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BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

IN THE MATTER OF THE:)
)
PERMITTING AND)
ENFORCEMENT COMMITTEE)
)

DATE AND TIME: TUESDAY, SEPTEMBER 16, 1997
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.: 41671

APPEARANCES

MR. ROBERT FRAZEE, CHAIRMAN
MR. STEVEN R. JONES, MEMBER
MR. PAUL RELIS, MEMBER

STAFF PRESENT

MR. RALPH CHANDLER, EXECUTIVE DIRECTOR
MR. KEITH SMITH, DEPUTY DIRECTOR
MR. ELLIOT BLOCK, LEGAL COUNSEL
MS. LORI LOPEZ, COMMITTEE SECRETARY

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I N D E X

PAGE NO. CALL

TO ORDER 7
EX PARTE COMMUNICATIONS 7, 71, 111
ITEM 1: REPORT FROM THE DEPUTY 8
DIRECTOR OF THE PERMITTING AND ENFORCEMENT DIVISION.

ITEM 2: CONSIDERATION OF CONSENT AGENDA: 12
CONSIDERATION OF A REVISED SOLID WASTE
FACILITY PERMIT FOR THE AUBURN PLACER DISPOSAL
TRANSFER STATION, PLACER COUNTY.

ITEM 3: CONSIDERATION OF ADOPTION OF A MITIGATED
NEGATIVE DECLARATION FOR THE CITY OF EL PASO DE
ROBLES LANDFILL, SAN LUIS OBISPO COUNTY.
STAFF PRESENTATION 13
PUBLIC TESTIMONY 16
COMMITTEE DISCUSSION
ACTION 17

ITEM 4: CONSIDERATION OF CONCURRENCE IN THE ISSUANCE OF
A REVISED SOLID WASTE FACILITY PERMIT FOR THE CITY OF EL
PASO DE ROBLES LANDFILL, SAN LUIS OBISPO COUNTY.
STAFF PRESENTATION 17
PUBLIC TESTIMONY
COMMITTEE DISCUSSION
ACTION 18

ITEM 5: CONSIDERATION OF APPROVAL TO FORMALLY NOTICE
PROPOSED REGULATIONS FOR ENFORCEMENT ASSISTANCE GRANTS.
STAFF PRESENTATION 18
PUBLIC TESTIMONY 21
COMMITTEE DISCUSSION
ACTION 22

ITEM 6: CONSIDERATION OF A REVISED SOLID WASTE
FACILITY PERMIT FOR MILLIKEN
SANITARY LANDFILL, SAN 3

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BERNARDINO COUNTY.

STAFF PRESENTATION	22
PUBLIC TESTIMONY	24
COMMITTEE DISCUSSION	
ACTION	29

ITEM 7: CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR FORT IRWIN SANITARY LANDFILL, SAN BERNARDINO COUNTY.

STAFF PRESENTATION	24
PUBLIC TESTIMONY	27
COMMITTEE DISCUSSION	27
ACTION	28

ITEM 8: CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR COLTON SANITARY LANDFILL, SAN BERNARDINO COUNTY.

STAFF PRESENTATION	28
PUBLIC TESTIMONY	29
COMMITTEE DISCUSSION	
ACTION	29

ITEM 9: (PULLED) CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR BARSTOW SANITARY LANDFILL, SAN BERNARDINO COUNTY.

ITEM 10: (PULLED) CONSIDERATION OF A MODIFIED SOLID WASTE FACILITY PERMIT FOR THE BENO LANDFILL, MONO COUNTY.

ITEM 11: (PULLED) CONSIDERATION OF A MODIFIED SOLID WASTE FACILITY PERMIT FOR THE CHALFANT LANDFILL, MONO COUNTY.

24 ITEM 12: CONSIDERATION OF A NEW SOLID WASTE
FACILITY PERMIT FOR THE UNIVERSAL REFUSE REMOVAL
25 RECYCLING AND TRANSFER FACILITY, SAN DIEGO COUNTY.
STAFF PRESENTATION 30

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

PUBLIC TESTIMONY
COMMITTEE DISCUSSION 32
ACTION 34

ITEM 13: CONSIDERATION OF SITES FOR REMEDIATION UNDER THE WASTE TIRE STABILIZATION AND ABATEMENT 5 PROGRAM?
STAFF PRESENTATION 34
PUBLIC TESTIMONY
COMMITTEE DISCUSSION 37
ACTION 41

ITEM 14: CONSIDERATION OF NEW SITES FOR THE SOLID WASTE DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM.
STAFF PRESENTATION 42
PUBLIC TESTIMONY 43
COMMITTEE DISCUSSION 49
ACTION 71

ITEM 15: PRESENTATION OF THE UPDATED INVENTORY OF SOLID WASTE FACILITIES WHICH VIOLATE STATE MINIMUM STANDARDS AND THE UPDATED SIGNIFICANT CHANGE VIOLATION LIST.
STAFF PRESENTATION 72
PUBLIC TESTIMONY
COMMITTEE DISCUSSION 76
ACTION

ITEM 16: UPDATE AND DISCUSSION OF RECOMMENDATIONS FOR REVISIONS TO THE INFORMAL DRAFT REGULATIONS FOR TRANSFER, MATERIAL RECOVERY, AND PROCESSING OPERATIONS AND FACILITIES.
STAFF PRESENTATION 79, 145, 171, 192, 201, 212
PUBLIC TESTIMONY 84, 106, 146, 175 193, 215
COMMITTEE DISCUSSION 82, 87, 129, 153 185, 200, 216

ITEM 17: (PULLED) DISCUSSION OF STATUS OF ENFORCEMENT AND IMPLEMENTATION OF THE METALLIC DISCARDS STATUTES AND REGULATIONS.

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ITEM 18: OPEN DISCUSSION

ITEM 19: ADJOURNMENT 223

25

6

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SACRAMENTO, CALIFORNIA; TUESDAY, SEPTEMBER 16, 1997

9:30 A.M.

CHAIRMAN FRAZEE: THE MEETING WILL COME TO ORDER, PLEASE. WE'LL ASK THE SECRETARY TO CALL THE ROLL.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: HERE.

THE SECRETARY: RELIS.

MEMBER RELIS: HERE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: HERE. ALL MEMBERS OF THE COMMITTEE ARE PRESENT. ANY EX PARTE COMMUNICATIONS THIS MORNING?

MEMBER JONES: MINE ARE ALL UP-TO-DATE.

MEMBER RELIS: SAME.

CHAIRMAN FRAZEE: AND MINE ARE.

JUST BY WAY OF PRELIMINARY ANNOUNCEMENTS, THE FOLLOWING ITEMS HAVE BEEN PULLED FROM TODAY'S AGENDA: ITEMS 9, 10, 11, AND 17. AND THE ITEM -- A PORTION OF ITEM 14, THE LIKELY ILLEGAL DISPOSAL SITE, HAS BEEN PULLED FROM TODAY'S COMMITTEE AGENDA ALSO.

25 IF ANYONE WISHES TO SPEAK BEFORE THE

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COMMITTEE ON ANY ITEM ON TODAY'S AGENDA, WE WOULD APPRECIATE IT IF YOU WOULD FILL OUT A SPEAKER SLIP LOCATED ON THE TABLE IN THE BACK OF THE ROOM AND BRING IT FORWARD TO THE COMMITTEE SECRETARY.

WE'RE READY NOW FOR ITEM 1, THE REPORT FROM THE DEPUTY DIRECTOR.

MS. RICE: THANK YOU, MR. CHAIRMAN AND MEMBERS. GOOD MORNING. A FEW BRIEF ITEMS BEFORE WE GET INTO TODAY'S AGENDA. FIRST OF ALL, I JUST WANTED TO ADVISE MEMBERS AND AUDIENCE THAT DIVISION STAFF, BOARD STAFF, ARE WORKING ON AN LEA-WASTE BOARD CONFERENCE IN ASILIMAR PLANNED FOR NOVEMBER 12TH THROUGH THE 14TH. THIS IS IN A SENSE A STAFF CONFERENCE FOR BOARD STAFF AND LEA STAFF.

THE IDEA FOR SUCH A CONFERENCE WAS DISCUSSED AS PART OF PARTNERSHIP 2000 AND IS DESIGNED TO BRING LEA STAFF FROM THROUGHOUT THE STATE TOGETHER TO WITH BOARD STAFF TO DISCUSS ISSUES OF MUTUAL CONCERN. WE ARE HOPING TO PROVIDE OPPORTUNITIES TO SHARE INFORMATION, NETWORK, PROBLEM SOLVE, AND SUGGEST SOLUTIONS TO ISSUES WHICH FACE ALL OF US IN REGULATING SOLID WASTE FACILITIES AND OPERATIONS SO THAT WE CAN DO A BETTER JOB IN BRINGING ITEMS FORWARD FOR YOUR

25 CONSIDERATION.

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PER MR. RELIS' REQUEST, AS I RECALL, AT LAST MONTH'S COMMITTEE MEETING, WE SOUGHT TO PUT SOME INFORMATION TOGETHER THIS MONTH ON ENFORCEMENT ACTIONS TAKEN UNDER THE EMERGENCY REGULATIONS FOR CHIPPING AND GRINDING OPERATIONS, IF YOU RECALL THE DISCUSSION FROM LAST MONTH.

THE INFORMATION WE HAVE BEEN ABLE TO GATHER TO DATE IS SKETCHY. WE ATTEMPTED TO POLL LEA'S PRIOR TO THIS MEETING AND HAVE NOT RECEIVED ANY INFORMATION INDICATING THAT AN LEA HAS TAKEN AN ENFORCEMENT ACTION UNDER THE EMERGENCY REGULATIONS. SOME LEA'S DID INDICATE TO STAFF THAT THEY ARE USING THE EMERGENCY REGULATIONS TO DOCUMENT VIOLATIONS AT THIS TIME, BUT HAVE NOT PROCEEDED FURTHER. COUNTIES THAT FALL INTO THAT CATEGORY INCLUDE VENTURA AND SANTA BARBARA COUNTIES.

I APOLOGIZE FOR THE LACK OF A DETAILED REPORT AND WILL ATTEMPT TO HAVE A MORE DEFINITIVE REPORT FOR YOU AT NEXT MONTH'S COMMITTEE MEETING. ALSO IN OCTOBER, WHICH WOULD BE TIMELY, WE HOPE TO BRING YOU AN ITEM DISCUSSING WASTE BOARD AUTHORITY ISSUES ASSOCIATED WITH THE REGULATORY EFFORT TO SLOT ORGANIC MATERIALS FACILITIES AND OPERATIONS INTO THE REGULATORY TIERS.

25 I WANTED TO ALSO LET YOU KNOW ABOUT

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SOME WORKSHOPS THAT ARE UNDER WAY RIGHT NOW UNDER A PROJECT WE ARE CALLING THE PERMIT CHANGE PARTNERSHIP, WHICH, I'M SURE, IS OF INTEREST TO YOU GIVEN LAST MONTH'S BOARD MEETING DISCUSSION ON THE TITLE 27 CHANGES AND HOW THOSE AFFECT BOARD STAFF WORK AND LEA WORK.

ORANGE COUNTY, WE HELD A WORKSHOP THERE LAST WEEK. WE HAVE ONE PLANNED FOR THIS WEEK IN LIVERMORE AND NEXT WEEK IN REDDING. THEY ARE GOING VERY WELL. WE ARE SEEKING INPUT AND IDEAS FROM LEA'S AND BOARD STAFF ON OUTSTANDING ISSUES INVOLVING THE SOLID WASTE FACILITIES PERMIT TO BRING FORWARD AS APPROPRIATE TO THIS COMMITTEE AND THE BOARD. ISSUES IN A WIDE RANGE ARE BEING DISCUSSED, SUCH AS THE APPROPRIATE SCOPE AND CONTENTS OF THE PERMIT, ITS PURPOSE, AND HOW TO DETERMINE SIGNIFICANT CHANGE. THESE ARE THE SORTS OF TOPICS THAT ARE BEING DISCUSSED. I'M SURE YOU'LL BE HEARING MUCH MORE ABOUT THIS PROJECT IN THE NEAR FUTURE.

WE ARE ALSO IN THE PROCESS OF SCOPING THE CONTENTS OF THE DRAFT REGULATIONS TO ADDRESS ISSUES THAT HAVE BEEN RAISED OVER THE MONTHS BY THIS COMMITTEE, THE POLICY COMMITTEE, AND OTHERS ON

25 THE WASTE TIRE PERMITTING REGULATIONS AND WHETHER

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OR NOT THOSE REGULATIONS IN THEIR CURRENT FORM BEST SUPPORT THE POLICY INITIATIVES OF THIS BOARD AND THE LEGISLATURE FOR ENCOURAGING REUSE AND RECYCLING OF TIRES AND DISCOURAGING STOCKPILING.

WE HAD A VERY PRODUCTIVE SCOPING MEETING WHERE A NUMBER OF YOUR OFFICES WERE ABLE TO PARTICIPATE, AND I WANT TO THANK YOU FOR THAT PARTICIPATION.

LASTLY, I'D LIKE TO JUST MAKE A FEW BRIEF REMARKS ABOUT THE ITEM THAT WAS PULLED FROM TODAY'S AGENDA AT MY REQUEST. ONE OF THE SITES UNDER THE AB 2136 PROGRAM, THE LIKELY DISPOSAL SITE. MY REASON FOR REQUESTING THIS CHANGE ON TODAY'S AGENDA IS THAT, AS YOU NOTED IN YOUR BRIEFINGS AND IN THE ITEM, THE SITE IS ON PROPERTY OWNED BY THE FEDERAL BUREAU OF LAND MANAGEMENT.

I FEEL THAT BEFORE WE BRING ANY SITES ON FEDERAL LANDS FOR YOUR CONSIDERATION, WE SHOULD FIRST BRING A MORE GENERAL ITEM DESCRIBING THE ISSUES INVOLVED IN PROPOSING TO SPEND STATE FUNDS ON FEDERAL SITES, INCLUDING A DESCRIPTION OF THE EXTENT OF THE PROBLEM ON FEDERAL LANDS, AND THE POTENTIAL FOR A FEDERAL REIMBURSEMENT PROGRAM FOR SUCH WORK IN CALIFORNIA.

25 WE WOULD PROPOSE TO RETURN TO THIS

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COMMITTEE IN TWO OR THREE MONTHS WITH SUCH A GENERAL DISCUSSION ITEM IF IT IS THE WISH OF THE COMMITTEE THAT WE DO SO, WHICH WOULD NOT INCLUDE ANY SPECIFIC REQUEST FOR FUNDING, BUT WOULD INSTEAD BE A POLICY DISCUSSION ITEM FOR YOUR CONSIDERATION.

AND WITH THOSE ITEMS, I CONCLUDE MY REPORT, AND I'M HAPPY TO ANSWER ANY QUESTIONS. THANK YOU.

CHAIRMAN FRAZEE: QUESTIONS OF -- OKAY. THANK YOU.

NOW WE'RE READY TO PROCEED WITH THE REGULAR AGENDA. FIRST ITEM IS THE CONSIDERATION OF CONSENT ITEMS. THERE'S ONLY ONE ITEM ON THE CONSENT CALENDAR. THAT'S THE CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE AUBURN PLACER DISPOSAL TRANSFER STATION.

MEMBER JONES: MR. CHAIRMAN, I'D LIKE TO MAKE A MOTION THAT WE ACCEPT THE CONSENT CALENDAR.

MEMBER RELIS: SECOND.

CHAIRMAN FRAZEE: WE HAVE A MOTION AND SECOND ON THE CONSENT CALENDAR. WILL THE SECRETARY CALL THE ROLL, PLEASE.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

25 THE SECRETARY: BOARD MEMBER JONES.

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MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED.

NOW WE HAVE ITEM 3 AND 4, WHICH BOTH RELATE TO THE SAME FACILITY, THE CONSIDERATION OF ADOPTION OF A MITIGATED NEGATIVE DECLARATION FOR THE CITY OF EL PASO DE ROBLES LANDFILL IN SAN LUIS OBISPO COUNTY, AND THE CONSIDERATION OF CONCURRENCE IN THE ISSUANCE OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE SAME JURISDICTION.

MS. RICE: THANK YOU, MR. CHAIRMAN AND MEMBERS. BOB HOLMES WILL MAKE THE PRESENTATION ON BOTH ITEMS.

MR. HOLMES: MORNING, MR. CHAIR AND MEMBERS OF THE COMMITTEE. THE BOARD BECAME THE ENFORCEMENT AGENCY FOR THE CITY OF EL PASO DE ROBLES IN OCTOBER 1995. IN JANUARY OF 1996, THE BOARD CONSIDERED A REVISED SOLID WASTE FACILITIES PERMIT FOR THE PASO ROBLES LANDFILL. THE BOARD DECIDED NOT TO RELY ON THE CEQA DOCUMENT PREPARED IN SUPPORT OF THIS SOLID WASTE FACILITIES PERMIT REVISION. THE BOARD ASSUMED THE ROLE OF LEAD AGENCY UNDER CEQA AND DIRECTED STAFF TO BEGIN WORK

24 ON AN INITIAL STUDY.

25 THE BOARD'S CONTRACT CONSULTANT

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COMPLETED THE INITIAL STUDY IN MARCH 1997. THE INITIAL STUDY IDENTIFIED ONE POTENTIAL SIGNIFICANT ENVIRONMENTAL EFFECT TO AIR QUALITY. THE CITY WILL MITIGATE THIS IMPACT BY INSTALLING BEST AVAILABLE CONTROL TECHNOLOGY ON ON-SITE LANDFILL EQUIPMENT.

THE INITIAL STUDY ALSO IDENTIFIED A POTENTIAL, BUT LESS THAN SIGNIFICANT IMPACT TO TRAFFIC SAFETY DUE TO SLOW MOVING VEHICLES LEAVING THE LANDFILL.

BOARD STAFF RECEIVED TWO SETS OF COMMENTS ON THE INITIAL STUDY, ONE FROM THE SAN LUIS OBISPO COUNTY AIR POLLUTION CONTROL DISTRICT REGARDING THE AIR QUALITY ANALYSIS. THE APCD WAS PLEASED WITH THE ANALYSIS.

THIS COMMITTEE HEARD THIS ITEM, THE ACCEPTANCE OF THE MITIGATED NEG DEC, IN JUNE OF 1997 BEFORE RECEIPT OF COMMENTS FROM CALTRANS. CALTRANS COMMENTS EXPRESSED CONCERNS WITH THE TRAFFIC ANALYSIS. ONE CONCERN STEMMED FROM THE METHODOLOGY USED TO ANALYZE ONE OF THE INTERSECTIONS. THE CONSULTANT REANALYZED THE INTERSECTION USING THE APPROPRIATE METHODOLOGY.

THE ORIGINAL FINDING, THAT TRAFFIC AT THE INTERSECTION WOULD POSE A LESS THAN SIGNIFICANT

25 IMPACT, WAS NOT CHANGED BY THE REANALYSIS.

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CALTRANS OTHER CONCERN WAS WITH THE SLOW MOVING VEHICLES EXITING THE LANDFILL. ALTHOUGH NOT REQUIRED AS A MITIGATION MEASURE UNDER CEQA, THE CITY HAS AGREED TO COORDINATE WITH CALTRANS ON THE INSTALLATION OF A WESTBOUND MERGE LANE AT SUCH FUTURE TIME IF AND WHEN A DAILY AVERAGE OF FIVE OR MORE LONG-HAUL TRANSFER TRUCKS ARE USING THE LANDFILL.

WE FAX'D OUT THIS STAFF REPORT TO CALTRANS, AND WE HAVE NOT RECEIVED A COMMENT FROM THEM TO DATE. I DO EXPECT THAT THEY WILL HAVE SOMETHING FOR US IN WRITING PRIOR TO THE BOARD MEETING.

IN CONCLUSION, BASED ON THE IMPACTS IDENTIFIED IN THE INITIAL STUDY, BOARD STAFF FIND THAT WITH THE INSTALLATION OF BEST AVAILABLE CONTROL TECHNOLOGY ON LANDFILL EQUIPMENT TO MITIGATE THE AIR QUALITY IMPACT, THERE IS NO SUBSTANTIAL EVIDENCE THAT THIS PROPOSED PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

FURTHERMORE, THE INSTALLATION OF A WESTBOUND ACCELERATION LANE ONCE THE THRESHOLD OF FIVE OR MORE LONG-HAUL TRANSFER TRUCKS IS REACHED,

IF APPROVED BY CALTRANS, WILL LESSEN THE SEVERITY

OF THE POTENTIAL IMPACT TO TRAFFIC SAFETY.

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STAFF, THEREFORE, FIND IT APPROPRIATE TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THIS PROJECT. THAT CONCLUDES MY PRESENTATION.

CHAIRMAN FRAZEE: OKAY. WE HAVE A REQUEST TO SPEAK ON THESE TWO ITEMS FROM JOHN MCCARTHY, REPRESENTING THE CITY OF EL PASO DE ROBLES.

MR. MC CARTHY: THANK YOU, COMMITTEE MEMBERS. MY NAME IS JOHN MCCARTHY, PUBLIC WORKS DIRECTOR FOR THE CITY OF PASO ROBLES.

WANTED TO THANK BOB FOR HIS HELP GETTING US THROUGH THE ENVIRONMENTAL PROCESS, AND STAFF, THEY'VE DONE A REAL GOOD JOB GETTING US TO THIS POINT. WE LOOK FORWARD TO COMING AND GETTING OUR PERMIT THROUGH THE PROCESS IN THE NEAR FUTURE.

WE WILL BE WORKING WITH CALTRANS, AS BOB MENTIONED, CLOSELY AS THE LANDFILL CONTINUES TO EXPAND. AND WE'RE AVAILABLE FOR ANY QUESTIONS YOU MAY HAVE. THANK YOU.

CHAIRMAN FRAZEE: QUESTIONS?

MEMBER JONES: MR. CHAIRMAN, I'D LIKE TO MAKE A MOTION THAT WE ADOPT THE NEGATIVE DEC, RESOLUTION NO. 97-246.

MEMBER RELIS: SECOND.

25 CHAIRMAN FRAZEE: WE HAVE A MOTION AND

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SECOND ON THE ADOPTION OF RESOLUTION 97-246. SECRETARY WILL CALL THE ROLL ON THAT ONE, PLEASE.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED. AND NOW ON THE PERMIT ITSELF.

MR. HOLMES: OKAY. ONCE WE HAVE THE ENVIRONMENTAL ANALYSIS IN PLACE, EVERYTHING ELSE WILL BE IN PLACE FOR THE PERMIT. I'LL JUST QUICKLY GO OVER THE CHANGES THAT ARE BEING MADE.

THE STANDING PERMIT IS A 1986 PERMIT, WHICH HAS A 70-TON PER DAY LIMIT. THERE IS A NOTICE AND ORDER IN PLACE THAT ALLOWS THE STATUS QUO OF 90 TONS PER DAY. WITH THE PERMIT, THE TONNAGE COULD INCREASE TO 69,000 TONS PER YEAR, WHICH WORKS OUT TO BE ABOUT AN AVERAGE OF 190 TONS PER DAY.

THERE IS AN INCREASE IN THE ELEVATION OF THE LANDFILL FROM 1140 FEET MEAN SEA LEVEL TO 1226 FEET MEAN SEA LEVEL, AND THE DESIGN HAS CHANGED FROM A TRENCH AND FILL TO A MASS FILL WHICH

25 HAS ALLOWED THE CITY TO INSTALL A LINER AND A

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LEACHATE RECOVERY SYSTEM.

WITH THAT, STAFF FIND THAT THE PROPOSED SOLID WASTE FACILITY PERMIT AND SUPPORTING DOCUMENTATION ARE ACCEPTABLE FOR THE BOARD'S CONSIDERATION OF CONCURRENCE. AND WE RECOMMEND THAT YOU ADOPT PERMIT DECISION NO. 97-414, CONCURRING IN THE ISSUANCE OF A SOLID WASTE FACILITIES PERMIT FOR PASO ROBLES LANDFILL, FACILITY NO. 40-AA-0001. THAT CONCLUDES MY PRESENTATION.

MEMBER RELIS: MR. CHAIR, I'LL MOVE PERMIT DECISION 97-414.

MEMBER JONES: SECOND.

CHAIRMAN FRAZEE: WE HAVE A MOTION AND SECOND ON THE ADOPTION OF PERMIT DECISION 97-414. WITHOUT OBJECTION, WE'LL SUBSTITUTE THE PRIOR ROLL CALL. THESE TWO ITEMS WILL NOT BE ON CONSENT. BECAUSE WE ARE THE EA ON THESE, THEY WILL NEED TO GO TO THE FULL BOARD.

OKAY. NOW WE ARE READY FOR SAN BERNARDINO COUNTY, AGENDA ITEM 5, CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE MILLIKEN SANITARY LANDFILL IN SAN BERNARDINO

24 COUNTY. STAFF REPORT.

25 MS. RICE: THANK YOU, MR. CHAIRMAN AND

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MEMBERS. THIS FIRST ITEM WILL BE PRESENTED BY TADESE GEBREHAWARIAT OF BOARD STAFF, ASSISTED BY MS. PAT GALLAGHER WITH THE LOCAL ENFORCEMENT AGENCY.

MR. GEBREHAWARIAT: GOOD MORNING. THE FIRST ITEM -- THE FIRST THING I WANTED TO SAY IS THAT WHEN THE ITEMS WERE PREPARED, WE DIDN'T HAVE RESOLUTIONS. TODAY I BELIEVE WE PROVIDED 20 COPIES OF IT, AND I BELIEVE THEY HAVE BEEN PASSED AROUND.

THE OWNER AND OPERATOR OF THE MILLIKEN SANITARY LANDFILL IS THE SAN BERNARDINO COUNTY WASTE SYSTEMS DIVISION, AND MR. GERRY NEWCOMBE IS THE CONTRACT ADMINISTRATOR. UNDER CONTRACT THE DAY-TO-DAY OPERATION IS CARRIED OUT BY NORCAL SAN BERNARDINO INC.

THE PROPOSED PERMIT IS TO ALLOW THE FOLLOWING: FIRST IS TO STIPULATE IN THE SOLID WASTE FACILITY PERMIT THE NEWLY CALCULATED DESIGN CAPACITY OF A LITTLE OVER 29 MILLION CUBIC YARDS, WHICH RESULTED FROM THE REDESIGNING OF THE LANDFILL FINAL GRADING PLAN. AND ON THE BASIS OF THE EXPANDED DESIGN CAPACITY, TO STIPULATE IN THE PERMIT THE ESTIMATED CLOSURE PERIOD OF AUGUST THE YEAR 2001. IT'S ALSO TO INCORPORATE INTO THE TERMS

25 AND CONDITIONS OF THE PERMIT THE NEW RDSI DATED MAY 19

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1997 AND THE SUPPORTING DOCUMENT THAT DESCRIBES THE CURRENT LANDFILL OPERATIONS.

AS I ALLUDED TO PREVIOUSLY, AT THE TIME THAT THE ITEM WAS PREPARED, THE PERMIT INSPECTION BY BOARD STAFF HAD NOTED A VIOLATION OF STATE MINIMUM STANDARDS. SPECIFICALLY THE VIOLATION WAS THAT OF THE CONCENTRATION OF METHANE IN EXCESS OF THE LOWER EXPLOSIVE LIMIT AT THE SOUTHERN PROPERTY BOUNDARY.

THE VIOLATION EXISTED BECAUSE THE OPERATOR DISCONNECTED THE LINE BETWEEN THE EXTRACTION WELL IN THE VICINITY, AND THE GAS MANAGEMENT SYSTEM FACILITATE THE TRAFFIC OF DISPOSAL ACTIVITY THAT WAS BEING CONDUCTED IN THE AREA.

THE LEA REQUIRED RECONNECTION OF THE LINE AND MONITORING OF THE PROBE. THE LINE WAS RECONNECTED TO THE GAS MANAGEMENT SYSTEM; AND BY THE END OF THE FIRST WEEK OF SEPTEMBER, THE METHANE AT THE PROBES WERE WELL WITHIN THE REQUIRED LIMITS, AND THE VIOLATION WAS DEEMED CORRECTED.

THE LEA AND BOARD STAFF HAVE DETERMINED THAT ALL THE REQUIRED FINDINGS HAVE BEEN MADE. ONE, THAT THE MILLIKEN SANITARY LANDFILL IS

25 CONSISTENT WITH THE GENERAL PLAN OF THE CITY OF

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ONTARIO, AND THAT THE CITY HAS DETERMINED THAT THE OPERATION OF THE LANDFILL IS COMPATIBLE WITH THE SURROUNDING LAND USE; TWO, THAT THE LANDFILL IS IDENTIFIED IN THE COUNTY SITING ELEMENT WHICH HAS BEEN APPROVED BY THE BOARD; AND, THREE, THAT CEQA HAS BEEN COMPLIED WITH.

STAFF REVIEWED THE PROPOSED PERMIT AND SUPPORTING DOCUMENTATION AND HAVE FOUND THEM TO BE ACCEPTABLE FOR CONSIDERATION BY THE BOARD.

IN CONCLUSION, STAFF RECOMMEND THAT THE BOARD ADOPT SOLID WASTE FACILITY PERMIT DECISION NO. 97-416, CONCURRING IN THE ISSUANCE OF SOLID WASTE FACILITY PERMIT NO. 36-AA-0054.

MS. PAT GALLAGHER, REPRESENTING THE LEA, IS HERE. ALSO, MR. RON DEERE, REPRESENTING NORCAL, ARE HERE TO ANSWER ANY QUESTIONS THAT THE COMMITTEE MEMBERS MAY HAVE. AND THIS CONCLUDES MY PRESENTATION.

CHAIRMAN FRAZEE: DO YOU HAVE ANY COMMENTS?

MS. GALLAGHER: OTHER THAN I THINK TADESE HAS DONE AN EXCELLENT JOB ON ASSISTING US IN THESE DOCUMENTS. NO, I THINK THAT'S PRETTY MUCH IT.

CHAIRMAN FRAZEE: OKAY. HAVE THE ITEM

25 BEFORE US. QUESTIONS OR DISCUSSION?

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MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A MOTION THAT WE ACCEPT PERMIT DECISION NO. 97-416, THE ISSUANCE OF THE REVISED PERMIT.

MEMBER RELIS: I'LL SECOND.

CHAIRMAN FRAZEE: WE HAVE A MOTION AND SECOND ON THE ADOPTION OF PERMIT DECISION 97-416. SECRETARY WILL CALL THE ROLL ON THAT ITEM.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED; AND WITHOUT OBJECTION, WE'LL RECOMMEND THIS ITEM FOR THE CONSENT CALENDAR TO THE BOARD.

ITEM 6 IS THE CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE FORT IRWIN SANITARY LANDFILL IN SAN BERNARDINO COUNTY. STAFF REPORT ON THIS ONE, PLEASE.

MR. GEBREHAWARIAT: THE PROPOSED PERMIT IS TO ALLOW THE FOLLOWING: AGAIN, STIPULATE IN THE SOLID WASTE FACILITY PERMIT THE CORRECT PERMIT LANDFILL SIZE OF 467 ACRES. IT'S ALSO TO ALLOW AN INCREASE IN RATE OF PEAK DAILY WASTE RECEIPT FROM

25 80 TO A HUNDRED TONS, AN INCREASE IN THE PERMITTED

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TRAFFIC VOLUME FROM 80 TO A 120 VEHICLES PER DAY, CHANGE IN THE SOLID WASTE FACILITY PERMIT THE ESTIMATED LANDFILL CLOSURE PERIOD FROM THE YEAR 2088 TO 2093.

THE LEA AND BOARD STAFF HAVE DETERMINED THAT ALL THE REQUIRED FINDINGS HAVE BEEN MADE; THAT THE SAN BERNARDINO COUNTY PLANNING DEPARTMENT HAS DETERMINED THAT THE REQUIREMENTS OF CONSISTENCY WITH THE COUNTY GENERAL PLAN ARE NOT APPLICABLE TO THIS FEDERAL FACILITY; THAT THE LANDFILL IS IDENTIFIED IN THE COUNTY SITING ELEMENT WHICH HAS BEEN APPROVED BY THE BOARD; THAT CEQA HAS BEEN COMPLIED WITH; AND THAT THE OPERATION OF THE LANDFILL ARE CONSISTENT WITH THE STATE MINIMUM STANDARDS.

STAFF REVIEWED THE PROPOSED PERMIT AND SUPPORTING DOCUMENTATION AND HAVE FOUND THEM TO BE ACCEPTABLE FOR CONSIDERATION BY THE BOARD. STAFF RECOMMEND THAT THE BOARD ADOPT SOLID WASTE FACILITY PERMIT DECISION NO. 97-417, CONCURRING IN THE ISSUANCE OF SOLID WASTE FACILITY PERMIT NO. 36-AA-0068. AND MR. MAT SLOWIK, REPRESENTING THE SAN BERNARDINO COUNTY LEA, IS HERE AS WELL AS MR. RON DEERE.

25 CHAIRMAN FRAZEE: DO YOU HAVE ANY

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COMMENTS?

MR. SLOWIK: I'D LIKE TO THANK STATE STAFF AS WELL AS FORT IRWIN FOR PUTTING FORTH THE EFFORT TO SUBMIT THE PERMIT TO YOU TODAY.

MEMBER RELIS: MR. CHAIR, I'LL MOVE PERMIT DECISION 97-417.

MEMBER JONES: I'LL SECOND.

CHAIRMAN FRAZEE: WE HAVE A MOTION AND SECOND ON THE ADOPTION OF PERMIT DECISION 97-417. SECRETARY WILL CALL THE ROLL ON THAT.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED. WITHOUT OBJECTION, WE'LL RECOMMEND IT FOR THE CONSENT CALENDAR TO THE FULL BOARD.

NOW, ITEM 7 IS THE CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE COLTON SANITARY LANDFILL IN SAN BERNARDINO COUNTY.

MR. GEBREHAWARIAT: FOR THIS ITEM AS WELL, WE PASSED OUT RESOLUTIONS AT THE -- BECAUSE AT THE TIME THE ITEMS WERE PREPARED, WE DIDN'T HAVE ALL

25 THE INFORMATION NECESSARY TO DO THAT.

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THE PROPOSED PERMIT IS TO ALLOW THE FOLLOWING: WRITE THE 1979 SOLID WASTE FACILITY PERMIT IN THE CURRENT FORMAT, STIPULATING APPROPRIATE TERMS AND CONDITIONS FOR LANDFILL OPERATION CONSISTENT WITH THE CURRENT REGULATORY REQUIREMENTS. IT'S ALSO TO ALLOW AN INCREASE IN THE RATE OF DAILY WASTE RECEIPT FROM 180 TONS PER DAY TO 3,100 TONS PER DAY. IT'S TO ALLOW ALSO A CHANGE IN THE HOURS OF OPERATION. ALSO, IT'S TO ALLOW AN EXPANSION IN THE OVERALL FACILITY SIZE FROM 94 TO 98 ACRES, WITH THE LANDFILL FOOTPRINT REMAINING UNCHANGED, BUT ALSO INCORPORATING INTO THE FOOTPRINT THE PORTIONS OF THE ADJACENT PROPERTY WHERE WASTE WAS PLACED INADVERTENTLY.

THE SOLID WASTE FACILITY PERMIT ALSO WILL INCORPORATE INTO THE TERMS AND CONDITIONS OF THE PERMIT THE RDSI VOLUMES THAT WERE SUBMITTED WITH THIS APPLICATION PACKAGE.

AT THE TIME THIS ITEM WAS PREPARED, THE PREPERMIT INSPECTION BY BOARD STAFF HAD NOTED VIOLATIONS OF STATE MINIMUM STANDARDS. SPECIFICALLY THE VIOLATIONS WERE GRADING AND FILL SURFACE AND -- GRADING OF FILL SURFACES AND COVER. ON AUGUST 28, 1997, THE LEA CONDUCTED AN INSPECTION

25 OF THE SITE AND FOUND THAT THE VIOLATIONS

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PREVIOUSLY NOTED BY THE BOARD STAFF WERE CORRECTED.

SUBSEQUENTLY BOARD STAFF DETERMINED THAT, ON THE BASIS OF THE LEA'S INSPECTION RESULTS, THE OPERATION OF THE COLTON SANITARY LANDFILL ARE CONSISTENT WITH THE STATE STANDARDS.

THE VIOLATIONS OF THE TERMS AND CONDITIONS OF THE PERMIT, AS DISCUSSED BEGINNING ON PAGE 64 OF THE AGENDA ITEM, WILL BE CORRECTED UPON BOARD CONCURRENCE WITH THE PROPOSED PERMIT AND ITS SUBSEQUENT ISSUANCE BY THE LEA.

THE LEA AND BOARD STAFF HAVE DETERMINED THAT ALL THE REQUIRED FINDINGS HAVE BEEN MADE; THAT THE COLTON SANITARY LANDFILL IS CONSISTENT WITH THE GENERAL PLAN OF THE CITY OF COLTON; AND THAT THE CITY HAS DETERMINED THAT THE OPERATION OF THE LANDFILL IS COMPATIBLE WITH THE SURROUNDING LAND USE; THAT THE LANDFILL IS IDENTIFIED IN THE COUNTY SITING ELEMENT WHICH HAS BEEN APPROVED BY THE BOARD; AND THAT CEQA HAS BEEN COMPLIED WITH.

STAFF REVIEWED THE PROPOSED PERMIT AND SUPPORTING DOCUMENTATION AND HAVE FOUND THEM TO BE ACCEPTABLE FOR CONSIDERATION BY THE BOARD.

IN CONCLUSION, STAFF RECOMMEND THAT

25 THE BOARD ADOPT SOLID WASTE FACILITY PERMIT

26

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DECISION NO. 97-418, CONCURRING IN THE ISSUANCE OF SOLID WASTE FACILITY PERMIT NO. 36-AA-0051.

MR. MARK STEVENS, REPRESENTING THE LEA, AND MR. RON DEERE, REPRESENTING NORCAL, ARE HERE TO ANSWER ANY QUESTIONS YOU MAY HAVE. THIS CONCLUDES MY PRESENTATION.

CHAIRMAN FRAZEE: MR. STEVENS, COMMENTS?

MR. STEVENS: WE APPRECIATE TADD AND CODY'S SUPPORT AND OTHER STATE STAFF. WE MIGHT NOTE THAT COLTON CONCLUDES THE LAST OF THE COUNTY SITES WITH THE 1979 PERMIT, SO THIS IS A GOOD MILESTONE.

(APPLAUSE.)

MEMBER JONES: MR. CHAIRMAN, IF THERE AREN'T ANY OTHER COMMENTS, I HAVE A LITTLE HISTORY IN SAN BERNARDINO. I WAS VICE PRESIDENT OF OPERATIONS FOR NORCAL AND HAD OVERSIGHT OF THOSE OPERATIONS DOWN THERE FOUR OR FIVE YEARS AGO. SO IT'S WITH A GREAT DEAL OF PLEASURE THAT I WANT TO BRING PERMIT DECISION 97-418 FOR ACCEPTANCE.

MEMBER RELIS: MR. CHAIR, I'LL RELUCTANTLY SECOND THAT ONLY ON THE BASIS THAT I'M NO BIG FAN OF VERTICAL EXPANSIONS ON UNLINED LANDFILLS. THIS IS PERMISSIBLE UNDER SUBTITLE D, BUT I DO NOT

25 BELIEVE IT'S FULLY IN THE SPIRIT OF THAT DIRECTION,

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BUT IT'S ALLOWED FOR UNDER LAW. SO I WILL SECOND IT.

CHAIRMAN FRAZEE: OKAY. WE HAVE A MOTION AND SECOND ON THE ADOPTION OF PERMIT DECISION 97-418. SECRETARY WILL CALL THE ROLL ON THAT.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED; AND WITHOUT OBJECTION, WE'LL RECOMMEND IT FOR CONSENT CALENDAR TO THE FULL BOARD.

THEN FINALLY, THE ITEM 8, CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR THE BARSTOW SANITARY LANDFILL IN SAN BERNARDINO COUNTY.

MEMBER JONES: SO COLTON WASN'T THE LAST.

MR. GEBREHAWARIAT: THE PROPOSED PERMIT IS TO ALLOW AN INCREASE IN TONNAGE FROM 350 TO 525 TONS PER DAY, AN INCREASE IN THE OPERATING HOURS, CHANGE IN THE CLOSURE DATE FROM THE YEAR 2012 TO THE YEAR 2007, AN ADDITION OF 6.5 ACRES FOR DRYING

24 SLUDGE WITHIN THE PERMITTED BOUNDARIES. IT'S ALSO

25 TO REFLECT THE NEWLY CHANGED NAME OF THE OWNER-

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OPERATOR IN THAT THE SAN BERNARDINO COUNTY SOLID WASTE MANAGEMENT DEPARTMENT FROM THE -- FROM THAT DEPARTMENT TO THE SAN BERNARDINO COUNTY PUBLIC SERVICES GROUP, WASTE SYSTEMS DIVISION. ESSENTIALLY THE SAME DEPARTMENT, BUT JUST RENAMED.

LEA AND BOARD STAFF HAVE DETERMINED THAT ALL THE REQUIRED FINDINGS HAVE BEEN MADE. AND IN CONCLUSION, STAFF RECOMMEND THAT THE BOARD ADOPT RESOLUTION NO. 97-419, CONCURRING IN THE ISSUANCE OF SOLID WASTE FACILITY PERMIT NO. 36-AA-0046. AND MR. MARK STEVENS IS PREPARED TO ANSWER ANY QUESTIONS THAT THE BOARD MAY HAVE.

CHAIRMAN FRAZEE: COMMENTS?

MR. STEVENS: AGAIN, WE APPRECIATE STAFF'S REPORT. THIS IS A SECOND REPERMITTING FOR THIS SITE, PREVIOUS REPERMITTING BEING IN 1995.

CHAIRMAN FRAZEE: OKAY. WE HAVE THIS ITEM BEFORE US.

MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A MOTION THAT WE ADOPT PERMIT DECISION 97-419.

MEMBER RELIS: SECOND.

CHAIRMAN FRAZEE: WE HAVE A MOTION AND SECOND ON THE ADOPTION OF 97-419. SECRETARY CALL

24 THE ROLL ON THAT ONE.

25 THE SECRETARY: BOARD MEMBER RELIS.

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MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED; WITHOUT OBJECTION, WE'LL RECOMMEND TO THE CONSENT CALENDAR FOR THE BOARD ON THIS ITEM.

NOW WE ARE READY FOR ITEM 12, THE CONSIDERATION OF APPROVAL TO FORMALLY NOTICE FOR THE PROPOSED REGULATIONS FOR ENFORCEMENT ASSISTED GRANTS. HAVE THE STAFF REPORT ON THAT ONE, PLEASE.

MS. RICE: THANK YOU, MR. CHAIRMAN AND MEMBERS. MARY COYLE AND MARK ARICO OF BOARD STAFF WILL MAKE THE PRESENTATION.

MS. COYLE: YES, MR. CHAIRMAN AND MEMBERS. THIS ITEM BRINGS FORWARD A CONSIDERATION FOR THE COMMITTEE THE PROPOSED REGULATIONS FOR FORMAL NOTICE TO THE OFFICE OF ADMINISTRATIVE LAW.

THE ENFORCEMENT ASSISTANCE GRANT PROGRAM BEGAN AWARDING GRANTS TO ENFORCEMENT AGENCIES IN 1991 BASED ON LAW OF AB 939. IN 1990 THE BOARD ADOPTED THE POLICIES AND PROCEDURES OF AWARDING THOSE GRANTS. THAT GRANT PROGRAM IS A

24 NON-DISCRETIONARY PROCESS. WE'VE BEEN FOLLOWING

25 THAT PROCESS SINCE 1991.

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WITH THE PASSAGE OF AB 1220, A NEW REVISION WAS ADDED TO THE STATUTE THAT REQUIRES US TO PROCESS REGULATIONS FOR THE GRANT PROCESS AND ALSO HAD A COUPLE CHANGES. ONE WAS THAT GRANTS WERE NOW ELIGIBLE FOR ALL SOLID WASTE FACILITIES WHEN IN PRIOR YEARS WAS JUST FOR LANDFILLS. IT ALSO IS NOW ELIGIBLE FOR LOCAL ENFORCEMENT AGENCIES AND NOT JUST ENFORCEMENT AGENCIES.

THERE'S A SMALL LITTLE DIFFERENCE THERE WHICH I'LL EXPLAIN. SINCE 1990 IN THE AREAS THE BOARD HAS SERVED AS ENFORCEMENT AGENCY, WE HAVE OFFSET OUR COSTS THROUGH THE USE OF THE GRANTS FOR THE JURISDICTIONS FOR THE COSTS THAT WE HAVE INCURRED WHILE DOING THOSE DUTIES. WHEN THESE REGULATIONS ARE ADOPTED AND APPROVED, WE WILL NO LONGER BE OFFSETTING THOSE COSTS AS THE LAW IS VERY CLEAR THAT THEY ARE FOR LOCAL ENFORCEMENT AGENCIES. SO THAT WOULD BE ONE -- THE CHANGE THAT THESE WOULD AFFECT.

THE REST OF THE PROCEDURES ARE AS THEY HAVE BEEN SINCE 1990.

WE HAVE TAKEN THESE DRAFT REGULATIONS AROUND TO THE CALIFORNIA CONFERENCE OF ENVIRON-MENTAL HEALTH DIRECTORS AND THE LOCAL ENFORCEMENT

25 AGENCIES AT THE LAST ROUND TABLES. WE RECEIVED A

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FEW COMMENTS WHICH WE HAVE INCORPORATED, AND WE FEEL THEY ARE READY TO START THE OFFICIAL PROCESS AND BE NOTICED TO THE OFFICE OF ADMINISTRATIVE LAW; AND, THEREFORE, THAT IS OUR RECOMMENDATION, TO APPROVE THE FORMAL NOTICE OF THE PROPOSED REGS WITH THE OFFICE. WE ARE AVAILABLE TO ANSWER ANY QUESTIONS.

CHAIRMAN FRAZEE: ON THE ISSUE OF JURISDICTIONS WHERE THE BOARD SERVES AS EA, WAS THAT STATUTORY CHANGE INTENTIONAL, OR WAS IT SOMETHING THAT.

MS. RICE: MY RECOLLECTION IS THAT IT WAS NOT EVER DISCUSSED, THAT THE EFFECT OF THIS WOULD BE THAT THE BOARD WOULD NO LONGER OFFSET ITS COSTS IN JURISDICTIONS WHERE IT IS THE EA, BUT IT IS ONE PRACTICAL EFFECT OF THE CHANGE IN STATUTE.

AT ONE POINT I BELIEVE LEG. COUNCIL OR WHOMEVER WAS ROUTINELY GOING THROUGH OUR STATUTE AND CHANGING REFERENCES TO LEA FROM EA. AND THEN, OF COURSE, OTHER YEARS THERE'S BEEN AN EFFORT TO DO THE OPPOSITE, TO CHANGE ALL THE REFERENCES TO EA BECAUSE IT'S BROADER. SO I BELIEVE THIS SECTION GOT CAUGHT UP IN THAT, ONE OF THOSE CHANGES ONE WAY OR THE OTHER.

25 IN ANY CASE, WE DID FEEL THAT WE'VE

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BEEN SOMEWHAT REMISS IN NOT BRINGING THE REGULATION FORWARD TO MAKE OUR GRANT PROGRAM CONSISTENT WITH WHAT IS NOW CURRENT LAW WHICH DESCRIBES IT AS STRICTLY AN LEA GRANT PROGRAM.

CHAIRMAN FRAZEE: AND IS IT ACADEMIC THAT WE DON'T REIMBURSE OURSELVES? IS THAT THE EFFECT OF THIS?

MS. RICE: THAT'S CORRECT. SO IT WOULD HAVE AN IMPACT ON OPERATORS WITHIN THE JURISDICTIONS WHERE WE ARE THE EA BECAUSE WE WOULD NOT BE OFFSETTING OUR COSTS OF INSPECTING AND TAKING PERMIT ACTIONS AT THOSE FACILITIES WITH A GRANT. SO WE WOULD BE BILLING FOR OUR HOURLY SERVICES AS AN LEA WOULD IN MOST INSTANCES.

MS. COYLE: WE DID, JUST FOR YOUR INFORMATION, WE SENT OUT A LETTER LAST WEEK TO THE OPERATORS OF THOSE JURISDICTIONS AND HAVE INCLUDED THE REGULATION PACKAGE FOR THEM FOR THEIR INPUT INTO THIS PROCESS.

MS. RICE: THE AMOUNT OF THESE GRANTS IS NOT SIGNIFICANT, SO WE ARE NOT ASSUMING THERE WOULD BE A SIGNIFICANT IMPACT, JUST THAT WE SHOULD NOTIFY, CLEARLY, THE JURISDICTIONS AND THE OPERATORS AFFECTED SO THAT THEY CAN BE PART OF THE

25 COMMENT PERIOD ON THIS RULEMAKING.

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CHAIRMAN FRAZEE: QUESTIONS? DISCUSSION ON THIS ITEM? IF NOT, WE HAVE A STAFF RECOMMENDATION TO APPROVE THE FORMAL NOTICE OF THE PROPOSED REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW.

MEMBER RELIS: MR. CHAIR, I'LL MOVE THE STAFF RECOMMENDATION.

MEMBER JONES: I'LL SECOND.

CHAIRMAN FRAZEE: WE HAVE A MOTION AND SECOND. SECRETARY CALL THE ROLL ON THAT, PLEASE.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED, AND THIS ITEM DOES NOT NEED TO GO TO THE FULL BOARD.

MS. RICE: CORRECT.

CHAIRMAN FRAZEE: CORRECT ON THAT? OKAY.

NOW, AGENDA ITEM 13 IS THE CONSIDERATION OF SITES FOR REMEDIATION UNDER THE WASTE TIRE STABILIZATION AND ABATEMENT PROGRAM.

MS. RICE: THANK YOU, MR. CHAIRMAN. GALE REHBERG WILL MAKE THE STAFF PRESENTATION.

25 MS. REHBERG: GOOD MORNING. IN THIS

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AGENDA ITEM STAFF IS PRESENTING THREE WASTE TIRE SITES FOR REMEDIATION UNDER THE WASTE TIRE STABILIZATION AND ABATEMENT PROGRAM. THE PUBLIC RESOURCES CODE AUTHORIZES THE BOARD TO EXPEND MONEY FROM THE CALIFORNIA TIRE RECYCLING MANAGEMENT FUND TO PERFORM ANY CLEANUP, ABATEMENT, OR REMEDIAL WORK REQUIRED TO PREVENT SUBSTANTIAL POLLUTION, NUISANCE, INJURY TO THE PUBLIC HEALTH AND SAFETY.

I WILL BRIEFLY DESCRIBE THE THREE SITES. THE FIRST SITE IS IN AMADOR COUNTY, AND IT'S REFERRED AS FINE AND SONS WASTE TIRE SITE. THIS SITE IS BASICALLY AN AUTO DISMANTLER THAT OPERATES ON 5 ACRES OF LAND.

THE WAY THE TIRES ACCUMULATED ON THIS SITE IS THE AUTO DISMANTLER LET ANOTHER INDIVIDUAL BRING TIRES ON SITE AND TEMPORARILY STORE THEM THERE AND WITH THE AGREEMENT THAT THE TIRES WOULD BE REMOVED.

WELL, THE INDIVIDUAL DID NOT REMOVE THE TIRES, AND THE TIRES ARE REMAINING ON THE AUTO DISMANTLER'S PROPERTY.

THE SECOND AND THIRD SITE, ACTUALLY WE CALL IT TWO SITES BECAUSE THERE ARE TWO DIFFERENT PROPERTY OWNERS, BUT IT'S ACTUALLY ONE

25 LARGE PILE OF TIRES SPREAD OVER THE TWO PROPERTIES.

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IT IS IN THE SAN BERNARDINO COUNTY, SPECIFICALLY IN THE CITY OF SAN BERNARDINO. THERE ARE ABOUT 8,000 TIRES SPREAD OUT, COMMINGLED WITH OTHER TYPES OF FLAMMABLE DEBRIS ON BOTH OF THESE PROPERTIES.

STAFF HAS BEEN UNABLE TO DETERMINE THE SOURCE OF THESE TIRES OR WHO THE RESPONSIBLE PARTY IS. BOTH PROPERTY OWNERS HAVE FAILED TO REMOVE THE TIRES AS REQUESTED BY THE BOARD.

STAFF HAS INVESTIGATED ALL THREE SITES AND DETERMINED THAT ABATEMENT IS NEEDED TO PROTECT THE PUBLIC'S HEALTH AND SAFETY AND ALSO THE ENVIRONMENT. THESE WASTE TIRE SITES POSE A THREAT TO NEARBY RESIDENCES, BUSINESSES, AND ALSO ON ONE OF THE SITES THERE'S AN ELEMENTARY SCHOOL DIRECTLY BEHIND A PILE OF ABOUT 5,000 TIRES.

CEQA COMPLIANCE FOR EACH SITE WILL BE ACHIEVED BY FILING A NOTICE OF EXEMPTION UTILIZING A CLASS 8 CATEGORICAL EXEMPTION AFTER THE BOARD MAKES ITS DECISION ON THIS ITEM.

STAFF IS RECOMMENDING ADOPTION OF RESOLUTION 97-420, APPROVING THESE SITES FOR REMEDIATION UNDER THE WASTE TIRE STABILIZATION AND ABATEMENT PROGRAM.

24 THE COMMITTEE CAN APPROVE THE SITES

25 AS RECOMMENDED BY STAFF, DISAPPROVE EACH SITE OR

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ALL THREE SITES, OR DIRECT STAFF TO PROVIDE ADDITIONAL INFORMATION REGARDING THE SITES AND BRING THE ITEM BACK AT A FUTURE MEETING.

THIS CONCLUDES MY PRESENTATION, AND STAFF'S AVAILABLE TO ANSWER ANY QUESTIONS YOU MAY HAVE.

CHAIRMAN FRAZEE: OKAY.

MEMBER JONES: MR. CHAIRMAN, I DON'T HAVE ANY PROBLEM WITH SOUTH VALLEY VIEW ONE AND TWO, BUT I'M WONDERING IS ANYBODY HERE FROM AMADOR COUNTY FROM FINE AND SONS? OKAY. I GOT AN E-MAIL FROM KEITH, THAT -- KEITH CAMBRIDGE THAT DESCRIBED THE ENFORCEMENT ACTION AND THE FACT THAT THE OPERATOR BROUGHT IN MORE TIRES WHEN HE WASN'T SUPPOSED TO. AND NOW KEITH'S TALKED TO THE DISTRICT ATTORNEY ABOUT PROBATION AND THOSE TYPES OF THINGS.

I THINK THAT THIS BOARD MEMBER, AS LONG AS WE ARE TAKING ACTION, THAT THE SITUATION DOESN'T CONTINUE BECAUSE IT'S AN ONGOING BUSINESS THAT IS BREAKING THE RULES. AND IF WE'RE GOING TO JUST CLEAN UP HIS YARD AND GIVE HIM MORE ROOM TO KEEP BREAKING THE RULES, THEN I HAVE A PROBLEM WITH THAT; BUT IF WE ARE GOING TO TAKE ACTION AND CONTINUE TO KEEP PRESSURE ON AMADOR COUNTY'S LEA TO

25 MAKE SURE THAT THIS DOESN'T EXIST, THEN I THINK

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THAT TAKES CARE OF A LOT OF MY RESERVATIONS.

I KNOW IN MY BRIEFING I WAS -- HAD A LOT OF QUESTIONS ABOUT THE FINE AND SONS. I DIDN'T UNDERSTAND HOW ALL THIS STUFF WORKS.

MS. REHBERG: PART OF OUR ENFORCEMENT PROCESS ON THIS PARTICULAR SITE INCLUDED AN ADMINISTRATIVE COMPLAINT BEING FILED, AND AN ADMINISTRATIVE HEARING WAS HELD IN EARLY JULY AGAINST THE OPERATOR AND THE RESPONSIBLE -- AGAINST THE PROPERTY OWNER AND THE RESPONSIBLE PARTY.

AND WHAT HAPPENED AT THAT HEARING IS THE JUDGE DID IMPOSE A $9,000 FINE AGAINST EACH PARTY, BUT DID, AT THE REQUEST OF THE PROPERTY OWNER, GRANT AN ADDITIONAL 60-DAY PERIOD FOR THEM TO MAKE ANOTHER ATTEMPT TO REMOVE THE TIRES.

SO THE FINE WAS JUST RECENTLY IMPOSED THE FIRST WEEK OF SEPTEMBER BECAUSE THEY FAILED TO REMOVE THE TIRES BY AUGUST 31ST. AND I VISITED THIS SITE LAST FRIDAY AFTERNOON JUST TO MAKE SURE THAT -- TO DETERMINE WHETHER THE TIRES WERE THERE OR NOT, AND THEY ARE STILL PRESENT.

MEMBER JONES: NOW, WOULD WE -- ARE WE GOING TO MAKE SURE THAT THE ENFORCEMENT -- I MEAN I

24 DON'T KNOW WHAT OUR ROLE IS IN THIS THING. EITHER

25 WE GET COST RECOVERY OR WHATEVER, BUT I LOOK AT --

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I LOOKED AT THE PICTURES OF THIS SITE, AND I THINK THE OTHER BOARD MEMBERS. THESE TIRES HAVE BEEN BAGELED. THESE TIRES HAVE BEEN SPLIT AND CAN BE BROUGHT TO A LANDFILL. AND THE LANDFILL IS THREE MILES AWAY FROM THIS FACILITY AND HAS ONE OF THE LOWER DISPOSAL RATES IN THE FOOTHILLS. SO IT'S PRETTY OBVIOUS THAT SOMETHING IS STRANGE HERE, BUT I DO THINK THERE'S A HEALTH AND SAFETY RISK. IF NOTHING ELSE, OUR COSTS ARE A LITTLE BIT DOWN BECAUSE OF THE BAGELED TIRES.

MS. REHBERG: WELL, YOU KNOW, DURING THE 60-DAY PERIOD, HE DID REMOVE SOME TIRES, AND HE DID CHOOSE TO REMOVE THE BAGELED TIRES AND THE SPLIT TIRES, AND HE LEFT US THE WHOLE TIRES, THE TIRES ON RIMS, AND THE OTR'S.

MEMBER JONES: AMAZING. WELL, WE DO ALWAYS HAVE COST RECOVERY AS AN ISSUE.

MS. TOBIAS: AND I WILL SAY ON THE COST RECOVERY, THAT SHOULD THEY NOT PAY THE FINE WHICH HAS NOW BEEN IMPOSED, WE WILL BE TAKING IT TO SUPERIOR COURT AND CONVERTING IT INTO A JUDGMENT AGAINST THESE PARTIES, IN WHICH CASE AT THAT TIME, IF THEY DON'T PAY THOSE COSTS, WE'LL EITHER LIEN

24 THE PROPERTY OR FOLLOW UP ON OTHER WAYS OF

25 RECOVERING THAT MONEY.

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MEMBER JONES: GREAT.

MEMBER RELIS: I JUST HAVE A GENERAL COMMENT BEFORE WE VOTE ON THIS.

YESTERDAY WE TOOK UP THE TIRE ISSUE FROM ANOTHER VANTAGE, THE INCINERATION OF TIRES AND OUR POSITION REGARDING THAT. I CAME ACROSS IN THE STAFF ANALYSIS ON THAT ITEM -- I JUST WANTED TO OBSERVE AGAIN THAT WE'RE STILL IN -- SPITE OF OUR GOOD EFFORTS, WE'RE STILL IN APPROXIMATELY A 14-MILLION TON TIRE PER YEAR DEFICIT. SO THESE CLEANUP EFFORTS, REMEDIATION EFFORTS, WE'RE ALWAYS -- I FEEL LIKE PROBABLY MANY OF YOU ARE FAMILIAR WITH THE MYTH OF SISYPHUS. AND, YOU KNOW, WE NEVER SEEM TO GET TO THE TOP OF THIS HILL.

WE'RE INCURRING, BASED ON THE CLEANUP COST TO DATE AN ONGOING LIABILITY, ASSUMING THESE TIRES END UP IN VARYING PILES, AND THE ONES THAT DON'T GET PROPERLY DEALT WITH AT ABOUT A $15 MILLION LIABILITY A YEAR AGAINST OUR PALTRY AMOUNT TO CLEAN IT UP.

SO WHILE I AM ENCOURAGED THAT WE MAKE PROGRESS, WE STILL HAVE AN ENORMOUS GAP IN THIS STATE, AND THIS DEBT IS A BIG ONE AND IT'S ANNUAL.

24 SO -- BUT I'LL SUPPORT THIS REMEDIATION EFFORT FOR

25 THE THREE SITES, MR. JONES.

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MEMBER JONES: IF THAT WAS A MOTION, THEN I'LL SECOND IT.

MEMBER RELIS: YES, IT IS.

CHAIRMAN FRAZEE: WE HAVE A MOTION AND SECOND ON THE ADOPTION OF RESOLUTION 97-420, APPROVAL OF SITES FOR REMEDIATION UNDER THE WASTE TIRE STABILIZATION AND ABATEMENT PROGRAM. SECRETARY WILL CALL THE ROLL ON THAT ONE, PLEASE.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED; AND WITHOUT OBJECTION, WE'LL RECOMMEND THIS ONE FOR THE CONSENT CALENDAR TO THE FULL BOARD.

WE HAVE A REQUEST FOR A BREAK AT THIS POINT. LET'S TAKE ABOUT TEN MINUTES, RECONVENE AT 10:30.

(RECESS TAKEN.)

CHAIRMAN FRAZEE: MEETING WILL COME TO ORDER AGAIN, PLEASE. WE'RE READY TO PROCEED WITH AGENDA ITEM 14, THE CONSIDERATION OF NEW SITE FOR THE SOLID WASTE DISPOSAL AND CODISPOSAL SITE

25 CLEANUP PROGRAM.

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MS. RICE: THANK YOU. MARGE ROUCH WILL MAKE THIS PRESENTATION.

MS. ROUCH: GOOD MORNING, CHAIRMAN FRAZEE AND COMMITTEE MEMBERS. IN JULY OF THIS YEAR, THE 2636 CLEANUP PROGRAM STAFF BROUGHT AN ALLOCATION ITEM FOR YOUR CONSIDERATION. AS A PART OF THAT ITEM, WE ATTACHED AN UPDATED VERSION OF OUR SITES LIST. THE LIST HAS BEEN REVISED BASED ON INPUT FROM CLOSURE BRANCH STAFF WORKING WITH SOME OF THE LEA'S.

THE MOBILE DEBRIS BOX SERVICE SITE WAS NOT ON THE LIST. ON AUGUST 5TH I SENT A LETTER TO EACH LEA JURISDICTION REQUESTING THEIR INPUT TO THE SITE LIST. THE LETTER ASKED THAT THEY ADD SITES WHICH MIGHT BE CONSIDERED FOR FUNDING, DELETE SITES THAT ARE NOT A THREAT OR DO NOT EXIST.

AS A RESPONSE TO THAT LETTER, MR. HENRY LOUIE, CITY OF SAN FRANCISCO LEA, ASKED IF WE WOULD CONSIDER TODAY'S SITE. THE OPERATOR OF THIS SITE IS OPERATING AN ILLEGAL DISPOSAL SITE. THE MODE OF OPERATION OF THE SITE OPERATOR IS TO SET UP HIS BUSINESS AT A SITE AND THEN PROCEED TO FILL THE PROPERTY WITH TRASH AND DEBRIS AS HE PROCESSES THE MATERIAL HE BRINGS IN.

25 STAFF ESTIMATES THERE ARE SEVERAL

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THOUSAND CUBIC YARDS OF SOLID WASTE ACCUMULATED AT THE SITE. CONDITIONS AT THE SITE PROMOTE FURTHER ILLEGAL DUMPING BY OTHERS.

THE LEA HAS TAKEN MANY ENFORCEMENT ACTIONS AGAINST THE OWNER AND OPERATOR TO SECURE COMPLIANCE, WHICH THE OWNER AND OPERATOR HAVE IGNORED TO DATE. THE OWNER AND OPERATOR HAVE BEEN SERVED WITH A COMPLAINT AND A COURT DATE IS PENDING.

AS THE AGENDA ITEM STATES, STAFF RECOMMEND FUNDING THIS PROJECT AS A BOARD-MANAGED CLEANUP CONTINGENT ON THE OWNER AND OPERATOR FAILING TO COMPLY WITH ANTICIPATED ORDERS COMING FROM THE UPCOMING COURT ACTION.

MR. HENRY LOUIE OF THE BUREAU OF HEALTH MANAGEMENT AND THE OWNER OF THE PROPERTY, MR. REGINALD RICCI, ARE PRESENT TO ANSWER ANY QUESTIONS.

CHAIRMAN FRAZEE: OKAY. LET'S HEAR FROM THE LEA, HENRY LOUIE.

MR. LOUIE: CHAIRMAN FRAZEE AND MEMBERS OF THE PERMITTING AND ENFORCEMENT COMMITTEE, I'M HENRY LOUIE. I'M WITH THE SAN FRANCISCO DEPARTMENT OF

24 PUBLIC HEALTH, LOCAL ENFORCEMENT AGENCY. ON BEHALF

25 OF THE LOCAL ENFORCEMENT AGENCY, I WANT TO THANK

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THE BOARD FOR TAKING THIS ITEM UP FOR CONSIDERATION THIS MORNING.

I HAVE SOME MATERIAL HERE THAT MIGHT ANSWER SOME QUESTIONS THAT SOME OF YOU MAY HAVE WITH REGARDS TO THIS REQUEST. IF I MAY, I'D LIKE TO HAND THEM OUT TO THE BOARD MEMBERS.

I UNDERSTAND THAT THERE MAY BE SOME QUESTIONS WITH REGARDS TO THE ENFORCEMENT ACTION THAT THE SAN FRANCISCO LEA HAS TAKEN WITH RESPECT TO THE MOBILE DEBRIS SITE. IN THE PACKAGE THAT YOU JUST RECEIVED, WHAT YOU HAVE IS A CHRONOLOGY AND OVERVIEW OF THE SAN FRANCISCO ENFORCEMENT ACTION EFFORTS. AND THEN THE SECOND DOCUMENT THERE IS A LETTER FROM THE SAN FRANCISCO LEA TO THE 2636 PROGRAM REQUESTING 2136 ASSISTANCE.

THE THIRD DOCUMENT IS A COPY OF A COMPLAINT THAT THE CITY AND COUNTY OF SAN FRANCISCO RECENTLY FILED IN SUPERIOR COURT AGAINST THE OPERATOR OF THIS BUSINESS, MR. DENNIS WEBB, AND THE PROPERTY OWNER, MR. REGINALD RICCI.

AND THEN FINALLY, THE FOURTH DOCUMENT IS A COPY OF THE NOTICE AND ORDER FOR COMPLIANCE THAT WAS SERVED TO THE OPERATOR AND THE PROPERTY OWNER.

25 I THOUGHT MAYBE WHAT I COULD DO IS TO

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PROVIDE A BRIEF OVERVIEW OF SOME OF OUR ENFORCEMENT EFFORTS BECAUSE, AS I UNDERSTAND IT, THERE HAS BEEN SOME QUESTIONS AS TO WHETHER OR NOT THE CITY AND COUNTY OF SAN FRANCISCO HAS EXPENDED SUFFICIENT AND SIGNIFICANT ENFORCEMENT EFFORTS. IF YOU LOOK AT THE VERY FIRST DOCUMENT THAT'S DATED SEPTEMBER THE 12TH, IT IS FROM ME TO THE INTEGRATED WASTE MANAGEMENT BOARD. AND IT'S ENTITLED "A CHRONOLOGY OF LEA ENFORCEMENT ACTIVITIES."

ON PAGE 2 OF THIS DOCUMENT, I'VE HIGHLIGHTED AND LISTED SIGNIFICANT ENFORCEMENT EFFORTS. AND WHILE IT CERTAINLY WOULD NOT HAVE BEEN PRACTICAL FOR ME TO LIST EVERYTHING THAT WE'VE DONE, WHAT I'VE DONE IS IDENTIFIED 12 SIGNIFICANT ACTIONS THAT THE LEA HAS TAKEN SINCE WE LEARNED OF THIS ILLEGAL ACTIVITY IN LATE 1996.

WHEN WE FIRST LEARNED OF THIS ACTIVITY IN LATE 1996, WE SENT A COUPLE LETTERS OUT TO BOTH THE OPERATOR AND THE LANDLORD, SAYING THAT THERE IS AN ILLEGAL ACTIVITY BEING CONDUCTED THERE AND THAT WE HAD ASKED THAT THE OPERATOR CEASE AND DESIST FROM THOSE OPERATIONS.

AND THEREAFTER WE HAD SENT MR. RICCI A NOTICE ON MAY THE 7TH. A COUPLE WEEKS AFTER

25 THAT, ITEM NO. 4, WE ISSUED A CITATION TO MR.

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RICCI, THE PROPERTY OWNER, TO APPEAR AT A DEPARTMENT OF PUBLIC HEALTH HEARING AND FOR HIM TO SHOW CAUSE AS TO WHY HE HAD FAILED TO COMPLY WITH OUR ENFORCEMENT EFFORTS.

AND THEN GOING DOWN THE ENFORCEMENT ROSTER HERE, WE SERVED A NOTICE AND ORDER MAY THE 23D FOLLOWED BY THE HEARING. AND ULTIMATELY ON AUGUST THE 29TH, WE FILED THROUGH OUR OFFICE OF CITY ATTORNEY A COMPLAINT IN SUPERIOR COURT.

IT IS OUR OPINION THAT BECAUSE OF THE RECALCITRANCE ON BOTH THE PART OF THE OPERATOR AND THE PROPERTY OWNER, THAT IN THE ABSENCE OF THE INTEGRATED WASTE MANAGEMENT BOARD SUPPORT, THAT IS A BOARD-MANAGED CLEANUP, THAT THIS SITE WILL BE AN INCREASING THREAT TO THE PUBLIC HEALTH AND SAFETY OF THAT NEIGHBORING COMMUNITY.

I UNDERSTAND TOO THAT THERE WAS ALSO SOME CONCERN ABOUT WHETHER OR NOT THE CITY WAS COMMITTED TO COST RECOVERY. AND I DID, I THINK, TRY TO ADDRESS THAT IN MY LETTER THAT'S DATED AUGUST 27TH TO MR. WES MINDERMANN OF THE 2136 PROGRAM.

IN THAT LETTER I DESCRIBE BRIEFLY THE SITE AND THEN TRIED TO AGAIN HIGHLIGHT SOME OF OUR

25 ENFORCEMENT EFFORTS, AND THEN SECOND TO LAST

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PARAGRAPH ON PAGE 2 OF THAT LETTER, WITH RESPECT TO COST RECOVERY, I DID STATE AT THAT TIME AND I WILL AGAIN REITERATE NOW THAT THE CITY, IF NECESSARY, WILL, WITH THE COOPERATION OF OUR CITY ATTORNEY, ASSIST THE BOARD IN WHATEVER WAY POSSIBLE TO RECOVER FROM THE RESPONDENTS IN THIS CASE, MR. WEBB AND MR. RICCI, ANY COSTS ASSOCIATED WITH BOARD REMEDIAL EFFORTS.

AND WE BELIEVE THAT THIS CLEANUP WILL ABATE A NUISANCE THAT PRESENTS A THREAT TO THE HEALTH AND SAFETY OF THAT COMMUNITY AND TO THE ENVIRONMENT.

WITH RESPECT TO JUST WHAT COURSE OF RELIEF WE ARE ASKING IN SUPERIOR COURT, I DO UNDERSTAND THAT COST RECOVERY IS AN ISSUE. THERE IS ALSO ISSUES OF ACCOUNTABILITY; AND THAT IS, WILL THE RESPONSIBLE PARTIES BE HELD ACCOUNTABLE. AND IT IS CERTAINLY OUR INTENT TO DO JUST THAT. AND THE COMPLAINT ADDRESSES THAT IN OUR REQUEST FOR RELIEF.

IF YOU WILL TURN TO THE COMPLAINT ON PAGE 5 OF THAT COMPLAINT, BEGINNING WITH THE

23 PARAGRAPH THAT SAYS "REQUEST FOR JURY TRIAL," WE

24 HAD IDENTIFIED, I BELIEVE, TEN -- ACTUALLY A DOZEN

25 REQUESTS OF THE SUPERIOR COURT. AND THESE ITEMS

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INCLUDE THAT THE NUISANCE BE ABATED, THAT THE DEFENDANTS BE ENJOINED AND RESTRAINED FROM MAINTAINING OR PERMITTING THE CONDITIONS AS DESCRIBED IN THIS COMPLAINT, AND THAT WE HAVE ASKED THAT THE DEFENDANTS VACATE THE PREMISES AND BE RESTRAINED AND ENJOINED FROM ENGAGING AND CONTINUING ENGAGEMENT OF ILLEGAL ACTIVITIES.

WE'VE ASKED THAT THE DEFENDANTS -- THAT A LIEN SHALL BE PLACED UPON THESE PREMISES FOR OUR ENFORCEMENT EFFORTS. WE ALSO HAVE IDENTIFIED OR ARE MAKING REQUEST FOR CIVIL PENALTIES, CIVIL PENALTIES IN VIOLATION OF THIS SAN FRANCISCO PLANNING CODE, PENALTIES FOR VIOLATION OF THE BUSINESS AND PROFESSIONS CODE IN TERMS OF UNFAIR BUSINESS PRACTICES AND FRAUDULENT PRACTICES.

WE'RE ASKING FOR PENALTIES OF -- CIVIL PENALTIES FOR VIOLATION OF THE PUBLIC RESOURCES CODE. AND, OF COURSE, WE ARE ASKING THAT WE BE AWARDED ATTORNEY FEES PURSUANT TO THE HEALTH AND SAFETY CODE.

SO WITH THAT, I THINK WE'VE

22 DEMONSTRATED, I BELIEVE, A GOOD FAITH EFFORT IN

23 TRYING TO REMEDIATE THIS SITE. WHAT WE ARE

24 REQUESTING IS A BOARD-SUPPORTED CLEANUP, AND

WE'RE

25 NOT ASKING FOR A GRANT. WE'RE NOT ASKING FOR A

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LOAN. WHAT WE RECOGNIZE IS THAT THIS SITE IS A SITE THAT PRESENTS A THREAT TO PUBLIC HEALTH AND SAFETY AND THAT THE MOST EXPEDITIOUS WAY OF REMEDIATING THE SITE AND THE MOST EFFICIENT WAY OF REMEDIATING THE SITE IS THROUGH WHAT I BELIEVE A BOARD-SPONSORED CLEANUP.

WITH THAT SAID, I WILL ENTERTAIN ANY QUESTIONS THAT YOU MIGHT HAVE.

CHAIRMAN FRAZEE: QUESTIONS?

MEMBER JONES: I HAVE A FEW. ON THE NOTICE AND ORDER COMPLIANCE, THE LAST PART THAT YOU BROUGHT OUT OR THAT WAS PART OF THE PACKAGE THAT WE GOT REGARDING THIS, YOU IDENTIFIED THREE OR FOUR ADDRESSES. 1300 YOSEMITE, WHICH IS WHAT WE'RE TALKING ABOUT TODAY, CORRECT?

MR. LOUIE: THAT'S RIGHT.

MEMBER JONES: 1212 THOMAS AVENUE WHERE THIS OPERATION TOOK PLACE, AND I'M SURE YOU HAD A CLEANUP ISSUE THERE, AND THEN 1300 CARROLL AVENUE.

MR. LOUIE: YES.

MEMBER JONES: NOW, THAT'S IN SAN FRANCISCO. DID IT LIST THE ONES -- OH, YEAH. YOU GOT SAN MATEO COUNTY. YOU'VE GOT THE SAN MATEO ONE. BECAUSE I HAVE -- AS EVERYBODY THAT WAS IN MY

25 BRIEFING KNOWS, I HAD SOME QUESTIONS ABOUT THIS

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BECAUSE IT'S BEEN AN ONGOING, QUOTE, UNQUOTE, RECYCLING FACILITY THAT NOW HAS BEEN -- IT'S A DUMP THAT WE HAVE TO CLEAN UP.

WE'RE GOING TO -- I THINK THAT THIS ITEM IS MORE IMPORTANT THAN JUST THE CLEANUP OF THE HEALTH AND SAFETY AT THIS LOCATION. I THINK THAT LEA'S THAT ARE IN THIS AUDIENCE TODAY AND THOSE THAT ARE GOING GET REPORTED BACK TO WHO -- ARE GOING TO WANT TO SEE WHAT THIS BOARD IS GOING TO DO ON THIS CASE BECAUSE THEY HAVE AN ISSUE COMING UP LATER WHEN WE TALK ABOUT TRANSFER STATION REGS. AND I THINK THEY'RE KIND OF LOOKING TO SEE WHAT WE'RE GOING TO DO.

A LOT OF THE STATEMENTS THAT MR. LOUIE MADE ABOUT A LOAN OR A GRANT PROBABLY CAME FROM SOME OF MY QUESTIONS ABOUT HOW DO WE TAKE CARE OF THE PROBLEM. I WANT TO CLEAN UP THE MESS, BUT I WANT TO MAKE SURE THAT THE MESS DOESN'T CONTINUE OR GET MOVED TO ANOTHER LOCATION IN SAN FRANCISCO.

I KNOW THAT THESE -- IT'S VERY HARD FOR AN LEA OR FOR STATE STAFF TO ENFORCE ON SOMETHING LIKE THIS TO THE POINT THAT I THINK IF YOU LOOK AT THE DEBRIS BOXES THAT THIS OPERATION USES -- WHAT COLOR ARE THEY?

25 MR. LOUIE: THEY'RE GRAY, SIR.

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MEMBER JONES: WHAT COLOR ARE THE PERMITTED OPERATORS IN THAT CITY OF SAN FRANCISCO?

MR. LOUIE: THE BOXES ARE CLEVERLY DISGUISED TO LOOK LIKE THE BOXES OF THE PERMITTED OPERATORS.

MEMBER JONES: YEAH. AND I MEAN SO THIS IS MORE THAN JUST DEALING WITH THE CLEANING UP OF A FACILITY. WE'VE GOT A LOT OF PEOPLE THAT ARE GOING TO SIT HERE TODAY AND TALK ABOUT RECYCLING CENTERS, AND, YOU KNOW, HOW MUCH JURISDICTION SHOULD AN LEA OR STATE BOARD HAVE IN MAKING SURE THAT THEY LIVE TO THE SAME STANDARD THAT ANY OTHER REGULATED FACILITY LIVES UNDER.

MY QUESTIONS OR CONCERNS WOULD BE IF THE STATE TOOK TAXPAYER DOLLAR OR TOOK RATEPAYER DOLLAR AND PAID FOR THIS, YOU INDICATED THE CITY WOULD STAY ON TOP OF THIS SITUATION.

MR. LOUIE: THAT IS TRUE, SIR.

MEMBER JONES: AND WHAT I'D LIKE -- WHENEVER WE -- AFTER WE GET THROUGH WITH THIS DISCUSSION, MY SUGGESTION IS GOING TO BE THAT SOME CONDITIONS BE ATTACHED IN THE FORM OF A LETTER FROM WASTE BOARD STAFF SAYING THAT WE WANT THE CITY TO STAY INVOLVED IN THIS, WANT THEM TO STAY INVOLVED

25 IN FULFILLING THIS ACTION THAT THEY'RE TRYING TO

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TAKE IN COURT.

THE OTHER THING THAT I'D LIKE TO BRING UP IS THAT -- AND I'M NOT A LAWYER. I'M NOT SURE HOW THESE THINGS WORK -- BUT IF IN THE COURSE OF THE STATE CONTRACTOR CLEANING UP THIS FACILITY, THEY UNEARTH HAZARDOUS WASTE, DOESN'T THAT TAKE THIS INTO A WHOLE NOTHER REALM OF CRIMINAL ACTIVITY FOR THE TRANSPORTATION AND STORAGE OF HAZARDOUS WASTE ILLEGALLY.

IF IT DOES, I WOULD HOPE THAT THE CITY WOULD FOLLOW THAT STRAIN TO MAKE SURE THAT THESE KINDS OF ACTIONS HAVE THE RIGHT KIND OF REACTION BECAUSE IT'S THE TAXPAYERS OF CALIFORNIA THAT ARE PAYING FOR THIS CLEANUP. AND I JUST DON'T THINK IT SHOULD BE AN OPEN BOOK. I THINK IT NEEDS TO HAVE FINALITY, AND THE FINALITY NEEDS TO DEAL WITH THE CAUSE OF THE PROBLEM.

MEMBER RELIS: MR. CHAIR, JUST A QUESTION. DOES MOBILE DEBRIS, DO THEY HAVE A LICENSE TO DO BUSINESS IN THE CITY?

MR. LOUIE: NO, THEY DO NOT. MOBILE DEBRIS IS TRULY ONE OF THOSE OPERATORS THAT COULD BE CHARACTERIZED AS A BAD ACTOR. APPARENTLY HE IS NOT ONLY IN VIOLATION OF STATE AND LOCAL REGS WITH

25 REGARDS TO SOLID WASTE, HE DOES NOT HAVE A CURRENT

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BUSINESS PERMIT. HE DOES NOT -- HE'S IN ARREARS IN HIS BUSINESS TAXES. HE'S -- IN THE COURSE OF HIS OPERATIONS IN SAN FRANCISCO HE'S INCURRED ABOUT $7,000 OF FINES FROM THE DEPARTMENT OF PUBLIC WORKS FOR PLACING BOXES IN PUBLIC THOROUGHFARE WITHOUT THE PROPER PERMITS.

THIS IS SOMEBODY WHO JUST HAS NOT -- WHO'S BEEN RECALCITRANT AND WHO IS ESSENTIALLY OPERATING IN A WAY THAT -- IN A MANNER THAT THUMBS ITS NOSE AT AUTHORITY, IF I CAN SAY THAT.

UNFORTUNATELY, AND I DO SHARE THE BOARD'S CONCERN; THAT IS, THAT THIS IS AN INDIVIDUAL WHOM APPARENTLY HAS HAD A HISTORY OF CONDUCTING THESE KINDS OF ILLEGAL OPERATION. I'VE TRIED TO KIND OF OUTLINE THAT IN THE NOTICE AND ORDER. HE WAS IN SAN MATEO COUNTY. HE APPARENTLY HAD OPERATED IN SAN MATEO COUNTY AT A COUPLE OF DIFFERENT LOCATIONS. HE WAS CHASED OUT OF SAN MATEO COUNTY BY THE SAN MATEO COUNTY LEA, CAME INTO SAN FRANCISCO ABOUT TWO YEARS AGO, AND OPERATED A COUPLE OF ESTABLISHMENTS, WHICH WE HAVE CHASED HIM OUT OF. AND HE'S FOUND A HOME HERE AT THE YOSEMITE STREET SITE.

24 UNFORTUNATELY, I THINK THAT OUR HANDS

25 ARE SOMEWHAT TIED IN THAT INASMUCH AS I WOULD LOVE

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TO PURSUE CRIMINAL PENALTIES AGAINST THE OPERATOR HERE, THE PROVISIONS ARE SUCH THAT THE LAWS PROVIDE FOR CIVIL PENALTIES AND, THEREFORE, WE NEED TO PURSUE IT CIVILLY, AS WE HAVE BEEN DOING.

BUT NEVERTHELESS, WITH RESPECT TO SOME OF THE CRIMINAL VIOLATIONS, THERE ARE SOME CRIMINAL VIOLATIONS OF LOCAL REGULATIONS, AND THEY HAPPEN TO BE MISDEMEANOR VIOLATIONS. I'VE TAKEN IT BEFORE OUR DISTRICT ATTORNEY'S OFFICE, WHO SIMPLY HAS SAID THAT FOR MISDEMEANOR VIOLATIONS, HE IS GOING TO BE HARD-PRESSED TO PURSUE CRIMINAL CHARGES.

IF ON THE OTHER HAND, THERE ARE VIOLATIONS OF HAZARDOUS WASTE REGULATIONS, THEY COULD VERY WELL BE FELONIES. AND HE HAS EXPRESSED AN INTEREST IN PURSUING A FELONY CHARGE IF A FELONY CHARGE IS -- FELONY VIOLATIONS ARE UNCOVERED.

CHAIRMAN FRAZEE: FOR MY PART, I AM IMPRESSED WITH THE AGRESSIVENESS WITH WHICH YOU HAVE PURSUED THIS ITEM TO THIS POINT. AND MY CONCERN REVOLVES AROUND THE SITUATION WHERE WE MAY EXPEND TAXPAYERS' FUNDS TO CLEAN THIS UP, AND THEN YOUR DEPARTMENT LOSES SOME ENTHUSIASM FOR

24 CONTINUING TO PURSUE THIS. AS I MENTIONED, OUR

25 PHONE CONVERSATION, THE TIMING OF THIS CONCERNS ME.

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FROM THAT STANDPOINT, HAS THIS HAD ENOUGH TIME TO PLAY OUT SO THAT ALL THE LEGAL ACTIONS THAT CAN BE TAKEN ARE EXHAUSTED BEFORE WE PROCEED WITH A BOARD-MANAGED CLEANUP? AND I'M HOLDING MY RESERVATION ON THAT ONE, BUT WE'LL SEE HOW IT GOES.

LET'S HEAR FROM REGINALD RICCI. IS HE HERE? WE HAVE A SPEAKER SLIP? YES.

MR. LOUIE: THANK YOU VERY MUCH.

MR. RICCI: DO YOU WANT TO ASK QUESTIONS?

CHAIRMAN FRAZEE: WELL, IF YOU WOULD LIKE TO MAKE ANY KIND OF A STATEMENT OR PRESENTATION.

MR. RICCI: WELL, I'LL MAKE A PRELIMINARY STATEMENT. IN THE HISTORY OF THIS SITE, MR. LOUIE HAS ADMITTED THE SITUATION REGARDING CITY DEBRIS BOX, WHICH WAS A RENTER OF A PORTION OF THAT PROPERTY PRIOR -- YEAR OR SO PRIOR TO MR. WEBB, WHO THEY FOOLED AROUND WITH THIS GUY FOR ABOUT FOUR YEARS. AND HE DISAPPEARED IN THE MIDDLE OF THE NIGHT WHEN THERE WAS GOING TO BE A LOT OF ENFORCEMENT ACTIONS COME DOWN BECAUSE WHEN THE STATE INSPECTED THEM, THEY FOUND OVER 140 VIOLATIONS, AND THEY THREATENED THE INSPECTOR, AND THEY HAD TO GO IN WITH POLICE.

25 AND I WAS NOT AWARE OF THIS AND FOUND

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THIS ALL OUT AFTER THE FELLOW LEFT IN THE MIDDLE OF THE NIGHT. AND THEY DID NO ENFORCEMENT ON THE GUY AND LEFT IT TO ME.

AT FINDING OUT THAT THIS GUY WAS SOMEWHAT VIOLENT, I WASN'T ABOUT TO DO THAT. AND I TRIED TO GET THEM TO ENFORCE ON HIM, BUT THEY DID NOT. SO A GREAT PORTION OF WHAT YOU WOULD CALL DEBRIS AND WOOD AND STUFF IS LEFT OVER FROM THAT THING WHICH I HADN'T HAD THE MONEY TO CLEAN UP AT THE TIME.

CHAIRMAN FRAZEE: SO THAT WAS A PREVIOUS OPERATOR?

MR. RICCI: YES. AND THAT HAS, YOU KNOW, CERTAIN AMOUNT OF BEARING ON THE THING. AND ONE OF THE OTHER PROBLEMS IS THAT NOW THE CITY SAYS THAT THE STREETS ARE UNACCEPTED STREETS, SO WE'RE GETTING AN AWFUL LOT OF ILLEGAL DUMPING THERE, WHICH GOES ON THROUGHOUT THE BAYVIEW AREA ANYWAY, BUT THE DIFFERENCE IS THAT THE CITY WILL NOT ADDRESS THE ISSUE.

SO DERELICT CARS AND STUFF, I HAVE TO PAY OUT OF MY OWN POCKET TO GET RID OF IT. STUFF I CAN'T AFFORD TO DUMP, WE SHOVE TOWARDS THAT PILE UNTIL I CAN GET SOME MONEY TO DO SOMETHING WITH

25 IT.

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MEMBER RELIS: WELL, I JUST -- I DON'T KNOW MUCH ABOUT YOUR BACKGROUND HERE. BUT YOU OWN -- WHAT IS BUCKEYE PROPERTIES?

MR. RICCI: IT'S A JUST A NAME FOR THE REAL ESTATE THAT I OWN THERE.

MEMBER RELIS: OKAY. IT DOESN'T DESCRIBE OTHER PROPERTIES, JUST THIS --

MR. RICCI: YEAH.

MEMBER RELIS: -- PARTICULAR PIECE? YOU'VE OWNED IT FOR HOW LONG?

MR. RICCI: IT'S BEEN IN MY FAMILY SINCE 1955.

MEMBER RELIS: THANK YOU.

CHAIRMAN FRAZEE: QUESTIONS?

MEMBER JONES: NO.

MR. RICCI: I WOULD ALSO SAY THAT I WILL TRY AND PUT AS MUCH PRESSURE ON MR. WEBB TO DO WHAT'S RIGHT AS I CAN, AS I FOUND OUT A FEW THINGS HERE TODAY THAT I DIDN'T KNOW.

CHAIRMAN FRAZEE: WHAT PERCENTAGE OF THIS WASTE THAT'S ON SITE DO YOU FEEL IS JUST ILLEGAL DUMPING, AND WHAT PERCENTAGE IS ASSOCIATED WITH MR. WEBB'S OPERATION?

MR. RICCI: MOST OF WHAT'S WITH MR. WEBB'S

25 OPERATION THAT I KNOW OF OR HAVE SEEN HIM BRING IN

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IS MOSTLY SOIL OR BROKEN CONCRETE. THE WOODEN DEBRIS AND MIX OF THAT STUFF, THAT'S PROBABLY ABOUT 80 PERCENT OF WHAT WAS LEFT OVER FROM CITY DEBRIS AND SOME STUFF FROM DUMPING IN THE STREETS.

CHAIRMAN FRAZEE: IS -- THE PHOTOGRAPHS THAT WE SAW OF THIS SITE LOOKED MORE LIKE JUST MUNICIPAL SOLID WASTE RATHER THAN CONSTRUCTION AND DEMOLITION DEBRIS WAS THE WHOLE RUN OF THE MILL OF WASTE ON THE SITE.

MR. RICCI: CITY DEBRIS WAS BRINGING IN ANYTHING AND EVERYTHING. THEY WERE CITED FOR GOD KNOWS WHAT.

CHAIRMAN FRAZEE: OKAY.

MEMBER JONES: I GUESS I HAVE A QUESTION. CITY DEBRIS WAS YOUR TENANT AND HAD A HUNDRED 40 VIOLATIONS OR WHATEVER.

MR. RICCI: YEAH.

MEMBER JONES: L & K DEBRIS BOX WAS YOUR NEIGHBOR. DID YOU OWN ANY OF THE PROPERTY THAT L & K WAS ON?

MR. RICCI: NO, BUT THEY RENTED SOME SPACE FROM ME TO STORE THEIR DEBRIS BOXES ON.

MEMBER JONES: AND THEY HAD AN ONGOING

24 MATERIALS RECOVERY FACILITY, TRANSFER STATION,

25 GARBAGE DUMP THERE. WHEN YOU -- WHEN CITY LEFT AND

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YOU SAW THIS PILE OF STUFF AND -- I DON'T UNDERSTAND -- I MEAN -- I HEAR WHAT YOU ARE SAYING. I DON'T UNDERSTAND SOME OF THE LOGIC BEHIND IT, YOU KNOW, AS FAR AS CITY GARBAGE HAD HARMED YOUR PROPERTY OR CITY DEBRIS. AND THEN YOU BROUGHT IN ANOTHER DEBRIS BOX TRANSFER STATION OPERATOR. DID YOU THINK IT WAS GOING TO GET BETTER?

MR. RICCI: WELL, MY UNDERSTANDING WAS THAT HE WAS DOING MOSTLY SOIL, AND THAT HE WAS MORE OF AN EXCAVATION CONTRACTOR THAN ANYTHING ELSE BECAUSE I WENT AND INVESTIGATED SOME OF HIS JOBS WHEN I WAS TALKING TO HIM. AND HE'S THERE, YOU KNOW, WITH A BUCKET LOADER OR A STEAM SHOVEL LOADING DIRT INTO HIS BOXES AND BRINGING THEM OUT.

MEMBER JONES: THE -- THE FACT THAT YOU ARE THE PROPERTY OWNER, I MEAN THE WAY THE LAWS ARE IN CALIFORNIA, YOU HAVE THE ULTIMATE LIABILITY AND THE ULTIMATE RESPONSIBILITY. THE REASON I BROUGHT UP THE CONDITION OF HAZARDOUS WASTE WAS THAT IT WAS AN ONGOING OPERATION THAT HAD BEEN THERE FOR QUITE A FEW YEARS WHEN CITY WAS THERE, WHEN L & K WAS THERE, NOW WITH THIS GUY. AND IF THEY FIND HAZARDOUS WASTE, THEN THAT IS GOING TO MEAN THAT THAT WAS AN ILLEGAL STORAGE FACILITY FOR ILLEGAL

25 HAZARDOUS WASTE. THAT CHANGES THIS WHOLE THING

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FROM JUST BEING A LOCAL DUMP TO CONSIDERABLE.

MR. RICCI: THE ONLY HAZARDOUS WASTE THAT I DID SEE THAT I WOULD CONSIDER A PROBLEM WAS THAT CITY DEBRIS HAD A PILE OF CREOSOTED TIMBERS --

MEMBER JONES: I'M NOT --

MR. RICCI: -- WHICH THE CITY KNEW ABOUT, AND THEY DIDN'T DO ANYTHING ABOUT THAT EITHER. I DON'T KNOW.

MEMBER JONES: IT'S NOT -- I MEAN I DON'T REALLY WANT TO KEEP GOING DOWN THIS ROAD, BUT I JUST WANTED TO MAKE SURE THAT IRREGARDLESS OF WHO PUT IT THERE, THE LANDOWNER IS ULTIMATELY RESPONSIBLE. AND I WOULD -- YOU KNOW, I WAS KIND OF HOPING THAT -- THE CONDITION IS NEAR AND DEAR TO MY HEART, BUT I WAS HOPING THAT IT WOULD ALSO BE A SIGNAL THAT THERE COULD BE NOT JUST THE POLES THAT YOU CAN SEE, BUT WHAT'S BURIED AT THE BOTTOM OF THE PILE YOU MAY NOT WANT TO TAKE A CHANCE THERE.

MR. RICCI: THERE SHOULD BE NOTHING THERE.

MEMBER JONES: PRAY. I HOPE THERE ISN'T FOR YOUR SAKE. ALL RIGHT. ANYWAY.

CHAIRMAN FRAZEE: OKAY. THANK YOU. OKAY. WE HAVE THE ITEM BEFORE US.

MEMBER JONES: MR. CHAIRMAN?

25 CHAIRMAN FRAZEE: YOU WANT TO MAKE A

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MOTION. CONDITIONS.

BOARD MEMBER JONES: I'LL-MAKE A MOTION THAT WE DO A STATE CLEANUP OF MOBILE DEBRIS BOX DISPOSAL SITE. I WOULD LIKE TO ADD A COUPLE OF CONDITIONS. THOSE CONDITIONS WOULD BE IN THE FORM OF A LETTER FROM THE WASTE BOARD TO THE LEA OF THE CITY OF SAN FRANCISCO WITH A SIGN-OFF, I THINK, FROM THEIR LEGAL. I DON'T PRETEND -- DON'T TAKE ME REAL LITERALLY ON THIS. OKAY. GIVE ME A LITTLE ROOM HERE FOR WHAT HAS TO BE DONE BECAUSE I MAY SAY SOMETHING THAT CAN'T BE DONE. THE INTENT -- YOU WILL UNDERSTAND THE INTENT. TALK TO THE LEGAL AND MAKE SURE THAT WE CAN DO THIS, THAT I WOULD LIKE THEM TO AGREE TO CONTINUE THEIR LEGAL FIGHT IN COURT DEALING WITH BOTH THE OPERATOR AND THE LANDOWNER.

IF IN THE COURSE OF THE STATE CLEANUP, WE FIND HAZARDOUS WASTE, THAT THE CITY INITIATES WHATEVER LEVEL OF ENFORCEMENT, CRIMINAL OR CIVIL, WHATEVER IT IS, AND THAT THE CITY AND THE STAFF FROM THE WASTE BOARD, THE LEGAL, LOOK AT THE -- YOU KNOW, LOOK AT THE COMPLAINT THAT WAS FILED BY THE CITY AND DETERMINE IF THAT WE NEED TO

24 ADD ON RESTITUTION TO US. BECAUSE I THINK

25 EVERYTHING -- THE CITY IS USING THE STATUTES IN

THE

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STATE, BUT IT LOOKS LIKE THE PENALTIES AND EVERYTHING GO TO THE CITY. I'M NOT TALKING ABOUT TAKING AWAY THEIR PENALTIES. OVER AND ABOVE, YOU KNOW, SOME FORM OF -- IF WE WIN, SOME FORM OF RESTITUTION FROM THE OPERATOR AND LANDOWNER TO RESTORE FUNDS BACK TO THE 2136 FUND.

THESE CONDITIONS ARE NOT CONDITIONS THAT SAY IF THEY FAIL IN THOSE THINGS, THAT WE LOOK AT THIS DIFFERENTLY. I'M SAYING WE'RE GOING TO FUND THIS THING. THESE ARE CONDITIONS THAT I WANT IN ADDITION TO THAT. THERE'S SOME WORK DONE, AND I HAVE EVERY FAITH THAT THOSE ARE UNDERSTOOD, ANYWAY. THIS JUST MAKES THEM A LITTLE MORE FORMAL AND KEEPS IT AT THE TOP OF THE PILE.

MEMBER RELIS: MR. CHAIR, I HAVE A COUPLE OF QUESTIONS RELATED TO THIS MOTION BECAUSE I'M TRYING TO UNDERSTAND IT. OKAY.

ARE YOU SAYING, STEVE, THAT THEY HAVE PROPOSED CIVIL PENALTIES; AND IF THOSE CIVIL PENALTIES EVER MATERIALIZE, THE MONEY WOULD BE GOING TO THE CITY. SO WOULD WE BE IN A SUBORDINATE POSITION? THEY WOULD GET PAID FOR THEIR LEGAL COSTS, WHATEVER THE PENALTIES ACCRUE; AND THEN IF

24 THERE WAS MONEY AFTER THAT, WE WOULD BE COMPENSATED

25 FOR -- OR LET ME JUST -- I'M TRYING TO FIGURE OUT

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WHERE THE TRAIL IS ON THE MONEY.

MEMBER JONES: WHAT'S GOING THROUGH MY MIND, AND I'LL LET ANYBODY GIVE THE -- PROBABLY THE RIGHT ANSWER, WAS THAT THE COMPLAINT IS WRITTEN BY THE CITY. I THINK ALL THOSE PENALTIES NEED TO GO TO THE CITY. I DON'T HAVE A PROBLEM WITH THAT. I'D LIKE TO SEE THEIR COMPLAINT AMENDED TO INCLUDE ANY 2136, YOU KNOW, AS PART OF WHATEVER THE SOLUTION IS, THAT THERE IS ALSO A CONDITION THAT THE JUDGE LOOKS AT.

MEMBER RELIS: SO REPAYMENT BECOMES A PART OF THE SUIT, THAT WE ASK THEM TO ADD THAT ON?

MEMBER JONES: I DON'T KNOW IF THAT'S EVEN --

MR. LOUIE: IF I MAY, AS PART OF OUR COMPLAINT, WE ARE ASKING FOR COST RECOVERY, NOT ONLY COST RECOVERY IN TERMS OF THE ADMINISTRATIVE TIME THAT THE CITY AND COUNTY OF SAN FRANCISCO HAS EXPENDED IN OUR ENFORCEMENT EFFORT, BUT WE'RE ALSO ASKING FOR COST RECOVERY IN TERMS OF THE CLEANUP.

THE WAY WE KIND OF SEE IT IS THIS, AND THAT IS, THAT IT IS OUR HOPE THAT MR. RICCI WILL CLEAN THE SITE UP ON HIS OWN. AND CERTAINLY HE HAS INDICATED THAT HE WAS GOING TO

25 MAKE THAT EFFORT. WHERE THE STATE-SPONSORED

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CLEANUP WOULD COME INTO PLAY IS SHOULD MR. RICCI NOT BE ABLE TO CLEAN UP THE SITE, SHOULD MR. WEBB FAIL TO TAKE RESPONSIBILITY FOR THE MESS THAT HE HAS CREATED ON THIS SITE, THEN WE HAVE THEN AS AN ALTERNATIVE AS US A STATE-SPONSORED CLEANUP.

I'VE BEEN INFORMED BY OUR LEGAL COUNSEL THAT WITH THE FILING OF THE COMPLAINT, THERE'S ALSO A FILING ON THE PUBLIC RECORDS. AND THE ATTORNEY DESCRIBED IT AS A LIS PENDENS, AND PERHAPS YOUR ATTORNEY -- AND ESSENTIALLY WHAT THAT SHOWS IS THAT THERE IS LEGAL ACTION ON THIS PROPERTY SO THAT IF ANYBODY CHOOSES TO PURCHASE THIS PROPERTY OR IF MR. RICCI GOES FORTH AND TRIES TO TAKE A LOAN OUT ON THIS PROPERTY, IT BASICALLY INFORMS INDIVIDUALS WHO MAY HAVE AN INTEREST IN THIS PROPERTY THERE IS LEGAL ACTION PENDING.

I'M ALSO TOLD BY OUR CITY ATTORNEY LATE YESTERDAY AFTERNOON THAT THE FILING OF A COMPLAINT MAY TAKE A BIT OF TIME BY GOING THROUGH THE JUDICIAL PROCESS, AND WE RECOGNIZE THAT THIS SITE DOES PRESENT AN IMMINENT HAZARD. AND THAT IT IS OUR INTENT TO FILE A MOTION FOR SUMMARY JUDGMENT NEXT WEEK WHERE WE ARE GOING TO SEEK A PRELIMINARY INJUNCTION AGAINST THE OPERATOR AND AGAINST THE

25 PROPERTY OWNER AS WELL SO THAT WE CAN GO IN AS

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QUICKLY AS POSSIBLE AND TO GET MR. WEBB TO CEASE FROM ENGAGING IN THIS ILLEGAL ACTIVITY.

MEMBER RELIS: ON THAT SCORE, OKAY, IS THERE MATERIAL CONTINUES TO COME IN?

MEMBER JONES: OH, YEAH.

MEMBER RELIS: SO THIS IS AN ONGOING --

MR. LOUIE: THIS IS AN ONGOING OPERATION. I WAS OUT THERE YESTERDAY AFTERNOON; AND WHILE MR. WEBB MAY HAVE TAKEN SOME STEPS TOWARDS REMOVING SOME DEBRIS FROM THE SITE, IT APPEARS TO ME WHAT HAS DONE IS LOAD SOME OF THIS DEBRIS UP IN DEBRIS BOXES AND PLACED IT ON THE STREETS ADJOINING HIS PROPERTY. IN FACT, HE'S PLACED IT IN SUCH A WAY THAT --

MEMBER RELIS: LIKE A CANCER.

MR. LOUIE: -- IT'S BECOME AN OBSTRUCTION OF A PUBLIC THOROUGHFARE.

I THINK THERE NEEDS TO BE SOME CLARIFICATION TOO WITH RESPECT TO THE AMOUNT OF DEBRIS THAT IS THERE AND THE NATURE OF THAT DEBRIS. WHILE IT IS CERTAINLY TRUE THAT NOT ALL THE MATERIAL THERE IS THE RESULT OF MR. WEBB'S OPERATION, I WOULD SAY THAT BETTER THAN 90 PERCENT OF THAT MATERIAL IS A RESULT OF MR. WEBB'S

25 OPERATION THERE.

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CITY DEBRIS WAS A SITE THAT WAS OPERATING WITHOUT THE BENEFIT OF A PERMIT. THEY HAD -- WHEN THEY LEARNED THAT THEY NEEDED A SOLID WASTE FACILITY PERMIT, THEY TRIED TO COMPLY WITH THAT REQUEST. SUBSEQUENTLY, THEY JUST FOUND IT WAS TOO DAUNTING A TASK FOR THEM AND DECIDED TO GO OUT OF BUSINESS.

WE HAVE MADE AN ATTEMPT TO PURSUE THEM, BUT IT WAS TANTAMOUNT TO, I GUESS, SQUEEZING BLOOD FROM A TURNIP. BUT AS YOU REALIZE, UNFORTUNATELY, THE LANDLORDS, PROPERTY OWNERS, ARE THE ONES THAT ARE ULTIMATELY RESPONSIBLE FOR THE HAZARDS THAT MAY BE CREATED BY THEIR TENANTS. SO WE ARE LOOKING FOR REMEDIAL ACTION FROM THE PROPERTY OWNER AS WELL AS THE CURRENT OPERATOR.

MEMBER RELIS: WELL, AGAIN, JUST PURSUING THIS, UNDER THIS CIRCUMSTANCES WE'RE SEEKING TO DO A CLEANUP. THE REQUEST IS FOR A CLEANUP AGAINST A SITE WHICH IS STILL RECEIVING -- APPEARS TO BE RECEIVING WASTE. SO AS WE'RE CLEANING UP, KNOWING THE SORDID HISTORY HERE, ARE WE ASSURED THAT STUFF ISN'T GOING TO BE COMING IN AS WE CLEAN UP?

MR. LOUIE: MY HOPE IS THAT WITH THE FILING OF THE PRELIMINARY INJUNCTION, THAT MR. WEBB

25 WILL NO LONGER BE IN BUSINESS AT THIS SITE. WHERE

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HE MIGHT GO REMAINS TO BE SEEN. BUT, YOU KNOW, IF HE CONTINUES TO OPERATE IN VIOLATION OF THE INJUNCTION, IT WILL BE, I WOULD HOPE, AN ACTION THAT MAY BE FOUND IN CONTEMPT OF COURT.

I MIGHT ALSO SAY THAT I HAD EARLIER STATED THAT WE ARE NOT ONLY SEEKING ADMINISTRATIVE -- COST RECOVERY FOR ADMINISTRATIVE PURPOSES, BUT WE'RE ALSO LOOKING TO SEEK RECOVERY FOR WHATEVER CLEANUP EXPENSES MAY BE ASSOCIATED WITH REMEDIATING THIS HAZARD.

THERE IS A LOCAL REGULATION, AS WELL AS STATE REGULATIONS, THAT ALLOW US TO PLACE A LIEN ON THE PROPERTY TO RECOVER EXPENSES FOR, YOU KNOW, FOR CLEANUP. AND IF YOU NOTICE, THE COMPLAINT THAT WE FILED IN SUPERIOR COURT DOES SEEK COST RECOVERY FOR CLEANUP.

THE NOTICE AND ORDER VIOLATION ALSO STATES THAT WE WILL SEEK COST RECOVERY IF WE NEED TO GO IN THERE AND DO CLEANUP.

MS. TOBIAS: MR. LOUIE, DO YOU HAVE A CEASE AND DESIST ON THE PROPERTY AT THIS TIME?

MR. LOUIE: YES, WE DO.

MS. TOBIAS: AGAINST BOTH THE OPERATOR AND THE --

25 MR. LOUIE: THAT'S RIGHT.

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MS. TOBIAS: I THINK THAT WAS WHAT HE WAS TRYING TO ASK.

MEMBER RELIS: JUST ONE FINAL. IF WE ADOPT THIS, APPROVE THIS CLEANUP, NOW IT'S UNDERSTOOD, I THINK THIS IS STANDARD PRACTICE, IF WE ENCOUNTER ANY HAZARDOUS WASTE, THEN WE STOP?

MS. RICE: NO. ACTUALLY OUR CONTRACTOR IS ABLE TO TAKE CARE OF QUITE A BIT OF MATERIAL. IN THIS INSTANCE, GIVEN THE CONDITION THAT YOU'RE DESCRIBING, WE WOULD CERTAINLY WANT THE CONTRACTOR TO DOCUMENT EVERYTHING THAT THEY FIND AND THE NATURE OF IT SO THAT THE LETTER OR THE CONDITIONS COULD BE COMPLIED WITH.

MEMBER RELIS: GIVEN, AGAIN, THE STORY, I'M HOPEFUL THAT THERE WON'T BE ANY.

MS. RICE: WE'VE ENCOUNTERED SOME ON A NUMBER OF CLEANUPS. IT'S A MATTER OF WHAT YOU FIND AND HOW MUCH.

MEMBER RELIS: OKAY.

CHAIRMAN FRAZEE: IT'S THE INTENT IN THE COMPLAINT TO RECOVER COST. AND DOES THAT INCLUDE THE $300,000 THAT IS BEING ASKED?

MR. LOUIE: THAT IS CERTAINLY OUR INTENT.

CHAIRMAN FRAZEE: AND THE CITY, THEN,

25 WOULD IMPOSE THE LIEN ON THE PROPERTY, AND IT WOULD

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NOT BE NECESSARY FOR US TO PURSUE THAT.

MR. LOUIE: WELL, OUR CITY ATTORNEY IS PREPARED TO PLACE A LIEN ON THAT PROPERTY TO ENSURE THAT TO THE EXTENT POSSIBLE THAT COST RECOVERY IS, IN FACT, REALIZED. I WOULD IMAGINE THAT TO THE EXTENT THAT THE BOARD HAD EXPENDED THESE FUNDS, THAT THE LIEN WOULD IDENTIFY THE BOARD, THEN, AS BEING PERHAPS A LIENHOLDER, IF YOU WILL.

MS. TOBIAS: MR. CHAIR, I THOUGHT WHAT I MIGHT TRY TO DO IN THE INTERVENING TIME BEFORE THE BOARD MEETING IS TALK TO THE CITY ATTORNEY WHO FILED THIS AND JUST CHECK ON THAT AND TRY TO CLARIFY HOW THAT WOULD WORK.

MEMBER JONES: I HAVE ONE MORE QUESTION. OKAY. SO THOSE ARE THE THINGS THAT I'M PUTTING FORWARD IN MY MOTION AND THAT'S IT.

JUST AS A MATTER OF CLARIFICATION FOR ME, AND JUST -- I DON'T EVEN KNOW IF WE HAVE THE RIGHT OR THINGS LIKE THAT, BUT IF IN THE COURSE OF THE NOTICE -- I MEAN YOU HAVE A CEASE AND DESIST; AND IF THEY IGNORE THE CEASE AND DESIST, DO YOU HAVE STEPS THAT YOU CAN TAKE THAT ESSENTIALLY REMOVE THE INSTRUMENTS THAT CREATE THE PROBLEM, WHICH WOULD BE THE TRUCK AND THE BOXES? I MEAN IF

25 THIS GUY IS NOT -- YOU KNOW WHAT I'M SAYING? I

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DON'T WANT TO SOUND VENGEFUL, BUT HE'S GOT A PRETTY GOOD RECORD HERE THAT THE GUY HAS BEEN TO FIVE DIFFERENT PLACES AND DOESN'T SEEM TO CARE.

HIS TRUCKS MAY NOT BE WORTH MUCH ON THE OPEN MARKET, BUT IF THEY'RE THE TRUCKS THAT ARE HAULING THIS STUFF TO THIS ILLEGAL DUMP, THEY'RE WORTH EVERYTHING. AND AS PART OF A RECOVERY OF FUNDS, YOU KNOW, I DON'T KNOW -- I DON'T KNOW WHERE THAT GOES.

MEMBER RELIS: YOU MEAN CAN YOU IMPOUND EQUIPMENT?

MEMBER JONES: RIGHT, THAT CAUSES A PROBLEM.

MS. TOBIAS: THEY FILED A NUISANCE ACTION, IN ESSENCE, WHAT THIS REALLY IS. IT DOES INCLUDE ACTION UNDER OUR STATUTES, BUT IN ESSENCE THIS IS A NUISANCE ACTION. SO I WILL TALK TO THE CITY ATTORNEY ABOUT THE POSSIBILITY OF DOING THAT.

I KNOW WE'VE ASKED FOR IT IN ONE OTHER SITUATION ON A TIRE CLEANUP WHERE WE FELT THAT THE PERSON JUST KEPT MOVING THE TIRES AROUND, AND THAT WHAT WE REALLY NEEDED TO DO WAS GET HIS TRUCK. AND, YOU KNOW, IT REALLY DEPENDS ON WHAT

24 KIND OF ASSETS THE PERSON HAS. IF THAT'S THEIR

25 ONLY TRUCK, THEN, YOU KNOW, THE COURT'S PROBABLY

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NOT LIKELY TO TAKE THE TRUCK. IF THEY HAVE SEVERAL TRUCKS, THEN THEY CAN -- WE CAN SHOW THAT THAT'S, YOU KNOW, THE CONTINUING OR THE CHRONIC CAUSE OF THIS. THERE'S A POSSIBILITY OF DOING THAT.

CHAIRMAN FRAZEE: OKAY. WE HAVE THE ITEM BEFORE US. MOTION --

MEMBER RELIS: I'LL SECOND.

CHAIRMAN FRAZEE: -- AND SECOND TO APPROVE THE ALLOCATION OF $300,000 FOR THE MOBILE DEBRIS BOX SERVICE DISPOSAL SITE CLEANUP IN THE CITY AND COUNTY OF SAN FRANCISCO WITH THE CONDITIONS RELATING TO ENFORCEMENT OF THE ACTION AGAINST THE PROPERTY OWNER AND THE OPERATOR. FAIR STATEMENT? THE SECRETARY WILL CALL THE ROLL ON THAT.

THE SECRETARY: BOARD MEMBER RELIS.

MEMBER RELIS: AYE.

THE SECRETARY: BOARD MEMBER JONES.

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN FRAZEE.

MEMBER JONES: AYE.

CHAIRMAN FRAZEE: AYE. MOTION IS CARRIED.

MEMBER RELIS: MR. CHAIR, BEFORE WE GO TO THIS NEXT ITEM, I WANT TO REPORT AN EX PARTE COMMUNICATION I HAD OVER THE BREAK WITH TERRY

25 LEVEILLE CONCERNING THE TIRE COMBUSTION POLICY

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THAT'S UNDER DISCUSSION IN THE LEVEE PROJECTS THAT CONTINUE TO BE BEFORE US.

CHAIRMAN FRAZEE: OKAY. WHAT DO YOU THINK ABOUT CONSENT ON THIS ITEM? YOU HAVE ANY PROBLEM WITH THAT? OKAY. WITHOUT OBJECTION, THEN WE'LL RECOMMEND CONSENT ON THAT ITEM.

NOW WE'RE READY FOR ITEM 15, THE PRESENTATION OF THE UPDATED INVENTORY OF SOLID WASTE FACILITIES WHICH VIOLATE STATE MINIMUM STANDARDS AND THE UPDATED SIGNIFICANT CHANGE VIOLATION LIST.

MS. RICE: THANK YOU. PAUL WILLMAN WILL MAKE THE PRESENTATION.

MR. WILLMAN: GOOD MORNING, COMMITTEE MEMBERS. PCR 44104 REQUIRES THE BOARD TO UPDATE AND PUBLISH TWICE ANNUALLY AN INVENTORY OF SOLID WASTE FACILITIES WHICH VIOLATE STATE MINIMUM STANDARDS. THIS ITEM PRESENTS THE UPDATED INVENTORY TO THE BOARD.

IN ADDITION, THE UPDATED VERSION OF THE SIGNIFICANT CHANGE VIOLATION LIST IS ALSO PRESENTED IN THIS ITEM TO GIVE YOU A MORE COMPREHENSIVE LOOK AT THE COMPLIANCE STATUS OF SOLID WASTE FACILITIES IN THE STATE.

25 THE LAST UPDATE WE DID WAS IN
72

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FEBRUARY OF 1997, AND AT THAT TIME THE COMMITTEE AND BOARD REQUESTED PLACEMENT OF THE INVENTORY ON THE BOARD LIST OF PUBLICATIONS AND ON THE INTERNET. AND IN ORDER TO MAKE THE INVENTORY A DOCUMENT WHICH IS MORE READABLE TO THE GENERAL PUBLIC, IN PLACING IT ON THE INTERNET, AN INTRODUCTION HAS BEEN ADDED WHICH PROVIDES GENERAL INFORMATION ON WHAT IS THE INVENTORY, WHAT ARE STATE MINIMUM STANDARDS, AND WHAT ARE VIOLATIONS, AND HOW ARE THEY DEALT WITH.

IN ADDITION, IT INCLUDES AN EXPLANATION OF HOW TO INTERPRET EACH OF THE INFORMATION IN EACH OF THE COLUMNS ON THE INVENTORY ITSELF, AND IT ALSO DIRECTS PEOPLE HOW THEY CAN REQUEST FURTHER INFORMATION ON A PARTICULAR FACILITY IF THEY HAVE QUESTIONS.

THIS INTRODUCTION IS INCLUDED IN YOUR ITEM AS ATTACHMENT 3.

THE FORMAT OF THE INVENTORY ITSELF HAS ALSO BEEN CHANGED SINCE THE LAST UPDATE. THE INVENTORY ITSELF IS INCLUDED AS ATTACHMENT 1, AND TWO NEW COLUMNS OF INFORMATION HAVE BEEN ADDED, INCLUDING A COLUMN FOR LEA ENFORCEMENT ACTIONS

AND

24 A COLUMN FOR COMPLIANCE DEADLINES FOR EACH OF THE

25 VIOLATIONS FOR WHICH THEY ARE LISTED ON THE

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INVENTORY.

ALSO, I'D LIKE YOU TO NOTE THAT VIOLATIONS WHICH HAVE BEEN CORRECTED SINCE THEY WERE ORIGINALLY INCLUDED ON THE INVENTORY DO NOT APPEAR ON THIS UPDATED VERSION. ONCE THEY'RE CORRECTED, WE TAKE THEM OFF THE INVENTORY, THOSE PARTICULAR STANDARDS.

ONE OF THE THINGS THAT POPPED UP IN REVIEWING THIS, AND I WAS JUST TALKING ABOUT IT WITH DOROTHY RICE, IS IF YOU LOOK AT SOME OF THE COMPLIANCE DEADLINES, THEY ARE PAST DUE. AND INITIALLY THE STAFF WAS GOING TO RELY ON IF SOMEBODY WANTED MORE INFORMATION ABOUT, YOU KNOW, A FACILITY WHERE A RED FLAG LIKE THAT WAS APPARENT, THAT THEY COULD CONTACT ENFORCEMENT AS IT DIRECTS IN THE INTRODUCTORY DOCUMENT. THAT WAS OUR INITIAL READ ON IT.

BUT DOROTHY WAS MENTIONING THAT MAYBE WE COULD ADD, LIKE, A STATUS COLUMN WHICH WOULD EXPLAIN -- FOR EXAMPLE, I THINK FOUR OF THE SITES, I WAS JUST GOING OVER IT, FOUR OF THE SITES THAT HAVE GAS VIOLATIONS THAT EITHER DON'T HAVE AN ENFORCEMENT ORDER OR THEY'VE GOT A PAST DUE

24 COMPLIANCE DEADLINE, THEY ACTUALLY HAVE GAS SYSTEMS

25 INSTALLED, BUT THEY'RE JUST TWEAKING THEM OR THEY

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NEED TO ADD A FEW MORE WELLS, THINGS LIKE THAT, SO THEY ACTUALLY DID MEET THE COMPLIANCE DEADLINE BECAUSE THE DEADLINE WAS ACTUALLY FOR INSTALLATION OF THE SYSTEM, NOT, YOU KNOW, BELOW 5 PERCENT. SO THAT WAS LIKE A MILESTONE.

ANYWAY, SO I GUESS WE'RE KIND OF LOOKING FOR DIRECTION FROM YOU. WOULD YOU LIKE TO SEE A STATUS COLUMN THAT WOULD EXPLAIN THOSE TYPES OF THINGS, OR DO YOU WANT TO LEAVE IT AS IT IS?

MS. RICE: MY THOUGHT, MEMBERS, WAS THAT IF WE ARE LOOKING AT, AND WE ARE BECAUSE IT WAS YOUR DIRECTION IN FEBRUARY, PLACING THIS AS A PUBLICATION ON THE INTERNET AND HAVING IT AVAILABLE AS A HARD COPY DOCUMENT, THE MORE CONTEXT WE PROVIDE FOR WHAT THIS MEANS THE BETTER.

IF YOU HAVE A COLUMN THAT SHOWS AN ORDER AND THE DATE IS PAST AND THERE'S NO INDICATION OF WHETHER IT WAS MET OR THERE IS LACK OF COMPLIANCE, THEN WE HAVEN'T ANSWERED THE QUESTION THAT THE PUBLIC IS MOST LIKELY TO HAVE: SHOULD I BE CONCERNED ABOUT THIS LANDFILL OR FACILITY? SO MY THOUGHT WAS THE MORE INFORMATION WE CAN PROVIDE, THE BETTER THAT ENABLES A PUBLIC, A

24 PERSON, TO UNDERSTAND WHAT THE DOCUMENT IS AND THE

25 CONTEXT FOR IT.

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THE ATTACHMENT THAT PAUL HAS INCLUDED IN THE ITEM OF SOME LANGUAGE AROUND HOW WE WOULD HOPE TO PROVIDE SOME BACKGROUND ON WHAT THE INVENTORY IS, WHAT VIOLATIONS ARE, WHAT STATE MINIMUM STANDARDS ARE IS A DRAFT. WE ARE CONTINUING TO WORK ON TRYING TO MAKE THIS INTO A WORKABLE, MEANINGFUL PUBLICATION, AND AT SOME POINT IN THE NEAR FUTURE WOULD BE PROVIDING COPIES TO YOUR OFFICES TO LOOK AT AND PROVIDE US ANY COMMENTS AS WE TRY TO GET READY TO PUT IT ON THE INTERNET BECAUSE I KNOW THAT IS SOMETHING WE DISCUSSED A LOT IN FEBRUARY, AND YOUR SENSITIVITIES TO HOW IT SHOULD LOOK AND WHAT KIND OF A DOCUMENT IT SHOULD BE TO PUT THIS INFORMATION FORWARD.

CHAIRMA FRAZEE: I WAS JUST TRYING TO FIND THAT. HAD IT A MOMENT AGO AND NOW I CAN'T FIND IT.

MS. RICE: IT'S PRETTY BRIEF. I THINK, ISN'T IT ONE PAGE, PAUL?

MR. WILLMAN: IT'S TWO PAGES.

CHAIRMAN FRAZEE: THERE IT IS.

MS. RICE: SO WE'RE JUST INCLUDING IT FOR YOUR INFORMATION AT THIS POINT, AND YOU WILL BE SEEING SOMETHING WITH A LITTLE MORE CONTEXT IN THE NEAR FUTURE.

25 MEMBER RELIS: SO IF YOU WERE SEEKING

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DIRECTION, I WOULD LIKE TO SEE THAT. I THINK WE USED THE TERM -- I MEAN IT'S KIND OF A STRANGE TERM, REAL TIME, BUT --

MS. RICE: THE MORE INFORMATION THE BETTER IS WHAT I'M HEARING.

MR. WILLMAN: WHAT WE'LL DO, THEN, IS ADD THAT STATUS COLUMN AND THEN GO AHEAD AND FORWARD IT TO YOUR INDIVIDUAL OFFICES. IF YOU ARE OKAY WITH THAT, WE'LL GO AHEAD AND PLACE IT ON THE NET AND GET IT ON THE BOARD LIST OF PUBLICATIONS.

CHAIRMAN FRAZEE: THEN HOW OFTEN WOULD THAT BE UPDATED?

MR. WILLMAN: EVERY TWO MONTHS IS WHAT -- WE'RE GOING TO BE ACTUALLY UPDATING IT IN A REAL TIME FASHION.

AS FAR AS WHAT'S HAPPENING ON THE INVENTORY SINCE THE LAST UPDATE, BACK IN FEBRUARY THERE WERE 47 FACILITIES ON THE INVENTORY AND 15 HAVE BEEN REMOVED, AND ONLY THREE HAVE BEEN ADDED. SO WE HAVE A TOTAL OF 35 SITES CURRENTLY ON THE INVENTORY, WHICH IS GOOD TO SEE, OF COURSE.

OKAY. AS FAR AS THE SIGNIFICANT CHANGE LIST, THERE WERE 34 SITES ON THE

24 INVENTORY -- ON THE LIST BACK IN FEBRUARY. TEN

25 HAVE BEEN REMOVED AND EIGHT HAVE BEEN ADDED, AND SO

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THERE'S A TOTAL OF 32, BUT I'D LIKE TO MENTION THAT COLTON AND PASO ROBLES LANDFILLS BOTH ARE BEING -- WERE HEARD BY YOU ACTUALLY TODAY AND WILL BE TAKEN OFF THE LIST SHORTLY ONCE THEY RECEIVE THEIR REVISED PERMIT, WHICH BRINGS IT DOWN TO 30.

AND ALSO, COLTON IN THE -- I THINK IT WAS THE LEA BOARD ACTION COLUMN, IT SAID THAT THEY WERE OPERATING UNDER AN EXPIRED STIP, AND THAT WAS INCORRECT. I JUST WANTED FOR THE RECORD THERE WAS AN UPDATED VERSION OF A STIP ISSUED IN NOVEMBER OF 1996, SO THEY WERE OPERATING AND THEY HAVE MET THOSE -- THEY ARE GOING TO MEET THOSE DEADLINES. THEY'RE SUPPOSED TO GET A PERMIT BY OCTOBER 2D, AND IT LOOKS LIKE THEY'RE GOING TO MEET THAT. SO ANYWAY, LITTLE ERRATA THERE.

AND THAT BASICALLY CONCLUDES THIS STAFF'S PRESENTATION. IF YOU HAVE ANY OTHER QUESTIONS, BE HAPPY TO ANSWER THEM IF I CAN.

CHAIRMAN FRAZEE: LOOKS GOOD.

MEMBER JONES: I THINK YOU ARE DOING GOOD.

MS. RICE: THIS ITEM WOULD NOT ORDINARILY GO TO THE BOARD UNLESS YOU WISH OTHERWISE.

CHAIRMAN FRAZEE: I DON'T BELIEVE IT NEEDS

24 TO. I DON'T THINK SO.

25 MEMBER JONES: MAYBE IN THE DIRECTOR'S

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REPORT HE COULD REFER TO THE SUCCESS.

CHAIRMAN FRAZEE: THAT WOULD BE ADEQUATE. OKAY. THANK YOU.

NOW WE ARE READY FOR AGENDA ITEM 16. THIS IS THE UPDATE AND DISCUSSION OF RECOMMENDATIONS FOR REVISION TO THE INFORMAL DRAFT REGULATIONS FOR TRANSFER, MATERIAL RECOVERY, AND PROCESSING OPERATIONS AND FACILITIES.

MS. RICE: THANK YOU VERY MUCH. ALLISON REYNOLDS AND BEATRICE PAROLI WILL MAKE A STAFF PRESENTATION.

MS. REYNOLDS: GOOD MORNING, CHAIRMAN AND COMMITTEE MEMBERS. THE PURPOSE OF THIS ITEM IS TO UPDATE AND DISCUSS RECOMMENDATIONS FOR REVISIONS TO THE INFORMAL DRAFT REGULATIONS FOR TRANSFER, MATERIAL RECOVERY, AND PROCESSING OPERATIONS AND FACILITIES. STAFF HAS CIRCULATED DRAFT REGULATIONS FOR AN INFORMAL COMMENT PERIOD WHICH BEGAN IN APRIL OF THIS YEAR. STAFF MAILED THE REGULATION PACKAGE TO OVER 600 INTERESTED PARTIES, INCLUDING LOCAL ENFORCEMENT AGENCIES, INDUSTRY REPRESENTATIVES, AND STATE REGULATORS.

STAFF ALSO HELD WORKSHOPS IN REDDING, DIAMOND BAR, AND SACRAMENTO IN JUNE AND JULY. AS A

25 RESULT, STAFF RECEIVED 25 WRITTEN COMMENT LETTERS

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AND NUMEROUS VERBAL COMMENTS DURING THE WORKSHOPS. STAFF BRINGS FORWARD SIX SIGNIFICANT ISSUES FOR DIRECTION BY THE COMMITTEE. THESE ARE THE TWO-PART TEST, THE 10-PERCENT RESIDUAL VERSUS THE ALTERNATIVE PLAN; WHETHER TO MAINTAIN THE DEFINITIONS FOR SOURCE SEPARATED AND SEPARATED FOR REUSE; THE METHODOLOGY TO PLACE TRANSFER PROCESSING FACILITIES WITHIN THE TIERS; ADDING ADDITIONAL EXCLUSIONS; WHETHER TO REQUIRE THE APPROPRIATE TIER PERMIT; AND WHETHER TO DEVELOP A MEMORANDUM OF UNDERSTANDING WITH CAL-OSHA.

WE CAN NOW BRIEFLY DISCUSS EACH ISSUE. THE COMMITTEE CAN OPEN EACH ISSUE FOR DISCUSSION ONE AT A TIME, OR WE CAN DISCUSS THEM ALL ONCE EACH ISSUE HAS BEEN DESCRIBED.

MS. RICE: WOULD YOU LIKE STAFF TO GO THROUGH ALL THE ISSUES FIRST AND THEN RETURN TO NO. 1 FOR DISCUSSION, OR DO YOU WANT TO BREAK FOR DISCUSSION AFTER EACH DESCRIPTION?

CHAIRMAN FRAZEE: WELL, IT MIGHT BE BEST JUST TO DISCUSS EACH ISSUE AS WE COME TO IT AND DISPOSE OF THAT.

MS. RICE: VERY WELL.

MS. REHBERG: OKAY. REGARDING THE

TWO-

25 PART TEST, 10-PERCENT RESIDUAL, AND AN

ALTERNATIVE

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PLAN SUBMITTED BY AN LEA, THE TWO-PART TEST DESCRIBES THE CRITERIA WHEREIN A RECYCLING OPERATION MUST RECEIVE MATERIALS THAT HAVE BEEN SOURCE SEPARATED OR SEPARATED FOR REUSE AND GENERATE LESS THAN 10-PERCENT RESIDUAL MEASURED ON A MONTHLY BASIS. IF AN ACTIVITY FAILS EITHER PART OF THE TEST, IT WILL BE SUBJECT TO THE BOARD'S AUTHORITY AND PLACED INTO THE APPROPRIATE REGULATORY TIER.

DURING THE INFORMAL COMMENT PERIOD, AN ALTERNATIVE PLAN TO THE BOARD'S TWO-PART TEST WAS SUBMITTED TO BOARD STAFF BY MR. RICHARD HANSON AND PRESENTED AT TWO OF THE WORKSHOPS. MR. HANSON IS HERE TODAY AND WILL PROVIDE A DESCRIPTION OF THE ALTERNATIVE PLAN.

STAFF BRINGS THIS FORWARD AS AN ISSUE FOR DISCUSSION AND DIRECTION FROM THE COMMITTEE. COMMENTS RECEIVED FROM SEVERAL LEA'S DURING THE SOUTHERN CALIFORNIA WORKSHOPS HAVE BEEN IN SUPPORT OF THE ALTERNATIVE PLAN. STAFF DOES NOT KNOW

THE

21 EXTENT OF THE RECEPTION THE ALTERNATIVE PLAN HAS

22 AMONG ALL LEA'S OR OTHER INTERESTED PARTIES.

23 STAFF RECOMMEND RETAINING THE

BOARD'S

24 TWO-PART TEST AS A BASIS FOR THESE REGULATIONS;

25 HOWEVER, THERE ARE SOME ASPECTS OF THE

ALTERNATIVE

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PLAN THAT WE RECOMMEND THE COMMITTEE CONSIDER, SUCH AS COMBINING TOGETHER TRANSFER STATION AND MATERIAL RECOVERY ACTIVITIES FOR PLACEMENT INTO THIS PERMIT TIERS AND USING TONNAGE FOR THESE ACTIVITIES AS A BASIS FOR DETERMINING PLACEMENT INTO THE PERMIT TIERS.

THAT CONCLUDES THIS ISSUE.

CHAIRMAN FRAZEE: OKAY. THIS IS ONE THAT'S GOING TO REQUIRE A FAIR AMOUNT OF DISCUSSION. I WONDER IF IT MIGHT BE WORTHWHILE TO HEAR FROM MR. HANSON ON THIS SPECIFIC ISSUE AND THEN --

MEMBER RELIS: MR. CHAIR, I WONDER IF I COULD JUST -- THIS IS A DISCUSSION. I THINK IT'S IMPORTANT FOR US ALL TO REALIZE THIS IS A DISCUSSION. THIS IS NOT A CONSIDERATION ITEM TODAY. THAT'S MY TAKE ON IT.

MS. RICE: WHILE IT IS NOT A CONSIDERATION ITEM, AS NOTED, WE ARE SEEKING DIRECTION FROM THE COMMITTEE ON THESE MATTERS SO THAT WE CAN GO BACK TO THE OFFICES AND DRAFT A NEW SET OF DRAFT REGULATIONS FOR YOUR FURTHER CONSIDERATION OR TO BEGIN THE OAL PROCESS. SO WE ARE SEEKING

DIRECTION

24 TODAY, TO THE EXTENT POSSIBLE, ON THESE ISSUES SO

25 THAT WE CAN DRAFT CHANGES TO THE REGULATIONS.

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MEMBER RELIS: IF I COULD -- LET ME JUST CONTINUE THEN FOR A MOMENT. YOU KNOW, WE SPENT A GREAT DEAL OF TIME ON THIS MATTER, AND THERE WAS CONSIDERABLE DEBATE. THE 10 PERCENT AND THE TEST WERE SUBJECT TO MUCH DISCUSSION.

I'M LOOKING TO THE LEA COMMUNITY, AT LEAST, AND I CERTAINLY READ AND THANK MR. HANSON FOR -- THIS IS A MAJOR PIECE OF WORK THAT WAS DONE. I DON'T KNOW HOW MANY OTHER PARTIES WERE INVOLVED IN IT; BUT IF NOT, STANDING ALONE, IT'S A MAJOR UNDERTAKING AND APPRECIATE THE CONCERN IT EXPRESSES.

BUT I'M STILL SEARCHING IN THIS DISCUSSION AND NEED TO BE PERSUADED THAT THERE'S A PROBLEM AND THAT THE PROBLEM IS IDENTIFIABLE, THAT THE PROBLEM REPRESENTS A SERIOUS THREAT TO PUBLIC HEALTH AND SAFETY, WHICH IS OUR PRIMARY FUNCTION HERE.

AND SO IF THE SPEAKERS WHO ARE ADDRESSING THIS MATTER COULD, AT LEAST FOR THIS MEMBER, HELP DEFINE THE PROBLEM. WE'RE AWARE OBVIOUSLY WITH THE RECENT CASES, AND THEY'RE CITED IN THIS PAPER, THAT WE UNDERTOOK EMERGENCY REGULATIONS AS A RESULT OF UNDERSTANDING WHAT THAT

25 PROBLEM WAS. AND SO THAT IS JUST A REQUEST TO THE

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SPEAKERS, MR. HANSON INCLUDED, IF HE COULD HELP THIS MEMBER UNDERSTAND WHAT'S AT STAKE HERE.

CHAIRMAN FRAZEE: IF -- I KNOW YOU HAVE OTHER ITEMS THAT ARE ON THE LIST, BUT IF -- WE'LL CALL YOU BACK FOR THOSE; BUT IF WE COULD CONFINE YOUR COMMENTS TO THE TEST AREA FIRST OF ALL AND SEE IF WE CAN DISPOSE OF THAT ONE WAY OR ANOTHER.

MR. HANSON: GOOD MORNING, CHAIRMAN FRAZEE, MR. RELIS, MR. JONES. I WASN'T REALLY PREPARED TO STAND UP HERE AND TRY TO EXPLAIN THE ENTIRE ALTERNATIVE PLAN. THANKS, ALLISON.

THIS STARTED OUT SEVERAL MONTHS AGO WHEN THE FIRST DRAFT OF THE INFORMAL REGS CAME OUT AND THE GROUP OF LEA'S IN SOUTHERN CALIFORNIA GOT TOGETHER TO DISCUSS THEM. AND IT BECAME VERY APPARENT EARLY ON THAT ONE OF THE PRIMARY CONCERNS WAS THIS WHAT'S IN, WHAT'S OUT, THIS 10-PERCENT DEMARCATION LINE. AND LIKE SO MANY OF THE OTHER LEA'S, WE HAD COME TO THIS MEETING WITH COMMENTS ON MANY FACETS OF THE PROPOSED REGULATIONS, BUT WE DIDN'T REALLY ADDRESS THE 10 PERCENT, WHAT'S BEEN KNOWN, AT LEAST IN OUR WORLD, AS THE 10-PERCENT SOLUTION, BECAUSE WE HAD RECOGNIZED THAT THE BOARD

24 HAD SPENT A LOT OF TIME AND A LOT OF EFFORT TO

COME

25 UP WITH THIS. AND WE FELT THAT TO SPEND ANY TIME

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TRYING TO CRITICIZE IT WOULD BE JUST A WASTE OF TIME; HOWEVER, THE MORE WE GOT TALKING ABOUT THE REGULATIONS, WE FELT THAT WE HAD TO GET AT THE CRUX OF OUR CONCERN. AND THAT WAS THAT THE 10 PERCENT COULD NOT BE ENFORCED. WE DIDN'T BELIEVE IT COULD BE.

WE HAD EXPRESSED THIS SEVERAL YEARS AGO WHEN THIS FIRST CAME OUT AT VARIOUS MEETINGS AND WORKSHOPS. AND WE RECOGNIZE AND UNDERSTAND HOW THE 10-PERCENT SOLUTION CAME ABOUT.

SO WE DECIDED THAT WE WOULD TRY TO JUST START FROM SQUARE ONE AND COME UP WITH SOME SORT OF A HOLISTIC APPROACH TO THE PROBLEM. AND THAT'S WHERE THE SO-CALLED ALTERNATIVE PLAN CAME FROM. THERE WERE LEA'S THAT MET ON AT LEAST TWO DIFFERENT OCCASIONS IN SOUTHERN CALIFORNIA. AND FROM THE NOTES, THE IDEAS THAT WERE DERIVED, NOT ONLY FROM THOSE MEETINGS, BUT FROM THE IDEAS THAT WERE EXPRESSED SEVERAL YEARS AGO AND ALSO FROM THE CCDEH LETTER OF AUGUST OF 1995, WE PUT TOGETHER THIS HOLISTIC APPROACH.

AND I THINK THAT THE PLAN DOESN'T SO MUCH TRY TO PUT FORTH THIS IDEA AS THE ONLY IDEA

24 THAT CAN WORK, BUT I THINK THAT ITS APPROACH

25 UNDERSCORES THE PROBLEMS WITH THE 10-PERCENT

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SOLUTION. AND I THINK THAT THAT -- THAT IS THE VERY BASIS OF THE ALTERNATIVE PLAN IS THE 10 PERCENT.

THE REASONS THAT WE HAVE A PROBLEM WITH IT IS THAT WE FEEL THAT USING RESIDUAL ITSELF AS A CRITERIA IS VERY DIFFICULT BECAUSE IT REQUIRES DETAILED RECORDKEEPING, IT'S AN AFTER-THE-FACT DETERMINATION, AND THE FACT MAY HAPPEN A LONG TIME BEFORE RESIDUAL IS DETERMINED TO EITHER BE TRASH OR REUSABLE OR RECYCLABLE.

THE RESIDUALS VARY OVER TIME. WE WOULD BE ATTEMPTING TO ENFORCE ACTIVITIES THAT ARE INITIALLY OUTSIDE OF OUR SCOPE OF AUTHORITY. AND ONE OF THE MOST DIFFICULT THINGS IS THAT THE LINE WAS DRAWN IN THE MIDDLE OF THE UNIVERSE OF SOURCE SEPARATED PROCESSING FACILITIES. IF YOU WILL RECALL IN THE SUMMER OF 1995, BOARD STAFF WAS SENT OUT TO INVESTIGATE THE SOURCE SEPARATED FACILITIES THROUGHOUT THE STATE, AND THEY CAME UP WITH 41 THAT THEY LOOKED AT. AND THE AMOUNTS OF RESIDUALS VERSUS THE NUMBER OF FACILITIES IN THESE VARIOUS CATEGORIES SHOWED THAT THE MEDIAN OR THE AVERAGE WAS RIGHT AT 10 PERCENT. SO YOU HAD AN ALMOST

24 EQUAL NUMBER AT 8 AS YOU WOULD AT 12.

25 AND FOR LEA'S THIS WAS ALMOST

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COMPLETELY INDISTINGUISHABLE. WE FELT IT WOULD BE VERY DIFFICULT TO TRY TO DETERMINE WHETHER ONE WAS AT 8 OR ONE WAS AT 12, ESPECIALLY WHEN WE HAD NO AUTHORITY AT MANY OF THESE FACILITIES TO BEGIN WITH.

OF COURSE, THE FACILITIES THAT ARE ALREADY PERMITTED, THERE'S NO PROBLEM. BUT THE ONES THAT ARE OUTSIDE, THEY'RE VERY DIFFICULT TO DETERMINE WHAT'S GOING ON THERE. THEY LOOK LIKE PERMITTED FACILITIES FROM THE OUTSIDE. THEY UTILIZE THE SAME TYPES OF MACHINERY, TRUCKS ARRIVE WITH MATERIAL, MATERIAL IS REMOVED, AND RESIDUALS ARE TAKEN AWAY JUST LIKE AT A MRF. IT'S JUST A MATTER OF DEGREE.

THE SECOND MAJOR PROBLEM WAS IN THE SLOTTING OF THE TIERS IN THAT -- WELL, IT DOES GO ON A LITTLE BIT CONNECTED WITH THE 10 PERCENT, BUT I THINK THAT THAT'S ALL YOU REALLY WANTED TO HEAR ABOUT INITIALLY. ANY QUESTIONS?

CHAIRMAN FRAZEE: I'M TRYING TO PHRASE A QUESTION. DO YOU SEE ANY CHANGE IN THE NUMBER OF FACILITIES THAT MAY BE INCLUDED UNDER THE 10-PERCENT TEST VERSUS WHAT YOUR PROPOSED TEST IS?

24 MR. HANSON: WELL, THAT'S A VERY GOOD

25 QUESTION. AS I UNDERSTAND IT, THERE MAY BE A

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CHANGE IN WHERE THESE FACILITIES ARE TODAY AS THEY WERE TWO YEARS AGO AND THERE MAY BE. THE LEA'S, IN ORDER TO ESTABLISH SOME SORT OF A FRAMEWORK UPON WHICH WE CAN MAKE OUR CONCERN, AS SUGGESTED BY MR. RELIS, THAT WE GO OUT AND GET SOME DATA, WE'VE TRIED TO SURVEY THE LEA'S THROUGHOUT THE STATE TO FILL IN A SURVEY FORM THAT ADDRESSES NOT ONLY NONPERMITTED SOURCE SEPARATED FACILITIES, BUT TRANSFER STATIONS AND MRF'S AS WELL, TO COME UP WITH SOME SORT OF A DATABASE TO FIND OUT WHERE THE NATURAL BREAKS IN THE DATA ARE, IF THERE ARE ANY. AND NO MATTER WHAT KIND OF REGULATION IS ULTIMATELY PROPOSED, HOW THIS WOULD AFFECT THE EXISTING OPERATIONS.

AND I DON'T KNOW WHAT THAT IS BECAUSE THAT SURVEY IS STILL BEING WORKED ON. AND I WOULD HOPE THAT WE WOULD HAVE SOMETHING READY WITHIN A MONTH, BUT I CAN'T SAY. WE HAVE OVER A HUNDRED RESPONSES RIGHT NOW, BUT I THINK THAT THERE'S PROBABLY THREE TIMES THAT MANY OUT THERE.

MEMBER RELIS: BUILDING ON THAT, SO YOU HAVE A SURVEY WITH THE LEA COMMUNITY INVOLVEMENT TO TRY AND IDENTIFY --

24 MR. HANSON: YES.

25 MEMBER RELIS: A -- ELABORATE ON THAT.

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WHAT IS THE SURVEY?

MR. HANSON: WELL, WE TRY TO IDENTIFY THE TYPES OF MATERIALS THAT ARE COMING INTO FACILITIES, WHETHER THEY BE TRANSFER STATIONS, MRF'S, OR SOURCE SEPARATED, OR WHATEVER YOU WANT TO CALL THEM, RECYCLING OPERATIONS, WHAT THE INPUT TONNAGE IS, WHAT RESIDUALS ARE GOING OUT; AND IF THEY DEAL IN JUST ONE TYPE OF MATERIAL, SUCH AS PAPER, GLASS, THAT THEY WOULD INDICATE THAT, AND THEN WHERE DOES THE MATERIAL GO.

SOME FACILITIES THAT WE'RE FINDING OUT SEPARATE RECYCLABLES OUT, AND THEN THESE GO TO A PERHAPS MRF OR ANOTHER SOURCE SEPARATED FACILITY TO BE PROCESSED AGAIN. SO THAT'S A LITTLE CHANGE THAT I HADN'T HEARD OF BEFORE.

MEMBER RELIS: YOU MEAN THAT YOU WOULD GO TO THE TROUBLE OF SEPARATING AND THEN GO TO A MRF?

MR. HANSON: I MEAN THAT'S HOW I UNDERSTAND IT. MAYBE THAT ISN'T WHAT'S HAPPENING.

BUT I MYSELF HAVE NOT LOOKED AT THE DATA. WE'VE ENCOURAGED THE LEA'S TO KEEP THE INFORMATION SECRET, AT LEAST AS FAR AS THEY'RE CONCERNED.

THEY

23 DON'T HAVE TO PROVIDE US WITH THE DATA. THE DATA

24 IS BEING CENTRALIZED IN ORANGE COUNTY AND ALSO

LOS

25 ANGELES COUNTY. AND I HAVE A STAFF MEMBER WHO IS

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CONTACTING THE LEA'S IN ORDER TO MAKE SURE THAT EACH ONE OF THE RESPONSES IS THE SAME THROUGHOUT THE STATE, SO WE DON'T HAVE SOMEBODY FILLING IN THE FORM DIFFERENT THAN SOMEBODY ELSE.

MEMBER RELIS: HOW DO YOU PROPOSE OR ENVISION THIS COMING BACK TO US? WHAT FORM THAT WE HAVE? THERE'S A SECRET SURVEY?

MR. HANSON: NOT A SECRET SURVEY.

MEMBER RELIS: BUT THE INPUTS ARE SECRET. THESE ARE GOING TO BE EVALUATED BY A GROUP OF THE LEA COMMUNITY, A NUMBER OF PEOPLE SELECTED TO REVIEW.

MR. HANSON: NO. WHAT I WOULD PROPOSE IS THAT WE WOULD JUST SIMPLY GIVE YOU THE RAW DATA. WE CAN MAKE OUR OWN EVALUATION OF WHAT IT MEANS. BUT IF YOU WERE TO HAVE IT, THEN AT LEAST YOU COULD MASSAGE IT ANY WAY YOU CHOSE, BUT WE WOULD GIVE YOU THE RAW NUMBERS.

MEMBER RELIS: AND THE QUESTION, AGAIN, THAT YOU'VE PUT TO THE LEA, THEY'RE ALL GOING OUT WITH THE SAME, WHAT, ASSUMPTION, BRING IN INFORMA-TION -- THE SURVEY FACTORS ARE THE FOLLOWING, AND IT'S A STANDARD SURVEY.

MR. HANSON: YES.

25 MEMBER RELIS: OKAY. OKAY.

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MR. HANSON: AND IF THE SURVEY DEMONSTRATES THAT THERE ISN'T A PROBLEM, LET'S SAY THAT SINCE TWO YEARS AGO, THESE -- THE UNIVERSE HAS FLATTENED OUT AND THAT THERE IS NO NATURAL BREAK, WELL, THEN, MAYBE THERE'S NO PROBLEM AT ALL. THERE'S NOTHING THAT THIS TYPE OF APPROACH WOULD WORK IN THAT KIND OF A WORLD.

MEMBER RELIS: I GUESS THAT BRINGS ME BACK TO MY ORIGINAL POINT. WE HAVE A VERY SIGNIFICANT SURVEY UNDER WAY. WE'RE DISCUSSING THE ITEM. WE DON'T HAVE THE BENEFIT OF THE SURVEY. SO YOU JUST SAID, RICHARD, IF I HEARD YOU CORRECT, YOU ARE NOT SURE IF WE HAVE A PROBLEM.

MR. HANSON: I DON'T KNOW. I DON'T KNOW. WHAT WE'RE GOING ON IS DATA THAT'S TWO YEARS OLD, AND THAT'S WHY WE CAME UP WITH THE SO-CALLED ALTERNATIVE PLAN.

MEMBER RELIS: I, FOR ONE, WOULD CERTAINLY FEEL MORE GROUNDED, I GUESS, IF WE HAD THE SURVEY AND THE RESULTS IN SOME INTERPRETATION BY OUR STAFF AS A BASIS FOR WHAT COULD BE A VERY WIDE-OPEN DISCUSSION, DIFFICULT TO RESOLVE IN ANY IMPORTANT WAY BECAUSE OF KNOWING ALL THE ISSUES THAT WERE

24 BROUGHT TO BEAR THE LAST TIME WE WENT THROUGH

25 THIS. AND SO I'LL LEAVE IT AT THAT.

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MEMBER JONES: MR. CHAIR, I HAVE A QUESTION. WE -- AS THE NEWEST MEMBER ON THE BOARD, I'M SURE EVERYBODY IS LOOKING ON TO WONDER. I KNOW THE BATTLE WAS HARD FOUGHT FOR A LONG TIME. I WAS SITTING ON THE OUTSIDE GIVING MY COMMENTS TO CRRC WHERE I WAS A MEMBER.

BUT IN DEALING -- IN LEA'S HAVING TO DEAL WITH 10-PERCENT RESIDUAL, I THINK THE 10 PERCENT IS FINE. I DON'T HAVE A PROBLEM WITH THAT. I THINK IT'S BEEN WELL FOUGHT, LONG FOUGHT, AND DOESN'T NEED TO MOVE.

BUT I WONDER IF WE ARE NOT CREATING ANOTHER INEQUITY WHEN THERE IS NO CAP ON THAT. AND I KNOW THAT THE DISCUSSIONS ON THE CAP IN THE OCTOBER '95 WERE AROUND 5 TO 7 TONS. I'M NOT EVEN GOING DOWN THAT ROAD. I'M WONDERING IF IT MAKES SOME SENSE THAT WHATEVER TONNAGE WE DETERMINE TO BE THE BREAK FROM A REGISTRATION TIER, WHICH I'M LOOKING AT THAT, WOULD BE VERY CLOSE TO WHAT NOW NEEDS A PLAN OF OPERATION FOR A SOLID WASTE FACILITY PERMIT, SMALL VOLUME, TO A FULL SOLID

22 WASTE FACILITY PERMIT.

23 IF THAT BREAK ON RESIDUAL WAS AT 99

24 TONS, LET'S SAY, LET'S SAY THAT WE DECIDED THAT

99

25 TONS WAS THE BREAK, THAT WOULD LET A RECYCLING

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FACILITY OPERATE A -- IF IN SOME CASES WHERE THEY'RE AT 2- OR 3-PERCENT RESIDUAL, THEY COULD BRING IN 3,000 TONS A DAY AND STILL BE UNDER THE CAP. BUT THOSE FACILITIES THAT BRING IN GARBAGE UNDER THE GUISE OF A RECYCLING FACILITY, WHICH IS THE CASE THAT WE HAD ON A CLEANUP HERE AN HOUR OR SO AGO, THAT FACILITY OPERATED AS A RECYCLING FACILITY AND ARGUED THAT THE LEA HAD NO JURIS-DICTION GOING INSIDE OF IT.

I THINK IT'S AN UNFAIR PLAYING FIELD. AND THEN I LOOK AT ADS OF A RECYCLING FACILITY IN NORTHERN CALIFORNIA THAT IS ADVERTISING FOR GENERAL WASTE, AND THEY HAVE AN ESTABLISHED PRICE IN A FLIER THAT GOES OUT TO EVERYBODY, SAYING BRING US YOUR GARBAGE. THAT'S NOT FAIR. THEY DON'T SAY THAT. I'M PARAPHRASING, AND YOU GUYS TAKE EVERYTHING TOO LITERALLY. BUT THIS IS A RECYCLING FACILITY THAT IS ADVERTISING FOR GARBAGE UNDER THE GUISE OF A RECYCLING FACILITY.

YET WE HAVE A 60-CUBIC YARD OR A TEN -- 15 CUBIC OR A 15-TON-A-DAY FACILITY THAT IS A TRANSFER STATION OPERATING UNDER A WHOLE DIFFERENT SET OF REGULATIONS. THERE IS A FAIRNESS

24 ISSUE HERE. I WANT THE RECYCLERS -- I WANT THE

25 SMURFITS, THE WEYERHAEUSERS, ALL THOSE PEOPLE TO BE

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ABLE TO OPERATE EVERY DAY AND BRING IN THE MATERIAL. BUT I THINK WE NEED SOME CONSISTENCY AS TO WHAT'S FAIR AND WHAT'S NOT FAIR. YOU KNOW, I MEAN YOU CAN BRING IN A HUNDRED TONS OF SOURCE SEPARATED MATERIAL THAT GOES THROUGH YOUR DOOR, GETS UNLOADED BY A FORKLIFT, GETS PUT IN YOUR BACKYARD, AND THAT ALLOWS YOU TO GO OUT AND GET A 10-TON LOAD OF GARBAGE AND YOU ARE STILL WITHIN THE PARAMETERS, AND YOU ARE GOING TO OPERATE UNREGULATED.

I'VE BEEN IN THE BUSINESS FOR 23 YEARS; AND WHILE THE GOOD ACTORS NORMALLY DON'T PLAY THAT WAY, THERE ARE ACTORS OUT THERE THAT ADVERTISE THAT THEY PLAY THAT WAY. SO DOES -- WOULD SOMETHING ALONG THE LINES OF 99 TONS GIVE AN LEA THE OPPORTUNITY TO MAKE SURE THAT A FACILITY IS OPERATING WITHIN THOSE BOUNDS?

MR. HANSON: TALKING ABOUT THE INPUT TOTAL?

MEMBER JONES: RESIDUAL OUTGOING.

MR. HANSON: OF 99 TONS?

MEMBER JONES: YEAH, PER DAY.

MR. HANSON: AND ANYTHING UNDER 99 TONS, WOULD THEY -- THEY WOULD BE OUT.

25 MEMBER JONES: AS LONG AS IT MEETS THE

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10-PERCENT RULE, AS LONG AS IT MEETS THE 10-PERCENT RULE.

MR. HANSON: I DON'T KNOW. I'D HAVE TO THINK ABOUT THAT.

MEMBER JONES: I MEAN SOMEBODY USING THE 3,000 TONS A DAY UNDER THE 10-PERCENT RULE CAN HAUL 300 TONS OF GARBAGE AND OPERATE AS A MUNICIPAL SOLID WASTE FACILITY WITHOUT A PERMIT. THAT DOESN'T SEEM FAIR TO ME, YOU KNOW.

MEMBER RELIS: WELL, MR. JONES, I KNOW YOU WEREN'T ON THE BOARD THEN, BUT I BELIEVE YOU PROBABLY WERE FOLLOWING THESE DISCUSSIONS CLOSELY. AND I THINK THE CRUX OF IT CAME DOWN FROM THE HEALTH SIDE WAS WE WERE -- WE HAD A LENGTHY DISCUSSION ABOUT PUTRESCIBLES BECAUSE, AFTER ALL, YOU COULD HAVE A LOT OF -- YOU COULD HAVE MATERIAL IN RESIDUAL, BUT WHAT WAS OF CONCERN TO THE BOARD, AT LEAST I RECALL AT THAT TIME, WERE THE PUTRESCIBLES BECAUSE THAT WOULD BE THE SOURCE OF THE HEALTH AND SAFETY PROBLEM.

AND SO WHILE I -- YOU KNOW, WE CAN USE TERMS LIKE 300 TONS. IF THERE'RE PUTRESCIBLES OF 300 TONS, ABSOLUTELY MAJOR HEALTH CONSIDERATION. BUT AT LEAST IN THE DEBATES THAT WE HAD, WE WERE

25 CONFINING AND ASSUMING THAT PUTRESCIBLES WERE

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INSIGNIFICANT IN THE LEVEL OF RESIDUAL, AND THAT WAS THE BASIS FOR, I GUESS, THE BOARD DERIVING SOME COMFORT IN OUR DECISION.

IF THERE WAS EVIDENCE THAT THERE WERE LARGE AMOUNTS OR HEALTH -- AMOUNTS OF PUTRESCIBLES THAT WERE A HEALTH CONCERN COMING THROUGH SUCH FACILITIES, WELL, THAT WOULD BE A DIFFERENT BALL GAME ALTOGETHER. BUT RIGHT NOW I DON'T HAVE THAT SENSE THAT THERE'S EVIDENCE OF THAT HAPPENING. AND I KNOW YOUR POINT WOULD BE, WELL, WE CAN'T WAIT TILL THERE'S EVIDENCE, THAT THE HEALTH PROBLEM WOULD BE UPON US PERHAPS.

MR. HANSON: WELL, THAT'S TRUE. OF COURSE, IN THE 10 PERCENT YOU CAN HAVE 8 TONS OR 3 PERCENT OF PUTRESCIBLES AND THEN YOU COULD HAVE 18 PERCENT OF JUST PAPER. AND FROM A PUBLIC HEALTH STANDPOINT, I WOULD CERTAINLY BE MUCH MORE CONCERNED WITH THE 3 PERCENT OF PUTRESCIBLES, WHATEVER IT WAS.

I THINK IT WAS VERY DIFFICULT TO -- IF WE COULD IDENTIFY PUTRESCIBLES IN TRASH, THAT WOULD PROBABLY BE THE BEST THING FROM -- WHETHER OR NOT IT'S IN OR OUT OR WHERE TO SLOT IT, BUT IT'S

24 ALMOST IMPOSSIBLE. IT'S WORSE THAN JUST RESIDUALS.

25 AND I THINK THAT'S ANOTHER REASON WHY WE ADOPTED

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THE ALTERNATIVE PLAN, WHICH, OF COURSE, IS THE 10-PERCENT ASSUMPTION, THAT WE HAVE ONE-TENTH THE CONCERN OF THESE KINDS OF FACILITIES THAN WE WOULD WITH TRASH.

AND I THINK THAT PEOPLE HAVE OVERBLOWN THAT 10-PERCENT ASSUMPTION, AND ALL WE REALLY MEAN THERE IS THAT OUR DEGREE OF CONCERN IS ONLY ONE-TENTH WITH A SOURCE SEPARATED PROCESSING FACILITY THAN WE WOULD HAVE WITH THE SAME AMOUNT OF INPUT THAT WE WOULD FROM EITHER A TRANSFER STATION OR A MRF, AND A MRF, UTILIZING THE DEFINITION, IN THIS CASE A DIRTY MRF.

SO IT'S DIFFICULT TO TRY TO PUT, YOU KNOW, THE LINE. AND I THINK THAT IF ANY LINE IS EVER DRAWN, IT SHOULD BE DRAWN ON EXISTING BREAKS IN THE DATA, SO YOU DON'T IMPACT -- IMPACT AS FEW PEOPLE AS POSSIBLE. AND THE 10 PERCENT THAT WAS DONE TWO YEARS AGO, I BELIEVE THAT JUST SPLIT IT RIGHT IN TWO. AGAIN, I RECOGNIZE THAT, AND I ALSO RECOGNIZE THAT THE BOARD, THROUGH THEIR POLICY, IN ESSENCE, GAVE A PROMISE TO EITHER THE RECYCLING INDUSTRY AND THE WASTE INDUSTRY, THAT ONCE THE REGULATIONS WERE PROMULGATED, THAT IT WOULD BE

24 BASED UPON THE POLICY. AND I UNDERSTAND ALSO THAT

25 THERE HAVE BEEN MANY OPERATIONS OR FACILITIES IN

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THE STATE THAT HAVE DESIGNED THEIR OPERATION AROUND THE ANTICIPATION OF THE 10 PERCENT.

SO IT'S -- I UNDERSTAND THAT. AND IT'S EASY TO SEE FOR ME WHY YOU WOULD BE EXTREMELY RELUCTANT TO CHANGE THAT. BUT AGAIN, I THINK THAT THE ALTERNATIVE PLAN SIMPLY UNDERSCORES THE PROBLEMS OF TRYING TO MAKE THIS DETERMINATION.

MEMBER RELIS: BUT AGAIN, IF I COULD JUST MAKE ONE MORE POINT IN THE DEFINITION OF -- OR THE DISCUSSION OF THE 10 PERCENT. AGAIN, OUR SENSE WAS IF THERE WAS A SIGNIFICANT AMOUNT OF PUTRESCIBLES IN THAT 10 PERCENT, THEN IT WOULDN'T HAVE BEEN SOURCE SEPARATED. WE WOULDN'T HAVE EVER -- THAT'S THE CRUX OF IT TO ME, THAT WE WERE LOOKING AT A MATERIAL COMING IN, A 10-PERCENT RESIDUAL GOING OUT, BUT NOT PUTRESCIBLES.

WE USE THE TERM, I THINK, EVEN INCIDENTAL, YOU KNOW, LIKE, UH-OH, A BANANA GOT THROWN IN, THERE WAS A FRITO BAG. AND, YEAH, IT WAS INCIDENTAL. IT WAS NOT A COMMINGLING OR A, I GUESS YOU WOULD CALL IT, A MIXING OF, OH, BOY, WE'VE GOT 10 PERCENT, AND HERE'S A STEADY STREAM OF 3 PERCENT OF GARBAGE THAT'S BEEN COLLECTED AND

24 MIXED AND COMING IN UNDER THE SUBTERFUGE OF A

25 10-PERCENT RESIDUAL.

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THAT'S -- BECAUSE IF IT'S -- WE WERE CORRECT AND IF YOU CAN PROVE US OR SUGGEST THAT WE'RE WRONG ON THAT --

MR. HANSON: YOU'RE PROBABLY RIGHT. NO. YOU'RE PROBABLY RIGHT. IT'S JUST THAT IT'S VERY DIFFICULT TO DETERMINE THOSE OPERATIONS THAT ARE OPERATING AT 9 PERCENT AS OPPOSED TO THOSE THAT ARE OPERATING AT 11 PERCENT, THAT IT'S VERY DIFFICULT, IT WILL BE VERY DIFFICULT FOR US TO MAKE THAT DETERMINATION.

MEMBER RELIS: THAT SEEMS TO BE A DIFFERENT ISSUE. YOU ARE SAYING THAT WE CAN'T MEASURE, AS LEA'S, WHETHER IT'S 8 TO 12 PERCENT. LET'S JUST USE THAT RANGE. YOU COULDN'T SEE IT WITH YOUR EYE.

MR. HANSON: THAT'S TRUE.

MEMBER RELIS: IN THE ABSENCE OF DATA FROM THE PARTY, YOU DON'T KNOW WHETHER THAT'S -- WHETHER THEY'RE WITHIN OR WITHOUT. THAT'S PUTTING ASIDE FOR THE MOMENT THE PUTRESCIBLE ISSUE, THE HEALTH CONCERN. LET'S SAY -- LET'S SAY IT WAS 15 PERCENT OF RESIDUAL, AND ALL THAT'S SOME LEVEL OF SCRAP PAPER, LET'S JUST SAY, THAT WAS NOT DEEMED VALUABLE ENOUGH TO RECOVER. DOES THAT HAVE A --

25 AND SAY WE'RE WRONG ON THAT. IS THERE A HEALTH

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CONSEQUENCE?

MR. HANSON: NO. PERSONALLY, IF IT WAS 15 OR 20 OR 25 PERCENT AND ALL THE OPERATION DEALT IN WAS PAPER, I WOULD SAY THEY SHOULD BE OUT.

MEMBER RELIS: YES. DON'T EVEN BOTHER THEM.

MR. HANSON: THAT'S RIGHT.

MEMBER JONES: I'D AGREE. MR. CHAIRMAN, I'D AGREE WITH WHAT HE JUST SAID. THEY SHOULD BE OUT. THE PROBLEM ISN'T WITH THE FACILITY AND WHEN THE MATERIAL GETS THERE. IT'S AT THE COLLECTION POINT AND WHO BRINGS IT IN.

I MEAN, THIS IS VERY CLEAR. IT SAYS SOURCE SEPARATED OR SOURCE SEPARATED FOR REUSE. IF A FACILITY HAS ROOM UNDER THE 10-PERCENT RESIDUAL TO GO OUT AFTER A WASTESTREAM THAT IS -- BECAUSE THEY'VE TOLD SOMEBODY THAT IT'S BEEN SEPARATED FOR REUSE, THE WAY I READ THIS IS THAT WOULD BE SORTED NEXT TO THE CONTAINER THAT IS FOR THE PUTRESCIBLES AND THOSE TYPES OF THINGS. WE DON'T KNOW THAT.

AND IN REALITY WHAT HAPPENS IS THEY GO OUT AND THEY GET THOSE CUSTOMERS AND THEY TELL THEM THIS IS HOW YOU THIS IS WHAT YOU HAVE TO SAY.

24 YOU HAVE TO SAY THAT YOU ARE RECYCLING AND IT

25 LEAVES, AND IT GOES TO A RECYCLING FACILITY AND IT

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GETS DONE.

AND IF IT STAYS UNDER THE 10 PERCENT, THEN YOU'RE OKAY. AND IF IT DOESN'T, THAT'S OKAY TOO. BUT THAT'S GARBAGE THAT -- WHAT KILLS ME IS THAT WITHOUT HURTING THE RECYCLING OPERATORS, BECAUSE I DON'T WANT TO, BUT UNDERSTAND MY INDUSTRY IS -- WAS RECYCLERS TOO, BUT WE HAD TO OPERATE BY THE RULES. AND TO MAKE A DETERMINATION AS TO WHETHER OR NOT IT'S PUTRESCIBLE OR JUST STUFF WE DON'T WANT IS FINE IF WE ALL PLAY BY THE SAME RULES.

THE PROBLEM IS THAT WHEN YOU'VE GOT A RECYCLING FACILITY THAT WAS IN THE ROOM AT A WORKSHOP TALKING ABOUT THE INTENT OF THE DELIVERER SHOULD BE INCLUDED, THAT IF THAT PERSON THAT CLEANED UP HIS GARAGE OR CLEANED UP HIS HOME REALLY WANTED EVERYTHING IN THAT PICKUP TRUCK TO BE RECYCLED, THEN HE HAD A RIGHT TO BRING IT WHEREVER HE WANTED. WELL, I'M SORRY. I DON'T -- I THINK WE ALL WOULD LIKE TO SEE EVERYTHING RECYCLED, BUT THERE'S A CERTAIN LEVEL OF HEALTH AND SAFETY WE HAVE TO KEEP IN HERE.

AND NOW THAT SAME PERSON IS ADVERTISING FOR GENERAL WASTE BEING DELIVERED TO

25 HIS FACILITY. AND ONLY THING HE CAN'T TAKE IS

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LIQUID OR HAZARDOUS WASTE. SO THE RULES -- AND WHAT WE DEAL WITH HERE ARE ALL THESE GOOD ACTORS, AND WE HEAR FROM THEM, AND THAT'S WHY A LOT OF THEM ARE NODDING THEIR HEAD, SAYING, "NO, THAT'S WRONG. THAT STUFF NEVER HAPPENED." I BELIEVE THAT THEY NEVER SEE IT BECAUSE THEY'RE GOOD ACTORS AND THEY PLAY BY THE RULES. BUT THERE ARE A LOT OF PEOPLE OUT THERE THAT DON'T PLAY BY THE RULES. AND THE ONES THAT DON'T PLAY BY THE RULES BRING IN GARBAGE AND BRING IN THOSE THINGS, AND THEY OPERATE OUTSIDE OF ANY PERMIT. THEY OPERATE OUTSIDE OF ANYTHING.

AND IF THEY OPERATE OUTSIDE ANYTHING AND THE LEA CAN'T PROTECT, THEN HOW DO WE KNOW THAT THE HEALTH AND SAFETY IS BEING PROTECTED? WE DON'T. WE MAKE AN ASSUMPTION THAT -- AND I THINK -- I DON'T EVEN KNOW IF THIS IS RIGHT OR NOT WHEN MR. HANSON SAID THAT WE HAVE 10 PERCENT AS MUCH CONCERN AS A MATERIALS RECOVERY FACILITY OR AS A TRANSFER STATION. BUT WHEN YOU'RE GENERATING -- WHEN YOU'RE BRINGING IN 3,000 TONS A DAY, THEN THAT 10 PERCENT IS 300 TONS A DAY OF POTENTIAL RESIDUAL, AND YET YOU'RE REGULATING A HUNDRED-FIFTY-TON-A-DAY TRANSFER STATION. WHAT DO YOU HAVE MORE CONCERN

24 OVER, THE 300 OR THE 150? I THINK YOU GOT TO HAVE

25 THE SAME AMOUNT OF CONCERN FOR BOTH.

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I'M NOT ASKING TO STOP OR SLOW DOWN ANYBODY'S BUSINESS, JUST PUT A REALISTIC NUMBER ON THERE. NINETY-NINE TONS OF RESIDUAL WASTE. LET THEM RECYCLE A THOUSAND TONS A DAY AT 10-PERFECT RESIDUAL, THEY FALL UNDER IT. THEY NEVER EVEN COME INTO THE REG. BUT IF THEY DECIDE TO NOT STAY IN THE REG, THEN THEY CAN PLAY -- YOU KNOW, THEY CAN BE REGULATED ON A HEALTH AND SAFETY ISSUE.

MR. HANSON: I DON'T THINK WE CAN EVER REALLY QUANTIFY OUR LEVEL OF CONCERN. WE CAN TRY TO SET A MAGNITUDE OF CONCERN. AND I THINK THAT IT WAS DEMONSTRATED TWO YEARS AGO WHEN THE BOARD STAFF DID THEIR SURVEY THAT THESE SOURCE SEPARATED PROCESSING FACILITIES, THE TYPE OF -- THE RESIDUALS WAS -- WASN'T GARBAGE. IT WASN'T A LOT OF GARBAGE. IT WAS PRIMARILY INERTS, MATERIAL THAT PEOPLE HAD THROWN IN STUFF THAT THEY -- THE RECYCLER DOESN'T USE THAT TYPE OF PLASTIC AND OTHER SORTS OF THINGS. SO IT -- FROM THAT PERSPECTIVE, THAT'S WHY IN THE ALTERNATIVE PLAN WE SAID ONE-TENTH BECAUSE WE FEEL THAT THE TYPES OF RESIDUAL THAT WILL BE THERE WILL BE OF THE TYPE THAT WE WOULDN'T NORMALLY HAVE A BIG CONCERN ABOUT.

24 PERSONALLY, AND I ONLY SPEAK FOR

25 MYSELF AT THIS POINT IS THAT IF YOU WERE GOING TO

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DRAW A LINE, YOU SHOULD HAVE DRAWN IT AROUND 20 PERCENT OR 25 PERCENT, AND THEN ALL OF THOSE BELOW THAT WOULD BE OUT BECAUSE THEN I WOULDN'T HAVE TO WORRY ABOUT TRYING TO ENFORCE THE 10 PERCENT. AND THEN IF I HAD A LOCAL CONCERN, THEN WE'D TRY TO GET AN ORDINANCE PASSED THAT WOULD ADDRESS THE PROBLEM, EVEN THOUGH THAT WOULD BE DIFFICULT, AND, OF COURSE, THAT'S CONTRARY TO THE LEVEL PLAYING FIELD, BUT I THINK THAT WE'RE JUST GOING TO SPEND AN AWFUL LOT OF TIME TRYING TO DETERMINE WHO'S IN AND WHO'S OUT, AND IT'S NOT GOING TO ACCOMPLISH A LOT, AT LEAST FROM A STRICTLY PUBLIC HEALTH CONCERN.

MEMBER RELIS: MR. CHAIR, I KNOW THERE ARE POTENTIAL SPEAKERS, BUT I'M GOING TO MAKE MAYBE A BOLD SUGGESTION, THAT WE HAVE A SURVEY PENDING. AND I DON'T KNOW THAT I'D FEEL COMFORTABLE GOING MUCH FURTHER WITH THE DISCUSSION WITHOUT SEEING MORE OF WHAT THE LEA COMMUNITY SUGGESTS.

I'D BE INCLINED TO TABLE THE DISCUSSION UNTIL THEIR RESULTS ARE OUT AND MATERIAL HAS COME TO STAFF, WE'VE HAD A CHANCE TO EVALUATE IT. AND THEN UNLESS THERE'S SOMETHING THAT I DON'T KNOW ABOUT PRESSING OUR SCHEDULE, BECAUSE THIS

24 IS -- THIS IS A MATTER THAT REQUIRES, IF WE'RE

25 GOING TO REVISIT ANYTHING, AND I'M NOT SAYING WE

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SHOULD, I THINK WE NEED THAT INFORMATION.

MS. RICE: I GUESS I WOULD WANT TO ASK FOR CLARIFICATION, WHETHER TABLING THE DISCUSSION MEANS TABLING THE PROGRESS ON THE REGULATORY PACKAGE OR JUST TABLING THIS ISSUE TO RETURN LATER.

AS YOU ALL KNOW, THE REGULATORY PROCESS TAKES A LONG TIME. AND IF RICHARD IS INDICATING MAYBE IN A MONTH OR SO, HE'D HAVE SOME INFORMATION FOR US, WE'LL PROBABLY BE IN A POSITION AT THAT TIME WHERE, HOPEFULLY, WE'LL BE COMING BACK TO YOU WITH A NEW DRAFT OF REGULATIONS. THERE'LL BE TIME TO TALK ABOUT IT, TIME TO TAKE INTO CONSIDERATION THE NEW INFORMATION. SO THAT'S HOW I WOULD PROPOSE WE MIGHT PROCEED, THAT WE TAKE YOUR DIRECTION TODAY, COME BACK NEXT MONTH WITH NEW LANGUAGE, AND HOPEFULLY THIS ISSUE MAY BE MORE RIPE FOR DISCUSSION.

CHAIRMAN FRAZEE: WHILE WE HOLD THIS ISSUE IN ABEYANCE, CAN WE GO AHEAD AND DISPOSE OF A FEW OTHER ITEMS?

MS. RICE: BY HOLDING IT IN ABEYANCE, I ASSUME IF WE'RE DOING A NEW DRAFT OF THE REGULATIONS, TO ME THAT MEANS WE STICK WITH THE

24 TWO-PART TEST IN THE DRAFT THAT WE WOULD BE WORKING

25 ON RATHER THAN SUGGESTING ANY CHANGE BECAUSE, AS

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YOU NOTED, YOU DON'T HAVE ENOUGH INFORMATION TO KNOW WHETHER YOU WOULD WANT TO ENTERTAIN CHANGE TO THE 10 PERCENT.

MEMBER RELIS: I THINK YOU'VE CAPTURED MY END.

CHAIRMAN FRAZEE: LET'S HEAR FROM ANYONE ELSE WHO WISHES TO SPEAK ON THIS PARTICULAR PHASE. DENISE DELMATIER.

MS. DELMATIER: MR. CHAIRMAN, DENISE DELMATIER WITH THE GUALCO GROUP ON BEHALF OF NORCAL WASTE SYSTEMS. THERE ARE A COUPLE OF ISSUES THAT THE STAFF RAISED IN THEIR ANALYSIS THAT I THINK ARE UNRELATED OR HAVE LITTLE IMPACT AS FAR AS THE PENDING SURVEY, AND WE AGREE WITH YOU, AS FAR AS THE NEW INFORMATION BROUGHT FORWARD BY MR. HANSON, THAT THERE IS THE PENDING SURVEY THAT, I THINK, ADDRESSES THE PUBLIC HEALTH AND SAFETY ISSUE AS FAR AS WHETHER THE 10 PERCENT, ETC. SHOULD BE ALTERED.

BUT THERE ARE SOME ISSUES, SUCH AS THE DEFINITIONS OF SOURCE SEPARATED AND SEPARATED FOR REUSE THAT WE COULD DEAL WITH TODAY AND DO HAVE IMPACT UPON THE REGULATORY PACKAGE.

CHAIRMAN FRAZEE: SURE. YEAH, THAT WAS MY INTENT ANYWAY WAS TO GO AHEAD WITH SOME OF THE

25 OTHER ISSUES AND ALLOW THE DRAFT TO PROCEED.

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MS. RICE: YOUR DIRECTION WAS JUST ON ISSUE NO. 1, AS I UNDERSTOOD IT, NOT TO TABLE ALL THE ISSUES IN THE STAFF DRAFT.

MS. DELMATIER: AND ISSUE NO. 1 WOULD BE THE 10 PERCENT. AS FAR AS THE DEFINITIONS OF SOURCE SEPARATED AND SEPARATED FOR REUSE, IS THAT CONTAINED --

MS. RICE: THAT'S THE NEXT ISSUE.

CHAIRMAN FRAZEE: NEXT ISSUE. WE'LL TAKE THAT ONE UP. EVAN EDGAR, DID YOU WISH TO ADDRESS THIS ONE?

MR. EDGAR: THANK YOU, CHAIRMAN AND BOARD MEMBERS. MY NAME IS EVAN EDGAR, REPRESENTING THE CALIFORNIA REFUSE REMOVAL COUNCIL. THIS GOES BACK TO 1991. I THINK AL MARINO STARTED THE FIRST SURVEY ABOUT THIS. THIS HAS BEEN A LONG PROCESS.

TO GET TO 1995 IN OCTOBER, TO GET TO THE 10-PERCENT SOLUTION, THAT TOOK A LOT OF TIME AND LOT OF ENERGY. AND FROM THAT, WE HAD A SERIES OF RECOMMENDATIONS. I BELIEVE JUST LOOKING AT THE SERIES OF RECOMMENDATIONS ONE MORE TIME WOULD INDICATE SOME OF THE FRUSTRATIONS THAT THE LEA'S HAVE ABOUT ENFORCEABILITY.

IN OCTOBER 24, 1995, WE DO HAVE A

25 POLICY. THE POLICY IS JUST A POLICY. IT WAS NEVER

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ENACTED IN REGULATIONS, AND THAT IS THE CRUX OF THE PROBLEM. I REALIZE SINCE '95 WE HAD SOME STAFF TURNOVERS, SOME MORALE PROBLEMS WITHIN THE P&E COMMITTEE, BUT I THINK DOROTHY RICE AND HER LEADERSHIP IS BRINGING THE ISSUES BACK. AND WE'RE GLAD WE'RE BACK TODAY BECAUSE WE NEED TO ADDRESS THESE ISSUES.

WITH RESPECT TO THE 10-PERCENT SOLUTION, I BELIEVE WHAT WAS NEEDED TO HAPPEN WAS SOME REGULATIONS NEEDED TO OCCUR RIGHT AFTER OCTOBER '95. THOSE NEVER HAPPENED. THEREFORE, THE LEA'S HAD THEIR HANDS TIED. THEY HAD NO AUTHORITY IN THE ENFORCEABILITY TO GO ON SITE TO GET THE RECORDS THEY NEEDED IN ORDER TO DO THEIR JOB.

IF YOU LOOK AT -- UNDER THE POLICIES THAT ARE RECOMMENDED IN YOUR BOARD PACKAGE ON PAGE 3, IT'S KIND OF CLEAR WHAT NEEDED TO HAPPEN. IF THAT WOULD HAVE HAPPENED, I THINK WE'D BE IN A LOT BETTER POSITION TODAY, THAT IF THE BOARD WOULD HAVE DIRECTED STAFF TO DEVELOP A STANDARDIZED RECORD-KEEPING PROCEDURE THAT DOCUMENTS THE RESIDUAL PERCENTAGE OF MATERIAL RECOVERY FACILITIES AND OTHER OPERATIONS AND FACILITIES THAT FALL UNDER THE BOARD'S REGULATORY TIER.

25 ANOTHER ONE IS THAT NO. 7, STAFF

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SHALL ENSURE THAT THE RECORDKEEPING REQUIREMENTS ARE ENFORCEABLE AND TO MINIMIZE, TO THE EXTENT FEASIBLE, THE IMPACT OF THE REGULATED OPERATIONS. STAFF WAS DIRECTED TO DEVELOP A STANDARD FORM WHICH NONREGULATED RECYCLING OPERATIONS CAN VOLUNTARILY REPORT THESE RESIDUAL PERCENTAGES TO THE LEA'S AND THE BOARD.

NO. 8, THE BOARD DIRECTED STAFF TO ESTABLISH A PROCEDURE FOR DEVELOPING COMPLIANCE SCHEDULES FOR OPERATIONS THAT CANNOT MEET THE RESIDUAL PERCENTAGE LIMITS. AND, OF COURSE, THE BOARD DIRECTED STAFF TO DEVELOP DRAFT REGULATIONS.

SO I WOULD CONCUR TODAY THAT WE NEED TO MOVE FORWARD WITH THE REGULATIONS WITH THE CURRENT FORMAT OF THE 10-PERCENT SOLUTION. I BELIEVE THAT WE HAVE ALTERNATIVE PLANS OUT THERE TO GIVE THE LEA'S THE SURVEY TIME. MAYBE SOME NEW INFORMATION WILL DEVELOP, BUT WE HAVE TO STAY ON COURSE BECAUSE WE HAVE LAGGED TWO YEARS HERE. AND I HIGHLY THE SUPPORT THE 10-PERCENT SOLUTION WITH REGARDS TO GIVING -- IMPLEMENTING ITEMS 6, 7, 8, AND 9.

AND THEN I WOULD ALSO SUPPORT A CAP. THAT'S ONE THING THAT WE SUPPORTED BACK IN 1995,

25 AND I BELIEVE THE CUTOFF IS A HUNDRED CUBIC YARDS A

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DAY FOR SMALL VOLUME TRANSFER STATIONS WITH A PLAN OF OPERATION. SO THAT WOULD BE A TARGET THRESHOLD THAT WE WOULD BE LOOKING AT SHOULD THE CAP ISSUE BE BROUGHT BACK INTO FOCUS AS PART OF THAT ALTERNATIVE PLAN. THANK YOU.

CHAIRMAN FRAZEE: LARRY SWEETSER, DID YOU WISH TO COMMENT?

MR. SWEETSER: ONE CLARIFICATION. YOU'RE ONLY TAKING ITEM 1?

CHAIRMAN FRAZEE: YES.

MR. SWEETSER: I'M SURE THERE'S A NUMBER OF OTHER PEOPLE THAT MAY WANT SPEAK. I DON'T KNOW IF, GIVEN THE HOUR, YOU MAY WANT TO TAKE A LUNCH BREAK TO DO SO.

CHAIRMAN FRAZEE: WE'RE CONSIDERING THAT. I DIDN'T KNOW WHETHER WE COULD DISPOSE OF THIS ITEM BEFORE LUNCH OR NOT.

MR. SWEETSER: I HAVE A NUMBER OF ITEMS TO BRING UP, INCLUDING ADDRESSING SOME OF THE ISSUES THAT WERE RAISED EARLIER. I DON'T KNOW IF YOU WANT TO DO THAT NOW.

CHAIRMAN FRAZEE: YOU WANT TO TAKE A BREAK NOW AND THIS MAY TAKE A LITTLE.

MEMBER RELIS: I HAVE A LUNCH MEETING.

25 CHAIRMAN FRAZEE: LET'S TAKE OUR LUNCH

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BREAK NOW. HOW ABOUT 1:30. WE'LL STAND IN RECESS UNTIL 1:30.

(RECESS TAKEN.)

CHAIRMAN FRAZEE: THE MEETING WILL COME TO ORDER. WHEN WE BROKE FOR LUNCH, WE WERE IN THE MIDDLE OF THE ITEM, THE UPDATE AND DISCUSSION OF RECOMMENDATIONS FOR REVISION OF THE INFORMAL DRAFT REGULATIONS FOR TRANSFER, MATERIAL RECOVERY, AND PROCESSING OPERATIONS AND FACILITIES. AND WE WERE IN DISCUSSION OF THE OPTIONS FOR THE COMMITTEE, THE FIRST ITEM, THE TWO-PART TEST AND DISCUSSING THE 10-PERCENT RESIDUAL. SO WE'LL GO TO LARRY SWEETSER.

MEMBER RELIS: MR. CHAIR, I JUST HAVE A COUPLE OF EX PARTES I'D LIKE TO REPORT. ONE WITH KAREN JARRELL OF SMURFIT AND WITH RICHARD HANSON OF L.A. COUNTY ON THE MATTER BEFORE US.

MEMBER JONES: I'VE GOT A COUPLE TOO WITH EVAN EDGAR, AND I DON'T KNOW, THERE WAS THREE OR FOUR PEOPLE STANDING BACK THERE. THEY'RE ALL THE SAME ONES IN THE ROOM ON THE SAME ISSUE THAT WE'VE BEEN TALKING ABOUT.

CHAIRMAN FRAZEE: OKAY. NOW, MR.

24 SWEETSER.

25 MR. SWEETSER: THANK YOU, CHAIRMAN FRAZEE,

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MEMBERS RELIS AND JONES. MY NAME IS LARRY SWEETSER, DIRECTOR OF REGULATORY AFFAIRS FOR NORCAL WASTE SYSTEMS, ONE OF THE ORIGINAL RECYCLERS IN THE STATE. IT SEEMS LIKE A REUNION TIME TO REVISIT THIS ISSUE, AND IT'S BEEN GOING ON FOR SOME TIME. AND I KNOW WE ALL WANT IT TO COME TO A HEAD, BUT I THINK THERE'S SOME CRUCIAL DECISIONS THAT WE NEED TO BE LOOKING AT SOME OF THE ISSUES TODAY, I THINK WE CAN PROVIDE THAT KIND OF INPUT WHERE WE CAN SHAPE THAT DIRECTION AND BE ON WITH IT AND GET ON WITH THE IMPLEMENTATION PHASE.

I THINK BEFORE WE GET SOME OF THE ISSUES, I'D LIKE TO DIGRESS A LITTLE TO SOME OF THE HISTORY BECAUSE I THINK IT'S IMPORTANT FOR THOSE IN THE AUDIENCE THAT WEREN'T HERE IN THOSE DISCUSSIONS AS WELL AS SETTING THE RECORD FOR LATER WHEN WE GO THROUGH THE REGULATORY PROCESS.

YOU HAVE IN FRONT OF YOU WHAT IT USED TO BE LIKE IN THE OLD DAYS. THE SLIDE OF THE OLD GARBAGE TRUCKS AND OUR WAGONS OUT THERE AND THE HORSES AND ALL THE WORK THAT WE USED TO PUT INTO DIVERTING MATERIAL.

AND IN THE GOOD OLD DAYS, WE HAD GARBAGE AND WE HAD JUNK, AND THERE WAS ALWAYS A

25 CLEAR LINE OF DISTINCTION BETWEEN THEM. AND AS THE

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YEARS WENT BY AND AS WE GOT FURTHER ALONG, ALONG COMES AB 939, AND WE END UP WITH SORT OF THE MIDDLE GROUND OF WHERE DOES IT FIT BETWEEN THE SCRAP AND THE RECYCLABLES AND THE SOLID WASTE AND EVERYTHING ELSE.

AND AS FURTHER REFERENCE, WE HAVE WHAT WE STARTED DEALING WITH IN A LOT OF THESE FACILITIES WAS WHAT I ALWAYS CALLED THE ONE DEBRIS BOX OUT IN THE BOONIES WHERE WE HAVE SMALL VOLUME TRANSFER STATIONS THAT BASICALLY HAD TO GO TO A FULL-BLOWN SOLID WASTE PERMIT, RFI'S, AND EVERY-THING ELSE JUST TO COLLECT ONE DEBRIS BOX WORTH OF GARBAGE OUT THERE, SO THAT'S WHERE WE STARTED A LOT OF THE TIERS, TO BE LOOKING AT THOSE KINDS OF FACILITIES.

SO NOBODY FELT THAT THIS WAS APPROPRIATE FOR THESE TYPES OF FACILITIES TO BE GOING TO THAT LEVEL OF EFFORT, AND I THINK WE STILL ALL AGREE WITH THAT. MAYBE WE NEED SOME REGULATION, BUT NOT THE FULL BLOWN. THEN WE RUN INTO -- FROM THE GOOD SIDE WE RUN INTO THE BAD. THIS IS A FACILITY THAT USED TO EXIST. THEY'VE CLEANED UP SOMEWHAT, BUT THIS WAS TOTALLY

24 UNPERMITTED FOR A NUMBER OF YEARS.

25 THEN AS YOU SAW THE MORNING, FROM THE

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GOOD, THE BAD, WE GO TO THE UGLY. THAT'S SORT OF HOW EXTREME THESE REGULATIONS CAN GET. AND LIKE IT OR NOT, A LOT OF THESE REGULATIONS THAT WE'RE PUTTING FORWARD ARE NOT TO DEAL WITH THE GOOD GUYS, THE ONES ON BOTH SIDES OF THIS ISSUE, BOTH ON THE SCRAP SIDE AND ALSO ON THE SOLID WASTE SIDE, ALL OF US DOING OUR DIVERSION. WE'RE TRYING TO SET UP THE RULES AND THE FRAMEWORK TO AVOID THESE TYPES OF SITUATIONS. NOBODY LIKES TO GO SPENDING THE MONEY TO BE CLEANING UP THOSE TYPES OF SITUATIONS WHEN THESE PEOPLE SHOULD BE COMPLYING WITH THE LAWS THAT THE REST OF US DO. I THINK IT GIVES ALL OF US A BAD NAME.

AND IT STILL CONTINUES. AND YOU SAW THE ONE THE MORNING THAT MEMBER JONES HELD UP. WE'VE DEALT WITH THE GUY AS WELL AS FAR AS ISSUES AND PEOPLE THAT ARE UNDER THE GUISE OF RECYCLING TRYING TO COLLECT SOLID WASTE.

AND JUST ONE MORE POINT OF OUR DOWN-THE-MEMORY-LANE TRIP. YOU DON'T HAVE TO READ ALL THAT, AND I CAN PROVIDE IT IF YOU NEED TO, BUT A LOT OF THIS STARTED, AS EVAN MENTIONED THIS MORNING, WAY BACK IN 1991 WHEN YOUR EXECUTIVE

24 DIRECTOR WAS TRYING TO CLARIFY SOME OF THE

25 PROVISIONS OF WHAT IS IN, WHAT IS OUT, THE 15 CUBIC

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YARDS, ETC. WE WENT THROUGH A NUMBER OF ITERATIONS. WE'VE GONE THROUGH POLICY COMMITTEE. WE'VE GONE THROUGH PERMIT COMMITTEE. WE'VE HAD A VARIETY OF OTHER COMMITTEES, THE GENERAL METHODOLOGY ADVISORY COMMITTEE. WE'VE ALL BEEN WRESTLING WITH THIS ISSUE, TRYING TO FIGURE OUT WHAT IS IN, WHAT IS OUT, WHAT IS SOLID WASTE, WHAT ARE THE EFFECTS FROM THAT.

SO THERE'S A LOT OF DISCUSSION, ESPECIALLY IN THE GMAC ON WHAT THE ENVIRONMENTAL THREATS WERE. AND WE HAD A RANKING SYSTEM AND EVERYTHING ELSE, AND I WOULD PLEAD WITH YOU NOT TO IGNORE THAT WORK BECAUSE A LOT OF IT WAS DONE. THAT'S WHERE A LOT OF THESE GRAPHS CAME UP THAT WERE REFERENCED EARLIER IS FROM THAT WORK.

SO WHERE THAT LEAVES US IS WITH OUR TIERED STRUCTURE. I THINK WE'VE GOT FULL AGREEMENT FROM PARTIES THAT THERE IS THE POSSIBILITY TO FIT THESE THINGS INTO SOME SORTS OF TIERS SO AS THE OPERATION GETS MORE COMPLEX, WE MOVE UP THE LEVEL OF TIERS. AND YOU CAN START WITH AN EXCLUDED LEVEL OF FACILITIES, THOSE THAT ARE HANDLING SOLID WASTE, BUT ARE OUTSIDE THE TIERS IN A SENSE, BUT THEY

24 STILL HAVE SOME POTENTIAL FOR REGULATION BECAUSE

25 THEY ARE HANDLING SOLID WASTE, AND THOSE ARE SOME

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EXCLUSIONS THAT ARE ALREADY IN THERE.

YOU MOVE UP TO A NOTIFICATION PHASE, WHICH HAS BEEN DEFINED AS NOT BEING A PERMIT, BUT THERE ARE FACILITIES THAT NEED TO BE UNDER THAT LOWER LEVEL. THEN YOU TAKE A BIG JUMP UP TO REGISTRATION, WHICH DOES CONSTITUTE A PERMIT. THEY ARE HANDLING SOLID WASTE. THERE'S NO QUESTION ABOUT IT. BUT THEY DON'T DESERVE A FULL-BLOWN PERMIT. SOMETHING LIKE OUR DEBRIS BOX OUT IN THE WOODS.

WE ALSO GET TO STANDARDIZED TIERS, AND I DON'T WANT TO ADDRESS THAT TOO MUCH BECAUSE WE ALWAYS HAVE ISSUES WITH THAT ONE AS WELL, BUT THAT WAS DESIGNED TO ADDRESS THOSE FACILITIES THAT WERE SLIGHTLY MORE COMPLEX, BUT HAD STANDARD CONDITIONS THAT THEY HAD TO LIVE WITH.

THEN WE GET TO THE PLATEAU OF THE FULL-BLOWN PERMIT WHERE MANY OF US HAVE BEEN EVEN WITH OUR SMALL DEBRIS BOXES AND LOOKING TO STEP DOWN, BUT WE HAVE THAT FULL PERMIT OUT THERE FOR THOSE TYPES OF FACILITIES THAT NEED TO DEMONSTRATE THAT THEY COMPLY WITH A HIGHER STANDARD.

THEN YOU CAN JUMP OFF THE CLIFF THERE AND GET INTO WHAT IS OUTSIDE THE WASTE BOARD'S

25 AUTHORITY, THOSE FACILITIES THAT I THINK WE ALL

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AGREE IN CONCEPT DON'T NEED THE LEVEL OF SCRUTINY THAT THE OTHER SOLID WASTE ACTIVITIES DO. THEY NEED TO BE OUTSIDE THAT. BUT WHERE WE RUN INTO PROBLEMS IS WHERE DO YOU DRAW THAT LINE.

PHILOSOPHICALLY YOU CAN SAY I'M A SCRAP PAPER OR I'M A SCRAP METAL PERSON AND I DON'T HANDLE SOLID WASTE; BUT ON THE OTHER HAND, WE FEEL IT HANDLES SOLID WASTE. AND WHEN YOU END UP WITH RESIDUAL AMOUNTS, THAT'S WHERE YOU RUN INTO THE PROBLEM. SO UNLESS THAT OPERATION IS A HUNDRED PERCENT CLEAN WITH ZERO RESIDUAL, IT'S DIFFICULT TO SAY THEY'RE NOT HANDLING SOLID WASTE AND ARE OUTSIDE THE LEVEL.

SO WE ARGUED AND ARGUED, AND WE FINALLY CAME UP WITH A NUMBER, THE 10-PERCENT RESIDUAL, BASED ON THE MIDDLE OF A BELL CURVE. BUT IT ALSO DEALT WITH THE SOURCE SEPARATED ISSUE, MATERIAL THAT WAS CLEAN ENOUGH COMING IN WITH VERY LITTLE RESIDUAL LEFT OVER.

SO THAT DEFINITION HAS BEEN OUT THERE FOR TWO YEARS. IT'S WORKING. WE'RE PLANNING AROUND IT. AND I THINK THAT'S CRITICAL TO REMEMBER AS WE GO THROUGH THE REVIEW ON THE TWO-PART TEST AS FACILITIES HAVE BEEN DEVELOPED FOR THAT. AND SOME

25 PEOPLE LIKE TO THINK OF IT AS SORT OF A DART BOARD

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NUMBER THAT WAS CHOSEN. I KNOW A LOT OF WORK WENT INTO THAT, BUT YOU HAVE TO MAKE A DECISION. YOU HAVE TO COME UP WITH A NUMBER.

AND NO MATTER WHAT NUMBER YOU COME UP WITH, IT'S GOING TO END UP WITH THE SAME SORT OF ENFORCEMENT ISSUES AND VERIFICATION ISSUES AND EVERYTHING ELSE. AND EVEN THOUGH THE NUMBER MAY HAVE BEEN THE MIDDLE OF A BELL CURVE, I CAN GUARANTEE YOU THAT WHATEVER NUMBER YOU SET UP OUT THERE, YOU WILL END UP WITH THE SAME AMOUNT OF PEOPLE ON ONE SIDE OR OTHER OF THAT LINE, NO MATTER WHERE YOU PUT IT BECAUSE A LOT OF US ARE DEVELOPING OUR FACILITIES RIGHT TO THAT POINT, AND SOME OF US ARE GOING TO BE OVER EITHER INTENTIONALLY OR INADVERTENTLY. AND ONCE YOU CROSS THAT LINE, YOU DESERVE TO BE IN THAT HIGHER LEVEL.

SO I'M NOT TOO COMFORTABLE -- I'M NOT COMFORTABLE AT ALL REVISITING THAT NUMBER. AS YOU RECALL, WE WERE ACTUALLY PROMOTING A LOWER NUMBER DOWN TO AROUND 2 PERCENT RANGE. WE FOUND THE 10 PERCENT LIVABLE. IF WE COULD GO BACK AND THOUGHT WE HAD A CHANCE AT 2 PERCENT, WE WOULD DO SO, BUT I THINK THE 10 PERCENT HAS WITHSTOOD THE TEST OF THE

24 LAST COUPLE YEARS. IT'S COME UP WITH A NUMBER.

25 AND I THINK BY GOING AHEAD WITH A POLICY DEALING

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WITH THAT 10 PERCENT, IT'S GOING TO BENEFIT YOU. IT WILL BENEFIT THE STUDIES THAT THE LEA'S ARE LOOKING AT BECAUSE NOW THEY HAVE A NUMBER THEY CAN PLAY WITH IN THE SURVEY THAT SAYS WE'RE GOING TO HAVE PEOPLE ON ONE SIDE OF THE LINE OR THE OTHER.

SO WITH THAT NUMBER IN PLACE, IT WILL HELP THAT STUDY FAR BETTER TO BE ABLE TO SAY WHICH SIDE OF THE LINE THOSE FACILITIES ARE ON. AND I'M CONFIDENT IN THE BOARD THAT, JUST LIKE YOU DID ON COMPOST, WHICH MANY PEOPLE APPLAUD YOU FOR, THAT YOU REVISITED THAT ISSUE BASED UPON EVIDENCE. I WOULD AGREE THAT IF YOU CAN FIND THE EVIDENCE, LET'S GO BACK AND REVISIT THE 10-PERCENT NUMBER.

IF YOU CAN'T, THEN YOU'VE ALREADY MADE THE DECISION AND WE CAN GO ON FROM THERE, BUT TO KEEP HOLDING THE DECISION TOO MUCH IN ABEYANCE I THINK WILL CAUSE MORE PROBLEMS FOR THOSE OF US TRYING TO PLAN AROUND IT. LET'S CLOSE THE DOOR -- WE CAN CLOSE THE DOOR, BUT LET'S NOT LOCK IT BEHIND OURSELVES SO WE CAN'T GO BACK THROUGH AND REVISIT THAT.

22 AND BELIEVE ME, IF THERE ARE PEOPLE

23 THAT CAN PROVE, JUST LIKE SOME OF THE PICTURES

24 WE'VE PROVED, THAT THERE'S PEOPLE UNDERNEATH THAT

25 10 PERCENT THAT ARE A PROBLEM, LET'S BY ALL MEANS

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REVISIT IT. BUT I THINK YOU WILL FIND THAT THERE ARE SOME AND THERE AREN'T.

ONE OF THE THINGS ON THE 10-PERCENT NUMBER, AND WE ARGUED IT YEARS AGO, WAS THE PUTRESCIBLE ISSUE. EVERYBODY SEEMS TO AGREE THAT IF YOU HAVE A HUNDRED PERCENT PUTRESCIBLES IN THE 10 PERCENT, YOU'VE GOT A PROBLEM OUT THERE. BUT NOBODY HAS BEEN ABLE TO FIGURE OUT AN EXACT MEASUREMENT OF THAT PUTRESCIBLE LIMIT. WE CAN'T EVEN COME TO AN AGREEMENT ON DEFINITIONS.

SO UNTIL WE DO SO, I HAVE TO OPERATE ON THE ASSUMPTION THAT THAT 10 PERCENT IS A HUNDRED PERCENT PUTRESCIBLE. AND THAT'S WHEN THE ARGUMENT WAY BACK WHEN THAT WE WERE ARGUING FOR WHY THERE NEEDED TO BE A CAP ON THE LEVEL. WE'RE STILL SUPPORTIVE OF THE IDEA OF A CAP. WE THINK THAT MAKES SENSE. IT DOESN'T ADDRESS THE WHOLE PIE, BUT IT DOES CARVE OUT A PORTION OF THE PIE THAT THOSE FACILITIES THAT ARE ABOVE A -- UNDERNEATH THE 10 PERCENT, BUT STILL CAUSE A PROBLEM, ADDRESS IT.

AND THE LAST POINT ON THAT IS THE ENFORCEMENT ISSUE. I HAVE TROUBLE BELIEVING THAT SOMEONE CANNOT GENERATE NUMBERS TO PROVE THAT

24 THEY'RE UNDER 10 PERCENT. ALL OF OUR MANAGERS CAN

25 DO IT ON THE BACK OF A NAPKIN ANY TIME I WANT THEM

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TO. THEY KNOW WHERE THEY'RE AT IN THOSE LEVELS. ANYBODY THAT DOESN'T, I WOULD SUBMIT, EITHER DOESN'T KNOW THEIR OPERATIONS AND SHOULDN'T BE IN BUSINESS OR IS DIRECTLY LYING TO THE REGULATORS THAT ARE ASKING. THEY CAN PRODUCE THOSE NUMBERS. THE QUESTION IS THEY DON'T WANT TO. AND A LOT OF THE LEA'S FIND IT DIFFICULT TO GO IN THERE AND DEMAND THOSE NUMBERS.

AND THERE IS LANGUAGE IN THE DRAFT REGULATIONS THAT ADDRESSES THAT AND PROVIDES SOME INFORMATION THAT THE LEA'S CAN GO IN FOR THE FIRST TIME AND DEMAND THAT ACCOUNTING. AND WITHOUT A STRONG EMPHASIS ON THAT, THERE'S NEVER -- THE LEA'S WILL NEVER BE ABLE TO GO IN THERE AND ENFORCE AGAINST THESE TYPES OF FACILITIES. SO WE NEED A LINE. WE NEED TO GO IN THERE, WE NEED TO ADDRESS THE TYPE OF ISSUE. AND IF WE NEED MORE TIME TO LOOK AT THAT, A LITTLE BIT OF TIME, THAT'S FINE. IF WE GO ON TOO LONG, IT'S JUST GOING TO GET WORSE.

SO THAT'S MY COMMENT ON THE ITEM. WE'LL BE COMING BACK FOR THE OTHER ITEMS AS WELL.

CHAIRMAN FRAZEE: OKAY. RICK BEST, DID YOU WISH TO COMMENT ON THE FIRST ITEM, THE

24 10-PERCENT RESIDUAL?

25 MR. BEST: THANK YOU, MR. CHAIRMAN AND

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COMMITTEE MEMBERS. RICK BEST WITH CALIFORNIANS AGAINST WASTE. I'LL KEEP MY COMMENTS VERY BRIEF. TWO ISSUES THAT I JUST WANTED TO ADDRESS.

THIS FIRST WAS THIS ISSUE WITH REGARDS TO THE BOARD'S PRIOR 1995 POLICY. I THINK YOU KNOW WE WERE IN SUPPORT OF IT. WE THINK IT MAKES SENSE. IT REFLECTS THE BOARD'S STATUTORY AUTHORITY OVER THE REGULATION OF SOLID WASTE FACILITIES AND OPERATIONS, AND WE WOULD STRONGLY URGE THAT THE BOARD MAINTAIN THE CURRENT FRAMEWORK AND NOT PURSUE A WHOLE RETHINKING OF THE POLICY.

WITH REGARDS TO THE 10-PERCENT ISSUE, I THINK -- IT WAS CERTAINLY RECOGNIZED WHEN THE POLICY CAME BEFORE THE BOARD, WE THOUGHT IT SHOULD HAVE BEEN PERHAPS 15 PERCENT OR A HIGHER NUMBER. I THINK ONE OF THE ARGUMENTS THAT WAS MADE DURING THE SELECTION OF THE 10 PERCENT WAS THAT THIS WILL FORCE MANY OF THOSE THAT MAY BE HIGHER THAN THE 10-PERCENT THRESHOLD, IN THE 12- TO 15-PERCENT RANGE, TO CLEAN UP THEIR OPERATIONS SO THAT THEY WOULD FALL WITHIN THE 10-PERCENT RESIDUE THRESHOLD.

SO I THINK THAT'S PROBABLY HAPPENED OVER THE LAST COUPLE OF YEARS. I THINK ONCE THE REGULATIONS GO IN PLACE, I THINK MORE OF THAT WILL

25 HAPPEN. AND SO I THINK IT'S AN APPROPRIATE NUMBER,

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AND AT THIS POINT I WOULDN'T RECOMMEND REVISITING IT.

I WANTED TO RESPOND ALSO TO THIS ISSUE THAT'S BEEN RAISED WITH REGARDS TO THE TONNAGE CAP. WE AT THE POINT WOULD OPPOSE DOING A TONNAGE CAP. I DON'T THINK IT PROPERLY REFLECTS WHAT THE BOARD'S TWO-PART TEST POLICY WAS RECOGNIZING. WHAT THE TWO-PART POLICY LOOKED AT, NO. 1, IS THE MATERIAL BEING SOURCE SEPARATED AND, NO. 2, IS THE 10-PERCENT RESIDUE THRESHOLD BEING MET?

I THINK THOSE TWO THINGS TOGETHER WORK TO ADDRESS THIS ISSUE WITH REGARDS TO BAD ACTORS, TO FOLKS THAT REALLY AREN'T TRUE RECYCLERS. I THINK BOTH OF THOSE TESTS WORKING TOGETHER REFLECT THAT. I THINK IF YOU PUT A TONNAGE CAP, YOU SUDDENLY CALL INTO QUESTION AS TO WHAT THE TWO-PART TEST MEANS. IT -- IF YOU ARE HANDLING SOURCE SEPARATED MATERIALS, IT SHOULDN'T MATTER WHETHER YOU'RE HANDLING 10 TONS PER DAY OR A 100 TONS PER DAY, YOU'RE HANDLING SOURCE SEPARATED MATERIAL THAT ISN'T SOLID WASTE. AND IF YOU PUT IN A TONNAGE CAP, YOU SUDDENLY CALL INTO QUESTION THE

24 MEANING OF THAT. SO WE WOULD OPPOSE AT THIS POINT

25 DOING THAT.

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I THINK PERHAPS SOME MORE DISCUSSION WITH REGARDS TO HOW TO ADDRESS THE PUTRESCIBLE ISSUE, THAT MIGHT BE ONE WAY TO ADDRESS THAT CONCERN, BUT I THINK AN OVERALL TONNAGE CAP ON RESIDUE WOULD NOT BE APPROPRIATE AT THIS TIME. SO THANK YOU.

CHAIRMAN FRAZEE: CHUCK WHITE.

MR. WHITE: THANK YOU, MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. WHEN I WALKED UP OUTSIDE, EVERYBODY GROANED, SAYING, "OH, THE MEETING IS GOING TO GO ON FOR TWO MORE HOURS." I'VE ARRIVED, AND I HAVE EVERY INTENTION TO KEEP MY COMMENTS VERY BRIEF AND TO THE POINT AS USUAL.

BASICALLY WE DO SUPPORT THE TWO-PART TEST, THAT WE'VE LEARNED TO LIVE WITH IT. IT WORKS VERY WELL. THIS 10-PERCENT THRESHOLD SEEMS TO WORK FOR US. I THINK I WOULD NOT URGE THE BOARD AT ALL TO CONSIDER ANY BROAD CHANGES TO THE TWO-PART TEST, MAYBE SOME CLARIFICATIONS AND SOME ISSUES AROUND THE EDGES, BUT GENERALLY WE BELIEVE IT WORKS WELL. AND AFTER ALL THE EFFORT WE WENT, ALL THOSE YEARS TO GET TO THE POINT WHERE YOU CAME UP WITH YOUR POLICY IN OCTOBER, I THINK IT WAS, OF '95, I WOULD HATE TO REALLY REOPEN THAT WHOLE AREA AGAIN.

25 TWO AREAS THAT I DO WANT TO MENTION

124

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WITH RESPECT TO THE TWO-PART TEST, AND ONE WHICH WE FOUND A LITTLE BIT TROUBLESOME AND WOULD LIKE TO GET SOME GUIDANCE FROM THE BOARD IS WHEN YOU HAVE A FACILITY THAT IS OPERATING AT ONE POINT IN TIME, SAY, BELOW 10 PERCENT, BUT THEN DUE TO VARIOUS OTHER CHANGES, THROUGH LIKE MARKET CONDITION CHANGES, AND SLIP OVER THAT 10 PERCENT, ARE YOU AUTOMATICALLY GOING TO HAVE TO GO UP TO GET A REGISTRATION PERMIT OR NOTIFICATION? AND THEN IF YOU STEP BACK DOWN AGAIN, DO YOU RESCIND IT? A LITTLE MORE GUIDANCE ABOUT HOW YOU TRANSITION BASED UPON EXTERIOR FACTORS OR MARKET CONDITIONS THAT MIGHT FLUCTUATE TO ONE SIDE OR THE OTHER THE 10 PERCENT.

NOT TO SUGGEST YOU SHOULD STAY ABOVE THE 10 PERCENT FOR VERY LONG, BUT MAYBE PROVIDE A PROCESS FOR FACILITIES TO GIVE NOTICE TO THE LEA AND BOARD THAT THEY'RE AT THE FRINGE AND NEED A LITTLE TIME TO RETURN TO BELOW THE 10-PERCENT PROCESS WITHOUT NECESSARILY AUTOMATICALLY FORCING YOU, WITH NO OTHER OPTION, TO GO INTO THE NEXT TIER UP, WHICH MAY ONLY BE FOR A VERY SHORT PERIOD OF TIME.

24 I'M HOPING THERE'S SOME DEGREE OF

25 FLEXIBILITY THAT CAN BE WORKED OUT THROUGH

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SUBSEQUENT DISCUSSIONS.

IN A SENSE IT RAISES THE SPECTER, DO YOU NEED A PERMIT ONE DAY, AND A PERMIT NOT THE NEXT DAY, AND A PERMIT ONE DAY AND GOING BACK AND FORTH. I WOULD HOPE WE COULD AVOID THAT KIND OF SITUATION.

WITH RESPECT TO THE TONNAGE CAP, WASTE MANAGEMENT HAS HISTORICALLY BEEN OPPOSED TO THE IDEA OF A TONNAGE CAP PRIMARILY FROM THE STANDPOINT THAT IT BASICALLY MEANS VERY LARGE, VERY EFFICIENT OPERATIONS. BUT IF -- EVEN THOUGH THEY MAY BE AT VERY LOW RESIDUAL PERCENTAGES, SAY IN THE 2-, 3-, 5-PERCENT RANGE, BECAUSE YOU HAVE A NET TONNAGE THAT'S ABOVE AMOUNT, YOU HAVE TO GET A PERMIT; WHEREAS, A SMALLER, LESS EFFICIENT OPERATION THAT WOULD BE BELOW -- BOTH BELOW THE PERCENTAGE AND THE CAP WOULD BE EXEMPT FROM GETTING A PERMIT.

SO IN A SENSE THE MESSAGE WOULD BE ENCOURAGING SMALLER SEPARATE OPERATIONS RATHER THAN VERY LARGE, EFFICIENT OPERATIONS. AND SO ON THE SURFACE OF IT, WE WOULD BE OPPOSED TO THE IDEA OF IMPOSING A CAP. HOWEVER, I HAVE TO AGREE THAT

24 LARRY DOES RAISE THIS ISSUE OF THE PUTRESCIBLE

25 WASTE SITUATION. AND IF THERE WAS A CAP, IF IT

WAS

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JUST SIMPLY DIRECTED SOLELY TO PUTRESCIBLE WASTES THAT YOU'RE HANDLING, THAT WOULD BE SOMETHING -- AND I DON'T HAVE THE LANGUAGE OR THE SUGGESTION OF HOW YOU WOULD DO THAT, AND I DO AGREE WITH LARRY THAT THERE ARE PROBLEMS WITH HOW YOU DEFINE PUTRESCIBLE. BUT IF THE BOARD DOES DECIDE TO GO IN THE DIRECTION OF A CAP, WE WOULD HOPE THAT SUCH A CAP WOULD BE LIMITED ONLY TO PUTRESCIBLE WASTE TO ADDRESS NORCAL'S AND LARRY SWEETSER'S CONCERNS.

SO THAT'S REALLY ALL THE SUM AND SUBSTANCE OF MY COMMENTS WITH RESPECT TO THE FIRST ITEM. AND I PRESUME WE'LL COME BACK AND DO THOSE OTHER ITEMS. THANK YOU.

CHAIRMAN FRAZEE: WE WILL. KAREN, DID YOU WISH TO SPEAK ON THE ITEM?

MS. JARRELL: THANK YOU. KAREN JARRELL WITH JEFFERSON SMURFIT CORPORATION, SMURFIT RECYCLING.

GOING TO BE VERY BRIEF AND JUST SAY THAT WE ECHO THE REMARKS THAT RICK BEST MADE, AND WE ECHO THE REMARKS THAT CHUCK WHITE JUST MADE, THAT WE DON'T -- WE WOULD OPPOSE A CAP ALSO.

AND THE SMALL VERSUS THE LARGE FACILITIES, THAT WOULD CAUSE, IN OUR OPINION,

25 SOMEWHAT OF A -- I DON'T WANT TO SAY A WAR BETWEEN

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THE SMALL AND THE LARGE, BUT CERTAINLY A DIFFERENCE BETWEEN HOW WE DO OUR OPERATIONS. IN OUR 11 FACILITIES WE HAVE THE SMALLEST THAT TAKES IN PROBABLY 2,000 TONS A MONTH, THE LARGEST PROBABLY TAKES IN SOMEWHERE BETWEEN 9 AND 10,000 TONS A MONTH. IT COULD BE WHERE IF YOU HAD A VOLUME CAP, THAT WE WOULD HAVE ONE THAT HAD TO BE PERMITTED AND ONE THAT DID NOT, BUT WE'RE ALL DEALING IN THE SAME THING, AND THAT IS COMMODITIES. WE'RE NOT DEALING IN SOLID WASTE. WE'RE DEALING IN WHAT WILL EVENTUALLY BE FEEDSTOCK TO OUR MILLS. SO WE WOULD OPPOSE THE CAP.

CHAIRMAN FRAZEE: THANK YOU. DIANE KELLY, REPRESENTING WEYERHAEUSER.

MS. KELLY: YES, MR. CHAIRMAN, COMMITTEE MEMBERS. I TOO RISE ON BEHALF OF WEYERHAEUSER COMPANY TO OPPOSE A CAP. WE WENT THROUGH ALL OF THIS AGAIN -- I KNOW EVERYBODY IS TIRED OF HEARING ABOUT WHAT WE DID TWO YEARS AGO. A CAP WAS SUGGESTED AT THAT TIME, AS WAS WE TRIED TO DEFINE THE DIFFERENCE BETWEEN PUTRESCIBLE AND RESIDUAL. WE SPENT I CANNOT TELL YOU HOW MUCH TIME TRYING TO DEFINE PUTRESCIBLE. AT ONE POINT IN THE WHOLE PROPOSAL, THERE WAS A PERCENTAGE OF PUTRESCIBLE

25 ALLOWED AND A PERCENTAGE OF RESIDUAL. RESIDUAL IS

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NOT PUTRESCIBLE.

WE HANDLE COMMODITIES. THE SOURCE SEPARATED RECYCLABLES THAT COME IN THE FRONT HAVE AN AMOUNT OF RESIDUAL OUT THE BACK THAT COULD VARY FROM PAPER THAT YOU COULD NOT USE, IT COULD BE BALING WIRE OR PLASTICS, SOMETHING LIKE THAT THAT YOU CANNOT USE IN THE PROCESS, BUT IT'S NOT PUTRESCIBLE WASTE.

SO WE ENCOURAGE YOU NOT TO ADOPT A CAP. OUR BUSINESS DECISIONS SOMETIMES ARE MADE OUTSIDE OF THE RULEMAKING PROCESS HERE, AND YOU MIGHT DECIDE TO HAVE A LARGE RECYCLING FACILITY OR SMALL RECYCLING FACILITY. AND WE DO NOT HANDLE SOLID WASTE, SO WE DON'T FEEL THAT WE SHOULD BE CAPPED OUT BY ANY AMOUNT OF TONNAGE INTO OUR PLANTS. THANK YOU.

CHAIRMAN FRAZEE: THANK YOU. IS THAT EVERYONE TO BE HEARD ON THAT PARTICULAR POINT?

NEXT ITEM -- WELL, LET'S TAKE A MOMENT HERE AND BE SURE WHERE WE'RE GOING WITH THE ITEM. YOUR SUGGESTION WAS THAT WE ALLOW THE DRAFT REGULATIONS TO PROCEED, BUT HOLD OFF ON THE DECISION ON THE ITEM?

24 MEMBER RELIS: WELL, IN THE VIEW THAT I

25 THINK I REFLECT LET'S NOT CHANGE IT UNLESS THERE'S

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EVIDENCE TO SUPPORT A CHANGE. RESEARCH APPARENTLY IS UNDER WAY TO SEE IF THERE'S EVIDENCE. AT THE BREAK I WAS THINKING THAT, YOU KNOW, I HOPE WE GET THE EVIDENCE, WHATEVER IT IS, IN A FORMAT THAT IS -- COULD STAND SCRUTINY.

IN OTHER WORDS, IF WE WERE TO USE IT AS A BASIS, AND I'M NOT SAYING WE'RE GOING TO USE IT AS A BASIS, BUT IF WE WERE TO USE IT AS A BASIS FOR A DECISION, THEN THE SURVEY SHOULD BE ABLE TO STAND ON ITS MERITS. AND I DON'T KNOW WHAT THAT DOES TO THE SURVEY, BUT I THINK WE NEED TO HAVE SOME REASONABLE SCIENTIFIC OR SAMPLING BASIS THAT WE COULD THEN REFERENCE.

BUT -- SO MY SENSE WAS LET'S WAIT AND SEE ON THAT PART. KEEP THE REGULATIONS MOVING. DEAL WITH THESE OTHER ISSUES AND GENERALLY KEEP IT ALIVE.

MEMBER JONES: YOU KNOW, I OFFERED THE 99-TON CAP ON RESIDUALS BECAUSE I THOUGHT THERE WAS A FAIRNESS ISSUE INVOLVED. AND -- BUT, YOU KNOW, IF PEOPLE DON'T WANT THAT, I CAN LIVE WITH THAT.

BUT WHAT I NEED SOME CLARIFICATION ON THEN IS THAT IT SAYS IN THE ITEM THAT RECYCLING

24 OPERATIONS RECEIVING LOADS OF MIXED OR MUNICIPAL

25 SOLID WASTE WILL NOT QUALIFY UNDER THE PROPOSED

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REGULATIONS AS RECYCLING OPERATIONS. DOES THAT MEAN THAT IF THEY ACCEPT THOSE KINDS OF LOADS THAT HAVE MUNICIPAL SOLID WASTE IN THEM, THAT THEY'RE AUTOMATICALLY PUT INTO THAT OTHER TIER? HOW DO WE KNOW THAT?

MS. RICE: YOU'RE REFERRING TO THE TWO-PART TEST?

MEMBER JONES: RIGHT. YEAH. AND ONCE THEY ACCEPT THOSE TYPES OF LOADS AND IT'S PROVEN, THEN THEY'RE IN A SOLID WASTE FACILITY --

MS. RICE: THEY HAVE FAILED THE TWO-PART TEST.

MEMBER RELIS: WELL, AND THAT'S WHERE I THINK WHAT I'M HEARING FROM THE LEA'S, HOW WOULD YOU KNOW. THAT KIND OF GETS US BACK TO WHERE WE WERE WHEN WE WERE DISCUSSING THE VERMICOMPOST ISSUE. WE SAW WASTE COMING TO A FACILITY THAT THE LEA THERE SAID WAS -- THEY WERE TREATING AS SOLID WASTE, NOT AS SOURCE SEPARATED RECYCLABLE MATERIAL BECAUSE IT HAD PUTRESCIBLES IN IT AND OTHER ITEMS.

BUT -- SO THAT'S -- THAT SEEMS TO ME THE GRAY AREA. WE HAVE NOT BEEN ABLE TO DEFINE PUTRESCIBLES, NOR HAVE WE DETERMINED, AS YOU RAISED, STEVE, HOW WOULD YOU KNOW WHETHER A

25 FACILITY RECEIVED THAT OR NOT BECAUSE, CLEARLY, I

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THINK WE'RE ALL OF ONE MIND. IF THEY RECEIVED IT, AND I EVEN THINK I SAW HEADS NODDING FROM THE PAPER FOLKS, THAT CLEARLY IF THEY RECEIVED PUTRESCIBLES, THEY'D BE IN AGREEMENT THAT THEY WOULD NEED TO COME TO US FOR A PERMIT. BUT --

MEMBER JONES: WELL, I WANT TO GO DOWN THAT ROAD. I WANT TO ASK A QUESTION BECAUSE NOT SITTING HERE WHEN YOU WENT THROUGH THIS IN OCTOBER, THERE WAS A REFERENCE TO THE TENNIS SHOES AND TO THE INDISCRIMINATE BANANA PEEL. IF A FACILITY IS ACCEPTING WASTE FROM A GENERATOR, AND THE DEFINITION IS THAT IT HAS BEEN SEPARATED FOR REUSE OR SOURCE SEPARATED, AND THEY DON'T HAVE ANY OTHER CONTAINERS AT THAT GENERATOR FACILITY FOR PUTRESCIBLES AND FOR ALL THOSE OTHER INDISCRIMINATE BANANA PEELS AND THOSE TYPES OF THINGS, IT WOULD BE LOGICAL THEN THAT THE ONLY MATERIAL GOING INTO THAT SOURCE SEPARATED CONTAINER WAS THE ENTIRE MUNICIPAL WASTESTREAM FROM THAT FACILITY, RIGHT.

DOES THAT -- ARE THOSE LOADS EXCLUDED FROM FACILITIES THAT ARE RECYCLING FACILITIES BECAUSE THEY'RE CARRYING THE MUNICIPAL WASTESTREAM OF THAT GENERATOR?

MS. RICE: IF I UNDERSTAND THE QUESTION,

25 AND I'M SURE OTHERS WILL JUMP IN IF I'M NOT

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UNDERSTANDING THE QUESTION, JUST BECAUSE SOMEONE SAYS SOMETHING IS SOURCE SEPARATED DOES NOT MAKE IT SO. YOU COULD HAVE -- IT GOES TO -- YOU'RE TALKING ABOUT THE INTENT OF THE GENERATOR OR THE INTENT OF THE DISPOSER. IF THE MATERIAL IS MIXED MSW, BUT SOMEONE PUTS IT IN A BOX AND SAYS THIS IS MY SOURCE SEPARATED MATERIAL, IT'S GOING TO A RECYCLING FACILITY, IT IS, THEREFORE, EXEMPT FROM REGULATION BASED ON YOUR TWO-PART TEST, I WOULD THINK WE WOULD NEED TO HAVE SOME GUIDANCE FOR THE LEA TO DETERMINE WHEN THAT IS NOT SOURCE SEPARATED MATERIAL.

MEMBER JONES: WHAT I WANT TO KNOW IS IF THAT RECYCLING FACILITY IS ACCEPTING THAT MATERIAL ON AN ONGOING BASIS, DOES THAT THEN TAKE THEM OUT OF THE RECYCLING FACILITY DEFINITION AND PUT THEM INTO MUNICIPAL SOLID WASTE?

MS. RICE: I WOULD SAY YES. THAT'S JUST MY OPINION BASED ON WHAT YOU'VE SAID.

MEMBER JONES: I THINK IT'S IMPORTANT. IF WE'RE NOT GOING TO DEAL WITH THE RESIDUAL ISSUE, IF WE'RE NOT GOING TO DEAL WITH THE CAP, WE'RE LOOKING AT RESIDUAL IN HERE ON A MONTHLY BASIS, WHERE EVERY OTHER PERMIT WE HAVE IN THE STATE IS ON A DAILY

24 BASIS, WHICH I DON'T QUITE UNDERSTAND, THEN IF

AN

25 LEA IS NOT SURE THAT THE MATERIAL IS, IN FACT,

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SOURCE SEPARATED, THEN IF YOU GO BACK TO THE TWO-PART TEST, IT SAYS THAT THAT GENERATOR IS PUTTING THAT MATERIAL INTO A BOX AND MAKING A CONSCIOUS DECISION TO DO THAT, AND THERE IS NO OTHER BOX, THERE IS NO OTHER RECEPTACLE, THEN THAT'S MUNICIPAL SOLID WASTESTREAM IF THEY HAVE A KITCHEN AND THEY HAVE A RESTAURANT OR THEY HAVE WHATEVER THEY HAVE. YOU KNOW WHAT I MEAN? WE DON'T ALL JUST GENERATE A HUNDRED PERCENT PAPER OR RECYCLABLE.

AND I THINK THE REASON I'M MAKING AN ISSUE OUT OF THIS IS BECAUSE IF WE'RE NOT GOING TO REGULATE, IF WE'RE NOT GOING TO SEE A DIFFERENCE BETWEEN THE PERSON THAT RUNS A FACILITY AND EXPORTS 3 OR 400 TONS A DAY TO A LANDFILL AND THEY'RE NOT THE GENERATOR, THEN I THINK THAT WE NEED TO LOOK AT THE SOURCE OF THE MATERIAL AND MAKE SURE THAT THE INTENT OF WHAT WE'RE TRYING -- I THINK THE INTENT OF WHAT THE BOARD IS TRYING TO DO IS GOOD, HONORABLE, AND RIGHT ON TARGET. I THINK THAT WHAT HAPPENS IS THAT EVERYBODY HERE DEALS WITH GOOD ACTORS. AND I HAVEN'T ALWAYS DEALT WITH GOOD ACTORS. I'VE DEALT WITH THE REALITY OF EVERY DAY

24 OUT THERE, AND I KNOW HOW THEY PLAY THE GAME.

25 SO IF THAT CAN BE INCLUDED, THAT

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WE -- THAT THE LEA CAN GO BACK TO THE GENERATOR AND SEE WHAT ACCOMMODATIONS THEY'VE MADE, AND I'M TALKING ABOUT THAT PROBLEM FACILITY, YOU KNOW, THAT I THINK IT'S IMPORTANT.

MS. RICE: I'M ALSO ASSUMING THAT IF A RECYCLING OPERATION, IN QUOTES, IS TAKING MIXED WASTE, THAT THERE WOULD LIKELY BE HIGHER THAN 10-PERCENT RESIDUAL.

MEMBER JONES: WOULDN'T HAVE TO BE.

MS. RICE: COULD BE, VERY LIKELY.

MEMBER JONES: YEAH, BUT WHAT'S GOING TO HAPPEN IS, YOU KNOW, IF YOU GET 3,000 TONS A DAY IN, AND 2800 TONS OF IT COMES FROM WAL-MART OR GROCERY OUTLET OR THOSE PLACES WHERE YOU PULL UP IN A TRUCK AND TRAILER AND YOU GET A FORKLIFT, YOU DROP IT ON THE TRUCK, IT GOES INTO THE GATE, IT GETS COUNTED, GOES THROUGH THE FACILITY, IT GETS COUNTED. IT DRIVES THROUGH THE FACILITY, IT GOES TO THE BACKYARD, IT GETS UNLOADED INTO A TRAILER.

LET'S SAY THAT THAT 2800 TONS THAT CAME IN THAT TOOK ABSOLUTELY NO PROCESSING, THAT ALLOWS YOU AT THAT POINT UNDER THESE REGULATIONS TO BRING IN 280 TONS OF GARBAGE. IS THAT A RECYCLING FACILITY, OR IS THAT A MRF TRANSFER STATION?

25 I MEAN THAT'S THE REALITY OF HOW THE

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NUMBERS CAN WORK. SO WHAT I'M SAYING IS I DON'T WANT -- I DON'T WANT TO HURT THE GOOD OPERATORS. I DON'T WANT TO HURT ANY OPERATOR THAT MAKES A MISTAKE. BUT I DON'T WANT TO ENDORSE SOME GUY THAT CAN LOOK AT THESE RULES AND FIGURE OUT A WAY TO OPERATE A BUSINESS TO GAIN AN ADVANTAGE OVER ALL OF US IN THE ROOM. I MEAN OVER -- I DON'T CARE WHAT YOU WANT TO CATEGORIZE YOURSELF AS. YOU ARE GOING TO HAVE AN UNFAIR ADVANTAGE ON EVERYBODY, AND THEY'RE NOT GOING TO BE LOOKED AT FROM THE HEALTH AND SAFETY ISSUES. THAT'S ALL I'M SAYING.

SO IF THE LEA'S CAN GO BACK TO THE SOURCE AND DETERMINE THAT THE SOURCE, IN FACT, IS DELIVERING MUNICIPAL SOLID WASTE, THEN THEY NEED TO MAKE A CALL ON THE FACILITY. AND I THINK THAT'S ONLY SOMETHING TO THINK ABOUT.

MR. BLOCK: LET ME GO AHEAD AND JUMP IN BECAUSE I THINK I NEED TO CLARIFY JUST BRIEFLY. AND PERHAPS I'M BEING A LITTLE BIT TOO LITERAL, AS YOU MENTIONED EARLIER THIS MORNING. BUT THE WAY THE TWO-PART TEST IS SET UP, THE FACT THAT 2800 TONS, LET'S SAY, OF MATERIAL HAS GOT ZERO RESIDUAL DOESN'T MEAN THAT THAT FACILITY CAN THEN TAKE IN X AMOUNT OF TONNAGE OF MSW. THEY WOULDN'T BE ABLE TO

25 DO THAT BECAUSE THEY WOULDN'T MEET THE FIRST PART

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OF THE TEST.

IN OTHER WORDS, THE RESIDUAL IS STILL MEASURING OFF OF EXACTLY -- THE IDEA IS THAT IT'S MATERIAL THAT IS REMOVED FROM THE RESIDUAL OF DECONTAMINATION OR WHATEVER SORT OF PROCESS WE'D BE DEALING FROM ESSENTIALLY SOURCE SEPARATED MATERIAL. AND YOU ARE GETTING BACK TO PROBABLY THE ONE GENTLEMAN AT THE WORKSHOP THAT WAS TALKING ABOUT INTENT.

MEMBER JONES: NO. NO. HE FALLS INTO THE CATEGORY.

MR. BLOCK: AND WE VERY CLEARLY TOLD HIM THAT HE DOESN'T MEET THE TWO-PART TEST BECAUSE HE WAS TAKING MIXED WASTE. THE FACT THAT YOU HAVE X AMOUNT OF MATERIAL WITH NO RESIDUAL DOESN'T ALLOW THE TAKING OF X AMOUNT OF MSW.

MEMBER JONES: IT DOESN'T ALLOW IT, BUT TELL ME HOW IT IN REALITY, IF THAT FACILITY SHOWS YOU RECORDS THAT SAYS FOR THIS DAY I HAD 2800 TONS OF MATERIAL THAT WAS RECYCLED AND 280 TONS OF MATERIAL THAT WENT TO A LANDFILL, WERE THEY IN VIOLATION BECAUSE WE DON'T KNOW. THAT'S WHAT I'M SAYING IS WE DON'T KNOW HOW THE DELIVERIES COME IN.

24 WE ONLY KNOW WHAT THEY WRITE DOWN AND WHAT LEA'S

25 CAN GO INTO AND SEE. BECAUSE AN LEA HAS THE RIGHT

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TO GO IN AND CHECK THEIR RECORDS BECAUSE IT'S THE RECORDS THAT ARE THE BASIS FOR THE EXEMPTION, RIGHT, IF THE NUMBERS PROVE IT.

SO WHILE I AGREE WITH YOU, THAT THE THING SAYS IT'S GOT TO BE SOURCE SEPARATED, THE REALITY IS WHEN SOMEBODY IS LOOKING AT THE CAPACITY OF THEIR SITE AND THEY'RE LOOKING AT THEIR WASTESTREAM AND THEY'RE LOOKING AT WHAT THEY HAVE TO DO TO PROCESS THE MATERIAL, THEY'RE ALSO LOOKING AT WHAT THE AVAILABLE OTHER WASTESTREAMS ARE.

MR. BLOCK: LET ME ALSO GO AHEAD AND CLARIFY THE OTHER QUESTION YOU ASKED. YOU HAD ACTUALLY ASKED ABOUT GOING BACK TO THE SOURCE. AND I GUESS WE HAVEN'T EVER ADDRESSED THAT, BUT I SUPPOSE THERE'S NOTHING THAT WOULD PREVENT AN LEA FROM CERTAINLY TRYING TO TRACK BACK. BUT THE -- IN TERMS OF THE ABILITY OF AN LEA TO INSPECT AN OPERATION TO SEE IF, IN FACT, THEY'RE MEETING THE TWO-PART TEST, THEY COULD ALSO OBSERVE THE OPERATIONS, NOT JUST LOOKING AT THE RECORDS.

SO IF THAT MATERIAL IS COMING IN THE DOOR, CERTAINLY THE LEA CAN BE LOOKING TO SEE HOW -- DOES THAT MATERIAL APPEAR TO BE SOURCE

24 SEPARATED OR NOT? IS IT A DUMPSTER THAT'S

25 BASICALLY GOT PUTRESCIBLES MIXED IN, IT LOOKS LIKE

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SOMETHING THAT CAME OUT OF -- THAT'S JUST BEEN PICKED UP AS PART OF THE REGULAR MUNICIPAL SOLID WASTESTREAM FROM WHEREVER IT'S BEING PICKED UP OR THE LIKE. THAT WAS ONE OF THE ISSUES THAT WE LOOKED AT BACK IN 1995 WHEN STAFF WENT OUT AND LOOKED AT THESE OPERATIONS. AND IN LOOKING AT THE 30 OR 40 OPERATIONS WAS SPECIFICALLY INSPECTING AND LOOKING AT THE FRONT END OF THE FACILITY AS WELL TO SEE IS IT POSSIBLE TO TELL WHETHER THE MATERIAL IS SOURCE SEPARATED OR NOT.

MEMBER RELIS: I THINK WE HAVE TO CLARIFY SOMETHING, THOUGH, HERE. WE PASSED A POLICY. WE DID NOT -- THOSE HAVE NOT BEEN DEVELOPED INTO REGULATIONS. SO YOU ARE REFERRING TO INFORMATION, LET'S SAY, THE LEA WANTING TO GET THE INFORMATION UNDER THE GUIDELINES THAT WE PASSED ON IN '85.

MS. RICE: THESE REGULATIONS BEFORE YOU ARE SEEKING TO PLACE YOUR POLICY IN REGULATION.

MEMBER RELIS: SO RIGHT NOW THAT REQUEST FOR INFORMATION AND HOW YOU GATHER IT AND HOW THEY KEEP IT IS NOT A MATTER OF REGULATION, AND SO IT HADN'T BEEN REQUIRED. SO I THINK WE HAVE TO REMIND OURSELVES THAT WHILE THOSE ARE STATED, THEY WERE

24 NOT EXPRESSED AS REGULATION, AND I THINK THAT

MAY

25 BE IN PART WHY WE'RE HERE.

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MR. BLOCK: I WANTED TO MAKE CLEAR. I WASN'T ATTEMPTING TO ARGUE ONE WAY OR THE OTHER ABOUT THIS ISSUE. BUT I WANTED TO MAKE CLEAR THAT THE SCOPE OF EXACTLY WHAT THE TWO-PART TEST DOES, THAT LEA'S WOULD HAVE THE ABILITY TO VIEW THE OPERATION AT THE FRONT OF THE, YOU KNOW, MATERIAL COMING UP FRONT AS WELL TO MAKE THAT DETERMINATION ON THE FIRST PART OF THE TEST.

MEMBER JONES: I FULLY APPRECIATE THE TWO-PART TEST AND WHAT IT'S GOING TO TAKE. I JUST KNOW THE REALITY OF, YOU KNOW, SOME OF THE STUFF.

AND THEN MY OTHER QUESTION IS WHEN WE SAY MEASURED ON A MONTHLY BASIS, ARE WE LOOKING AT A 21-DAY MONTH, A 22-DAY MONTH, OR A 30-DAY MONTH? IF THERE ARE -- DAYS OF OPERATION, WHAT ARE WE LOOKING AT HERE?

MS. RICE: I DON'T KNOW.

MR. BLOCK: I DON'T BELIEVE WE ACTUALLY GOT TO THAT LEVEL. AT THE TIME BACK IN '95, I THINK WE WERE JUST LOOKING AT DAILY, MONTHLY, QUARTERLY, ANNUALLY SORT OF IN BROAD TERMS THAT WAY. IF THERE IS AN IMPLICATION TO WHETHER WE SAY MONTHLY BASED ON DAYS OPEN VERSUS JUST A STRAIGHT 30-DAY PERIOD, WE'D BE INTERESTED IN KNOWING THAT

25 ABOUT THAT, AND WE COULD WORK THAT INTO SOME OF THE

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FINE-TUNING OF HOW THIS IS SET.

BUT AT THE TIME WE CERTAINLY DIDN'T GET ANY INFORMATION THAT WORKING DAYS VERSUS CALENDAR DAYS WOULD IMPACT WHAT WE'RE LOOKING AT.

MEMBER JONES: WELL, IF YOU ONLY OPERATE MONDAY THROUGH FRIDAY, THEN IT GIVES YOU 11 -- 8 TO 11 DAYS THAT YOU CAN -- OR 8 TO 10 DAYS, I GUESS, THAT YOU COULD DIVIDE THAT WASTESTREAM BY WHEN YOU HAD NO INCOMING WASTE TO TAKE CARE OF THE RESIDUAL. YOU KNOW WHAT I'M GETTING AT?

SO EVERY OTHER PERMIT IN THE STATE IS A DAILY PERMIT, RIGHT? DO WE HAVE ANY MONTHLY PERMITS?

MS. RICE: WELL, IN A NUMBER OF THEM THEY'RE WRITTEN SO THAT THE DAILY IS AVERAGED OVER A MONTH OR YEAR.

MEMBER JONES: I DON'T HAVE A PROBLEM. IF IT'S EASIER FOR THE INDUSTRIES TO DEAL WITH THIS THAT WAY, I JUST WANT TO KNOW IF THE MULTIPLIER IS GOING TO BE BY THE NUMBER OF DAYS THAT THEY'RE OPEN AND OPERATING OR THE NUMBER OF DAYS IN A CALENDAR MONTH BECAUSE IT ADDS AT A MINIMUM OF FOUR DAYS. IT COULD ADD EIGHT DAYS, AND THAT EIGHT DAYS DIVIDING INTO A WASTESTREAM COULD MAKE A BIG

25 DIFFERENCE BETWEEN WHAT IS 10-PERCENT RESIDUAL

AND

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1 WHAT IS 15 OR 18.
2 MS. RICE: I GUESS I'M NOT QUITE
3 UNDERSTANDING, BUT I MUST BE MISSING SOMETHING.
10
4 PERCENT OF THE TOTAL INCOMING IS 10 PERCENT
5 REGARDLESS OF HOW MANY DAYS YOU DIVIDE IT BY.
6 CHAIRMAN FRAZEE: WHAT YOU ARE SAYING
IS
7 IF YOU HAVE FIVE DAYS OF CLEAN.
8 MEMBER JONES: RIGHT.
9 CHAIRMAN FRAZEE: AND THEN YOU HAVE TWO
10 DAYS OF HUNDRED PERCENT GARBAGE.
11 MEMBER JONES: GARBAGE, YEAH.
12 MS. RICE: I THINK THE IMPORTANT FOCUS
FOR
13 ME IS THE TWO-PART TEST, SOURCE SEPARATED 10
14 PERCENT. AND YOU'RE RIGHT. WE HAVE NOT DONE
15 ANYTHING TO DATE, AS PAUL REMINDED US, AND EVAN
WAS
16 POINTING UP WHAT WE HAVE NOT DONE BECAUSE THIS
HAS
17 NOT BEEN PUT IN REGULATION. WE HAVE NOT
PROVIDED
18 ANY GUIDANCE ON RECORDKEEPING, HOW TO KNOW

WHAT'S

19 INCOMING, HOW TO KNOW WHAT'S OUTGOING, WHAT TO

LOOK

20 FOR, ALL THOSE KINDS OF THINGS WE HAVE NOT DONE.

21 SO IT'S VERY HARD TO KNOW HOW WE'LL DO IT OR

22 WHETHER WE COULD EFFECTIVELY.

23 MEMBER JONES: BUT YOU'RE RIGHT. WHAT

24 COMES IN AND WHAT GOES OUT IS 10 PERCENT, SO

REALLY

25 IT'S JUST GOING TO BE THE PERCENTAGE. BUT I AM

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NERVOUS THAT -- I DON'T LIKE THE IDEA THAT THEY COULD GET A HUNDRED PERCENT CLEAN MATERIAL FOR THREE OR FOUR DAYS AND BE ABLE TO TAKE IN GARBAGE FOR OTHER DAYS.

MS. RICE: A LOT OF YOUR REMARKS LEAD ME TO THINK THAT IT'S GOING TO BE VERY IMPORTANT HOW WE LOOK AT RECORDKEEPING FOR THE SOURCE SEPARATED MATERIAL COMING IN BECAUSE I HEAR THE CONCERN REPEATED THAT WHAT IF IT ISN'T? WHAT IF IT ISN'T? WELL, WE'LL HAVE TO FIGURE OUT WAYS TO GET AT THAT THROUGH THE RULEMAKING PROCESS AND THEN THE GUIDANCE WE PROVIDE ON THE RULEMAKING PROCESS.

CHAIRMAN FRAZEE: ARE WE COMFORTABLE WITH THIS, LEAVING THE ITEM STILL PARTIALLY OPEN?

MEMBER JONES: I DON'T HAVE A PROBLEM. WHERE WE'RE AT IS FINE.

CHAIRMAN FRAZEE: I'M PREPARED TO GO WITH THE TEST AS IT IS, THE 10 PERCENT, BUT IT'S UP TO --

MEMBER JONES: I'M FINE WITH THAT.

CHAIRMAN FRAZEE: LEAVING IT OPEN?

MEMBER JONES: NO. I'M FINE WITH YOU -- I'LL FOLLOW YOUR 10 PERCENT AND THAT, BUT I DO WANT

24 THE ISSUE OF IF WE'RE NOT EVER GOING TO LOOK AT A

25 RESIDUAL CAP, THEN I WANT TO LOOK AT THOSE ISSUES

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THAT WE TALKED ABOUT ON THE SECOND PART OF THAT TWO-PART TEST, IF AN LEA WANTS TO GO TO THE GENERATOR TO SEE WHAT THE WASTESTREAM LOOKS LIKE, YOU KNOW.

AND I ALSO WANT TO DEAL WITH THE MONTHLY ISSUE IN REGARDS TO, YOU KNOW, THAT THEY DON'T TAKE IN ALL CLEAN FOR SEVEN DAYS OF THE MONTH AND THEN CAN TAKE IN A MIXED MUNICIPAL WASTESTREAM AND THEN FORGET THE CAP.

MS. RICE: BASED ON YOUR DIRECTION TODAY, THE NEXT DRAFT WILL REFLECT THIS ISSUE AS IT IS CURRENTLY DRAFTED.

CHAIRMAN FRAZEE: WITH THE 10 PERCENT.

MS. RICE: THIS TWO-PART TEST AS IT CURRENTLY EXISTS.

CHAIRMAN FRAZEE: BUT REALIZING THAT THERE WILL BE A COMMENT PERIOD ON THESE REGULATIONS, AND THAT COMMENT PERIOD COULD CAUSE THAT TO CHANGE.

MEMBER RELIS: YEAH. WE WOULD GET, IN OTHER WORDS, IN THE NEXT MONTH OR WHENEVER IT'S READY, WE'RE STILL GOING TO BE IN REGULATIONS, BUT WE GO AHEAD WITH THE LANGUAGE AS IS.

MS. RICE: ABSOLUTELY.

24 CHAIRMAN FRAZEE: THE MESSAGE IS DON'T

25 LEAVE A VOID IN THAT AREA. GO AHEAD AND FILL IT,

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BUT RECOGNIZING THAT IT MAY GET CHANGED.

LET'S MOVE ON TO -- THIS IS, OF COURSE, CLOSELY TIED, BUT THE DEFINITION OF SOURCE SEPARATED AND SEPARATED FOR REUSE. AND SOMEWHERE I CAN'T FIND IT NOW, I SAW A PROPOSAL THAT MERGED THOSE TWO; IS THAT CORRECT?

MS. REHBERG: YES. THE BOARD APPROVED DEFINITIONS FOR SOURCE SEPARATED AND SEPARATED FOR REUSE AT THEIR OCTOBER 1995 MONTHLY MEETING. THE DISTINCTION BETWEEN THE TWO DEFINITIONS RELATES TO THE LOCATION AT WHICH THE SEPARATION OCCURS. SOURCE SEPARATED RECYCLABLES ARE SEPARATED OR KEPT SEPARATE FROM THE SOLID WASTE AT THE POINT OF GENERATION. RECYCLABLES SEPARATED FOR REUSE FIT INTO A SLIGHTLY BROADER CATEGORY THAT RECOGNIZES THAT RECYCLABLES MAY ALSO BE SEPARATED FROM WASTE AT A TRANSFER PROCESSING FACILITY OR OTHER NONGENERATOR LOCATIONS AND TRANSPORTED TO A RECYCLING OPERATION.

SINCE THE TWO TERMS ARE ALWAYS USED TOGETHER, THE TWO DEFINITIONS WERE COMBINED IN THE PROPOSED REGULATIONS FOR THE PURPOSE OF GREATER CLARITY AND SIMPLICITY USING ONE TERM "SEPARATED FOR REUSE."

25 STAFF BELIEVES THAT THE BOARD'S

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INTENT HAS NOT CHANGED; HOWEVER, STAFF RECEIVED INPUT FROM SOME MEMBERS OF THE RECYCLING INDUSTRY THAT THEY WANTED THE TWO DEFINITIONS TO REMAIN UNCHANGED.

STAFF CAN GO EITHER WAY ON THIS ISSUE AND DO NOT SEE ANY REGULATORY PURPOSE TO RETAIN SEPARATE DEFINITIONS, BUT DO NOT OBJECT TO RETAINING THEM. STAFF BRINGS THIS FORWARD AS AN ISSUE FOR DISCUSSION AND DIRECTION FROM THE COMMITTEE.

CHAIRMAN FRAZEE: OKAY. WE HEAR FROM ANYONE WHO IS INTERESTED IN THE SUBJECT. YES, GO AHEAD.

MS. DELMATIER: MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, DENISE DELMATIER WITH THE GUALCO GROUP ON BEHALF OF NORCAL WASTE SYSTEMS.

AFTER THE DISCUSSION ON THE 10-PERCENT RULE, AND AS MR. SWEETSER TESTIFIED BEFORE THE COMMITTEE, WE DO, IN FACT, SUPPORT THE 10-PERCENT RULE. WE HAD PREVIOUSLY ADVOCATED FOR A

21 LOWER PERCENTAGE, BUT WE BELIEVE THAT IT'S A

22 REASONABLE COMPROMISE AND WOULD ENCOURAGE THE

23 COMMITTEE AND THE BOARD TO CONTINUE WITH THAT

LEVEL

24 AND THRESHOLD FOR ESTABLISHING THE FIRST PART OF

25 THE TWO-PART TEST.

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BUT AFTER THE DISCUSSION REGARDING THE 10-PERCENT RULE AND THE DISCUSSION REGARDING WHAT CONSTITUTES WHAT'S COMING IN THE DOOR, THEN IT BECOMES QUITE APPARENT THAT THE SECOND PART OF THE TWO-PART TEST BECOMES MORE CRITICAL AS FAR AS HOW WE DEFINE AND HOW WE ENFORCE WHAT IS SOURCE SEPARATED OR SEPARATED FOR REUSE.

HAVING BEEN, AND MOST OF YOU HAVE HEARD ME TESTIFY TO THIS IN PRIOR SESSIONS, BUT HAVING SAT AT THE TABLE DURING THE NEGOTIATIONS ON AB 939 AND THE LANGUAGE SPECIFICALLY, I HAVE TO RECOLLECT WHAT WAS THE ORIGINAL INTENT AS FAR AS DEFINING WHAT IS A TRANSFER OR PROCESSING STATION AND WHAT IS NOT.

AND THE SECTION OF PUBLIC RESOURCES CODE THAT IS MENTIONED, OF COURSE, IN THE STAFF ANALYSIS AND WHICH WE CONCUR WITH STAFF ANALYSIS, THAT THIS IS THE GOVERNING STATUTE WHICH ALL OF THE DISCUSSION CENTERS AROUND. WE HAVE TO REMIND MEMBERS THAT WE NEED TO LOOK AT THE LANGUAGE WITH A PLAIN READING OF THAT LANGUAGE AND THEN OPERATE WITHIN THE CONSTRAINTS OF THAT LANGUAGE WITHOUT FURTHER LEGISLATION TO FURTHER REFINE WHAT THAT MEANS OR WHAT IT DOESN'T MEAN.

25 THE LANGUAGE -- AND OBVIOUSLY I JUST

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PASSED OUT MY ONLY COPY. I'LL LOOK UP AT THE SCREEN HERE. THE LANGUAGE THAT I'M REFERRING TO IS THE LANGUAGE THAT DEFINES WHAT IS NOT A TRANSFER OR PROCESSING STATION. SO WHAT IS EXCLUDED UNDER THE BOARD'S AUTHORITY ARE THOSE FACILITIES -- AND I'LL EMPHASIZE THE FIRST -- SECOND PART OF THAT PARAGRAPH OR THAT CLAUSE -- WHICH HAVE ALREADY BEEN SEPARATED FOR REUSE AND ARE NOT INTENDED FOR DISPOSAL.

WE WOULD CONCUR WITH THE RECYCLING INDUSTRY, THAT IT WAS THE INTENT IN 939 TO EXCLUDE FACILITIES WHO OPERATE UNDER THE CONSTRAINTS OF SEPARATED FOR REUSE THOSE MATERIALS THAT ARE READY TO ENTER THE ECONOMIC MAINSTREAM FOR PURPOSES OF RECYCLING.

AND MOST OF THE OPERATIONS OF JEFFERSON SMURFIT AND WEYERHAEUSER AND THE OTHERS FALL WITHIN THAT CATEGORY AND WOULD NOT BE UNDER THE REGULATORY JURISDICTION OF THE BOARD.

BUT IT'S IMPORTANT FOR PURPOSES OF ENFORCEMENT, AND ECHOING MR. JONES' CONCERNS, THAT THAT LANGUAGE BE REFERRED TO; AND, THEREFORE, THERE

23 ARE -- IT'S IMPORTANT THAT WE HAVE TWO SEPARATE

24 DEFINITIONS, ONE FOR SEPARATED FOR REUSE AND ONE

25 FOR SOURCE SEPARATED. THEY ARE EXTREMELY

DIFFERENT

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DEFINITIONS WITH DIFFERENT PURPOSES IN MIND.

IF YOU LOOK AT THE COMPLEMENTARY DEFINITION OF RECYCLING, YOU NOTE THAT RECYCLING INCLUDES THE PROCESSING AND RECONSTITUTING OF MATERIALS AND RETURNING THEM TO THE ECONOMIC MAINSTREAM IN THE FORM OF RAW MATERIAL FOR NEW, REUSED, OR RECONSTITUTED PRODUCTS. THOSE TWO SECTIONS THAT I'VE JUST OUTLINED TO YOU ARE, IN FACT, INTENDED TO BE COMPLEMENTARY.

A FACILITY THAT'S EXCLUDED FROM THE BOARD'S JURISDICTION, WHO OPERATES UNDER THE DEFINITION OF SEPARATED FOR REUSE, IS A FACILITY WHO HAS PROCESSED -- THOSE MATERIALS ARE PROCESSED TO THE POINT THAT THEY ARE READY FOR RETURN INTO THE ECONOMIC MAINSTREAM.

AND SO WHAT WE WOULD ENCOURAGE THE BOARD TO DO IN DEFINING SEPARATED FOR REUSE IS TO ADD THE LANGUAGE AT THE TAIL END THERE ON THE CURRENT STAFF RECOMMENDATION ON SEPARATED FOR REUSE AND ADD THOSE MATERIALS THAT ARE RETURNING TO THE ECONOMIC MAINSTREAM IN THE FORM OF RAW MATERIAL, ETC.

THAT WAS THE INTENTION ALL ALONG AS

24 FAR AS DEFINING THOSE FACILITIES WHO ARE OUTSIDE

25 THE BOARD'S JURISDICTION. AND WE WOULD CONCUR AND

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AGREE WITH THE ADVOCATES FROM WEYERHAEUSER AND JEFFERSON SMURFIT THAT THOSE ARE, IN ESSENCE, THE OPERATIONS AND DESCRIBE THE OPERATIONS THAT THEY HAVE THROUGHOUT THE STATE AND WOULD BE EXCLUDED FROM THE BOARD'S JURISDICTION. HOWEVER, IF YOU USE THE DEFINITION OF SOURCE SEPARATED, SOURCE SEPARATED MERELY ENTERTAINS THE NOTION THAT YOU HAVE MATERIALS THAT REQUIRE FURTHER PROCESSING. THEY CAN HAVE ANY RANGE OF COMMINGLING OF CONTAMINATION DEPENDING UPON THE OPERATION.

NOW, WE WOULD ARGUE AND AGREE WITH THE ADVOCATES OF JEFFERSON SMURFIT THAT, IN FACT, MOST OF THEIR OPERATIONS FALL UNDER THE CATEGORY OF SEPARATION FOR REUSE, AND VERY RARELY WOULD THEY HAVE A HIGH-END SOURCE SEPARATION DEFINITION. IN OTHER WORDS, THE KINDS OF OPERATIONS THAT MR. JONES WAS ALLUDING TO THAT HAVE A LARGE LEVEL OF CONTAMINATION THAT MAY OR MAY NOT, IN FACT, EXCEED THAT 10-PERCENT THRESHOLD THAT WE'VE ALL AGREED TO, BUT THEY HAVE MATERIAL THAT'S BEEN SOURCE SEPARATED BY THE GENERATOR OR BY A PROCESSOR.

SO WE HAVE TWO DEFINITIONS, ONE SEPARATION FOR REUSE, THOSE MATERIALS THAT ARE READY TO ENTER THE ECONOMIC MAINSTREAM. THEY'VE

25 BEEN PROCESSED TO THE POINT WHERE FURTHER

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PROCESSING IS PROBABLY NOT REQUIRED, AND THERE IS A DE MINIMUS RESIDUAL, PROBABLY AROUND THE 1- TO 2-PERCENT THRESHOLD. THOSE WERE NEVER ENTERTAINED BY THE NEGOTIATORS OF AB 939 TO BE INCLUDED WITHIN THE BOARD'S JURISDICTION. HOWEVER, SOURCE SEPARATED MATERIALS THAT HAVE A RANGE OF CONTAMINATION THAT COULD BE IN EXCESS OF 10 PERCENT OR LESS THAN 10 PERCENT, THOSE FACILITIES WE'VE DECIDED IN PREVIOUS DISCUSSIONS AND NEGOTIATIONS OUGHT TO BE WITHIN THE JURISDICTION OF THE BOARD, DEPENDING UPON WHETHER OR NOT THEY FALL WITHIN THAT 10-PERCENT THRESHOLD.

NOW I WANT TO RETURN TO THE FIRST PART OF THAT CLAUSE. A FACILITY WHOSE PRINCIPAL FUNCTION IS TO RECEIVE, STORE, CONVERT, OR OTHERWISE PROCESS WASTE WHICH HAS ALREADY BEEN SEPARATED, ETC. THAT'S -- THE TERM "PRINCIPAL FUNCTION" IS WHERE WE'VE DECIDED TO DRAW THE LINE BECAUSE WHAT WE'VE DECIDED IS PREVIOUSLY, WHICH WE AGREE WITH THE ADVOCATES FROM THE RECYCLING INDUSTRY, THE ADVOCATES FROM THE ENVIRONMENTAL COMMUNITY, AND I BELIEVE THE ADVOCATES FROM THE WASTE RECYCLING INDUSTRY, THAT WE HAVE THE TWO

24 SEPARATE DISTINCTIONS, THE TWO SEPARATE DEFINI-

25 TIONS.

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AND THEN WHERE WE DRAW THE LINE IS HOW WE DEFINE PRINCIPAL FUNCTION. SO THOSE FACILITIES THAT ARE WITHIN THE 10 PERCENT, THAT'S THE FIRST PART OF THE TWO-PART TEST, PRINCIPAL FUNCTION, THOSE FACILITIES WHO ARE WITHIN THE 10 PERCENT ARE OUTSIDE THE BOARD'S JURISDICTION. WE'VE DECIDED, THEN, THAT THOSE FACILITIES WHO EXCEED 10 PERCENT ARE OUTSIDE THE -- OR WITHIN THE BOARD'S JURISDICTION BECAUSE THAT'S NOT THEIR PRINCIPAL FUNCTION.

SO, IN ESSENCE, WHAT WE'VE DECIDED HERE IS WHAT CONSTITUTES PRINCIPAL FUNCTION AS FAR AS THE 10-PERCENT RULE, AND THEN WE'VE DECIDED WHAT CONSTITUTES SOURCE SEPARATED AND SEPARATED FOR REUSE. BUT I WANT TO BE REAL CLEAR AS FAR AS THE TWO DISTINCT DEFINITIONS BECAUSE THOSE DEFINITIONS HAVE A GREAT DEAL OF IMPLICATION FOR OTHER ISSUES BESIDES WHAT WE'RE DEALING WITH TODAY. ONCE WE DECIDE ON THOSE DEFINITIONS, WE DON'T WANT TO ADVERSELY IMPACT THE DISCUSSIONS ON A WHOLE RANGE OF ISSUES, THE PURE -- I MEAN IT RUNS THE GAMUT AS FAR AS WHAT THE BOARD ADDRESSES IN OTHER

REGULATORY

23 PACKAGES.

24 AND AS FAR AS ENFORCEMENT ISSUES

THAT

25 MR. JONES WAS ALLUDING TO EARLIER, AND THE

FACILITY

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THAT THE COMMITTEE DEALT WITH EARLIER IN SAN FRANCISCO, THOSE DEFINITIONS ARE CRITICAL, THAT THEY REMAIN INTACT AS FAR AS THE TWO DISTINCT DEFINITIONS AS I'VE DESCRIBED.

I THINK THAT PRETTY MUCH COVERS IT, ALTHOUGH I NOTE THAT AS FAR AS THE DEFINITION OF SOURCE SEPARATION, WE WOULD HAVE ONE FURTHER RECOMMENDATION. AND THAT IS THAT WHETHER OR NOT THE OWNER OF THE MATERIAL SEPARATES THE RECYCLABLE MATERIALS OR WHETHER OR NOT A PROCESSOR OR A COLLECTOR SEPARATES THE RECYCLED MATERIALS, IT'S IMMATERIAL ESSENTIALLY. IT DOESN'T MATTER IF THE OWNER DOES IT. YOU MAY HAVE A FACILITY THAT IS FURTHER DOWN THE LINE IN THE PROCESS IN THE RECYCLING STREAM.

AND SO THE FACT THAT THE OWNER HAS SEPARATED THE MATERIALS, THAT'S GREAT, BUT A PROCESSOR OR A COLLECTOR MAY SEPARATE THOSE MATERIALS AND TAKE THOSE MATERIALS TO A FACILITY. SO WE WOULD ENCOURAGE THE DELETION OF OWNER.

MEMBER JONES: I HAVE A QUESTION JUST ON THAT ISSUE. IF A -- IF THE HAULER GOT THE SOURCE SEPARATED MATERIAL FROM A HOUSEHOLD, DOESN'T HE

24 TAKE OWNERSHIP OF THAT AT THAT POINT?

25 MS. DELMATIER: CERTAINLY UNDER OTHER

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DEFINITIONS IN THE STATUTE THAT DEFINE WHAT IS A RECYCLING LOCATION. AND UNDER OTHER DEFINITIONS OF RECYCLING LOCATION, IT DEFINES THAT ONCE THE TRANSFER FROM THE GENERATOR TO THE RECYCLING LOCATION, THE COLLECTOR ASSUMES OWNERSHIP.

MEMBER JONES: SO IF -- BY THEIR OWNER COULD MEAN THREE OR FOUR DIFFERENT OWNERS IN THE COURSE OF THAT WASTESTREAM, COULDN'T IT?

MS. DELMATIER: IT COULD IN THAT INSTANCE WHEN IT'S A RESIDENCE.

MEMBER JONES: WHEN IT'S NOT A RESIDENCE.

MS. DELMATIER: WHEN IT'S NOT A RESI-DENCE, IT COULD BE ANY VARIETY. THAT LANGUAGE, THE RECYCLING LOCATION DEFINITION THAT I JUST MENTIONED, WAS SPECIFIC TO CURBSIDE.

MEMBER JONES: YOU'RE RIGHT.

MEMBER RELIS: I'D LIKE TO EXPLORE SOMETHING. IF YOU WERE TO -- LOOKING AT THE DEFINITION UNDER SOURCE SEPARATED, ASSUMING WE WERE ABLE TO COME UP WITH SOME FURTHER WORK ON PUTRESCIBLES OR WHAT IS NOT, LET'S JUST CALL IT FOR THE MOMENT WHAT IS NOT SOURCE SEPARATED, COULD YOU IMAGINE -- I MEAN COULD SOMEONE LIKE NORCAL OR SOME OF THE OTHER OPERATORS HERE IMAGINE A DEFINITION

25 GOING ON ONE OF THEIR CONTAINERS, YOU KNOW, THAT IS

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HEADING IN THE SOURCE SEPARATED ROUTE, THAT IS, THE NONSOLID WASTE, IS THAT DESCRIBABLE IN A LABEL THAT WOULD GO ON A CONTAINER?

MS. DELMATIER: SURE. IT'S MERELY A PART OF PUBLIC EDUCATION AS FAR AS CERTAINLY WITHIN ANY COLLECTION PROGRAM, THERE ARE THOSE MATERIALS THAT ARE ENCOURAGED AND DISCOURAGED. FOR EXAMPLE, IN A BUY-BACK OPERATION, YOU TAKE ONLY THE DOC SANCTIONED COMMODITIES THAT ARE PART OF THE CRV PROGRAM. THERE ARE MANY CONTAINERS THAT ARE NOT PART OF THE CRV PROGRAM, AND THOSE ITEMS ARE DISCOURAGED IN A RECYCLING OPERATION.

CERTAINLY IN A C&D OPERATION LIKE WE SAW EARLIER TODAY, THERE SHOULD BE ITEMS THAT ARE DISCOURAGED AND NOT ENCOURAGED, AND IT'S MERELY A MATTER OF PUBLIC EDUCATION. AND I KNOW FROM NORCAL'S FACILITIES THAT KIND OF PUBLIC EDUCATION IS CERTAINLY ONGOING ON WHAT IS ENCOURAGED AND WHAT IS DISCOURAGED.

MEMBER RELIS: THINKING ABOUT SOMETHING, HASN'T QUITE FULLY HATCHED, SO WE'LL SEE.

MS. DELMATIER: LARRY, JUST FOR PURPOSES OF DISCUSSION, HERE'S AN EXAMPLE OF A PUBLIC EDUCATION PROGRAM THAT DESCRIBES WHAT'S ENCOURAGED

25 AND WHAT'S NOT ENCOURAGED.

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MEMBER RELIS: WHAT I'M THINKING ABOUT, THERE ARE BASICALLY THREE STEPS WHERE THE THING CAN BREAK DOWN. ONE IS WHETHER PUTRESCIBLES, LET'S JUST SAY, GOES INTO THE WRONG CONTAINER. THAT'S A PUBLIC EDUCATION ISSUE. SECONDLY, THE PARTY WHO TAKES THAT CONTAINER AND THEIR ROLE IN. SO THERE'S A GENERATOR AND THEN THERE'S THE HAULER OR THE -- AND THEN THERE'S THE PARTY THAT RECEIVES.

THOSE ARE THE THREE, IT SEEMS TO ME, THE THREE MOST CRITICAL STEPS WE'RE CONCERNED WITH. IF THAT PART WERE UNDERSTOOD, AND LET'S JUST SAY IT WAS SOME ENFORCEMENT ON, THEN PROBABLY THE REMAINDER WOULDN'T BE OF CONCERN.

MS. DELMATIER: WELL, THERE ARE ENFORCEMENT ISSUES AS FAR AS WHAT THE COLLECTOR OR THE PROCESSOR CAN OR CANNOT REQUIRE OF THE GENERATOR AND CERTAINLY STATUTES THAT PROVIDE FOR EXCLUSIONS OF MATERIALS. AND WE'RE CERTAINLY AWARE OF THOSE, MEDICAL WASTE, HAZARDOUS WASTE, ETC., ETC. SO THOSE KINDS OF PROGRAMS AND LOADCHECKING PROGRAMS FOR THOSE MATERIALS LEND ITSELF WELL TO EXCLUSION OF MATERIALS AND DISCOURAGEMENT OF MATERIALS. HOWEVER, AS FAR AS ENFORCEMENT IS CONCERNED, UNLESS

24 IT'S IN THE REGULATION, THEN THERE WOULD BE NO

25 ENFORCEMENT.

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MEMBER RELIS: CORRECT. OKAY.

MR. SWEETSER: ACTUALLY IF I MAY ADD TO THAT. LARRY SWEETSER WITH NORCAL AGAIN. IT'S NOT ONLY A THEORY. IT'S A FACT. WE DO THIS ALL THE TIME. THE HANDOUT I GAVE DENISE IS WE DO A LOT OF EDUCATION. SAN FRANCISCO IS ONE OF OUR HALLMARK COMPANIES IN THAT REGARD. WE TRAIN OUR COLLECTORS TO WATCH OUT FOR HAZARDOUS WASTE, MEDICAL WASTE, AND GARBAGE THAT'S IN THE RECYCLING LOADS.

WE DO EDUCATION TO THE CUSTOMERS. WE SEND OUT NOTICES IN THEIR BILLS. WE DO THINGS -- WE DO BILLBOARDS ON BUSES. WE DO A LOT OF THOSE ACTIVITIES. WE HAVE STICKERS THAT THEY CAN CARRY IN THEIR POCKETS. WE HAVE THINGS STENCILLED ON OUR CONTAINERS.

IF A COMPANY REALLY WANTS TO REDUCE THE AMOUNT OF RESIDUAL, THEY CAN DO IT. OUR SAN FRANCISCO CURBSIDING LINE HAS PROBABLY LESS THAN ONE-PERCENT RESIDUAL. AND WE HAVE ONE OF THE BIGGEST PARTICIPATIONS IN A CURBSIDE PROGRAM IN THE STATE. SO YOU CAN DO IT. IF THEY DON'T WANT TO DO IT, THEN YOU ARE GOING TO HAVE A PROBLEM.

I THINK THAT'S WHERE YOU'RE SEEING

24 THESE SO-CALLED RECYCLING CENTERS AND CURBSIDE

25 PROCESSORS COMING IN AT THE 10-PERCENT LEVELS

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BECAUSE THEY'RE NOT TAKING THE EFFORT TO REFUSE THAT MATERIAL AT THE CURB. HOW YOU ARE GOING TO ENFORCE THAT, I'M NOT SURE, BUT THAT'S WHERE A LOT OF THE CRUX OF THE PROBLEM IS IS THAT PEOPLE DON'T WANT TO TAKE THAT MATERIAL OUT.

CHAIRMAN FRAZEE: THAT DEALS WITH CURBSIDE RESIDENTIAL PROGRAM, BUT WHAT ABOUT THE AREA OF CONTAINERS WHERE A NUMBER OF GENERATORS HAVE ACCESS TO THAT CONTAINER AND DUMP WHATEVER?

MR. SWEETSER: I HAVE DEALT WITH THAT QUESTION IN THE HAZARDOUS WASTE ARENA. I DON'T SEE ANY DIFFERENCE. WE'VE ALWAYS HELD THAT GENERATOR ACCOUNTABLE. IN SOME COMMUNITIES WE OFFER LOCKED CONTAINERS THAT THEY CAN USE. IF SOMEBODY THROWS SOMETHING THAT SHOULDN'T BE IN THAT CONTAINER,

IF
16 THEY WANT TO BLAME SOMEONE ELSE, FINE, BUT WE'RE
17 GOING TO HOLD THEM ACCOUNTABLE, EVEN TO
ADDITIONAL
18 SURCHARGES ON THAT MATERIAL OR OTHER MEASURES.
19 IT'S ALL A QUESTION OF HOW STRINGENT WE'RE GOING
TO
20 GO AFTER THAT IN TRYING TO KEEP OUR GARBAGE AND
OUR
21 RECYCLABLES AS CLEAN AS POSSIBLE.
22 STEVE'S BEEN ON THE RECEIVING END
OF
23 SOME OF THOSE PROGRAMS. WE'RE SETTING THEM UP
ON
24 HOW MUCH EFFORT WE PUT IN TO TRYING TO KEEP
THOSE
25 PROHIBITED TYPES OF WASTE OUT OF THE
WASTESTREAM.

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MEMBER JONES: I THINK WHAT YOU WERE TALKING ABOUT WAS LIKE THE SOURCE SEPARATED MATERIAL WHERE, YOU KNOW, ALL THE TIME THERE'S DELIVERY OF BINS AND A SIGN IS PUT UP THAT SAYS "PAPER PRODUCTS ONLY."

AND WHAT I HAVE ALWAYS DONE IS IF THE GENERATOR -- IF I'M GOING TO TAKE THAT MATERIAL IN AT A LOWER PRICE OR WHATEVER, I'M DOING THAT BECAUSE I KNOW IT'S GOING TO BE A SEPARATED MATERIAL, AND I'M NOT GOING TO HAVE TO SPEND THE MONEY I WOULD NORMALLY. SO THE WAY I WOULD DO IT IS THAT IT'S GOING TO BE CLEAN TO THIS LEVEL, OR YOU ARE GOING TO PAY FOR IT AS GARBAGE.

AND THAT ONLY USUALLY TAKES ONE TIME TO MAKE THEM UNDERSTAND THAT THEY WANT TO KEEP IT CLEAN. AND I THINK THAT THIS IS -- THAT'S PART OF THE PROCESS, AND THAT CAN BE DONE. AND THAT'S -- THAT'S WHERE THE RECYCLING FACILITY THAT'S ACCEPTING THAT WASTE, OKAY, FROM WHOEVER OR IT'S ACCEPTING THE, QUOTE, UNQUOTE, YOU KNOW, SOURCE SEPARATED LOAD, AND THEY SEE THAT TYPE OF MATERIAL, THEN THEY NEED TO, IF THEY WANT TO, YOU KNOW, TELL THE GUY THAT'S MAKING THE DELIVERY, "THE STUFF IS

24 TOO DIRTY FOR US TO TAKE."

25 IF THEY DON'T WANT TO, OR IF IT'S

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THEIR BOXES, IF THEY'RE DOING IT TO GET AROUND HAVING TO DO IT AS A MATERIALS RECOVERY FACILITY, THEN IF THE LEA'S KEEP SEEING ALL THIS STUFF, PUTRESCIBLE OR NOT, YOU KNOW, I MEAN GARBAGE IS -- AND THEY GO OUT AND THEY GO TO THE GENERATOR, AND THERE HASN'T BEEN ANY TYPE OF EFFORT MADE TO SEPARATE MATERIALS ONE MATERIAL FROM ANOTHER MATERIAL, IT'S PRETTY OBVIOUS THAT'S A MUNICIPAL SOLID WASTESTREAM. THAT'S GARBAGE COMING OUT OF THAT FACILITY.

AND THAT'S WHAT HAPPENS, AND THAT'S WHAT, YOU KNOW, HAS GOT ME SO UPSIDE DOWN ON THE THING.

MS. DELMATIER: MR. RELIS, IN FURTHER RESPONSE TO THAT QUESTION, THE ENFORCEMENT CHALLENGE IS, WITH THE REGULATIONS AS PROPOSED IN DRAFT FORM, IS THAT THE MEASUREMENT IS AT THE BACK END.

MEMBER RELIS: THAT'S RIGHT.

MS. DELMATIER: SO WE'RE NOT MEASURING ANYTHING COMING IN THE FRONT END. AND SO THAT'S WHERE, AS MR. SWEETSER MENTIONED, IT'S ABSOLUTELY CRITICAL TO HAVE THAT, AND AS MS. RICE MENTIONS,

24 ABSOLUTELY CRITICAL TO HAVE THAT ENFORCEMENT

25 AUTHORITY FOR LEA'S TO GO LOOK AT RECORDS IN THE

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FRONT END TO CONFIRM, IN FACT, THAT WHAT IS SAID AT THE BACK END IS TRUE AND CORRECT AND NOT A MISREPRESENTATION.

MEMBER RELIS: WOULD YOU EXPLAIN AGAIN ENFORCEMENT RECORDS AT THE FRONT END? WHAT WOULD THAT CONSTITUTE?

MS. DELMATIER: ASKING FOR NUMBERS AND VERIFICATION OF THE MATERIALS COMING IN THE DOOR AS EITHER SOURCE SEPARATED MATERIAL --

MEMBER RELIS: YOU MEAN THE FRONT END AT THE DOOR. OKAY. I WAS JUST TRYING TO FIGURE OUT WHERE -- HOW FAR AT THE FRONT DOOR OF THE RECYCLING FACILITY.

MS. DELMATIER: CORRECT. SO AT THE FRONT END OF THE RECYCLING FACILITY, SINCE WE DON'T HAVE IN THE DRAFT REGULATION A MEASUREMENT AND THE MEASUREMENT IS AT THE BACK END, WE HAVE TO VERIFY THAT WHAT IS BEING REPRESENTED AT THE BACK END IS TRUE AND CORRECT, THAT IT IS, IN FACT, EITHER SOURCE SEPARATED MATERIAL OR SEPARATED FOR REUSE MATERIAL AND IS NOT MSW.

MEMBER JONES: REALLY, THAT WAS WHY I THOUGHT THE 99-TON CAP COULD TAKE AWAY A LOT OF THESE ISSUES.

25 MS. DELMATIER: IT WOULD. IT CERTAINLY

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WOULD, BUT MINUS THAT, WITHOUT THAT, THEN THESE DEFINITIONS BECOME CRITICAL.

CHAIRMAN FRAZEE: OKAY. NOW, IS THERE ANYONE ELSE WHO WISHES TO BE HEARD?

MR. BEST: THANK YOU, MR. CHAIRMAN. RICK BEST WITH CALIFORNIANS AGAINST WASTE. BEFORE I START, I DO WANT TO COMPLIMENT THE EFFORT OF THE WASTE PREVENTION. I NOTICE YOU DON'T HAVE THE RECORDER TAPE ANYMORE FOR THE RECORD, SO I DON'T KNOW IF YOU GUYS COUNT THAT AS ONE OF YOUR WASTE PREVENTION EFFORTS. I JUST NOTICED THAT. I WANTED TO APPLAUD THE BOARD FOR THAT EFFORT.

SPEAKING TO THIS ISSUE OF SOURCE SEPARATED AND SEPARATED FOR REUSE, I CONCUR WITH THE PREVIOUS SPEAKER, THAT WE DO NEED TWO SEPARATE DEFINITIONS. I WOULDN'T CONCUR ON THE DEFINITIONS. I THINK THE TWO DEFINITIONS THAT WERE ADOPTED BY THE BOARD IN THEIR 1995 POLICY WERE APPROPRIATE, AND I THINK IT'S IMPORTANT TO UNDERSTAND THE DIFFERENCE BETWEEN THE TWO.

THE FIRST DEFINITION, SOURCE SEPARATED, WAS TAKING IN THE IDEA THAT THESE ARE MATERIALS THAT HAVE BEEN SEPARATED AT THIS POINT OF GENERATION. THIS IDEA OF SEPARATED FOR USE IS A

25 BROADER DEFINITION. THOSE ARE THOSE MATERIALS THAT

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ARE SEPARATED AT THIS POINT OF GENERATION, BUT THEY COULD ALSO INCLUDE MATERIALS THAT ARE SEPARATED LATER ON DOWN THE LINE AT A MATERIAL RECOVERY FACILITY, A FACILITY THAT PROCESSES SOLID WASTE, AND THUS REMOVES RECYCLABLE MATERIALS, AND, THUS, THOSE MATERIALS ARE NOW SEPARATED FOR USE.

SO THE TWO DEFINITIONS ARE IMPORTANT. SEPARATED FOR USE INCLUDES -- IS THE BROADER DEFINITION THAT INCLUDES BOTH THE SOURCE SEPARATED AND THOSE THAT ARE SEPARATED DOWN THE LINE.

I THINK FOR THAT REASON IT'S IMPORTANT TO HAVE TWO DEFINITIONS. I'VE KIND OF COME UP WITH A WAY OF ADDRESSING THAT, AND I'D BE HAPPY TO PASS THAT OUT. BUT BASICALLY WHAT I WOULD PROPOSE IS TO HAVE THOSE TWO DEFINITIONS IN THE REGULATIONS, AND THEN JUST AT THE VERY END OF THE SEPARATED FOR REUSE DEFINITION INCLUDE A SIMPLE SENTENCE THAT SAYS SEPARATED FOR REUSE INCLUDES MATERIALS THAT HAVE BEEN SOURCE SEPARATED. AND THAT MAKES IT CLEAR THAT THE BOARD CAN USE THE SOURCE SEPARATED FOR REUSE TERM THROUGHOUT ITS REGULATIONS, BUT IT'S UNDERSTOOD THAT SEPARATED FOR

23 REUSE INCLUDES THOSE MATERIALS THAT HAVE BEEN

24 SOURCE SEPARATED. IT'S ON THE BACK PAGE, ITEM 30.

25 MEMBER RELIS: RICK, YOU USE THE WORD

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"INCLUDES." YOU WOULDN'T SAY ARE MATERIALS THAT HAVE BEEN SOURCE SEPARATED BECAUSE IF YOU USE THE WORD "INCLUDES," WHAT ELSE IS THERE?

MR. BEST: WELL, THERE ARE THOSE MATERIALS THAT HAVEN'T BEEN SOURCE SEPARATED, BUT ARE SEPARATED DOWN THE LINE AT A SOLID WASTE FACILITY FOR THE PURPOSES OF REUSE.

MEMBER JONES: AT A SOLID WASTE FACILITY OR AT A RECYCLING CENTER?

MR. BEST: I'M TALKING ABOUT THOSE MATERIALS THAT ARE SEPARATED AT A SOLID WASTE FACILITY, BUT ONCE BEING SEPARATED, THEN THEY GO -- NOW THEY ARE NO LONGER SOLID -- THEY'RE NOW RECYCLABLE MATERIALS THAT HAVE BEEN SEPARATED FOR REUSE.

MEMBER JONES: DOESN'T THAT -- DOESN'T THAT -- DOESN'T THE FIRST -- I MEAN THE DEFINITION TAKE THAT INTO ACCOUNT? I MEAN HERE IT SAYS READY TO ENTER -- I MEAN, YOU KNOW, READY TO ENTER THE FEED SUPPLY BASICALLY IS WHAT. YOU KNOW, RECYCLABLES SEPARATED FOR REUSE ARE MATERIALS INCLUDING COMMINGLED RECYCLABLES THAT HAVE BEEN SEPARATED AND KEPT SEPARATE FROM THE SOLID WASTESTREAM BY THEIR OWNER FOR THE PURPOSES OF

25 RECYCLING OR REUSE AS SEPARATED FOR REUSE.

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MR. BEST: I'M JUST SIMPLY TAKING THE DEFINITIONS THAT WERE ADOPTED IN THE BOARD'S 1995 POLICY THAT SIMPLY HAD SOURCE SEPARATED AND SEPARATED FOR REUSE. THEY ARE TWO DEFINITIONS. ONE WAS INCLUSIVE OF THE OTHER. I'M JUST PROPOSING THAT THE BOARD STAFF, IN ORDER TO SIMPLIFY THE REGULATIONS, HAD TRIED TO MERGE THE TWO. I'M SUGGESTING THAT KEEP THE TWO DEFINITIONS SEPARATE, BUT HAVE THE SEPARATED FOR REUSE BE INCLUSIVE SO THAT YOU COULD USE IT THROUGHOUT THE REGULATIONS.

MEMBER RELIS: SO IN AN OUTLINE FORM, YOU'VE GIVEN IT A HIGHER CATEGORY AND SOURCE SEPARATED IS A SUBSET.

MR. BEST: EXACTLY. AND THAT WAS WHAT THE ORIGINAL WASTE BOARD POLICY IN 1995 DID.

MEMBER JONES: I THINK --

MEMBER RELIS: I SEE SHAKING AND NODDING AND EVERYBODY.

MEMBER JONES: MR. BEST, ON ONE OF YOURS WHERE IT SAYS ON E, THE ONLY SEPARATION OCCURRING AT THE CENTER IS THE REMOVAL OF CONTAMINANTS AND THE SORTING OF RECYCLED MATERIALS THAT HAVE ALREADY BEEN -- IS THAT -- THAT'S NOT YOUR --

MR. BEST: THAT WAS SOME OTHER ITEMS WE

25 CAN DISCUSS LATER. BUT SINCE WE'RE NOW JUST

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TALKING ABOUT SOURCE SEPARATED.

CHAIRMAN FRAZEE: OKAY. ANYONE ELSE? MR. WHITE.

MR. WHITE: MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, CHUCK WHITE WITH WASTE MANAGEMENT. I THINK I WOULD CONCUR WITH THE PREVIOUS SPEAKERS, THAT IT'S DESIRABLE TO KEEP THESE TWO DEFINITIONS IN PLACE, NOT THE LEAST OF WHICH BEING THE REASON THAT WE'RE USED TO THEM AND THEY SEEM TO WORK OKAY. AND I DON'T THINK THERE'S ANY NEED NECESSARILY TO COMBINE THEM INTO ONE DEFINITION.

HOWEVER, I WOULD REQUEST AND SUGGEST -- AND I HOPE I DON'T GET CROSSWISE WITH MR. JONES ON THIS ISSUE -- BUT THAT WE DO DELETE THE WORDS "BY THEIR OWNER" IN BOTH DEFINITIONS BECAUSE THERE ARE SITUATIONS, TWO SITUATIONS THAT I KNOW I'M FAMILIAR WITH, WHERE THE SEPARATION WAS UNCLEAR WHETHER THE OWNER IS ACTUALLY THE PERSON DOING THE SEPARATION.

ONE SITUATION IS WE HAVE A LOT OF LARGE NATIONAL CUSTOMERS THAT WE GO IN AND PROVIDE AN ON-SITE SERVICE FOR MANAGING THE WASTE ON SITE, AND WE MAY, AS THEIR AGENT, BE ACTUALLY DOING THE SEPARATING OPERATION AT THE SITE OF A LARGE

25 INDUSTRIAL OR COMMERCIAL OPERATION. AND I WANT TO

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MAKE SURE THAT WE CAN CONTINUE TO DO THAT WITHOUT ANY CONFUSION ON ANYBODY'S PART.

THE SECOND SITUATION INVOLVES THAT WE MIGHT CHOOSE TO GO AROUND AND PICK CLEAN LOADS OF MATERIALS AND BRING THEM BACK FOR FURTHER PROCESSING THAT -- FOR EXAMPLE, THAT MIGHT BE A PALLET MANUFACTURER THAT BASICALLY 95 PERCENT OF THE MATERIAL THAT GOES IN IS BROKEN PALLETS OR WHATEVER AND MAYBE A FEW HAMBURGERS OR WASTE PAPER, FOR EXAMPLE. WE'D LIKE -- IT'S BASICALLY PRETTY CLEAN MATERIAL, BUT WE'D LIKE TO BE ABLE TO SEPARATE THAT IN A DIFFERENT LOAD, DIFFERENT TRUCK EVEN, AND BE ABLE TO BRING THAT BACK FOR PROCESSING. IT COULD BE A CARDBOARD CUTTING OPERATION, FOR EXAMPLE, THAT HAS BASICALLY VERY CLEAN MATERIAL. WE'D LIKE TO BE ABLE TO KEEP THAT SEPARATED RATHER THAN COMMINGLING IT AND BE ABLE TO PUT IT INTO A SEPARATE UNIT FOR BRINGING BACK TO A PROCESSING FACILITY.

THIS HAS BEEN KIND OF A VAGUE AREA THAT'S BEEN SOMEWHAT CONFUSING IN THE PAST. THERE'S SOME DISCUSSION AT THE STAFF LEVEL, AND I'M NOT SURE IF I MISUNDERSTOOD -- I MAY HAVE

24 MISUNDERSTOOD DOROTHY JUST A MINUTE AGO WHEN SHE

25 WAS MAKING COMMENTS -- IS THAT REALLY BEING SOURCE

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SEPARATED BY THE GENERATOR, OR IS THAT BEING SOURCE SEPARATED BY THE HAULER? WE REALLY DON'T THINK IT MAKES ANY DIFFERENCE.

THE PURPOSE IS TO BASICALLY BE ABLE TO GET CLEAN OR RELATIVELY CLEAN MATERIAL OUT AND PROCESS IT FOR RECYCLING REGARDLESS OF WHETHER THAT SEPARATION IS DONE BY THE GENERATOR OR BY THE COLLECTOR OR BY SOMEBODY ELSE COMING IN AND CONDUCTING THAT SOURCE SEPARATING OPERATION.

I DON'T MEAN TO GO DOWN THE PATH SUGGESTING WE'RE GOING TO PICK UP THESE DIRTY LOADS AND COMMINGLE WITH CLEAN LOADS AND SOMEHOW -- BECAUSE I THINK, WITH ELLIOT'S DISCUSSION, THAT WOULD BE BASICALLY -- IT WOULDN'T BE ALLOWED UNDER THE STRICT INTERPRETATION OF THE TWO-PART TEST.

ALL WE'RE SUGGESTING IS BEING ABLE TO GO IN AT THE GENERATION POINT, GO WITH OUR FAMILIARITY WITH OUR CUSTOMER'S WASTESTREAMS, BE ABLE TO PICK OUT THOSE WASTESTREAMS THAT ARE RELATIVELY CLEAN, AND PROCESS THEM AT A FACILITY.

SO WE WOULD URGE YOU TO KEEP THE DIFFERENT DEFINITIONS, BUT SIMPLY STRIKE THE PHRASE "BY THEIR OWNER" IN EACH OF THOSE TWO SITUATIONS TO

24 ALLOW BASICALLY EITHER THE OWNER OR SOMEONE UNDER

25 CONTRACT TO THAT OWNER OR COLLECTOR TO BE ABLE TO

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DO THE ACTUAL SEPARATION. THANK YOU.

CHAIRMAN FRAZEE: I WOULD AGREE WITH YOUR SUGGESTION OF REMOVING BY THEIR OWNER. AND I WAS THINKING ABOUT A SITUATION OF THE LARGE OFFICE BUILDING WE VISITED IN SAN FRANCISCO WHERE THE JANITORIAL SERVICE DOES THE SEPARATING, BUT THE BUILDING MANAGER IS THE OWNER OF THE MATERIALS AND HANDLES THE SHIPPING OUT OF THOSE, BUT IT'S THE JANITORIAL SERVICE.

MR. WHITE: WHO'S THE OWNER ON A CURBSIDE OPERATION IS PRETTY CLEAR, BUT WHO'S THE OWNER WHEN YOU'RE DEALING WITH A SITUATION LIKE THIS IN AN INDUSTRIAL-COMMERCIAL OPERATION IS LESS WELL DEFINED, I THINK.

MEMBER JONES: BUT UNDER THAT SCENARIO, MR. CHAIRMAN, WOULDN'T THE JANITORIAL SERVICE BE WORKING AS A CONTRACTOR FOR THE OWNER OF THE BUILDING?

CHAIRMAN FRAZEE: YES, BUT PROBABLY NOT THE OWNER OF THE MATERIALS I THINK IS THE POINT MR. WHITE IS MAKING.

MR. BLOCK: IF I MAY, I THINK THAT AT THE TIME WE WROTE THE LANGUAGE, WE WERE PROBABLY THINKING OF BY THE OWNER IN BROAD TERMS. SO THE

25 SITUATION LIKE THE JANITORIAL SERVICE OR THE ONE

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THAT MR. WHITE HAS MENTIONED, IN THAT SITUATION WE WOULD CONSIDER THE WHATEVER SERVICE IS SEPARATING IT IS DOING IT IN A SENSE AS THE AGENT OF THE OWNER. AND SO THAT WOULD BE SUBSUMED UNDER THIS, BUT I DON'T KNOW THAT THERE'S ANY REGULATORY REASON WHY WE NEED TO KEEP THAT LANGUAGE.

MR. WHITE: THERE'S ALSO A SITUATION YOU HAVE INDUSTRIES THAT ARE VERY, VERY CLEAN INDUSTRIES, AND THEY MAY ONLY HAVE ONE CONTAINER, AND IT MAY BE 95 PERCENT CUTTINGS FROM CARDBOARD OPERATION AND A JUST A FEW LITTLE RESIDUAL WASTES. THERE ISN'T TWO SEPARATE CONTAINERS, BUT WE'D LIKE TO BE ABLE TO TAKE THAT CONTAINER AND HANDLE IT SEPARATELY AND EITHER CONSIDER THE ACTION OF THE GENERATOR OR OUR ACTION, WHICHEVER ONE, TO BE ABLE TO ALLOW THAT TO BE A SOURCE SEPARATED MATERIAL BECAUSE WE'RE MAKING THE DECISION TO HANDLE IT SEPARATELY AS A RECOVERABLE COMMODITY RATHER THAN AS A WASTE REQUIRING DISPOSAL.

I WANT TO MAKE SURE THAT ISSUE IS CLEAR, AT LEAST I'D LIKE TO MAKE SURE IT'S CLEAR.

MEMBER RELIS: MR. CHAIR, I HAVE A SUGGESTION. I THINK THIS IS GETTING REAL DETAILED. I THINK THAT WE UNDERSTAND -- YOU'VE

25 MADE THE POINT. I THINK THERE'S RECEPTIVITY TO

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CLARIFYING WHAT OWNER IS TO THE DEGREE THAT IT NOT PREVENT YOU FROM DOING WHAT YOU SAID. AND I'D RATHER USE OUR TIME TO DEAL WITH THE DIRECTION; AND IF IT'S OKAY WITH YOU, I THINK WE HAVE THE INPUT, AND WE COULD DIRECT STAFF TO WORK WITH THOSE DEFINITIONS.

CHAIRMAN FRAZEE: OKAY. NOW, IS THERE ANYONE ELSE ON THIS PARTICULAR ISSUE? IF NOT, WE HAVE A REQUEST TO MOVE TO ITEM 6, THE CAL-OSHA MEMORANDUM OF UNDERSTANDING. AND LET'S DO THAT ONE NEXT.

MS. REHBURG: YES. DURING THE INFORMAL COMMENT PERIOD, COMMENTERS RAISED THIS ISSUE OF REGULATORY OVERLAP WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF OCCUPATIONAL SAFETY AND HEALTH, WHICH IS MORE COMMONLY REFERRED TO AS CAL-OSHA.

STAFF MET WITH CAL-OSHA REPRESENTATIVE, LES MICHAELS, REGARDING OVERLAP ISSUES. MR. MICHAELS IS IN THE AUDIENCE TO ANSWER YOUR QUESTIONS. MANY OF THE OVERLAP ISSUES IDENTIFIED HAVE BEEN IN BOARD REGULATIONS FOR 20 YEARS AND ARE HISTORIC HEALTH AND SAFETY STANDARDS.

24 CAL-OSHA RAISED SOME AREAS OF CONCERN

25 REGARDING ANY BOARD REGULATIONS WHICH MAY

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UNNECESSARILY DUPLICATE AND INCORRECTLY REFERENCE THEIR TITLE 8 REGULATIONS WITHOUT AN MOU IN PLACE BETWEEN OUR RESPECTIVE AGENCIES.

THE AREAS OF CONCERN ARE IN BOARD STANDARDS FOR PERSONAL HEALTH AND SAFETY, SANITARY FACILITIES, AND TRAINING. IN ORDER TO REMEDY THE SITUATION, STAFF PROPOSES THAT A MEMORANDUM OF UNDERSTANDING BE DEVELOPED BETWEEN THE BOARD AND CAL-OSHA WHICH WOULD ADDRESS ANY POTENTIAL REGULATORY OVERLAP.

THE MEMORANDUM OF UNDERSTANDING IS A MECHANISM THAT HAS BEEN USED BY SEVERAL OTHER STATE AGENCIES UNDER SIMILAR CIRCUMSTANCES.

IT IS STAFF'S INTENTION TO STREAMLINE THE LEA WORKER HEALTH AND SAFETY REFERRAL PROCESS TO CAL-OSHA BY IMPLEMENTING THE MEMORANDUM OF UNDERSTANDING WHILE RETAINING THE BOARD'S HISTORIC HEALTH AND SAFETY STANDARDS.

SOME LEA'S SUPPORT A POSITION OF REFERRAL TO CAL-OSHA ON IMMEDIATE THREATS TO WORKER HEALTH AND SAFETY AND DON'T WANT TO ESTABLISH

22 STRICTER STANDARDS THAN ARE OUTLINED IN THE

23 INFORMAL DRAFT REGULATIONS. OTHER LEA'S SUPPORT

24 MAINTAINING AND/OR ACQUIRING MORE WORKER HEALTH

AND

25 SAFETY AUTHORITY.

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STAFF RECOMMENDS DEVELOPING AN MOU WITH CAL-OSHA AND BRINGS THIS FORWARD AS AN ISSUE FOR DISCUSSION AND DIRECTION FROM THE COMMITTEE.

MEMBER RELIS: MR. CHAIR, I HAVE A QUESTION. ON THE MATTER, MAYBE I HAD IT WRONG, BUT I THOUGHT DUST WAS ONE OF THE CONSIDERATIONS HERE AS TO WHY WE MIGHT WANT TO DO THIS? AND CAN SOMEONE REFRESH MY MEMORY? MAYBE I'M OFF BASE.

MS. REHBERG: DUST IS AN ISSUE WE'D LIKE TO ADDRESS; HOWEVER, IT WASN'T IDENTIFIED BY CAL-OSHA AS AN ISSUE OF OVERLAP.

MEMBER RELIS: SO THE AUTHORITY FOR DUST IS WITH US THEN? OR CAN SOMEONE CLARIFY THAT BECAUSE I ALWAYS THOUGHT THAT WAS A --

MR. BLOCK: WELL, THERE'S KIND OF A THREE-WAY TIE, IF YOU WILL, HERE. AND THAT'S PROBABLY ONE OF THE REASONS WHY IT WASN'T IDENTIFIED EARLIER IN THE PROCESS. DUST IS WITHIN THE JURISDICTION OF THE AIR BOARD. AND --

MEMBER RELIS: INSIDE A BUILDING.

MR. BLOCK: FOR THE MOST PART. AND WHAT WE HAVE DONE --

MEMBER RELIS: I GUESS I'M THINKING INSIDE.

25 MR. BLOCK: HOWEVER, WHERE DUST IS

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IMPLICATING HEALTH OF THE WORKERS, THAT WOULD BE WITHIN THE JURISDICTION OF CAL-OSHA.

WHAT WE HAD DONE IN THE 1220 REGULATIONS WITH DUST WAS TAKE THE THIRD PIECE OF THE PIE, IF YOU WILL, AND LIMIT OUR STANDARDS FOR DUST TO WHERE IT IMPACTS OR INTERFERES WITH THE OPERATION ITSELF. IN OTHER WORDS, NOT THE HEALTH AND SAFETY ISSUES IN TERMS OF WORKERS OR HEALTH AND SAFETY ISSUES IN TERMS OF PUBLIC, WHICH WOULD BE THE AIR BOARD, BUT SPECIFICALLY IF YOU HAD A DUST PROBLEM THAT WAS INTERFERING WITH THE OPERATION RUNNING SMOOTHLY.

AND SO IN REDEFINING THAT LANGUAGE, I GUESS THAT'S WHY IT WASN'T NECESSARILY PICKED UP ON BY CAL-OSHA.

MEMBER RELIS: MY CONCERN WASN'T WITH THE OPERATION RUNNING SMOOTHLY. IT WAS WITH THE HEALTH IMPLICATIONS. AND SO I WAS HOPING THAT WE COULD GET SOMEWHERE WITH A MORE PERFORMANCE BASED, NOT A UNIFORM TECHNOLOGY, BUT A PERFORMANCE BASED DUST CONTROL THAT ASSURED HEALTH AND SAFETY, SAFETY OF WORKERS, BUT WE'RE NOT THAT BODY THAT DOES THAT SORT OF THING. THAT'S WHY I THOUGHT A TIE WITH CAL-OSHA HERE WOULD BE POTENTIALLY A GOOD THING.

25 THEY COULD -- SO THERE IS A REPRESENTATIVE.

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CHAIRMAN FRAZEE: YES. MR. MICHAELS, WOULD YOU LIKE TO COME FORWARD AND GIVE US YOUR THOUGHTS.

MR. MICHAELS: THANK YOU, GENTLEMEN FOR MOVING ME UP ON THE CALENDAR.

CHAIRMAN FRAZEE: SORRY WE KEPT YOU THIS LONG.

MR. MICHAELS: QUITE ALL RIGHT. I WAS LATE IN COMING BACK. I THOUGHT I KNEW THE TOWN BETTER THAN I DID. I SAW A LOT OF COUNTRY.

WITH REGARD TO THE DUST QUESTION, WE DO HAVE A WHAT USED TO BE CALLED A NUISANCE DUST CATEGORY OR DUST NOT OTHERWISE CLASSIFIED. IN FACT, WE HAD DISCUSSIONS YESTERDAY ABOUT SUCH THINGS IN OUR RULEMAKING ACTIVITY.

THERE IS A PERMISSIBLE EXPOSURE LIMIT FOR GROSS DUST, BUT, AGAIN, OUR PURVIEW, AS YOU RECOGNIZED, IS THE WORKER. AND WE USED TO SAY 20, 30 YEARS AGO, RESOLVE YOUR HEALTH AND SAFETY PROBLEM BY KICKING IT OUTSIDE THE BUILDING. NOW WE HAVE AIR QUALITY MANAGEMENT DISTRICTS THAT DO ADDRESS THAT ISSUE. AND SO IF THEY SEE THE PLUME, THEY GOT YOU. BUT THAT'S THEM, NOT US.

OURS IS A 10 MILLIGRAMS PER CUBIC

25 METER DUST, AND ABOUT 20 YOU CAN'T SEE. AND YOU

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CAN'T SEE IS WHAT IS CITED IN YOUR PROPOSED REGULATION.

MEMBER RELIS: SO LET ME JUST ASK THEN. YOU JUST SET FORTH A STANDARD. THAT WOULD BE TRUE INSIDE ANY OPERATION.

MR. MICHAELS: IT WOULD BE TRUE WITH REGARD TO WORKER PERSONNEL WHERE THERE'S AN EMPLOYER-EMPLOYEE RELATIONSHIP.

MEMBER RELIS: THAT'S THE FIRST TIME I'VE HEARD THAT. I DIDN'T KNOW THERE WAS SUCH A NUMBER AROUND. SO THAT GOES A LONG WAY. YOU'RE THE SAFETY PEOPLE. WE'RE NOT. LIKE TO HAVE HAD THAT REFERENCE ALL ALONG.

MR. MICHAELS: DON'T MINIMIZE YOUR SAFETY RESPONSIBILITY. YOU HAVE A LARGE OBLIGATION TO THE PUBLIC.

MEMBER RELIS: I UNDERSTAND THAT, BUT FOR THE WORKER ONLY IS WHAT I'M --

MR. MICHAELS: I JUST DIDN'T WANT THAT TO SHOW ON THE RECORD WITHOUT YOUR COMING BACK AND SAYING YOU RECOGNIZE IT. PRINTED WORDS ARE HARD TO LIVE BY SOMETIMES.

MEMBER RELIS: SO DO I UNDERSTAND FROM THIS THAT THERE IS AN EXPOSURE LEVEL THAT YOU -- 10

25 TO -- WHAT WAS THE NUMBER?

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MR. MICHAELS: TEN MILLIGRAMS PER CUBIC METER TOTAL DUST. WE HAVE A --

MEMBER RELIS: DO WE REFERENCE CAL-OSHA? WE DON'T, DO WE?

MR. BLOCK: NO, BECAUSE WE HAVEN'T ESTABLISHED ANY STANDARDS FOR WORKER HEALTH AND SAFETY.

MS. RICE: BUT AS HE INDICATED, INDIRECTLY WE DO BY USING THE PHRASE "OBSCURED VISIBILITY," WHICH HE IS SAYING THAT AT A CERTAIN POINT YOU CAN'T SEE. SO ONCE VISIBILITY IS OBSCURED --

MEMBER RELIS: THAT'S AN OPERATIONAL SIDE. SO SOMEBODY TELL ME --

MR. MICHAELS: IT WOULD BE OF CONCERN TO US IF IT PUTS AN OPERATOR AT RISK. BUT IF IT PUTS THE PUBLIC AT RISK, WE WOULD VIEW THAT AS YOUR JURISDICTION.

MS. RICE: AND IT SOUNDS AS THOUGH IT COMES BACK AROUND IN A CIRCLE BECAUSE IF THE OPERATOR IS AT RISK BECAUSE OF IMPAIRED VISIBILITY, THEN YOU ARE IMPACTING THE OPERATION OF THE FACILITY, AND IT CONNECTS BACK TO OUR STANDARD. SO THERE'S A CONNECTION HERE. AS ELLIOT SAID, IT

24 SEEMS THREE-WAY, AND I'M NOT QUITE SURE IN

25 PRACTICALITY HOW THAT WORKS, WHICH IS WHY I THINK

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STAFF HAD ENTERED INTO THE DISCUSSIONS WITH CAL-OSHA OVER THE ADVISABILITY OF AN MOU WHEREBY SOME OF THESE ISSUES COULD BE CLARIFIED IN TERMS OF JURISDICTION BECAUSE IT IS CLOUDY OR DUSTY, AS IT WERE.

MEMBER RELIS: IT'S 20 PARTS RIGHT NOW.

CHAIRMAN FRAZEE: DO YOU HAVE MOU'S WITH ANY OTHER REGULATORY --

MR. MICHAELS: WE HAVE THREE. WE HAVE ONE THAT'S CREATED BY STATUTE WITH THE DEPARTMENT OF PESTICIDE REGULATION, WHICH IS A VERY BROAD MEMORANDUM OF UNDERSTANDING WHICH GIVES THEM ENFORCEMENT AUTHORITY, WHICH THEN THEY PASS ON TO THEIR COUNTY AGRICULTURAL COMMISSIONERS.

WE HAVE ONE WITH THE FISH AND GAME WHICH WE HAVE MUTUAL ACTIVITIES IN HAZARDOUS WASTE AND EMERGENCY RESPONSE. THEY DESIRED A MEMORANDUM OF UNDERSTANDING TO GIVE THEIR ON-SITE MARINE SPILL OPERATIVES, ENFORCEMENT OFFICERS, CLOUT OR THE THREAT OF CALLING CAL-OSHA TO ADDRESS SITUATIONS SUCH AS MOVING THINGS OVER PEOPLE'S HEAD OR INADEQUATE RESPIRATOR PROGRAMS AND THE LIKE.

MEMBER RELIS: MR. CHAIR, SINCE WE'RE

24 BEING ASKED FOR DIRECTION, I WOULD HOPE WE COULD DO

25 WHAT STAFF IS -- STAFF BRINGS THE MOU CONCEPT AS AN

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ISSUE FOR DISCUSSION AND DIRECTION. AND I HOPE WE COULD STRUCTURE AN MOU THAT INCLUDES THIS ISSUE OF THE RESPONSIBILITIES FOR DUST. AND I WOULD JUST ADD THAT TO YOUR LIST, IF THAT'S ACCEPTABLE TO THE OTHER COMMITTEE MEMBERS.

MEMBER JONES: I HAVE A COUPLE OF QUESTIONS. ARE THE LEA'S FULFILLING THE CAL-OSHA FUNCTIONS RIGHT NOW?

MR. MICHAELS: IN THE ONE MEETING I WENT TO IN REDDING, THEY WERE NOT ANXIOUS TO ENGAGE IN WORKER PROTECTION REGULATIONS. IN PARTICULAR, THE INJURY AND ILLNESS PREVENTION PROGRAM WAS PRESENTED TO THEM AS A VEHICLE. AND THEY SAID, NO, WE HAVE OTHER VEHICLES AND WE'RE NOT ALL THAT ANXIOUS TO EMBRACE OR TO ENGAGE IN ENFORCEMENT ACTIVITY.

MEMBER JONES: BECAUSE THEY CALL FOR THOSE THINGS AS PART OF WHEN THEY REVIEW OUR FACILITIES TO MAKE SURE THAT WE HAVE THEM, BUT I'M NOT SURE THAT THEY ARE THE PROPER OSHA INSPECTORS.

MR. MICHAELS: I DON'T THINK THEY WOULD HAVE JURISDICTION. I DON'T THINK IT WOULD HOLD UP BECAUSE OF THE DUAL POTENTIAL FOR AN AFFIRMATIVE DEFENSE OF DUAL AUTHORITY. AND YOU CAN'T BE WHACKED ON BOTH SIDES OF THE HEAD.

25 MEMBER JONES: SO IF WE ENTERED INTO AN

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MOU, WHAT WE WOULD BE ENTERING INTO AN MOU TO ACCOMPLISH BECAUSE I HAVE CONCERN? I WAS WRITTEN UP BY AN LEA ONE TIME BECAUSE AN EMPLOYEE OF MINE HAD A BACK BELT ON, AND THAT LEA HAD HEARD SOMEWHERE THAT YOU SHOULDN'T HAVE THOSE CONNECTED WHEN YOU ARE NOT LIFTING SOMETHING. SO HE WROTE ME UP ON MY REPORT, MY FACILITY REPORT.

AND I ASKED HIM IF HE WAS ONE OF MY FOUR EMPLOYEES THAT WERE UNDER DOCTOR'S CARE FOR BAD BACKS AND WAS WEARING THAT AS PART OF A DOCTOR'S NOTE. HE DIDN'T KNOW; HE DIDN'T CARE.

SO, YOU KNOW, I NEED TO KNOW WHAT THE SCOPE OF THESE LEA'S IN DEALING WITH HEALTH AND SAFETY ISSUES IS GOING TO BE WHEN IT COMES TO -- YOU KNOW, WHEN SOMEBODY WRITES YOU UP AND THEY DON'T HAVE A CLUE AS TO WHY THEY'RE WRITING YOU UP, EXCEPT THAT THEY READ THAT YOU SHOULD HAVE KEPT THEM UNHOOKED, THAT BOTHERS ME.

MR. MICHAELS: WELL, THERE'S A SHORT ANSWER AND A LONG ANSWER, AND I'M NOT GOOD WITH SHORT ANSWERS.

PRIOR TO JULY 3D OF THE YEAR, THERE WAS NO ERGONOMIC STANDARD IN THE COUNTRY. THERE IS NOW SUCH. SO IF THAT ACTIVITY WAS CONDUCTED PRIOR

25 TO THAT, WHAT THAT LEA WAS ADDRESSING, OTHER THAN

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THE "SACRAMENTO BEE" OR THE "SAN FRANCISCO CHRONICLE" OR IF I LEFT A PAPER OUT WHO'S HERE, I'M SORRY. THIS IS COMMON IN OUR GENRE, BUT THE SITUATION IS THAT WE DON'T ENFORCE UNLESS WE HAVE A REGULATION. WE DON'T ENFORCE UNLESS WE HAVE JURISDICTION.

AND AGAIN, AS I UNDERSTOOD THE LEA'S, THEY DID NOT WANT WORKER HEALTH AND SAFETY ISSUES FOR THEM TO ENFORCE. BUT THAT WAS JUST ONE GROUP. THIS MORNING I HEARD THAT THEY'RE ALL HOT FOR THAT IN L.A. SO I DIDN'T GO TO THE MEETING OUT THERE OR THE MEETING HERE IN SACRAMENTO AS WELL. I THINK IT'S AN ISSUE FOR YOUR STAFF TO ADDRESS AS THEY USE AND GUIDE THE LOCAL ENFORCEMENT AGENTS TO ENFORCE YOUR REGULATIONS.

AND I THINK THE DIVISION, EITHER AS PART OF OR SEPARATE FROM THE MOU, WOULD BE PLEASED TO INTERACT WITH THEM TO ASSIST THEM IN BEING APPRISED OF WORKER SAFETY AND HEALTH ISSUES WHICH THEY COULD THEN CALL TO THE ATTENTION OF THE DIVISION AS THEY DEEM APPROPRIATE RATHER THAN TAKE ENFORCEMENT ACTION THEMSELVES. THAT WAS A SHORT ANSWER.

24 CHAIRMAN FRAZEE: YES. OKAY. I SEE MR.

25 HANSON MOVING UP. PERHAPS WE CAN HEAR FROM HIM ON

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THIS ISSUE.

MR. HANSON: I DON'T KNOW WHO THE GENTLEMAN WAS REFERRING TO THAT L.A. WAS HOT FOR THIS ISSUE. IT'S THE ONE ISSUE HERE THAT I DON'T FEEL COMPETENT OR I'M AUTHORIZED TO COMMENT ON BECAUSE I HAVEN'T DISCUSSED.

MEMBER RELIS: THE ISSUE BEING WHAT?

MR. HANSON: THE MOU, THE POSSIBLE MOU. I DO KNOW THAT THERE ARE SEVERAL LEA'S THROUGHOUT THE STATE WHO LOOK AT WORKER SAFETY AND HEALTH VERY CLOSELY. AND THEY MAY NOT DIRECTLY ENFORCE ANYTHING, BUT THEY CERTAINLY ARE VERY ACTIVE IN REFERRING IT TO THE PROPER AGENCIES. AND PERHAPS HE WAS REFERRING TO THE CITY OF LOS ANGELES THAT DOES HAVE A FEW INDUSTRIAL HYGIENISTS ON THEIR STAFF. AND SO THEIR STAFF, THE LEA STAFF, IS VERY AWARE OF ALL THE VARIOUS HEALTH AND SAFETY ISSUES REGARDING WORKERS AT THEIR FACILITIES.

NOW, AGAIN, I DON'T BELIEVE THAT THEY ENFORCE ANY OF THIS DIRECTLY, BUT THEY'RE AWARE OF THE PROBLEMS AND SO THEY MAKE THE PROPER REFERRALS.

CHAIRMAN FRAZEE: OKAY. MR. SWEETSER.

25 DID YOU HAVE A COMMENT?

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MS. RICE: I'D BE HAPPY TO WAIT FOR MR. SWEETSER.

MR. SWEETSER: LARRY SWEETSER, NORCAL, ONE MORE TIME AND I THINK A FEW MORE.

I'VE DEALT WITH THIS ISSUE QUITE EXTENSIVELY ON A LOT OF OUR SITES, AND I'VE BEEN ON THE RECEIVING END OF A LOT OF OUR MANAGERS WHEN THEY HAVE THE CONCERN ADDRESSED IN INSPECTIONS. AND I THINK ONE THING FROM AN OPERATOR PERSPECTIVE IS WE DON'T MIND ANY INSPECTOR, BE IT LEA'S OR OTHERS, POINTING OUT AN AREA OF OBVIOUS CONCERN. AND I THINK MOST LEA'S DO THAT ANYWAY. WE APPRECIATE THAT BECAUSE WE LIKE TO TAKE CARE OF THOSE THINGS BEFORE THEY BECOME A PROBLEM.

OUR CONCERN BOILS DOWN WHEN WE START GETTING VIOLATIONS FOR THINGS THAT THEY MAY NOT HAVE ALL THE INFORMATION OR THEY MAY NOT HAVE ALL THE TRAINING FOR. SO WE HAVE TO BE REALLY CAREFUL WITH THE MOU PROCESS. UNFORTUNATELY, THAT'S ONE OF THE AREAS WHERE WE SEE IT MANIFESTING ITSELF IS IN THE PERMITS IN TERMS AND CONDITIONS WHERE THESE

22 THINGS KEEP CROPPING UP.

23 RATHER THAN ADDRESSING TOO MUCH OF IT

24 IN THIS ISSUE ON THE TIERS, I THINK THE APPROPRIATE

25 PLACE WE NEED TO BE LOOKING AT THIS IS IN THE BCP

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PROCESS WHERE WE'RE LOOKING AT WHAT IS A PERMIT ANYWAY BECAUSE A LOT OF THAT ANALYSIS GOES ON IN THE TERMS AND CONDITIONS OF PERMITS.

SO IF WE CAN LOOK AT IT IN THAT ARENA WHERE WE'RE GOING TO HAVE A LOT OF DISCUSSIONS ON EVERY TYPE OF AGENCY PURVIEW IN THESE THINGS, I THINK IT WILL BENEFIT ALL OF US TO BE LOOKING THERE. AND I THINK THERE ARE AREAS THAT NEED TO BE ADDRESSED IN TRYING TO FIGURE OUT WHERE THE THREE-HEADED MONSTER AND WHO'S IN CHARGE OF WHAT END OF IT BECAUSE I DON'T THINK ANY OF US WANT TO GET AS -- HOPEFULLY HE DOESN'T MIND ME QUOTING HIM HERE AND LATER -- FROM CAL-OSHA. NONE OF US LIKE BEING WHACKED ON BOTH SIDES OF OUR HEADS BY TWO DIFFERENT AGENCIES FOR THE SAME ISSUE. I WOULD SUGGEST THAT MAY BE A FORUM WE CAN LOOK.

CHAIRMAN FRAZEE: DO YOU SEE SOME VALUE IN AN MOU ATTEMPTING TO CLEARLY DEFINE THE AREAS OF RESPONSIBILITY?

MR. SWEETSER: I THINK IT WOULD HELP ALL OF US TO HAVE AN AREA WHERE THAT LINE IS DRAWN BECAUSE WE KEEP RUNNING INTO THE PROBLEM TIME AND TIME AGAIN. MONTHS AGO I BROUGHT FORWARD AN ISSUE

ON ONE OF OUR PERMITS WHERE IT CROSSED WITH THE

WATER BOARD. WE STILL HAVE THAT ISSUE ON WATER

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BOARD AND WHERE THE BOARD VERSUS THAT OTHER BOARD IS AT. WE STILL HAVE THAT ISSUE WITH CAL-OSHA ON WORKER SAFETY ISSUES, ESPECIALLY THE INJURY-ILLNESS PREVENTION PLAN. THAT SEEMS TO BE A TARGET TO PUT IN THERE. I DON'T THINK THERE'S A LOT OF CLARITY ON LEA'S ON WHAT THAT DOCUMENT REALLY IS.

IF WE DON'T HAVE TO SUBMIT IT TO OSHA FOR REVIEW, WHY DOES THE LEA NEED IT FOR REVIEW? IF WE HAVE IT, IT'S AVAILABLE. WE'RE COMPLYING WITH IT. SO HAVING AN MOU WHERE IT CLEARLY DELINEATES WHERE THAT LINE IS WOULD HELP. I DON'T KNOW IF THERE'S ENOUGH TIME TO DISCUSS THAT AS PART OF THE REGULATORY PACKAGE WITH THE TIERS IS MY CONCERN. IT DOES DESERVE SOME ISSUES.

CHAIRMAN FRAZEE: STEVE, HOW DO YOU FEEL?

MEMBER JONES: TALK ABOUT WHERE THE LINE IS GOING TO BE.

CHAIRMAN FRAZEE: I DON'T KNOW THAT WE CAN GET INTO THAT DEPTH. CAN WE DRAW A LINE, I GUESS, IS THE QUESTION.

MS. RICE: JUST FOR A MOMENT OF CONTEXT, AND THEN, ELLIOT, GO AHEAD. I'M SURE THAT YOU'LL HELP MORE THAN I WILL. MY UNDERSTANDING OF HOW WE ARRIVED AT PLACING THIS ISSUE ON YOUR AGENDA TODAY

25 TO GET DIRECTION FROM YOU IS THAT THERE HAS BEEN AN

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HISTORIC STANDARD REGARDING WORKER HEALTH AND SAFETY ON THE BOOKS, WASTE BOARD REGULATIONS, FOR MANY, MANY YEARS.

WE CARRIED A SIMILAR STANDARD FORWARD IN THE DRAFT REGULATION, BUT MADE SOME MODIFICATIONS WHICH HAVE GOTTEN PEOPLE'S ATTENTION. THE PRIOR REGULATION OR THE EXISTING REGULATION, AS I WOULD TERM IT, IS MORE GENERAL AND SPEAKS TO WORKER ISSUES, SUCH AS ADEQUATE TRAINING, EQUIPMENT, AND SANITARY FACILITIES, BUT DOES NOT SPEAK TO THE DETAIL OF REVIEWING THE DETAILS OF WHAT IS AT THE IIPP.

AND IN DISCUSSIONS, THEN, WITH CAL-OSHA ABOUT WHERE THE LINE IS DRAWN, IT APPEARED APPROPRIATE TO OUR STAFF TO START THINKING ABOUT WOULD AN MOU ASSIST IN CLARIFYING. WE HAVE ALWAYS HAD A REGULATION ON THE BOOKS, AND MAYBE IT HAS NEVER BEEN CLEAR WHAT THE JURISDICTION OF THE LEA WAS IN TERMS OF ENFORCING THE STANDARD AND WHEN THOSE ISSUES WERE APPROPRIATELY IN THE PURVIEW OF CAL-OSHA. ARE THERE THINGS THAT WE COULD DO IN CONJUNCTION WITH CAL-OSHA TO BETTER ASSIST AND TRAIN THE LEA.

SO IT BROUGHT THESE ISSUES TO THE

25 FORE; AND IN DOING THAT, WE GOT A LOT OF COMMENT

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THAT MAYBE THE STANDARD SHOULDN'T BE THERE AT ALL. MAYBE THE LEA SHOULD NOT BE INVOLVED IN WORKER ISSUES AT ALL, KIND OF QUESTIONING THE UNDERLYING REG THAT HAS ALWAYS BEEN THERE AND, AS I UNDERSTAND IT, SURVIVED 1220. I UNDERSTAND THAT SOME THINK IT SHOULD NOT HAVE, BUT IT DID.

AND SO WE WERE NOT TRYING TO RAISE AS A NEW ISSUE WHETHER THE LEA SHOULD BE INVOLVED IN WORKER ISSUES, BUT WE WERE TRYING TO CLARIFY THE SCOPE OF THAT. AND I THINK IT'S RAISED SOME GOOD DISCUSSION AND SHOWS US THE MERIT OF A CLOSER RELATIONSHIP WITH CAL-OSHA SO THAT WE CAN ASSIST LEA'S IN DOING THEIR JOB IF THE STANDARD STAYS IN THE REGULATION WITH CLARIFICATION AS MAY BE NEEDED BASED ON THE COMMENT WE'RE GETTING THAT IT MAY BE TOO SPECIFIC, THE LANGUAGE WE HAVE HERE. MAYBE THE MORE GENERAL KIND OF PHRASING THAT WE'VE HAD ALL THESE YEARS IS BETTER.

MEMBER JONES: WHEN I READ THE THING AND WHEN I FIRST THOUGHT ABOUT THE THING, I THOUGHT NO WAY. I MEAN I'M GOING TO BE REAL HONEST. I THOUGHT THIS WAS CRAZY FOR A LOT OF REASONS.

ONE OF THEM IS LEVEL OF EXPERTISE.

24 AND, YOU KNOW, THIS ISN'T AN ISSUE OF I DON'T WANT

25 TO PROTECT THE WORKERS. I HAD 2500 OF THEM. BUT

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IT IS IN WHAT -- WHERE IS THAT LINE DRAWN AS TO WHAT ARE THEY GOING TO LOOK AT? ARE THEY GOING TO WRITE US UP BECAUSE, YOU KNOW, AN EMPLOYEE IS WEARING A WEIGHT BELT BECAUSE HE'S BEEN WRITTEN UP BY THE DOCTOR AND SUGGESTED TO? IS HE WEARING TENNIS SHOES ON THE FACILITY WHEN OUR COMPANY RULES ARE THAT HE WEARS BOOTS, YOU KNOW, AND THOSE TYPES OF THINGS. AND PEOPLE SHRUG AND THEY SAY, NAH, THAT DOESN'T HAPPEN.

AND I'LL TELL YOU RIGHT NOW PEOPLE -- YOU KNOW, AND IT'S GOOD THAT LEA'S QUESTION THOSE TYPES OF ISSUES. BUT I'M SURE -- I DON'T WANT THEM BEING ABLE TO WRITE VIOLATIONS ON CAL-OSHA BECAUSE PRETTY SOON THEN WHAT THEY'RE GOING TO DO IS WALK AROUND AND DO LIGHT SOCKET INSPECTIONS AND -- YOU KNOW, OR I WOULD AT LEAST LIKE TO SEE HOW THE THING IS GOING TO BE DRAWN UP AS TO WHAT GENERAL GUIDELINES WOULD BE AND SOME THINGS LIKE THAT BECAUSE ON THE SURFACE I THINK IT'S A BAD IDEA TO GIVE THEM -- YOU KNOW, TO INCLUDE THAT STUFF.

NOTICE IT. I THINK IT'S IMPORTANT THAT LEA'S NOTICE THOSE ISSUES. NOTIFY CAL-OSHA IF THERE'S AN ISSUE. BUT PROBABLY MORE APPROPRIATELY

24 TALK TO THE OPERATOR, YOU KNOW, AND MAKE SURE THAT

25 THE OPERATOR IS AWARE THAT MAYBE HIS PERSONAL

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HEALTH STANDARDS FOR HIS EMPLOYEES AREN'T WHERE THEY NEED TO BE. AND IF THAT LEA DOESN'T SEE ANY RESPONSE TO THAT, WHICH I CAN'T BELIEVE WOULD HAPPEN, THEN GET IN TOUCH WITH CAL-OSHA, YOU KNOW, AND DEAL WITH IT. BUT I DON'T KNOW. I AM NERVOUS ABOUT LEA'S STARTING TO WRITE CAL-OSHA VIOLATIONS.

CHAIRMAN FRAZEE: I DIDN'T SEE THAT AS THE INTENT OF THIS AT ALL, BUT WAS CLEARLY AN EFFORT TO DRAW A LINE.

MR. MICHAELS: JUST AS A SAFETY AND HEALTH PERSON, I WOULDN'T WANT TO DISCOURAGE ANYBODY FROM MAKING A REMARK ABOUT SAFETY AND HEALTH TO ANYONE AT ANY TIME. SOMEBODY SAYS DUCK BECAUSE YOU'RE GOING TO THROW SOMETHING, I'M GOING TO DUCK AND APPRECIATE THE SUGGESTION. BUT YOU DO HAVE THE BROAD VENUE, AND I KNOW IT'S PARTICULARLY DIFFICULT FOR YOU TO -- AND FOR THE LEA'S TO DISCUSS TRAINING WITH REGARD TO RUNNING THE OPERATION AND THE TRAINING WITH REGARD TO SAFETY AND HEALTH. AND IT'S REAL MUSHY.

AND FROM WHAT I UNDERSTAND, THEY'RE ON THERE MANY MORE TIMES THAN WE ARE. SO WE WOULD ENCOURAGE THEM TO SAY DUCK WHEN SOMETHING IS COMING

24 RATHER THAN CALL US AND SAY WE GOT A FATALITY OUT

25 HERE. COULD YOU COME OUT. I ENCOURAGE YOU FOR

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YOUR HEALTH AND SAFETY WORK. AND AGAIN, ONE OF THE REASONS WE WERE HERE SO RAPIDLY IS THAT YOU DID LIST OUR AGENCY BY NAME AND THE INJURY AND ILLNESS PREVENTION PROGRAM EARLY ON IN YOUR PROPOSED REGULATION, AND THAT GOT OUR ATTENTION. THANK YOU, GENTLEMEN AND LADIES.

CHAIRMAN FRAZEE: SO DO YOU HAVE A SENSE OF DIRECTION ON THE ITEM?

MS. RICE: WELL, I SENSE TWO DIRECTIONS PERHAPS FROM THE COMMITTEE.

MEMBER JONES: IT'S PROBABLY ONE. GO AHEAD. TELL ME WHAT IT IS.

MS. RICE: WELL, OUR PREFERENCE AS STAFF IS TO MAINTAIN THE WORKER HEALTH AND SAFETY STANDARD, WORK ON MODIFICATION TO THE LANGUAGE OF THE STANDARD BASED ON THE COMMENTS RECEIVED, THAT IT MAY BE TOO SPECIFIC, AND TO CONTINUE TO WORK WITH CAL-OSHA TO ASSIST LEA'S IN DELINEATING THEIR AREA OF RESPONSIBILITY AS OPPOSED TO CAL-OSHA'S, AND TO PROVIDING APPROPRIATE TRAINING AND ASSISTANCE TO THE LEA WITH CAL-OSHA'S ASSISTANCE.

I AGREE WITH THE GENTLEMAN FROM CAL-OSHA THAT IF THE LEA IS OUT THERE MONTHLY OR MORE OFTEN, WHAT A WONDERFUL OPPORTUNITY TO FIND

25 ISSUES AND GET THEM ADDRESSED MUCH MORE QUICKLY

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THAN I UNDERSTAND CAL-OSHA WOULD BE ABLE TO DO. SO IT SEEMS LIKE THE RESPONSIBLE THING TO DO.

AND AGAIN, WE'VE HAD THE STANDARD ON THE BOOKS OR A SIMILAR STANDARD MANY, MANY YEARS AND WOULD BE LOATH TO JUST DELETE IT BECAUSE OF SOME CONCERNS THAT WE MIGHT BE ABLE TO ADDRESS, I WOULD HOPE WE COULD ADDRESS, THROUGH APPROPRIATE TRAINING.

MEMBER RELIS: AND, DOROTHY, IS DUST A SUBSET OF THAT?

MS. RICE: DUST IS ANOTHER STANDARD.

MEMBER RELIS: ANOTHER STANDARD.

MS. RICE: WE WERE NOT SPECIFICALLY REFERENCING DUST WHEN WE RAISED THIS ISSUE IS MY UNDERSTANDING. WE DO HAVE A STANDARD IN THE DRAFT REGULATIONS RELATIVE TO DUST.

MEMBER RELIS: OKAY. THAT'S ALL I CARE ABOUT IS THAT WE GET TO SOME STANDARD, SO INSTEAD OF -- THERE'S NO UNIFORM PROCEDURE AS FAR AS I CAN TELL OR STANDARD FOR DUST WHEN WE TAKE UP OUR PERMITS.

MS. RICE: BASED ON YOUR PRIOR REQUEST THAT YOU MADE EARLIER THIS MONTH, I AM HAVING STAFF

24 RESEARCH THE VARIOUS STANDARDS THAT EXIST,

25 INCLUDING CAL-OSHA, AND PLEASED TO HAVE THAT

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REFERENCE. AND WE'LL BRING THAT BACK TO YOU. SO I GUESS WE ARE SEEKING DIRECTION TO CONTINUE OUR WORK WITH CAL-OSHA ON AN MOU AND TO REFINE THE STANDARD SO THAT IT IS NOT SO SPECIFIC.

CHAIRMAN FRAZEE: OKAY. NOW, LET'S MOVE ON TO ITEM 3, THE METHOD OF PLACEMENT WITHIN TIERS.

MS. PAROLI: THE INFORMAL DRAFT REGULATIONS PLACED OPERATIONS INTO THE TIERS BY THE TYPE OF OPERATION BASED ON COMMENTS RECEIVED DURING THE DEVELOPMENT OF LIMITED VOLUME OPERATION REGULATIONS. DURING THE TRANSFER STATION WORKSHOPS, STAFF RECEIVED FEEDBACK THAT OPERATIONS AND FACILITIES BE PLACED INTO THE PERMIT TIERS BASED ON AMOUNT OF WASTE INSTEAD OF BY VOLUME -- I'M SORRY -- INSTEAD OF OPERATION TYPE.

COMMENTERS ALSO STATED THAT THERE SHOULD NOT BE A DISTINCTION IN THE TIER PLACEMENT BETWEEN TRANSFER AND PROCESSING ACTIVITIES SINCE MOST TRANSFER OPERATIONS OR FACILITIES DO SOME PROCESSING.

DURING THE INFORMAL PERIOD, COMMENTERS PROVIDED VARIOUS RANGES FOR PLACING OPERATIONS AND FACILITIES INTO THE TIER BASED ON

25 AMOUNT OF WASTE. MOST OF THE COMMENTERS FELT THAT

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THE PROPOSED RANGES INCLUDED PLACING FACILITIES THAT RECEIVED 60 CUBIC YARDS THROUGH A HUNDRED TONS INTO THE REGISTRATION TIER AND FACILITIES THAT RECEIVED OVER 100 TONS INTO THE FULL TIER.

THE MAJORITY OF COMMENTERS ALSO FELT THAT STANDARDIZED PERMIT TIER WAS NOT APPROPRIATE FOR SOLID WASTE TRANSFER AND PROCESSING OPERATIONS OR FACILITIES.

STAFF RECOMMEND THAT THE OPERATIONS BE PLACED INTO THE PERMIT TIER BASED ON TONNAGE. STAFF BRINGS THIS FORWARD AS AN ISSUE FOR DISCUSSION AND DIRECTION FROM THE COMMITTEE.

CHAIRMAN FRAZEE: DISCUSSION ON THE ITEM? LET'S HEAR FROM THOSE IN THE AUDIENCE. MR. WHITE, YOU'RE NEXT.

MR. WHITE: CHUCK WHITE WITH WASTE MANAGEMENT. SEEMS LIKE WE'VE BEEN KIND OF ALL OVER THE MAP ON THIS THING SINCE THE OCTOBER '95. AS I RECALL, THE DISCUSSION WAS THAT WE HAD THE TWO-PART TEST. YOU WERE GOING TO DO A SIMILAR DEAL WITH RESPECT TO RESIDUALS AS YOU SLOT UP THE TIERS; THAT IS, A LARGER PERCENTAGE OF RESIDUALS WOULD TRIGGER YOU INTO A HIGHER TIER FOR REGULATION, ALTHOUGH

24 THAT WAS NEVER REALLY FORMALIZED.

25 THEN THAT WAS KIND OF TURNED UPSIDE

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DOWN WHEN THE STAFF CAME UP WITH THEIR PROPOSAL LAST SPRING WHERE IT WAS EXACTLY THE OPPOSITE WHERE, IN FACT, THE MORE RESIDUALS THAT YOU PROCESSED, THE LESS REGULATED YOU WERE BECAUSE THE PROCESSING STATIONS GOT HIGHER DEGREE OF PERMITTING THAN LOWER DEGREE. NOW WE'RE KIND OF LIKE BACK TO A MIDDLE GROUND WHERE EVERYBODY IS KIND OF TREATED ON THE SAME WAVELENGTH WITH RESPECT TO TOTAL AMOUNT OF MATERIALS BEING PROCESSED ONCE YOU GOT PAST THE TWO-PART TEST, AS I UNDERSTAND IT.

I THINK THIS MAY ULTIMATELY WORK, ALTHOUGH I WOULD LIKE TO BE ABLE TO HAVE THE OPPORTUNITY TO HAVE A LITTLE MORE TIME TO TAKE A LOOK AND DISCUSS THESE ACTUAL THRESHOLD LEVELS BEFORE YOU ACTUALLY BEGIN TO HARDEN INTO AN EXACT POSITION.

AND I DON'T HAVE ANY PROBLEM WITH THE ZERO TO 60 BECAUSE THERE OUGHT TO BE SOME ZERO OR SOME DE MINIMUS LEVEL FOR THE NOTIFICATION TIER. BUT THINKING BACK TO LARRY'S CHART, WHICH HE TALKED ABOUT THE IDEA OF THE STEPWISE -- REMEMBER, THE NOTIFICATION TIER WAS A VERY LOW LEVEL OF REGISTRATION; WHEREAS, THE REGISTRATION WAS A VERY

24 HIGH LEVEL OF REGULATION, AND FULL PERMIT WAS EVEN

25 HIGHER. YOU CAN'T EVEN GET TO -- IF YOU GO FROM 60

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TO A HUNDRED AS BEING YOUR REGISTRATION, YOU CAN'T EVEN GET TWO NOTIFICATION TIER FACILITIES INTO A REGISTRATION BECAUSE TWO TIMES 60 WOULD BE 120. YOU'D BE OUTSIDE IT.

SO IT SEEMS TO ME, GIVEN THE FACT YOU'RE JUMPING FROM A LEVEL OF REGULATION THAT IS VERY LOW TO ONE THAT LARRY AND OTHERS THINK IS VERY HIGH AND I AGREE IS HIGH, THAT THAT 60 TO A HUNDRED RANGE IS A PRETTY NARROW BAND OF SIZES FOR A MUCH GREATER LEVEL OF REGULATION.

SO I'M THINKING THAT THERE MAY BE A NEED TO CREATE A LITTLE BIT LARGER OPPORTUNITY, GIVEN THE FACT, PARTICULARLY, THAT YOU'RE NOT EVEN USING THE STANDARDIZED PERMIT TIER, JUST SIMPLY GOING FROM NOTIFICATION TO REGISTRATION TO FULL. I DON'T HAVE A NUMBER TO GIVE TO YOU, BUT I'D BE THINKING THAT LIKE 60 TO 200 OR 250 OR SOMETHING WOULD BE AN APPROPRIATE RANGE FOR A REGISTRATION GIVEN THE FACT THAT IT IS A PERMIT AND IT DOES TAKE INTO ACCOUNT THAT YOU'RE GIVING A SIGNIFICANT HIGHER LEVEL OF REGULATION, AND IT IS MORE THAN JUST SIMPLY TWO NOTIFICATION TIER FACILITIES BEING ELIGIBLE FOR OPERATING IN THE REGISTRATION TIER.

24 SO I'D URGE YOU TO CONSIDER AT LEAST

25 A BAND THAT MAKES IT WORTHWHILE TO EVEN CREATE THAT

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REGISTRATION PERMIT TIER IN THE FIRST PLACE, BAND OF OPERATIONS. THAT'S ALL I HAVE.

MEMBER RELIS: I THINK AT THIS POINT, IF I UNDERSTAND THINGS RIGHT, STAFF'S REALLY SEEKING DIRECTION BY EITHER TYPE OR TONNAGE. WE DON'T NEED TO PICK THE NUMBERS TODAY. SO IF WE CAN GIVE THEM THAT DIRECTION, THEN THAT'S PROBABLY ALL WE COULD DO TODAY.

MR. BLOCK: THAT'S CORRECT. THE NUMBERS THAT APPEAR ON THE BOTTOM OF PAGE 125 OF YOUR PACKET, WHICH IS I THINK WHAT MR. WHITE WAS REFERRING TO, ARE JUST A SUMMARY OF COMMENTS WE RECEIVED AT THE WORKSHOPS, NOT ANY PARTICULAR RANGES THAT WE WERE EITHER SUGGESTING OR --

MEMBER RELIS: HAVING SAID THAT --

MS. RICE: BASED ON THE ENORMITY OF COMMENT RECEIVED, WE ARE RECOMMENDING A TONNAGE APPROACH. AND IF PROVIDED THAT GENERAL DIRECTION, WE WOULD WORK ON THE APPROPRIATE NUMBERS IN THE NEXT DRAFT.

MR. BEST: YES. RICK BEST. GIVEN THE STAFF'S RECOMMENDATION, WE WOULD CONCUR. WE WERE CONCERNED ABOUT THE ORIGINAL DRAFT REGULATIONS THAT HAVE BEEN ISSUED BECAUSE WE WERE CONCERNED

25 PRECISELY FOR THE FACT THAT A FACILITY THAT WAS A

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MATERIAL RECOVERY FACILITY, BUT ONLY OPERATING TEN TONS PER DAY, LET'S SAY, WOULD BE IN THE FULL PERMIT TIER; WHEREAS, A TRANSFER ONLY STATION THAT PROCESSED A THOUSAND TONS PER DAY WOULD BE IN REGISTRATION TIER.

AND SO WE FELT THERE WAS AN EXTREME INEQUITY IN THAT. WE WOULD CERTAINLY CONCUR THAT THE QUANTITY OF MATERIAL HANDLED SHOULD BE A FACTOR, MAYBE A COMBINATION OF BOTH. I'M NOT SURE THAT -- THAT MAY MAKE THINGS TOO COMPLICATED, BUT I THINK DEFINITELY THE QUANTITY OF WASTE SHOULD BE CONSIDERED AS PART OF THAT. AT THIS POINT WE'RE NOT IN A POSITION OF PROVIDING A THRESHOLD.

I THINK OBVIOUSLY THE WASTE BOARD STAFF WENT THROUGH AN ANALYSIS WHEN IT LOOKED AT THE 10-PERCENT RESIDUE. I THINK LOOKING AT A THRESHOLD FOR THE DIFFERENT TIERS, I THINK THERE SHOULD BE AT LEAST SOME DISCUSSION OF LOOKING AT ACTUAL DATA OF THE RELATIVE IMPACTS OF THESE DIFFERENT TYPES OF FACILITIES TO THE EXTENT THAT THAT INFORMATION IS AVAILABLE.

CHAIRMAN FRAZEE: LET'S HEAR FROM MR. SWEETSER.

MR. SWEETSER: ONE MORE TIME. LARRY

25 SWEETSER, NORCAL WASTE SYSTEMS. I'LL MAKE IT QUICK

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ALSO. I THINK YOU ARE GOING TO GET UNANIMOUS AGREEMENT ON THIS ONE AS FAR AS SLOTTING, THAT GOING BY THE TONNAGES WORKS A LOT BETTER. I THINK IT'S CONSISTENT WITH THE IDEA OF ALL THE THINGS WE'VE BEEN TALKING ABOUT EARLIER TODAY WITH THE 10 PERCENT AND EVERYTHING. I THINK IT EVEN GETS TO THE HEART OF WHAT THE LEA'S WERE PROPOSING IN THEIR ALTERNATIVE IS THAT THE MORE MATERIAL YOU'RE HANDLING, THE MORE PROBLEM YOU ARE GOING TO HAVE.

IT'S ONE THING TO HAVE 10 TONS OF PUTRESCIBLE WASTE SITTING THERE CAUSING A PROBLEM VERSUS A THOUSAND TONS. AND SO BY KEEPING THE TIERS CONSISTENT WITH THAT LEVEL OF WASTE, I THINK YOU'RE GOING TO ACCOMMODATE A LOT OF THOSE PROBLEM CUSTOMERS OUT THERE. I THINK ONE OF THE LEA'S WANTS TO ADDRESS THAT.

CHAIRMAN FRAZEE: OKAY. MR. HANSON.

MR. HANSON: I REALLY LIKE THE PROPOSAL THAT THE BOARD STAFF HAS COME UP WITH IN THE AGENDA ITEM. I WOULD PROPOSE THAT THE REGISTRATION TIER BE SOMEWHAT AROUND 60 CUBIC YARDS TO A HUNDRED TONS. I'VE HEARD THAT FROM SEVERAL LEA'S.

23 HOWEVER, I THINK THAT THE RESULTS OF THE SURVEY

MAY

24 INDICATE A NATURAL BREAK IN THE DATA WHICH MIGHT

BE

25 APPROPRIATE TO SET THAT. THAT WAY IT WON'T INTER-

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FERE WITH EXISTING OPERATIONS.

I THINK THAT A STANDARD CONVERSION FACTOR IS NEEDED IF WE'RE GOING TO GO FROM VOLUME TO WEIGHT, AND SO I THINK THAT SOME WORK SHOULD BE DONE ON THAT AS TO COME UP WITH WHAT'S APPROPRIATE.

THE LAST ITEM IS I BELIEVE THAT A REGISTRATION TIER NEEDS SOMETHING MORE THAN JUST SOME SORT OF AN APPROVAL FROM THE LEA. THERE NEEDS TO BE SOMETHING LIKE A PLAN OF OPERATION SIMILAR TO WHAT WE HAVE IN THE SMALL VOLUME TRANSFER STATION BECAUSE THERE IS QUITE A JUMP FROM NOTIFICATION TO FULL PERMIT, WITH, I BELIEVE, VERY LITTLE DISCRETION GIVEN TO THE LEA.

PERSONALLY I DON'T SEE MUCH DIFFERENCE BETWEEN REGISTRATION AND NOTIFICATION, BUT I DO BELIEVE THAT SOME SORT OF SMALL DOCUMENT SIMILAR TO A -- THE EXISTING PLAN OF OPERATION WOULD BE APPROPRIATE FOR A REGISTRATION TIER.

CHAIRMAN FRAZEE: MR. EDGAR.

MR. EDGAR: EVAN EDGAR REPRESENTING THE CALIFORNIA REFUSE REMOVAL COUNCIL. WE DO SUPPORT THE SLOTTING OF THE FACILITIES BY SIZE INSTEAD

OF

23 BY TYPE.

24 I ALSO WANTED TO POINT OUT THAT

THE

25 LEA'S GENERALLY WANT FACILITIES THAT HANDLE MSW

TO

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BE PLACED IN A FULL PERMIT THAN A STANDARDIZED PERMIT. WHAT THEY'RE ALLUDING TO THERE IS THE ABILITY TO UP TIER FOR FLEXIBILITY. AS AN EXAMPLE FOR THE COMPOSTING, WHEN YOU'RE STUCK IN THE STANDARDIZED PERMIT TIER, YOU HAVE VERY LITTLE FLEXIBILITY. AT THE DISCRETION OF THE OPERATOR SOMETIMES WE LIKE TO UP TIER INTO THE FULL PERMIT TO GIVE US THE ABILITY TO HAVE SITE-SPECIFIC CONDITIONS SO WE DON'T HAVE TO COME BACK IN FRONT OF THE BOARD TO GET A NEW STANDARDIZED PERMIT EACH AND EVERY TIME WE HAVE A MINOR CHANGE.

SO THAT'S A KEY POINT. I REALIZE THERE MAY NOT BE ANY TRANSFER STATIONS WITHIN THE STANDARDIZED PERMIT OR ANY MRF'S WITHIN A STANDARDIZED PERMIT; BUT AS PART OF THE LANGUAGE, WE WOULD LIKE TO LOOK AT THAT IN THE FUTURE TO HAVE THE ABILITY TO UP TIER FOR FLEXIBILITY. THANK YOU.

MEMBER RELIS: MR. CHAIR, I CERTAINLY -- I THINK I'M PERSUADED THAT WE SHOULD GO WITH THE MEASURE INSTEAD OF THE TYPE. AND I GUESS THAT'S IN TONS AND THEN THERE WOULD BE A CONVERSION FACTOR, AND THAT WOULD BE CONSISTENT WITH OUR OTHER WAYS OF MEASURE. SO IF THAT'S THE DIRECTION, I WOULD RECOMMEND THAT WE GIVE THAT DIRECTION TO STAFF.

25 CHAIRMAN FRAZEE: WITH THE EXCEPTION,

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THOUGH, OF THE INITIAL.

MEMBER JONES: NOTIFICATION, IS THAT WHAT YOU MEAN?

CHAIRMAN FRAZEE: YEAH. WITHOUT THAT ONE, THAT ONE STAY AT YARDS FOR THE SIZE OF CONTAINER PURPOSE, BUT THEN JUMPING TO A TON MEASURE FOR THE REGISTRATION PERMIT.

MEMBER JONES: AND THEN WOULD IT, AS PART OF THE PROCESS, WE'D LOOK AT -- YOU GUYS WOULD GET COMMENT OR WHATEVER OR LOOK AT AVAILABLE DATA TO FIGURE OUT WHERE THE BREAKS ARE IN PLAN OF OPERATIONS, THOSE TYPES OF THINGS. YEAH, I LIKE THIS. I MEAN THIS IS FINE WITH ME. I THINK IT'S GOOD WORK.

CHAIRMAN FRAZEE: OKAY. DO YOU HAVE ENOUGH ON THAT? NOW LET'S GO TO ADDITIONAL EXCLUSIONS.

MS. REHBERG: STAFF PROPOSES TO ADD ADDITIONAL EXCLUSIONS TO THE EXISTING REGULATIONS FOR COLLECTION YARD OPERATIONS, RENDERING PLANTS, IGLOOS, RECYCLING CONTAINERS, SCRAP METAL RECYCLERS AND DEALERS, AND AUTO DISMANTLERS, AND BASED ON COMMENTS RECEIVED DURING THE INFORMAL COMMENT PERIOD. STAFF BRINGS THIS FORWARD AS AN ISSUE FOR

25 DISCUSSION AND DIRECTION FROM THE COMMITTEE.

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COMMENTS RECEIVED DURING THE WORKSHOPS HAVE BEEN IN SUPPORT OF ADDING SOME ADDITIONAL EXCLUSIONS.

MEMBER RELIS: WHAT HAVE THOSE BEEN? THOSE THAT ARE LISTED.

MS. REHBERG: IN WRITTEN FORM.

CHAIRMAN FRAZEE: THE WASTE COLLECTION YARD OPERATIONS, CAN YOU GIVE US AN IDEA OF WHAT THAT ENCOMPASSES?

MS. HAPPERSBERGER: THAT WOULD BE COLLECTION TRUCKS AND WHERE THEY PARK THEIR TRUCKS.

CHAIRMAN FRAZEE: DOES THAT GET TO THE SEALED CONTAINER ISSUE?

MS. HAPPERSBERGER: NO.

MEMBER RELIS: THAT'S LIKE A SERVICE YARD OR A STORAGE?

MS. HAPPERSBERGER: LIKE A SERVICE MAINTENANCE YARD.

MEMBER RELIS: MAYBE THAT TERM, I FEEL UNCOMFORTABLE WITH THAT TERM, "WASTE RECOLLECTION YARD OPERATIONS."

MS. HAPPERSBERGER: WE CAN LOOK AT THAT.

CHAIRMAN FRAZEE: DO YOU WISH TO COMMENT ON THAT, MR. SWEETSER?

MR. SWEETSER: PARTICULARLY ON THAT NOTE.

25 LARRY SWEETSER AGAIN. MY UNDERSTANDING OF WHAT

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THAT IS IS PART OF WHAT'S ALREADY IN THE STATUTE IS THERE'S MANY OCCASIONS WHEN A HAULER AT THE END OF A DAY, PARTICULARLY A FRIDAY, WILL HAVE A FULL LOAD IN THEIR TRUCK AND WILL NEED TO STORE IT OVER A WEEKEND FOR DELIVERY ON MONDAY MORNING. AND THAT'S A LOT OF WHAT THAT ONE IS TRYING ADDRESS, NOT SO MUCH THE PROCESSING OR STRICT TRANSFER. IT IS SIMILAR TO THE SEALED, BUT IT'S NOT NECESSARILY A SEALED CONTAINER. IT CAN BE AN OPEN BOX WITH A COVER OR EVEN A GARBAGE TRUCK.

MEMBER RELIS: ISN'T IT BASICALLY WHERE YOU PARK YOUR TRUCKS? I MEAN THE FACT THAT THEY'RE FULL OVER THE WEEKEND IS ONE ISSUE, BUT ISN'T THAT WHAT YOU JUST DESCRIBED? THEY WOULD BE EXCLUDED, WHICH WOULD BE WHERE THEY PARK THEIR EQUIPMENT.

MR. BLOCK: ACTUALLY THIS PARTICULAR EXCLUSION IS A LITTLE DIFFERENT THAN SOME OF THE OTHER ONES WE'VE GOT, AND THIS IS REALLY INTENDED TO PUT INTO REGULATIONS THE EXISTING STATUTORY EXCLUSION THAT ACTUALLY REQUIRES THE BOARD TO DO REGULATIONS THAT WE'VE NEVER DONE OVER THE YEARS THAT ALLOWS THAT EXCLUSION FROM THE DEFINITION OF TRANSFER PROCESSING STATION BASICALLY UP TO 90 CUBIC YARDS IN LESS THAN 72-HOUR PERIOD.

25 IT WAS ORIGINALLY DESIGNED FOR THE

203

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TRUCKS TO GET LEFT OVER A LONG WEEKEND, LET'S SAY, AT A HAULING YARD, AND SO WE'RE JUST TRYING TO GIVE THAT ONE SOME MORE DEFINITION THAT'S IN THE STATUTE. AND SO IN A SENSE, IT'S A LITTLE DIFFERENT THAN SOME OF THE OTHER ADDITIONAL EXCLUSIONS THAT WE'RE TALKING ABOUT.

THE ACTUAL CITATION ON THAT EXCLUSION IS PUBLIC RESOURCES CODE SECTION 40200(B)(3), WHICH EXCLUDES FROM TRANSFER PROCESSING STATION THE OPERATIONS, PREMISES OF A DULY LICENSED SOLID WASTE HANDLING OPERATOR WHO RECEIVES, STORES, TRANSFERS OR OTHERWISE PROCESSES WASTE AS AN ACTIVITY INCIDENTAL TO THE CONDUCT OF A REFUSE COLLECTION AND DISPOSAL BUSINESS. IN ACCORDANCE WITH REGULATIONS ADOPTED PURSUANT TO SECTION 43309, AND WE'VE NEVER ACTUALLY ADOPTED THOSE REGULATIONS. THIS PROPOSED REGULATION WOULD, IN FACT, BE THE REGULATION TO IMPLEMENT THAT STATUTE.

MR. SWEETSER: WE ASSUME THAT TO BE NO MORE, NO LESS THAN JUST THAT ACTIVITY.

MEMBER RELIS: FURTHER CLARIFICATION? DOES EVERYONE KNOW WHAT IGLOOS ARE? I MEAN I THINK I DO, BUT IT'S NOT DEFINED WHAT AN IGLOO IS. AN

24 IGLOO FOR RECYCLABLES IS WHAT I ASSUME.

25 MS. RICE: I ASSUME FOR EACH OF THESE

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EXCLUSIONS, IF THE COMMITTEE WERE AGREEABLE TO INCLUDING THEM, WE WOULD NEED A DEFINITION IN THE DRAFT REGULATIONS FOR EACH TERM.

MEMBER RELIS: DOES IGLOOS, WOULD THAT INCLUDE, FOR INSTANCE, THE REVERSE VENDING MACHINES TOO AND THAT? I MEAN YOU'VE GOT THE TRAILERS THAT ARE PLACED LIKE THE 2020 TRAILERS YOU SEE. SO I RAISE THAT BECAUSE IT SEEMS LIKE YOU'VE DESCRIBED ONE, THE SHAPE, NOT A FUNCTION.

MR. BLOCK: IN A SENSE WHAT WE'RE TRYING TO DO WITH THESE ADDITIONAL EXCLUSIONS IS GET AT ACTIVITIES THAT WE ARE CONFIDENT WOULD NEVER FAIL THE TWO-PART TEST; BUT RATHER THAN SET THE REGULATIONS UP IN A SITUATION WHERE THERE HAS TO BE A SEPARATE ANALYSIS DONE, THAT IF IT'S THOSE TYPE OF OPERATIONS, AND A NUMBER OF THESE ARE ALREADY DEFINED, FOR INSTANCE, IN DOC'S, DEPARTMENT OF CONSERVATION'S REGULATIONS, THAT WE WOULD JUST INCLUDE THE SAME EXCLUSIONS IN OUR REGULATIONS. BASICALLY IT'S JUST A BRIGHTER LINE AND NOT GET INTO THAT ISSUE.

BUT THAT'S WHY WE WANT TO BRING THAT FORWARD BECAUSE THERE'S A -- DEPENDING ON SOME OF

24 THESE EXCLUSIONS, WE THOUGHT THAT YOU MIGHT HAVE

25 DIFFERENT OPINIONS ONE WAY OR THE OTHER ON SOME OF

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THESE.

MEMBER RELIS: OKAY. JUST WITHOUT -- YOU KNOW, I DON'T WANT TO SPEND A LOT OF TIME ON THIS NOW. BUT SAY YOU HAVE SCRAP METAL RECYCLERS AND DEALERS. SCRAP METAL RECYCLERS OFTEN TAKE OTHER THINGS. I KNOW SOME IN SANTA BARBARA, THEY TAKE PAPER, THEY TAKE GLASS. SO IS THERE SOME SPECIFIC -- THE WORDS ALL BECOME VERY IMPORTANT. AND SO I RAISE THAT. I DO NOT ASK YOU TO ANSWER.

MEMBER JONES: I RAISE IT. MR. CHAIRMAN, I AGREE WITH MR. RELIS BECAUSE, YOU KNOW, IF SCRAP METAL RECYCLERS ONLY TAKE IN SCRAP METAL, THAT'S ONE THING. BUT IF SCRAP METAL RECYCLERS OPERATE OUTSIDE OF WHAT EVERYBODY ELSE IN THE UNIVERSE HAS TO OPERATE UNDER AND CAN OPEN UP FULL RECYCLING CENTERS OR FULL TRANSFER STATIONS OUTSIDE OF THE RULES, IF THEY'RE EXCLUDED, THE TWO-PART TEST DOESN'T EVEN COME INTO -- IT'S NOT EVEN AN ISSUE.

SO I THINK THAT SCRAP METAL RECYCLERS EITHER HAVE TO BE DEFINED AS SOLELY RECYCLING SCRAP METAL OR HAVE TO BE PULLED OUT OF THAT DEFINITION. LEAVE SCRAP METAL DEALERS IN, BUT JUST SAY SCRAP METAL RECYCLERS, IF THEY WANT TO GROW THEIR

24 BUSINESS, WE CAN'T EXCLUDE THEM. WE CAN'T SAY,

25 HERE, YOU LIVE OUTSIDE OF WHAT EVERYBODY ELSE IN

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THE UNIVERSE LIVES BY. SO I AGREE WITH MR. RELIS ON THAT.

CHAIRMAN FRAZEE: OKAY. YES.

MR. SWEETSER: IF I MAY ADD. LARRY SWEETSER AGAIN. I'M IN FULL AGREEMENT WITH MR. JONES AND MR. RELIS ON THAT ISSUE. AND I THINK WE'RE GOING TO HAVE A DIFFICULT TIME TRYING TO EXACTLY DEFINE SOME OF THESE ENTITIES. WE ALL AGREE WITH THE INTENT TO TRY TO KEEP SOME OF THEM OUT OF THERE; BUT UNTIL WE HAVE THE FUNDAMENTAL UNDERSTANDING OF THE 10 PERCENT AND SOURCE SEPARATED ISSUES, IT'S GOING TO BE VERY DIFFICULT FOR THOSE THAT ARE NOT EXPLICITLY IN STATUTE NOW TO TRY AND PUT THEM IN HERE YET.

I'M NOT SAYING THEY SHOULDN'T BE IN THERE. LET'S GET THOSE DEFINITIONS SET, AND THEN WE'LL BETTER UNDERSTAND WHERE THESE FACILITIES WILL LIE.

CHAIRMAN FRAZEE: MR. HANSON.

MR. HANSON: ALTHOUGH IT'S CLEAR THAT THE ALTERNATIVE PLAN IS A HOLISTIC APPROACH TO DEAD, I STILL THINK THAT THERE'S STILL A FEW IDEAS ABOUT IT. AND I THINK THAT ONE OF THE STRONGEST CRITERIA THAT IT WAS ALL BASED ON A CONCERN OF PUBLIC

25 HEALTH, AND WE DIDN'T HAVE TO MAKE UP REASONS OF

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WHY WE WERE GOING TO EXCLUDE ANYTHING.

AND I THINK THAT IF YOU COME UP WITH SOME SORT OF A DEFINITION OR A CRITERIA ON WHY YOU ARE GOING TO EXCLUDE SOMETHING, AND IF YOU WERE TO BASE IT ON A CONCERN OF PUBLIC HEALTH, AS INDICATED IN THE ALTERNATIVE PLAN, THEN I THINK YOU WILL BE ON FIRMER GROUND, SUCH AS THE PROBABILITY OF RECEIVING WASTE THAT WOULD CONTAIN CONSTITUENTS OF A PUBLIC HEALTH CONCERN. AND THEN THE ABSOLUTE QUANTITY OF TRASH ENTERING AN OPERATION OR FACILITY DURING A SPECIFIED TIME PERIOD.

OF COURSE, ALL THIS IS TAKEN INTO CONSIDERATION AFTER YOU'VE MADE THE DETERMINATION OF WHAT'S IN AND WHAT'S OUT. AND THE DEFINITION OF CONSTITUENTS OF PUBLIC HEALTH CONCERN COULD BE PUTRESCIBLES, HAZARDOUS WASTE, MEDICAL WASTE, SAFETY WASTE, MATERIALS IF STORED IMPROPERLY THAT COULD PROVIDE A RODENT HABORAGE AND/OR A VERMIN BREEDING ENVIRONMENT. AND THEN YOU CAN GIVE EXAMPLES THAT WOULD BE OF EACH ONE OF THOSE TWO MAIN CRITERIA, SUCH AS BUY-BACKS, BECAUSE NOBODY IS GOING TO BUY TRASH, DROP-OFFS BECAUSE THERE ISN'T VERY MUCH TRASH THERE TO BEGIN WITH, AND ALL SORTS OF REASONS.

25 AT LEAST YOU WOULD HAVE A BASIC

208

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CRITERIA THAT YOU COULD APPLY TO THOSE THINGS THAT PERHAPS YOU DON'T COME OUT AND EXPLICITLY STATE THAT ARE EXCLUDED THAT MAY POP UP SOMEWHERE AND YOU DON'T HAVE TO ADD IT TO REGULATIONS IN THE FUTURE.

MEMBER RELIS: MR. CHAIR, I THINK MR. HANSON MAKES A GREAT POINT HERE. I THINK IT DOES CLARIFY THE BASIC REASON WHY WE'RE MAKING EXCLUSIONS, AND WE HAVEN'T DONE THAT EXPLICITLY. AND THE PUBLIC HEALTH REASONS ARE OBVIOUSLY PARAMOUNT. AND IF WE JUST STATE THAT, THEN I THINK ALL OF WHAT WE'RE TRYING TO DO HERE MAKES SENSE.

CHAIRMAN FRAZEE: FALLS IN PLACE. MR. EDGAR.

MR. EDGAR: THANK YOU, CHAIRMAN AND BOARD MEMBERS. EVAN EDGAR ON BEHALF OF THE CALIFORNIA REFUSE REMOVAL COUNCIL. WE CANNOT SUPPORT ANY BLANKET EXCLUSIONS FOR THE SAME REASONS THAT THAT WAS MENTIONED ALREADY.

ON BEHALF OF WHAT MR. BLOCK POINTED OUT, THE REASON WHY THE WASTE COLLECTION YARDS ARE GOING TO BE EXCLUDED BECAUSE THERE'S NOT A BLANKET EXCLUSION WITHIN PRC CODE 43009, THAT REGULATIONS SHALL PROHIBIT THE STORING OF MORE THAN 90 CUBIC

24 YARDS OF WASTE IN COVERED CONTAINERS DURING ANY

25 72-HOUR PERIOD. SO THAT'S WHAT'S BEING REFERRED TO

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THAT NEEDS TO BE PLACED IN THE REGULATIONS.

SO I BELIEVE THAT SHOULD BE PLACED IN REGULATIONS, BUT OTHER BLANKET EXCLUSIONS WE WOULD NOT SUPPORT. THANK YOU.

CHAIRMAN FRAZEE: MR. EDGAR, WHAT ABOUT THE APPROACH THAT MR. HANSON SUGGESTED OF APPLYING THE HEALTH AND SAFETY TEST AND GETTING TO EXCLUSIONS THAT WAY?

MR. EDGAR: YEAH. USING THE TWO-PART TEST AND USING THE PUBLIC HEALTH AND SAFETY WOULD BE THE WAY TO GO, CORRECT.

CHAIRMAN FRAZEE: ANYTHING ELSE ON THE ITEM?

MR. BLOCK: I NEED TO ACTUALLY PERHAPS, I THINK, ASK FOR A LITTLE BIT OF CLARIFICATION BECAUSE THE ITEM WAS RAISED AS -- FOR A REASON IT WAS LABELED ADDITIONAL EXCLUSIONS. WHEN THE BOARD LOOKED AT THIS ISSUE BACK IN 1995, THEY IDENTIFIED A NUMBER OF OPERATIONS BY NAME THAT WOULD BE IN A SENSE EXCLUDED AND THE -- ALONG THE SAME MANNER. FOR INSTANCE, AND ACTUALLY I BELIEVE THIS IS ON PAGE 130 OF YOUR PACKET. IT'S ATTACHMENT NO. 1 -- MANUFACTURERS, DEMANUFACTURERS, WIRE CHOPPERS, AUTO DISMANTLERS, BUY-BACK CENTERS.

25 AND SO WHAT WE HAD BROUGHT FORTH WERE

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SOME ADDITIONAL ITEMS TO ADD TO THAT LIST. BASED ON THE COMMENTS YOU ARE MAKING, I GUESS THE QUESTION WE WOULD HAVE IS ARE WE GOING TO CONTINUE FORWARD WITH THE ALREADY IDENTIFIED EXCLUSIONS FROM OCTOBER '95, BUT NOT ADD THESE ADDITIONAL ONES, OR ARE THE COMMENTS BROADER THAN THAT?

MEMBER RELIS: WELL, ACTUALLY NOW THAT YOU BRING THIS UP, THAT'S WHAT I REMEMBERED. WE SPENT A LOT OF TIME ON -- IN FACT, I THINK THERE WERE MAYBE WHOLE HEARINGS ON EACH OF THESE EXCLUSIONS OR OUTSIDE THE REGULATORY TIERS, AS WE PUT IT. AND ARE YOU SAYING THAT, THEN, THE ADDITIONAL LIST IS THE RESULT OF FURTHER INPUT, FURTHER THOUGHTS FROM STAFF?

MR. BLOCK: FURTHER COMMENTS FROM THE WORKSHOPS.

MEMBER RELIS: FURTHER COMMENTS WHERE THERE'S A BELIEF THAT THERE'S A NEED FOR ADDITIONAL LISTING?

MR. BLOCK: THAT'S CORRECT.

MEMBER RELIS: OKAY. WELL, I THINK IT ALL COMES BACK SUBJECT TO THE DEFINITIONS OF THE -- WHAT'S IN, WHAT'S OUT. SO I WOULD SAY I THINK IT'S A WORTHWHILE IDEA, BUT I WOULD RESERVE JUDGMENT,

25 FINAL JUDGMENT, UNTIL WE HAVE THE OTHER FACTORS

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BEFORE US.

MS. RICE: SO WE WILL BRING IN THE NEXT DRAFT PARTICULAR LANGUAGE FOR EXCLUSIONS AND THE DEFINITIONS FOR THOSE ACTIVITIES FOR YOUR CONSIDERATION.

MEMBER RELIS: AND THE HEALTH AND THE -- YEAH, BUT WE'RE NOT THROWING OUT THE OTHER LIST WHICH WE LABORED OVER EXTENSIVELY.

MEMBER JONES: THEN WE'RE GOING TO TALK -- I MEAN YOU'RE GOING TO INCLUDE THAT SCRAP METAL RECYCLER ISSUES THAT WE TALKED ABOUT IN THAT DEFINITION, RIGHT?

CHAIRMAN FRAZEE: OKAY. WE EXHAUSTED THAT ITEM.

THEN ITEM 5, OPERATORS OBTAINING THE APPROPRIATE TIERED PERMIT.

MS. PAROLI: THIS INFORMAL DRAFT REGULATIONS INCLUDED A PROVISION THAT OPERATORS ALREADY POSSESSING A VALID PERMIT OBTAIN THE APPROPRIATE TIER PERMIT AT THE NEXT PERMIT REVIEW OR REVISION. THE PERMITTED AMOUNT AND NOT THE ACTUAL TONNAGE WOULD DETERMINE THE APPROPRIATE TIER.

FOR THE PURPOSES OF OUR DISCUSSION

24 HERE, AS AN EXAMPLE ONLY, ANYTHING ABOVE A HUNDRED

25 TONS PER DAY WILL REQUIRE A FULL PERMIT AND LESS

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THAN A HUNDRED TONS PER DAY WOULD REQUIRE A REGISTRATION.

AN OPERATOR POSSESSING A FULL PERMIT THAT ALLOWS A MAXIMUM DAILY THROUGHPUT OF 150 TONS PER DAY, BUT CURRENTLY IS RECEIVING ONLY 50 TONS PER DAY BECAUSE WASTE FLOW FROM THE SERVICE AREA IS SLOW FOR SOME OR ANY REASON, SUCH AN OPERATOR WOULD STILL BE ELIGIBLE FOR THE FULL PERMIT. AN OPERATOR WHO POSSESSES A FULL PERMIT AT A LEVEL OF A MAXIMUM DAILY THROUGHPUT OF 50 TONS WOULD BE REQUIRED TO GET A REGISTRATION PERMIT.

AGAIN, FOR THOSE OPERATORS THAT ALREADY HAVE A FULL PERMIT, THE APPROPRIATE TIER WOULD BE BASED ON WHAT THE PERMIT ALREADY ALLOWS, NOT WHAT THE FACILITY ACTUALLY RECEIVES IF IT'S LESS THAN THE PERMITTED AMOUNT.

FOR NEW FACILITIES, THE LEVEL OF OPERATION THAT THE OPERATOR SUBMITS AN APPLICATION FOR WOULD DETERMINE THE TIER.

DURING THE WORKSHOP, IT WAS SUGGESTED THAT OPERATORS SHOULD HAVE THE CHOICE TO RETAIN THE FULL PERMIT FOR THE FOLLOWING REASONS: A FULL PERMIT ALLOWS MORE FLEXIBILITY AND PROVIDES A MARKED ADVANTAGE OVER THE LOWER TIERED PERMITTED

25 OPERATION; A FULL PERMIT MINIMIZES UNNECESSARY

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PUBLIC COMMENTS ON PLANNED OPERATIONAL EXPANSIONS; A FULL PERMIT PROCESS WAS EXPENSIVE, AND SOME OPERATORS BELIEVE THAT THEY SHOULD BE ABLE TO RETAIN THE FULL PERMIT.

STAFF BELIEVE THAT REQUIRING THE APPROPRIATE TIER WILL OFFER THE FOLLOWING ADVANTAGES: IT WOULD HELP MAINTAIN THE INTENT OF THE TIER FRAMEWORK; IT WOULD REDUCE THE CONCERNS REGARDING INCONSISTENCIES AND STATEWIDE UNIFORMITY FOR THE PLACEMENT OF OPERATIONS INTO THE TIERS; THE OPERATOR WILL NOT -- THE OPERATOR WILL KNOW WHAT PERMIT TIER AND REQUIREMENTS WOULD BE REQUIRED OF THEM; THE APPROPRIATE TIER PLACEMENT REDUCES UNNECESSARY OVERSIGHT AND STRINGENT PERMIT APPLICATION AND REVIEW PROCEDURES; THE REQUIREMENT WOULD NOT ADD ANY ADDITIONAL COST TO THE OPERATOR, AND AT THE SAME TIME ALLOW THE OPERATOR TO BE PLACED INTO A TIER BASED ON THEIR APPLICATION; FULL PERMITS WOULD REQUIRE MONTHLY INSPECTION WHICH MAY ADD TO THE OPERATOR'S COST.

SINCE OPERATIONS WILL BE PLACED INTO THE PERMIT TIERS BY PERMITTED TONNAGE, NOT ACTIVITY, STAFF RECOMMEND THAT THE OPERATIONS SHOULD OBTAIN THE APPROPRIATE TIER AT THE NEXT

25 PERMIT REVIEW OR REVISION. STAFF BRINGS THIS

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FORWARD AS AN ISSUE FOR DISCUSSION AND DIRECTION FROM THE COMMITTEE.

CHAIRMAN FRAZEE: LET'S TAKE A FIVE-MINUTE BREAK HERE.

(RECESS TAKEN.)

CHAIRMAN FRAZEE: CALL THE MEETING BACK TO ORDER THEN. WHEN WE BROKE, WE WERE DISCUSSING THE ITEM THE METHOD OF PLACEMENT WITHIN THE TIERS, AND WE HAD HAD THE STAFF REPORT ON THAT. AND IT'S BEFORE THE COMMITTEE FOR DISCUSSION OR FOR ADDITIONAL COMMENT.

MEMBER JONES: NO SPEAKERS? NOBODY IS SPEAKING? WAIT. HE WAS SLEEPING IN THE BACK OF THE ROOM, I GUESS. ANYBODY ELSE ASLEEP BACK THERE?

MR. SWEETSER: LARRY SWEETSER I HOPE FOR ONE LAST TIME TODAY. AS FAR AS OBTAINING THE REGULATORY TIERS, I THINK WE'RE ALL LOOKING FOR THE SAME FLEXIBILITY THAT STAFF'S BEEN PROPOSING, ESPECIALLY WHEN YOU'VE GONE TO THAT EFFORT. MANY OF US, EVEN THOUGH -- IF WE ARE ABLE TO GO INTO A LOWER TIER, WE'LL TAKE THE ADVANTAGE OF DOING THAT, BUT THERE MAY BE OCCASIONS WE WANT UPPER TIERS, ESPECIALLY, LIKE IT OR NOT, THERE'S MANY A

25 CONTENTIOUS TIME WHEN WE HAVE TO -- WE'RE IN

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ARGUMENTS OR DISCUSSIONS WITH LEA'S TRYING TO RESOLVE AN ISSUE. AND THE BEST WAY TO RESOLVE THAT SOMETIMES IS TO PUT IT AS A TERM AND CONDITION WITHIN THE PERMIT. AND THAT GIVES BOTH SIDES ASSURETY OF WHAT THE UNDERSTANDING IS. AND BY DOING THAT, ONLY THE FULL TIER ALLOWS THAT FLEXIBILITY.

SOMETIMES, LIKE IT OR NOT, THAT MAY BE THE BEST WAY TO ADDRESS IT, AND THAT'S WHY WE THINK IT WOULD BE BEST FOR FLEXIBILITY PURPOSES TO STAY WITHIN THE -- BECAUSE IF YOU DROP US DOWN BY FORCE, WE START ARGUING AGAIN OVER DEFINITIONS. SO I THINK THE SHORT ANSWER IS WE'D LIKE TO MAINTAIN THAT FLEXIBILITY.

CHAIRMAN FRAZEE: WE'RE DEALING WITH TWO ISSUES HERE, AS I SEE IT. ONE IS THE ABILITY TO -- FOR AN OPERATOR TO, AT THE TIME OF RENEWAL OF THE PERMIT, TO RETAIN THE HIGHER PERMIT ALTHOUGH THEY ARE NOT OPERATING WITHIN THAT MODE, AND THE OTHER ONE IS A NEWLY PERMITTED FACILITY, SHOULD THAT FACILITY BE ALLOWED TO GO ABOVE WHAT THEY'RE ACTUAL THROUGHPUT IS.

MS. RICE: CORRECT.

CHAIRMAN FRAZEE: AND THE PROPOSAL AS

25 WRITTEN NOW WOULD NOT ALLOW THAT IN EITHER CASE.

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WELL, IN THE CASE OF DOWNGRADING A PERMIT AT THE TIME OF REVIEW OR RENEWAL.

MS. PAROLI: WHAT STAFF IS RECOMMENDING IS THAT THEY WOULD HAVE TO DOWN TIER, AND FOR NEW FACILITIES THEY COULD NOT UP TIER. THEY WOULD GET WHATEVER THEIR APPLICATION WAS REQUESTING FOR.

CHAIRMAN FRAZEE: I THINK MR. SWEETSER IS SAYING SOMETHING ELSE. HE'S SAYING THE OPPOSITE OF THAT.

MR. SWEETSER: IN BOTH CASES.

MEMBER JONES: AND I -- IN MY BRIEFING I BROUGHT THE SAME ISSUES UP. SOMEBODY GETS A FULL SOLID WASTE FACILITY PERMIT, GOES THROUGH AN EIR, GOES THROUGH THESE THINGS, THAT PERSON HAS GOT A RIGHT TO PROTECT THAT INVESTMENT AND TO GROW THEIR BUSINESS. I MEAN AS LONG AS THEY'RE PAYING THE FEES FOR INSPECTIONS, AS LONG AS THEY'RE TAKING CARE OF THEIR ISSUES AND THEY'RE WILLING TO GO THROUGH, HOW WE CAN COME IN AS A STATE AND SAY YOU DON'T HAVE A WASTESTREAM TO SUPPORT THIS, WE'RE GOING TO DOWN TIER YOU, I THINK IS VERY DANGEROUS, A VERY DANGEROUS INTRUSION.

I MEAN I THINK THAT IF YOUR FACILITY IS BUILT AND CAN HANDLE A CERTAIN AMOUNT OF WASTE

25 AND YOU USED TO HAVE IT OR YOU WANT TO HAVE IT,

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THERE HAS TO BE SOME FLEXIBILITY THERE. WHAT YOU ARE SAYING IS THEY MUST GO DOWN INTO THAT APPROPRIATE TIER. AND, YOU KNOW, WHO IS GOING TO INCUR THOSE COSTS IF THEY CAN GROW THEIR BUSINESS AND GO UP TO A HIGHER TIER? WE'RE NOT. WE'RE GOING TO ASK THE OPERATOR TO. I HAVE A HARD TIME UNDERSTANDING THAT.

MEMBER RELIS: WHAT'S THE HARM?

BOARD MEMBER JONES: WHAT IS THE HARM?

MR. WHITE: CHUCK WHITE WITH WASTE MANAGEMENT. I WAS GOING TO SAY WHAT'S THE HARM. WE WOULD BE PRO CHOICE ON THIS ISSUE. WE ACTUALLY HAVE FACILITIES THAT MIGHT BE EXEMPT UNDER THE TWO-PART TEST FROM HAVING TO GET ANY PERMIT AT ALL AND WE ALREADY HAVE A SOLID WASTE PERMIT FOR THEM, AND WE'D LIKE TO BE ABLE TO RETAIN THE SOLID WASTE PERMIT, EVEN THOUGH IT'S TOTALLY EXEMPT FROM HAVING TO BE WITHIN THE BOARD'S EXCLUDED REGULATORY STRUCTURE. SO WE'D LIKE TO BE ABLE TO HAVE THAT FLEXIBILITY, NOT ONLY FOR EXISTING PERMITTED FACILITIES, BUT FOR NEW PERMITTED FACILITIES AS WELL.

CHAIRMAN FRAZEE: OKAY. I THINK I SEE

24 CONSENSUS ON THE COMMITTEE TO RETAIN THE FLEXI-

25 BILITY IN THIS ISSUE. OKAY. NOW WHAT ELSE?

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MS. RICE: I BELIEVE THAT CONCLUDES OUR ISSUES.

MEMBER JONES: I JUST HAD ONE QUESTION. THE SECOND ITEM WHERE WE TALKED ABOUT SEPARATED FOR REUSE AND SOURCE SEPARATED, WHAT DIRECTION DOES STAFF FEEL THAT THEY'VE GOTTEN HERE? BECAUSE THOSE -- THERE WERE TWO -- YOU KNOW, WE HAVE -- I THINK THIS ISSUE WAS ORIGINALLY THAT STAFF WAS PROPOSING TO MERGE THOSE TWO DEFINITIONS INTO ONE, AND IS STAFF NOW OF THE UNDERSTANDING THAT THERE ARE TWO DEFINITIONS -- THAT WE NEED TO KEEP TWO?

MS. RICE: CORRECT. I HEARD OVERWHELMING COMMENT AND DISCUSSION FROM MEMBERS AND AUDIENCE ON RETURNING MORE OR LESS TO THE TWO DEFINITIONS THAT WERE INCLUDED IN THE '95 DECISION WITH SOME CLARIFYING ISSUES THAT HAVE BEEN RAISED. AND WE'LL BE WORKING ON THOSE CLARIFYING ISSUES BECAUSE DIFFERENT PARTIES RAISED DIFFERENT CLARIFYING ISSUES.

SO I'M CLEAR THAT WE ARE LOOKING AT TWO DEFINITIONS, ONE FOR EACH TERM, BUT WHAT THE EXACT WORDS WOULD BE, I THINK, NEEDS TO BE WORDSMITHED A BIT, LOOKING AT ALL THE COMMENTS RECEIVED BECAUSE A NUMBER OF FOLKS PUT DIFFERENT

25 EXAMPLES UP WHERE THE WORDS WERE SLIGHTLY

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DIFFERENT.

MEMBER JONES: HOW WILL THE PROCESS GO?

MS. RICE: GETTING TO A RECOMMENDATION OVERALL -- FIRST OF ALL, I'D LIKE TO REALLY THANK YOU FOR THE TIME YOU SPENT ON THIS. THIS WAS VERY VALUABLE FOR US. WE'VE BEEN STUMBLING A BIT WITH THE RULEMAKING AND REALLY APPRECIATE YOUR GUIDANCE TODAY FROM ALL OF YOU.

IN STAFF REPORT THE RECOMMENDATION OVERALL IN THERE WAS THAT, BASED ON YOUR GUIDANCE TODAY, WE WOULD LIKE TO REDRAFT THE REGULATIONS AND START THE OAL PROCESS. I WOULD LIKE TO REVISE THAT RECOMMENDATION AND INSTEAD REQUEST THAT, BASED ON THE DIRECTION YOU'VE GIVEN US TODAY, WE WOULD LIKE TO REDRAFT THESE REGULATIONS WITH YOUR DIRECTION AND RETURN TO YOU IN OCTOBER WITH THAT DRAFT FOR YOU TO LOOK AT AND FOR THE AUDIENCE TO LOOK AT. AND AT THAT TIME WE MAY BE IN A POSITION TO REQUEST THAT YOU GIVE US THE OKAY TO BEGIN THE OAL PROCESS, BUT I THINK WE SHOULD COME BACK WITH THE LANGUAGE GIVEN THE DEPTH OF THIS ISSUES AND THE FACT THAT SOME OF THEM YOU GAVE US A CONCEPTUAL APPROACH, AND THEN WE NEED TO SHOW YOU THE LANGUAGE.

24 MEMBER JONES: BECAUSE I THINK ON THE

25 SOURCE SEPARATED AND SEPARATED FOR REUSE, I DON'T

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WANT TO GET INTO THE DISCUSSION NOW AS TO WHICH OF THE VERSIONS WE'RE GOING TO USE, BUT I THINK IT'S CLEAR THAT, YOU KNOW, WHEN THE WORDSMITHING IS -- MAYBE WE NEED TO SEE BOTH OF THESE BECAUSE I THINK THE STATUTE -- YOU KNOW, IF THE STATUTE'S LANGUAGE NEEDS TO BE INCLUDED IN THE DEFINITION, WHICH I THINK IT DOES, OKAY, THE BOARD MEMBER THINKS THAT WE TAKE RETURNING THEM TO THE ECONOMIC MAINSTREAM IN THE FORM OF RAW MATERIAL FOR NEW, REUSED, OR RECONSTITUTED PRODUCT WHICH MEETS THE QUALITY STANDARDS NECESSARY TO BE USED IN THE MARKETPLACE GETS TAGGED ON TO THE END OF REUSE.

I'M NOT -- YOU KNOW, THAT'S MY PERSONAL OPINION BECAUSE I THINK THAT CLARIFIES WHAT AB 939'S LANGUAGE HAD. BUT I DON'T WANT TO GET INTO THAT DEBATE, SO I WOULD LIKE TO AT LEAST SEE THE LANGUAGE AND WHERE IT'S BEING DRAWN FROM. OKAY. YOU KNOW WHAT I'M SAYING?

MS. RICE: ABSOLUTELY.

MEMBER JONES: IF WE'RE GOING TO SEE TWO SETS OF LANGUAGE, I WANT TO KNOW WHAT THE SUPPORT IS BEHIND IT. IF THE SUPPORT IS THE LAW OR THE SUPPORT IS THE CONCEPT, I WANT TO MAKE SURE THAT WE

24 FULFILL, YOU KNOW, THE -- ALL THAT WORK THAT WAS

25 DONE ON AB 939 TO MAKE SURE THAT THE LAW WAS

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CRAFTED IN SUCH A WAY. AND THIS COMES RIGHT OUT OF STATUTE, THE LANGUAGE.

MS. RICE: WE WILL CERTAINLY DO THAT.

CHAIRMAN FRAZEE: OKAY. SHOULD WE HAVE A MOTION ON THE ITEM?

MR. BLOCK: WE'VE ACTUALLY DONE THIS AS A STATUS UPDATE, NOT A CONSIDERATION ITEM, SO YOU DON'T NEED TO DO THAT.

CHAIRMAN FRAZEE: THE STAFF DID PRESENT CHOICES.

MEMBER RELIS: MY UNDERSTANDING IS, AS FAR AS WE WENT, IS WE GAVE DIRECTION.

MS. RICE: WE RECEIVED YOUR DIRECTION AND I'M HAPPY WITH THAT.

CHAIRMAN FRAZEE: OKAY. GOOD ENOUGH. ANYTHING ELSE TO COME?

MS. RICE: NO. AND I'M ASSUMING THE ITEM WOULD NOT GO TO THE BOARD. IT IS SIMPLY DIRECTION FROM THE COMMITTEE.

CHAIRMAN FRAZEE: OKAY. ANYTHING ELSE? ANY PUBLIC COMMENT? OPEN DISCUSSION? IF NOT, THE MEETING IS ADJOURNED.

(THE MEETING WAS THEN ADJOURNED AT

25 4:10 P.M.)

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