
23 PROPOSED REGULATIONS HAVE HEAVY METAL
24 REQUIREMENTS, AGRONOMIC RATES REQUIREMENTS, AND
25 THEN NOTIFICATION TIER, AND SORT OF REALLY

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25 OUTLINES THE ISSUES THAT WE HAVE SEEN AS ISSUES

1 THAT NEED TO BE ADDRESSED IN TERMS OF SETTING THE
2 THRESHOLD. AND WE'VE TALKED ABOUT THAT. I DON'T
3 WANT TO GO INTO DETAIL ON THAT, BUT I THOUGHT I
4 WOULD MENTION IT AS ONE.

5 AND THEN LASTLY, SINCE THE LAST
6 COMMITTEE MEETING, ANOTHER IDEA HAS BEEN FLOATED,
7 IF YOU WILL, REGARDING SOME SORT OF USE OF PH
8 LEVELS AS A SIMPLER WAY TO SET A THRESHOLD THAN A
9 MORE DETAILED REQUIREMENT. AS FAR AS I KNOW,
10 THOUGH, THAT'S STILL BEING WORKED ON. IT HASN'T
11 REALLY BEEN FINALIZED IN A WAY THAT WE CAN EASILY
12 DECIDE THAT WE WANT TO USE IT.

13 ONE OF THE THINGS IN PREPARING THIS
14 ITEM THAT COMES TO MIND, AS I'VE BEEN READING
15 THESE, AND I THOUGHT I MIGHT MENTION IT AS WELL,
16 IS WHAT WE DO IS HAVE A NUMBER OF DIFFERENT WAYS
17 THAT WE CAN POSSIBLY MAKE THESE DISTINCTIONS, AND
18 EACH OF THEM SEEMS TO HAVE SOMETHING THAT'S NOT
19 QUITE RIGHT WITH IT. SO ONE OF THE THINGS THAT I
20 THOUGHT I WOULD MENTION, BECAUSE IT'S CERTAINLY
21 WITHIN YOUR PURVIEW AS YOU LOOK AT THESE ISSUES,
22 IS THAT WE COULD LOOK AT DOING SOME SORT OF
23 COMBINATION OF FACTORS.

24 GIVE YOU THE EXAMPLE OF ACTUAL
25 AGRICULTURAL USE, FOR INSTANCE. IF WE SAID --

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1 STAFF AND COMMITTEE CHAIR FRAZEE HAVE VISITED A
2 NUMBER OF ASH APPLICATION SITES, AND A NUMBER OF
3 THOSE SITES ARE ORCHARDS. IT'S VERY OBVIOUS THAT
4 THOSE ARE ACTIVE AGRICULTURAL USES. AND SO IT
5 MIGHT BE APPROPRIATE TO HAVE THAT AS SORT OF A
6 DISTINCTION; BUT IF YOU DON'T HAVE AN ACTUAL
7 ORCHARD, YOU FALL TO ANOTHER MEASURE AS BEING A
8 DISTINCTION. SO THERE'S A LOT OF DIFFERENT WAYS
9 TO DEAL WITH THESE, AND I THINK YOU'RE GOING TO BE
10 HEARING MORE ABOUT SOME OF THEM TODAY.

11 IN A SENSE, WHILE THE THRESHOLD
12 ISSUE IS NOT A LEGAL AUTHORITY ISSUE, REALLY I
13 THINK IT PLAYS INTO THE WHOLE ISSUE AS TO WHAT
14 LEVEL OF REGULATION THE BOARD REALLY NEEDS TO DO
15 BECAUSE, DEPENDING ON WHAT YOU THINK IS AN
16 APPROPRIATE DISTINCTION BETWEEN DISPOSAL AND LAND
17 APPLICATION, THAT REALLY WILL, I THINK, HELP MAKE
18 THE DETERMINATION AS TO WHAT SORT OF AUTHORITY WE
19 WANT TO EXERCISE UNDER THESE OPERATIONS.

20 CHAIRMAN FRAZEE: LET ME -- BEFORE WE GO
21 TO THE PUBLIC COMMENT, LET ME ASK A QUESTION OR
22 TWO. KEEPING IN MIND THAT THE ISSUE, AND THIS IS
23 FOR THE COMMENTERS' BENEFIT, THE ISSUE THAT'S
24 BEFORE US TODAY IS THE LEGAL AUTHORITY TO REGULATE
25 ISSUE. AND THE REGULATIONS THEMSELVES IN THE

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1 CURRENT DRAFT FORM HAVE HAD A LOT OF COMMENT, AND
2 THERE WILL BE ADEQUATE OPPORTUNITY FOR FURTHER
3 COMMENT ON THE REGULATIONS, THE DRAFT REGULATIONS
4 THEMSELVES.

5 BUT GOING TO THE ISSUE OF AUTHORITY,
6 FIRST OF ALL, IT'S CLEAR, I BELIEVE, AND CORRECT
7 ME IF I'M WRONG, THAT WE MUST DEAL WITH THIS
8 ISSUE. SECTION 40191(A) STATES SOLID WASTE MEANS
9 ALL OF A NUMBER OF ITEMS, INCLUDING ASHES. SO BY
10 STATUTE WE ARE REQUIRED TO DO SOMETHING WITH THIS.

11 STARTING AT THAT POINT, WE HAVE THE
12 ABILITY TO PLACE IT IN THE ACTIVITY OF SEVERAL
13 TIERS OR FOR IT TO BE OUTSIDE OF ANY TIER. THE
14 TERM FOR THAT IS --

15 MR. BLOCK: WELL, WE DON'T REALLY HAVE A
16 TERM FOR THAT. IT DEVELOPED REALLY WHILE WE WERE
17 DOING THE LEGAL AUTHORITY.

18 CHAIRMAN FRAZEE: YOU USED A WORD FOR IT.

19 MR. BLOCK: OUTSIDE THE REGULATORY TIERS.

20 CHAIRMAN FRAZEE: OUTSIDE THE REGULATORY
21 TIERS.

22 MR. BLOCK: THERE'S NO BETTER TERM FOR
23 IT.

24 CHAIRMAN FRAZEE: IN DOING THAT, DOES
25 THAT FULFILL OUR OBLIGATION TO DEAL WITH THE

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1 ISSUE?

2 MR. BLOCK: YES. IF THAT DECISION IS
3 MADE, BASED ON LOOKING AT THIS ISSUE AND DECIDING
4 THAT THERE ARE -- WHILE THERE'S A NUMBER OF
5 FACTORS COULD GO INTO IT BUT, FOR INSTANCE, ONE OF
6 THE REASONS MAY BE THAT WE'RE DEALING WITH
7 SOMETHING THAT IS REGULATED BY OTHER ENTITIES
8 AND/OR IT'S A SITUATION WHERE IT REALLY IS NOT --
9 PRIMARILY WHAT WE'RE DEALING WITH IS AGRICULTURAL
10 USE, AND IT'S JUST A FEW EXCEPTIONS THAT ARE
11 DISPOSAL, THEN WE COULD LEAVE LAND APPLICATION
12 OUTSIDE THE REGULATORY TIERS.

13 DISPOSAL IS STILL IN THE BOARD'S
14 REGULATION, AND IT WOULD BASICALLY JUST BE A
15 FACTUAL DETERMINATION ON ANY PARTICULAR SITE. IF
16 THERE'S A COMPLAINT, WE COULD BE LOOKING AT
17 WHETHER THE THRESHOLD IS MET; AND IF THE THRESHOLD
18 IS NOT MET, THEN ACTUALLY THAT OPERATION WOULD END
19 UP BEING IN THE STANDARDIZED TIER AS BEING A
20 DISPOSAL SITE.

21 CHAIRMAN FRAZEE: THEN IN EITHER PLACING
22 IT OUTSIDE THE REGULATORY TIERS OR IN THE EXCLUDED
23 TIER, DO WE HAVE THE ABILITY TO CLASSIFY TYPES OF
24 ASH AT THAT POINT AND, FOR EXAMPLE, SEPARATE INTO
25 CATEGORIES BIOMASS ASH VERSUS COAL ASH VERSUS ASH

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1 FROM BURNED TIRES, WHICH FALLS OVER INTO THE
2 HAZARDOUS CATEGORY, I UNDERSTAND.

3 MR. BLOCK: YOU WOULD HAVE THE ABILITY TO
4 DO THAT. ONE OF THE REASONS THAT WE HAVEN'T IN
5 THE PAST, THAT WAS SOMETHING CAME UP EARLIER IN
6 SOME OF THE WORKSHOPS ON THESE, IS BECAUSE WE WERE
7 AFRAID THAT THAT MIGHT GET A LITTLE BIT
8 COMPLICATED. DEPENDING ON HOW YOU WANT TO
9 IDENTIFY DIFFERENT TYPES OF ASH, IT COULD BE --
10 SOMEBODY ELSE IN THE AUDIENCE MAY KNOW BETTER --
11 BUT AS I RECALL, THERE WERE PERHAPS SEVEN OR EIGHT
12 DIFFERENT TYPES OF WAYS TO TALK ABOUT DIFFERENT
13 TYPES OF ASH BOTH IN TERMS OF THE SOURCE AND/OR IF
14 YOU ARE TALKING ABOUT FLY ASH VERSUS BOTTOM ASH.
15 IT CAN GET FAIRLY COMPLICATED, SO THAT AT LEAST
16 OUR INITIAL TAKE ON TRYING TO DEAL WITH THIS WAS
17 TO TRY TO NOT MAKE THOSE DISTINCTIONS.

18 BUT ONE OF THE THINGS THAT HAS
19 BECOME OBVIOUS IS THAT WE MAY BE IN A SITUATION
20 WHERE, DEPENDING ON WHAT THE BOARD WANTS TO DO,
21 THAT MAY BE APPROPRIATE. AS I MENTIONED, THE
22 WATER BOARD'S MODEL GENERAL WDR'S ARE JUST FOR
23 BIOMASS ASH. LIKEWISE, THE CHARACTERISTICS AND
24 WHAT THE ASH DOES FOR LAND ARE DIFFERENT. THERE'S
25 DIFFERENCES BETWEEN BIOMASS ASH VERSUS COAL ASH.

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1 AND THERE'S, OF COURSE, SOME OTHER SIGNIFICANT
2 DIFFERENCES WITHIN MSW ASH. SO YOU HAVE THE
3 JURISDICTION TO DO THAT.

4 I GUESS I JUST WANTED TO EXPLAIN
5 THAT WE HAVE STAYED AWAY FROM THAT JUST BECAUSE WE
6 THOUGHT THAT MIGHT GET COMPLICATED, BUT IT'S
7 CERTAINLY WITHIN THE BALLPARK OF WHAT COULD BE
8 DONE. AND THERE'S FOLKS IN THE AUDIENCE, I'M
9 SURE, THAT COULD PROBABLY COMMENT A LITTLE BIT
10 MORE ON HOW THEY FEEL ABOUT THIS DISTINGUISHING
11 BETWEEN THE FEEDSTOCK FOR THE ASH.

12 CHAIRMAN FRAZEE: AND I THINK THAT
13 BECOMES A DEFINITIVE POINT IN THIS. IF WE GO TO
14 THE POINT OF EITHER NOT REGULATING OR EXCLUDING,
15 AND WE HAVE A STATUTORY MANDATE TO DO SOMETHING, I
16 DON'T KNOW THAT IT'S APPROPRIATE TO PUT ALL ASH
17 INTO THAT CATEGORY IF WE WERE -- THE SUPPOSITION
18 THAT WE WERE GOING TO GO TO EITHER ONE OF THOSE
19 OPTIONS.

20 I THINK IT'S FAIRLY OBVIOUS THAT WE
21 WOULD NOT WANT TO PUT -- WRITE SOMETHING THAT
22 WOULD LEAD PEOPLE TO BELIEVE THAT HAZARDOUS ASH
23 WOULD FALL IN THAT CATEGORY. AND SO I THINK WE
24 MUST GO TO SOME KIND OF DEFINITIVE MEASURE OF
25 WHERE THE ASH COMES FROM OR WHAT THE CONTENT IS.

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1 SO THAT TAKES ME TO MY NEXT SUPPOSITION.

2 SUPPOSING THAT WE PUT THE BENEFICIAL
3 USE, I.E., AGRICULTURAL LAND APPLICATION OF
4 DEFINED TYPES OF ASH, INTO AN EXCLUDED TIER, DO WE
5 STILL HAVE THE ABILITY TO REGULATE THE CONTENT OF
6 THAT ASH, SPECIFICALLY THE HEAVY METALS LEVEL AND
7 VARIOUS OTHER CONCERNS, IF YOU WERE TO EXCLUDE THE
8 ITEM? OR TO REQUIRE THE NOTIFICATION OF THE
9 CONTENT OF THE ASH AT THE TIME THAT IT'S HELD OUT
10 FOR THAT PURPOSE?

11 MR. BLOCK: WELL, ONE OF MY PATENT
12 ANSWERS WHICH IS YES AND NO. SO LET ME EXPLAIN
13 THAT A LITTLE BIT. EVEN IN THE EXCLUDED TIER AND
14 ACTUALLY EVEN PLACING IT OUT OF THE REGULATORY
15 TIERS, WE CAN SET A THRESHOLD. IN FACT, I THINK
16 THAT'S REALLY ONE OF THE MAIN ISSUES. THAT'S,
17 FRANKLY, GOING TO DETERMINE PERHAPS WHERE WE
18 SLOT -- PLACE SOME OF THESE APPLICATIONS IN THE
19 TIERS. IN SETTING THAT THRESHOLD, WE CAN SET
20 THOSE MEASUREMENTS, HEAVY METALS, AGRONOMIC RATES,
21 ALL OF THOSE CAN BE THERE. THE DIFFERENCE IS NOT
22 SO MUCH IN SETTING THE THRESHOLD. IT'S HOW YOU
23 MEASURE WHETHER THAT THRESHOLD IS MET.

24 IN THE EXCLUDED, THE DISTINCTION
25 BETWEEN EXCLUDED TIER AND ENFORCEMENT AGENCY

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1 NOTIFICATION, THERE'S A COUPLE OF MAIN ONES. ONE
2 OF WHICH WAS THE ENFORCEMENT AGENCY NOTIFICATION
3 TIER. OPERATIONS IN THAT TIER ARE SUBJECT TO
4 STATE MINIMUM STANDARDS, WHICH IS WHERE YOU HAVE
5 RECORDKEEPING REQUIREMENTS AND SPELL OUT WHAT
6 TYPES OF RECORDS NEEDED TO BE KEPT, AS WELL AS
7 PERIODIC INSPECTIONS AS OPPOSED TO INSPECTIONS
8 WHEN A COMPLAINT COMES IN.

9 I BELIEVE THE PROPOSED REGULATIONS
10 RIGHT NOW LEAVE THEM -- LEAVES IT -- IT'S FAIRLY
11 OPEN-ENDED. IT LEAVES IT UP TO THE DISCRETION OF
12 THE LEA. BUT THERE'S AN IMPLICATION THAT THE LEA
13 CAN'T SET A STANDARD. LET'S SAY ONCE A YEAR
14 THEY'LL VISIT AS OPPOSED TO AN EXCLUDED TIER WHERE
15 THERE REALLY IS NO PERIODIC INSPECTION. IF A
16 COMPLAINT OCCURS, THE LEA CAN GO OUT AND LOOK, BUT
17 THERE'S NOT A REGULAR INSPECTION GOING ON.

18 AND SO THE DIFFICULTY IN SETTING --
19 USING SOME MORE INVOLVED THRESHOLDS AND EXCLUDED
20 AND ALSO OUT OF THE TIERS IS WE CAN IN THE
21 REGULATIONS, FOR INSTANCE, LIST THE TYPES OF
22 DOCUMENTS OR EVIDENCE WE THINK COULD BE USED TO
23 DEMONSTRATE THAT SOMEBODY HAS MET THE THRESHOLD,
24 BUT WE CAN'T ACTUALLY REQUIRE THEM TO FILE THOSE
25 FORMS WITH US. THAT'S REALLY WHERE -- IF YOU

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1 WANTED THAT TO HAPPEN, YOU WOULDN'T WANT THESE
2 OPERATIONS IN THE NOTIFICATION TIER.

3 THERE'S A LITTLE BIT OF GIVE AND --
4 IT'S HARD TO DO THIS IN THE ABSTRACT. THERE'S A
5 LITTLE BIT OF GIVE AND TAKE, AND IF WE PLAY A
6 LITTLE BIT AT THE EDGES OF DIFFERENT TIERS IN
7 TERMS OF CERTAIN REQUIREMENTS, BUT OTHER THAN, YOU
8 KNOW, SOME REAL MINOR THINGS, FOR INSTANCE, WE
9 MIGHT BE ABLE TO REQUIRE SOME SORT OF -- I DON'T
10 WANT TO USE THE WORD "NOTIFICATION" -- CONTACT
11 JUST SO AN LEA KNOWS THAT AN EXCLUDED OPERATION IS
12 THERE, BUT NOT SOME SORT OF WRITTEN DOCUMENT THAT
13 THEY HAVE TO SUBMIT BECAUSE ONCE YOU ARE REQUIRING
14 SOMEBODY IN THE EXCLUDED TIER TO SUBMIT, YOU KNOW,
15 A ONE-OR TWO-PAGE DOCUMENT ON WHAT THEIR OPERATION
16 DOES, WELL, THAT'S BASICALLY WHAT THEY'RE REQUIRED
17 TO DO IN THE NOTIFICATION TIER. SO THERE'S A
18 LITTLE BIT OF ROOM FOR LEEWAY, NOT MUCH. THAT'S
19 WHY I SAY YES AND NO.

20 YES, WE CAN IMPOSE SOME STANDARDS,
21 BUT THEY'RE PASSIVE IN THE EXCLUDED TIER. AND
22 THAT'S THE SAME REALLY FOR EVEN OUT OF THE TIERS.
23 WE CAN ESTABLISH SOME STANDARDS BECAUSE WE'LL BE
24 DEFINING LAND APPLICATION AND THEN SAYING IT'S
25 OUT. AND THE DIFFERENCE THERE IS JUST IT SEEMS
TO

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1 ME THAT THE MORE DETAILED THAT YOUR THRESHOLD IS,
2 THE MORE YOU MIGHT WANT IT IN A SECTION BY ITSELF
3 SO THAT IT'S REAL OBVIOUS WHAT THOSE REQUIREMENTS
4 ARE AND HOW THAT WORKS. BUT THAT'S, AGAIN, MUCH
5 MORE OF A PUBLIC PERCEPTION ISSUE BETWEEN THOSE
6 TWO.

7 CHAIRMAN FRAZEE: QUESTIONS?

8 MEMBER RELIS: MR. CHAIR, BEFORE WE GO
9 INTO THE PUBLIC COMMENT PERIOD, I'D LIKE TO OFFER
10 A PERSPECTIVE ON WHAT'S BEFORE US. ON, FIRST, THE
11 AUTHORITY ISSUE, I DO BELIEVE WE HAVE THE
12 AUTHORITY AND NEED TO EXERCISE SOME LEVEL OF
13 AUTHORITY.

14 I'VE BEEN IN FAVOR SINCE I'VE BEEN
15 ON THE BOARD OF TRYING TO DEREGULATE MATERIALS
16 THAT, ONCE WE'RE CONFIDENT THEY CAN AND WILL BE
17 RETURNED TO THE ECONOMIC MAINSTREAM, WHICH IS THE
18 KEY PART OF THE DEFINITION OF RECYCLING, THAT WE
19 SHOULD GET OUT OF THE WAY OF THAT AS MUCH AS
20 POSSIBLE.

21 NOW, IN THIS CASE THE INTERFACE IS
22 WITH AGRICULTURE LARGELY. AND I'VE COME TO
23 BELIEVE THAT THE WAY YOU UNDERSTAND WHETHER A
24 MATERIAL IS BEING USED OR NOT IN THE -- UNDER THE
25 DEFINITIONAL SENSE THAT WE HAVE IN AB 939,
THERE'S

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1 A LINKAGE OR DEMONSTRATED PRACTICE OF BEHAVIOR
2 THAT DEFINES WHETHER IT'S IN THE ECONOMIC
3 MAINSTREAM OR NOT IN AGRICULTURAL'S CASE. THAT'S
4 WHAT WE CALL AGRONOMIC RATES. AND INCIDENTAL TO
5 THAT ARE MATTERS LIKE STORAGE, BUT STORAGE EVEN
6 TIES IN BECAUSE STORAGE, YOU DON'T STORE SOMETHING
7 AND STOCKPILE BEYOND WHAT YOU NEED TYPICALLY.

8 NOW, HAVING SAID THAT, I'VE BEEN
9 CHASTENED A BIT BY THE EXPERIENCE WE'VE HAD WHERE
10 THE BOARD DECIDED -- I WAS ONE OF THOSE -- TO STEP
11 BACK FROM AN OPPORTUNITY TO REGULATE AN AREA
12 CALLED THE VERMICULTURE MULCH AREA WHERE AT THAT
13 TIME I WAS PERSUADED WE OUGHT TO GET OUT OF THE
14 WAY OF THAT MATERIAL AND SEE HOW, IN FACT, THE
15 MOVEMENT OF, QUOTE, CLEAN GREEN INTO MULCHING
16 OPERATIONS, VERMICULTURE OPERATIONS, WOULD
FURTHER

17 THE OBJECTIVES OF AB 939 BY WAY OF RECYCLING
AND
18 DIVERSION.

19 IN THAT PARTICULAR CASE I'M
20 CHASTENED BY EVIDENCE THAT SUGGESTS THAT THIS
21 LENIENCY, CALL IT, ON OUR PART HAS BEEN
ABUSED AND
22 THAT WE ARE NOW GOING TO HAVE TO, IN MY VIEW,

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23 RECONSIDER OUR ROLE THERE. AND NOW WE MAY
HAVE TO

24 BE IN A POSITION OF DEALING WITH A FAIRLY
LARGE
25 PROBLEM THAT IS OF A REGULATORY NATURE THAT
SPEAKS

1 TO HEALTH AND SAFETY ISSUES THAT CLEARLY FALL
2 UNDER THE AREA OF SOLID WASTE, THE BEHAVIOR,
3 BECAUSE THE BEHAVIOR HAS BEEN ONE THAT CREATES A
4 PATTERN WHERE IT APPEARS OR YOU CALL IT A NEXUS, A
5 PATTERN, IT LOOKS LIKE SOLID WASTE, IT'S BEING
6 MANAGED LIKE SOLID WASTE, AND ALL THE --

7 NOW, WHEN WE COME TO AGRICULTURE, I
8 THINK I'M STRUGGLING FOR TRYING TO GET TO THE
9 LEAST INTRUSIVE OVERSIGHT, BUT ONE WHICH LEADS TO
10 A PERFORMANCE BEHAVIOR THAT IS CLEARLY
11 AGRICULTURAL IN NATURE AND WHICH AGRICULTURE IS
12 COMFORTABLE WITH BECAUSE WITHOUT THEIR COMFORT
13 LEVEL BEING ADDRESSED, WE DON'T HAVE A MARKET.

14 SO IT FRUSTRATES LEVEL. THAT'S WHY
15 I'M SENSITIVE BETWEEN THE EXCLUSION AND WE'LL CALL
16 IT NOTIFICATION. IF IT WE WERE KICKED INTO
17 NOTIFICATION, THE MATERIAL BECOMES SOLID WASTE,
18 CLEARLY. AND FROM THE PERCEPTION OF AGRICULTURE,
19 MOST GROWERS DON'T WANT TO BE ASSOCIATED WITH
20 SOLID WASTE COMING TO THEIR LAND. THAT'S GOT

A

21 BIG NEGATIVE AND WE WANT TO PREVENT THAT.

22 SO I THINK IN OUR DELIBERATIONS,

AND

23 I HOPE OUR SPEAKERS CAN HELP US DEAL WITH

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THESE

24 MANAGEMENT PRACTICES THAT CAN BE DESCRIBED IN

SUCH

25 A WAY, A LINKAGE, THAT CREATES A CLEAR
RECYCLING

1 USE LINKAGE AS OPPOSED TO SOME GRAY AREA THAT
2 HISTORICALLY, AT LEAST WITH THE TWO EXAMPLES I
3 GAVE, HAVE CAUSED US REGULATORY PROBLEMS.

4 SO HAVING SAID THAT, I'M EAGER TO
5 HEAR WHAT PEOPLE SAY.

6 CHAIRMAN FRAZEE: LET ME JUST WRAP UP
7 WITH ONE MORE COMMENT. I TEND TO DRAW PARALLELS
8 ON THINGS OR ANALOGIES. I DON'T KNOW WHETHER
9 THEY'RE VALID OR NOT, BUT LET ME GIVE EVERYONE ONE
10 THAT I SEE IN THIS CIRCUMSTANCE AND STRUGGLING
11 WITH WHAT IS OUR APPROPRIATE ROLE HERE.

12 RELATING TO GOVERNMENT'S ROLE IN
13 REGULATING BEHAVIOR, AND TAKE THE EXAMPLE OF
14 TRAFFIC ENFORCEMENT. YOU KNOW, I THINK THIS IS
15 WHERE MAYBE WE SHOULD BE GOING WITH THIS. WE CAN
16 ALL GO OUT AND DRIVE ON THE HIGHWAY, AND THERE ARE
17 LIMITS TO THE THINGS WE CAN DO. THERE'S A PRIMA
18 FACIE SPEED LIMIT. AND WE'RE NOT REQUIRED BY
19 STATUTE TO FILE A PLAN ON WHERE WE DRIVE AND HOW
20 FAST WE GO. WE DON'T HAVE TO PROVE THAT WE DID.
21 IT'S UP TO THE REGULATORY SIDE OF GOVERNMENT TO
22 PROVE THAT WE DID WRONG.

23 AND THAT'S WHAT I SORT OF FEAR IN
24 THESE REGULATIONS, THAT WE'RE PUTTING THE GUILTY
25 UNTIL YOU PROVE YOURSELF INNOCENT ROLE IN THIS

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1 PARTICULAR ACTIVITY. AND I THINK IN THE TRAFFIC
2 ENFORCEMENT SIDE THERE IS A PARALLEL THERE. THERE
3 ARE SOME REGULATIONS THERE. AND THEY'RE FAIRLY
4 GENERAL. A HIGHWAY PATROLMAN IN STOPPING SOMEONE
5 AND CITING THEM FOR A VIOLATION HAS SOME BROAD
6 LATITUDE. EVEN IF THERE'S A POSTED 65 MILES AN
7 HOUR SPEED LIMIT, THAT HIGHWAY PATROLMAN HAS THE
8 LATITUDE OF CITING SOMEONE FOR DOING 55 IF THE
9 CONDITIONS DO NOT WARRANT THEM DOING 65.

10 SO, YOU KNOW, I THINK THERE IS SOME
11 ABILITY TO PREVENT IN THIS CASE AND DRAWING THAT
12 ANALOGY TO PREVENT THE UNWISE USE OF THIS
13 MATERIAL, BUT STILL ALLOW IT TO BE USED FOR A
14 BENEFICIAL USE WHERE THERE IS NO DANGER TO THE
15 PUBLIC, THAT IT'S NOT CREATING A SITUATION OF
16 VIOLATING OUR TRUST AND OUR REQUIREMENT TO
PROVIDE

17 FOR HEALTH, SAFETY, AND THE ENVIRONMENT.

18 AND THAT'S WHERE I WOULD LIKE TO
GO

19 WITH THIS ITEM, TO PROVIDE SOME ASSURANCE THAT
20 IT'S NOT BEING DISPOSED OF IMPROPERLY, BUT TO
GET

21 HANDS OFF ON THE BENEFICIAL USE AND
APPLICATION OF

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22 THIS ITEM. SO LET'S GO TO -- DO YOU HAVE

23 ANYTHING, MR. PENNINGTON?

24 MEMBER PENNINGTON: NO.

25 CHAIRMAN FRAZEE: GO TO PUBLIC

COMMENT

1 AND THEN, AGAIN, TO REMIND THOSE THAT ARE HERE
2 WHAT WE'RE DEALING WITH IS NOT THE REGULATIONS
3 THEMSELVES, BUT THE AUTHORITY TO REGULATE THE
4 ISSUE IN THIS PARTICULAR CIRCUMSTANCE AND WHAT THE
5 APPROPRIATE EXTENSION OF THAT AUTHORITY IS.

6 WE HAVE A NUMBER OF LEA'S, AND I
7 THINK WE WILL GO THROUGH THOSE FIRST, STARTING
8 WITH ED PADILLA, SAN JOAQUIN COUNTY.

9 MR. PADILLA: GOOD MORNING. ED PADILLA
10 FROM SAN JOAQUIN COUNTY LEA. AND WE AGREE WITH
11 THE COMMITTEE, THAT THE WASTE BOARD DOES HAVE
12 AUTHORITY TO REGULATE ASH TO LAND APPLICATION.

IN

13 OUR OPINION, ASH TO LAND APPLICATION IS FINAL
14 DEPOSITION OF A SOLID WASTE ON THE LAND. WHETHER
15 OR NOT IT'S BEING LANDFILLED OR BEING LAND
SPREAD,

16 IF YOU WANT TO CALL IT BEING REUSED, THIS
ACTIVITY

17 CONSTITUTES FINAL DISPOSAL AND SHOULD BE
18 REGULATED.

19 WE DO HAVE A PUBLIC HEALTH CONCERN,
20 PROBABLY UNIQUE TO SAN JOAQUIN COUNTY, AND THAT
IS
21 THE DELTA WETLANDS AREA, AN AREA OF OVER 700,000

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22 ACRES. AND IT IS A RECOGNIZED PACIFIC FLYWAY FOR
23 MIGRATORY BIRDS. FIFTY PERCENT OF ALL MIGRATORY
24 DUCKS AND GEESE USE THE DELTA IN THE UNITED
25 STATES.

1 THERE ARE 71 SPECIAL STATUS SPECIES
2 OF PLANTS, BIRDS, MAMMALS, REPTILES IN THE DELTA.
3 THERE ARE ALSO 11 RARE ENDANGERED SPECIES IN THE
4 DELTA THAT ARE PROTECTED UNDER THE FEDERAL
5 ENDANGERED SPECIES ACT, SUCH AS THE DELTA GREEN
6 BEETLE AND THE ALEUTIAN CANADIAN GOOSE WHICH
7 WINTERS IN THE DELTA AREA.

8 THE UNITED STATES FISH AND WILDLIFE
9 HAS DESIGNATED THE AGRICULTURAL LANDS IN THE DELTA
10 AS FARM WETLANDS. THERE'S MANY UNIQUE AREAS IN
11 CALIFORNIA, AND THE DELTA CERTAINLY IS ONE. AND
12 WE THINK THAT THE CRITERIA IN THESE REGS, IF AT
13 ALL, ONLY MINIMALLY ADDRESS THE POSSIBLE HARM TO
14 WILDLIFE AND WILDLIFE HABITAT.

15 THE DISPOSAL OF ASH OVER LONG
16 PERIODS OF TIME MAY RESULT IN CONCENTRATIONS,
17 ACCUMULATIONS OF HEAVY METALS THAT COULD IMPACT
18 SEASONAL WILDLIFE USE IN AGRICULTURAL LANDS IN
19 THE
20 DELTA. EIGHTY PERCENT OF THE ORIGINAL DELTA
21 WETLANDS HAVE ALREADY BEEN LOST.

22 WE ALSO BELIEVE THAT THE -- I
23 HAVEN'T SEEN ANY STUDIES THAT ASSURES US THAT
THE
24 WILDLIFE HABITAT IN THE DELTA WILL NOT BE
HARMED.

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24

ONE MONTH AGO THE DELTA

PROTECTION

25 COMMISSION PROHIBITED LAND APPLICATION OF
SEWAGE

1 SLUDGE IN THE DELTA AREA, AND I THINK THE DELTA
2 COMMISSION IS VERY CONCERNED ABOUT WHAT GOES ON
3 THE FARMLANDS AND THAT THIS DOES HAVE AN IMPACT TO
4 WILDLIFE AND WILDLIFE HABITAT.

5 ALSO, ASH SPREADING AND DISKING ON
6 FALLOW LAND DOES DISTURB WILDLIFE HABITAT. IF
7 THESE REGULATIONS ARE NOT APPROVED OR ARE FURTHER
8 WATERED DOWN, I THINK MANY AGRICULTURAL COUNTIES
9 IN THE CENTRAL VALLEY WILL PASS MORE STRINGENT
10 ORDINANCES. AND I THINK THE GOAL OF UNIFORM STATE
11 ENFORCEMENT, WHICH WE'RE TRYING TO ACCOMPLISH
12 HERE, WILL NOT OCCUR.

13 I THINK THE ONLY THING THAT I'VE
14 BEEN IMPRESSED WITH SO FAR IS THE LACK OF STUDIES
15 IN THIS AREA OF ASH TO LAND APPLICATION. IF YOU
16 COMPARE THAT TO THE MANY, MANY STUDIES DONE IN THE
17 SEWAGE TO LAND APPLICATION, THERE'S QUITE A
18 DIFFERENCE THERE.

19 SO WHAT ARE WE BASING THESE
20 REGULATIONS ON? I THINK BEFORE GRANTING AN
21 EXEMPTION TO THE ASH INDUSTRY, ASH TO LAND
22 APPLICATION SHOULD BE STUDIED MORE THOROUGHLY TO
23 EVALUATE WHETHER ASH DISPOSAL HAS AN ADVERSE
24 IMPACT TO WILDLIFE AND WILDLIFE HABITAT.

25 THANK YOU.

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1 CHAIRMAN FRAZEE: LET ME JUST ASK A
2 COUPLE QUESTIONS. SAN JOAQUIN COUNTY IS ONE THAT
3 HAS BY ORDINANCE BANNED THE LAND APPLICATION OF
4 ASH TO AGRICULTURAL LANDS.

5 MR. PADILLA: NO, IT'S NOT. NO. THEY'RE
6 REQUIRED TO TAKE A PERMIT. THERE HAS BEEN --

7 CHAIRMAN FRAZEE: THEY STILL ALLOW IT
8 WITH A PERMIT?

9 MR. PADILLA: YES. THERE WAS SEVERAL
10 SITES THAT DID HAVE PERMITS, BUT THEY HAVE
11 SINCE -- THAT'S BEEN SEVERAL YEARS AGO. NOBODY
12 ELSE HAS APPLIED SINCE THAT TIME.

13 MEMBER PENNINGTON: IS IT BECAUSE THEY
14 WON'T ISSUE A PERMIT?

15 MR. PADILLA: NO. WHAT WE FOUND WAS THAT
16 MANY OF THE PEOPLE IN THE ASH INDUSTRY, WE HAD
17 SEVERAL THAT CAME TO US SEVERAL YEARS AGO. THEY
18 WEREN'T INTERESTED IN TAKING OUT A PERMIT WITH OUR
19 COUNTY, SO THEY DIDN'T OPERATE IN OUR COUNTY.
20 THEY WENT TO ANOTHER COUNTY WHERE THEY FELT
21 IT
22 WASN'T QUITE AS RESTRICTIVE.

23 CHAIRMAN FRAZEE: AND THAT PERMIT
24 DEALS
25 ONLY WITH ASH OR WITH OTHER PRODUCTS ALSO?

26 MR. PADILLA: WELL, IT DEPENDS WHAT

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YOU

25 ARE GOING TO APPLY FOR. YOU CAN APPLY FOR
ASH OR

1 SEWAGE SLUDGE. WE DO HAVE A COUPLE OF SEWAGE
2 SLUDGE LAND APPLICATIONS IN THE COUNTY UNDER
3 PERMIT.

4 CHAIRMAN FRAZEE: BUT A COMMERCIAL LIMING
5 AGENT WOULD NOT REQUIRE A PERMIT?

6 MR. PADILLA: NO.

7 CHAIRMAN FRAZEE: SO THE CIRCUMSTANCE, IF
8 YOU WERE TO TAKE THE SAME PRODUCT, COAL ASH, FROM
9 A COGENERATION PLANT THAT WAS PRODUCED IN UTAH AND
10 PUT IT IN BAGS WITH A CHEMICAL ANALYSIS ON THE
11 OUTSIDE OF IT, AND BROUGHT IT TO SAN JOAQUIN
12 COUNTY, IT COULD BE APPLIED WITHOUT REGULATIONS?

13 MR. PADILLA: IF IT WAS ASH FROM COAL,
14 THEY WOULD REQUIRE A PERMIT. IF WE DIDN'T KNOW
15 ABOUT IT, THEN WE WOULDN'T KNOW ABOUT IT. IF WE
16 KNEW ABOUT IT, WE WOULD REQUIRE THAT THEY TAKE OUT
17 A PERMIT.

18 CHAIRMAN FRAZEE: OKAY.

19 MEMBER RELIS: MR. CHAIR, I'D LIKE TO
20 PURSUE THAT SAME POINT BECAUSE I'M A LITTLE
21 UNCLEAR. SUPPOSE I'M USING A COMMERCIAL
22 FERTILIZER, OKAY, THAT'S MY REGULAR AGRICULTURAL
23 PRACTICE IN WHAT YOU CALL THE -- OR THE TERM IS A
24 FARM WETLAND. DOES THE -- IS THERE REALLY ANY
25 OVERSIGHT OR REGULATION OF THAT USE?

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1 MR. PADILLA: I THINK THERE ARE SOME, BUT
2 I THINK --

3 MEMBER RELIS: VIS-A-VIS FARMED WETLAND
4 AND THE WILDLIFE CONCERNS.

5 MR. PADILLA: YOU TALKING ABOUT -- I
6 THINK THAT'S PROBABLY SOMETHING THAT COUNTY AG
7 COMMISSION WOULD PROBABLY TALK TO. I THINK THERE
8 ARE SOME CONDITIONS, BUT MAYBE LIMITED.

9 MEMBER RELIS: OKAY.

10 MR. PADILLA: I'M NOT SURE.

11 MEMBER RELIS: WHAT I'M TRYING TO GET
12 BACK TO IS THE QUESTION THAT YOU RAISED. I THINK
13 YOUR FUNDAMENTAL QUESTION IS WHAT ARE WE BASING
14 THESE REGULATIONS ON. IN OTHER WORDS, WE HAVE A
15 MATERIAL, WE CALL IT, FOR PURPOSES OF -- THAT
16 WANTS TO BE USED IN AN AGRICULTURAL CONTEXT. AND
17 YOU ARE SAYING, WELL, WHAT ARE WE -- WHAT'S OUR
18 FINDING -- WHAT WOULD BE OUR FINDING -- WHAT ARE
19 THE FINDINGS REGARDING ALL AMENDMENTS RELATED TO
20 AGRICULTURE. I MEAN YOU SAID YOU'VE STUDIED
21 SEWAGE SLUDGE, BUT THERE ARE MANY OTHER AMENDMENTS
22 THAT GO INTO AGRICULTURAL PRACTICE.

23 MR. PADILLA: MAYBE I'M JUST FOCUSED IN
24 BECAUSE I WORK IN SOLID WASTE ENFORCEMENT. AND
25 SINCE SEWAGE SLUDGE IS CONSIDERED A SOLID WASTE,

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1 I'VE LOOKED AT THOSE. I DON'T HAVE THE TIME TO
2 SPEND DOING THE WORK FOR THE AG DEPARTMENT IN
3 STUDYING THOSE. AND THERE ARE CONCERNS, I KNOW,
4 WITH DIFFERENT TYPES OF FERTILIZERS, BUT I HAVEN'T
5 FOCUSED IN ON THAT BECAUSE THAT'S NOT MY
6 DIRECTION. AS FAR AS ASH IS CONCERNED, I JUST SEE
7 A LACK OF STUDIES HERE. I'M -- I WAS SURPRISED AT
8 HOW MANY STUDIES I'VE SEEN FOR SEWAGE SLUDGE AND
9 THE LACK I'VE SEEN FOR THE ASH.

10 MEMBER RELIS: BUT YOU ARE TALKING ABOUT
11 STUDIES SPECIFICALLY BEARING --

12 MR. PADILLA: STUDIES SPECIFICALLY --

13 MEMBER RELIS: WITH RESPECT TO IMPACT ON
14 WILDLIFE.

15 MR. PADILLA: WELL, NOT NECESSARILY.
16 IT'S IMPACT ON GROWTH OF THE CROPS. I MEAN
17 THERE'S MANY STUDIES DONE ON SEWAGE SLUDGE ON THE
18 GROWTH CROPS, WHAT TYPE OF RISKS AND PUBLIC HEALTH
19 ASSOCIATIONS AND EATING CROPS COMING FROM THAT.
20 THAT'S WHAT'S LACKING IN THE ASH INDUSTRY.

21 AND THEN THE DELTA AREA IS VERY
22 UNIQUE TO CALIFORNIA, AND THERE'S A CONCERN THERE
23 BECAUSE MANY OF THE WILDLIFE THERE DOES -- YOU
24 KNOW, THEY ARE GOING TO THE FARMLANDS. THEY DO
25 EAT THE FOOD OFF THE CROPS THERE. AND

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1 DISCOURAGING THEM NOT TO. THEY DO. THAT IS A
2 CONCERN.

3 CHAIRMAN FRAZEE: THANK YOU. NOW, NEXT
4 IS MIKE GNEKOW -- IS THAT CORRECTLY PRONOUNCED? -

-
5 LEA FROM KERN COUNTY.

6 MR. GNEKOW: GOOD MORNING. MIKE GNEKOW,
7 KERN COUNTY LEA, G-N-E-K-O-W. I'LL BE BRIEF.

8 WE IN KERN COUNTY HAVE EXPERIENCED
9 QUITE A BIT OF THIS ASH DISPOSAL, NOT ONLY IN THE
10 AGRICULTURAL SETTING, BUT ALSO WE'VE HAD ROADS
11 BUILT, AIRPORTS BUILT, AIRSTRIPS BUILT, AND
12 CANYONS FILLED WITH THIS MATERIAL.

13 IN ADDITION TO THAT, WE'VE HAD THE
14 MATERIAL SPREAD ON AGRICULTURAL LANDS. IT'S
15 DEFINITELY FOR AGRICULTURAL USE, AND CROPS AREN'T
16 GROWN WITHIN TWO TO THREE YEARS. SO WE FEEL THAT
17 AT A MINIMUM, WHEN YOU ARE GOING TO DISPOSE OF IT
18 ON THE LAND FOR AGRICULTURAL USE OR RECLAMATION,
19 THAT IT SHOULD BE PLACED IN THE ENFORCEMENT
AGENCY

20 NOTIFICATION TIER.

21 WE HAVE HAD INSTANCES WHERE IT WAS
22 SPREAD, AND IT WAS -- THE PH WAS 12.5, WHICH
MAKES

23 IT A HAZARDOUS PRODUCT. WE HAVE HAD SEVERAL

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24 INSTANCES OF HIGH LEVEL OF HEAVY METALS ALSO. SO
25 I THINK THAT, WHILE SELF-CERTIFICATION IS, TO THE

1 EXTENT WE CAN DO IT, THE WAY TO GO, WE FEEL THERE
2 HAS TO BE SOME TYPE OF PLAN OF OPERATION IN PLACE
3 THAT WE CAN CHECK ON PERIODICALLY OR CAN BE
4 CERTIFIED PERIODICALLY SO THAT WE CAN BE AWARE OF
5 WHERE THIS IS BEING APPLIED AND, HOPEFULLY, HAVE
6 SOME TYPE OF ANALYSIS OF MATERIAL THAT IS BEING
7 PLACED ON THE GROUND.

8 WE'VE ALSO RECEIVED COMPLAINTS
9 REGARDING THE TRANSPORTATION AND APPLICATION OF
10 IT. THE MATERIAL EVIDENTLY HAS A CONSISTENCY OF
11 TALCUM POWDER, THAT TYPE OF THING. AND IF THE
12 TRUCKS AREN'T SECURELY TARPED, IT WILL BLOW OUT.

13 WE'VE BEEN ADVISED THAT AS IT'S
14 BEING APPLIED TO THE LAND, THAT THERE'S QUITE A
15 BIT OF AIRBORNE PARTICULATES ASSOCIATED WITH THAT
16 OPERATION. SO BASED ON THOSE TYPES OF COMPLAINTS,
17 WE FEEL THAT IT SHOULD BE, AS FAR AS THE LAND
18 APPLICATION, IT SHOULD BE PLACED IN THE
19 ENFORCEMENT AGENCY NOTIFICATION TIER.

20 CHAIRMAN FRAZEE: LET ME AT THAT POINT
21 JUST TAKE A STEP AT NOTIFICATION ONLY TO KNOW
22 WHERE IT'S BEING APPLIED, OR DO YOU WANT TO BE IN
23 THE BUSINESS OF REGULATING AGRICULTURAL PRACTICES
24 AND DEALING WITH SOILS EXPERTS AND LOOKING AT EACH
25 INDIVIDUAL APPLICATION HAVING THAT PERMIT.

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1 MR. GNEKOW: I THINK WE WOULD WANT TO
2 KNOW WHERE IT'S BEING APPLIED, THE SOURCE OF IT, A
3 TYPICAL ANALYSIS, VERY MINIMAL, MAYBE QUARTERLY,
4 MAYBE ANNUAL INSPECTION TO MAKE SURE THAT CROPS
5 ARE BEING GROWN.

6 I MEAN WE THINK THAT, YOU KNOW, AS
7 MR. RELIS SAID, YOU JUST DON'T KEEP PUTTING THIS
8 STUFF ON THE LAND AND NEVER GROW ANYTHING.
9 THERE'S AGRONOMIC RATE INVOLVED HERE. THERE'S AN
10 AGRONOMIC PRACTICE INVOLVED. AT THIS POINT WE'RE
11 JUST NOT SEEING THAT IN THIS ONE PARTICULAR
12 INSTANCE.

13 CHAIRMAN FRAZEE: OKAY. ANYTHING ELSE?
14 THANK YOU. NOW MARGARET BLOOD, AMADOR COUNTY LEA.

15 MS. BLOOD: THANK YOU. I'M WITH AMADOR
16 COUNTY. ALTHOUGH WE DON'T HAVE ANY LAND SPREADING
17 OF ASH IN OUR COUNTY CURRENTLY, WE WOULD LIKE TO
18 SUPPORT THE REGULATION OF NONHAZARDOUS ASH AT THE
19 NOTIFICATION TIER.

20 WE'RE CONCERNED THAT AS THIS BECOMES
21 A PROBLEM IN THE VALLEY COUNTIES, THEY WILL IMPOSE
22 THEIR OWN LOCAL ORDINANCES, AND WE'LL START SEEING
23 THIS APPLICATION IN FOOTHILL COMMUNITIES. WE
24 DON'T BELIEVE THAT THE FOOTHILLS, FROM A STATEWIDE
25 PERSPECTIVE, WOULD BE A GOOD PLACE TO DISPOSE OF

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1 ASH.

2 I THINK ASHES ARE CLEARLY DEFINED AS
3 SOLID WASTE, AND THE NOTIFICATION TIER, THE
4 REQUIREMENTS THERE ARE NOT OVERBURDENSOME IN THE
5 LEAST. THEY'RE MERELY ASKING FOR SOME IDENTIFYING
6 INFORMATION IN ORDER TO MAKE A WELL-THOUGHT OUT
7 DECISION AS TO THE APPLICATION OF THIS MATERIAL.

8 IT SEEMS THAT WHAT HAS BEEN BROUGHT
9 UP IS BY PUTTING ASH IN THE NOTIFICATION TIER,
10 THAT MAKES IT SOLID WASTE. THE ASH IS A SOLID
11 WASTE WHETHER YOU HAVE IT IN EXCLUDED TIER OR IF
12 YOU PUT IT OUT OF THE TIERS. IT'S STILL A SOLID
13 WASTE, AND IT'S APPROPRIATELY IN THE NOTIFICATION
14 TIER FROM OUR POINT OF VIEW BECAUSE THERE IS SOME
15 CONTROL THERE TO EVALUATE THE USE OF THAT PRODUCT.

16 THAT CONCLUDES MY COMMENTS.

17 CHAIRMAN FRAZEE: OKAY. THANK YOU.
18 QUESTIONS? NEXT, FRANCES SULLIVAN, COUNTY
19 SUPERVISOR IN SHASTA COUNTY.

20 SUPERVISOR SULLIVAN: MR. CHAIRMAN,
21 MEMBERS OF THE BOARD, THANK YOU VERY MUCH FOR
22 ALLOWING ME TO SPEAK. I AM A SHASTA COUNTY
23 SUPERVISOR. I REPRESENT THE EASTERN HALF OF OUR
24 COUNTY, WHICH HAS A NUMBER OF COGENERATION PLANTS.
25 AS YOU ALL KNOW, SHASTA COUNTY IS THE LARGEST

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1 PRODUCER OF ASH IN THE STATE WITH SOME 60,000 TONS
2 ANNUALLY.

3 WE ALSO HAVE A VERY SUCCESSFUL ASH
4 DIVERSION PROGRAM IN OUR COUNTY THAT HAS A PROVEN
5 TRACK RECORD. WE'VE BEEN USING THIS PROGRAM FOR
6 EIGHT TO TEN YEARS IN OUR COUNTY. WE THINK MANY
7 OF THE ISSUES THAT HAVE BEEN BROUGHT UP TODAY HAVE
8 BEEN ANSWERED AND ADEQUATELY ADDRESSED IN THE
9 PROGRAMS THAT WE'VE ALREADY BEEN DOING.

10 AS FOR THE ISSUES OF THEM BEING
11 OVERSIGHT AND REGULATION, WE FEEL THAT THEY'RE
12 ALREADY VERY ADEQUATELY REGULATED. FOOD AND
13 AGRICULTURE MEASURES THE MINERAL CONTENT AND ALSO
14 TESTS FOR METAL. AIR POLLUTION CONTROL DISTRICT
15 IS INVOLVED. STATE WATER QUALITY PEOPLE ARE
16 INVOLVED. AND I DON'T THINK YOU HAVE TO GO VERY
17 FAR TO KNOW HOW CLOSELY FISH AND GAME MONITORS ANY
18 KIND OF ACTIVITY THAT THEY THINK IS DETRIMENTAL TO
19 WILDLIFE.

20 SO AS I'VE SAID, WE'VE BEEN DOING
21 THIS FOR EIGHT TO TEN YEARS. WE REALLY FEEL THOSE
22 ISSUES HAVE BEEN TESTED AND PROVEN THAT THEY'RE
23 NOT PROBLEMS.

24 AND, YOU KNOW, USING THE EXISTING
25 PROGRAM WITHOUT ANY MASSIVE OVERSIGHT ALSO HAS

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1 ALLOWED THIS ASH TO BE USED AS A BENEFICIAL SOIL
2 AMENDMENT IN OUR COUNTY. CLASSING ASH AS A WASTE
3 PRODUCT HAS GREAT POTENTIAL OF ELIMINATING OUR
4 USING ASH IN THIS WAY. AND I THINK IT PROBABLY
5 DOESN'T TAKE MUCH OF A REACH TO SEE THE "NATIONAL
6 ENQUIRER" HEADLINE THAT SAYS "WASTE DUMPED ON OUR
7 FOOD PRODUCTS," AND SEE THAT THIS PROCESS PROBABLY
8 WOULDN'T HAVE MUCH LONG LIFE AFTER THAT.

9 AND I BELIEVE THAT IN OTHER CASES
10 YOU HAVE USED THAT AS A GUIDELINE IN DETERMINING
11 THAT SOME PRODUCTS WERE NOT WASTE PRODUCTS, SOME
12 ASH PRODUCTS WHERE YOU'VE SAID THAT THERE WAS A
13 BENEFICIAL USE THAT WAS A POSSIBILITY AND,
14 THEREFORE, IT WASN'T NECESSARY TO CLASSIFY IT AS A
15 WASTE.

16 I THINK OUR PROGRAM IS A CLASSIC
17 EXAMPLE OF WHAT SHOULD BE ENCOURAGED AND SUPPORTED
18 RATHER THAN STIFLED. WE TAKE A BY-PRODUCT OF A
19 PROCESS THAT'S BENEFICIAL TO THE COMMUNITY,
20 COGENERATED POWER WHICH USES WASTE PRODUCTS TO
21 PROVIDE A POSITIVE PRODUCT, FUEL, AND THEN WE'RE
22 USING THE BY-PRODUCTS OF THAT PROCESS TO PROVIDE
23 ANOTHER BENEFICIAL USE TO THE COMMUNITY AND TO
24 SOCIETY, AND THAT IS THE ABILITY FOR US TO
25 INCREASE OUR AMERICAN GROWN FOOD CROPS, WHICH

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1 BENEFITS EVERYONE.

2 WE REDUCE THE WASTE STREAM, WE ADD
3 PRODUCTIVITY TO THE SOIL, AND CREATE AND REINFORCE
4 THE ECONOMIC BASE. IF YOU CLASSIFY THIS AS A
5 WASTE PRODUCT AND ELIMINATE OUR ABILITY TO
6 CONTINUE USING THIS AS A SOIL AMENDMENT, YOU WILL
7 VERY SERIOUSLY JEOPARDIZE OUR ABILITY TO MEET THE
8 STANDARDS OF AB 939 WITH 60,000 TONS ANNUALLY. IF
9 WE DON'T HAVE SOME BENEFICIAL WAY TO USE THIS
10 PRODUCT AND IT ENDS UP GOING INTO OUR LANDFILL,
11 THAT WILL HAVE JUST A DEVASTATING IMPACT ON OUR
12 COUNTY LANDFILL.

13 SO AGAIN, WE WOULD VERY MUCH
14 APPRECIATE YOUR CONSIDERATION OF NOT PENALIZING A
15 LEGITIMATE, PROVEN OPERATION BECAUSE OF THE SMALL
16 NUMBER OF ABUSERS. WE CERTAINLY FEEL YOU HAVE
17 MANY ADEQUATE WAYS TO DEAL WITH PEOPLE WHO ARE
18 ABUSING THIS PROGRAM. AND, IN FACT, IF YOU
19 CLASSIFY THIS TYPE OF ASH AS A WASTE, YOU MAY, IN
20 FACT, BE ENCOURAGING THAT KIND OF ACTIVITY. I
21 BELIEVE THEN THEY COULD SET UP LANDFILLS IN FIELDS
22 AND, BY DOING THE PAPERWORK, LEGITIMATELY USE IT
23 IN A WAY THAT WOULD NOT BE BENEFICIAL TO SOCIETY.
24 SO WE HOPE THAT YOU WILL SERIOUSLY CONSIDER
25 DETERMINING THIS OUTSIDE THE TIER. THANK YOU.

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1 MEMBER RELIS: MR. CHAIR, I'D JUST ASK
2 SUPERVISOR SULLIVAN, YOU MADE MENTION OF STUDIES,
3 PERHAPS, I DON'T KNOW, IN SHASTA COUNTY OF THE USE
4 OF ASH. HAVE YOU -- HAS THE COUNTY OR IS OUR
5 STAFF AWARE OF THOSE STUDIES?

6 SUPERVISOR SULLIVAN: THAT I COULDN'T
7 TELL YOU, BUT I DO KNOW THAT UC DAVIS HAS DONE
8 EXTENSIVE PROGRAMS. IN FACT, OUR AG EXTENSION
9 DEPARTMENT WAS INVOLVED IN DEVELOPING SOME OF
10 THESE PROGRAMS. I BELIEVE ALSO IN THE EAST COAST
11 THIS HAS BEEN DONE FOR A NUMBER OF YEARS. I THINK
12 THE STATE OF NEW HAMPSHIRE HAS SOME RESEARCH THAT
13 PROVES THAT IT IS A LEGITIMATE AGRICULTURAL USE.
14 I'M NOT SURE IF YOU'RE TALKING ABOUT STUDIES --

15 MEMBER RELIS: WE HEARD QUESTIONS FROM
16 LEA'S ABOUT THE LACK OF TESTING ON THIS MATERIAL.
17 THAT'S WHAT I'M REFERENCING. AND YOU ARE SAYING
18 THAT IT HAS BEEN WELL TESTED. AND I'M JUST
19 WONDERING WHAT YOUR REFERENCES MIGHT BE.

20 SUPERVISOR SULLIVAN: I BELIEVE THAT
21 THERE ARE MANY UNIVERSITY TESTS THAT DOCUMENT THE
22 BENEFICIAL USE, AND I ALSO THINK THAT OUR COUNTY
23 COULD BE USED AS A TEXTBOOK TEST IN TERMS OF THE
24 PROBLEMS BECAUSE I THINK, YOU KNOW, WE CERTAINLY
25 HAVE OUR SHARE OF REGULATORY AGENCIES. MANY

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1 PEOPLE IN OUR COUNTY THINK THAT THE OVERSIGHT IN
2 TERMS OF ENDANGERED SPECIES AND THOSE KINDS OF
3 THINGS IS, SOME MIGHT SAY, EXCESSIVE. SO I THINK
4 IF THERE WERE ANY KIND OF PROBLEM, IT WOULD SEEM
5 VERY ODD TO ME THAT NOTHING HAS ARISEN IN EIGHT TO
6 TEN YEARS OF USE AS CLOSELY AS WE'RE MONITORING IN
7 SHASTA COUNTY.

8 MEMBER RELIS: JUST ONE FINAL POINT, JUST
9 A POINT OF CLARIFICATION. JUST FOR THE RECORD, IF
10 FOR SOME REASON ASH WERE DETERMINED TO BE WASTE
11 AND WE WERE TO TREAT IT THAT WAY, IT COULD NOT BE
12 JUST LOCATED ON LAND, THEY WOULD HAVE TO GET A
13 SOLID WASTE PERMIT, AND THAT'S A VERY BIG
14 UNDERTAKING. JUST FOR THE RECORD.

15 SUPERVISOR SULLIVAN: TRUST ME. I CAN
16 APPRECIATE THAT. I DIDN'T MEAN TO BE SO FLIP
17 ABOUT THAT, BUT THE POINT IS THAT IN TERMS OF
18 SIMPLY DUMPING IT SOMEPLACE, RATHER THAN USING IT
19 FOR A BENEFICIAL USE, THAT WOULD BE WHAT WOULD
20 HAVE TO HAPPEN, AND THAT WOULD BE WHAT WOULD
21 HAPPEN. AND YOU'RE ABSOLUTELY RIGHT. IT'S NOT
22 EASY TO GET. THANK YOU.

23 CHAIRMAN FRAZEE: THANK YOU. NOW JOHN
24 BUCHANON REPRESENTING WHEELABRATOR PLANT OPERATOR
25 IN SHASTA COUNTY.

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1 MR. BUCHANON: THANK YOU, MR. CHAIR AND
2 MEMBERS OF THE BOARD. I WORK WITH WHEELABRATOR IN
3 SHASTA COUNTY. WE HAVE TWO PLANTS IN SHASTA
4 COUNTY, AS WELL AS WHEELABRATOR OPERATES ONE
5 SOUTHEAST OF SACRAMENTO.

6 I'D LIKE TO START BY THANKING MR.
7 FRAZEE AND MEMBERS OF STAFF FOR COMING UP TO
8 SHASTA COUNTY LAST MONTH AND TOURING THE FARM
9 FIELDS WHERE WE'VE ESSENTIALLY APPLIED 100 PERCENT
10 OF OUR ASH OVER THE LAST 12 MONTHS. AND I THINK
11 THEY ALL SAW FIRSTHAND HOW THE ASH IS HANDLED IN
12 LEGITIMATE FARMING OPERATIONS.

13 SHASTA COUNTY, AS OUR COUNTY
14 SUPERVISOR POINTED OUT, WE HAD SOME GUIDANCE IN
15 THE EARLY DAYS FROM THE WATER BOARD, BUT
16 ESSENTIALLY IT'S BEEN A NOT REGULATED ACTIVITY AS
17 FAR AS FROM THE OVERSIGHT OF THE WASTE BOARD. OR,
18 YOU KNOW, THE WATER BOARD BASICALLY WILL RESPOND,
19 THE REGIONAL WATER BOARD WILL RESPOND ON
20 COMPLAINTS, BUT THEY HAD GIVEN US GUIDANCE IN THE
21 EARLY DAYS ON STARTING OUR PARTICULAR ASH PROGRAM.

22 WHEN THE STAFF AND MR. FRAZEE CAME
23 UP, WHAT THEY SAW WAS A VAST VARIETY OF
24 APPLICATIONS. WHEELABRATOR SHASTA, BEING THE
25 LARGEST BIOMASS PLANT IN THE STATE OF CALIFORNIA,

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1 IS ALSO ONE OF THE LARGEST ASH GENERATORS IN THE
2 STATE. WE GENERATE 20,000 TONS A YEAR OF ASH
3 OURSELVES IN OUR SINGLE PLANT. THE TYPES OF FARMS
4 THAT WE TOOK THEM OUT TO RANGED FROM THE LOCAL
5 GARDENER -- THE LOCAL GARDEN MERCHANT WHO SELLS
6 VEGETABLES OUT OF HIS GARAGE AND IN LOCAL MARKETS
7 TO ONE OF THE LARGEST WALNUT OPERATIONS IN THE
8 ENTIRE STATE OF CALIFORNIA, WHO HAS TAKEN NEARLY
9 40,000 TONS OF ASH OVER THE LAST THREE YEARS AND
10 USED IT IN HIS 5,000 ACRES OF WALNUTS, WHICH ARE
11 SOLD AS CUSTOM WALNUTS BOTH IN NORTH AMERICA AND
12 EUROPE.

13 THIS IS A VERY EXTENSIVE OPERATION
14 WHERE LOTS OF EQUIPMENT ARE USED. HE HAS SPENT
15 PROBABLY OF HIS OWN MONEY, I WOULD IMAGINE,
16 SOMEWHERE AROUND A QUARTER MILLION DOLLARS IN
17 APPLYING THIS ASH TO HIS ORCHARDS. AND I
18 GUARANTEE YOU THAT THIS PERSON IS NOT DOING IT AS
19 A FAVOR TO US.

20 MOST PEOPLE WOULDN'T SPEND A
QUARTER
21 MILLION DOLLARS TO HELP US OUT. WE PAY HIM
22 NOTHING TO TAKE OUR ASH. WE HAUL IT TO HIM. HE
23 INCORPORATES IT BECAUSE HE HAS SEEN BENEFICIAL
USE
24 FROM IT. HE'S A VERY SHARP INDIVIDUAL.

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OBVIOUSLY

25 WITH AN OPERATION LIKE THIS, HE'S DONE TISSUE

1 CULTURES, HE'S DONE A LOT OF HIS OWN TESTING.

2 THE QUESTION WAS RAISED ABOUT
3 TESTING. UC DAVIS, DR. ROLAND MYERS STAFF, IN
4 FACT, ON THE FIELD TRIP UP TO SHASTA COUNTY, WHEN
5 ONE OF OUR LARGEST PROPERTY OWNERS IN THE COUNTY,
6 WHO ALSO IS ONE OF THE FIRST PEOPLE THAT HAD COME
7 TO US TO USE ASH, HE WAS ADVISED BY DR. ROLAND
8 MYER THAT YOU CAN PUT UP TO 90 TONS AN ACRE OF
9 THIS STUFF ON LAND UP IN SHASTA COUNTY BECAUSE OF
10 YOUR LOW PH AND THERE WOULDN'T BE ANY PROBLEM AND
11 YOU WILL SEE BENEFICIAL USE.

12 THE TEST CONDUCTED BY UC DAVIS HAS
13 SEEN IMPROVED PLANT GROWTH IN EUCALYPTUS ORCHARDS,
14 IN ROW CROPS, AND IN DEPTH CROPS UP TO 200 TONS
15 PER ACRE. OUR NORMAL APPLICATION IS ABOUT 20 TONS
16 PER ACRE ON THESE FARM FIELDS. BUT THERE HAS BEEN
17 EIGHT TO TEN YEARS OF STUDY AT THE UNIVERSITY OF
18 CALIFORNIA DAVIS LOOKING AT BENEFICIAL USE OF ASH.
19 AND I THINK THIS IS A REALLY KEY THING.

20 ONE OF THE THINGS THAT WAS POINTED
21 OUT EARLIER BY THE LEA, AND I THINK IS REAL
22 IMPORTANT TO WHAT WE'RE TALKING ABOUT TODAY, TO
23 TRY AND DECIDE WHERE THIS SHOULD BE PLACED.

24 OBVIOUSLY NONBENEFICIAL USE OF ASH, WE DON'T
25 SUPPORT, WE DON'T ENDORSE, AND WE DON'T CONDONE

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1 IT. IF THERE'S SOMEBODY OUT THERE DOING A SHAM
2 DISPOSAL, WE THINK THAT THEY NEED TO BE REGULATED
3 BY THE BOARD, AND THE BOARD SHOULD HAVE SOME SORT
4 OF REGULATORY OVERSIGHT OVER THEM, BUT I THINK THE
5 ISSUE COMES DOWN TO WE HAVE TAKEN SOME ACTIVITIES
6 WHICH WE'VE SAID THAT ASH IS CLEARLY DEMONSTRATED
7 THAT IT'S BENEFICIAL. AND BECAUSE OF THAT, IT IS
8 OUTSIDE OF THE JURISDICTION OF THE BOARD, AND THE
9 BOARD SHOULD NOT GET INTO IT.

10 THINGS SUCH AS ROAD BASE, WHICH WE
11 ALSO DO WITH OUR BOTTOM ASH. WE GENERATE A FEW
12 THOUSAND TONS A YEAR OF BOTTOM ASH, WHICH HAS BEEN
13 USED AS ROAD BASE IN SHASTA COUNTY BY A LOCAL
14 DEVELOPER. BUT THINGS LIKE FEED LOT STABILI-
15 ZATION, COMPOST FILLER, MANURE STABILIZATION,
16 THESE THINGS HAVE BEEN DETERMINED TO BE BENEFI-
17 CIAL. AND HENCE, SINCE THEY'RE BENEFICIAL, THE
18 BOARD HAS MADE THE DETERMINATION THAT IT SHOULDN'T
19 FALL UNDER THEIR JURISDICTION BECAUSE IT'S BEEN
20 DOCUMENTED BENEFICIAL USE FOR THIS.

21 NOW, ALL OF THESE APPLICATIONS HAVE
22 THE SAME POTENTIAL TO BE ABUSED. THERE IS NO
23 DOUBT THAT IN SOCIETY THERE'S GOING TO BE HONEST
24 PEOPLE AND DISHONEST ONES. WE CAN'T CHANGE THAT.
25 THEY'RE IN ALL BUSINESSES, THEY'RE IN PUBLIC,

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1 THEY'RE EVEN IN GOVERNMENT. I THINK WE HAVE 95
2 PERCENT OF THE APPLICATIONS ARE PROBABLY DONE IN A
3 VERY RESPONSIBLE MANNER IN THIS STATE AND WE HAVE
4 A SMALL PERCENTAGE THAT ARE ABUSED. AND WHAT WE
5 WOULD REALLY RECOMMEND IS THAT WE FIND SOME WAY OF
6 ENCOURAGING THE PROPER USE OF ASH BECAUSE IT
7 DEFINITELY HAS BENEFICIAL USE.

8 SOME OF THE STATES LIKE MAINE HAVE
9 ACTUALLY PUT A DOLLAR PER TON NUTRIENT VALUE ON
10 ASH. ON THE WEST COAST WE'RE A LITTLE YOUNGER IN
11 THIS INDUSTRY. WE FINALLY REACHED THE POINT WITH
12 OUR PARTICULAR PLANT WHERE NEXT YEAR WE HAVE MORE
13 FARMERS ASKING FOR ASH THAN WE CAN PHYSICALLY
14 SUPPLY. WE HOPE THAT AT SOME POINT THAT'S GOING
15 TO MEAN THAT THEY'RE GOING TO START PAYING FOR OR
16 SUBSIDIZING PART OF THE TRANSPORTATION. AT THIS
17 POINT WE'VE NEVER PAID A FARMER TO TAKE ASH. WE
18 DON'T PLAN TO EVER PAY THEM. WE'VE MADE A
19 CONSCIOUS DECISION TO SEND IT TO A LANDFILL BEFORE
20 WE PAY SOMEBODY BECAUSE WE FEEL IF WE'RE PAYING
21 SOMEBODY, YOU ARE RISKING THAT CHANCE OF, YOU
22 KNOW, SOMEBODY WANTING TO TRY AND DO SOMETHING FOR
23 GAIN.

24 BUT THERE CLEARLY HAVE BEEN
25 DEMONSTRATED BENEFICIAL USE TO LAND APPLICATION OF

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1 ASH. I'M SURE THERE ARE JUST AS EASILY CLEARLY
2 DEMONSTRATED ABUSES. BUT IF SOMETHING IS
3 BENEFICIAL, WE'VE ALREADY SAID THAT THERE ARE
4 BENEFICIAL ACTIVITIES EXCLUDED FROM THE BOARD'S
5 REGULATIONS. AND THE QUESTION SEEMS TO BE IS THIS
6 OR IS THIS NOT BENEFICIAL. I WOULD HOPE THAT UC
7 DAVIS WOULDN'T STUDY SOMETHING FOR TEN YEARS
8 WITHOUT SOME INITIAL INDICATION THAT THERE'S
9 BENEFICIAL APPLICATION OF WOOD ASH. TEN YEARS OF
10 STUDY SEEMS LIKE AN AWFUL LONG TIME FROM A
11 UNIVERSITY.

12 AND, YOU KNOW, THERE'S A LOT OF
13 STUDIES, LIKE I SAID, ELSEWHERE IN THE COUNTRY.
14 WE HOPE THAT THE BOARD WILL SERIOUSLY CONSIDER
15 WHAT WILL HAPPEN IF WE PUT THIS INSIDE THE TIERS
16 AND GIVE IT THE STIGMA OF A WASTE.

17 ONE OF THE THINGS WE DID ON OUR
18 FIELD TRIP. LAST TIME I TESTIFIED HERE, I SAID IN
19 MY OPINION IF WE CALLED THIS A WASTE, WE WOULD
20 DISCOURAGE LEGITIMATE LANDOWNERS FROM USING IT.
21 AND I WAS ASKED BY THE BOARD HAD WE GONE OUT AND
22 ASKED THE FARMERS. AT THAT TIME I HADN'T. I WAS
23 GIVING MY OPINION HOW I WOULD VIEW IT WHEN I'VE
24 USED THE ASH ON MY OWN PROPERTY. I HAVE 12 ACRES
25 IN SHASTA COUNTY. I'VE APPLIED ASH TO IMPROVE THE

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1 SOIL CONDITIONS FOR PH. AND I KNOW HOW I WOULD
2 FEEL HAVING USED THE ASH.

3 SO ON OUR FIELD TRIP WE DELIBERATELY
4 ASKED EACH OF THE FARMERS. IT WAS THE FIRST TIME
5 I HAD TALKED TO MANY OF THEM IN A FEW YEARS. AND
6 WE ASKED THEM IN FRONT OF THE BOARD, "WOULD YOU
7 TAKE THIS IF THIS IS CLASSIFIED AS A WASTE?"
8 EVERY SINGLE PERSON FROM THE LARGEST WALNUT
9 PACKAGER IN THE STATE DOWN TO THE GUY THAT SELLS
10 MONSTER JALAPENOS OUT OF HIS GARAGE MADE THE SAME
11 STATEMENT. NO. THEY'RE NOT GOING TO HAVE
12 SOMEBODY PERCEIVE THEIR FARM, THEIR PROPERTY THAT
13 THEY MAY SELL SOMEDAY, OR THEIR BUSINESS WHERE
14 THEY HAVE TO OBTAIN BANK LOANS FOR A MULTIMILLION
15 DOLLAR OPERATION AS A WASTE DISPOSAL SITE.

16 SO I THINK IT'S A REAL SERIOUS
17 QUESTION. IT'S ONE OF THE ONES THAT ELLIOT
18 POINTED OUT IN HIS BRIEF, WHICH I THINK IS AN
19 IMPORTANT ONE TO DISCUSS HERE BECAUSE THIS WILL
20 DESTROY THE BENEFICIAL USE. I MEAN AT LEAST I
21 KNOW FOR OUR PLANT WE VIEW THAT IF THIS IS LABELED
22 AS A WASTE, THE NEXT DAY WE'LL BE GOING BACK TO
23 THE LANDFILL WITH 20,000 TONS OF ASH A YEAR. OUR
24 PEOPLE HAVE ALREADY TOLD US NO. SO IT'S CLEAR-CUT
25 FOR US. WE'RE GOING TO STAY WITHIN THE LAW.

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1 WE'RE NOT GOING TO GO TO SOME SHAM DISPOSAL. SO
2 WE'LL SPEND ONE-HALF MILLION DOLLARS A YEAR IN
3 DISPOSING OF THIS MATERIAL. THANK YOU VERY MUCH.

4 CHAIRMAN FRAZEE: QUESTIONS?

5 IF NOT, BOB ALLEN, BURNEY FOREST
6 PRODUCTS.

7 MR. ALLEN: I HOPE YOU WILL BEAR WITH ME.
8 I'LL BE A LITTLE NERVOUS. THIS IS OUT OF MY
9 NORMAL REALM OF ACTIVITIES. MY NAME IS BOB ALLEN.
10 I'M THE FUEL SUPPLY MANAGER FOR A WOOD BURNING
11 POWER PLANT. MOST OF OUR FUEL IS -- WELL, ALL OF
12 IT, AS A MATTER OF FACT, IS DERIVED FROM FOREST
13 THINNINGS OR SAWMILL ACTIVITIES. SO IT'S ALL COME
14 FROM CONIFER TREES ESSENTIALLY.

15 WHAT A CONIFER TREE IS IS MADE UP OF
16 THE NUTRIENTS THAT ARE IN OUR SOIL. AND SO WE'RE
17 NOT ADDING ANYTHING INTO THIS ASH STREAM THAT, I
18 BELIEVE, IS HARMFUL TO ANY LIVING CREATURE FOR
19 THAT MATTER. OUR ASH IS REGULATED BY FOOD AND
20 AGRICULTURE. WE DO HAVE AN AGRICULTURAL LABEL.

21 WE ARE VISITED BY AGRICULTURAL
22 DEPARTMENT ON AN UNANNOUNCED BASIS. THEIR
23 REPRESENTATIVE TAKES A SAMPLE OF OUR ASH, RUNS

THE

24 TESTS ON IT TO SEE IF IT DOES CONTAIN THE
ELEMENTS

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25 THAT WE CLAIM IT DOES UNDER OUR LICENSE WITH
THEM

1 AS AN AGRICULTURAL PRODUCT.

2 STATE WATER QUALITY CONTROL BOARD,
3 THE LOCAL FOLKS, WE HAVE WASTE DISCHARGE PERMITS
4 FOR OUR FACILITY. ESSENTIALLY WE ARE A ZERO
5 DISCHARGE FACILITY. WE EVEN COLLECT THE RAINWATER
6 AND RECYCLE IT ON OUR PLANT SITE.

7 IF WE WERE ABUSING ASH AND NOT DOING
8 AGRONOMIC RATES, THE LOCAL RANCHERS AND FARMERS
9 CERTAINLY WOULDN'T BE USING IT. WE'VE DIVERTED
10 OUR ASH FROM LANDFILLS FOR THE LAST EIGHT YEARS.
11 IF THE ASH FROM OUR PLANT WAS PUT BACK INTO THE
12 SOLID WASTESTREAM AND GOING TO THE LANDFILL, THE
13 BASE QUANTITIES IN SHASTA COUNTY -- I DON'T KNOW
14 WHAT THESE NUMBERS ARE -- BUT I BELIEVE OUR PLANT
15 WAS NOT INCLUDED IN THAT DIVERSION BASELINE. SO
16 SHASTA COUNTY COULD WELL BE ABOVE THE REQUIREMENTS
17 THAT -- ON 939.

18 WE EARLY ON ABOUT, I GUESS ABOUT
19 EIGHT YEARS AGO, FUNDED A STUDY WITH OUR LOCAL AG
20 EXTENSION AGENT IN EASTERN SHASTA COUNTY, AND ALSO
21 HAD DR. ROLLY MYERS FROM DAVIS UP TO ADDRESS THE
22 CONCERNS OF APPLYING ASH TO THE GROUND WITH THE
23 LOCAL RANCHERS. AND WHAT WE DID AT THAT
24 PARTICULAR SITE IS WE APPLIED ASH AT A 40-

PERCENT

25 MOISTURE CONTENT, SO 40 PERCENT OF THE WEIGHT

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WAS

1 WATER. BUT AT THAT MOISTURE CONTENT, WE APPLIED
2 64 TONS TO THE ACRE. IT WAS DISKED THEN WITH A
3 30-INCH DISK. THE YIELD OF CROP PER ACRE WAS A
4 MULTIPLE OF FOUR TIMES GREATER THAN IT WAS IN THE
5 ADJACENT LAND. WE JUST DID A ONE-ACRE TEST PLOT
6 SQUARE OUT IN THE MIDDLE OF A FIELD.

7 WE BELIEVE THAT THE BENEFICIAL USES
8 OF ASH MUCH OUTWEIGH TAKING IT BACK TO THE
9 LANDFILL. IF WE ARE CLASSIFIED AS A WASTE, I CAN
10 SEE WE'RE GOING BACK INTO A LANDFILL. IF THERE
11 ARE A FEW INDIVIDUALS WHO ARE ABUSING AGRONOMIC
12 USES OF ASH, I BELIEVE THERE SHOULD AND ARE
13 EXISTING REGULATIONS WHERE THAT CAN BE DEALT WITH
14 IN APPROPRIATE MANNERS. I DON'T THINK, TO USE A
15 REAL PLAIN METAPHOR, YOU SHOULD THROW OUT THE BABY
16 WITH THE BATH WATER. DON'T PENALIZE THE MAJORITY
17 FOR A FEW BAD ACTORS. THANK YOU.

18 CHAIRMAN FRAZEE: THANK YOU. NOW KATHY
19 CURRIE REPRESENTING CALIFORNIA BIOMASS ENERGY
20 ALLIANCE.

21 MS. CURRIE: KATHY CURRIE, REPRESENTING
22 THE BIOMASS ENERGY ALLIANCE. I WANT TO MAKE JUST
23 THREE QUICK POINTS. I THINK MOST OF THEM HAVE
24 BEEN MADE IN SOME OR ANOTHER ALREADY TODAY.
25 TOUCHING ON JURISDICTION, THE SECOND -- THE LEA

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1 PERCEPTION THAT I'VE PICKED UP FROM THIS MEETING
2 TODAY AND THEN THE QUESTION OF OVERSIGHT AND
3 BALANCING.

4 FIRST, IN TERMS OF JURISDICTION, OUR
5 POSITION IS AND ALWAYS HAS BEEN THAT THIS ASH IS
6 NOT A WASTE IF IT'S BENEFICIALLY USED. IT'S THAT
7 IF CLAUSE THAT REALLY IS THE OPERATIVE PART OF
8 THAT STATEMENT. SO WE WOULD CONCUR THAT THERE IS
9 SOME LEVEL OF OVERSIGHT THAT'S NECESSARY IN ORDER
10 TO DETERMINE AND MAKE A DISTINCTION BETWEEN
11 DISPOSAL-TYPE OPERATIONS AND ACTUAL BENEFICIAL
12 USE.

13 THE SECOND POINT I'D LIKE TO MAKE
14 HAD TO DEAL WITH LEA PERCEPTION. I THINK BY
15 VIRTUE OF HOW THIS TRANSPIRED, PART OF THE
16 REACTION THAT YOU'RE HEARING FROM THE LEA'S
TODAY

17 SPRINGS FROM A FEAR THAT YOU WOULD NOT REGULATE
AT
18 ALL, NOT EXERCISE ANY OVERSIGHT OVER THIS
19 ACTIVITY.

20 MY SENSE OF WHERE YOU ARE GOING IS
21 THAT YOU WILL, IN FACT, EXERCISE SOME OVERSIGHT.
22 THEN THE QUESTION IS HOW MUCH OVERSIGHT, WHICH
23 LEADS TO MY THIRD POINT. AND THAT IS THE NEXT
24 STAGE IN THIS PROCESS IS GOING TO BE BALANCING

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THE
25 INTERESTS THAT YOU'VE HEARD.

1 THERE'S A VERY REAL AND LEGITIMATE
2 FEAR THAT IN PUSHING THIS INTO A WASTE
3 CLASSIFICATION, YOU ARE GOING TO SEVERELY LIMIT
4 OUR POTENTIAL TO RECYCLE THIS MATERIAL. YOU'RE
5 BALANCING THAT AGAINST AN LEA PERCEPTION THAT
THEY
6 NEED SOME REGULATORY HANDLE TO MAKE SURE THAT
THIS
7 ISN'T DISPOSAL. WE BELIEVE YOU CAN ACHIEVE THAT
8 IN THE EXCLUDED TIER, THAT YOU CAN ADOPT
9 SELF-IMPLEMENTING STANDARDS WHICH IS A COMMON
10 PRACTICE. THAT'S HOW DTSC REGULATES HAZARDOUS
11 WASTES, WHICH IS BY FAR A MORE RISKY ENDEAVOR
THAN
12 AGRONOMIC PRACTICES.

13 WE THINK YOU CAN ACHIEVE THAT
14 OBJECTIVE THROUGH SELF-IMPLEMENTING TIERS IN THE
15 EXCLUDED TIER. WE'RE ATTEMPTING TO WORK WITH
16 STAFF TO DEVELOP LANGUAGE THAT WILL BE CLEAR AND
17 SIMPLE AND EASILY IMPLEMENTED BY THE LEA'S TO
18 ENSURE THAT THESE OPERATIONS ARE NOT, IN FACT,
19 SHAM DISPOSAL. THANK YOU VERY MUCH.

20 CHAIRMAN FRAZEE: THANK YOU. CHUCK
WHITE
21 OF WMX.

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22 MR. WHITE: THANK YOU, MR. CHAIRMAN,
23 MEMBERS OF THE COMMITTEE. IT IS CHUCK WHITE WITH
24 WMX.
25 I DO WANT TO START OUT BY

1 REITERATING THAT STAFF HAS DONE AN EXCELLENT JOB
2 IN PUTTING TOGETHER THE AUTHORITY ISSUE PAPER. I
3 DON'T THINK THERE'S ANY QUESTION THAT ASH IS
4 INCLUDED AS ONE OF THE TERMS IN THE DEFINITION OF
5 SOLID WASTE. IN FACT, ASH MIGHT BE MANAGED IN
6 MANY CIRCUMSTANCES AS A SOLID WASTE. HOWEVER,
7 EQUALLY TRUE, THERE'S NO QUESTION IN OUR MINDS
8 CERTAINLY THAT ASH CAN, IN FACT, IS BEING USED
9 BENEFICIALLY AS A COMMERCIAL PRODUCT WITHIN THE
10 STANDARDS FOR USE IN THE MARKETPLACE.

11 THE CENTRAL ISSUE BEFORE THIS
12 COMMITTEE AND THE BOARD IS HOW DO YOU DEFINE AND
13 SEPARATE THESE TWO TYPES OF ACTIVITIES. ON ONE
14 HAND, YOU HAVE SOLID WASTE MANAGEMENT AND
15 DISPOSAL. ON THE OTHER HAND, YOU HAVE BENEFICIAL
16 USE.

17 WITH RESPECT TO THE SOLID WASTE
18 DISPOSAL, WE WANT THIS BOARD AND THE LEA'S TO
19 EXERCISE THEIR FULL AND COMPLETE AUTHORITY OVER
20 THE MANAGEMENT AND HANDLING OF ASH AS A SOLID
21 WASTE. WE WANT YOU TO HAVE CLEAR AND UNAMBIGUOUS
22 AUTHORITY TO REGULATE, TO CONTROL THIS ACTIVITY,
23 AND, INDEED, IT'S OUR INTENT TO ENSURE THAT YOU
24 HAVE THIS FULL AUTHORITY; AND, HOPEFULLY, THE
25 REGULATIONS, AS THEY BECOME DEVELOPED, WILL

MAKE

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1 SURE THAT THIS IS CLEAR, THAT WHEN ASH IS BEING
2 HANDLED AS A SOLID WASTE, PARTICULARLY IF IT'S
3 BEING DISPOSED OF AS A SOLID WASTE, YOU HAVE CLEAR
4 AND UNAMBIGUOUS AUTHORITY TO MANAGE AND REGULATE
5 THAT ACTIVITY.

6 HOWEVER, IF AN ASH PRODUCT IS USED
7 BENEFICIALLY, WHETHER IT'S FOR SNOW AND ICE
8 CONTROL, WHETHER IT'S FOR ROADBED MATERIAL, OR
9 WHETHER IT'S USED AS AN AGRONOMIC PRODUCT, THIS
10 BOARD SHOULD NOT HAVE THE AUTHORITY TO REGULATE
11 THAT AS A SOLID WASTE. IT SHOULD BE EXCLUDED FROM
12 REGULATION. JUST AS IS TRUE WITH SNOW AND ICE
13 REMOVAL, ROADBED MATERIALS, YOU CAN, IN FACT,
14 MISMANAGE IT. IF YOU -- I CAN IMAGINE PUTTING IT
15 DOWN FOR SNOW AND ICE CONTROL A QUARTER OF AN
16 INCH. IF YOU WERE TO PUT DOWN 2 FEET FOR SNOW AND
17 ICE CONTROL, ONE WOULD BEGIN TO WONDER ARE YOU
18 REALLY USING IT FOR SNOW AND ICE CONTROL OR ARE
19 YOU USING IT FOR SOME OTHER PURPOSE.

20 THIS IS TRUE ACROSS THE BOARD. THE
21 QUESTION IS WE NEED TO TRY TO CLEARLY DEFINE WHICH
22 SIDE OF THE FENCE YOU'RE ON. THE BOARD HAS
23 ADDRESSED THIS IN A LOT OF WAYS IN THE PAST
24 ACTUALLY, FOR EXAMPLE, PAPER. IF YOU ARE
25 RECEIVING SOURCE SEPARATED RECYCLABLES THAT PASS

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1 THE TWO-PART TEST, YOU HAVE ALREADY SAID THAT THIS
2 MATERIAL IS NOT A SOLID WASTE. YOU WANT TO HAVE
3 IT EXCLUDED. YOU ADOPTED A POLICY IN OCTOBER '95
4 THAT BASICALLY WAS IT WOULD BE OUTSIDE OF YOUR
5 PURVIEW.

6 WHAT IF YOU WERE TO STOCKPILE PAPER
7 IN SUCH A WAY THAT IT BECOMES MISMANAGED? IF
8 YOU -- YOU CANNOT PRECLUDE FOREVER THAT SOMEONE
9 MAY NOT PUT A PILE OF PAPER TOGETHER AND THEY
10 START BLOWING ALL OVER THE COMMUNITY, CREATING A
11 NUISANCE. IS THE WAY TO GO BACK IN AND MANAGE
12 THAT AS A SOLID WASTE OR USE YOUR NUISANCE
13 AUTHORITY TO PROPERLY CONTROL THAT PAPER, THAT
14 INCLUDED PAPER ACTIVITY?

15 THE THING I WANT TO REMIND YOU OF IS
16 THAT AB 939, AND I'M SURE YOU'RE ALL AWARE OF IT,
17 SHOULD BE VIEWED AS A BACKDROP AGAINST ALL OF
18 THESE DISCUSSIONS. WHILE THE PUBLIC RESOURCES
19 CODE DOES INCLUDE ASH IN THE DEFINITION OF SOLID
20 WASTE, INCLUDES MANY OTHER MATERIALS THAT ARE ALSO
21 INCLUDED IN THE DEFINITION OF SOLID WASTE. AND
22 THE ONLY WAY THAT AB 939 WORKS IS IF YOU REACH
23 INTO THOSE MATERIALS AND PULL THEM OUT AND NO
24 LONGER TREAT THEM AS SOLID WASTE, BUT RECLAIM THEM
25 AND REUSE THEM. IN FACT, THE DEFINITION OF

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1 RECYCLING THAT ELLIOT MENTIONED CLEARLY STATES THE
2 MATERIALS THAT WOULD HAVE OTHERWISE BECOME A SOLID
3 WASTE, THEY'RE RECYCLED AND REUSED TO ENTER THE
4 ECONOMIC MAINSTREAM OF PRODUCT.

5 PEOPLE SEEM TO INDICATE THAT BECAUSE
6 ASH APPEARS IN THE DEFINITION OF SOLID WASTE,
7 THEY'RE REALLY ONLY LOOKING AT THAT DEFINITION AND
8 NOT LOOKING AT HOW IT FITS IN, I BELIEVE, INTO THE
9 REST OF THE DEFINITIONS THAT ARE OPERATIVE WITHIN
10 THE PUBLIC RESOURCES CODE.

11 THE CHALLENGE THAT FACES THIS BOARD
12 IS TO CREATE THIS BRIGHT LINE OR CURTAIN, IF YOU
13 WILL, WHICH CLEARLY SAYS ON ONE SIDE YOU'VE GOT
14 MATERIAL THAT'S BEING MANAGED AS SOLID WASTE,
15 WHETHER IT'S DISPOSAL OR STORAGE OR MANAGEMENT,
16 YOU REGULATE THAT ACTIVITY. ON THE OTHER SIDE IS
17 MATERIAL THAT'S BENEFICIAL USE. YOU DON'T
18 REGULATE THAT ACTIVITY, BUT YOU DO REGULATE THAT
19 BOUNDARY LINE. YOU BASICALLY CREATE DEFINITIONAL
20 PARAMETERS, EITHER BROADLY DEFINED OR

DEFINITIONAL

21 PARAMETERS OR PERHAPS MORE NARROWLY SPECIFICALLY
22 DEFINED. BUT AGAIN, ON ONE SIDE IT'S SOLID
WASTE;

23 ON ONE SIDE IT'S A RECLAIMED PRODUCT BEING USED.

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24

WHAT ARE SOME OF THESE CRITERIA

THAT

25

SHOULD BE USED? WE 'VE BEEN WORKING TOGETHER WITH

1 OTHER MEMBERS OF THE ASH INDUSTRY TO TRY TO COME
2 UP WITH A CRITERIA. WE HOPE THAT WE WILL BE IN A
3 POSITION TO IN THE VERY NEXT FEW DAYS TO COME AND
4 GIVE OUR SENSE OF HOW THIS BRIGHT LINE CRITERIA
5 SHOULD BE DRAWN. THERE'S A NUMBER OF THINGS THAT
6 CAN BE USED TO EITHER GENERALLY OR SPECIFICALLY,
7 SUCH AS WHETHER OR NOT YOU HAVE AN AGRICULTURAL
8 PROFESSIONAL INVOLVED AND DETERMINES WHETHER OR
9 NOT THIS STUFF IS BEING USED BENEFICIALLY. HAVE
10 WDR'S BEEN ISSUED? IS THE MATERIAL APPLIED
11 APPROPRIATELY? DOES IT MEET THE STANDARDS FOR USE
12 IN THE MARKETPLACE? WHETHER THAT'S A PH LEVEL OR
13 A METAL CONTROL LEVEL.

14 MAYBE THERE SHOULD BE SOME NOTICE.
15 IF SOMEONE IS CLAIMING THAT THEY ARE SEEKING AN
16 EXCLUSION, THAT THERE'S A NOTICE THAT YOU'RE
17 CLAIMING THIS EXCLUSION FROM REGULATION AS A SOLID
18 WASTE, AND SO IT'S ALL IN FRONT, FULL DISCLOSURE,
19 NOTHING IS BEING HIDDEN, AND YOU'VE REGISTERED
20 YOUR PRODUCT OR FERTILIZER WITH THE DEPARTMENT OF
21 FOOD AND AGRICULTURE AS A FERTILIZER, AS A SOIL
22 AMENDMENT.

23 THESE KIND OF CRITERIA, WE THINK,
24 CAN BE USED TO, WE BELIEVE, CLEARLY DELINEATE
25 THOSE SITUATIONS THAT ARE LAND APPLICATION AS

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1 BENEFICIAL USE VERSUS LAND DISPOSAL AS A SOLID
2 WASTE. WE WOULD ASK THE BOARD TODAY, THE
3 COMMITTEE TODAY AND THE BOARD TO PROVIDE DIRECTION
4 THAT THIS IS A LEGITIMATE CONCEPT, THAT THERE
5 IS -- IN FACT, ASH CAN FALL IN BOTH CAMPS, AND THE
6 BOARD SHOULD REGULATE THAT PORTION OF ASH THAT IS
7 BEING MANAGED AS A SOLID WASTE; BUT ON THE OTHER
8 HAND, THAT MATERIAL THAT CLEARLY MEETS THIS
9 CRITERIA, WHICH WE HOPE TO DEVELOP IN CONCERT WITH
10 THE STAFF AND OTHER INTERESTED PARTIES, THAT ONCE
11 YOU PASS THROUGH THAT CRITERIA, YOU ARE EXCLUDED
12 AND YOU ARE BENEFICIALLY USED, AND IT'S NOT A
13 SOLID WASTE.

14 SO THE BOARD, AGAIN, REGULATES
15 MATERIALS ON ONE SIDE AND REGULATES THAT BORDER,
16 IF YOU WILL, BUT ONCE THROUGH THAT BORDER, THERE
17 WOULD BE LIMITED DIRECT OVERVIEW AND OVERSIGHT.
18 THAT'S ALL I HAVE TO SAY THIS MORNING, AND I
19 APPRECIATE YOUR TIME. THANK YOU VERY MUCH.

20 CHAIRMAN FRAZEE: THANK YOU. NOW,
21 PAUL -- I'M SORRY I CAN'T READ -- DEROSHER.

22 MR. DEROSHER: MY NAME IS PAUL DEROSHER
23 WITH THERMO ECOTECH. WE HAVE THREE
24 BIOMASS-TO-ENERGY FACILITIES IN CALIFORNIA,
25 PRIMARILY IN THE CENTRAL VALLEY; ONE IN WOODLAND,

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1 MENDOTA, AND DELANO.

2 JUST WANTED TO MAKE A COUPLE POINTS.
3 ONE, THAT WE HAVE A CONTINUAL TESTING PROGRAM FOR
4 OUR ASH, BOTH FROM THE FEEDSTOCK SIDE AND ALSO
5 FROM OUR REGULAR, AS WE DEVELOP OUR ASH, ON A
6 WEEKLY BASIS, WE DO ONGOING ANALYSIS. WE ALSO
7 HAVE A RECORDKEEPING SYSTEM WITHIN WHERE WE KNOW
8 EXACTLY WHERE OUR ASH IS BEING APPLIED AND WHAT
9 USE.

10 IT SEEMS -- A QUESTION I HAVE IN MY
11 MIND, IT SEEMS 68 PERCENT OF THE FEEDSTOCK THAT
12 WE
13 USE IN OUR BIOMASS FACILITIES IS COMING FROM
14 AGRICULTURE IN THE FIRST PLACE, PRIMARILY
15 PRUNINGS
16 AND ORCHARD REMOVALS THAT WOULD NORMALLY BE OPEN
17 FIELD BURNED. AND I GUESS I DON'T HAVE TO TELL
18 YOU WHERE THAT ASH GOES. IT GOES OPEN FIELD
19 BURN,
20 IT STAYS ON THE GROUND AND IT'S APPLIED TO THE
21 GROUND.

22 WE'RE JUST BASICALLY GETTING
23 ANOTHER
24 VALUE OUT OF IT BY PRODUCING ENERGY AND THEN
25 DOING

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21 A GROUND APPLICATION. OUR FACILITIES, AS YOU
MOVE

22 FROM THE UPPER PART OF THE STATE TO THE NORTHERN

23 PART OF THE STATE TO THE SOUTHERN PART OF THE

24 STATE, THERE'S NOT AS GREAT A NEED FOR PH

25 ENHANCERS IN THE NORTHERN PART OF THE STATE -- IN

1 THE SOUTHERN PART OF THE STATE AS THERE IS IN THE
2 NORTHERN PART OF THE STATE. SO WE'VE LOOKED AT
3 OTHER BENEFICIAL USES, AND THAT'S HOW OUR ASH IS
4 CURRENTLY APPLIED, FOR BOTH ROAD BASE AND FEED LOT
5 STABILIZATION.

6 THE DAIRY INDUSTRY FOR THE LAST YEAR
7 AND A HALF HAS BEEN USING ASH AS AN OPTION TO
8 BRINGING IN MATERIALS OR ACTUALLY PUTTING IN
9 CEMENT MOUNDS IN ORDER TO KEEP THE CATTLE DRY AND
10 WHERE THEIR WASTES ARE DRAINED VERSUS IT BEING
11 THEM BEING IN A MUDDY CONDITION. AND MOST OF --
12 I'D SAY 80 PERCENT OF OUR ASH RIGHT NOW IS BEING
13 DAIRY FEED LOTS, DAIRY LOTS AND FEED LOTS FOR THE
14 APPLICATION BECAUSE IT'S A CHEAPER MATERIAL THAN
15 HAVING TO IMPORT EITHER NATIVE MATERIAL OR CEMENT.

16 THOSE ARE BASICALLY THE POINTS, THAT
17 WE'RE NOT ALLOWING ANY OF OUR MATERIAL GOING OUT
18 WHERE IT IS GOING TO JUST BE LANDFILLED. WE --
19 BECAUSE OF THE ACCOUNTING PROCEDURES THAT WE HAVE
20 AND THE CONTRACTS THAT WE HAVE WITH THE PEOPLE
21 THAT WE WORK WITH ON OUR ASH, WE'RE NOT ALLOWING
22 THAT TO HAPPEN. AND WE ALSO, LIKE I SAID, WE HAVE
23 AN ONGOING REGULAR TESTING PROGRAM. THANK YOU.

24 CHAIRMAN FRAZEE: THANK YOU. CAROLYN
25 BAKER, REPRESENTING COGENERATION ASH COALITION.

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1 MS. BAKER: THANK YOU, MR. CHAIRMAN.
2 CAROLYN BAKER REPRESENTING THE COGENERATION ASH
3 COALITION. TO SAVE TIME AND BE BRIEF, LET ME JUST
4 START BY SAYING THAT I WOULD LIKE TO REITERATE
5 THAT THE COGENERATION ASH COALITION FULLY SUPPORTS
6 THE POSITIONS AS EXPRESSED BY MR. WHITE AND MS.
7 CURRIE, AND, IN FACT, AS MR. WHITE MENTIONED, WE
8 ARE DILIGENTLY WORKING TOGETHER TO DEVELOP THE
9 BRIGHT LINE TEST THAT WE HOPE WILL MAKE THIS A
10 MUCH MORE SIMPLE AND CLEAN PROCESS BOTH FOR LEA'S
11 AND INDUSTRY.

12 HOWEVER, THERE ARE A COUPLE OF
13 POINTS I'D LIKE TO ADDRESS THAT WERE RAISED BY
MR.
14 PADILLA SPECIFIC TO SAN JOAQUIN COUNTY. FIRST,
15 REGARDING THE FULL SOLID WASTE FACILITIES PERMIT
16 THAT IS REQUIRED IN THAT COUNTY, THE STIGMA OF
ASH
17 AS A WASTE HAS BEEN THE DETERRENT AND HAS BEEN
THE
18 REASON THAT WE HAVE OPTED TO NOT EVEN PURSUE A
19 PERMIT IN THAT COUNTY AND TO TAKE OUR ASH TO
OTHER
20 COUNTIES, LIKE STANISLAUS COUNTY, FOR EXAMPLE,
FOR

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21 LAND APPLICATION.

22 THAT STIGMA IS REAL. FARMERS DO

NOT

23 WANT TO TOUCH A MATERIAL THAT'S BEEN CLASSIFIED

AS

24 A WASTE. SO I DID WANT TO CLARIFY THAT, EVEN

25 THOUGH THERE IS NO LOCAL ORDINANCE IN THAT

COUNTY,

1 THE STIGMA ITSELF IS ENOUGH TO PROHIBIT THE
2 BENEFICIAL USE OF THE MATERIAL.

3 SECOND, YOU YOURSELF, MR. CHAIRMAN,
4 MENTIONED PACKAGING OF ASH AND LABELING AS
5 SOMETHING ELSE, WHICH IF LABELED PROPERLY PER
6 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE'S
7 STANDARDS AND REGULATIONS, CAN BE APPLIED TO LAND
8 WITHOUT SUCH A PERMIT. AND, IN FACT, OUR ASH IS
9 PACKAGED AND REGISTERED WITH CDFA AS A FERTILIZING
10 MATERIAL, BUT YET WE HAVE CHOSEN TO NOT USE IT IN
11 SAN JOAQUIN COUNTY JUST SIMPLY BECAUSE OF THE
12 DIFFICULTIES THAT WE'VE EXPERIENCED THERE.
13 HOWEVER, WE BELIEVE THAT THE OVERSIGHT EXERCISE BY
14 CDFA AND THE COUNTY AGRICULTURAL COMMISSIONERS
15 DOES SUFFICE FOR THE USE OF FERTILIZING MATERIALS,
16 AND WE WOULD JUST LIKE TO MAKE SURE THAT SUCH
17 MATERIALS ARE TREATED CONSISTENTLY. THANK YOU.

18 CHAIRMAN FRAZEE: THAT'S ALL OF THE
19 REQUESTS TO SPEAK THAT WE HAVE. THE ITEM IS
20 BEFORE THE COMMITTEE NOW, AND LET ME JUST MAKE
21 SOME SUGGESTIONS.

22 I -- FIRST OF ALL, GOING BACK TO MY
23 ORIGINAL ADMONITION, THAT WE'RE NOT HERE TO
24 ESTABLISH THE REGULATIONS TODAY OR TO PICK OVER
25 THOSE ONE WAY OR THE OTHER, BUT TO MAKE CLEAR THAT

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1 WE'RE WITHIN THE AUTHORITY AND GIVE SOME DIRECTION
2 ON HOW THAT AUTHORITY SHOULD BE APPLIED. AND
3 AGAIN, I DON'T THINK WE CAN NIT-PICK THIS WHOLE
4 ISSUE, AND I'VE NARROWED IT DOWN TO PERHAPS THREE
5 SPECIFIC POINTS.

6 FIRST OF ALL, THE AUTHORITY ISSUE, I
7 THINK, AS I SAID AT THE OUTSET, I BELIEVE THAT THE
8 BOARD DOES HAVE THE AUTHORITY TO REGULATE ASH AND,
9 IN FACT, BY STATUTE WE ARE REQUIRED TO.

10 SECOND, I BELIEVE THAT THE
11 BENEFICIAL USE OF ASH FROM SPECIFIED FACILITIES
12 SHOULD FALL IN THE EXCLUSION TIER. TO ACCOMMODATE
13 THAT, WE NEEDED A DEFINITION OF THE FACILITIES AND
14 THE TYPE OF ASH. AND TO THE THIRD POINT, THAT WE
15 NEED TO ACCOMMODATE SOME REGISTERING OF THE
16 PRODUCT WITH FOOD AND AG SO THE OPERATOR KNOWS
17 WHAT THE PRODUCT IS THAT THEY'RE USING.

18 OTHER POINTS THAT --

19 MEMBER RELIS: IT SEEMS TO ME TO PROVIDE
20 A GOOD FRAMEWORK. SO WE HAVE THE AUTHORITY.
21 SECOND, BENEFICIAL USE SHOULD BE IN THE EXCLUSION
22 TIER. AND THIRD, WE WOULD PURSUE SOME
23 REGISTRATION OR A DISCUSSION WITH --

24 CHAIRMAN FRAZEE: BE A REQUIREMENT THAT
25 THE MATERIAL, IF HELD OUT FOR BENEFICIAL USE,

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1 WOULD BE REQUIRED TO BE REGISTERED AS OTHER
2 MATERIALS ARE WITH FOOD AND AG.

3 MEMBER RELIS: SO EVEN -- LET'S JUST SAY
4 IT'S BULK. I THOUGHT -- NOW I'M NOT CLEAR, BUT
5 DOES FOOD AND AG MAKE THE DISTINCTION? THEY
6 REGULATE BAGGED PRODUCT, BUT I KNOW THERE'S A
7 REPRESENTATIVE FROM FOOD AND AG HERE. YOU
8 REGULATE BULK TOO?

9 FOOD & AG: YES, AS A LIMING MATERIAL.

10 CHAIRMAN FRAZEE: LIMING AGENTS, I
11 BELIEVE YOU SAID.

12 FOOD & AG: YES.

13 CHAIRMAN FRAZEE: SO THAT'S SIMILAR.

14 MEMBER RELIS: NOW, COULD I JUST ASK.
15 NOW, OUR ACTIONS TODAY WOULD BE TO -- WOULD WE BE
16 ACTING ON BENEFICIAL USE AND EXCLUSION TIER PRIOR
17 TO SEEING WHAT -- THE ASH COALITION IS GOING TO, I
18 THINK, SUGGEST SOME LANGUAGE, I HEARD, ABOUT A
19 BRIGHT LINE.

20 MS. RICE: I WOULD ASSUME YOU'D WANT
21 FURTHER DEVELOPMENT TO DEFINE BENEFICIAL USE.

22 MEMBER RELIS: WE WANT TO DISCUSS THAT
23 FURTHER.

24 MS. RICE: THAT'S ESSENTIALLY WHAT
25 THEY'RE WORKING ON, AS I UNDERSTAND IT, IS HOW YOU

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1 DEFINE THAT IN A REGULATION TO ESTABLISH THAT
2 LINE.

3 CHAIRMAN FRAZEE: AND I THINK THAT NEEDS
4 SOME MORE WORK.

5 MEMBER RELIS: YES. I'D BE INTERESTED IN
6 WHAT THE LEA COMMUNITY SEES IN TERMS OF THAT --
7 THAT LINE, WHETHER THAT -- THEY SEE THE TOOLS THEY
8 NEED TO DO THE JOB.

9 MS. RICE: WOULD YOU BE LOOKING FOR US
10 THEN TO BRING THIS ISSUE BACK IN DECEMBER WITH
11 FURTHER DEVELOPMENT AROUND THE THREE POINTS?

12 CHAIRMAN FRAZEE: THAT ISSUE IS SO
13 COMPLEX, THAT IT NEEDS INPUT FROM ALL THE
AFFECTED

14 PARTIES IN DEFINING THAT LINE AND WHAT GOES INTO
15 THE EXCLUSION TIER.

16 MS. RICE: OKAY. SO WE WOULD BE BACK
17 BEFORE YOU IN DECEMBER JUST ON THAT POINT OF HOW
18 YOU WOULD DEFINE WHAT GOES INTO THE EXCLUSION
19 TIER.

20 MEMBER RELIS: WOULDN'T THAT GET INTO
THE
21 ISSUES OF THE PROTOCOLS THAT HAVE BEEN CALLED
22 FORTH? YOU WOULD HAVE THE MEASUREMENT, WHAT, THE
23 AGRICULTURAL REVIEW?

24 MS. RICE: HOW YOU WOULD DEFINE --

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25

MEMBER RELIS: YES. BENEFICIAL OR NOT.

1 DOESN'T THAT ALL COME UNDER --

2 MS. RICE: DEPENDING ON WHAT HAS COME UP
3 WITH BY INTERESTED PARTIES, VARIOUS FACTORS, I'M
4 SURE, COULD BE INCLUDED IN THAT DEFINITION OF
5 BENEFICIAL USE, SUCH AS MEETING CERTAIN CRITERIA
6 OR THE VARIOUS APPROACHES THAT ELLIOT DESCRIBED.
7 I'M SURE THERE ARE DIFFERENT WAYS TO DO IT. AND
8 WE COULD EITHER PRESENT A CONSENSUS APPROACH OR
9 IDEAS, DEPENDING ON HOW IT DEVELOPS OVER THE NEXT
10 COUPLE OF WEEKS.

11 MEMBER RELIS: WELL, IT SEEMS TO ME, AT
12 LEAST, THERE'S GOING TO BE ONE SUGGESTION, WE'VE
13 HEARD OTHER RECOMMENDATIONS, PULL THAT TOGETHER.
14 THERE MAY OR MAY NOT BE CONSENSUS OVER IT. AND
15 THAT'S A FINAL DECISION WE'D HAVE TO MAKE.

16 MS. RICE: RIGHT.

17 CHAIRMAN FRAZEE: WE NEED TO VOTE ON
18 THAT, OR IS NODDING OF HEADS SUFFICIENT TO --

19 MR. BLOCK: IT DEPENDS -- IN THE PAST
20 WHAT WE'VE DONE WITH THE LEGAL AUTHORITY ITEMS
21 WHEN WE'VE DONE THEM SEPARATELY IS THEY'VE GONE
22 THROUGH TO THE BOARD FOR APPROVAL BY THEM AS WELL
23 SEPARATE FROM ITEMS AND VOTES WE'VE DONE ON THE
24 REGULATIONS. SO I GUESS IT'S REALLY A QUESTION
OF

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25 HOW COMFORTABLE YOU FEEL. DO YOU FEEL THESE
THREE

1 POINTS ARE READY TO GO ON TO THE BOARD THIS MONTH
2 FOR A VOTE, OR SHOULD THAT WAIT TILL DECEMBER
3 AFTER MORE FULLY DEVELOPED.

4 MEMBER RELIS: MAY I MAKE A
5 RECOMMENDATION ON THAT POINT? COULD WE DISPATCH
6 WITH THE AUTHORITY TODAY BECAUSE THE OTHERS
7 REQUIRE SOME MORE WORK, BUT I DON'T SENSE THAT
8 WE'RE DOUBTING OUR AUTHORITY, AND WE NEED TO
9 AFFIRM THAT BY VOTE.

10 MR. BLOCK: THAT COULD BE DONE TODAY AND
11 THEN SEND IT ON TO THE BOARD. YOU WOULD PROBABLY
12 WANT, JUST FOR COMPLETENESS, ALSO INCLUDE -- THE
13 STAFF RECOMMENDATIONS OUTLINE FIVE DIFFERENT
14 AREAS: DISPOSAL AND TRANSFER STATIONS,
15 MANUFACTURING, AND OTHER USES, IN ADDITION TO THE
16 LAND APPLICATION. SO YOU COULD CONFIRM OUR
17 AUTHORITY ON THOSE AS WELL AS ADDING THE LAND
18 APPLICATION. SO THE AUTHORITY ISSUE IS TAKEN
19 CARE

20 OF, AND THEN THE REST OF IT REALLY WE CAN DEAL
21 WITH IT IN A SEPARATE ITEM AND THEN ALSO IN THE
22 CONTEXT OF REGULATIONS.

23 MEMBER RELIS: YOU THINK IT'S GOING TO
BE
READY ALL AS ONE PACKAGE?

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24 MEMBER PENNINGTON: BRING IT BACK TO
THIS
25 BOARD IN DECEMBER. BRING IT BACK TO THE

1 COMMITTEE.

2 MEMBER RELIS: BRING THE WHOLE PACKAGE
3 BACK IN A MONTH, NOT GO RIGHT TO THE BOARD THIS
4 MONTH.

5 MEMBER PENNINGTON: THE OTHER WAY.

6 CHAIRMAN FRAZEE: WE HAVE A TIME LINE
7 GOING ON THE REG PACKAGE. CAN WE ACCOMMODATE ALL
8 OF THIS?

9 MS. RICE: WELL, WE HAVE THE COMMENT
10 PERIOD ENDING, IF I RECALL, DECEMBER 11TH, SO IT
11 SOUNDS AS THOUGH WE WOULD BE IN A CONTEXT PERHAPS
12 OF BRINGING THE REGULATIONS BACK WITH SUGGESTIONS
13 FOR REVISIONS BASED ON YOUR DIRECTION AND WORKING
14 WITH INTERESTED PARTIES BETWEEN NOW AND THE
15 DECEMBER COMMITTEE MEETING.

16 MEMBER RELIS: AND THEN IT WOULD NOT --
17 WE WOULD NOT BE FORWARDING TO THE FULL BOARD THIS
18 MONTH. THAT'S FINE.

19 CHAIRMAN FRAZEE: IS THERE A CONSENSUS ON
20 THAT?

21 MEMBER PENNINGTON: YEAH, I THINK THERE
22 IS.

23 CHAIRMAN FRAZEE: FOR THE RECORD, RATHER
24 THAN TRYING TO PHRASE A MOTION, WE'LL ASSUME
25 THERE'S SUFFICIENT DIRECTION FOR THIS. OKAY. WE

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1 ARE NOW AT 11:35.

2 MEMBER PENNINGTON: 12:35.

3 CHAIRMAN FRAZEE: THE ONLY ITEM WE HAVE
4 LEFT IS ITEM 8, THE 1220 REGULATIONS NEEDS A STAFF
5 REPORT. AND THERE IS -- SO LET'S GO AHEAD, IF YOU
6 DON'T MIND, TAKING THAT UP, AND THEN WE'LL HAVE
7 LUNCH BREAK AND THEN GO TO EXECUTIVE SESSION AFTER
8 THE LUNCH BREAK. THERE ARE NO REQUESTS TO SPEAK
9 ON THE 1220 REGULATIONS.

10 MEMBER RELIS: MR. CHAIR, I'LL JUST
11 HAVE -- I WOULD LIKE TO ASK STAFF WHEN THEY'RE
12 DONE WITH THEIR PRESENTATION SOME QUESTIONS RAISED
13 BY THE NRDC.

14 MS. RICE: TOM UNSELL WILL MAKE THE STAFF
15 PRESENTATION.

16 MR. UNSELL: GOOD AFTERNOON, COMMITTEE
17 MEMBERS. FOLLOWING THE PERMITTING AND ENFORCEMENT
18 COMMITTEE'S DIRECTION OF JULY 10TH, THE FORMAL
19 RULEMAKING PROCESS FOR THE 1220 PACKAGE BEGAN ON
20 JULY 26TH FOR THE REQUIRED 45-DAY PUBLIC REVIEW
21 AND COMMENT PERIOD.

22 ON SEPTEMBER 11TH THE REQUIRED
23 PUBLIC HEARING WAS CONDUCTED JOINTLY WITH THE
24 INTEGRATED WASTE MANAGEMENT BOARD AND THE STATE
25 WATER RESOURCES CONTROL BOARD MEMBERS IN

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1 ATTENDANCE .

2 STAFF ARE RECOMMENDING IN THIS
3 PACKAGE YOUR APPROVAL OF THE REVIEWED AND REVISED
4 PACKAGE BEFORE YOU TO BE NOTICED FOR A 15-DAY
5 COMMENT AND REVIEW PERIOD.

6 IN SUMMARY, THERE WERE 39 COMMENTERS
7 FOLLOWING THE FORMAL NOTICING OF -- DURING THE
8 45-DAY COMMENT PERIOD. THOSE 39 COMMENTERS
9 INCLUDES BOTH INDIVIDUAL CITIZENS, ORGANIZATIONS,
10 AND AGENCIES.

11 REVISIONS WERE MADE BY STAFF ON THE
12 MAJORITY OF RECOMMENDATIONS MADE AND COMMENTS AND
13 CONSIDER THEM TO BE NONSUBSTANTIVE IN NATURE AND,
14 THUS, BUT YET A 45-DAY -- I MEAN THE 15-DAY PERIOD
15 ACCOMMODATION FOR REREVIEW BY THE PUBLIC IN
16 CONFORMANCE WITH THE FORMAL OFFICE OF
17 ADMINISTRATIVE LAW RULEMAKING PACKAGE CONCEPT.

18 SIMPLY PUT, THE PACKAGE WILL BE
19 NOTICED, IT WOULD BE OUR RECOMMENDATION, WOULD BE
20 NOTICED FOR AN ADDITIONAL 15-DAY PUBLIC REVIEW AND
21 COMMENT PERIOD ON THE REVISIONS THAT HAVE BEEN
22 MADE.

23 BOARD STAFF AND STATE WATER
24 RESOURCES CONTROL BOARD STAFF REPRESENTATIVES, LIZ
25 HAVEN AND ED WOSIKA ARE AVAILABLE TO ADDRESS ANY

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1 QUESTIONS THAT YOU HAVE REGARDING THIS ITEM.

2 MEMBER RELIS: MR. CHAIR, I'VE RECEIVED
3 ANOTHER LETTER FROM THE -- DATED NOVEMBER 1ST THAT
4 WAS REFERENCED AT THE OUTSET OF THE MEETING FROM
5 THE NATURAL RESOURCES DEFENSE COUNCIL. AND I'D
6 LIKE TO ASK STAFF TO RESPOND IN TWO WAYS. FIRST,
7 I BELIEVE THAT SOME OF THEIR -- SOME OF THE
8 QUESTIONS OF NRDC SPEAK TO THE 1220, TO THE LAW
9 ITSELF. WE DO NOT HAVE THE AUTHORITY TO
10 SECOND-GUESS THE LAW. THE LAW IS THE LAW THAT
11 WE'RE WORKING UNDER.

12 SO WOULD YOU CHARACTERIZE, AND I'M
13 SPEAKING TO -- THERE ARE A NUMBER OF SECTIONS
14 CITED IN THAT LETTER. I BELIEVE YOU HAVE THE
15 LETTER. WOULD THAT BE A FAIR STATEMENT, THAT
16 SOME
17 OF THESE QUESTIONS ARE DIRECTED TO 1220
18 ITSELF,

19 NOT --

20 MR. UNSELL: THAT WOULD BE OUR
21 INTERPRETATION. THERE IS -- THERE ARE A
22 NUMBER OF
23 QUESTIONS THAT ARE SPECIFICALLY STATUTORY OR
24 THE
25 LAW BASED, WHICH REALLY DO NOT PROVIDE THE
26 LATITUDE FOR US TO MAKE.

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23 MEMBER RELIS: THEY'RE UNHAPPY WITH
SOME

24 OF THOSE SECTIONS, BUT I -- JUST FOR THE
RECORD, I

25 DON'T THINK WE HAVE THE ABILITY TO ADDRESS
THOSE

1 ASPECTS. NOW, THERE ARE OTHERS, AND I SPEAK
2 SPECIFICALLY TO SECTIONS 21790, 21820, 21825,
3 21840 ON THE REQUIREMENTS RELATED TO CLOSURE
4 PLANS, CLOSURE COST ESTIMATES, PRELIMINARY
5 POSTCLOSURE MAINTENANCE PLAN CONTENTS, AND
6 POSTCLOSURE MAINTENANCE COST ESTIMATES, WHICH I'M
7 NOW CITING FROM THE LETTER FROM NRDC.

8 THEY ARE EXPRESSING A CONCERN THAT
9 THESE WOULD REDUCE THE SAFEGUARDS TO PUBLIC HEALTH
10 AND SAFETY AND GO BEYOND THE SCOPE OF WHAT'S UNDER
11 1220. IT'S MY UNDERSTANDING STAFF IS PREPARING A
12 RESPONSE TO THIS LAST LETTER AND ADDRESSING THOSE
13 SPECIFIC POINTS. IS THAT SO?

14 MR. UNSELL: YES. I'LL TURN THAT OVER TO
15 ELLIOT BLOCK BECAUSE THE LEGAL DEPARTMENT IS
16 PREPARING A RESPONSE TO THE LETTER.

17 MR. BLOCK: YEAH. WE'RE FINALIZING A
18 RESPONSE. STAFF HAS TAKEN A LOOK AT THE ISSUES
19 RAISED IN NRDC'S LETTER, AND YOU FAIRLY
20 CHARACTERIZED. ABOUT HALF THE ISSUES THAT WERE
21 RAISED ARE ISSUES THAT NRDC HAS WITH 1220 ITSELF,
22 THE STATUTE. THERE'S A NUMBER OF OTHER ISSUES
23 THAT THEY HAVE WHERE THEIR CONCERNS BASICALLY
24 ENDED UP NOT ACTUALLY FINDING THE PLACE WHERE WE
25 MOVED A SECTION TO, AND WE HAVE, IN FACT, NOT

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1 DELETED THE REQUIREMENT.

2 MEMBER RELIS: SO THAT IS CLARIFIED. IF
3 YOU DIDN'T FIND IT HERE, HERE'S WHERE IT IS?

4 MR. BLOCK: SO WE'RE MAKING SURE THAT
5 THAT'S CLEAR.

6 SPECIFICALLY WITH REGARD TO THE
7 SECTIONS YOU CITED WITH REGARD TO CLOSURE, I THINK
8 BOB FUJII IS HERE AND HE CAN SPECIFICALLY SPEAK TO
9 THE DETAILS OF WHAT WE DID.

10 MR. FUJII: IN TERMS OF THE DETAILS OF
11 THE PRELIMINARY CLOSURE PLAN CONTENTS, THAT
12 SECTION WAS SIMPLIFIED BECAUSE IT WAS RECOGNIZED
13 THERE ARE NUMEROUS DETAILS, ITEMS IN THERE THAT
14 WOULD BE DUPLICATIVE OF A FINAL CLOSURE PLAN. SO
15 THE THINKING THERE WAS THAT WE WOULD FOCUS ON JUST
16 THE CLOSURE COST ESTIMATE AND DEVELOPMENT OF THE
17 FINANCIAL ASSURANCE MECHANISM, WHICH IS MORE
18 IMPORTANT AT THAT STAGE OF CLOSURE.

19 AND SO WHEN THEY SIMPLIFIED OR THEY
20 WERE REDUCED, YES, THERE WAS SOME SIMPLIFICATION,
21 BUT THOSE REQUIREMENTS WERE TAKEN UP IN LATER
22 STAGES IN THE FINAL CLOSURE PLAN, WHICH WOULD
23 CONTAIN MORE OF THE DETAILS OF THE CLOSURE DESIGN
24 AND OPERATION.

25 MEMBER RELIS: WILL YOUR LETTER BE

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1 RESPONDING IN A WAY THAT WOULD AT LEAST HELP THIS
2 MEMBER UNDERSTAND? HAVE THEY, AS BEEN ASSERTED,
3 WEAKENED, OR IS THIS A MATTER OF COORDINATING AND
4 THE NET RESULT IS STATUS QUO?

5 MR. FUJII: YES. I BELIEVE ELLIOT'S
6 REPRESENTATION IS CORRECT. I MEAN IT'S JUST
7 SIMPLY MOVING IT TO ANOTHER SECTION OR MOVING IT
8 INTO THE REGIONAL WATER CONTROL BOARD'S SECTION
9 WHICH, AGAIN, THERE WOULD BE SOME OVERLAP BETWEEN
10 THE AGENCIES.

11 MEMBER RELIS: I'LL JUST WITHHOLD ANY
12 FURTHER COMMENTS TILL I SEE THE LETTER AND HAVE A
13 CHANCE TO STUDY ITS CONTENTS.

14 MR. UNSELL: JUST TO RECAP, THEN, STAFF
15 IS RECOMMENDING THAT THE COMMITTEE APPROVE THIS
16 PACKAGE TO GO -- TO BE MAILED OUT FOR A 15-DAY
17 COMMENT PERIOD AS REVISED.

18 CHAIRMAN FRAZEE: LARRY SWEETSER IS
19 REQUESTING TO SPEAK ON THIS ITEM.

20 MR. SWEETSER: THANK YOU. I WILL BE
21 BRIEF. THIS IS LARRY SWEETSER, DIRECTOR OF
22 REGULATORY AFFAIRS, NORCAL WASTE SYSTEMS. JUST
23 HAVING RECEIVED THE ACTUAL REGULATIONS, I DID A
24 LITTLE SPEED COMPREHENSION OF IT AND LOOKS LIKE
25 MOST OF THE MAJOR ISSUES WE HAD CONCERNS WITH
HAVE

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1 BEEN ADDRESSED, PARTICULARLY THOSE OF FINANCIAL
2 ASSURANCE AND FIRE DISTRICT COMPLIANCE.

3 I DO HAVE A COUPLE QUESTIONS THAT
4 ARE MORE ENGINEER RELATED, AND WE'LL BE USING THE
5 15-DAY COMMENT PERIOD TO ADDRESS THAT. I THINK
6 THAT'S SUFFICIENT. I WOULD URGE GETTING ON WITH
7 THIS PROCESS, PUT A STAMP ON IT, AND END THIS AB
8 1220 OBLIGATION.

9 AND I DO HAVE ONE COMMENT ON MR.
10 RELIS' IDEA. THOSE OF US IN THE INDUSTRY HAVE HAD
11 MANY MEETINGS ON THIS. WE'VE HAD ENGINEERS
12 LOOKING AT THIS. I HAVE SEEN NO DECREASE IN ANY
13 STANDARDS. THERE'S A DECREASE IN THE PROCESS, IN
14 THE TIME THAT IT TAKES TO DO THINGS, BUT NO
15 DEGRADATION OF ANY ENVIRONMENTAL STANDARDS THAT
16 WE'VE SEEN.

17 THERE ARE QUESTIONS THAT CAME UP
18 EARLIER ON THE FINANCIAL ASSURANCE AND THOSE OF US
19 HAVE OTHER QUESTIONS TOO. NOW THAT WE'VE GONE
20 INTO THE 1220 PROCESS, I WOULD URGE US TO LOOK AT
21 SOME OF THOSE QUESTIONS AS SIMILAR TO WHAT THE
22 WATER BOARD IS DOING IN A PHASE II PROCESS. I
23 THINK THERE'S ENOUGH ISSUES OUT THERE TO ADDRESS
24 THAT. I THINK THAT'S SOMETHING THE BOARD SHOULD
25 BE LOOKING AT GOING THROUGH WITH BEYOND THE 1220

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1 PROCESS. OTHER THAN THAT, LET'S GET THIS PACKAGE
2 OUT OF HERE SO WE CAN KNOW WHAT WE'RE DEALING
3 WITH. THANK YOU.

4 CHAIRMAN FRAZEE: THE STAFF
5 RECOMMENDATION IS TO APPROVE A 15-DAY COMMENT
6 PERIOD REGARDING REVISIONS TO THE TEXT OF THE
7 PROPOSED REGULATIONS WITH NO CHANGES.

8 MEMBER RELIS: I'LL SO MOVE.

9 MEMBER PENNINGTON: SECOND.

10 CHAIRMAN FRAZEE: MOTION AND SECOND.
11 SECRETARY WILL CALL THE ROLL, PLEASE.

12 THE SECRETARY: COMMITTEE MEMBERS
13 PENNINGTON.

14 MEMBER PENNINGTON: AYE.

15 THE SECRETARY: RELIS.

16 MEMBER RELIS: AYE.

17 THE SECRETARY: CHAIRMAN FRAZEE.

18 CHAIRMAN FRAZEE: AYE. MOTION IS
19 CARRIED. MY UNDERSTANDING, THIS ITEM DOES NOT
20 HAVE TO GO TO THE BOARD. THIS ESTABLISHES A
21 15-DAY PERIOD.

22 MS. RICE: THAT'S CORRECT.

23 CHAIRMAN FRAZEE: SO AT THIS POINT WE
24 HAVE COMPLETED THE AGENDA. WHAT TIME DO YOU WISH
25 TO --

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1 MEMBER PENNINGTON: 2:15. THAT GIVES US
2 AN HOUR.

3 CHAIRMAN FRAZEE: 2:15 WE WILL RECONVENE
4 THE CLOSED SESSION OF THE FULL BOARD. THANK YOU.

5
6 (THE MEETING WAS THEN RECESSED AT
7 1:50 P.M. TO RECONVENE IN CLOSED SESSION AT 2:15
8 AFTER WHICH THE MEETING WAS ADJOURNED.)

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