

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF THE:

REGULAR MONTHLY BUSINESS)
MEETING)
_____)

DATE AND TIME: WEDNESDAY, JULY 29, 1998
9:30 O'CLOCK A.M.

PLACE: BOARD HEARING ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA 95826

REPORTER: CYNTHIA L. HALL
CERTIFICATE NO. 10064

A P P E A R A N C E S

Mr. Daniel G. Pennington, Chairman
Mr. Robert C. Frazee, Vice Chairman
Mr. Dan Eaton, Member
Mr. Steven R. Jones, Member

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SACRAMENTO, CALIFORNIA:

WEDNESDAY, JULY 29, 1998, 9:30 O'CLOCK A.M.

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CALL TO ORDER

CHAIRMAN PENNINGTON: GOOD MORNING, AND
WELCOME TO THE JULY MEETING OF THE CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD.

WILL THE SECRETARY CALL THE ROLL,
PLEASE?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: HERE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: HERE.

THE SECRETARY: JONES?

MEMBER JONES: HERE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: HERE. WE HAVE A

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QUORUM. BARELY, BUT WE HAVE ONE. AS THE PUBLIC WILL NOTE, MR. CHESBRO IS NOT HERE. MR. CHESBRO IS ON A LEAVE OF ABSENCE AND, THEREFORE, WILL NOT BE PART OF ANY OF THE ROLL CALLS BECAUSE HE'S NOT ACTUALLY PART OF US AT THE MOMENT. AND WE KNOW HE'S OUT BEATING THE BUSHES FOR VOTES.

EX PARTE COMMUNICATIONS

CHAIRMAN PENNINGTON: DO ANY OF THE BOARD MEMBERS HAVE ANY *EX PARTES*? I'LL START WITH MEMBER EATON.

MEMBER EATON: I HAVE THREE, ORAL. ONE FROM MR. MARC APREA ON MONDAY, JANUARY 27TH, REGARDING SENATE BILL 1340 BY SENATOR POLANCO, DEALING WITH THE LIABILITY ISSUES BETWEEN LOCAL GOVERNMENTS AND OPERATORS. IN ADDITION, YESTERDAY I HAD TWO SEPARATE ORAL CONVERSATIONS, ONE WITH KENT STODDARD OF WASTE MANAGEMENT, INC., AND CHUCK WHITE, OF WASTE MANAGEMENT, INC., REGARDING ITEM 11 ON TODAY'S AGENDA.

CHAIRMAN PENNINGTON: VERY GOOD. MEMBER JONES?

MEMBER JONES: THANKS, MR. CHAIRMAN. JUST TWO QUICK ONES TODAY, VERBAL. LARRY SWEETSER AND

DENISE DELMATIER ON SOME AB 939 ISSUES. AND STEVE MAGUIN AND AL MARINO ON THE 21ST CENTURY. EVERYTHING ELSE IS UP TO DATE.

CHAIRMAN PENNINGTON: OKAY. VERY GOOD. MR. FRAZEE?

MEMBER FRAZEE: MINE ARE ALL RECORDED IN THE RECORD.

CHAIRMAN PENNINGTON: VERY GOOD. THANK YOU.

I HAVE THE SAME LETTER THAT MEMBER EATON REFERRED TO, I BELIEVE, FROM BROWNING- FERRIS, OR MARK LEARY, I BELIEVE IT WAS. AND I HAVE ONE FROM SENATOR PEACE AND ONE FROM CHUCK WHITE AT WASTE MANAGEMENT. I HAD A BRIEF DISCUSSION THIS MORNING WITH BOB HOUSTON RELATED TO SOME TIRE DISPOSAL SITUATIONS IN SAN BERNARDINO COUNTY. AND I THINK THAT'S ALL THAT I HAVE. I THINK EVERYTHING ELSE IS IN THE RECORD THERE.

PROCEDURES AND ANNOUNCEMENTS

CHAIRMAN PENNINGTON: OH, THERE ARE SPEAKER SLIPS AT THE BACK OF THE ROOM. IF ANYBODY WISHES TO ADDRESS THE BOARD ON ANY PARTICULAR ITEM, WOULD YOU PLEASE FILL OUT A SPEAKER SLIP, GET IT TO MS. KELLY HERE WHO WILL MAKE SURE THAT WE GET YOU HEARD ON WHATEVER ITEM IT IS THAT YOU'RE INTERESTED IN.

ANNOUNCEMENTS. ITEMS 8-C, 15, AND 25
HAVE BEEN PULLED FROM TODAY'S AGENDA.

I BELIEVE MEMBER JONES HAS SOME COMMENTS
ON ITEM 25. WOULD YOU LIKE TO....

MEMBER JONES: THANK YOU, MR. CHAIRMAN.
NUMBER 25 IS THE CONSIDERATION OF TO CHANGE THE BASE-
YEAR FOR 1997 FOR TULARE COUNTY. AND THE PROPONENT OF
THAT -- OR, THE COUNTY PULLED THAT ITEM.

I JUST WANT TO SAY I HAD SOME QUESTIONS
ON THE ITEM THAT KIND OF STRUCK ME UNUSUAL, THAT
DISPOSAL WENT UP EIGHT PERCENT, GENERATION WENT UP 40,
AND RECYCLING WENT UP 1200. SO I ASKED FOR SOME MORE
INFORMATION AND THEY OBVIOUSLY DIDN'T HAVE ENOUGH TIME
TO GET IT TOGETHER. BUT I WOULD LIKE TO MAKE SURE
THAT WE, AS AN ORGANIZATION, GO OVER THESE THINGS AS
WE ALWAYS DO, WITH A FINE-TOOTH COMB, BECAUSE IT DOES
TEND TO RAISE MY AWARENESS OF SOME OF THESE ISSUES AND
THE INVESTMENT THAT'S BEEN MADE WHEN THESE KIND OF
THINGS COME UP. BUT, THEY HAVE THE RIGHT TO PULL IT,
SO THAT'S OKAY WITH ME.

CHAIRMAN PENNINGTON: OKAY. THANK YOU,
MEMBER JONES.

ITEM 26 IS ALSO PULLED FROM THE CONSENT

CALENDAR FOR A BRIEF PRESENTATION BY STAFF TO
ACKNOWLEDGE SOME EXCEPTIONAL WORK BY OUR LOCAL
GOVERNMENT PARTIES ON THE DIVERSION GOALS.

ITEM 5, 6, AND 10 WILL BE HEARD
FOLLOWING ITEM 26 IN THE FOLLOWING ORDER: ITEM 5,
ITEM 10, AND THEN ITEM 6.

MEMBER JONES: AFTER 26?

CHAIRMAN PENNINGTON: AFTER 26, CORRECT.

AGENDA ITEM NO. 1: REPORTS OF BOARD'S COMMITTEES

CHAIRMAN PENNINGTON: NOW WE'LL HAVE REPORTS
OF THE BOARD COMMITTEES, LOCAL ASSISTANCE AND
PLANNING. MR. CHESBRO IS THE CHAIR, THAT WAS CANCELED
AS DIRECTED BY THE BOARD.

LEGISLATION AND PUBLIC EDUCATION
COMMITTEE CHAIRED BY MEMBER EATON. MEMBER EATON?

MEMBER EATON: YES, THANK YOU, MR. CHAIR.
THE LEGISLATION AND PUBLIC EDUCATION COMMITTEE MET ON
JULY 14TH TO CONSIDER THREE MEASURES NOW PENDING
BEFORE THE LEGISLATURE.

OF THESE MEASURES AB 2237 BY
ASSEMBLYWOMAN MARTHA ESCUTIA WAS HELD IN COMMITTEE
PENDING FURTHER AMENDMENTS BY THE AUTHOR, AS WELL AS
SOME CONCERNS RAISED BY THE COMMITTEE WHICH THAT BILL

IS BEFORE IT. SO, THEREFORE, WE DID NOT TAKE IT UP FOR ANY KIND OF VOTE. WE HEARD TESTIMONY AND SOME OF THE PROPOSED AMENDMENTS, BUT WE FELT THAT IT WAS NOT IN A FORM OR SHAPE IN WHICH TO BRING IT BEFORE THIS BODY.

AB 2181, BY MR. FIRESTONE, WAS SUBSTANTIALLY AMENDED SEVERAL TIMES SINCE WE FIRST HEARD THIS MEASURE. IT CAME BACK BEFORE THE COMMITTEE AND NOW IS A SCALED-DOWN VERSION OF THE ORIGINAL BILL, AND IS ON TODAY'S CONSENT CALENDAR DUE TO THE LIMITED NATURE THAT THE BILL NOW ENCOMPASSES. THE COMMITTEE ALSO VOTED TO SUPPORT THAT MEASURE IF AMENDED.

THE FINAL BILL THAT WAS HEARD THAT DAY WAS ASSEMBLY BILL 2521. THAT BILL ALSO DEALS WITH THE AB 59 APPEALS PROCESS. AND, GIVEN THE FACT THAT THIS BOARD HAD A VERY, I THINK, SUCCESSFUL AND PRODUCTIVE WORKSHOP IN THAT REGARD DOWN IN ORANGE COUNTY A SHORT WHILE BACK, THE COMMITTEE FELT THAT WHILE WE SUPPORT THIS BILL IF IT'S AMENDED, THAT IT SHOULD BE BROUGHT BEFORE THE FULL BOARD IN CASE THERE NEEDS TO BE ANY ADDITIONAL COMMENTS OR REVIEW OF THAT MATTER. AND, THEREFORE, WE WOULD ASK THAT IT BE SUPPORTED IF THAT BILL WERE AMENDED.

FINALLY, WE HEARD A SHORT UPDATE, AND A BRIEF UPDATE FROM OUR PUBLIC AFFAIRS DIVISION.

AND, THAT CONCLUDES MY REPORT FOR THIS DAY.

CHAIRMAN PENNINGTON: THANK YOU, MEMBER EATON.

PLANNING AND ENFORCEMENT COMMITTEE CHAIRED BY MR. FRAZEE.

MEMBER FRAZEE: YES, MR. CHAIRMAN. THE PERMITTING AND ENFORCEMENT COMMITTEE MET ON JULY 16TH. HEARD EIGHT ITEMS, FOUR OF THOSE ARE RECOMMENDED FOR TODAY'S CONSENT CALENDAR.

THE FIRST OF WHICH IS A SOLID WASTE FACILITY PERMIT FOR THE VICTORVILLE SANITARY LANDFILL IN SAN BERNARDINO COUNTY.

NUMBER TWO, THE ADOPTION OF FINANCIAL ASSURANCE REGULATIONS FOR SOLID WASTE LANDFILLS.

NUMBER THREE, THE ALLOCATION OF FISCAL YEAR '98-99 FUNDS FOR THE SOLID WASTE DISPOSAL AND CO-DISPOSAL SITE CLEANUP PROGRAM. AND A RECOMMENDATION WAS MADE TO LOOK INTO UTILIZING THE AB 2136 FUNDS FOR TIRE CLEANUP PROJECTS IF THE TIRE FEE EXPIRES.

AND THEN, FINALLY, THE LEGAL AUTHORITY

ISSUES AND OPTIONS RELATING TO BIOSOLIDS REGULATION. IN THAT MATTER THE COMMITTEE DECIDED TO NOT ENTER INTO BIOSOLID REGULATIONS AT THIS TIME BECAUSE OF THE FACT THAT THE FIELD IS PRETTY WELL COVERED AND PREEMPTED BY OTHER AGENCIES.

THE NONCONSENT ITEMS, THOSE ON THE BOARD AGENDA TODAY. FIRST, WHICH IS THE OPTIONS RELATING TO THE IMPLEMENTATION OF THE PERMIT CONSOLIDATION ZONE PILOT PROGRAM, OTHERWISE KNOWN AS SB 1299. AND THIS ITEM WAS FORWARDED TO THE BOARD AND NO VOTE WAS TAKEN.

IN THE MATTER OF WASTE MANAGEMENT ALLOWANCE TO CONTINUE USING NGIC INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCES FOR CLOSURE AND POST-CLOSURE MAINTENANCE. A TWO-O VOTE GRANTED A SIX-MONTH EXTENSION WITH CONDITIONS THAT ANY NEW PERMIT APPLICATION WOULD INCLUDE AN ALTERNATIVE FINANCIAL MECHANISM OTHER THAN NGIC. A STATUS REPORT WILL BE PROVIDED TO THE BOARD EVERY TWO MONTHS. AND THE STAFF WILL BE REVISITING REGULATIONS FROM THE EARLY '90S WHICH DEALT WITH CAPTIVE INSURERS. SO, THAT MATTER WILL BE BEFORE US TODAY.

AND THEN A PRESENTATION REGARDING VERTICAL EXPANSIONS OF SOLID WASTE LANDFILLS. THAT

ITEM WAS PUT OVER TO A SUBSEQUENT MEETING.

FINALLY, THE COMMITTEE ACTION ITEM INVOLVED THE APPROVAL TO FORMALLY NOTICE PROPOSED REGULATION PACKAGE FOR THE WITHDRAWAL OF LOCAL ENFORCEMENT AGENCY DESIGNATIONS. AND THE COMMITTEE DIRECTED STAFF TO MOVE FORWARD WITH THE 45-DAY COMMENT PERIOD.

THAT CONCLUDES MY REPORT.

CHAIRMAN PENNINGTON: THANK YOU, MR. FRAZEE.

POLICY, RESEARCH, AND TECHNICAL ASSISTANCE COMMITTEE, CHAIRED BY MEMBER JONES.

MEMBER JONES: THANK YOU, MR. CHAIRMAN. THE POLICY COMMITTEE MET ON JULY 7TH TO HEAR ONE ITEM, CONSIDERATION OF THE APPROVAL OF BOARD PROTOCOL FOR EXTERNAL SCIENTIFIC PEER REVIEW.

AFTER THE ITEM WAS HEARD, THERE WERE QUESTIONS THAT BOARD MEMBERS BROUGHT UP, AS WELL AS THE EXECUTIVE DIRECTOR, ON -- AND WHAT WE ASKED WAS FOR STAFF TO DO A LITTLE BIT MORE WORK ON THIS. THERE WAS A GOOD PRESENTATION, WE UNDERSTOOD WHAT THEY WANTED, BUT WE WANTED THEM TO ADD TO IT.

THE THREE ITEMS THAT WE HAVE SPECIFICALLY ASKED THEM TO INCORPORATE IN THE ITEM

WERE DEFINING THE DECISION-MAKING CRITERIA FOR DETERMINING WHETHER OR NOT TO EVEN CONDUCT A SCIENTIFIC PEER REVIEW; TO IDENTIFY THOSE BOARD WORK PRODUCTS THAT WOULD BE EXCLUDED FROM SCIENTIFIC PEER REVIEW, AND AN EXAMPLE OF THAT WOULD BE THE RPPC RATES, RECYCLING RATES; THE THIRD ITEM WAS TO CREATE A PROCESS THAT FORWARDS ANY APPEAL OF AN EXECUTIVE OFFICER DECISION NOT TO PEER REVIEW A WORK PRODUCT TO THE BOARD, SO THAT WE HAVE A MECHANISM IN PLACE THAT THAT CAN COME TO THE BOARD FOR FINAL DECISION.

WE ALSO ASKED STAFF TO PREPARE A LAUNDRY LIST OF THE AMOUNT OF THE BOARD ITEMS -- BOARD PRODUCTS AND REGULATIONS THAT ARE LIKELY CANDIDATES FOR PEER REVIEW IN '98-99 AND TO LET US KNOW WHAT THOSE ARE.

CHAIRMAN PENNINGTON: VERY GOOD.

MEMBER JONES: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES.

MEMBER JONES: I DON'T KNOW IF I CAN TAKE A LIBERTY? I WANT TO -- THIS MAY NOT BE THE RIGHT TIME, AND YOU CAN TELL ME WHEN IT WOULD BE.

I NEED TO GET A DEFINITION ON AB 939. THERE IS AN ADVERTISEMENT IN THE BUSINESS JOURNAL,

"SACRAMENTO BUSINESS JOURNAL," THAT SAYS: "CALIFORNIA ASSEMBLY BILL 939 MANDATES 50 PERCENT REDUCTION ON WASTE GOING IN LANDFILLS BY 2000. START BY USING A COMPACTOR."

NOW, IF IN FACT THAT IS WHAT AB 939 IS ABOUT, THEN I THINK WHAT WE HAVE TO DO IS REVERT BACK TO WHEN WE HAD OPEN GARBAGE TRUCKS, BECAUSE THAT WEIGHED 217 POUNDS. NOW WE CONSOLIDATE IT AND OUR LOADS ARE ABOUT 650 POUNDS PER YARD. AND THERE MUST BE SOME KIND OF DIVERSION CREDIT THAT COULD GO FORWARD JUST BY THE SIMPLE FACT THAT WE USE COMPACTION TRUCKS INSTEAD OF OPEN GARBAGE TRUCKS.

I THINK THAT THIS IS SOMETHING -- SERIOUSLY, I THINK THIS IS SOMETHING WE NEED TO TALK ABOUT AS A BOARD ITEM, BECAUSE I DON'T THINK IT'S FAIR TO THE BUSINESS COMMUNITY THAT THEY'RE TOLD AT NO COST TO YOU, YOU CAN MEET AB 939 BY BUYING A COMPACTOR. I DON'T THINK THAT THAT IS GOOD. I DON'T THINK IT'S GOOD THAT WE NOT DISCUSS IT, AND AT LEAST RUN AN AD THAT SAYS YOU MAY WANT TO DO A LITTLE RECYCLING, A LITTLE SOURCE REDUCTION TO MEET 50 PERCENT, AS OPPOSED TO JUST BUYING A COMPACTOR.

SO, I THOUGHT I WOULD BRING THAT TO THE

BOARD'S ATTENTION, BECAUSE IT DEFINITELY GOT MY ATTENTION.

CHAIRMAN PENNINGTON: THANK YOU, MEMBER JONES, WELL --

MEMBER EATON: PERHAPS A WRAP AWARD IS IN ORDER.

CHAIRMAN PENNINGTON: WE'LL ASK THE EXECUTIVE DIRECTOR TO LOOK INTO THIS AND SEE IF WE CAN GET THE AGENDA AS AN ITEM.

THE NEXT COMMITTEE WAS THE MARKET DEVELOPMENT COMMITTEE, WHICH I'M THE INTERIM CHAIR OF. AND, THEREFORE, WE HELD NO MEETING IN JULY.

I ALSO CHAIR THE ADMINISTRATION COMMITTEE, WHICH MET ON JULY 22ND, 1998, AND HEARD THREE ITEMS.

THE DEPUTY DIRECTOR REPORTED THAT THE ADMINISTRATION AND FINANCE DIVISION IS CONTINUING THEIR WORK ON IMPROVING THE RFQ APPLICATION PROCESS, AND THE FEDERAL GRANT APPROVAL PROCESS, AND WE'LL KEEP THE COMMITTEE APPRISED OF THEIR PROGRESS.

KARIN FISH REPORTED THAT SHE IS WAITING FOR APPROVAL FROM CAL EPA ON THE BOARD'S CONCEPTS FOR BUDGET CHANGE PROPOSALS AND WILL INFORM BOARD MEMBERS

OF THE DECISION AS SOON AS SHE HEARD FROM THE AGENCY,
WHICH I THINK SHE HAS.

THE COMMITTEE ALSO HEARD THE
CONSIDERATION OF FISCAL YEAR 1998-99 CONTRACT
CONCEPTS, AND APPROVED THE EXECUTIVE STAFF
RECOMMENDATIONS ON THE CONCEPTS UNDER THE USED OIL
FUND. THE COMMITTEE DIRECTED STAFF TO DO SOME FURTHER
WORK ON THE REST OF THE CONCEPTS AND BRING IT BACK TO
COMMITTEE AND BOARD IN EARLY AUGUST OR SEPTEMBER.

THE LAST ITEM THE COMMITTEE DISCUSSED
AND RECOMMENDED WAS THE ADOPTION OF A MODIFICATION TO
THE BOARD'S WORKING STRUCTURE. THIS ITEM WILL BE
HEARD BY THE FULL BOARD TODAY.

NOW WE'LL HEAR FROM THE EXECUTIVE
DIRECTOR, MR. CHANDLER.

AGENDA ITEM NO. 2: REPORT FROM THE
EXECUTIVE DIRECTOR

MR. CHANDLER: GOOD MORNING, MEMBERS. MR.
CHAIRMAN, I'D LIKE TO START OFF MY REPORT TODAY WITH
FOUR ITEMS THAT I'M GOING TO COVER.

AND THE FIRST ONE IS A PARTNERSHIP THAT
WE HAVE RECENTLY JUST COMPLETED SUCCESSFULLY WITH THE
DEPARTMENT OF FISH AND GAME. AS YOU MAY BE AWARE,

LAST MONTH THE WASTE BOARD PARTNERED WITH THE DEPARTMENT ON THE DEPARTMENT'S FIRST 1998 FISHING DAY, AN OPPORTUNITY THAT PROMOTED THE FUN AND MERITS OF SPORTS FISHING AND ALLOWED US TO PITCH THE ADDED ENVIRONMENTAL BENEFITS OF REDUCING AND RECYCLING WASTE AS WELL.

THE PARTNERSHIP CONSISTED OF THE BOARD FUNDING THE DEVELOPMENT AND INSTALLATION OF FISHING INFORMATION STATION PANELS ON ENVIRONMENTAL PROTECTION ISSUES. THE FIRST SET OF THESE PANELS WAS DEDICATED LAST MONTH IN THE FULTON EL CAMINO RECREATION AND PARK DISTRICT.

IN SACRAMENTO THE FREE FISHING DAY EVENT WAS ATTENDED BY HUNDREDS OF CHILDREN AND THEIR PARENTS. WASTE BOARD STAFF, WORKING ALONGSIDE WITH FISH AND GAME AND CITY STAFF, HANDED OUT HUNDREDS OF PREMIUMS AND EDUCATIONAL MATERIALS, AND THE EVENT WAS COVERED BY OUR LOCAL TV STATIONS.

AT THIS TIME I'D LIKE TO INTRODUCE FISH AND GAME DEPARTMENT'S NICK VILLA, A SENIOR FISHERIES BIOLOGIST, AND JOE FERRERA, A FISH AND WILDLIFE INTERPRETER, WHO HAVE A FEW COMMENTS TO SAY REGARDING THIS SUCCESSFUL MUTUAL AGENCY OUTREACH EFFORT.

RONI, YOU WANT TO INTRODUCE OR ARE YOU JUST THERE FOR THE PICTURES?

MR. VILLA: THANK YOU VERY MUCH, RALPH. AND THANK YOU, MR. PENNINGTON. ON BEHALF OF MY DIRECTOR, JACKIE SCHAFFER, FOR THE CALIFORNIA DEPARTMENT OF FISH AND GAME, I'M PLEASED TO HAVE THIS OPPORTUNITY TO MAKE THIS PRESENTATION AGAIN.

AGAIN, TO RESTATE WHAT RALPH HAD SAID, WE ARE HERE TO REAFFIRM THE DEPARTMENT'S APPRECIATION FOR THE BOARD'S INVOLVEMENT AND COOPERATION UNDER THIS JOINT VENTURE.

AGAIN, ON JUNE 6TH, WE WERE PARTICIPANTS WITH THE BOARD, AS WITH THE LOCAL PARK DISTRICT, TO KICK OFF OUR FREE FISHING DAY, AS WELL AS OUR URBAN FISHING PROGRAM, AS WELL AS YOUR AGENCY'S EFFORTS IN PROMOTING THE GOALS UNDER AB 939. IT WAS OUR PLEASURE TO BE A PART OF THIS PROGRAM AND TO BE ABLE TO COMMINGLE BOTH RESOURCES AND MONEY TO EFFECTIVELY AND EFFICIENTLY USE PUBLIC DOLLARS TO PROMOTE THE GOALS OF THE VARIOUS AGENCIES AND LOCAL PARK DISTRICTS.

SPECIFICALLY, WE WANT TO RECOGNIZE PHIL MORALES, TRISH BRODDRICK, AND BECKY WILLIAMS OF THE PUBLIC EDUCATION AND ASSISTANCE PROGRAM, AS WELL AS

RONI JAVA, WHO HAS BEEN VERY INSTRUMENTAL IN A LOT OF ACTIVITIES FOR YOUR AGENCY. OUR PEOPLE WERE MORE THAN HAPPY TO WORK WITH YOUR PEOPLE AND WORK COOPERATIVELY AND TO PROMOTE THE GOALS, AGAIN, OF BOTH AGENCIES -- ACTUALLY, ALL THREE AGENCIES.

THESE SIGNS ARE INSTRUMENTAL TO PROMOTING THE GOALS AND EFFORTS OF THE DEPARTMENTS AND THE AGENCIES INVOLVED. THEY'RE BEAUTIFUL SIGNS. THEY'RE VERY WELCOMED BY THE COMMUNITY. AS YOU CAN SEE IN THE MONITORS, THEY'RE BEAUTIFUL. THE COLOR'S NOT COMING OUT VERY WELL, BUT THEY'RE ABSOLUTELY GORGEOUS, AND WE'RE VERY, VERY PLEASED WITH THE OUTCOME OF THE PRODUCT.

AS SUCH, VARIOUS AWARDS WERE GIVEN THAT DAY. THERE IS SOME LEGISLATIVE SENATE RECOGNITION -- JOE, MAYBE YOU CAN HOLD THAT UP -- AS WELL AS OUR REGIONAL MANAGER'S AWARDS, AS WELL AS A RESOLUTION FROM THE LOCAL PARK AND RECREATION DISTRICT.

AND, TODAY WE'D LIKE TO FINISH THE AWARDS WITH A DIRECTOR'S ACHIEVEMENT AWARD. AND, UNFORTUNATELY, JACKIE WASN'T HERE PERSONALLY TO AWARD THAT TO MR. PENNINGTON, BUT ON BEHALF OF THE DIRECTOR I'M VERY, VERY, VERY PLEASED TO PRESENT THIS AWARD TO

THE INDIVIDUALS THAT PARTICIPATED FROM THE INTEGRATED WASTE MANAGEMENT BOARD, AS WELL AS TO THE ENTIRE BOARD ITSELF. AND, TO THAT, WE THANK YOU VERY, VERY MUCH.

CHARIMAN PENNINGTON: THANK YOU. (APPLAUSE.)
THANK YOU. WE CERTAINLY APPRECIATE THIS. AND, OF COURSE, WE'RE ALWAYS PLEASED TO BE IN PARTNERSHIP WITH A FELLOW CALIFORNIA AGENCY. AND WE'RE ALWAYS LOOKING FORWARD TO BEING INVOLVED WITH LOCAL GOVERNMENT, AS WELL. SO WE APPRECIATE THIS VERY MUCH. AND WE'RE SORRY THAT JACKIE COULDN'T BE HERE, SHE'S A LONG-TIME FRIEND OF MINE AND, IN FACT, GOES ALL THE WAY BACK TO MY YEARS AND HER YEARS IN WASHINGTON. SO, YOU EXTEND OUR THANKS FOR THIS ACHIEVEMENT AWARD, AND I'M HAPPY TO ACCEPT IT ON BEHALF OF ALL OF THE BOARD. THANK YOU. (APPLAUSE.)

MR. CHANDLER: THANK YOU MR. CHAIRMAN. I HAVE JUST A COUPLE MORE ITEMS IN MY REPORT THIS MORNING, SO I'LL CONTINUE AND MOVE ON TO THE SECOND ITEM.

IF YOU'VE BEEN WITH THE BOARD FOR ANY LENGTH OF TIME, YOU KNOW WE HAVE SOME OF THE MOST CAPABLE INFORMATION MANAGEMENT STAFF IN STATE GOVERNMENT. AND NOW OTHERS KNOW. BECAUSE, FOR THEIR

OUTSTANDING ASSISTANCE IN HELPING THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY SET UP ITS INNOVATIVE CAL GOLD SYSTEM, I WANT TO CONGRATULATE OUR INFORMATION MANAGEMENT BRANCH STAFF FOR EFFORTS FAR BEYOND THE CALL OF NORMAL OFFICE DUTIES. AND, TO THEIR CREDIT, WHEN CAL EPA NEEDED EXPERTISE THEY TURNED TO OUR PROS.

CAL GOLD STANDS FOR CALIFORNIA GOVERNMENT ON LINE TO DESK TOP, AND THIS INNOVATIVE SYSTEM NOW PROVIDES COMPREHENSIVE PERMIT ASSISTANCE ON THE INTERNET AT THE TOUCH OF A BUTTON TO BUSINESSES AROUND THE STATE IN A COST-EFFECTIVE, CONSUMER-DRIVEN MANNER. IT ENABLES THE STATE GOVERNMENTS TO BE MUCH MORE RESPONSIVE TO BUSINESSES NEEDING ANSWERS TO QUESTIONS REGARDING THE KINDS OF PERMITS THEY NEED. THIS TRULY BRINGS OUR CUSTOMER SATISFACTION LEVELS UP A NOTCH.

I'M PLEASED TODAY TO ANNOUNCE THE WASTE BOARD'S VERY OWN INFORMATION MANAGEMENT SECTION HAS BEEN RECOGNIZED BY CAL EPA FOR HELPING SET UP THEIR DATABASE AND WEB SITES WITH THIS TECHNICAL AWARD FOR CAL GOLD. CAL EPA SECRETARY PETER ROONEY WILL PRESENT OUR STAFF WITH THIS AWARD ON AUGUST 34-- EXCUSE ME --

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AUGUST 31ST. I KNOW IT WAS A LONG SESSION WHEN YOU'RE IN THE BUDGET NEGOTIATIONS, BUT I DIDN'T KNOW THEY GO THAT FAR OUT. ANYWAY, THAT WILL BE HELD AT THE WATER RESOURCES CONTROL BOARD. THE WINNING STAFF INCLUDE GARY ARSTEIN-KERSLAKE, CHRIS ALLEN, BOB MENEELY, MANORAK MANN, DOUG RALSTON, MEIRVE DAVEY, AND MICHAEL KUHN. SO, AGAIN, I WANT TO CONGRATULATE STAFF FOR THAT.

MY NEXT ITEM HAS TO DO WITH OUR UPCOMING LEA CONFERENCE. AS YOU MAY KNOW, THE SECOND ANNUAL LEA WASTE BOARD CONFERENCE, ENTITLED "SUCCESS THROUGH PARTNERSHIP," HAS BEEN SCHEDULED NEXT MONTH IN THE LAKE TAHOE AREA. THESE CONFERENCES INCREASE THE CRITICAL UNDERSTANDING OF KEY REGULATORY AND TECHNICAL ISSUES FACED BY BOARD AND LEA STAFF. MOREOVER, THESE MEETINGS STRENGTHEN THE WORKING RELATIONSHIP BETWEEN THESE TWO GROUPS FOR THE MUTUAL BENEFIT OF CALIFORNIA AND ITS WASTE MANAGEMENT PRACTICES. THE CONFERENCE WILL TAKE PLACE FROM AUGUST 19TH THROUGH 21ST, IN GRANLIBAKKEN, NEAR LAKE TAHOE.

AND FINALLY, FOR MY LAST ITEM, I WANT TO REFER TO THE RIO LINDA CLEANUP OF LAST WEEK, MR. CHAIRMAN. AS MANY OF YOU KNOW, LAST THURSDAY THE

WASTE BOARD IN SACRAMENTO COUNTY HELD A MEDIA EVENT ON 50 ACRES OF LAND LITTERED WITH TRASH IN A RIO LINDA NEIGHBORHOOD. CHAIRMAN PENNINGTON MADE SEVERAL EVENING NEWS BROADCASTS, ALONG WITH COUNTY SUPERVISOR ROGER DICKENSON, AND TOGETHER THEY STRESSED THE DANGERS OF ILLEGAL DUMPING AND BOTH THE STATE AND COUNTY'S COMMITMENTS TO CLEANING UP SUCH UNLAWFUL SITES.

WHEN OUR CLEANUP OPERATIONS ARE COMPLETED WITHIN THE NEXT FEW WEEKS, WE'LL HAVE CLEARED THE COMMUNITY OF AN ESTIMATED 1500 TONS OF GARBAGE AND OVER 100,000 WASTE TIRES.

THANKS TO THE EFFORTS OF OUR P&E DIVISION AND THE OFFICE OF PUBLIC AFFAIRS, THIS EVENT WAS A COMPLETE SUCCESS, WITH ALL FIVE AREA TV STATIONS, TWO AREA RADIO STATIONS, AND THE "SACRAMENTO BEE" IN ATTENDANCE. THIS EVENT RESULTED IN WIDELY-BROADCASTED PUBLIC EDUCATION EFFORT AND DEMONSTRATES THE IMPORTANCE OF OUR CLEANUP EFFORTS TO OUR COMMUNITIES.

AND THAT CONCLUDES MY REPORT FOR THIS MORNING. THANK YOU. UNLESS YOU HAVE ANY QUESTIONS?

CHAIRMAN PENNINGTON: THANK YOU, MR.

CHANDLER.

ARE THERE ANY QUESTIONS OF MR. CHANDLER?

IF NOT, WE'LL MOVE TO THE CONSENT CALENDAR.

AGENDA ITEM NO. 3: CONSIDERATION OF CONSENT

AGENDA ITEMS

CHAIRMAN PENNINGTON: THE CONSENT CALENDAR INCLUDES ITEMS 8-A, 9, 12 THROUGH 14, 18 THROUGH 24, AND 27.

IS THERE ANY MEMBER WHO WISHES TO PULL ANY ADDITIONAL ITEMS?

MEMBER EATON: NO, SIR.

CHAIRMAN PENNINGTON: OKAY.

MEMBER FRAZEE: I MOVE TO ADOPTION OF THE CONSENT CALENDAR.

MEMBER JONES: I'LL SECOND.

CHAIRMAN PENNINGTON: IT'S BEEN MOVED AND SECONDED.

WITHOUT FURTHER DISCUSSION, SECRETARY, CALL THE ROLL, PLEASE.

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

AGENDA ITEM NO. 4: CONSIDERATION AND APPROVAL OF
CONTRACT CONCEPTS FOR DISCRETIONARY CONSULTING AND
PROFESSIONAL SERVICES FOR FISCAL YEAR 1998/99

CHAIRMAN PENNINGTON: NOW WE'LL MOVE TO ITEM
NO. 4, CONSIDERATION AND APPROVAL OF CONTRACT
CONCEPTS FOR DISCRETIONARY CONSULTING AND PROFESSIONAL
SERVICES FOR FISCAL YEAR 1998/99.

KAREN FISH. GOOD MORNING, KAREN.

MS. FISH: GOOD MORNING. THANK YOU, CHAIRMAN
PENNINGTON. KAREN FISH, DEPUTY DIRECTOR OF THE
DIVISION OF ADMINISTRATION. THIS ITEM IS THE
PRESENTATION AND CONSIDERATION AND APPROVAL OF THE
CONTRACT CONCEPTS FOR THE DISCRETIONARY CONSULTING AND
PROFESSIONAL SERVICES FOR FISCAL YEAR '98-99.

THESE CONCEPTS WERE BROUGHT BEFORE THE
ADMINISTRATION COMMITTEE IN JUNE AND AGAIN IN JULY.
AT THE JULY COMMITTEE MEETING THE MEMBERS VOTED TO
BRING THE CONCEPTS FORWARD FOR THE USED OIL PROGRAM

FOR CONSIDERATION AT THE BOARD, BUT REQUESTED STAFF TO PREPARE A MORE COMPLETE BRIEFING FOR THE AUGUST BOARD MEETING RELATING TO THE CONCEPTS FOR THE RMDZ FUND, THE IWMA ACCOUNT, AND PROJECT RECYCLE.

PRIORITY AREA TEAMS ARE CURRENTLY PREPARING PRESENTATIONS RELATED TO THE ADDITIONAL FUNDING AUTHORITY ANTICIPATED IN RMDZ, AS WELL AS THE IWMA TO DEMONSTRATE HOW THE RECOMMENDED CONCEPTS WILL FURTHER THE GOALS OF THE PRIORITY ACTION AREAS AND SPECIFICALLY ADDRESS CUSTOMER NEEDS.

PROJECT RECYCLE STAFF ARE LOOKING IN DEPTH AT THEIR APPROACHES AND OUTCOMES AND ARE PREPARING AO STRATEGY TO BETTER ASSIST STATE AGENCIES WITH THEIR RECYCLING EFFORTS. THEY WILL BE BRINGING AN ITEM FORWARD THIS FALL THAT WILL INCLUDE CONTRACT CONCEPTS.

SO, THAT BRINGS US TO THE USED OIL PROGRAM. THEY HAVE NINE CONCEPTS PRESENTED FOR YOUR CONSIDERATION. AND BASED ON QUESTIONS RAISED AT THE ADMIN COMMITTEE, THE PROGRAM HAS PREPARED A SHORT PRESENTATION.

SO, IF YOU HAVE ANY QUESTIONS BEFORE I'LL TURN IT OVER TO BOB BOUGHTON AND HE WILL BE

MAKING A PRESENTATION. DO YOU HAVE ANY QUESTIONS?

CHAIRMAN PENNINGTON: QUESTIONS ANYONE? NO.

MR. BOUGHTON: GOOD MORNING, BOARD MEMBERS,
MR. CHAIRMAN.

WE WANTED TO ADDRESS SOME OF THE
QUESTIONS ON THE INDUSTRIAL OIL CONCEPT THAT -- I
BELIEVE MEMBER EATON HAD A FEW QUESTIONS, AND OTHER
BOARD MEMBERS AS WELL, SO WE WANTED TO GO THROUGH A
QUICK PRESENTATION, HOPEFULLY TO GIVE YOU AN IDEA OF
THE ISSUES THAT WERE FACED AND WHY WE BROUGHT THE
CONCEPT FORWARD, AND WHAT WE'RE TRYING TO ACHIEVE WITH
THAT.

THERE'S 280 MILLION GALLONS OF OIL,
INDUSTRIAL AND LUBRICATING OIL, SOLD IN THIS STATE
EACH YEAR OR AT LEAST THE LAST SEVERAL YEARS. THIS
NUMBER HAS INCREASED.

WHAT'S HAPPENED IN THE LAST SEVERAL
YEARS IS, WHEN THE PROGRAM STARTED WE BEGAN
ACCUMULATING DATA ON SALES FROM REPORTS FROM THE
MANUFACTURERS. AS YOU KNOW, THERE'S A 16-CENT PER
GALLON FEE THAT'S ASSESSED ON LUBRICATING OIL FOR USE
IN THE STATE, AND THE MANUFACTURERS REPORT BOTH
LUBRICATING AND INDUSTRIAL OIL SALES TO US. HOWEVER,

THERE IS NO FEE PRESENTLY ATTACHED TO THE INDUSTRIAL OIL.

FOR SEVERAL YEARS -- AND I'LL SHOW YOU A GRAPH LATER -- THE INDUSTRIAL OIL SALES WERE LOW, IN THE 80 MILLION GALLON RANGE PER YEAR, AND THAT SEEMED OKAY TO US CONSIDERING THAT THE PROPORTION BETWEEN LUBRICATING AND INDUSTRIAL OIL WAS CORRECT AND ALSO -- OR, AT LEAST APPEARED TO BE CORRECT FROM A NATIONAL PERSPECTIVE, AND ALSO THE FACT THAT CALIFORNIA WAS STILL IN THE RECESSION PERIOD, IN '93 AND '94. BUT NOW WE'RE GETTING ABOUT 280 MILLION GALLONS TOTAL.

THE FOCUS OF THE PROGRAM EFFORT IS ESTIMATED LUBRICATING OIL SALES, AND THAT'S BETTER THAN AN ESTIMATION BECAUSE WE GET THAT FROM THE MANUFACTURERS FOR ALL OF THE LUBRICATING OIL. BUT FOR EXACTLY HOW MUCH IS SOLD FOR AUTOMOTIVE USE, OR SOLD TO A DIY, THE SELF-MECHANICS, WE DON'T HAVE ACCURATE FIGURES FOR THAT.

WE'RE ALSO INTERESTED IN THE USED OIL GENERATION, JUST HOW MUCH USED OIL IS GENERATED FROM BOTH THE INDUSTRIAL AND THE LUBRICATING SECTOR, AND ALSO WE'RE INTERESTED IN HOW MUCH OIL IS ACTUALLY RECOVERED AND RECYCLED.

SO, LOOKING AT THE BREAKDOWN OF THOSE 280 MILLION GALLONS, IN 1997 THE TOTAL ANNUAL AMOUNT WAS 138 MILLION GALLONS OF LUBRICATING OIL. AND THAT'S FOR ALL THE SOURCES, ALL THE USES, AND HEAVY-DUTY USE AS WELL AS AUTOMOTIVE USE.

THE OIL ACTUALLY EXCEEDED THE LUBRICATING OIL SALES AT 142 MILLION GALLONS, AND THAT'S BASIC COMMERCIAL USE. THERE'S A WIDE VARIETY OF USES, FROM PROCESS OILS, THAT END UP IN PRODUCTS SUCH AS LIPSTICKS OR PHARMACEUTICALS AND OTHER PRODUCTS, SO THE OIL IS COMPLETELY IN THE PRODUCT, TO METAL-WORKING OILS AND HYDRAULIC OILS WHERE THERE IS A FRACTION OF USED OIL THAT'S RECOVERED.

SO, JUST FOCUSING ON LUBRICATING OILS, USING THE 138 MILLION GALLON TOTAL FOR 1997, AND THEN USING SOME NATIONAL DATA ON HOW MUCH OIL IS ACTUALLY USED FOR AUTOMOTIVE USE AND LIGHT-DUTY USE, WE GET A SPLIT OF ABOUT 58 MILLION GALLONS, THAT'S FOR HEAVY-DUTY USE. SO THAT'S LARGE TRUCKS, TRACTORS, GENERATORS, ALL COMMERCIAL USES.

OF THAT WE'RE LOOKING AT ABOUT 29 MILLION GALLONS OF USED OILS BEING GENERATED AND ABOUT 29 MILLION GALLONS OF USED OIL BEING CONSUMED. WE

LOST THAT BOX THERE. AND THAT'S AN ESTIMATE OF ABOUT 50 PERCENT GENERATION. AND THAT'S A NUMBER THAT'S BASED UPON SEVERAL STUDIES FROM -- AND JUST INFORMATION, KIND OF LOOSE INFORMATION, FROM ALL SORTS OF NATIONAL OR OTHER STATES, NATIONAL INFORMATION.

FROM THE 80 MILLION GALLONS THAT IS THE LIGHT-DUTY, AUTOMOTIVE USE, CARS AND LIGHT TRUCKS, THERE'S -- THE NATIONAL CONSENSUS IS THAT ABOUT HALF OF THAT IS SELF-INSTALLED AND THE OTHER HALF IS SERVICE-INSTALLED.

OF THE DIY FRACTION, WE'RE ASSUMING THAT THERE'S ABOUT A 65 PERCENT RECOVERY RATE. SO WHAT WE'RE LOOKING AT IS 26 MILLION GALLONS OF USED OIL GENERATED. FROM THE SERVICE INSTALLATION WE'RE LOOKING AT PROBABLY A 70 PERCENT GENERATION RATE OF USED OILS.

SO, WHAT WE'RE ASSUMING IS THAT 83 MILLION GALLONS OF USED OILS FROM THE AUTOMOTIVE SECTOR, BOTH SERVICE AND MECHANICS, SELF-HOME MECHANICS, ARE GENERATING ABOUT 83 MILLION GALLONS A YEAR.

FOR INDUSTRIAL OILS WE HAVEN'T FOCUSED MUCH ATTENTION ON THIS MOSTLY BECAUSE THE PROGRAM IS

REALLY FOCUSED ON THE DO-IT-YOURSELF AND IT -- PROVIDING OPPORTUNITIES FOR THOSE PEOPLE TO RECYCLE. BUT, WHAT WE'RE ASSUMING THERE FOR A GENERATION RATE IS 52 PERCENT FACTOR. SO, APPLYING THAT TO THE 142 MILLION GALLONS OF INDUSTRIAL OILS LEAVES ABOUT 68 MILLION GALLONS CONSUMED AND LOST DURING USE AND 74 MILLION GALLONS OF USED OIL GENERATED. SO, YOU CAN SEE THAT'S RIVALING THE AUTOMOTIVE AND LUBRICATING OIL SECTOR.

LOOKING AT THE INDUSTRIAL OIL DEFINITION, MORE SPECIFICALLY FROM THE PRC, YOU KNOW, YOU CAN READ THAT. IT'S PRETTY MUCH ANYTHING BUT LUBRICATING OIL, WHICH BY DEFINITION IS ANY OILS USED OR ASSOCIATED WITH INTERNAL COMBUSTION MOTORS. SO IT DOES INCLUDE ATF, TRANSMISSION FLUIDS, DIFFERENTIAL FLUIDS, GREASES BUT NOT TYPICALLY BRAKE FLUIDS AND OTHER HYDRAULIC TYPE FLUIDS.

SO THIS IS JUST A SUMMATION HERE FROM A SLIDE, 280 MILLION GALLONS TOTAL OF OIL SOLD. AND WHAT WE'RE LOOKING AT FROM OUR ESTIMATES ARE 83 MILLION AND 74 MILLION GALLONS OF USED OILS FROM THESE TWO SECTORS.

NOW, THE NEXT SLIDE SHOWS -- IF WE'RE

LOOKING AT A RECYCLING RATE FROM LUBRICATING OIL, WE'RE LOOKING -- RIGHT NOW WE'RE ABOUT 61 MILLION GALLONS OF LUBRICATING OIL RECYCLED. AND THAT'S FROM REPORTS FROM THE PROCESSORS. AND THERE'S FOUR PROCESSORS NOW THAT ARE REPORTING TO US, PLUS SOME OUT-OF-STATE OILS. AND WE'RE ASSUMING THAT 83 MILLION-GALLON FACTOR, AND THAT GIVES US 74 PERCENT RECYCLING RATE FOR ALL LUBRICATING OILS.

FOR INDUSTRIAL OILS, THE NEXT SLIDE SHOWS THAT THE REPORTS FROM THE PROCESSORS ARE SHOWING 19 MILLION GALLONS OF LUBRICATING OILS RECYCLED -- OR, EXCUSE ME -- OF INDUSTRIAL OILS RECYCLED VERSUS OUR COMPUTATION OF 74 MILLION GALLONS GENERATED. AND THAT LEAVES A PRETTY POOR RECYCLING RATE FOR THE INDUSTRIAL OIL SECTOR.

IF YOU COMBINE ALL OF THE OILS -- BECAUSE THE PROCESSORS HAVE RECEIVED THE OIL IN A COMMINGLED FASHION, THEY'RE NOT GETTING ALL OF THE OILS SEPARATED. YOU KNOW, IT'S TYPICAL FOR THE HAULERS TO HAVE COLLECTED OIL FROM VARIOUS SOURCES. THERE MAY BE HYDRAULIC OIL IN THE OIL THAT -- FROM TRUCK SERVICE AT A FLEET, OR THERE COULD BE OILS COMMINGLED AT A TRANSFER STATION. SO BY THE TIME IT

GETS TO A PROCESSOR, IT'S DIFFICULT FOR THEM TO ASCERTAIN HOW MUCH INDUSTRIAL OIL THEY'VE GOTTEN AND HOW MUCH LUBRICATING OIL THEY'VE GOTTEN. BUT THEY DO REPORT THAT TO US.

USING ALL OF THE OILS SOLD, THAT 280 MILLION GALLONS, AND FIGURING OUT THROUGH OUR FACTORS OF GENERATION HOW MUCH USED OIL WE BELIEVE IS GENERATED, AND COMPARING THAT TO HOW MUCH IS RECYCLED, WE'RE LOOKING AT A 51 PERCENT RATE.

SO, YOU CAN SEE HOW IMPORTANT IT IS TO US TO HAVE ACCURATE INDUSTRIAL OIL FIGURES WHEN IT'S OF SUCH A HIGH GALLONAGE THAT'S REALLY INFLUENCING THIS OVERALL RECYCLING RATE NUMBER THAT WE COMPUTE HERE.

THE NEXT SLIDE SHOWS A HISTORICAL PERSPECTIVE. THE JAGGED S-SHAPED CURVE THAT IS AT THE VERY BOTTOM AND THEN RISES UP ABOVE THE OTHER ONE IS THE ACTUAL DATA THAT WE HAVE REPORTED TO US BY THE MANUFACTURERS FOR THE INDUSTRIAL OIL SALES.

WE BECAME CONCERNED WHEN WE SAW THIS HUGE INCREASE BACK IN '95 AND '96. THAT APPEARS TO HAVE PLATEAUED NOW. THAT MATCHES THE ECONOMIC RECOVERY OF CALIFORNIA, SO THAT SOUNDS GOOD. BUT,

IT'S -- ACTUALLY EXCEEDS THE AMOUNT OF LUBRICATING OIL SALES NOW.

AND WHEN WE'VE LOOKED BACK AT THE NATIONAL FIGURES FOR LUBRICATING AND INDUSTRIAL OIL SALES, OVER THE YEARS IT'S REALLY CHANGED VERY, VERY LITTLE FROM A 60/40 SPLIT, 60 PERCENT LUBRICATING, 40 PERCENT INDUSTRIAL OIL. AND WE'RE SEEING CLOSER TO A 50/50. SO, WE'RE VERY CONCERNED THAT THIS NUMBER MAY BE TOO HIGH.

WE ALSO RECOGNIZE THAT CALIFORNIA IS A NET PRODUCER AND AN EXPORTER OF PETROLEUM PRODUCTS, AND WE'RE CONCERNED THAT THE MANUFACTURERS ARE NOT ABLE TO TRACK THEIR OILS FROM, PERHAPS, THEIR FIRST SALE TO SOME DEALER THAT MAY BE SHIPPING IT OUT OF STATE, AND WHAT WE'RE REALLY SEEING ARE THE CALIFORNIA PRODUCTION NUMBERS, BUT NOT WHAT'S CONSUMED IN CALIFORNIA BECAUSE THE MANUFACTURERS AREN'T TRACKING IT AND DON'T KNOW WHAT'S ACTUALLY CONSUMED WHERE FOR THE LUBRICATING OIL BECAUSE THE FEE IS ATTACHED, IF WE GET REFUNDS FROM PEOPLE THAT DO SHIP THE OIL OUT OF STATE, THOSE NUMBERS ARE TAKEN AWAY FROM THE SALES DATA SO IT -- WE HAVE MORE CONFIDENCE IN THE LUBRICATING OIL CONSUMPTIVE NUMBER FOR THE STATE.

LOOKING AT THESE OTHER TWO LINES ON THE GRAPH, WHAT WE DID WAS WE HAVE LOOKED AT GROSS NATIONAL PRODUCT FOR THE CALIFORNIA SHARE OF NATIONAL JUST TO GET AN IDEA OF -- AS AN INDEX TO COMPARE THIS INDUSTRIAL SALES TO. AND THE LOW NUMBER -- I MEAN, YOU CAN LOOK AT POPULATION BASES, GROSS NATIONAL PRODUCT, AND ALSO MILES DRIVEN, AND THOSE ARE WITHIN THESE TWO BOUNDS.

SO WE TRIED TO USE THAT JUST TO GIVE US SOME MORE CONFIDENCE IN, YOU KNOW, WERE WE BETTER OFF WITH A 90- OR 80 MILLION-GALLON INDUSTRIAL OIL SALES, OR IS IT REALLY THIS 140.

WHAT GIVES US THE GREATEST CONCERN IS THAT WHEN YOU'RE LOOKING AT THIS 140 MILLION-GALLONS OF INDUSTRIAL OIL SALES AND 74 MILLION GALLONS OF INDUSTRIAL OIL USED OIL GENERATED AND THEN YOU LOOK AT THE 19 MILLION THAT WAS ACTUALLY REPORTED AS RECOVERED FROM THE PROCESSORS, WE'VE GOT 55 MILLION GALLONS AS A GAP, MISSING OIL. WHAT'S HAPPENING TO THAT?

AND THAT'S REALLY THE REASON THAT WE'RE SO CONCERNED ABOUT THIS. WE JUST DON'T HAVE CONFIDENCE THAT THAT SALES FIGURE IS ACCURATE OR THAT OUR GENERATION FACTOR IS COMPLETELY ACCURATE, AS WELL.

I ALREADY MENTIONED THAT USED OIL WAS COMMINGLED, AND I STARTED TO TALK ABOUT THIS LACK OF CONFIDENCE WHERE WE ARE RELYING ON THE ESTIMATES OF LUBRICATING AND INDUSTRIAL OIL, THE AMOUNT RECYCLED FROM THE PROCESSORS, AND I'M NOT SURE THAT THEY HAVE THE MOST ACCURATE INFORMATION.

AND THE NEXT SLIDE REALLY COMES DOWN TO THE CONCLUSION. WHAT WE'RE HOPING TO ACHIEVE FROM THE CONTRACT CONCEPT WAS TO GET A BETTER HANDLE ON WHAT THE INDUSTRIAL OIL CONSUMPTION IS IN THIS STATE. SO, WE'RE HOPING TO GET SOMEONE TO LOOK AT THE INDUSTRY SECTORS, LOOK AT THE VOLUMES CONSUMED, AND ACTUALLY GET A BETTER IDEA OF HOW MUCH INDUSTRIAL OIL IS ACTUALLY CONSUMED IN THE STATE.

NEXT, WE'RE INTERESTED IN -- WELL, GOING HAND-IN-HAND WITH THAT, IF WE COULD FIND OUT VIA THE SALES, SUBSEQUENT SALES, HOW MUCH OIL IS EXPORTED THEN THAT WOULD GIVE US A KIND OF A BACK-DOOR METHOD OF HOW MUCH OIL IS CONSUMED IN THIS STATE.

THEN THE LAST IS WHAT'S HAPPENING TO THAT OIL AFTER IT'S BEEN USED, YOU KNOW, WHAT ARE THE PRACTICES OF THE MAJOR INDUSTRY SECTORS WITH THEIR USED OILS?

WELL, WE KNOW THAT NATIONALLY IT'S ACCEPTED THAT THE CONSTRUCTION AND MINING INDUSTRIES ARE PRETTY HEAVY USERS OF OILS. THERE ISN'T THAT MUCH MINING IN CALIFORNIA COMPARED TO REST OF THE NATION. THERE'S A LOT OF CONSTRUCTION AND AGRICULTURE. AND WE KNOW AGRICULTURE OBVIOUSLY IS A LARGE COMPONENT OF THE CALIFORNIA ECONOMY. SO, WE KNOW THOSE SECTORS ARE ONES TO APPROACH AND FIND OUT MORE ABOUT THEIR USE AND THEIR MANAGEMENT PRACTICES.

SO, ARE THERE ANY QUESTIONS ON THE PRESENTATION OR FURTHER QUESTIONS ON THE CONTRACT CONCEPT I COULD ANSWER?

CHAIRMAN PENNINGTON: MEMBER EATON?

MEMBER EATON: YES. ALSO AS PART OF THE BOARD RECORDS WE ASKED FOR AN UPDATE ON THE LEGISLATION PROPOSING THE TAX ON INDUSTRIAL OILS. COULD YOU GIVE THAT TO US, AS WELL, BEFORE WE ASK SOME QUESTIONS?

MR. BOUGHTON: I'LL TURN THAT OVER TO PATTY ZWARTS.

MS. ZWARTS: GOOD MORNING, BOARD MEMBERS. I BELIEVE YOU'RE REFERRING TO SB 2170 BY SENATOR SHER WHICH IS NOT IN PRINT AS YET. THIS BILL IS PROPOSED

TO GO TO CONFERENCE COMMITTEE WHICH, AGAIN, HAS NOT BEEN SCHEDULED YET.

THIS BILL WILL BE THE VEHICLE IN CONFERENCE COMMITTEE FOR SUPERFUND REFORM. RIGHT NOW THEY ARE HAVING WORK GROUP MEETINGS. THEY HAD ONE LAST WEEK, AND THEY WILL BE HAVING ONE AGAIN LATER THIS WEEK TO BE REPORTING -- I UNDERSTAND AUGUST 10TH IN SOME SORT OF PUBLIC SETTING -- A LANGUAGE FOR THE SUPERFUND REFORM BILL WHICH WILL GO, LIKE I SAID, INTO CONFERENCE COMMITTEE.

THERE IS A PROVISION OF THIS PROPOSED DRAFT LANGUAGE THAT WOULD TAKE \$20 MILLION, ONE TIME, FROM THE BOARD'S USED OIL PROGRAM, AND \$8 MILLION ANNUALLY, TO HELP FUND AN ORPHAN CLEANUP PROGRAM. OTHER FUND SOURCES WILL ALSO BE PUT INTO THIS ORPHAN PROGRAM TO GENERATE APPROXIMATELY \$25 MILLION TO \$28 MILLION ANNUALLY FOR THE PURPOSES OF ORPHAN SITE CLEANUP OF SUPERFUND SITES.

I'D BE HAPPY TO ANSWER MORE QUESTIONS ABOUT THE LEGISLATION.

CHAIRMAN PENNINGTON: MR. EATON.

MEMBER EATON: YEAH. SO, THIS -- THE MONIES WOULD BE ON THE INDUSTRIAL OIL SEGMENT. IS THAT

CORRECT?

MS. ZWARTS: YES.

MEMBER EATON: THE TAX.

MS. ZWARTS: I APOLOGIZE, I FORGOT THAT PART.
SIXTEEN CENTS --

MEMBER EATON: SIXTEEN CENTS.

MS. ZWARTS: -- ON THE SALE OF INDUSTRIAL OIL
WOULD ALSO GO INTO THIS FUND TO HELP PAY FOR IT.

MEMBER EATON: AND IS THERE A PROVISION AT
ALL FOR MONITORING OR TRACKING HOW THIS WOULD BE -- I
THINK MR. BOUGHTON HAD MENTIONED THE FACT THAT ONE OF
THE BEST WAYS TO TRACK THIS TYPE OF ACTIVITY IS -- AT
LEAST ON THE ONE SIDE THAT WE'RE DOING IT -- IS BY --
THROUGH OUR FEE THAT WE HAVE.

SO, IN ESSENCE, IF THERE IS A FEE THAT'S
GOING TO BE IMPOSED IN INDUSTRIAL OIL, IT WOULD BE A
WAY TO TRACK THOSE FIGURES. IS THAT CORRECT?

MR. BOUGHTON: IT SHOULD GIVE US MORE
ACCURATE SALES FROM THE MANUFACTURERS' LEVEL, AND
WHAT'S INTERESTING TO NOTE IS, I BELIEVE THE ORIGINAL
CONCEPT BEHIND THIS SUPERFUND LEGISLATION WAS USING A
RANGE OF 90 MILLION GALLONS OF INDUSTRIAL OIL, WHICH
GENERATES A CERTAIN AMOUNT OF MONEY, WHICH GIVES THEM

A GAP, WHICH THEN THEY'RE ATTEMPTING TO APPROACH US FOR TO FILL THAT GAP.

IF THE 140 MILLION GALLONS OF INDUSTRIAL OIL SOLD IS AN ACCURATE NUMBER, THEY'LL HAVE MORE MONEY THAN WE DO FROM THE USED OIL FUND. SO, I DON'T THINK THEY'LL NEED THAT GAP TO BE FILLED. BUT, THAT'S THE QUESTION, IS THAT 140 ACCURATE? WE DON'T KNOW.

MEMBER EATON: RIGHT. AND THAT'S WHAT I'M TRYING TO TRACK.

MR. BOUGHTON: RIGHT.

MEMBER EATON: IS IT PREMATURE --

(THE PARTIES SIMULTANEOUSLY SPEAK.)

MEMBER EATON: -- THAT WE'RE GOING THROUGH WITH THIS CONTRACT CONCEPT, UNTIL WE HAVE AN IDEA OF WHERE THE LEGISLATION MIGHT BE GOING. AND, IS THERE A WAY THAT WAY THAT WE CAN PIGGYBACK WHAT WE NEED IF WE ARE GOING TO BE SADDLED, AND PERHAPS ROBBED, OF SOME ADDITIONAL FUNDS?

AND, IS IT NOT BETTER TO --

(THE PARTIES SIMULTANEOUSLY SPEAK.)

MR. BOUGHTON: -- WE THOUGHT IT ON THE CONCEPT, BECAUSE IF THAT GOES THROUGH, THEN WE'LL HAVE A BETTER IDEA OF WHAT THE GROSS AMOUNT OF INDUSTRIAL

OIL IS SOLD. BUT, WE STILL DON'T HAVE AN IDEA OF THE SPLIT TO VARIOUS USES AND SECTORS' USE.

AND WE CAN USE THIS CONTRACT CONCEPT TO SIMPLY GO DEEPER. RATHER THAN LOOKING AT THE TOP AND TRYING TO QUANTIFY, WE'LL HAVE THAT INFORMATION. WE'LL GO DEEPER AND TRY TO FIND OUT WHO'S GENERATING IT, WHAT THEIR PRACTICES OF MANAGEMENT ARE. SO, THE CONCEPT CAN STILL BE THERE AND BE USED AS A VEHICLE TO GET US DEEPER INTO THE ISSUE.

MEMBER EATON: FOR THE LUBRICATING OILS, HOW MANY OF THE INDIVIDUALS THAT WE NOW TRACK ON THAT SIDE ALSO UTILIZE INDUSTRIAL?

YOU HAD MENTIONED THAT WE HAVE THE ABILITY -- THAT MANY OF THOSE INDIVIDUALS -- I THINK, AND I DON'T WANT TO SPEAK FOR YOU, BUT I THOUGHT YOU SAID UP TO 25 PERCENT OF THOSE INDIVIDUALS WOULD USE BOTH TYPES OF OILS.

MR. BOUGHTON: WE HAVE VERY LITTLE INFORMATION ON THE CONSUMERS OF THE OIL. WE ONLY KNOW THE MANUFACTURING LEVEL AND THE GENERATION, CREATION OF THE OIL.

MEMBER EATON: DO WE HAVE ANY --

MR. BOUGHTON: WE HAVE SOME, BUT IT'S -- YOU

KNOW, IT'S --

MEMBER EATON: BUT DO WE HAVE A SENSE OF LIKE THE AUTOMOTIVE REPAIR SHOPS, WOULD THEY USE BOTH TYPES OF OIL?

MR. BOUGHTON: VERY LITTLE HYDRAULIC, BECAUSE IT'S PRETTY MUCH JUST BRAKE FLUID, UNLESS THEY'RE SERVICING FORKLIFTS OR SOMETHING, TRACTORS, WHERE THEY WOULD HAVE A SIGNIFICANT AMOUNT OF HYDRAULIC OIL USE.

MEMBER EATON: SO I GUESS WHAT I'M TRYING TO GET AT IS -- WHERE I'M STILL HAVING A HARD TIME FINDING WHERE THE SCOPE OF THIS IS AND FOR WHAT THE END PURPOSE IS. I KNOW ULTIMATELY YOU WANT TO GET TO RECYCLING. WHEN YOU START DEALING WITH INDUSTRIAL OIL MARKET, I GET A LITTLE NERVOUS.

MR. BOUGHTON: OKAY. THE END PURPOSE IS, WHAT INDEX DO WE USE TO FIGURE OUT WHETHER THE PROGRAM IS EFFECTIVE OR NOT?

THE ORIGINAL LEGISLATION PUT FORWARD THE REQUIREMENT THAT WE REPORT THE SALES AND THE RECYCLING RATE FOR THE OILS. THAT DOESN'T APPEAR TO BE A VERY GOOD WAY TO MEASURE THE BOARD'S PROGRAM EFFECTIVENESS, BECAUSE IT HAS ALL OF THESE OILS, THE INDUSTRIAL OILS, ALL COMMINGLED INTO IT.

SO, TO REPORT THIS 51 PERCENT RECYCLING RATE MAY NOT LOOK GOOD, AND IT MAY NOT CHANGE ENOUGH AS WE INFLUENCE MORE DO-IT-YOURSELFERS TO RECYCLE BECAUSE THEY'RE SUCH A SMALL FRACTION OF THE TOTAL.

SO, IF OUR PROGRAM -- AND I DON'T BELIEVE OUR PROGRAM IS MANDATED TO ADDRESS INDUSTRIAL USERS AND THEIR MANAGEMENT OF OIL -- WE'RE NOT GOING TO BE ABLE TO USE THIS OVERALL PERCENTAGE RECYCLING RATE AS AN INDEX OF THE PROGRAM'S GAINS.

SO, WE'RE LOOKING AT OTHER WAYS TO JUST FOCUS ON DIY. BUT, THIS IS WHAT'S IN THE STATUTE RIGHT NOW AS SOMETHING TO REPORT. AND WE CAN STILL REPORT THAT, AND REPORT OTHER WAYS WHERE WE'RE REALLY FOCUSING JUST ON THE DIY, AND REALLY WHAT THE PROGRAM'S DOING AND WHAT THE BOARD'S DOING.

BUT, IT IS INTERESTING TO NOTE THAT I -- I BELIEVE THE ORIGINAL LEGISLATION FOR THE OIL ACT CAME THROUGH, THAT THE GENERAL INDUSTRY WAS NOT SUPPORTIVE OF A FEE ON INDUSTRIAL OILS BECAUSE IT'S EITHER CONSUMED IN THE PRODUCT OR THEY CLAIMED IT WAS COMPLETELY RECYCLED.

WELL, OUR NUMBERS DON'T BACK THAT UP. WE'RE ONLY SEEING 26 PERCENT RECYCLED. SO THAT,

AGAIN, IF INDUSTRY IS TO BE BELIEVED AND THEY DO RECYCLE WHOLEHEARTEDLY ALL OF THEIR OILS, THEN THAT THROWS OUR SALES NUMBERS INTO QUESTION AS BEING TOO HIGH. AND IT THROWS THE QUESTION INTO THE -- HOW ACCURATE THE SPLIT IS FROM PROCESSORS OF USED OIL, HOW MUCH IS LUBRICATING AND HOW MUCH IS INDUSTRIAL.

SO, SO MANY OF THESE NUMBERS ARE FOGGY TO US. WE'RE TRYING TO GET MORE ACCURATE DATA, MORE ACCURATE INFORMATION SO WE GET MORE CONFIDENCE IN WHAT IS REALLY HAPPENING OUT THERE FROM THIS BIG PERSPECTIVE.

CHAIRMAN PENNINGTON: MEMBER JONES?

MEMBER JONES: BOB, ON THE INDUSTRIAL SIDE, I THINK TO SAY THAT 51 PERCENT OF ALL OIL IS RECYCLED IS PROBABLY -- WHEN YOU'RE LOOKING AT WHO HAULS IT OFF AND TAKES IT TO A RE-REFINER, THE NUMBER'S NOT VALID FOR INDUSTRIAL OIL BECAUSE INDUSTRIAL OILS THAT ARE USED AS MOTION OILS ARE NOT DRAINED. IT'S NOT A PROCESS WHERE EVERY YEAR THAT OIL BREAKS DOWN, YOU DRAIN IT, YOU PUT IT INTO THE RECYCLING --

MR. BOUGHTON: RIGHT.

MEMBER JONES: -- TANK. YOU -- YOU KNOW, WE'VE GOT MACHINES THAT YOU HOOK UP AND YOU JUST

FILTER THAT OIL TO GET ANY METALS OUT --

MR. BOUGHTON: RIGHT.

MEMBER JONES: -- AND IT IS CONTINUALLY REUSED. SO THAT OIL SALE OF INDUSTRIAL OIL, ALL THAT DOES IS BRING THOSE LEVELS BACK UP TO FULL. SO --

MR. BOUGHTON: RIGHT. AND WE ACCOUNT FOR THAT IN OUR GENERATION RATE. WE TAKE THE SALES AND MULTIPLY IT BY A USED OIL GENERATION FACTOR, WHICH THEN SHOULD GIVE US THE AMOUNT OF USED OIL GENERATED.

MEMBER JONES: NO. IT'S ON SITE.

MR. BOUGHTON: SO, WELL --

MEMBER JONES: IT'S ON SITE, IS WHAT I'M SAYING.

MR. BOUGHTON: RIGHT.

MEMBER JONES: IT NEVER GOES SOMEWHERE ELSE.

MR. BOUGHTON: THAT'S ACCOUNTED FOR, IF THAT FIGURE IS ACCURATE, BECAUSE SO MUCH OF THE OIL IS LOST DURING USE OR IT'S INCORPORATED INTO THE PRODUCT -- SUCH AS METAL TURNINGS -- THE OIL'S GOING OFF WITH THE METAL.

MEMBER JONES: RIGHT. RIGHT.

MR. BOUGHTON: SO, THAT'S ACCOUNTED FOR. THE OIL THAT IS REPROCESSED ON SITE, THE PEOPLE AREN'T

BUYING NEW OIL AT THAT SAME VOLUME, SO IT -- IT WEIGHS
IN. WE CAN TALK MORE LATER, BUT WE'VE TRIED TO
ACCOUNT FOR THOSE THINGS.

SO, THE QUESTION IS, HAVE WE ACCURATELY
ACCOUNTED FOR IT? MAYBE THAT GENERATION FACTOR, THAT
RATE, THAT WEIGHING FACTOR IS INACCURATE. AND THERE
ISN'T MUCH INFORMATION OUT THERE TO GET MORE
CONFIDENCE IN THAT EITHER.

MEMBER JONES: SO THIS 50 GRAND IS GOING TO
BE THE -- TO DETERMINE THAT?

MR. BOUGHTON: NO. WHAT WE'RE TRYING TO DO -
- IF THE TOXICS PROPOSAL DOESN'T GO THROUGH, THEN
WE'LL FOCUS MORE ON TRYING TO GET AN ACCURATE PICTURE
OF HOW MUCH INDUSTRIAL OIL IS CONSUMED IN THE STATE OF
CALIFORNIA.

MEMBER JONES: OKAY. BUT I THINK WHERE I'M
GETTING CONFUSED IS THE WORD "CONSUMED."

MR. BOUGHTON: RIGHT.

MEMBER JONES: OKAY. IT'S PURCHASED --
DEPENDING UPON THE APPLICATION IT'S EITHER CONSUMED,
WHICH WOULD BE OIL TURNINGS, THOSE TYPE OF THINGS --

MR. BOUGHTON: OKAY. RIGHT, I --

MEMBER JONES: -- OR IT IS JUST USED. IT'S -

-

MR. BOUGHTON: RIGHT.

MEMBER JONES: IT NEVER GOES ANY --

MR. BOUGHTON: I USED THE WORD "CONSUMED" IN TWO DIFFERENT FASHIONS, SO I APOLOGIZE FOR THAT.

WHAT I MEAN IS HOW MUCH IS ACTUALLY USED IN THIS STATE. WE KNOW THERE'S EXPORTS THAT HAPPEN SUBSEQUENT TO THE MANUFACTURER'S FIRST SALE. BUT WE DON'T GET THAT INFORMATION. WE DON'T KNOW HOW MUCH IT IS. AND THERE MAY BE....

WE ALSO WOULD LIKE TO FOCUS SOME MORE ATTENTION ON THAT GENERATION FACTOR, BUT IT'S -- WE TRIED TO DO THAT SEVERAL YEARS AGO FOR AUTOMOTIVE USE AND IT PROVED VERY DIFFICULT AND MOST INDUSTRIES OR PLACES AREN'T VERY INTERESTED IN TRACKING THE INFORMATION OR SHARING IT WITH YOU. SO, IT BECOMES A HUGE PROJECT.

MEMBER EATON: MR. CHAIR, I CONTINUE TO BE CONFUSED, BUT I WILL TAKE IT ON STAFF'S FAITH. BUT I WOULD LIKE THAT IF, INDEED, WE APPROVE THIS CONTRACT CONCEPT, THAT THE SCOPE OF WORK COME BACK BEFORE US. AND, SO THAT WE CAN EITHER FIND OUT WHETHER OR NOT WE HAVE -- HAD THE ABILITY -- IF WE ARE GOING TO BE

INCLUDED IN SENATOR SHER'S BILL, IF THERE ISN'T A WAY THAT WE CAN'T GET SOME OF THIS INFORMATION DONE AT THEIR EXPENSE SINCE WE'RE PAYING FOR IT ANYWAYS THROUGH --

MR. BOUGHTON: RIGHT.

MEMBER EATON: -- THROUGH ROUGHLY \$20 MILLION, AND I WOULD THINK A \$50,000 LITTLE EXPENDITURE OUT OF THAT LITTLE \$20 MILLION THEFT WOULD PROBABLY BE A SMALL AMOUNT AND A SMALL PRICE TO PAY.

AND, THEREFORE, BEFORE WE GO FORWARD, TO GET THE SCOPE OF WORK BACK HERE SO THAT WE CAN MAKE SURE THAT IT'S AT LEAST NOT DUPLICATIVE AND AT THE VERY LEAST GOING TO BE SOMETHING THAT WE CAN UTILIZE, GIVEN PERHAPS WHAT THE END RESULT OF THAT PIECE OF LEGISLATION MIGHT BE.

AND, IN THE EVENT THAT THAT LEGISLATION DOESN'T GO FORWARD, IT DOESN'T PASS, THEN OBVIOUSLY WE'RE NO WORSE OFF THAN WE WERE BEFORE.

CHAIRMAN PENNINGTON: CORRECT. AND AS A MATTER OF COURSE, ONCE THE CONCEPT IS APPROVED THE BOARD MEMBERS WOULD SEE THE CONCEPT -- I MEAN, THE SCOPE OF WORK.

SO, I'D BE HAPPY TO ENTERTAIN A MOTION

ON THIS.

MEMBER JONES: I'LL MAKE A MOTION, MR. CHAIR,
THAT WE APPROVE CONCEPT NUMBER 15.

ACTUALLY, DID WE HAVE MORE DISCUSSION ON 16
THROUGH 23? I THOUGHT WE WERE DONE.

CHAIRMAN PENNINGTON: RIGHT. JUST THE TWO -

-

MEMBER JONES: THAT'S ALL WE HAD WAS TWO OIL
FUNDS. RIGHT?

CHAIRMAN PENNINGTON: RIGHT. THE USED OIL
FUND --

MEMBER JONES: -- WE HAVE NO QUESTIONS ON
THOSE.

CHAIRMAN PENNINGTON: -- ADMINISTRATION.

MEMBER JONES: ALL RIGHT. THEN I'LL MAKE A
MOTION THAT WE ADOPT CONCEPTS 15, 16, 17, 18, 19, 20,
21, 22, AND 23, WHICH ARE BOTH OIL.

CHAIRMAN PENNINGTON: DID YOU HAVE ANY
DISCUSSION?

MR. FRAZEE: NO, THAT'S ALL INCLUDED IN
RESOLUTION 98-262, THEN? IS THAT --

CHAIRMAN PENNINGTON: CORRECT.

MEMBER JONES: AGAIN, THANK YOU, MR. FRAZEE.

I'LL SECOND MR. FRAZEE'S MOTION.

CHAIRMAN PENNINGTON: OKAY. MEMBER JONES
MOVES, MR. FRAZEE SECONDS THE ADOPTION OF -- SOMEWHERE
I'VE GOT THE RESOLUTION --

MEMBER FRAZEE: RESOLUTION 98-262.

CHAIRMAN PENNINGTON: YOU'RE RIGHT, 98-262.
OKAY. IF THERE'S NO FURTHER DISCUSSION WILL THE
SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

MOTION CARRIES.

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AGENDA ITEM NO. 7: REPORT ON THE STATUS OF THE 21ST
CENTURY POLICY DEVELOPMENT PROCESS

(ORAL PRESENTATION)

CHAIRMAN PENNINGTON: WE'LL NOW MOVE TO ITEM

**CALIFORNIA SHORTHAND REPORTING
(415) 457-4417**

NO. 7. ITEM NO. 7 IS REPORT ON THE STATUS OF THE 21ST POLICY DEVELOPMENT PROCESS. THIS IS AN ORAL PRESENTATION BY BOARD MEMBER EATON.

MEMBER EATON: THANK YOU, MR. CHAIR. I STAND BEFORE YOU TODAY FOR TWO REASONS. ONE, I SPILLED COFFEE ON MY SHIRT AND, THEREFORE, I DON'T WANT TO SHOW THE PUBLIC. TWO, AS PART OF THE GOALS -- AND, BESIDES, I LIKE TO ONCE IN A WHILE LET MR. CUPPS OPERATE BEHIND MY BACK INSTEAD OF BEFORE ME.

BUT, MOST IMPORTANTLY, PROBABLY THE REASON I STAND BEFORE YOU TODAY IS THAT ONE OF THE GOALS, PERSONAL GOALS -- AND I SPEAK FOR MYSELF, AND I THINK MEMBER JONES AS WELL -- IS THAT HOPEFULLY BY THE TIME THIS PROCESS IS DONE, BOTH HE AND I WILL BE ABLE TO PRESENT A POWER POINT PRESENTATION TO THE BOARD. SO, WE'RE TRYING TO GET USED TO THAT TODAY.

AS MANY OF YOU HAVE HEARD IN VARIOUS FORUMS, THE BOARD IN ITS JUNE MEETING DID APPROVE A CONTRACT TO GO FORWARD WITH A STEERING COMMITTEE, AS WELL AS TO LOOK TOWARDS A 21ST CENTURY POLICY DEVELOPMENT PROJECT, WHICH IS A PROJECT OF THE BOARD.

WITH THAT CONTRACT IN PLACE, THE WORK HAS BEGUN. AND TODAY I BRING YOU A SHORT UPDATE ON OUR PROGRESS.

I CAN ASSURE YOU THAT ONE OF THE MOST PLEASING THINGS, AT LEAST TO MEMBERS OF THE STEERING COMMITTEE -- WHICH CONSISTS OF MEMBER JONES, MYSELF, MR. CHANDLER, MR. SMITH, MS. PEDERSEN, MS. PACKARD, MS. BERTRAM, AND MR. FRITH -- HAS BEEN THE FACT THAT WE HAVE CONSISTENTLY COLLABORATED AS A GROUP AND AT THE SAME TIME HAVE NOT BEEN AFRAID TO CHALLENGE ONE ANOTHER IN TERMS OF WHAT IS THE BEST WAY TO MOVE FORWARD IN ORDER TO ACCOMPLISH WHAT WE HOPE THE PROJECT WILL BE.

I THINK THE IMPORTANT THING TO STRESS IS THE FACT THAT THIS STEERING COMMITTEE IS A GUIDANCE COMMITTEE AS OPPOSED TO A POLICY-SETTER. AND I THINK THAT WAS FIRST AND FOREMOST UNDERSTOOD BY THE STEERING COMMITTEE. AND, WITH THAT IN MIND, WE HAVE NOT BEEN AFRAID TO COME UP WITH THE BEST PRODUCT, IRRESPECTIVE OF WHOSE PRODUCT THAT HAPPENED TO BE.

ONE OF THE FIRST THINGS THAT WE FELT WAS EXTREMELY IMPORTANT WAS BOTH AN INTERNAL AS WELL AS AN EXTERNAL INPUT AS TO WHAT ACTUALLY THE PROJECT AND THE OUTCOMES ACTUALLY SHOULD BE.

AND WITH THAT IN MIND MEMBER JONES AND MYSELF -- WE CALL OURSELVES THE TRAVELING WILLBURYS, I

BELIEVE -- WE HAVE GONE TO COUNTLESS MEETINGS AND WILL CONTINUE TO DO SO, INCLUDING THE LEA'S MEETING UP IN GRANLIBAKKEN IN THE MONTH OF AUGUST, AS WELL AS OTHERS, TO TRY AND KEEP THEM INFORMED OF OUR WORK.

IN ADDITION, WE HELD SOME BROWN-BAG SESSIONS WITH STAFF, WHICH WAS ATTENDED BY IN EXCESS OF OVER 20 PERCENT OF THE STAFF. YOU KNOW, SOME CYNICS, SOME OPTIMISTS, SOME REALISTS. AND ALL OF THOSE IDEAS HAVE BEEN LISTENED TO AND INCORPORATED IN SOME FASHION.

IN FACT, ONE OF THE EARLY IDEAS OF THE FACT THAT WE SHOULDN'T SEGREGATE THESE BROWN BAGS BY DIVISION, IN FACT, WAS INCORPORATED. AND ALTHOUGH IT'S A SMALL STEP, I THINK THAT THIS WHOLE PROCESS IS GOING TO BE ONE OF BUILDING CONFIDENCE NOT ONLY IN THE PROCESS, BUT IN THE END RESULT.

IN ADDITION, WE'VE GOTTEN UP BOARD NET. AND AS WELL FOR THOSE MEMBERS IN THE AUDIENCE, YOU MAY SEE AS YOU WALK AROUND THE BUILDING THESE FLIP CHARTS IN VARIOUS AREAS. THOSE ARE GOING TO BE FOR THE STAFF TO ANONYMOUSLY, IF THEY SO CHOOSE, TO DRAW PICTURES OR WRITE DOWN SUGGESTIONS OR TRENDS OR INFORMATION THAT THEY FEEL AS TO WHERE WE SHOULD GO.

WITH THOSE IN PLACE, WE'VE NOW SET OFF TO DO THE EXTERNAL STAKEHOLDER INPUT, AND WE'VE DONE SOME WEB SITE WORK AS WELL AS CHAT ROOM DISCUSSION GROUP TO EXPRESS THE ITEMS, DEVELOPMENT OF THE POLICY IN THE YEAR 2000 AND BEYOND.

BUT, MOST IMPORTANTLY, I THINK THE WORK REALLY IS GOING TO INVOLVE WHAT WE HOPE TO BE THE ISSUES CONFERENCE, WHICH HAS BEEN TENTATIVELY SET FOR MID OCTOBER IN SOUTHERN CALIFORNIA.

WE'RE IN DISCUSSIONS NOW WITH A NUMBER OF SPEAKERS, NATIONALLY-RENOWNED SPEAKERS, ON TRENDS IN THE WASTE INDUSTRY, AS WELL AS PERHAPS SOME GIANTS WITHIN THE INDUSTRY, TO GIVE US SOME OF THEIR WISDOM AND, HOPEFULLY, SOME OF THEIR INSIGHT AS TO WHERE THEY THINK THINGS WILL GO.

IN ADDITION, ONE OF THE THINGS THAT WILL EVENTUALLY TAKE PLACE FROM THIS CONFERENCE WILL THEN BE A FUTURE CONFERENCE WHERE WE'LL START TO REFINE AND DEFINE WHAT, HOPEFULLY, WILL BE SOME OF THE ISSUES THAT COME BEFORE THE BOARD.

I THINK LATER ON IN THE MEETING TODAY WE WILL BE GIVEN ANOTHER OPPORTUNITY, HOPEFULLY, TO EVEN COLLABORATE MORE FULLY AS COLLEAGUES, AS WELL AS,

PERHAPS, WITH THE INTERNAL AND EXTERNAL STAFFS AND
STAKEHOLDER IN THIS PROCESS.

I ALSO BELIEVE THAT ONE OF THE THINGS
THAT THIS CONFERENCE DOES HOLD FOR US IS THAT IT'S AN
EVOLVING PROCESS. YOU KNOW, THIS IS JUST NOT ONE OF
THOSE THINGS WHERE YOU'RE GOING TO SAY HERE'S WHAT THE
FUTURE'S GOING TO BE, AND YOU PUT IT ON THE SHELF, AND
YOU LOOK AND YOU SAY, "GOD, WEREN'T WE RIGHT" AND WE
LOOK IN THE CRYSTAL BALL.

I THINK THE ONE THING THAT WE HAVE
LEARNED IS THAT IT'S A VERY FLUID PROCESS. SO, WHAT
WE WILL EVENTUALLY BRING TO THE BOARD AND TO THE
PUBLIC WHEN THE WORK IS COMPLETE, IN A RELATIVELY
SHORT TIME FRAME, WILL BE THAT SNAPSHOT IN TIME. AND
I THINK THAT WILL GIVE US A GREAT SPRINGBOARD FOR THE
FUTURE.

I ALSO WAS REMISS IN LEAVING OUT MS.
TRACEY HARPER, WHO'S ALSO -- WORK HAS BEEN EXTREMELY
VALUABLE AND HELPFUL, ESPECIALLY IN THE ABSENCE OF MS.
PACKARD WHO HAD A WELL-DESERVED VACATION.

I WOULD ALSO TURN IT OVER TO MEMBER
JONES RIGHT NOW, SINCE HE FINALLY -- HE SET ME UP FOR
ALL OF YOU IN THE AUDIENCE. HE HAS ALWAYS GONE FIRST

AT -- WHETHER IT BE THE BROWN BAGS OR THE STAFF LUNCHEONS, OR WHAT HAVE YOU, AND THIS MORNING AS I WALKED IN HE SAW THE STAIN ON MY SHIRT AND HE SAID, YOU KNOW, I THINK IT'S TIME YOU GOT UP FIRST. AND, SO I'LL LET HIM CLEAN UP AFTER THE ELEPHANT.

MEMBER JONES: THANK'S, MEMBER EATON.

MEMBER EATON'S RIGHT, THIS HAS BEEN A GREAT PROCESS SO FAR, JUST PUTTING THIS TOGETHER. THIS HAS BEEN A GOOD GROUP.

WE'RE GOING TO NEED INVOLVEMENT FROM EVERY SECTOR TO BRING FORWARD ISSUES. WE HAVE HAD -- THE RESULTS OF THE BROWN BAGS THAT WE HAVE WITH STAFF WERE PRETTY ILLUMINATING IN THAT OUR FACILITATOR OF THIS PROJECT, OUR CONSULTANT FOR THIS PROJECT, THE RESULTS GROUP, MICHAEL WRIGHT, CAME IN AND WORKED WITH DANNY AND I THAT DAY, AND THE STAFF THAT PARTICIPATED BROKE THEM INTO GROUPS TO JUST TALK ABOUT ISSUES, JUST DISCUSS ABOUT THE ISSUES THAT YOU SEE.

AND THE STAFF'S IN A UNIQUE POSITION, BECAUSE THEY SEE THESE THINGS EVERY DAY. PEOPLE ARE TALKING TO THEM ABOUT THEIR PROBLEMS, THEIR ISSUES, THEIR BARRIERS. AND THAT'S WHAT WE'RE TALKING ABOUT IN THE 21ST CENTURY. WHAT ARE THE BARRIERS? WHAT ARE

THE THINGS WE HAVE TO LOOK TOWARDS?

AND I THINK WE HAVE TO HAVE AN OPEN MIND. WE'VE GOT TO TRY TO STAY WITHIN THE BOX AS FAR AS WHAT OUR MANDATES ARE, AND GO OUTSIDE OF THE BOX AS TO HOW DO WE GET THERE AND WHAT DOES THE FUTURE LOOK LIKE. I MEAN, THAT'S -- THIS IS NOT GOING TO BE AN EASY TASK.

STEVEN GUENA'S SITTING IN THE AUDIENCE.

HE AND I WERE IN WASHINGTON, D.C., AT THEIR 21ST CENTURY THING, AND I DON'T WANT TO -- I'LL TELL YOU, I'VE SAID THIS IN PUBLIC MEETINGS, I WAS DISAPPOINTED FROM THE STANDPOINT THAT I WAS LOOKING FOR NEW AREAS FOR OUR MARKET GROWTH, AND THEY WERE TRYING TO FIGURE OUT WHERE TO PUT THE BIN.

SO, WE ARE FAR AHEAD OF THE REST OF THE UNITED STATES, ANYWAY, ON WHAT WE'RE DOING, AND WE NEED THAT INPUT.

THE FUTURE'S -- LIKE DANNY SAID, WE ARE -- WE'RE THINKING THAT IT'S GOING TO BE THE MIDDLE OF OCTOBER. WE'VE GOT SOME CONFLICTS WITH SPEAKERS. WE DON'T KNOW HOW WE'RE GOING TO GET THAT WORKED OUT AS FAR AS WHAT WE'RE GOING TO DO, BUT IT WILL BE IN SOUTHERN CALIFORNIA JUST BECAUSE THERE ARE SO MANY

PEOPLE IN SOUTHERN CALIFORNIA. AND THE FUTURES
CONFERENCE WILL BE HELD IN SACRAMENTO.

WE NEED YOU TO PARTICIPATE. WE NEED YOU
TO BE THINKING ABOUT IT. AND EVERY GROUP WILL BE
INVITED NO MATTER WHAT THEIR OPINION, WHAT THEIR POINT
OF VIEW. THIS IS A COLLABORATIVE PROCESS. WE MAY NOT
GET A HUNDRED PERCENT CONSENSUS, BUT WE ARE DEFINITELY
GOING TO LISTEN TO VIEWS IN AN UNFILTERED MANNER TO GO
FORWARD.

SO, I APPRECIATE THE EFFORT. AND WE'LL
JUST KEEP BANGING AWAY.

CHAIRMAN PENNINGTON: THANK YOU, MEMBER
EATON, AND THANK YOU, MEMBER JONES.

WE'RE GOING TO TAKE ABOUT A FIVE-MINUTE
BREAK HERE, SO-- AND WHEN WE COME BACK, WE'RE GOING TO
TAKE UP -- TO ACCOMMODATE OUR PUBLIC AFFAIRS OFFICE,
WE'RE GOING TO TAKE UP ITEM 26, WHICH IS THE BIENNIAL
REVIEWS.

(OFF THE RECORD; BRIEF RECESS.)

CHAIRMAN PENNINGTON: OKAY, FOLKS, WE'RE
READY TO COME BACK.

AGENDA ITEM NO. 26: CONSIDERATION OF STAFF
RECOMMENDATION ON THE BIENNIAL REVIEW FINDINGS FOR THE

SOURCE REDUCTION AND RECYCLING ELEMENT FOR THE
FOLLOWING JURISDICTIONS [AS LISTED IN AGENDA]

CHAIRMAN PENNINGTON: WE'RE GOING TO TAKE ITEM 26 OUT OF ORDER TO ACCOMMODATE OUR PUBLIC AFFAIRS OFFICE. SO, WE'LL MOVE TO ITEM 26, WHICH IS CONSIDERATION OF STAFF RECOMMENDATION ON THE BIENNIAL REVIEW FINDINGS FOR THE SOURCE REDUCTION AND RECYCLING ELEMENTS FOR JURISDICTIONS IN CALAVERAS, KERN, ORANGE, RIVERSIDE, SAN JOAQUIN, VENTURA, AND YOLO COUNTIES.

JUDY FRIEDMAN.

MS. FRIEDMAN: YES. GOOD MORNING, CHAIRMAN PENNINGTON AND BOARD MEMBERS. I'M JUST GOING TO TURN THIS OVER TO CATHERINE CARDOZO WHO WILL MAKE THE PRESENTATION FOR STAFF.

BUT, BEFORE I DO I JUST WANTED TO LET YOU KNOW THAT WITH THIS ACTION THIS WILL BE '95 BIENNIALS THAT HAVE BEEN COMPLETED. SO, INCLUDING THE SET, WHICH IS A SIGNIFICANT NUMBER. AND, WITH THAT, I'LL TURN IT OVER TO CATHERINE.

MS. CARDOZO: THANKS, JUDY. GOOD MORNING, CHAIRMAN PENNINGTON AND BOARD MEMBERS. I AM CATHERINE CARDOZO WITH THE OFFICE OF LOCAL ASSISTANCE, THE NEW CENTRAL SECTION. AND I'M HAPPY TO PRESENT TO YOU

TODAY 32 MORE JURISDICTIONS FROM SEVEN COUNTIES THAT HAVE DEMONSTRATED MEETING OR EXCEEDING THE 1995 GOAL OF 25 PERCENT IN BOTH 1995 AND '96.

THESE FINDINGS ARE THE RESULT OF STAFF'S REVIEW AND ANALYSIS OF THESE JURISDICTIONS AND THEIR 1995 AND 1996 ANNUAL REPORTS.

CLARIFICATION AND VERIFICATION OF PROGRAM IMPLEMENTATION WAS CONDUCTED BY NUMEROUS PHONE CALLS AND CORRESPONDENCE WITH THE JURISDICTIONS AND CHECKING PERTINENT DIVERSION FACILITY-RELATED DATABASES.

THESE JURISDICTIONS HAVE IMPLEMENTED AND CONTINUE TO IMPLEMENT NUMEROUS SOURCE REDUCTION RECYCLING, COMPOSTING, SPECIAL WASTE, AND EDUCATION PROGRAMS TO HELP THEM REACH THE 25 AND 50 PERCENT GOALS. THEIR SUCCESS IS THE RESULT OF COOPERATIVE EFFORTS BY THE CITIES AND COUNTIES AND THEIR RESIDENTS, SCHOOLS, AND THEIR COMMERCIAL SECTORS, AS WELL AS THE WASTE MANAGEMENT INDUSTRY AND THE RECYCLING INDUSTRY.

I WOULD NOW LIKE TO ACKNOWLEDGE THESE JURISDICTIONS' SUCCESS BY READING EACH INTO THE RECORD. IN CALAVERAS COUNTY WE HAVE ANGELES CAMP AND

CALAVERAS COUNTY UNINCORPORATED. IN KERN COUNTY WE HAVE BAKERSFIELD, CALIFORNIA CITY, DELANO, RIDGECREST, TAFT, TEHACHAPI, AND WASCO. IN ORANGE COUNTY, LAGUNA NIGUEL, SANTA ANA, SEAL BEACH, WESTMINSTER, AND YORBA LINDA. IN RIVERSIDE COUNTY WE HAVE BANNING, CANYON LAKE, CORONA, INDIAN WELLS, INDIO, LA QUINTA, MORENO VALLEY, NORCO, PALM SPRINGS, RANCHO MIRAGE, RIVERSIDE, AND TEMECULA. IN SAN JOAQUIN COUNTY WE HAVE ESCALON, LATHROP, AND LODI. IN VENTURA COUNTY, PORT HUENEME. AND IN YOLO COUNTY, DAVIS AND WINTERS.

THAT CONCLUDES MY PRESENTATION. DO YOU HAVE ANY QUESTIONS?

CHAIRMAN PENNINGTON: QUESTIONS?

MEMBER JONES: NO, JUST A COMMENT THAT I WAS GLAD TO SEE THIS ITEM READ INTO THE RECORD. I THINK THAT THE EFFORT THAT CITIES, COUNTIES AND CITIZENS HAVE DONE TO GET TO THE 25 PERCENT IS CRUCIAL AND AT LEAST DESERVES ACKNOWLEDGEMENT AS A SEPARATE ITEM.

SO, IF THERE AREN'T MORE COMMENTS, I'LL MAKE A MOTION TO ADOPT RESOLUTION 98-245, ACKNOWLEDGING ALL THOSE CITIES AND COUNTIES THAT YOU JUST READ INTO THE RECORD.

MEMBER EATON: AND I'LL SECOND THAT MOTION.

CHAIRMAN PENNINGTON: OKAY. AND IF THERE'S
NO FURTHER DISCUSSION, WILL THE SECRETARY CALL THE
ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES. THANK YOU.

AGENDA ITEM NO. 8-B: CONSIDERATION OF STATE
LEGISLATION - AB 2521 (WAYNE)

CHAIRMAN PENNINGTON: WE'LL NOW MOVE TO ITEM
NO. 8, CONSIDERATION OF STATE LEGISLATION. MS. PATTY
ZWARTS.

MS. ZWARTS: GOOD MORNING, CHAIRMAN
PENNINGTON AND MEMBERS.

YOU HAVE ONE PIECE OF LEGISLATION FOR
YOUR CONSIDERATION TODAY, AND THAT IS ASSEMBLY BILL
2521 BY SENATOR WAYNE. THIS MEASURE IS SPONSORED BY

THE CALIFORNIA ASSOCIATION OF ENVIRONMENTAL HEALTH ADMINISTRATORS.

THIS BILL WOULD PERMIT LEAS TO RECOVER COSTS FOR DEFENDING THEMSELVES AGAINST APPEALS OF DENIALS OF A SOLID WASTE PERMIT WHEN THEY PREVAIL. IT ALSO PROVIDES THAT A CEASE AND DESIST ORDER ISSUED BY THE LEA AGAINST A SOLID WASTE FACILITY OPERATOR WOULD REMAIN IN EFFECT WHILE AN APPEAL IS PENDING UNDER CERTAIN CONDITIONS AND MAKES OTHER CHANGES.

THIS BILL IS PRESENTLY ON THE SENATE FLOOR, THIRD READING BILL, AND THE COMMITTEE'S RECOMMENDATION EARLIER THIS MONTH ON THIS BILL IS SUPPORT IF AMENDED.

TWO THINGS HAVE HAPPENED SINCE THE COMMITTEE'S CONSIDERATION OF THIS BILL THAT I'D LIKE TO DRAW TO THE BOARD'S ATTENTION.

ONE, THE BILL WAS AMENDED ON JULY 21ST TO, IN EFFECT, TAKE THE COMMITTEE'S RECOMMENDED AMENDMENT, SO THE BOARD MAY WISH TO RECONSIDER THE RECOMMENDATION OF SUPPORT IF AMENDED TO SUPPORT CONSISTENT WITH THE COMMITTEE'S EARLIER RECOMMENDATION.

A SECOND THING HAS OCCURRED, IN THAT THE

BOARD'S LEGISLATIVE STAFF HAVE DISCOVERED A SECOND TECHNICAL ERROR SIMILAR TO THE FIRST ONE THAT WAS PROPOSED. WE HAVE INFORMALLY MENTIONED THAT TO THE AUTHOR'S OFFICE, AND THE SPONSOR, AND THEY HAVE INDICATED TO US THAT THEY WILL FIX THAT AT A LATER DATE. THAT'S ESSENTIALLY CHANGING AN "AND" TO AN "OR," SO WE FOUND A SECOND ONE FOR THEM.

AND, THAT CONCLUDES MY PRESENTATION. I'D BE OPEN TO ANY QUESTIONS ON THE MEASURE.

CHAIRMAN PENNINGTON: QUESTIONS?

MEMBER EATON: WOULD THE SECOND TECHNICAL "AND" TO "OR" BE AN IMPACT IF WE CHANGED OUR POSITION TO SUPPORT? OR, SHOULD THE POSITION STILL BE SUPPORTED IF AMENDED BECAUSE OF THAT "AND" OR "OR"?

MS. ZWARTS: WELL, IT IS TRULY TECHNICAL. AND, I THINK IT WOULD PROBABLY BE APPROPRIATE TO SUPPORT IT. THEY HAVE INDICATED THEY PLAN TO REPAIR THAT.

MEMBER EATON: AND THE AMENDMENT THAT MR. FRAZEE WAS SEEKING?

MS. ZWARTS: HAS BEEN AMENDED INTO THE BILL IN THE JULY 21ST VERSION. SO, THAT AMENDMENT IS IN PRINT.

CHAIRMAN PENNINGTON: ANY ADDITIONAL
QUESTIONS?

MEMBER JONES: JUST ONE QUESTION.

CHAIRMAN PENNINGTON: MEMBER JONES.

MEMBER JONES: IF AN OPERATOR COMES TO US
UNDER AB 59, AND IT'S NOT UPHOLD, THEN THIS WOULD PAY
FOR THEIR -- PAY FOR THE LEA'S EXPENSES TO DEFEND
THEIR ACTION?

MS. ZWARTS: YES, UNDER CONDITIONS THAT --
LET'S SEE -- THAT THE PANEL DEEMS THE APPEAL TO BE
FRIVOLOUS.

MEMBER JONES: OKAY. WHAT IF THE OPERATOR
PREVAILS, DOES THE LEA PAY TO THEM?

MS. ZWARTS: I'M NOT SURE IF IT'S CLEAR ON
THAT POINT. I BELIEVE SO.

MEMBER JONES: I JUST KIND OF WONDERED, YOU
KNOW.

CHAIRMAN PENNINGTON: MR. FRAZEE?

MEMBER FRAZEE: YES. MY UNDERSTANDING IS
THAT IF -- IN THE CIRCUMSTANCE THAT MEMBER JONES
MENTIONED, THERE WOULD STILL HAVE TO BE A FINDING OF
FRIVOLOUS, IT WOULDN'T JUST AUTOMATICALLY TRIGGER A
PAYMENT BY THE --

MS. ZWARTS: NO, NO, THERE WOULD HAVE TO BE A FINDING.

MEMBER FRAZEE: -- APPELLANT. THERE WOULD HAVE TO BE AN ADDITIONAL FINDING OF FRIVOLOUS IF THEY WERE TO DO THAT.

MEMBER EATON: OH, OKAY, I DON'T HAVE A PROBLEM WITH THAT THEN.

CHAIRMAN PENNINGTON: THE BOARD WOULD DO THAT?

MEMBER FRAZEE: WELL, THE LOCAL --

MS. ZWARTS: HEARING PANEL.

MEMBER FRAZEE: -- HEARING PANEL WOULD DO THAT. AND I ASSUME THAT, THEN, IS APPEALABLE TO THE BOARD, IS IT NOT?

MS. ZWARTS: INDEED THERE IS. IF THERE IS A DISAGREEMENT WITH THAT RULING, IT CERTAINLY COULD BE APPEALED TO THE BOARD.

MEMBER FRAZEE: OKAY.

MEMBER EATON: ON THE ITEM OF IT BEING FRIVOLOUS.

MS. ZWARTS: FRIVOLOUS.

MEMBER EATON: RIGHT.

MS. ZWARTS: OR ASSERTIONS THAT IT'S NOT

FRIVOLOUS.

MEMBER EATON: RIGHT.

CHAIRMAN PENNINGTON: IF THERE'S NO FURTHER QUESTIONS, I'LL ENTERTAIN A MOTION.

MEMBER EATON: MR. CHAIR, I'LL MOVE THAT WE ADOPT A SUPPORT POSITION IN REGARDS TO AB 2521.

CHAIRMAN PENNINGTON: I NEED A SECOND, FOLKS.

MEMBER FRAZEE: I'LL SECOND.

CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED AND SECONDED. IF THERE'S NO FURTHER DISCUSSION, WILL THE SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

CHAIRMAN PENNINGTON: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

AGENDA ITEM NO. 11: CONSIDERATION OF THE WASTE MANAGEMENT INC. ALLOWANCE TO CONTINUE USING NGIC INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCES FOR

CLOSURE AND POSTCLOSURE MAINTENANCE

CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM 11, CONSIDERATION OF THE WASTE MANAGEMENT INC. ALLOWANCE TO CONTINUE USING NGIC INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCES FOR CLOSURE AND POSTCLOSURE MAINTENANCE. DOROTHY RICE.

MS. RICE: GOOD MORNING, MR. CHAIRMAN AND MEMBERS. RICHARD CASTLE WILL MAKE A STAFF PRESENTATION AND MR. CHANDLER WILL TAKE PART IN THE PRESENTATION AS WELL.

MR. CASTLE: GOOD MORNING, BOARD MEMBERS, MY NAME IS RICHARD CASTLE FROM THE FINANCIAL ASSURANCES SECTION, AND I WANTED TO GIVE YOU A BRIEF OUTLINE OF WHERE WE'VE BEEN WITH WASTE MANAGEMENT.

WASTE MANAGEMENT FIRST SUBMITTED A CERTIFICATE OF INSURANCE FOR CLOSURE AND POSTCLOSURE MAINTENANCE FOR THEIR LANDFILLS LOCATED IN CALIFORNIA IN MARCH OF '93. SINCE THEN THEY HAVE DEMONSTRATED FINANCIAL ASSURANCES FOR ALL THEIR CALIFORNIA LANDFILLS WITH CERTIFICATES FROM NATIONAL GUARANTEE INSURANCE CORPORATION. THE BOARD ACCEPTED THE CERTIFICATES BASED ON THE FEDERAL REQUIREMENTS, BECAUSE THE BOARD HAD NOT ADOPTED REQUIREMENTS OF

THEIR OWN.

IN 1993, AB 1220 REQUIRED THE BOARD TO OVERHAUL THE FINANCIAL ASSURANCE REGULATIONS AND CONSOLIDATE THEM WITH THE REGULATIONS OF THE STATE AND REGIONAL WATER QUALITY CONTROL BOARDS.

THE TITLE 27 REGULATIONS -- WHICH WAS THE PACKAGE THAT CAME FROM AB 1220 -- WERE COMPLETED AND EFFECTIVE IN JULY OF 1997. THE INSURANCE DEMONSTRATIONS ALLOWED IN THESE REGULATIONS REQUIRE CALIFORNIA DEPARTMENT OF INSURANCE APPROVAL.

SINCE FEBRUARY OF 1997, WHEN WASTE MANAGEMENT, INC., REQUESTED CLARIFICATION OF THE PROPOSED TITLE 27 REGULATIONS REGARDING THEIR CONTINUED ABILITY TO UTILIZE NGIC -- WHICH IS THEIR CAPTIVE INSURER -- AS THE PROVIDER OF FINANCIAL ASSURANCE DEMONSTRATIONS FOR WASTE MANAGEMENT'S CALIFORNIA FACILITIES, PERMITTING AND ENFORCEMENT STAFF ALLOWED WASTE MANAGEMENT THROUGH THE END OF 1997 TO GAIN ACCEPTANCE OF NGIC OR PROVIDE AN ALTERNATIVE FINANCIAL ASSURANCE DEMONSTRATION. THE ACCEPTANCE WOULD BE THROUGH THE CALIFORNIA DEPARTMENT OF INSURANCE.

THE AGENDA ITEM LAYS OUT THE CHRONOLOGY

OF CORRESPONDENCE AND MEETINGS DURING 1997, WHEREIN STAFF ATTEMPTED TO RESOLVE THE SITUATION WITH NGIC AND WASTE MANAGEMENT.

ON SEPTEMBER 18TH, '97, THE CALIFORNIA DEPARTMENT OF INSURANCE LEGAL COUNSEL CONFIRMED THAT THE BOARD'S CURRENT REGULATIONS ON THIS MATTER WERE -- WERE AND ARE THE APPROPRIATE MEANS BY WHICH THE DEPARTMENT OF INSURANCE IS ABLE TO REVIEW INSURERS OFFERING COVERAGE FOR ANY OF THE BOARD'S REQUIREMENTS.

AND, THAT WAS AN OUTCOME OF A MEETING THAT WE HAD WITH THE LEGAL OFFICE OF THE DEPARTMENT OF INSURANCE, ABOUT WHETHER OR NOT WE COULD JUST CONTRACT TO THEM. I'VE ASKED FOR FURTHER CLARIFICATION IN CASE ANYTHING MAY HAVE CHANGED IN THE PAST. I HAVE NOT RECEIVED A RESPONSE ON THAT YET.

ON NOVEMBER 14TH, '97, WASTE MANAGEMENT WAS SENT NOTICE THAT THE ALLOWANCE TO USE NGIC INSURANCE WAS WITHDRAWN. THAT NOTICE CAME FROM THE PERMITTING ENFORCEMENT DIVISION. WASTE MANAGEMENT WAS ALLOWED 60 DAYS AFTER RECEIPT OF THAT NOTICE TO PROVIDE ACCEPTABLE FINANCIAL ASSURANCE DEMONSTRATIONS.

TOWARD THE END OF THE 60 DAYS THE BOARD

HEARD AN ITEM ON THAT, ON JANUARY 28TH, 1998. AND, THE BOARD HEARD THE WASTE MANAGEMENT REQUEST FOR ADDITIONAL TIME TO GAIN APPROVAL FROM THE CALIFORNIA DEPARTMENT OF INSURANCE. THE BOARD GRANTED WASTE MANAGEMENT 180 DAYS TO PURSUE THAT APPROVAL OF NATIONAL GUARANTEE INSURANCE. THIS BEGAN NGIC'S SECOND ATTEMPT TO GAIN DEPARTMENT OF INSURANCE APPROVAL.

ON JULY 6TH, 1998, ASSEMBLY BILL NO. 715 WAS AMENDED TO INCLUDE PROVISIONS REQUIRING THE BOARD TO REVIEW AND APPROVE CAPTIVE INSURANCE COMPANIES OF SOLID WASTE FACILITY OPERATORS, IN LIEU OF THE INSURERS MEETING REQUIREMENTS DEVELOPED BY THE CALIFORNIA DEPARTMENT OF INSURANCE. THE AB 715 LEGISLATION IS DUE TO NGIC'S FAILURE TO MEET THE REQUIREMENTS OF THE DEPARTMENT OF INSURANCE.

AND THEN, FINALLY, AT THE JULY 16TH P&E COMMITTEE MEETING THE COMMITTEE FORWARDED THIS ITEM TO THE BOARD TODAY WITH THE RECOMMENDATION THAT WASTE MANAGEMENT BE ALLOWED A SIX-MONTH EXTENSION TO CONTINUE UTILIZING NGIC WITH REPORTS REGARDING THE STATUS OF AB 715 ON TWO-MONTH INTERVALS AND THAT ANY NEW PERMIT ACTIONS THAT REQUIRE ADDITIONAL FINANCIAL

ASSURANCE COVERAGES, THAT THEY MUST -- THAT WASTE MANAGEMENT MUST UTILIZE DIFFERENT FINANCIAL ASSURANCE DEMONSTRATIONS THAT WOULD BE ACCEPTABLE UNDER OUR CURRENT REGULATIONS.

IN ADDITION, STAFF WERE TO BEGIN THE PROCESS OF MODIFYING THE CURRENT REGULATIONS FOR CLOSURE INSURANCE.

AT THIS POINT RALPH WANTED TO MAYBE SAY A LITTLE BIT MORE.

MR. CHANDLER: YEAH, JUST A FEW THOUGHTS AS -- BEFORE WE START THE DIALOGUE ON THIS ISSUE.

AND IT SEEMS TO ME IN PRESENTING THIS ITEM, WHAT I ASKED STAFF TO DO WAS JUST SIMPLY REVIEW THE HISTORY FOR THOSE MEMBERS WHO WERE NOT ON THE BOARD IN 1993, WHEN STATUTE REQUIRED THAT WE OVERHAUL OUR FINANCIAL ASSURANCE REGULATIONS AND CONSOLIDATE THEM WITH THE REGULATIONS OF THE STATE AND REGIONAL WATER QUALITY CONTROL BOARD.

IN ADDITION, AS YOU KNOW, THERE'S BEEN QUITE A LOT OF HISTORY THAT RELATES TO THE STAFF'S ONGOING DISCUSSIONS WITH WMI, BEGINNING IN EARLY 1997.

AND THEN, OF COURSE, AS JUST REFERENCED BY STAFF, THE NOTICE OF NOVEMBER OF LAST YEAR THAT PROVIDED WMI WITH

THE 60 DAYS TO PROVIDE THE ACCEPTABLE FINANCIAL ASSURANCE.

AND, IF YOU'D LIKE, I KNOW STAFF IS IN A POSITION TO PROVIDE ADDITIONAL INFORMATION THAT COVERS THE DIALOGUE THAT OCCURRED LAST YEAR.

BUT, IT STRIKES ME THAT WE'VE KIND OF MOVED FROM A SITUATION WHERE WE WERE WAITING THE OUTCOME OF NEGOTIATIONS WITH THE CALIFORNIA DEPARTMENT OF INSURANCE AND NOW WE'VE MOVED INTO A TIMETABLE OF REALLY AWAITING THE FATE OF AB 715, AND WE'LL LIKELY KNOW WHETHER OR NOT THIS BECOMES LAW WITHIN THE NEXT 60 DAYS.

AND, CERTAINLY, IF THE LEGISLATION'S SUCCESSFUL, IT WILL BECOME, AS I UNDERSTAND IT, EFFECTIVE JANUARY 1ST, AND PRESUMABLY REQUIRE THE BOARD TO REOPEN ITS REGULATIONS GOVERNING FINANCIAL ASSURANCE MECHANISMS. IF, ON THE OTHER HAND, THE LEGISLATION'S NOT SUCCESSFUL, WELL, IT SEEMS TO ME WE'LL BE BACK TO SQUARE ONE.

AND IT SEEMS THAT IT WOULD BE PRUDENT THAT WHILE THE LEGISLATURE CONSIDERS AB 715, WMI USES THE NEXT 60 DAYS TO SECURE ACCEPTABLE FINANCIAL ASSURANCE COVERAGE, THEREBY PUTTING ALL PARTIES IN A

POSITION OF COMPLIANCE ON OUR EXISTING REQUIREMENTS.

SHOULD THE LEGISLATURE APPROVE AB 715 AND THE GOVERNOR SIGN IT INTO LAW, THEN WE CAN REVIEW THE REQUIREMENTS OF THE LAW AND REASSESS OUR REGULATIONS AND THE NEED TO REVISE THEM TO COMPLY WITH THE NEW STATUTE, WHICH WOULD BE EFFECTIVE ON JANUARY 1ST.

SO, IN SUMMARY, I THINK THE STAFF HAVE OUTLINED THE HISTORY, THE SIX MONTHS' OF NEGOTIATIONS IN 1997, YOUR ADDITIONAL SIX MONTHS, AND NOW THE UPCOMING, IF YOU WILL, SIX MONTHS THAT WE ARE LOOKING AT AS THE LEGISLATION HAS ITS FATE REVIEWED IN THE LEGISLATURE.

HOWEVER, AS I INDICATED, I THINK IT WOULD BE ONLY PRUDENT THAT, SINCE WE'LL KNOW THE FATE OF THAT BILL IN -- PROBABLY IN THE NEXT 60 DAYS, THAT WE AT LEAST PUT WMI ON NOTICE THAT THEY SHOULD BEGIN PURSUING ALTERNATIVE MECHANISMS IN THE EVENT THAT THE LEGISLATION'S NOT SUCCESSFUL. THEN WE'LL SEE ALL PARTIES IN COMPLIANCE.

AND SO, AGAIN, THAT'S STAFF'S VIEWS ON THE MATTER AT THIS POINT. AND, I OPEN IT UP FOR ADDITIONAL DIALOGUE. AND I'M CERTAIN -- I'M SURE WMX

HAS THEIR THOUGHTS ON THE MATTER, AS WELL.

CHAIRMAN PENNINGTON: RIGHT. MR. WHITE WOULD LIKE TO ADDRESS US. SO, CHUCK WHITE.

MR. WHITE: THANK YOU VERY MUCH, MR. CHAIRMAN AND MEMBERS OF THE BOARD AND STAFF. I DO HAVE A NUMBER OF COMMENTS I WOULD LIKE TO MAKE REGARDING OUR, HOPEFULLY, CONTINUED USE OF NGIC AS A SAFE AND SECURE MECHANISM FOR PROVIDING FINANCIAL ASSURANCE AT OUR SOLID WASTE LANDFILLS IN CALIFORNIA.

WASTE MANAGEMENT CURRENTLY USES OUR CAPTIVE INSURANCE COMPANY, NGIC, TO PROVIDE FINANCIAL INSURANCE FOR ITS HAZARDOUS AND SOLID WASTE FACILITY OPERATIONS IN 18 STATES IN THE UNITED STATES. AND WE DO THAT IN COMPLIANCE WITH STATE ENVIRONMENTAL LAWS; WE DO IT IN COMPLIANCE WITH STATE INSURANCE LAWS; WE DO THAT IN COMPLIANCE WITH FEDERAL RCRA, BOTH SUBTITLE D AND SUBTITLE C, THE HAZARDOUS WASTE LAWS IN THOSE 18 STATES.

IN CALIFORNIA WE CURRENTLY USE NGIC FOR SIX SOLID WASTE LANDFILLS AND ONE HAZARDOUS WASTE LANDFILL. WE DO THIS IN COMPLIANCE WITH CALIFORNIA'S HAZARDOUS WASTE REGULATORY REQUIREMENTS. WE DO THAT, CURRENTLY, IN COMPLIANCE WITH CALIFORNIA INSURANCE

LAW. AND, WE DO IT IN COMPLIANCE WITH SOLID WASTE LAW, EXCEPT AS WAS AMENDED BY YOUR REGULATIONS IN AB 1220 REGS THAT -- EFFECTIVE THE MIDDLE OF LAST YEAR.

WHICH, CONTRARY TO WHAT -- WHICH WOULD OTHERWISE BE REQUIRED UNDER CALIFORNIA INSURANCE LAW, IT REQUIRED A SPECIFIC TYPE OF REVIEW AND APPROVAL BY THE CALIFORNIA DEPARTMENT OF INSURANCE THAT OTHERWISE WOULD NOT HAVE BEEN -- IS NOT REQUIRED FOR NGIC TO CONTINUE OPERATING IN CALIFORNIA.

WE BECAME AWARE OF THIS, AS YOUR STAFF HAVE POINTED OUT. WE SOUGHT CLARIFICATION. IN JANUARY THE BOARD GAVE US AN ADDITIONAL SIX MONTHS TO SEE IF WE COULD, IN FACT, SECURE THE SPECIFIC TYPE OF APPROVAL THAT WAS MANDATED BY YOUR REGULATIONS THAT BECAME EFFECTIVE LAST YEAR.

WE WORKED DILIGENTLY FOR THE LAST SIX MONTHS WITH THE CALIFORNIA DEPARTMENT OF INSURANCE. THEIR REVIEW WAS NOT COMPLETED UNTIL THE 13TH OF JULY, JUST A COUPLE OF WEEKS AGO. AND, BELIEVE ME, I WORKED AS HARD AS I CAN IMAGINE TO TRY TO GET THEM TO SPEED THAT PROCESS UP AND COME TO A CONCLUSION AT THE EARLIEST POSSIBLE TIME. BUT, AS IT TURNED OUT, TWO WEEKS AGO WAS THE SOONEST THAT WE GOT THE ACTUAL

DESCRIPTION OF WHAT THE CONCLUSIONS OF THEIR REVIEW AND OF THAT PROCESS WERE.

THE DEPARTMENT OF INSURANCE HAS WRITTEN A LETTER TO US, WHICH I PROVIDED IN MY THIRD BIENNIAL -- MY MONTHLY REPORT TO RALPH ON MONDAY. AND, BASICALLY, THEY MADE A NUMBER OF STATEMENTS AS A RESULT OF THAT.

THEY SAID WE WERE BOTH COOPERATIVE AND DILIGENT IN SEEKING TO EXPLORE WHETHER OR NOT NGIC COULD BE APPROVED BY THE CALIFORNIA DEPARTMENT OF INSURANCE.

THEY ARTICULATED THAT CALIFORNIA DEPARTMENT OF INSURANCE REVIEW IS NOT REQUIRED BY THE CALIFORNIA INSURANCE CODE, IT'S ONLY BY THE WASTE BOARD'S REGULATIONS THAT REQUIRE THE DEPARTMENT OF INSURANCE TO TAKE A LOOK AT THIS.

THEY INDICATED TO US THAT THE CALIFORNIA DEPARTMENT OF INSURANCE DOES NOT HAVE A MECHANISM TO APPROVE CAPTIVE INSURANCE COMPANIES LIKE NGIC UNLESS A CAPTIVE INSURANCE COMPANY IS STRUCTURED TO OPERATE AS IF IT WERE A COMMERCIAL INSURANCE PROVIDER TRANSACTING THE BUSINESS OF INSURANCE IN CALIFORNIA.

AND, THEREIN LIES THE PROBLEM. WE ARE A

SQUARE PEG TRYING TO BE FIT INTO A ROUND HOLE OVER AT THE DEPARTMENT OF INSURANCE. THE DEPARTMENT -- THE CALIFORNIA INSURANCE CODE IS SPECIFICALLY SET UP TO REVIEW AND APPROVE COMMERCIAL INSURANCE PROVIDERS TRANSACTING SELLING INSURANCE POLICIES FOR LIFE AND RISKS IN CALIFORNIA. WE DON'T DO THAT.

FURTHER, THE CALIFORNIA DEPARTMENT OF INSURANCE HAS INDICATED TO US IN WRITING....

AND, I MIGHT STEP BACK FOR A SECOND. I APPRECIATE MR. CASTLE'S EARLIER COMMENTS ABOUT SOME STATEMENTS MADE BY DEPARTMENT OF INSURANCE LAST YEAR, BUT I HAVE NEVER SEEN THOSE IN WRITING. I DON'T KNOW WHO THEY ARE ATTRIBUTED TO.

THEY'VE NEVER BEEN ARTICULATED TO ANYBODY WITHIN WASTE MANAGEMENT OR NGIC THAT -- THAT OTHER THAN WHAT WE RECEIVED RECENTLY IN WRITING IS THAT NGIC MAY BE AN ACCEPTABLE MEANS OF PROVIDING INSURANCE UNDER OTHER REGULATORY STATUTES AND REGULATIONS LIKE SUBTITLE D, LIKE THE CALIFORNIA HAZARDOUS WASTE CONTROL LAW, LIKE THE CALIFORNIA STATE SOLID WASTE ACT.

THEY DON'T HAVE ANY OBJECTION TO STRUCTURING A REGULATORY MECHANISM THAT WOULD ALLOW

THE CONTINUED USE OF NGIC AS AN INSURANCE PROVIDER IN CALIFORNIA PURSUANT TO THESE OTHER LAWS.

THE PROBLEM IS, NGIC IS NOT A COMMERCIAL INSURANCE COMPANY. WE HAVE NO INTEREST IN BECOMING AN INSURANCE -- COMMERCIAL INSURANCE CARRIER.

OKAY. SO, WHAT ARE OUR OPTIONS TODAY HAVING GONE THROUGH THIS REVIEW, AND WE'RE NOT A -- AND THE SQUARE PEG NOT BEING ABLE TO FIT IN THE ROUND HOLE?

NUMBER ONE IS, WE COULD STOP USING NGIC IN CALIFORNIA AND SWITCH TO ANOTHER MECHANISM. THAT'S NOT OUR FIRST CHOICE. IT MAY BE THE RECOMMENDATION OF THE STAFF. BUT, IT IS SIMPLY SOMETHING WE WOULD LIKE TO BE ABLE TO CONTINUE USING NGIC, AS WE HAVE IN 18 OTHER STATES. WE BELIEVE IT'S A SAFE AND SECURE MECHANISM.

ANOTHER OPTION WOULD BE TO COMPLETELY RESTRUCTURE NGIC SO IT LOOKS LIKE A COMMERCIAL INSURANCE COMPANY TO COMPLY WITH CALIFORNIA INSURANCE LAW. THAT MEANS WE WOULD HAVE TO RESTRUCTURE OUR NATIONWIDE INSURANCE CARRIER FOR ALL 18 STATES THAT WE USE IT IN TO MEET THE REQUIREMENTS OF CALIFORNIA'S SPECIFIC REQUIREMENTS FOR COMMERCIAL INSURANCE

COMPANIES.

THAT MEANS WE WOULD NOT BE ABLE TO USE LETTERS OF CREDIT. FOR EXAMPLE, WE'D HAVE TO BUY AND SELL INVESTMENT PORTFOLIO OF OTHER COMPANY STOCKS, BONDS, AND CERTIFICATES, AND MAINTAIN THIS PORTFOLIO LIKE ANY OTHER KIND OF INSURANCE COMPANY. WE'RE, FRANKLY, NOT INTERESTED IN DOING THAT PARTICULARLY IF IT'S JUST THE CALIFORNIA REQUIREMENTS THAT ARE FORCING US TO DO THAT NATIONWIDE.

WE COULD PURSUE AN ALTERNATIVE WAY TO APPROVE THIS TYPE OF INSURANCE OPERATION IN CALIFORNIA. AND, BY THE WAY, WE'RE NOT THE ONLY WASTE COMPANY THAT DOES OPERATE A CAPTIVE INSURANCE COMPANY.

BFI, FOR EXAMPLE, ALLIED, AND USA, WHICH WE ARE NOW MERGED WITH, OPERATES CAPTIVE INSURANCE COMPANIES FOR PROVIDING THIS TYPE OF FINANCIAL ASSURANCE MECHANISM.

OKAY. SO, IF THEY'RE GOING TO PURSUE AN ALTERNATIVE WAY OF DOING THIS, HOW COULD WE DO IT? ONE WOULD BE TO GO AND AMEND THE CALIFORNIA INSURANCE CODE. WE WOULD PROVIDE A SEPARATE PROCESS FOR THE DEPARTMENT OF INSURANCE TO APPROVE AND REVIEW CAPTIVES.

THEY'RE, FRANKLY, NOT PARTICULARLY

INTERESTED IN DOING THAT. THEY SAY WE DON'T REVIEW CAPTIVES NOW. WE'RE NOT REQUIRED BY CALIFORNIA LAW TO REVIEW CAPTIVES. WE HAVE NO INTEREST IN GETTING INVOLVED IN REVIEWING CAPTIVES.

THEY SPECIFICALLY SAID THE BETTER APPROACH WOULD BE TO GO BACK TO THE REGULATORY AGENCY THAT SENT US OVER HERE IN THE FIRST PLACE AND SEE IF YOU CAN'T WORK OUT SOME WAY FOR THEM TO REVIEW AND APPROVE PURSUANT TO THOSE SPECIFIC ENVIRONMENTAL LAWS.

WELL, HEY, WE OPERATE TODAY UNDER THE HAZARDOUS WASTE CONTROL LAW. I WOULD LIKE TO OPERATE PURSUANT TO THE PUBLIC RESOURCES CODE AND THE SOLID WASTE LEGISLATION.

OR YOU CAN GO BACK AND MODIFY YOUR OWN REGULATIONS. AFTER ALL, IT'S THIS BOARD'S REGULATIONS THAT BECAME EFFECTIVE LAST JULY OR AUGUST, IN '97, THAT FORCED US TO GO THROUGH THE DEPARTMENT OF INSURANCE WHICH OTHERWISE WE WOULDN'T HAVE BEEN REQUIRED TO DO.

OUR APPROACH, AND WHAT WE BELIEVE TO BE THE BEST, IN CONSULTATION WITH OTHER COMPANIES THAT PROVIDE THIS TYPE OF MECHANISM, IS TO PURSUE A LEGISLATIVE OPTION THROUGH AB 715.

YOU'RE REQUIRED TO OPERATE IN FULL COMPLIANCE WITH SUBTITLE D. YOU HAVE TO HAVE A SECURE INVESTMENT RATING. YOU'VE GOT TO HAVE AN ANNUAL REPORT. YOU'VE GOT TO BE DOMESTICALLY LICENSED AND ALLOWED TO OPERATE IN THAT STATE OF LICENSE.

THE CALIFORNIA DEPARTMENT OF INSURANCE HAS INDICATED TO US THAT THEY'RE NEUTRAL ON THIS BILL.

THAT IS, THEY DON'T OBJECT TO IT. THEY HAVE NO PROBLEM. THEY'VE INDICATED THAT IN WRITING. I HAVE PROVIDED THAT LETTER TO YOU.

AND, THEY HAVE INDICATED THAT -- THEY'VE ASKED US TO TAKE ONE MINOR AMENDMENT TO THAT BILL, AND ASSEMBLYWOMAN FIGUEROA, THE CHAIR OF THE INSURANCE COMMITTEE WHO'S AUTHORIZING THIS LEGISLATION HAS TAKEN THAT AMENDMENT.

SO, AS FAR AS WE'RE AWARE, THE DEPARTMENT OF INSURANCE IS NEUTRAL ON PROVIDING THIS ALTERNATIVE WAY OF ALLOWING A CAPTIVE INSURANCE COMPANY TO PROVIDE SOLID WASTE FINANCIAL ASSURANCE IN THIS STATE.

THE PROBLEM WE HAVE IS OUR SIX-MONTH EXTENSION RUNS OUT -- TECHNICALLY YESTERDAY, SAY TODAY. WE BELIEVE THAT WE'RE JUST WITHIN A GRASP AWAY

OF HAVING A SOLUTION TO THIS PROBLEM, AND WE WOULD PREFER NOT TO TEMPORARILY HAVE TO TRANSITION OUT OF AND THEN TO HAVE TO GO THROUGH THE COST OF TRANSITIONING BACK IN AGAIN ONCE THE LEGISLATION IS COMPLETE.

IDEALLY, WE WOULD LIKE, AND REQUEST, THIS BOARD TO EXTEND YOUR TEMPORARY, INTERIM AUTHORIZATION TO OPERATE FOR AN ADDITIONAL SIX MONTHS. YOU GRACIOUSLY HAD PROVIDED THAT TO US LAST JANUARY. WE APPRECIATE THAT.

IF YOU EXTEND IT ANOTHER SIX MONTHS, THAT WOULD TAKE US THROUGH THE END OF JANUARY OF '99.

THE AB 715 WILL BECOME EFFECTIVE ON THE FIRST OF THAT MONTH. WE BELIEVE THERE WILL BE SUFFICIENT TIME TO OPERATE IN COMPLIANCE, AND IN ACCORDANCE WITH THE WISHES OF THIS BOARD PURSUANT TO THAT ACT.

AT A MINIMUM WE WOULD ASK AT LEAST GIVE US ADDITIONAL TIME TO SEE IF THE BILL IS EFFECTIVE. THE BILL -- THE GOVERNOR'S LAST DAY TO SIGN IN EFFECT A BILL WOULD BE -- IT WOULD BE SEPTEMBER 30TH. SO, A THREE-MONTH EXTENSION TO THE BOARD MEETING IN OCTOBER WOULD BE THE FIRST -- WOULD BE A TIME FOR THE BOARD TO COME BACK AND REVIEW WHETHER OR NOT THAT LEGISLATION

HAD BEEN SUCCESSFUL.

SO, AT A MINIMUM WE THINK A THREE-MONTH EXTENSION TO OCTOBER BOARD MEETING WOULD BE -- NOT A PREFERABLE WAY TO GO, BUT IT CERTAINLY WOULD BE ACCEPTABLE TO US.

AND, BY THE WAY, WE ARE FULLY COMMITTED TO REPORT TO YOU ON A -- AS FREQUENTLY AS YOU WISH, MONTHLY, WEEKLY, DAILY -- ON OUR SUCCESS OF HOW WE ARE DOING, WHAT THE COURSE OF THE LEGISLATION IS.

WE'LL MAKE A COMMITMENT THAT WE WON'T EXPAND THE USE OF NGIC IN CALIFORNIA BEYOND WHAT WE'RE CURRENTLY USING IT FOR AND NO NEW FACILITIES, NO NEW UNITS WHEN NEW FACILITIES COME UP FOR PERMITTING. THE REASON WE WE'RE LOOKING TO DO THIS -- WE'RE NOT EXPANDING THE OPERATION UNTIL WE HAVE THE FINAL MECHANISM FOR ITS REVIEW AND APPROVAL.

WE WOULD JUST LIKE TO BE ABLE TO NOT HAVE TO GO THROUGH THE EXPENSE OVER A TWO- OR THREE-MONTH HIATUS TO GO -- TO TRANSITION OUT, TO TRANSITION BACK IN AGAIN.

WASTE MANAGEMENT IS FULLY COMMITTED TO WORKING CLOSELY WITH THIS BOARD AND THE DEPARTMENT OF INSURANCE TO ENSURE THAT A RESPONSIBLE AND SECURE

REGULATORY MECHANISM EXISTS IN CALIFORNIA TO ALLOW CAPTIVE INSURANCE COMPANIES TO PROVIDE SOLID WASTE FINANCIAL ASSURANCE IN A MANNER THAT IS IN COMPLIANCE WITH CALIFORNIA INSURANCE LAW, IN A MANNER THAT'S FULLY COMPLIANT WITH SUBTITLE D, IT'S CONSISTENT WITH THE GOALS AND OBJECTIVES OF THIS BOARD AND THE PUBLIC RESOURCES CODE, AND IS CONSISTENT WITH THE PARALLEL REQUIREMENTS THAT CURRENTLY ARE IMPOSED BY THE HAZARDOUS WASTE CONTROL LAW ON OUR OWN HAZARDOUS WASTE FACILITIES THAT OPERATE TODAY IN CALIFORNIA.

BUT, WE'RE NOT QUITE THERE YET. WE'RE WITHIN, LIKE I SAY, A GRASP OF IT BUT WE'RE NOT QUITE THERE. SO, WE WOULD ASK THE BOARD, PLEASE CONSIDER GIVING US AN ADDITIONAL FEW MONTHS -- PREFERABLY SIX, ACCEPTABLY THREE -- SO WE CAN DETERMINE WHETHER OR NOT THIS LEGISLATION WILL BE EFFECTIVE. WE BELIEVE IT WILL BE. THERE'S NO KNOWN OPPOSITION TO IT -- AND TO PROVIDE A MECHANISM FOR THIS BOARD TO CLEARLY REVIEW AND APPROVE A CAPTIVE INSURANCE COMPANY WITHOUT HAVING TO SEND IT TO THE DEPARTMENT OF INSURANCE, WHICH IS SIMPLY NOT SET UP TO REVIEW THIS TYPE OF MECHANISM. THANK YOU.

CHAIRMAN PENNINGTON: QUESTIONS FOR --

MEMBER JONES: MR. CHARIMAN.

CHAIRMAN PENNINGTON: MEMBER JONES?

MEMBER JONES: WHEN MR. FRAZEE AND I HEARD THIS ITEM AT QUESTION, WE HAD ASKED A COUPLE OF QUESTIONS. IT SEEMS ODD TO ME THAT THIS INSURANCE MEETS SUBTITLE D CAN DEAL WITH THE HAZARDOUS WASTE SITE DOWN AT KETTLEMANS AND DOESN'T WORK HERE.

AND MR. CASTLE BROUGHT UP A GOOD POINT THAT I WASN'T AWARE OF THAT I THINK NEEDS TO BE ON THE RECORD, AND THAT IS THAT THE WAY SUBTITLE D IS WRITTEN IT DOESN'T -- AN INSURANCE COMPANY -- AN NGIC INSURANCE COMPANY DOESN'T HAVE TO BE DOMICILED IN THE UNITED STATES AND, IN FACT, COULD BE A CARIBBEAN COMPANY THAT'S A PAPER COMPANY. AND THERE WERE SOME FAILURES WHERE THERE WASN'T ANYTHING TO BACK UP WHEN A CLAIM WAS PUT AGAINST AN INSURANCE POLICY.

I MEAN, THAT'S A HUGE ISSUE. THAT KIND OF CHANGED MY VIEW ON, YOU KNOW, WHY COULDN'T WE JUST DEAL WITH THE REGULATIONS. IT WOULD SEEM TO ME WE COULD AT SOME POINT WORK THIS OUT, THAT IT NEEDS TO BE DOMICILED IN THE UNITED STATES OR SOMETHING LIKE THAT, IF THERE'S VALUE IN DOING THAT.

BUT I SEE THREE BENCHMARKS, CHUCK. I

SEE A BENCHMARK -- THE OUTCOME OF THE LEGISLATION BEING THE FIRST BENCHMARK. THE GOVERNOR'S INCLINATION TO SIGN IT IS THE SECOND BENCHMARK. AND THEN THE TIME IT WOULD TAKE FOR US TO PUT THE REGULATIONS TOGETHER.

BUT, WHICH PROBABLY FALLS WITHIN A SIX-MONTH TIME FRAME.

AND, I THINK IT MAKES A LOT OF SENSE TO FASHION A COMPROMISE THAT SAYS "GIVE THEM THE EXTENSION. THESE ARE THE BENCHMARKS, BUT AT THE SAME TIME, PRIOR TO THAT OR CONCURRENTLY, DO THEY WORK TO GET OTHER MECHANISMS IN PLACE SO THAT IF, IN FACT, THE LEGISLATION GOES THROUGH AND THE GOVERNOR DECIDES NOT TO SIGN IT, OR VICE VERSA, YOU DON'T GET ANOTHER 60 DAYS BY STATUTE BECAUSE WE NOTIFY YOU, AND THEN YOU'VE GOT TO GO ANOTHER 60 DAYS."

BECAUSE OF THAT I DON'T THINK -- I DON'T THINK -- WHILE I AM COMFORTABLE WITH THE NGIC, I THINK THAT WE NEED TO BE PRETTY EVENHANDED HERE, AND IT WOULD SEEM TO ME THAT IF WE NOTIFIED YOU TODAY THAT WE'RE GOING TO HIT THESE BENCHMARKS, IF YOU GET A NO VOTE ANYWHERE ALONG THE WAY, YOU'RE 60 DAYS WAS ALREADY GIVEN TO YOU TO GET FINANCIAL ASSURANCE IN PLACE AND THEN I THINK YOU'RE LOOKING AT A MATTER OF

WEEKS, YOU KNOW, AS OPPOSED TO TWO MORE MONTHS.

MR. WHITE: IT WOULD TAKE US AT LEAST TWO TO THREE WEEKS TO TRANSITION TO ANOTHER MECHANISM.

MEMBER JONES: RIGHT.

MR. WHITE: WE DO HAVE THOSE ALTERNATIVE MECHANISMS SET UP. WE PREFER NOT TO TRANSITION TO THEM AT THIS PRESENT TIME.

MEMBER JONES: I UNDERSTAND.

MR. WHITE: WE'RE PREPARED TO DO THAT. WE HAVE NO DESIRE TO OPERATE OUT OF COMPLIANCE WITH THE WISHES OF THIS BOARD OR THE PUBLIC RESOURCES CODE OR YOUR REGULATIONS. WE HONESTLY ARE NOT GOING TO DO THAT. SO, WE ARE PREPARED TO MAKE THAT COMMITMENT. WE WOULD JUST NEED A PERIOD OF TIME TO GO THROUGH THE ADMINISTRATIVE MECHANICS OF SWITCHING OUT. HOPEFULLY WE DON'T COME TO THAT.

MEMBER JONES: SEE, AND I WOULDN'T HAVE ANY -- I MEAN, THE BOARD MEMBERS -- WE CAN DISCUSS THIS, BUT IT WOULD SEEM TO ME THAT IF WE PUT A -- IF WE PUT THE BENCHMARKS HERE AND WE FIGURED OUT A WAY TO FASHION THIS -- THAT TODAY IS NOTIFICATION BUT, YOU KNOW, YOU PUT THESE PIECES TOGETHER.

AND THEN AFTER ONE OF THESE -- IF ONE OF

THESE FAILS, THEN YOU HAVE FIVE WEEKS, FOUR WEEKS, WHATEVER IS AGREED TO. TO ACTUALLY HAVE THEM IN PLACE WOULD GIVE ME -- I THINK WOULD GIVE WASTE MANAGEMENT A COMFORT LEVEL. IT WOULD GIVE ME A COMFORT LEVEL AND I'M PRETTY SURE WOULD GIVE -- I HOPE IT WOULD GIVE EVERYBODY ELSE A COMFORT LEVEL THAT THIS THING IS IN PLACE.

I THINK IT MAKES SENSE TO GET THE LEGISLATIVE REMEDY. BUT I ALSO WANT TO HAVE THE INSURANCE BALL -- YOU KNOW, I WANT TO HAVE IT ENSURED THAT IF YOU DON'T GET IT WE'RE NOT SITTING HERE FOR ANOTHER SIX MONTHS.

MR. WHITE: INSURANCE ON INSURANCE, IN OTHER WORDS.

MEMBER JONES: EXACTLY.

MR. WHITE: WE CAN LIVE WITH THAT.

CHAIRMAN PENNINGTON: MR. FRAZEE?

MEMBER FRAZEE: YES. I JUST WANTED TO POINT OUT IN RESPONSE TO MY QUESTION ON THIS ITEM PREVIOUSLY, THAT COUNSEL INDICATED THAT IF THE LEGISLATION PASSES, THAT PREVAILS EVEN THOUGH IT MAY BE IN CONFLICT WITH OUR REGULATIONS, SO THAT THERE WOULD NOT BE A NEED -- AM I STATING THIS CORRECTLY?

THERE WOULD NOT BE A NEED TO RUSH INTO REGULATION OR WOULD THAT REGULATION PACKAGE HAVE TO BE ACCOMPLISHED IN ORDER TO ALLOW THIS, THAT THE STATUTE WOULD PREVAIL IN SPITE OF THE CONFLICT WITH THE REGULATION?

MS. TOBIAS: THE STATUTE WOULD PREVAIL. IN LOOKING AT THE LEGISLATION THUS FAR, I'M NOT SURE THAT WE WOULD HAVE TO DO MUCH IN TERMS OF REGULATIONS TO DO THIS.

LEGAL OFFICE, I THINK, STILL HAS A CONCERN ABOUT WHO IS GOING TO EVALUATE THIS, IN TERMS OF THE FACT THAT, WHILE I HAVE THE UTMOST RESPECT FOR -- AND I THINK WE HAVE HIGHLY COMPETENT FINANCIAL ASSURANCES SECTION, I THINK EVALUATING WHETHER OR NOT THIS TYPE OF ENTITY WOULD BE ABLE TO DO WHAT IT'S SUPPOSED TO DO UNDER OUR FINANCIAL ASSURANCE LAWS NEEDS TO BE EVALUATED BY AN OUTSIDE ENTITY EXPERT AND BASICALLY NEEDS TO BE PAID FOR BY WHOMEVER IS ASKING FOR THAT PRIVILEGE OF USING A DIFFERENT TYPE OF MECHANISM. SO, THAT'S SOMETHING THAT WE WOULD BE WORKING WITH THE LEG OFFICE ON TO MAKE SURE THAT THAT OCCURRED.

MR. WHITE: WE WOULDN'T OBJECT TO HAVING SOME DISCUSSIONS WITH THE BOARD ON THIS PARTICULAR AREA.

HOWEVER, I HAVE TO POINT OUT THE DEPARTMENT OF TOXICS REVIEWS THIS INSURANCE MECHANISM EVERY YEAR AND IS ABLE TO DETERMINE THAT IT OPERATES IN COMPLIANCE WITH THEIR REGULATIONS.

MS. TOBIAS: AND THAT MAY BE SO, MR. WHITE. I THINK THERE'D BE A DIFFERENCE, AT LEAST FOR US, IN TERMS OF THE INITIAL EVALUATION AS OPPOSED TO THE YEAR-BY-YEAR EVALUATION. I THINK ONCE WE'VE HAD SOMEBODY -- AND IF THERE'S THE ABILITY TO LOOK TO ANOTHER DEPARTMENT, I CERTAINLY HAVE NO PROBLEM WITH THAT EITHER. BUT I DO WANT THE ABILITY TO GO TO AN OUTSIDE EXPERT IF WE NEED TO.

AND THEN I THINK CERTAINLY ONCE WE LOOKED AT THAT, YOU KNOW, KEEPING THAT UP, I DON'T SEE THAT AS BEING AN ANNUAL EVENT IN TERMS OF THAT --

MR. WHITE: WE WOULD BE HAPPY TO WORK WITH THE BOARD. WE'VE STRUCTURED THE LEGISLATION SO IT'S NOT MANDATORY, IT'S PERMISSIVE, THE BOARD MAY APPROVE AN INSURANCE COMPANY THAT MEETS THE REQUIREMENTS OF THE LEGISLATION. IT DOESN'T PREVENT THE BOARD FROM PUTTING ADDITIONAL REGULATORY REQUIREMENTS OR EVEN AS PART OF THEIR APPROVAL PUT REASONABLE REQUIREMENTS ON THAT OPERATION.

WE HAVE NOT SOUGHT TO RESTRICT THE AUTHORITY OF THIS BOARD IN REVIEWING THAT. ALL WE'RE SAYING IS WE ESTABLISHED SOME MINIMUM BENCHMARKS THAT WE BELIEVE TO BE REASONABLE AND APPROPRIATE TO ALLOW THIS TYPE OF MECHANISM TO CONTINUE TO OPERATE, BUT NOT AS A COMMERCIAL INSURANCE PROVIDER, BUT AS A CAPTIVE.

MS. TOBIAS: AND ALL I THINK I'M ADDING TO THAT IS THAT IN ORDER FOR US TO CHARGE YOU FOR THAT EVALUATION, WE WOULD NEED THAT STATUTORY AUTHORITY, IN THAT SENSE.

CHAIRMAN PENNINGTON: YOU INDICATED THAT IT WOULD TAKE YOU TWO TO THREE WEEKS TO MAKE THE NECESSARY ADJUSTMENTS?

MR. WHITE: THAT'S WHAT MY FINANCIAL ADVISORS HAVE -- TELL ME, YES, IT WOULD TAKE THAT AMOUNT OF TIME.

CHAIRMAN PENNINGTON: SO THAT WOULD FALL WITHIN THAT LIKELY 30-DAY PERIOD AFTER THE LEGISLATURE HAD FINALLY DISPOSED OF THE BILL ONE WAY OR THE OTHER

--

MR. WHITE: AND THE GOVERNOR SIGNED IT.

CHAIRMAN PENNINGTON: -- SIGNATURE, SO THAT -

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MR. WHITE: -- BEFORE THE OCTOBER BOARD MEETING WE WOULD KNOW -- WE WOULD EITHER BE ABLE TO TRANSITION OUT OF IT OR --

CHAIRMAN PENNINGTON: ACTUALLY, YOU'D PROBABLY KNOW BEFORE THE SEPTEMBER BOARD MEETING. IT'S LIKELY --

MR. WHITE: POSSIBLY. HOPEFULLY THE LEGISLATION IS FINISHED BY THEN.

CHAIRMAN PENNINGTON: -- IF THERE'S NOT ANY REAL OBJECTION FROM THE GOVERNOR'S OFFICE. YOU KNOW, YOU'VE STILL GOT TO HAVE IT DONE BY THE 30TH IF WE GAVE YOU THE 60-DAY --

MR. WHITE: THAT'S CORRECT, 60 DAYS WE WOULD KNOW --

CHAIRMAN PENNINGTON: YOU WOULD KNOW STILL BY THE TIME THAT THE GOVERNOR WAS -- HIS DEADLINE HAD RUN. BUT --

MR. WHITE: ALMOST. YEAH.

CHAIRMAN PENNINGTON: -- THREE DAYS OR SOMETHING, BUT AT THAT POINT WE COULD EXTEND TO COVER THAT PERIOD FROM SEPTEMBER 30 TO OCTOBER 1, BECAUSE I ASSUME THAT IF WE GAVE THEM A 60-DAY NOTICE NOW, AT THE END OF THAT 60 DAYS HE'D BE IN LIMBO FROM

SEPTEMBER 30TH TO JANUARY 1 EVEN IF THE LEGISLATION
WOULD PASS.

MEMBER JONES: YEAH, BUT I WAS THINKING THAT
IF WE GAVE THEM THE EXTENSION AND PUT THE BENCHMARKS
IN, THE EXTENSION COULD BE LONGER THAN 60 DAYS. BUT
AT THE SAME TIME GIVE HIM NOTIFICATION THAT THE 60-DAY
RULE IS IN EFFECT EFFECTIVE TODAY. SO THEY'D BE -- I
DON'T KNOW HOW -- WORD SMITHS ARE GOING TO HAVE TO
CRAFT THIS, BUT, WE GIVE THEM THE EXTENSION, AND THEN
IF ANY OF THESE BENCHMARKS STOP, HE HAD ALREADY BEEN
GIVEN 60-DAY NOTICE, SO YOU'VE GOT TO --

MR. WHITE: I HAVE TWO OR THREE WEEKS TO
TRANSITION OUT BEFORE --

MEMBER JONES: EXACTLY.

(THE PARTIES SIMULTANEOUSLY SPEAK.)

MR. WHITE: -- EACH OF THOSE THREE
BENCHMARKS.

MEMBER JONES: YEAH, THAT'S HOW I WOULD SEE -

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MEMBER EATON: MR. CHAIR?

MEMBER JONES: -- IF THAT WOULD WORK. I
DON'T KNOW IF THAT WOULD WORK, BUT --

MEMBER EATON: MR. CHAIR?

CHAIRMAN PENNINGTON: MEMBER EATON?

MEMBER EATON: FIRST AND FOREMOST -- I HAD SOME PRELIMINARY COMMENTS -- BUT, IF WE NOTIFY HIM OF THE 60 DAYS THAT IS, IN ESSENCE, THE EXTENSION.

MEMBER JONES: RIGHT.

MEMBER EATON: SO WE DON'T HAVE TO ADD AN EXTENSION ON TO THE NOTIFICATION. THAT, IN ESSENCE, IS THE EXTENSION.

CHAIRMAN PENNINGTON: CORRECT. I THINK WHAT MEMBER JONES IS LOOKING AT, THOUGH, THAT IF WE GIVE THEM THE 60-DAY NOTICE --

MEMBER EATON: CORRECT.

CHAIRMAN PENNINGTON: -- AND WE GET TO THE END OF THE 60-DAY NOTICE, AND THE LEGISLATION HAS PASSED AND THE GOVERNOR HAS SIGNED IT, YOU STILL HAVE THAT PERIOD FROM SEPTEMBER 30TH TO JANUARY 1 THAT HE WOULD BE OUT OF COMPLIANCE.

MEMBER EATON: NO.

MR. CHANDLER: NO. BECAUSE, AS COUNSEL JUST SAID, THE STATUTE HAS BEEN PASSED, UNDER YOUR SCENARIO, AND THE GOVERNOR HAS SIGNED IT, SO THE STATUTE --

CHAIRMAN PENNINGTON: BUT IT'S NOT EFFECTIVE

UNTIL --

MR. CHANDLER: IT'S NOT EFFECTIVE
TECHNICALLY.

(THE PARTIES SIMULTANEOUSLY SPEAK.)

MR. CHANDLER: I THOUGHT WE WERE INDICATING
THAT THE STATUTE WOULD --

CHAIRMAN PENNINGTON: IT WOULD ONCE IT
BECOMES EFFECTIVE.

MEMBER EATON: I THINK THE ISSUE HERE REALLY
IS ONE OF NOT WHETHER OR NOT THIS IS A SAFE AND SECURE
MECHANISM, I THINK THAT THAT'S A GIVEN IN SOME
RESPECTS.

I THINK THE ISSUE RIGHT HERE FOR THE
BOARD IS WHETHER OR NOT WE HAVE A SITUATION WHERE WE
HAVE A REGULATION AND WE HAVE A SITUATION OF
NONCOMPLIANCE, THAT HAS BEEN A SITUATION BY WHICH BOTH
SIDES HAVE TRIED TO REACH ACCOMMODATION, HAVE BEEN
VERY COOPERATIVE AND GRACIOUS IN EXTENDING IT.
HOWEVER, WE ARE AT A POINT RIGHT NOW WHERE WE ARE
GOING TO BE SENDING THE WRONG MESSAGE IF EACH TIME WE
HAVE A REGULATION AND A NONCOMPLIANCE SITUATION THAT
WE CONTINUE TO EXTEND IT PAST THE TIME.

WE WILL KNOW, AND I THINK IT'S FAIR TO

THIS BOARD, THAT WITH THE 60-DAY NOTICE TO GET YOUR SHOP IN ORDER, WE WILL EITHER KNOW IN 30 DAYS WHETHER OR NOT THAT BILL HAS PASSED. I AM NOT COMING FROM THE LEGISLATURE AS CONFIDENT AS PERHAPS MR. WHITE IS, THAT ANY BILL WILL PASS, ESPECIALLY GIVEN THIS SITUATION THIS YEAR.

AND, SO I THINK THE BOARD NEEDS TO PROTECT ITSELF. AND THE BEST WAY TO PROTECT ITSELF IS TO BE IN A BEST POSITION THAT IF IN A SITUATION THAT THE LEGISLATION DOES PASS, IT'S A NO HARM, NO FOUL. IF IT DOESN'T PASS THEN VERY SHORTLY, COME AUGUST 31ST, THAT TWO- TO THREE-WEEK PERIOD WILL BE A TIME BY WHICH MR. WHITE, ACCORDING TO HIS OWN TESTIMONY, WILL BE ABLE TO PUT HIS DUCKS IN ORDER, AND THEN BE IN COMPLIANCE BY WITHIN THE 60 DAYS.

THAT SEEMS TO BE THE MOST APPROPRIATE MECHANISM. IT SENDS THE RIGHT MESSAGE TO ALL OF OUR PEOPLE WHO COME BEFORE US, THAT THE BOARD WILL BE VERY, VERY OPEN TO WORKING WITH YOU, BUT AT A CERTAIN POINT WE HAVE TO DO WHAT'S RIGHT AND WHAT IS NECESSARY IN ORDER TO PROTECT, I THINK, THE INTEGRITY OF OUR OWN REGULATIONS, IRRESPECTIVE -- AND THERE'S PROBABLY A LOT THAT CAN BE -- EQUITIES THAT CAN BE SAID ON BOTH

SIDES.

BUT WE ARE NOW AT A DIFFERENT SITUATION WHERE WE'RE ALMOST REACHING A YEAR WHEREIN THIS HAS JUST KIND OF GONE ON AND ON, AND WE NEED TO ALSO HAVE SOME MECHANISM BY WHICH THIS BOARD PROTECTS ITS OWN REGULATIONS.

SO I WOULD JUST BE IN SUPPORT OF MOVING WHAT MR. CHANDLER HAD SAID. AND THEN IF AND INDEED WE ARE IN A DIFFERENT SITUATION, WE CAN COME BACK -- SINCE WE ARE PROBABLY GOING TO MEET MORE OFTEN THAN NOT -- THAT WE CAN TAKE THIS MATTER UP IN ENOUGH TIME SO MR. WHITE CAN HAVE -- IF HE IS SUCCESSFUL IN GETTING THIS LEGISLATION PASSED -- THE APPROPRIATE TIME TO WORK WITH US, AS HE HAS IN THE PAST, TO MAKE SURE THAT THIS WORKS IF THE LEGISLATION IS PASSED AND SIGNED INTO LAW.

CHAIRMAN PENNINGTON: ANY OTHER DISCUSSION ON THAT?

MEMBER JONES: JUST THAT I THOUGHT MY STRUCTURE WOULD KIND OF FIT IN WITH WHAT MR. CHANDLER HAD TALKED ABOUT. WHAT I WORRY ABOUT IS THE -- I GUESS I DON'T REALLY WORRY THAT MUCH ABOUT IT, BUT WHEN WE HEARD THIS ITEM THE FIRST TIME THERE WAS

NOBODY THAT OBJECTED, AND THE ROOM WAS FILLED WITH ALL THE USUAL SUSPECTS, TO DOING THIS.

THE 60-DAY RULE -- I WAS HOPING BY HITTING THESE BENCHMARKS, IF WE GAVE NOTICE TODAY, THEN WE'RE NOT PUTTING OURSELVES IN PERIL. ALL I -- YOU KNOW WHAT I MEAN?

AND SO ALL I WAS SAYING WAS YOU RUN THEM CONCURRENTLY. YOU GIVE THEM BENCHMARKS THAT IF AT ANY TIME DURING -- OTHERWISE IN 60 DAYS IF IT'S PASSED THE LEGISLATURE BY THE GOVERNOR HASN'T SIGNED IT, THEN HE'S GOING TO COME BACK IN FRONT OF US AND ASK FOR AN EXTENSION FOR ANOTHER COUPLE OF MONTHS.

AND ALL I WAS TRYING TO SAY WAS IF ANY OF THESE BENCHMARKS SAY NO, HE'S ALREADY BEEN GIVEN THE 60-DAY NOTICE. HE'S GOT TO COME UP WITH ANOTHER FINANCIAL ASSURANCE. I GUESS IT WAS JUST A WAY TO NOT HAVE TO KEEP HEARING THE REQUEST, BECAUSE IT'S APPROVED, NOW WE'VE GOT TO WAIT FOR THE GOVERNOR, AND IT'S APPROVED, AND NOW WE'VE GOT TO WAIT FOR THIS.

SO, I DON'T REALLY CARE ONE WAY OR ANOTHER, IT JUST SEEMED TO ME LIKE IT WAS A WAY THAT IF WE HAD INSURANCES WITH BENCHMARKS AND WE GAVE THE NOTICE TODAY THAT WE HAD COVERED OURSELVES FROM THE

60-DAY LAW, RULE --

MR. WHITE: THE WAY I UNDERSTAND IT, MEMBER JONES, IS IF, FOR EXAMPLE, THE LEGISLATION DOES NOT PASS, THAT MEANS -- IT HAS TO BE PASSED BY THE END OF AUGUST. THAT MEANS I WOULD HAVE TWO OR THREE WEEKS TO TRANSITION --

MEMBER JONES: YOU'D HAVE THREE WEEKS.

MR. WHITE: -- TO ANOTHER MECHANISM --

MEMBER JONES: RIGHT.

MR. WHITE: -- AND I WOULD DO THAT.

HOWEVER, IF IT DOES PASS, THEN IT WOULD MOVE TO THE NEXT POINT WHICH THE GOVERNOR SIGNS IT. AND IF HE DOESN'T, THEN I WOULD HAVE TWO OR THREE WEEKS --

MEMBER JONES: YOU'VE GOT TWO OR THREE WEEKS, AND THAT'S IT.

MR. WHITE: AND THEN AT THAT POINT -- I MEAN, I THINK THAT'S -- BASICALLY, I THINK THE TWO PROPOSALS ARE EXACTLY CONSISTENT. IT'S JUST SIMPLY DO I HAVE TO COME BACK EACH TIME BEFORE THE BOARD AND GET A SPECIFIC ACTION, OR ARE YOU GOING TO SET UP THE FRAMEWORK NOW AT ONE TIME TO ESTABLISH THIS KIND OF ROLLING PROCESS BY WHICH I HAVE TO MEET CERTAIN

INTERIM POINTS? AND I BELIEVE WE CAN -- WE'RE WILLING TO COMMIT TO --

MEMBER EATON: THERE IS ONE WAY WE CAN RESOLVE THE ISSUE TO AVOID THE CONCURRENT AND PERHAPS CONFUSING OVERLAPPING PROPOSALS. IF THERE IS NO OPPOSITION, SIMPLY AMEND YOUR BILL TO BE AN URGENCY STATUTE, WHICH TAKES PLACE WITHIN 30 DAYS, AND WE DON'T EVEN HAVE TO GET INTO THE SITUATION. AND I THINK THAT'S WHAT -- I WOULD BE VERY SUPPORTIVE OF THAT.

MR. WHITE: I'LL REMIND YOU OF YOUR SUPPORT -

-

MEMBER EATON: I'D SUPPORT THAT AMENDMENT, I DIDN'T SAY I'D SUPPORT THE BILL.

MEMBER JONES: I MEAN, I DON'T HAVE -- I AGREE WITH MEMBER EATON. I MEAN, I DON'T WANT TO PUT US IN PERIL, AND I WAS KIND OF HOPING THIS WOULD TAKE CARE OF IT. BUT IF IT DOESN'T AND IT'S GOT TO BE 60 DAYS, THEN IT'S GOT TO BE 60 DAYS.

I MEAN, I WAS VERY -- YOU KNOW, I THOUGHT I WAS CLEAR THAT THE 60 DAYS IS AUTOMATIC. I MEAN IT JUST -- THAT'S IT. AND THE BENCHMARKS JUST WOULD KIND OF -- YOU KNOW, HIT THEM. IF YOU DON'T HIT

THEM, IT'S TRIGGERED. SO, I THINK WE'RE TALKING
BASICALLY THE SAME THING WITH JUST A LITTLE TWIST, BUT
--

CHAIRMAN PENNINGTON: I GUESS I'D LIKE TO
HEAR FROM COUNSEL ON THIS. CAN WE GO DOWN THIS DUAL
PATH? I MEAN, CAN WE ISSUE AN ORDER, A 60-DAY ORDER
AND HAVE SOMETHING ELSE RUNNING ON THE OTHER SIDE?

MS. TOBIAS: WELL, I GUESS I'D BE INTERESTED
IN HEARING FROM THE FINANCIAL ASSURANCES PEOPLE,
REALLY, IN TERMS OF THE MEETING OF THAT.

I DON'T KNOW, I HAVE SOME QUESTIONS IN
MY MIND ABOUT KIND OF STEPPING DOWN. AND I'M ALSO A
LITTLE BIT CONCERNED ABOUT EXTENDING IT FOR THE 60
DAYS. AND THEN AT THAT POINT, IF IT DOESN'T HAPPEN,
I'M A LITTLE BIT WORRIED ABOUT HOW THAT LOOKS TO
ANYBODY WHO'S REVIEWING THIS IN TERMS OF HOW STRONG
WE'RE BEING ABOUT FINANCIAL ASSURANCES. BUT, REALLY,
RICHARD'S MUCH MORE OF AN EXPERT IN THIS THAN I AM.

MEMBER EATON: I THINK THERE'S ALSO THE
CONTINGENCY QUESTION, THAT IF THERE IS NO PARTICULAR -
- IF THE LEGISLATION DOES FAIL, THEN THERE IS ON THE
BOOKS AN EXTENSION THAT THEN HAS TO BE KIND OF DEALT
WITH. AND AN ARGUMENT COULD BE RAISED THAT THAT

EXTENSION IS VALID FOR VARIOUS TYPES OF ISSUES THAT TAKE PLACE.

AND I DON'T THINK THAT THE BOARD WANTS TO BE IN A POSITION, AS WE SIT HERE TODAY -- I WASN'T AT THE JANUARY MEETING, I HEARD A LOT ABOUT IT. BUT, I KNOW THAT THERE WAS EVEN MORE CONFIDENCE AT THAT MEETING THAT THE DEPARTMENT OF INSURANCE WOULD APPROVE THIS QUITE READILY, FROM WHAT I GATHER FROM THOSE PEOPLE WHO ARE HERE.

AND WE FIND OURSELVES AGAIN EVEN -- WHAT I FEEL IS IN A MORE TREACHEROUS TERRITORY, THE LEGISLATURE TRYING TO -- TRYING TO GATHER UP VOTES. IF YOU'RE SO CONFIDENT, GET THE 54 VOTES, BRING IT BACK, WE'RE DONE.

MR. CHANDLER: NOT TO CONFUSE THE MATTER, BUT HERE'S ANOTHER OPTION PERHAPS, AS OPPOSED TO THIS OVERLAPPING.

DEPUTY DIRECTOR RICE DID ISSUE A 60-DAY NOTICE, AND SHE ISSUED IT ON NOVEMBER SOMETHING OF 1997. ONE OPTION WOULD BE FOR US TO SIMPLY EXTEND THE EXTENSION THROUGH THE FATE OF THE LEGISLATION, BUT FAILING THE LEGISLATION OR THE GOVERNOR'S SIGNATURE WE REVERT TO THE APPLICABILITY OF THAT NOTIFICATION THAT

WAS ISSUED BACK IN NOVEMBER AND NOT TRY TO WORRY ABOUT WHETHER OR NOT WE HAVE TO TODAY OR SOME FIVE DAYS FROM NOW START THE 60-DAY CLOCK. FROM MY PERSPECTIVE, FROM A STAFF PERSPECTIVE, THE 60-DAY CLOCK STARTED BACK IN NOVEMBER.

NOW, THE BOARD GRANTED A SIX-MONTH EXTENSION FOR THE DEPARTMENT OF INSURANCE NEGOTIATIONS TO CONTINUE, BUT WE HAVE ISSUED A STATEMENT ASKING FOR COMPLIANCE AND AN ALTERNATIVE MECHANISM TO BE POSTED.

AND MAYBE THE EASIEST WAY TO DO THAT IS TO SIMPLY ALLOW FOR THE EXTENSION FOR THE FATE OF THE AB 715 TO PLAY ITSELF OUT. BUT, FAILING THAT, WE WOULD REVERT BACK TO THE NOTIFICATION OF NOVEMBER.

CAN'T DO THAT?

CHAIRMAN PENNINGTON: SO THEN CAN WE SAY THAT WE'LL EXTEND IT UNTIL WE HAVE A -- UNTIL THE FATE OF THE LEGISLATION. AND IF IT FAILS THEY MUST BE IN COMPLIANCE IN THREE WEEKS?

MR. CHANDLER: PURSUANT TO THE NOTIFICATION THAT WAS ISSUED IN NOVEMBER OF 1997.

I KNOW THAT THAT NOTIFICATION IS, IN EFFECT, OVERDUE, BECAUSE IT WAS ASKING FOR 60-DAY COMPLIANCE AND WE'RE WELL PAST THAT. BUT I THINK THE

COUNTER-LEANING ARGUMENT THERE IS THAT IN THAT INTERIM PERIOD THE BOARD GRANTED THE SIX-MONTH EXTENSION, SO.

CHAIRMAN PENNINGTON: LET ME TRY A MOTION AND SEE HOW THIS FITS, AND THERE MAY BE SOME CHANGING. I'LL MOVE THAT WASTE MANAGEMENT, INC., BE ALLOWED AN EXTENSION TO CONTINUE USING NGIC INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCE. THIS EXTENSION WILL BE IN PLACE UNTIL THE DISPOSITION OF LEGISLATION PENDING IN THE CURRENT SESSION. IF THE LEGISLATION FAILS, WASTE MANAGEMENT IS TO COME INTO COMPLIANCE BY USING ANOTHER ACCEPTABLE FINANCIAL ASSURANCE MECHANISM WITHIN THREE WEEKS. IF THE LEGISLATION IS APPROVED, WASTE MANAGEMENT IS TO WORK WITH BOARD STAFF TO COME INTO COMPLIANCE IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE LEGISLATION. ANY NEW PERMITS FILED PRIOR TO THE APPROVAL OF THE LEGISLATION MUST USE ANOTHER FINANCIAL MECHANISM OTHER THAN NGCI INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCE.

ME. CHANDLER: I WOULD SUPPORT THAT WITH ONE CAVEAT. THAT WE WOULD ALSO REQUEST THAT YOU INSERT THE SAME REQUIREMENT FOR ANY CLOSURE PLAN APPROVALS THAT MAY BE -- THAT MAY IN THAT INTERVENING PERIOD PASS ALONG. I DON'T ASSUME THAT'S NECESSARILY ON THE

BOOKS OR IN THE PLANS, BUT NOT ONLY SHOULD THOSE CONDITIONS APPLY TO ANY NEW PERMITS BUT ANY NEW CLOSURE PLAN APPROVALS THAT MAY COME FORWARD.

CHAIRMAN PENNINGTON: OKAY.

MEMBER FRAZEE: WITH THAT UNDERSTANDING I WOULD SECOND THE MOTION. BUT I DO HAVE SOME COMMENTS.

CHAIRMAN PENNINGTON: OKAY. MR. FRAZEE?

MEMBER FRAZEE: JUST TWO ADDITIONAL COMMENTS ON THIS ISSUE AND I IN SECONDING THE MOTION I'M COMFORTABLE WITH THE 60 DAYS.

BUT THERE'S MORE THAN ONE WAY TO SKIN A CAT, AND WE CAN ACCOMPLISH ALL OF THIS BY MERELY AMENDING OUR REGULATIONS TO ALLOW THIS ALSO. THAT'S ANOTHER OPTION THAT WE HAVE. AND THAT WOULD AVOID THE LEGISLATION -- IT WOULD AVOID THIS WHOLE ARGUMENT.

BUT, COUPLED WITH THAT IS COUNSEL'S CAVEAT THAT WE NEED TO HAVE SOME MECHANISM TO REVIEW NGIC. AND THEREIN LIES THE DIFFICULTY, IS ACHIEVING THAT, BECAUSE I THINK IT'S FAIRLY EVIDENT THAT CALIFORNIA DOI IS NOT INTERESTED IN DOING THAT.

AND THEN SO WHERE DO YOU GO? DO YOU GO TO SOME PRIVATE AGENCY? DO YOU GO TO SOME OTHER STATE THAT HAS CONDUCTED THAT REVIEW AND PUT OUR FAITH IN

SOME OTHER STATE'S DEPARTMENT OF INSURANCE?

AND THAT'S ONE THAT'S GOING TO FACE US NO MATTER WHICH ROUTE WE TAKE, IS -- AND I WOULD LIKE TO HAVE A LITTLE MORE DISCUSSION ON WHERE WE'RE GOING WITH THAT ASPECT OF IT.

MEMBER EATON: I COULDN'T AGREE MORE, BECAUSE I THINK MR. WHITE TOLD ME THIS IS -- THAT THE CURRENT COMPANY IS A B-PLUS? WHAT NGIC RIGHT NOW, RATING C BEST?

MR. WHITE: WE DON'T HAVE A RATING ACTUALLY RIGHT NOW. WE WOULD HAVE TO SECURE THAT RATING, AND WE'RE FULLY COMMITTED TO SECURE THAT RATING. WE'VE NEVER SOUGHT IT BECAUSE IT'S NOT REQUIRED, BUT WE'RE WILLING TO COMMIT TO GETTING THAT B-PLUS OR BETTER. WE BELIEVE WE CAN DO FAR BETTER THAN B-PLUS. B-PLUS IS THE MINIMUM SECURED RATING.

MEMBER EATON: ABSOLUTELY. I KNOW THAT. I PRACTICED INSURANCE LAW, THAT'S WHY I ASKED.

BUT, YOU HAVE TO REALIZE, IT'S NOT AGAINST WMX. THE ISSUE HERE IS ONE OF PRINCIPLE, AND I'VE TALKED TO YOU ABOUT IT TIME AND TIME AGAIN. AND I THINK THAT'S WHERE WE'VE GOT TO GO. AND I THINK THAT IT'S A GREAT THING, BUT I DON'T PUT MUCH FAITH IN

SOME OF THE KINDS OF ACTIVITIES THAT HAVE TAKEN PLACE, AS OTHERS HAVE, AND I THINK WE NEED TO PROTECT OURSELVES.

IT'S NOTHING THAT YOU SHOULD BE AFRAID OF, AS WELL. BUT I DO BELIEVE THAT IT IS IMPORTANT FOR PUBLIC PERCEPTION, AS WELL AS FOR THE PUBLIC'S BUSINESS. AND THE ISSUE IS NOT, AGAIN, WHETHER IT'S A SAFE AND SECURE MECHANISM, IT'S WHAT CAN WORK FOR BOTH PARTIES AND ANY OTHER PARTY THAT MIGHT COME BEFORE US.

MR. WHITE: BELIEVE ME, OUR INTERESTS ARE EXACTLY PARALLEL ON THAT. WE WANT TO HAVE A MECHANISM THAT THIS BOARD FEELS VERY COMFORTABLE WITH, AND WE BELIEVE WE CAN DELIVER THAT. UNFORTUNATELY, WE CAN'T DO IT THROUGH THE DEPARTMENT OF INSURANCE BECAUSE THEY'RE NOT SET UP TO REVIEW THIS TYPE OF MECHANISM.

CHAIRMAN PENNINGTON: OKAY. WE HAVE A MOTION MOVED AND SECONDED. DO WE HAVE ANY FURTHER DISCUSSION ON THE MOTION? DO YOU WANT TO HEAR IT AGAIN?

MEMBER EATON: I'M SORRY, I DIDN'T --

CHAIRMAN PENNINGTON: I SAY DOES ANYBODY WANT TO HEAR IT AGAIN, OR --

MEMBER EATON: I THINK JUST ONE MORE TIME, JUST FOR THE RECORD, JUST SO THAT WE'RE CLEAR. I KNOW

IT'S --

CHAIRMAN PENNINGTON: SURE. IT'S A LONG ONE AND I.... OKAY. I MOVE THAT WASTE MANAGEMENT, INC., BE ALLOWED AN EXTENSION TO CONTINUE USING NGIC INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCE. THIS EXTENSION WILL BE IN PLACE UNTIL THE DISPOSITION OF LEGISLATION PENDING DURING THE CURRENT SESSION. IF THE LEGISLATION FAILS WASTE MANAGEMENT, INC., IS TO COME INTO COMPLIANCE BY USING ANOTHER ACCEPTABLE FINANCIAL ASSURANCE MECHANISM WITHIN THREE WEEKS. IF THE LEGISLATION IS APPROVED WASTE MANAGEMENT, INC., IS TO WORK WITH BOARD STAFF TO COME INTO COMPLIANCE IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THE LEGISLATION. ANY NEW PERMITS OR CLOSURE PLANS FILED PRIOR TO THE APPROVAL OF THE LEGISLATION MUST USE ANOTHER FINANCIAL MECHANISM OTHER THAN NGCI INSURANCE TO DEMONSTRATE FINANCIAL ASSURANCE. OKAY?

MEMBER EATON: THANK YOU.

CHAIRMAN PENNINGTON: IF THERE'S NO FURTHER DISCUSSION, WILL THE SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

OKAY. LET'S SEE, WELL, IT LOOKS LIKE WE'RE READY FOR LUNCH. OKAY. WE'LL RECESS TILL 1:30.

(WHEREUPON, THE LUNCHEON RECESS IS TAKEN.)

CHAIRMAN PENNINGTON: GOOD AFTERNOON. WE WILL COME BACK TO ORDER.

EX PARTE COMMUNICATIONS

CHAIRMAN PENNINGTON: FIRST WE'LL ASK IF THERE'S ANY *EX PARTES*. I'LL START WITH MR. FRAZEE.

MEMBER FRAZEE: YES, MR. CHAIRMAN. HAD AN EARLIER CONVERSATION WITH DENISE DELMATIER REPRESENTING NORCAL, IN WHICH SHE PROVIDED MYSELF AND I THINK OTHER MEMBERS SOME DOCUMENTS FROM THE COUNTY OF SACRAMENTO REGARDING THEIR WASTE HAULING PLANS.

AND, SECOND, A CONVERSATION THAT JUST OCCURRED REGARDING THE LEGISLATIVE ITEM THAT WE TOOK UP EARLIER. AND I UNDERSTAND THAT WE'RE GOING TO OPEN WITH THAT ITEM ALSO?

CHAIRMAN PENNINGTON: CORRECT.

OKAY. MEMBER EATON, ANY *EX PARTE*?

MEMBER EATON: JUST THE SAME THAT MR. FRAZEE HAD MENTIONED WITH REGARD TO DENISE DELMATIER.

CHAIRMAN PENNINGTON: OKAY. AND MEMBER JONES?

MEMBER JONES: WITH DENISE DELMATIER.

CHAIRMAN PENNINGTON: OKAY. I SPOKE WITH DENISE, AND I ALSO SPOKE WITH CHUCK WHITE FOLLOWING OUR DISCUSSION.

MR. FRAZEE IS CORRECT. WE WILL GO BACK -- I'M GOING TO TAKE UP ITEM 16 AND THEN WE'LL GO BACK TO ITEM 8-B, IF OUR LEG STAFF IS HERE. IF NOT, WE'LL KEEP MOVING ON UNTIL WE GET THEM BACK UP HERE SO THAT WE CAN GO BACK TO NUMBER EIGHT.

AGENDA ITEM NO. 16: CONSIDERATION OF A
STANDARDIZED COMPOSTING PERMIT FOR THE B&J DROP
BOX SANITARY LANDFILL COMPOSTING FACILITY, SOLANO
COUNTY

CHAIRMAN PENNINGTON: SO, ITEM 16,
CONSIDERATION OF STANDARDIZED COMPOSTING PERMIT FOR
THE B&J DROP BOX SANITARY LANDFILL IN SOLANO COUNTY.
DOROTHY RICE.

MS. RICE: THANK YOU, MR. CHAIRMAN AND MEMBERS. BRIAN LARIMORE WILL MAKE THE STAFF PRESENTATION, ASSISTED BY KEVIN CULLEN WITH THE LOCAL ENFORCEMENT AGENCY.

MR. LARIMORE: GOOD AFTERNOON, MR. CHAIRMAN, BOARD MEMBERS. THIS ITEM IS FOR A PROPOSED CHANGE FROM A REGISTRATION PERMIT TO A STANDARDIZED PERMIT FOR THE B&J DROP BOX SANITARY LANDFILL COMPOSTING FACILITY.

THE SITE IS LOCATED IN AN UNINCORPORATED AREA OF SOLANO COUNTY, ABOUT NINE MILES SOUTHEAST OF VACAVILLE.

B&J DROP BOX, INCORPORATED, A SUBSIDIARY OF NORCAL, IS THE OPERATOR AND LAND OWNER OF THE SITE.

THE FACILITY CURRENTLY USES A WITHIN-VESSEL PROCESS TO COMPOST GREEN MATERIALS. ORGANIC MATERIAL IS PLACED IN LARGE PLASTIC BAGS WITH THE HELP OF A BAGGING MACHINE. THE MATERIAL IS AERATED BY SUPPLYING AIR WITH AN ELECTRIC BLOWER THROUGH PERFORATED PIPE THAT RUNS THE LENGTH OF THE BAG.

THE OPERATOR PROPOSES TO INCREASE THE PERMITTED VOLUME OF MATERIAL FROM 10,000 CUBIC YARDS

OF ACTIVE COMPOST AND FEED STOCK TO 35,000 CUBIC YARDS OF MATERIAL UNDERGOING THE COMPOSTING PROCESS AND TO ADD ANIMAL MATERIAL AND WASTE WATER TREATMENT SLUDGE FEED STOCKS.

THE ANIMAL MATERIALS TO BE COMPOSTED INCLUDE RESTAURANT MATERIALS, SPECIFICALLY THE ANIMAL FRACTION OF RESTAURANT WASTE AND OTHER FOOD PREPARATION AND POST-CONSUMER WASTE.

AT THE TIME THE AGENDA ITEM WAS PREPARED, THE LEAD AGENCY HAD SUBMITTED SUPPORTING CEQA DOCUMENTATION FOR THE USE OF GREEN MATERIAL AND WASTE WATER TREATMENT SLUDGE, BUT NOT FOR ANIMAL MATERIAL.

BOARD STAFF IS NOW PREPARED TO MAKE A RECOMMENDATION BASED ON THE FOLLOWING BOARD AND LEA FINDINGS.

ONE, SOLANO COUNTY HAS AN APPROVED INTEGRATED WASTE MANAGEMENT PLAN AND THE BOARD'S OFFICE OF LOCAL ASSISTANCE HAS DETERMINED THAT THE PROPOSED FACILITY IS IN CONFORMANCE WITH THE PLAN.

TWO, THE LEA, LEAD AGENCY FOR CEQA, PREPARED AN ADDENDUM TO THE NEGATIVE DECLARATION THAT ADDRESSES THE USE OF ANIMAL MATERIAL FEED STOCK.

PURSUANT TO SECTION 15.162 OF THE CEQA GUIDELINES, PREPARATION OF A NEW EIR OR NEGATIVE DECLARATION IS NOT REQUIRED AND THE PROJECT IS IN COMPLIANCE WITH CEQA.

THREE, THE PROPOSED PERMIT IS CONSISTENT WITH CEQA AND THE STANDARDS ADOPTED BY THE BOARD.

AND NUMBER FOUR, THE FACILITY, AS DESCRIBED IN THE RCSI, IS EXPECTED TO OPERATE IN COMPLIANCE WITH STATE MINIMUM STANDARDS.

IN CONCLUSION, STAFF HAS REVIEWED THE PROPOSED PERMIT AND SUPPORTING DOCUMENTATION AND FOUND THEM ACCEPTABLE. STAFF RECOMMENDS THAT THE BOARD ADOPT RESOLUTION NO. 98-261, CONCURRING IN THE ISSUANCE OF SOLID WASTE FACILITIES PERMIT NO. 48AA0083.

REPRESENTATIONS OF THE LEA AND OPERATOR ARE HERE IF YOU HAVE ANY QUESTIONS.

CHAIRMAN PENNINGTON: MR. FRAZEE, ANY QUESTIONS?

MEMBER FRAZEE: NO, NONE.

CHAIRMAN PENNINGTON: MEMBER EATON?

MEMBER EATON: NO, SIR.

CHAIRMAN PENNINGTON: MEMBER JONES?

MEMBER JONES: JUST ONE QUICK ONE. THE 35,000 CUBIC YARDS WHICH IS IN THE BAGS, AND THEN THE ON-SITE FEED STOCK, YOU'VE GOT SOME KIND OF AN ARRANGEMENT AS FAR AS HOW MUCH MATERIAL WILL BE ON SITE FOR FEED STOCK PREPARATION?

MR. CULLEN: YES, WE DO.

MEMBER JONES: THAT'S FINE.

MR. CULLEN: AND I THINK THE NUMBER IS 35,000 PER YEAR.

MEMBER JONES: THAT'S FINE. BUT, I MEAN, YOU'VE GOT IT -- YOU'VE ALREADY GOT THAT WORKED OUT. BECAUSE -- OKAY. I DON'T HAVE ANY PROBLEM WITH THAT.

MR. CULLEN: MY NAME IS KEVIN CULLEN, BY THE WAY. AND I WORK FOR SOLANO COUNTY.

MEMBER JONES: I DON'T HAVE ANY PROBLEM WITH THAT, THIS LOOKS PRETTY GOOD.

CHAIRMAN PENNINGTON: OKAY. I'LL ENTERTAIN A MOTION.

MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A MOTION TO MOVE RESOLUTION 98-261, CONSIDERATION OF A STANDARDIZED COMPOSTING PERMIT FOR THE B&J DROP BOX SANITARY LANDFILL.

MEMBER FRAZEE: I'LL SECOND.

CHAIRMAN PENNINGTON: IT HAS BEEN MOVED AND
 SECONDED. IF THERE'S NO FURTHER DISCUSSION, WILL THE
 SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE

OKAY. I'M GOING TO MOVE ON TO ITEM 17 -
 - THE MOTION CARRIES, INCIDENTALLY.

AGENDA ITEM NO. 17: CONSIDERATION OF COMPLIANCE BY
OXFORD TIRE RECYCLING WITH ENFORCEMENT ORDER NO. 98-26

CHAIRMAN PENNINGTON: I'LL MOVE ON TO ITEM
 17, CONSIDERATION OF COMPLIANCE OF OXFORD TIRE
 RECYCLING WITH ENFORCEMENT ORDER NO. 98-26. DOROTHY
 RICE, BOB ANDERSON.

MS. RICE: THANK YOU, MR. CHAIRMAN AND
 MEMBERS. WE'D LIKE TO GIVE A BRIEF STAFF PRESENTATION
 GOING OVER A NUMBER OF ISSUES JUST TO MAKE SURE ALL
 THE ISSUES ARE COVERED, AND ALSO AT THE SAME TIME

MAKING AN EFFORT NOT TO REPEAT ITEMS THAT WE PRESENTED TO YOU AT THE BOARD MEETING LAST MONTH, IN JUNE, BECAUSE IN SOME AREAS THE STATUS HAS NOT SIGNIFICANTLY CHANGED.

THE MAIN PURPOSE OF THE TIME THAT WE'RE BRINGING TO YOU TODAY IS TO BRING FORWARD A STAFF RECOMMENDATION FOR BOARD ACTION ON THE OXFORD TIRE RECYCLING FACILITY CLOSURE PLAN. SO THAT'S THE MAIN POINT OF THE PRESENTATION TODAY.

BUT BEFORE WE GET TO THAT, WE THOUGHT THAT UPDATES ON A NUMBER OF ISSUES MIGHT BE TIMELY. SO, BERNIE VLACH WILL BEGIN WITH A BRIEF OVERVIEW OF SOME OF THE ISSUES. GARTH ADAMS WILL GO INTO A LITTLE MORE DETAIL ON THE FINANCIAL ASSURANCES ISSUES. BOB ANDERSON WILL PRESENT INFORMATION ON OUR MOST RECENT ESTIMATE OF THE TIRE PILE SIZE, AND ALSO THE STATUS OF REMEDIATION AT THAT SITE. BERNIE WILL THEN DISCUSS THE STATUS OF THE CLOSURE PLAN AND STAFF'S RECOMMENDATION REGARDING ACTION BY THE BOARD ON THAT CLOSURE PLAN. AND LASTLY, WE'LL TURN IT OVER TO THE LEGAL OFFICE FOR A BRIEF DISCUSSION OF LAND OWNER LIABILITY ISSUES.

AND, WITH THAT I'D LIKE TO TURN IT OVER

TO BERNIE TO BEGIN WITH A BRIEF OVERVIEW OF ALL THE ISSUES. THANK YOU.

MR. VLACH: GOOD AFTERNOON, MR. CHAIRMAN AND MEMBERS OF THE BOARD. MY NAME IS BERNIE VLACH, BOARD STAFF. WE HAVE, AS DOROTHY MENTIONED, SEVERAL STAFF HERE TO UPDATE YOU ON THE PROGRESS THAT OXFORD TIRE RECYCLING OF NORTHERN CALIFORNIA IS MAKING TOWARDS REMEDIATION OF THEIR OXFORD TIRE PILES IN WESTLEY, CALIFORNIA.

SINCE THE BOARD HAS HEARD THIS ITEM IN JUNE IN SAN RAFAEL THERE HAVE BEEN SOME CHANGES. AND THE AREAS THAT WE WISH TO UPDATE YOU INCLUDE THE STATUS OF THE FINANCIAL ASSURANCE MECHANISM, THEN THERE'S NEW INFORMATION RELATING TO THE STAFF WORK TO GET A MORE ACCURATE ASSESSMENT OF THE NUMBER OF WASTE TIRES REMAINING AT THE FACILITY, AND ALSO TO GIVE YOU NEW INFORMATION OR AT LEAST AN UPDATE ON THE OPERATOR'S EFFORTS TO REMEDIATE THE TIRES THAT ARE EXISTING AT THE FACILITY. AND THEN, LASTLY, STAFF HAS A RECOMMENDATION CONCERNING THE CLOSURE PLAN THAT WAS REQUIRED UNDER CLEANUP AND ABATEMENT ORDER 98-26.

SO IF THERE ARE NO QUESTIONS AT THIS TIME WE COULD LET GARTH ADAMS MAKE THE UPDATE ON THE

FINANCIAL ASSURANCE MECHANISM.

CHAIRMAN PENNINGTON: OKAY.

MR. ADAMS: I DON'T KNOW THAT THERE'S A LOT OF NEW NEWS ON THE FINANCIAL ASSURANCE STATUS OF THE SITE, BUT WE WILL RUN THROUGH IT REAL QUICK AS A REMINDER AS TO WHERE WE'RE AT, AT THE MOMENT.

YOU MAY RECALL THAT THE PERMIT AND THE AGREEMENT THAT OXFORD HAS WITH THE BOARD REQUIRES THAT THEY MAINTAIN THEIR \$1 MILLION FINANCIAL ASSURANCES TO THE BOARD, AND IT HAS BEEN IN THE FORM OF INSURANCE. AND THEY HAVE CANCELED THE INSURANCE POLICY BECAUSE OF THE LACK OF PAYMENT -- THIS IS THE INSURER CANCELING BECAUSE OF LACK OF PAYMENT. AND THE REGS GIVE THE BOARD BASICALLY 120 DAYS TO ACT UPON THAT POLICY. AND THE 120 DAYS FROM THE DATE OF CANCELLATION ENDS UP BEING AROUND SEPTEMBER 27 THAT THAT POLICY TURNS INTO A PUMPKIN AND IS NO LONGER AVAILABLE TO THE BOARD FOR -- TO ACCESS OR TO UTILIZE FORECLOSURE OF THE SITE. AND I THINK THAT'S PRETTY MUCH THE STATUS OF THAT ONE.

AND WE CURRENTLY HAVE ASKED THE INSURER FOR A COPY OF THE POLICY TO CHECK ON THE PROCESS AND PROCEDURES FOR DRAWING ON IT.

AND RICHARD CASTLE -- WHO WAS PROBABLY

GOING TO BE DOING THIS HAS FALLEN ILL. HE WAS ACTUALLY ILL THIS MORNING, BUT HE WANTED TO STAY FOR THE WASTE MANAGEMENT ITEM -- HAD INDICATED THAT THE OPERATING LIABILITY POLICY ALSO ON THIS SITE IS BEING -- WILL BE CANCELED PROBABLY WITHIN TWO DAYS. THERE'S A CANCELLATION NOTICE ON THAT AS WELL.

MEMBER EATON: WITHIN TWO DAYS?

MR. ADAMS: THERE'S A 10-DAY CANCELLATION ON THAT ONE, SO THAT ONE'S BASICALLY GONE SOUTH AS WELL. AND THAT WOULD BE ENVIRONMENTAL IMPAIRMENT INSURANCE.

MEMBER JONES: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES, MEMBER JONES?

MEMBER JONES: I THINK THIS IS A GOOD PRESENTATION. THEY HAVEN'T MADE A PAYMENT ON THE INSURANCE. I HAVE JUST ONE QUICK QUESTION, AND MAYBE WE CAN CUT TO A MOTION.

HAVE WE SEEN A CLOSURE PLAN UPDATED THAT WAS DUE ON JULY 19TH OR JULY 10TH? DID IT COME TO US?

MS. RICE: YEAH, WE WERE GOING TO GO INTO THAT IN A LITTLE BIT. BUT, NO, WE HAVE NOT.

MEMBER JONES: A SIMPLE YES OR NO.

MS. RICE: NO.

MEMBER JONES: NO. OKAY.

I DON'T KNOW IF ANYBODY ELSE WANTS TO HEAR MORE. I'M READY TO MAKE A RESOLUTION TO PULL THIS PERMIT, START THE PROCESS. THIS HAS GONE ON LONG ENOUGH.

CHAIRMAN PENNINGTON: WELL, I THINK IT HAS, TOO. I DON'T KNOW WHETHER THERE ARE SOME IMPORTANT THINGS THAT STAFF WANTS TO GET ACROSS TO US, THOUGH, BEFORE --

MS. RICE: I THINK IN THE INTEREST OF A RECORD --

MEMBER JONES: YEAH, BUT I'VE HEARD -- YOU KNOW, WE'VE ALL HEARD THIS LIKE EVERY MONTH FOR THE LAST TWO YEARS --

MEMBER EATON: IT HASN'T BEEN CALLED A RECORD IN A LONG TIME, IT'S A CD.

MEMBER JONES: IT IS A LONG-PLAYING RECORD.

CHAIRMAN PENNINGTON: I THINK WE ALL AGREE WITH THAT, BUT --

MS. TOBIAS: MEMBER EATON POINTED OUT THAT IT'S NO LONGER A RECORD BUT A CD. BUT, ACTUALLY THIS IS A RECORD, AND I DO THINK THAT IT WOULD BE A GOOD IDEA IF STAFF HAS ANYTHING ELSE TO PUT ON THE RECORD, AND THEN WE CAN GO FROM THERE.

MS. DELMATIER: WELL, I THINK THE MOST IMPORTANT THING FOR US WAS TO GET ACTION BY THE BOARD ON THE CLOSURE PLAN, WHICH WE HAVE REVIEWED AND WHICH WE FIND INADEQUATE, AND WE HAVE PREPARED A RESOLUTION WHICH I BELIEVE WAS DISTRIBUTED TO BOARD MEMBERS YESTERDAY AND IS AVAILABLE -- COPIES AT THE BACK OF THE ROOM CONCERNING THAT ACTION.

AND OTR, JUST FOR A LITTLE BIT OF BACKGROUND, RECEIVED A LETTER FROM US -- WHAT, IN MAY? -- GOING OVER WHAT WE PERCEIVED TO BE THE INADEQUACIES IN THEIR CLOSURE PLAN. WE GAVE THEM 60 DAYS TO PROVIDE US WITH UPDATED INFORMATION. WE HAVE NOT RECEIVED ANYTHING FROM THEM, AND WE UNDERSTAND THEY DO NOT INTEND TO SUBMIT ANYTHING. THEY ALSO DID NOT CONTEST THE INADEQUACIES THAT WE DESCRIBED.

BASED ON THAT AND THE INFORMATION THAT WE PROVIDED THEM AND THE OPPORTUNITY TO CORRECT, WE ARE RECOMMENDING DISAPPROVAL OF THE CLOSURE PLAN AS SUBMITTED BY OXFORD TIRE.

CHAIRMAN PENNINGTON: WELL, I'LL BE HAPPY TO MOVE ADOPTION OF RESOLUTION 98-251, WHICH IS A CONSIDERATION OF THE COMPLIANCE BY OXFORD TIRE RECYCLING ENFORCEMENT ORDER. IS THAT THE RIGHT ONE?

MR. VLACH: YES, THAT'S CORRECT.

MR. CHANDLER: THE ONLY OTHER INFORMATION THAT MIGHT BE GERMANE TO WHY WE FEEL THE CLOSURE PLAN IS INADEQUATE IS WE FEEL WE HAVE A MUCH MORE ACCURATE ASSESSMENT OF THE NUMBER OF TIRES OUT THERE. AND BOB ANDERSON IS AVAILABLE, SHOULD YOU WISH TO ASK ANY QUESTIONS IN THAT REGARD, TO GIVE YOU WHAT WE THINK IS THE -- NOW THE CURRENT ASSESSMENT OF THE NUMBER OF TIRES OUT THERE.

BECAUSE, AS YOU KNOW, THE NUMBER OF TIRES IS A FUNCTION OF COST, AND IF THE FUNCTION OF COST IS WHAT THEY WERE REPRESENTING WOULD BE HOW THEY WOULD CLOSE THE SITE GIVEN THE NUMBER OF TIRES, AND IT'S THAT THAT WE FEEL IS INADEQUATE IN THE PLAN. AND AGAIN, IT ALL TIES BACK TO WHAT WE THINK IS A MORE ACCURATE ASSESSMENT OF THE NUMBER OF TIRES OUT THERE, INCLUDING THE OVERSIZE.

SO, I'M SURE WE'RE PREPARED TO TAKE THE MOTION NOW, OR IF YOU WISH TO HEAR A LITTLE BIT MORE ON THE QUANTITY OF TIRES AT THE SITE WE COULD ALLOW STAFF TO MAKE THAT BRIEF PRESENTATION, AS WELL.

CHAIRMAN PENNINGTON: IT'S FINE TO LET --

MR CHANDLER: BOB, WHY DON'T YOU JUST --

WE'LL BE BRIEF, BUT JUST GET TO THE CONCLUSION OF THE SOMAS WORK.

MR. ANDERSON: THANK YOU. I'M BOB ANDERSON WITH THE REMEDIATION CLOSURE TECHNICAL SERVICES BRANCH.

AND IN MAY OF THIS YEAR WE FINISHED THE 40,000 TON PROJECT UNDER THE WASTE MANAGEMENT BOARD AGREEMENT AND RESURVEYED THE SITE, THE OXFORD TIRE PILE SITE. AND IN EARLY JULY WE RECEIVED INFORMATION FROM SOMAS ASSOCIATES, THE SURVEYORS, THAT ACTUALLY GAVE US VOLUMETRIC ESTIMATES OF THE REMAINING TIRES ON SITE. FROM THAT, WE CONVERTED THAT INTO TONNAGE.

AND AS OF MAY 18TH, 1998, WE ESTIMATED THERE WERE 61,000 TONS STILL ON SITE. AND WE HAD A SLIGHT BURN-OVER SINCE WE HAD ADDITIONAL FUNDS LEFT OVER TO BURN OVER INTO JUNE 6TH. THAT BROUGHT US DOWN TO 59,000 TONS, OF WHICH ABOUT 7500 TONS ARE GIANT TIRES, TIRES OVER 52 INCHES ACROSS AND/OR OVER 19 INCHES THICK. AND WE SENT THAT INFORMATION ON TO BOTH MR. ED FILBIN AND ALSO TO MICHAEL BURNS ON JULY 14TH.

AND THAT'S ALL I HAVE. I'LL TAKE ANY QUESTIONS.

CHAIRMAN PENNINGTON: 75 -- WHAT WAS THE

OTHER --

MR. ANDERSON: 7500 TONS OF GIANT TIRES AND ABOUT -- OUT OF THE 59,000 TONS TOTAL ON SITE. AND THAT WOULD LEAVE YOU WITH ABOUT 52,000 TONS OF PASSENGER TIRE EQUIVALENTS.

CHAIRMAN PENNINGTON: WHICH EQUATES TO ABOUT

--

MR. ANDERSON: ABOUT FIVE-POINT-TWO MILLION -

-

CHAIRMAN PENNINGTON: -- PASSENGER TIRES.

CORRECT?

MR. ANDERSON: UNDER THE NUMBERING SYSTEM WE'VE BEEN USING, YES.

CHAIRMAN PENNINGTON: MR. FRAZEE.

MEMBER FRAZEE: YES. THAT INCLUDES ONLY THE TIRES WITHIN THE LEASEHOLD, NOT THE SO-CALLED FILBIN TIRES THAT ARE OUTSIDE THE LEASEHOLD, IS THAT CORRECT?

MR. ANDERSON: ACTUALLY, SIR, THIS INCLUDES ALL THE TIRES EXCLUSIVE OF THE MELP TRANSIT TIRE AREA.

MEMBER FRAZEE: OH, IT DOES?

MR. ANDERSON: YES. BECAUSE IF YOU LOOK AT THE DIAGRAMS THAT WERE PROVIDED BY SOMAS, IT TURNS OUT TO BE -- THERE ARE NO REMAINING TIRES SOUTH OF THE

PRODUCT-91 PROPERTY BOUNDARY LINE. THEREFORE, ALL THE TIRES ARE INCLUDED IN THE PERMIT FOR OTR, EXCLUSIVE OF MELP. NOW, THAT WAS AN INACCURACY THAT MR. BURNS HAD COMMUNICATED TO THE BOARD IN SAN RAFAEL. AND MAYBE HE JUST SHOT HIS ARROW WRONG OR WHATEVER, AND HE SAID....

MEMBER EATON: SO THERE ARE NO TIRES REMAINING OUTSIDE OF THE PERMIT AREA. IS THAT CORRECT?

MR. ANDERSON: OF THE SOUTHERN BOUNDARY AREA. THERE ARE TIRES OUTSIDE THE PRODUCT-91 BOUNDARY AREA, BUT THEY ARE INCLUDED WITHIN THE OTR PERMIT ISSUED BY THE WASTE MANAGEMENT BOARD.

CHAIRMAN PENNINGTON: OKAY.

MEMBER JONES: MR. CHAIRMAN, MAY I...?

CHAIRMAN PENNINGTON: CERTAINLY.

MEMBER JONES: I WANT TO ASK LEGAL, AND I APOLOGIZE FOR RUSHING, THIS JUST KIND OF -- I'VE HAD IT UP TO MY EYEBALLS ON THIS ONE, SO I APOLOGIZE.

AND, BY THE WAY, MR. BURNS DID SAY THAT HE COULD NOT MAKE IT TODAY, HE HAD OTHER THINGS. BUT THAT THEY UNDERSTOOD WHAT THIS ACTION WAS GOING TO BE.

THE NAME MR. FILBIN CAME UP, AND I'M

ASSUMING THAT AT SOMETIME WE'RE GOING TO HAVE A DISCUSSION ABOUT LAND OWNER RESPONSIBILITY?

MS. TOBIAS: TODAY IN CLOSED SESSION.

MEMBER JONES: GREAT. OKAY.

MR. CHANDLER: BOB, DID YOU MENTION WHAT PROGRESS, IF ANY, HAS BEEN MADE UNDER THE AGREEMENT TO REMEDIATE THE SITE IN 14 MONTHS THAT THE BOARD ENTERED INTO WITH OTR?

MR. ANDERSON: NO, SIR, I DIDN'T. WHAT WE HAVE TO DATE, FROM MAY 18TH, 1998, THE START OF THE OTR AGREEMENT WITH THE WASTE BOARD, THEY REMOVED 20 TONS FROM THE SITE, AS WAS REPORTED IN SAN RAFAEL. THEY HAVE MADE NO FURTHER EFFORT TO DO ANY OTHER ADDITIONAL WORK OUT THERE.

WE DO HAVE A SURVEY TEAM OUT THERE, SUPPOSEDLY, TODAY TO DIVIDE THE PILE INTO 12 EQUAL VOLUMETRIC LANES OR SECTIONS.

MR. CHANDLER: SO WHAT MONTH ARE WE IN?

MR. ANDERSON: WE JUST STARTED MONTH NUMBER THREE OF THE 14 MONTHS.

MR. CHANDLER: OKAY. SO WE'RE ABOUT 20 PERCENT INTO THE TIME FRAME, SO.

MR. ANDERSON: SOMETHING LIKE THAT.

MR. CHANDER: OKAY.

CHAIRMAN PENNINGTON: WELL, I'VE MOVED RESOLUTION 98-251, WHICH IS THE CRUX OF WHAT WE'RE TRYING TO GET AT. I'M SURE THAT SOMEONE WOULD LIKE TO SECOND THAT.

MEMBER JONES: I THINK MR. FRAZEE DID.

MEMBER FRAZEE: I THINK I DID.

CHAIRMAN PENNINGTON: OKAY. I'M SORRY. SO IF THERE'S NO FURTHER DISCUSSION, WILL THE SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

MS. TOBIAS: MR. PENNINGTON, I THINK THE BOARD MEMBERS ARE AWARE THAT WE HAVE ISSUED AN ORDER THAT WOULD REVOKE THAT PERMIT. THAT HEARING IS SCHEDULED FOR MONDAY, AUGUST 24TH, AT 2:00 P.M., AS A

SPECIAL BOARD MEETING.

CHAIRMAN PENNINGTON: OKAY. WELL, I'M SURE WE'LL ALL BE THERE.

MEMBER JONES: WE NEED TO, WE NEED FOUR VOTES.

AGENDA ITEM NO. 8-B: CONSIDERATION OF STATE
LEGISLATION - AB 2521 (WAYNE) -- (RESUMED)

CHAIRMAN PENNINGTON: OKAY. WE'RE GOING TO MOVE BACK TO ITEM NO. 8-B, WHICH IS THE CONSIDERATION OF STATE LEGISLATION, AB 2521, WITH WAYNE WE DID TAKE ACTION ON THIS, BUT I THINK WE NEED TO MOVE BACK BECAUSE I THIS THERE'S SOME MISUNDERSTANDING ABOUT WHAT THE AMENDEMENT DOES. SO, I'D LIKE TO ASK THAT PATTY ZWARTS COME FORWARD AND --

MEMBER JONES: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES, MEMBER JONES?

MEMBER JONES: AS SHE'S WALKING FORWARD, IN A PART OF MY *EX PARTE* WAS A BRIEF DISCUSSION I HAD WITH DENISE, AND I ASKED HER WHAT THE TECHNICAL AND/OR LANGUAGE WAS, AND IT APPEARS TO ME THAT IT IS PRETTY CRITICAL.

AND I THINK OUR MOTION WAS SUPPORT -- BECAUSE IT WAS AMENDED, RIGHT?

CHAIRMAN PENNINGTON: CORRECT.

MEMBER JONES: I THINK IT WAS JUST SUPPORT.

CHAIRMAN PENNINGTON: CORRECT.

MEMBER JONES: BUT I THINK THAT THE LANGUAGE IN QUESTION REFERS, FROM 45-017 REFERS BACK TO 44-005, AND IT LISTS THE WAIVING OF YOUR RIGHTS, BASICALLY ARE -- WAIVING OF A STAY UNDER THE CEASE AND DESIST, AND WHILE ONE AND TWO ARE FINE -- OR, TWO SAYS WITHOUT A SOLID WASTE FACILITY PERMIT, OBVIOUSLY, YOU'VE WAIVED YOUR STAY.

AND THEN THE PART IN QUESTION IS NUMBER THREE, IT SAYS "IN A MANNER THAT CAUSES OR THREATENS TO CAUSE A CONDITION, HAZARD, POLLUTION," AND THEN THE KEY WORD HERE IS, "OR NUISANCE SHALL, UPON ORDER OF THE ENFORCEMENT AGENCY, CEASE AND DESIST ANY IMPROPER ACTION."

THE PROBLEM WITH THAT AND/OR IS THAT IT SHOULD SAY "HAZARD, POLLUTION AND NUISANCE." BECAUSE, WHILE IT IS REFERRING BACK TO NON-PERMITTED FACILITIES IN THE FIRST PART OF THAT SECTION, THIS CAN BE INTERPRETED TO BE ANY PERMITTED FACILITY, ANY FACILITY, AND A NUISANCE CAN BE SOMETHING THAT IS VERY SUBJECTIVE. IT IS AN OPINION AS TO IS LITTER BLOWING

ACROSS THE ROAD ONCE A MONTH A NUISANCE? SURE IT IS, IF THERE'S SOMEBODY ON THE OTHER SIDE OF THE ROAD.

DOES AN OPERATOR HAVE THE RIGHT -- OR, DO WE WANT TO PUT THE OPERATOR IN A POSITION WHERE HE HAS WAIVED ANY STAY ON A CEASE AND DESIST ORDER ON THAT KIND OF AN ITEM? I DON'T THINK THAT'S THE INTENT. YOU KNOW, THAT WASN'T MY INTENT WHEN I THOUGHT THIS WAS JUST A TECHNICAL ISSUE.

I THINK "AND" OR "OR" IN THIS CASE HAS A LOT OF WEIGHT WITH IT, AND THAT'S WHY I ASKED IF THE ITEM WOULD COME BACK, MR. CHAIRMAN.

CHAIRMAN PENNINGTON: DO YOU WANT TO RESPOND TO THAT?

MS. ZWARTS: YES, IF I COULD. YOU'RE CORRECT, CHANGING IT FROM AN "AND" TO "OR" DOES BROADEN THE BILL, AND THAT WAS WHEN WE -- WHEN IT WAS POINTED OUT THAT THE AUTHOR'S OFFICE HAD INDICATED -- THE SPONSOR INDICATED THAT'S WHAT THEIR INTENT WAS. AND SO THAT'S WHY THE COMMITTEE WENT THAT WAY, TO CHANGE IT FROM "AND" TO "OR."

AND I HAD A CHANCE TO TALK TO SOME FOLKS IN THE BACK, TOO, THAT THAT WASN'T WHAT THEIR READ OF IT WAS, AS WELL.

BUT, YOU'RE CORRECT IN YOUR READ, MEMBER JONES, THAT BOTH CONDITIONS -- OR, EITHER CONDITION WITH THIS AMENDMENT COULD BE PRESENT IN THE CASE WHERE A CEASE AND DESIST ORDER IS NOT STAYED.

CHAIRMAN PENNINGTON: SO THAT MEANS THAT WE PROBABLY WANT TO TAKE A DIFFERENT POSITION ON THIS BILL. CORRECT?

MS. ZWARTS: IF IT IS THE BOARD'S WISH TO HAVE A NARROWER INTERPRETATION OF IT, THAT TWO CONDITIONS SHOULD EXIST BEFORE AN ORDER IS STAYED, THEN YOU WOULD NEED TO ASK FOR AN "AND." IF YOU WOULD LIKE A BROADER INTERPRETATION, MEANING THAT EITHER/OR OF THE TWO CONDITIONS COULD EXIST, THEN YOU WOULD NEED TO -- THEN THE BOARD ACTION WOULD STAND. DOES THAT HELP?

CHAIRMAN PENNINGTON: WE HAVE A COUPLE OF PEOPLE IN THE AUDIENCE THAT WOULD LIKE TO ADDRESS THIS ISSUE, AS WELL. SO LET ME CALL ON DENISE DELMATIER.

MS. DELMATIER: MR. CHAIRMAN AND MEMBERS OF THE BOARD, DENISE DELMATIER ON BEHALF OF NORCAL WASTE SYSTEMS. I APPRECIATE THE OPPORTUNITY TO ADDRESS YOU ON THIS ISSUE. UNFORTUNATELY, I WAS OUT OF THE ROOM WHEN THIS ITEM WAS TAKEN UP, AND I APOLOGIZE FOR THAT

ABSENCE.

AT THE LEGISLATIVE COMMITTEE HEARING BOTH MYSELF AND MR. JOHN CUPPS RAISED THIS ISSUE OF THE "AND" AND THE "OR." AND IN THE BILL THAT WAS IN PRINT BEFORE THE LEGISLATIVE COMMITTEE AT THE TIME HAD "AND," THAT BOTH CONDITIONS MUST BE PRESENT BEFORE THE APPLICANT OR THE PERMIT HOLDER WAIVES THEIR STAY RIGHTS, AND THAT WAS GENERALLY ACCEPTED BY THE WASTE INDUSTRY.

HOWEVER, DURING MR. MELANDREA'S TESTIMONY IT BECAME CLEAR THAT THE INTENT OF THE SPONSOR WAS TO HAVE A BILL THAT READ "OR" AND THAT EITHER CONDITION MAY BE PRESENT, A MERE THREAT OF NUISANCE -- WHICH IS ABOUT ANY FACILITY, SOLID WASTE FACILITY -- AND YOU AUTOMATICALLY WAIVE YOUR STAY RIGHTS. THAT'S PROBLEMATIC TO THE WASTE INDUSTRY.

AND I'VE HAD A NUMBER OF DISCUSSIONS WITH WASTE MANAGEMENT, INC., BROWN AND FERRIS, CRC, OTHERS ON THIS ISSUE. THERE IS A LOT OF CONCERN REGARDING THE CHANGE IN THE LATEST AMENDED VERSION OF THE BILL. WE HAVE BEEN IN CONTACT WITH THE AUTHOR'S OFFICE, AND WE ARE WORKING WITH THE AUTHOR'S OFFICE TOWARDS RESOLVING THIS ISSUE.

BUT, AS THE BILL IS CURRENTLY IN PRINT, IT IS PROBLEMATIC BECAUSE A PERMIT HOLDER WOULD WAIVE THEIR RIGHTS FOR A STAY FOR A MERE THREAT OF NUISANCE.

SO, WE STRONGLY RECOMMEND THAT THE POSITION THAT THE BOARD ADOPTS IS TO SUPPORT THE BILL WITH AMENDMENT, AND THAT IS TO RETURN TO THE "AND" AS INDICATED. AND I'D BE HAPPY TO ANSWER ANY QUESTIONS.

I MIGHT MENTION THAT WE ALSO HAD THIS DISCUSSION AT THE AB 59 WORKSHOP, AS FAR AS WHAT KIND OF ENFORCEMENT ACTIONS, ET CETERA, ET CETERA.

AND THIS ISSUE OF WAIVING YOUR STAY RIGHTS AUTOMATICALLY WITH THE MERE THREAT OF NUISANCE, I DON'T THINK HAS HAD A FULL DISCUSSION BEFORE THIS BOARD TO DATE. AND, CERTAINLY IT'S A HUGE ISSUE AND I WOULD ENCOURAGE THE BOARD TO HAVE THAT DISCUSSION.

IT IS UNFORTUNATE, AND I WILL MENTION THIS -- IT IS UNFORTUNATE THAT THE SPONSOR DID GO AHEAD AND AMEND THE BILL AFTER THE LEGISLATIVE COMMITTEE HEARING AND DID NOT INFORM THE AUTHOR'S OFFICE THAT THIS DISCUSSION HAD TAKEN PLACE. SO, THE AUTHOR'S OFFICE HAS ASSURED US THAT WE WILL HAVE THE OPPORTUNITY TO RESOLVE THIS ISSUE BEFORE THIS BILL MOVES FORWARD.

CHAIRMAN PENNINGTON: MEMBER JONES?

MEMBER JONES: AS I UNDERSTAND IT NOW, MR. FRAZEE'S ISSUE WAS NOT THIS ISSUE, ON THE FIRST ONE. RIGHT? AT THE LEG COMMITTEE MEETING IT DEALT WITH ANOTHER PART OF THE BILL.

MS. ZWARTS: NO. MR. FRAZEE'S AMENDMENT WAS SPECIFICALLY THIS, TO CHANGE IT FROM "AND" TO "OR," AS I RECALL.

MEMBER JONES: I THOUGHT IT WAS TO ANOTHER SECTION OF THAT --

MS. ZWARTS: NO, THAT WOULD BE THIS ONE. I MENTIONED THAT THE LEG STAFF CAME UP WITH ANOTHER TECHNICAL AMENDMENT TO ANOTHER SECTION WHERE THEY PUT AN "AND" INSTEAD OF A "OR," BUT THAT WAS CONSISTENT WITH THE COMMITTEE ACTION.

MEMBER JONES: THAT'S THE "AND" OR "OR" I'M TALKING ABOUT. AND THAT'S NOT THE ONE THAT BOB DID.

ALL RIGHT. THE "OR" THAT I AM LOOKING AT IS WHEN THIS BILL REFERS TO 44-005 --

MS. DELMATIER: TWO OR THREE --

MEMBER JONES: THREE.

MS. DELMATIER: -- SUBSECTION TWO OR THREE. IT SHOULD READ SUBSECTION TWO AND SUBSECTION THREE.

MS. ZWARTS: THAT WAS THE COMMITTEE AMENDMENT, TO CHANGE THAT FROM PARAGRAPH TWO AND THREE TO PARAGRAPH TWO OR THREE.

MEMBER EATON: I ARGUED FOR OR, IF I REMEMBER -- OR, AND, DIDN'T I? AND THEN WE HAD A CORRECTION?

MS. ZWARTS: WE WERE CONFUSED. I WILL ADMIT THERE WAS CONFUSION.

MEMBER EATON: YES.

MS. ZWARTS: -- BUT THERE WAS SOME CONFUSION, AND WE DID CHECK WITH MR. FRAZEE AND -- IT WAS CONFUSING, I WILL ADMIT, YEAH.

MR. FRAZEE: AND PERHAPS I WAS THE CONFUSEE OR THE CONFUSOR OR WHICHEVER. I PREFER CONFUSOR -- OR BOTH.

MEMBER JONES: I'M JUST CONFUSED.

CHAIRMAN PENNINGTON: SO AM I

MEMBER FRAZEE: TO PUT IT IN PLAIN LANGUAGE, MY INTENT WAS TO NARROW THE CIRCUMSTANCE IN WHICH A STAY OR WAIVING OF THE STAY -- TO SAY THIS CORRECTLY -- WOULD BE IMPLEMENTED. THAT ONLY IN SITUATIONS THAT POSED A THREAT, A SERIOUS THREAT WAS THE -- WHAT'S THE WORD I WANT TO USE HERE?

MEMBER JONES: THE TRIGGER FOR THE STAY?

MEMBER FRAZEE: YEAH. BUT THERE'S ANOTHER WORD.

MS. ZWARTS: I ASSUME THAT YOU WISHED TO HAVE KEPT IT THE WAY THAT THE LAW -- THE BILL READ BEFORE, WHERE BOTH CONDITIONS MUST BE IN PLACE BEFORE THE STAY OF A CEASE AND DESIST ORDER IS EFFECTIVE.

CHAIRMAN PENNINGTON: YOU WANT THE TIGHTEST POSSIBLE EFFORT TO PREVENT PEOPLE FROM WAIVING THE STAY.

MS. ZWARTS: MAYBE IF I -- I KNOW THIS IS A CONFUSING BILL WITH --

CHAIRMAN PENNINGTON: WAIVING THE STAY IS --

MS. ZWARTS: -- A DOUBLE NEGATIVE --

(THE PARTIES SIMULTANEOUSLY SPEAK.)

MS. ZWARTS: -- IF YOU WANT IT TO BE READ CONSERVATIVELY, YOU WOULD WANT AND. IF YOU WOULD WANT IT TO BE READ LIBERALLY, YOU WOULD WANT OR. MEANING, CONDITION ONE OR CONDITION TWO, WHICH IS HOW THE --

THE PARTIES SIMULTANEOUSLY SPEAK.)

CHAIRMAN PENNINGTON: -- CONDITION TWO OR CONDITION THREE, RIGHT?

MS. ZWARTS: IT SHOULD SAY -- EXCUSE ME -- CONDITION TWO OR CONDITION THREE.

(THE PARTIES SIMULTANEOUSLY SPEAK.)

MS. DELMATIER: NOT ALLOW. YOU AUTOMATICALLY
WAIVE YOUR STAY UNDER THIS BILL.

MS. ZWARTS: YEAH, YOU WAIVE YOUR STAY.

MS. DELMATIER: YOU AUTOMATICALLY -- YOU HAVE
NO ABILITY TO STAY FOR A MERE THREAT OF NUISANCE IF
"OR" REMAINS IN THE BILL.

MEMBER JONES: SEE, I THINK IF SOMEONE IS
OPERATING WITHOUT A VALID SOLID WASTE FACILITY PERMIT,
THEY DON'T DESERVE THE STAY.

MS. DELMATIER: ABSOLUTELY. ABSOLUTELY.

MEMBER JONES: I MEAN, THEY JUST DON'T GET
IT.

MS. DELMATIER: NO ARGUMENT.

MEMBER JONES: I THINK THAT ANYBODY THAT
OPERATES IN A MANNER THAT CAUSES OR THREATENS TO CAUSE
A CONDITION OF HAZARD OR POLLUTION, I'VE GOT A PROBLEM
WITH THEM TOO. BUT THE THREAT OF A NUISANCE IS NOT
WORTH GIVING UP YOUR STAY.

MS. DELMATIER: CORRECT.

MEMBER JONES: THAT IS -- I MEAN, TO JUST SAY
LITTER IS A THREAT OF A NUISANCE.

MS. DELMATIER: CORRECT.

MEMBER JONES: AND BECAUSE I'VE DONE THAT, I
GIVE UP MY STAY. THAT'S WHERE THE PROBLEM IS.

MS. DELMATIER: ABSOLUTELY.

MEMBER JONES: SO HOW DO WE FIX THAT WORD?

MS. DELMATIER: "AND."

MEMBER JONES: HOW DO WE -- WELL --

MS. ZWARTS: THE WAY IF -- IF I COULD PROVIDE
ASSISTANCE OF A -- IT MIGHT BE OF ASSISTANCE, IF YOU
WOULD WISH IT -- AS YOU JUST INDICATED, YOU WOULD ASK
THAT THE BILL BE AMENDED BACK TO ITS JUNE 23RD
VERSION, WHERE IT HAD SAID "AND." IF THAT IS THE
BOARD'S WISH.

MEMBER JONES: BECAUSE I THINK WE'RE IN
AGREEMENT ON -- WE'RE IN AGREEMENT THAT PEOPLE THAT
OPERATE WITHOUT SOLID WASTE FACILITIES THEY DON'T HAVE
A STAY TO WAIVE.

CHAIRMAN PENNINGTON: WHAT'S THE DATE?

MS. ZWARTS: JUNE 23RD, AMENDED VERSION.

IF I COULD HELP A LITTLE BIT? IF YOU
WERE TO PROPOSE THAT MOTION, THEN THE BILL WOULD READ
THAT IT WOULD REQUIRE THAT TWO CONDITIONS MUST EXIST,
OPERATING WITHOUT A PERMIT AND THREATEN TO CAUSE
HAZARDOUS POLLUTION OR NUISANCE CONDITION BEFORE

LIMITATIONS WOULD BE PLACED ON THE APPEALS PROCESS.

MS. TOBIAS: SO, I DON'T THINK, MEMBER JONES, THAT THAT EXACTLY REFLECTS WHAT YOU JUST SAID YOUR INTEREST WAS.

MEMBER JONES: WHAT I HAVE A PROBLEM WITH IS THE NUISANCE PART. IT IS TOO SUBJECTIVE. HOW DO WE FIX THAT? THE REST OF IT IS FINE. I THINK YOU SHOULD WAIVE THE STAYS ON SOME OF THOSE. IT IS THE THREAT OF A NUISANCE THAT IS TOO SUBJECTIVE.

MS. DELMATIER: MEMBER JONES, IF I MIGHT COMMENT ON THAT? UNDER DISCUSSION WITH MR. WAYNE'S OFFICE IS A PROPOSED AMENDMENT TO RESTATE SUBSECTION THREE, MINUS THE REFERENCE TO NUISANCE. SO IT WOULD READ --

MEMBER FRAZEE: AND THAT WOULD RESOLVE THE PROBLEM ALSO.

MS. DELMATIER: YES.

MEMBER JONES: THAT WOULD TAKE CARE OF EVERYTHING.

MS. DELMATIER: WELL, RATHER THAN REFERENCE IN THE BILL SUBSECTION THREE, WHICH INCLUDES NUISANCE, WE WOULD RESTATE IN THE BILL'S LANGUAGE EVERYTHING IN THREE MINUS NUISANCE.

CHAIRMAN PENNINGTON: WHAT WE REALLY WANT TO DO IS HAVE A SUPPORT --

MS. DELMATIER: WITH AMENDMENT.

CHAIRMAN PENNINGTON: -- WITH THIS AMENDMENT, OR OPPOSE WITHOUT THIS AMENDMENT.

MS. ZWARTS: THAT WOULD BE CORRECT. UNLESS THE AMENDMENT IS THERE TO OPPOSE, UNLESS THIS AMENDMENT IS THERE, OR SUPPORT IF THIS AMENDMENT THAT DENISE JUST MENTIONED IS ADDED?

MEMBER JONES: IT'S INCLUDED.

MS. ZWARTS: IS INCLUDED. WHICH WOULD MEAN THAT YOU'RE ALL RIGHT WITH A THREATEN TO CAUSE A HAZARDOUS OR POLLUTION CONDITION, BUT NOT NUISANCE.

MEMBER JONES: RIGHT.

CHAIRMAN PENNINGTON: CORRECT.

MEMBER JONES: YEAH, BECAUSE THAT PROTECTS PUBLIC HEALTH AND SAFETY.

MS. ZWARTS: RIGHT.

MEMBER JONES: AND THAT I DON'T WANT TO WEAKEN AT ALL.

MS. ZWARTS: NO.

MEMBER JONES: BUT IT IS THE THREAT OF A NUISANCE THAT'S TOO SUBJECTIVE.

CHAIRMAN PENNINGTON: NOW, AS OUR LEG
DIRECTOR, WHICH IS THE BETTER APPROACH TO TAKE,
SUPPORT IF AMENDED OR OPPOSE --

MEMBER JONES: WITH THE AMENDMENT?

MS. TOBIAS: WELL, GENERALLY YOU OFFER AN
OPPOSE UNLESS AMENDED IF YOU ANTICIPATE THAT THE
AUTHOR WOULD NOT BE WILLING TO TAKE BOARD'S AMENDMENT,
AND ALSO IF -- HOW IMPORTANT THAT AMENDMENT IS TO THE
BOARD. AND SUPPORT AMENDMENT IF AMENDED IS GENERALLY
GIVEN IF YOU EXPECT THAT THE AUTHOR WILL TAKE IT OR
THAT AMENDMENT IS NOT AS CRITICAL TO THE BOARD.

CHAIRMAN PENNINGTON: THEN WE WOULD WANT TO
BE OPPOSED UNLESS AMENDED.

MEMBER JONES: YES, WE WOULD.

CHAIRMAN PENNINGTON: CORRECT.

MEMBER EATON: WHERE IS THE AUTHOR, MS.
DELMATIER?

MS. DELMATIER: THE AUTHOR IS WAITING FOR MR.
MELAN TO RETURN FROM VACATION. AND THE AUTHOR HAS
AGREED TO MEET AND DISCUSS THE OPTIONS. IT IS MY BEST
ESTIMATE THAT THE AUTHOR IS WILLING TO WORK WITH THE
INDUSTRY TO RESOLVE THE ISSUE SATISFACTORILY. AND I
ANTICIPATE THAT THE AMENDMENT THAT WE JUST DISCUSSED

AT A MINIMUM WOULD BE INCORPORATED INTO THE BILL.

CHAIRMAN PENNINGTON: WE HAVE ONE OTHER PERSON IN THE AUDIENCE WHO WANTS TO GET UP AND CONFUSE US EVEN MORE. EVAN EDGAR.

MR. EDGAR: HELLO, CHAIRMAN, BOARD MEMBERS. MY NAME IS EVAN EDGAR, EDGAR ASSOCIATES, REPRESENTING CRC. I WANT TO THANK DENISE FOR POINTING THIS OUT AND HAVING THE WASTE BOARD TO RECONSIDER THIS, BECAUSE IT'S VERY IMPORTANT TO THE INDUSTRY.

ON A JUNE 23RD VERSION CRC TOOK A SUPPORT POSITION. WE WANTED THE NARROW INTERPRETATION THAT OFFERED UNDER THE "AND," AND WE HAD HOPED TO KEEP THAT. BUT DENISE HAD BEEN WORKING CLOSER TO THE AUTHOR'S OFFICE, AND WITH THIS "OR" WE FEEL IT IS TOO BROAD, AND IT DOES OPEN UP THE DOOR TO NUISANCES.

WE WOULD SEEK AN OPPOSE UNLESS AMENDED SO WE CAN WORK WITH THE AUTHOR'S OFFICE IN ORDER TO GET A NARROWER INTERPRETATION.

WE BELIEVE THAT WITH A TIERED PERMITTING FOR TRANSFER STATION REGS AND C&D AND COMPOSTING, THAT WE KNOW WHAT IS PERMITTED AND WHAT IS NOT PERMITTED, AND WE FEEL THAT IN GIVING LEA THE TOOLS IN ORDER TO START ENFORCING THE REGULATION AND HAVING THIS BILL IN

PLACE WILL AFFORD AN EQUITABLE PLAYING FIELD OUT THERE.

SO, WE WOULD RECOMMEND AN OPPOSE UNLESS AMENDED POSITION. THANK YOU FOR THE RECONSIDERATION.

CHAIRMAN PENNINGTON: THANK YOU, MR. EDGAR.

ANY QUESTIONS OF MR. EDGAR?

MS. TOBIAS: MR. PENNINGTON, I JUST WANT TO -
- AND THIS IS PROBABLY NOT GOING TO HELP -- I HAVE, I GUESS, A PROBLEM TAKING OUT THE WORD NUISANCE FROM THE LEGAL ENFORCEMENT STANDPOINT. AND I GUESS MY CONCERN IS NOT TOTALLY WITH THE PRESENCE OR ABSENCE OF A STAY WITH THAT.

BUT, I WILL SAY THAT I THINK THAT OUR ENFORCEMENT EFFORTS MORE AND MORE RELY ON THE PRESENCE OF A NUISANCE CONDITION AS OPPOSED TO A HAZARDOUS CONDITION, WHICH WE OFTEN CAN'T REACH. YOU KNOW, EITHER THAT INCLUDES SOMETHING WE DON'T REGULATE, WHICH IS A HAZARDOUS MATERIAL, OR IT INCLUDES SOME KIND OF HAZARD TO LIFE AND HEALTH, OR SOMETHING LIKE THAT, WHICH A LOT OF TIMES WE CAN'T REACH EXACTLY.

POLLUTION DOES NOT ALWAYS COVER IT AND ESPECIALLY WHEN YOU GET TO SOME OF THE OPERATIONS. NOT SO MUCH SOME OF THE LANDFILLS THEMSELVES, BUT SOME

OF THE OTHER TYPES OF THINGS THAT WE'RE REGULATING AT THIS POINT.

THE NUISANCE IS THE ONLY THING THAT WE DO HAVE TO FALL BACK ON. SO, I'M RAISING THIS NOT SO MUCH TO SAY I TOTALLY OPPOSE THIS AT THIS TIME AND THAT I WOULDN'T AGREE WITH IT, BUT I KIND OF FEEL LIKE WE'RE SOLVING ONE PROBLEM, IN TERMS OF THE STAY PROBLEM, WITH MAYBE RAISING UP ANOTHER PROBLEM WHICH IS TAKING NUISANCE OUT OF THIS.

AND I'M MORE BRINGING THIS UP AS THAT I THINK THIS IS SOMETHING WE NEED TO WORK ON AS OPPOSED TO TRY TO RESOLVE RIGHT HERE. SO, I'LL JUST RAISE THAT WITHOUT SAYING THAT -- YOU KNOW, MAYBE WE CAN FIX THIS AND IF....

I UNDERSTAND YOUR CONCERNS ABOUT THE FACT -- AND DENISE'S, AS WELL -- THAT MAYBE IT'S DIFFICULT OR SUBJECTIVE AT TIMES WITH WHAT'S A NUISANCE, WITH LITTER BLOWING ACROSS THE ROAD AS OPPOSED TO SOMETHING ELSE.

BUT WHAT WE'RE FINDING IN LEGAL AT THIS POINT IS THAT MORE AND MORE OF OUR ENFORCEMENT DOES CENTER AROUND A NUISANCE ISSUE AS OPPOSED TO SOME OF THESE OTHER ONES.

MS. DELMATIER: MR. CHAIRMAN --

CHAIRMAN PENNINGTON: LET MS. DELMATIER HERE,
PLEASE.

MS. DELMATIER: WE AREN'T SUGGESTING IN OUR
AMENDMENT, MS. TOBIAS, THAT WE CHANGE THE LANGUAGE IN
SUBSECTION THREE UNDER 45-005. IN OTHER WORDS, THE
ENFORCEMENT ACTION REMAINS INTACT. ALL WE'RE
SUGGESTING IN THIS BILL IS THAT UNDER THE STAY
PROVISION ONLY IS WHERE WE RESTATE THE LANGUAGE MINUS
NUISANCE. SO IT'S ONLY THE STAY ISSUE THAT WE'RE
ADDRESSING. WE'RE NOT ADDRESSING OR ALTERING OR
RECOMMENDING TO ALTER 450053 AT ALL.

MS. TOBIAS: OKAY. AND I UNDERSTAND THAT.
I'M JUST -- I'M KIND OF A LITTLE BIT MORE RESPONDING
TO WHAT MEMBER JONES SAID ABOUT -- YOU KNOW, WHEN
WE'RE TRYING TO SEPARATE THIS OUT AND FIGURE OUT
EXACTLY WHAT THIS DOES APPLY TO, I JUST -- I HAVE HAD
NO OPPORTUNITY TO TALK TO THE LEGAL STAFF AND
ESPECIALLY THE PEOPLE WHO ARE DOING OUR ENFORCEMENT
AND REALLY -- AND THE P&E STAFF IN TERMS OF WORKING
WITH THIS AND SEEING WHAT KINDS OF RAMIFICATIONS THIS
WOULD HAVE, TO TAKE OUT NUISANCE IN TERMS OF THE STAY
PROVISION.

SO, AGAIN, I'M JUST RAISING THIS -- I HAVE SOME UNEASE ABOUT IT. AND IT MAY COME TO THE FACT THAT IT WOULD NOT BE A PROBLEM TO DO IT IN THIS PARTICULAR SITUATION. BUT, YOU KNOW, JUST OPERATING RIGHT HERE AND NOW, THIS IS MAKING ME VERY UNEASY, THAT WE HAVEN'T THOUGHT ABOUT ALL THE RAMIFICATIONS.

CHAIRMAN PENNINGTON: MEMBER EATON?

MEMBER EATON: MR. CHAIRMAN, LET ME SEE IF WE CAN'T WORK OURSELVES THROUGH THIS. AND LET ME SUGGEST THE FOLLOWING THREE-STEP APPROACH.

THE FIRST BEING PROCEDURAL. THAT WE ACTUALLY TAKE AN ACTION BY RESCINDING WHAT WE DID THIS MORNING WITH REGARD TO THE SUPPORT OR OPPOSITION OF THAT PARTICULAR BILL.

THEN, TWO, AUTHORIZE, UNDER YOUR SIGNATURE, A LETTER TO GO TO THE AUTHOR EXPRESSING THE CONCERNS THAT WE HAVE WITH REGARD TO THIS PARTICULAR PHRASEOLOGY OR SECTION IN OUR CONCERNS OF THE NUISANCE.

AND THEN THE THIRD STEP BEING THAT, SINCE WE'LL PROBABLY MEET TWICE NEXT MONTH, THAT WE CAN THEN BE IN A BETTER POSITION, IF MS. DELMATIER'S SUCCESSFUL OR WHAT HAVE YOU, TO TAKE AN ACTUAL OPPOSE,

A SUPPORT OR WHATEVER POSITION, THERE -- IT SEEMS TO BE THAT WAY.

BUT I THINK THAT IT'S IMPORTANT, HOWEVER, THAT WE DO COMMUNICATE OUR VIEWS TO THE AUTHOR WITH RESPECT TO THIS PARTICULAR PROVISION.

THAT SEEMS TO BE A PRUDENT THREE-STEP APPROACH. IT GIVES LEGAL SOME TIME TO DO WHAT THEY NEED TO DO, LEG SOME TIME WHAT THEY DO, MS. DELMATIER THE TIME TO WORK WHATEVER, AND ALSO AT LEAST EXPRESS THE BOARD'S CONCERN FOR THIS PARTICULAR SECTION. AND IF THAT SEEMS TO BE OKAY, I THINK THAT'S PROBABLY WHAT WE SHOULD PROCEED ALONG.

CHAIRMAN PENNINGTON: THAT SOUNDS PRUDENT TO ME.

I WAS JUST LOOKING AT -- WE HAVE OUR DISCUSSION WITH THE NEXT ITEM, AND ONE OF THE THINGS THAT I LOOKED AT WAS DATES, AND PROBABLY IF WE FOLLOW -- OUR NEXT BOARD MEETING WILL BE THE 13TH OF AUGUST -

MEMBER EATON: WE ALREADY HAVE TWO BOARD DATES FOR NEXT MONTH ALREADY, SO WE -- WELL, WE WOULD HAVE THE 24TH, WHICH IS A SPECIAL BOARD MEETING --

CHAIRMAN PENNINGTON: WELL, THE OTHER ONE WAS

THE 26TH, SO --

MEMBER EATON: THE 26TH. SO THOSE TWO ARE KIND OF SCHEDULED. ONE WOULD BE A SPECIAL.

MEMBER JONES: SO WE CAN DELLY WITH THIS.

CHAIRMAN PENNINGTON: RIGHT.

MEMBER EATON: AND I THINK ALSO KNOWING MY FRIENDS BOTH THE PROPONENTS AND THE OPPONENTS, THAT QUICK ACTION ON THIS MATTER WITH REGARD TO IT ENDING UP ON THE GOVERNOR'S DESK PRIOR TO AUGUST 30TH, NOT HAVING A RESOLUTION OR PROBABLY A -- YOU KNOW, ARE NEARLY AS GREAT AS MR. WHITE'S ITEM ON MS. FIGUEROA'S BILL.

CHAIRMAN PENNINGTON: MR. FRAZEE?

MEMBER FRAZEE: YES. I JUST WANTED TO INDICATE THAT MY CONCERN, WHAT BROUGHT UP THIS WHOLE THING, ACTUALLY GOES BEYOND THE ARGUMENT OVER NUISANCE. AND WHAT I WAS DRIVING AT WAS THE POTENTIAL FOR SHUTTING DOWN AN OPERATION ON A MERE TECHNICAL VIOLATION. NOT EVEN NUISANCE, BUT SAY SOMETHING AS MINIMAL AS OPERATING OUT OF HOURS OR EXCEEDING THE DAILY LOAD ON A PARTICULAR DAY, OR SOME OTHER TECHNICAL VIOLATION.

AND THAT ISSUE, NO MATTER WHAT HAPPENS,

IS OUT OF HERE, AND THAT'S WHERE MY PRINCIPAL CONCERN WAS. AND, NOT OVER THIS -- WHETHER IT'S A -- THE NUISANCE ISSUE OR NOT.

MS. TOBIAS: YOU KNOW, I MIGHT POINT OUT -- AND ANYBODY CAN CORRECT ME IF I'M WRONG ON THIS -- BUT IT SEEMS TO ME THAT WE HAVE TO DO A NOTICE AND ORDER BEFORE WE CAN DO A CEASE AND DESIST.

SO, YOU WOULD ALWAYS KNOW -- ANYONE WOULD KNOW, THE OPERATOR, THE BOARD, THE LEA, WHOMEVER WAS DOING THIS -- THE ORDER WOULD ALREADY BE GIVEN AS TO THE BASIS FOR WHY IT WAS BEING SHUT DOWN. SO THERE WOULD BE AN OPPORTUNITY, EVEN IF IT'S DONE ON VERY SHORT NOTICE, TO EITHER SEEK COURT INTERVENTION, TO BASICALLY GO TO A COURT -- IF SOMEBODY'S SHUTTING YOU DOWN FOR HAVING LITTER BLOWING ACROSS THE ROAD OR SOMETHING, I THINK THERE'S OTHER WAYS TO BASICALLY DEAL WITH THIS.

AND I'M NOT SO MUCH SAYING THAT THIS SHOULD CHANGE MEMBER EATON'S APPROACH, BECAUSE I THINK IT IS -- AND MAYBE DOROTHY WANTS TO CORRECT ME ON THIS, I DON'T KNOW. BUT, IT SEEMS TO ME THAT WE WOULD KNOW WHAT THE BASIS WAS FOR THIS -- THE ORDER THAT'S PROMPTING THE NEED TO HAVE A STAY OR NOT TO HAVE A

STAY OF THAT ACTION.

IS THAT NOT...?

MEMBER JONES: BUT THEY WAIVED THEIR STAY.

MS. DELMATIER: THE ONLY CLARIFICATION I WAS GOING TO OFFER IS THAT I THINK A CEASE AND DESIST ORDER IS SIMPLY A FORM OF NOTICE AND ORDER. SO, YOU COULD ISSUE A CEASE AND DESIST ORDER INITIALLY IF THE CONDITIONS WARRANTED IT, IF THE LEA FELT THEY WARRANTED THAT FORM OF ORDER.

MS. TOBIAS: BUT THEN, YOU KNOW, I THINK THAT OUR POLICY -- AND I GUESS I'VE JUST BEEN READING SOME OF THE ADVISORIES THAT ARE GOING THROUGH THE LEGAL OFFICE RIGHT NOW, AND I THINK I WOULD HAVE TO SAY THAT MOST OF THE TIME OUR ADVICE WOULD BE THAT YOU WOULD NEED A NOTICE AND ORDER FIRST. BECAUSE GENERALLY THESE ENFORCEMENT ACTIONS BUILD UP, SO I'M NOT GOING TO SAY THAT YOU WOULDN'T HAVE A SITUATION WHERE YOU'D GO IN AND HAVE AN IMMEDIATE CEASE AND DESIST. BUT I WOULD GUESS THAT MAYBE 75 TO 80 PERCENT WE WOULD.

IN THAT CASE, IF YOU'RE GOING IN TO GIVE SOMEBODY A CEASE AND DESIST WITHOUT A NOTICE AND ORDER, I WOULD THINK THAT MOST OF US WOULD BE PRETTY CAREFUL AND HAVE QUITE A SUBSTANTIVE BASIS TO BE

TELLING SOMEBODY TO TAKE SUCH A DRASTIC ACTION. THAT IT WOULDN'T BE SOMETHING THAT'S -- THAT EVERYBODY ELSE WOULD AGREE SHOULD NOT HAVE BEEN DONE.

MEMBER JONES: MR. CHAIR?

CHAIRMAN PENNINGTON: YES.

MEMBER JONES: I JUST WANT TO RECALL HISTORY HERE. WE HAD AN ITEM NOT TOO LONG AGO THAT WAS, BY EFFECT, A CEASE AND DESIST ORDER BUT IT WASN'T WRITTEN ON THE RIGHT 8½ X 11 FORM. AND WHEN THAT ITEM WENT FORWARD, IT WAS A -- BECAUSE IT WASN'T IN THAT FORM, YOU DON'T HAVE THE RIGHT TO APPEAL. AND THAT WAS THE STAND OF THE COUNTY.

WHEN THE COUNTY CAME FORWARD AND WE STARTED ASKING QUESTIONS, ONE OF THE QUESTIONS THAT I HAD -- AND I THINK IT GOES TO WHAT MR. FRAZEE IS TALKING ABOUT -- WAS YOU ISSUED THIS LETTER THAT IN EFFECT WAS A CEASE AND DESIST, BECAUSE YOU TOLD THEM THEY COULDN'T DO IT ANYMORE, AND THAT WAS THEIR COVER.

HAD YOU LOOKED AT -- IF THEY HAD LIVED BY THAT CEASE AND DESIST, WHAT WOULD THEY HAVE COVERED THE GARBAGE WITH? AND THE ANSWER WAS THAT'S THEIR PROBLEM. THEY'RE IN BUSINESS. THAT'S THEIR PROBLEM.

AND I THINK THAT KIND OF, IN MY MIND,

BRIGHTENS THIS ISSUE BECAUSE THIS THING SAYS YOU ARE WAIVING THE STAY. SO IF A CEASE AND DESIST CAME, YOU'VE ALREADY WAIVED THE RIGHT TO HOLD IT BACK JUST A LITTLE BIT WHILE YOU TRY TO WORK THROUGH THIS THING. AND IF YOU'VE GOT SOMEBODY THAT IS WILLING TO SAY THAT'S THEIR PROBLEM, I THINK THAT WE NEED TO HAVE MORE DISCUSSION.

BECAUSE, I THINK WHAT MR. FRAZEE IS SAYING IS, YOU KNOW, HE DIDN'T WANT SOMEBODY TO BE ABLE TO COME IN AND SEE THAT THERE ARE 20 MORE CARS THAT CAME IN AND, BOOM, YOU KNOW, YOU HAVE NO RIGHT, YOU HAVE NO STAY, WE'RE GIVING YOU A CEASE AND DESIST.

AND THEN WE'RE ALSO TALKING ABOUT THE STAY. SO, I THINK WE NEED TO HAVE SOME DISCUSSION, BECAUSE WE KEEP TRYING TO DRAW BRIGHT LINES IN THE SAND, AND I THINK WE DO A GOOD JOB OF THAT, BUT THEY GET INTERPRETED JUST ABOUT ANY WAY THAT ANYBODY IN POWER WANTS TO INTERPRET IT OR ANYBODY THAT WANTS TO LIVE WITH IT.

SO, I THINK WE HAVE TO -- I LIKE MEMBER EATON'S APPROACH, AND I THINK WE CAN WORK THROUGH THIS THING. I AGREE WITH SOME OF THE THINGS YOU'RE SAYING, BUT I REMEMBER THEM SAYING IT'S THEIR PROBLEM OR THEY

CAN BREAK THE LAW. THAT WAS ANOTHER OPTION SHE GAVE.

CHAIRMAN PENNINGTON: MEMBER EATON, PERHAPS YOU WOULD LIKE TO MEMORIALIZE YOUR THOUGHTS THERE IN THE FORM OF A MOTION?

MEMBER EATON: SURE. FIRST, LET'S TAKE THE PROCEDURAL ACTION. AND I WOULD MOVE THAT WE RESCIND THE ACTION BY WHICH THE BOARD, ON THIS DATE, JULY 29, 1998, TOOK A SUPPORT POSITION WITH REGARD TO ASSEMBLY BILL 2521.

CHAIRMAN PENNINGTON: SECOND THAT?

MEMBER JONES: YEAH.

CHAIRMAN PENNINGTON: IF THERE'S NO FURTHER DISCUSSION, WILL THE SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

MEMBER EATON: NOW I THINK WE'RE IN A

PROCEDURAL POSTURE BY WHICH WE CAN MOVE TO THE OTHER ITEM. I WOULD MOVE THAT THE BOARD CHAIRMAN BE AUTHORIZED TO COMMUNICATE BY WRITTEN CORRESPONDENCE TO THE AUTHOR OUR CONCERNS WITH REGARD TO ASSEMBLY BILL 2521 IN THE "AND OR" TECHNICAL AMENDMENT DISCUSSED AT TODAY'S BOARD MEETING.

MEMBER JONES: SECOND THAT.

CHAIRMAN PENNINGTON: IT'S BEEN MOVED AND SECONDED. ANY FURTHER DISCUSSION? IF NOT, WILL THE SECRETARY CALL THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

MEMBER EATON: THIRD, I WOULD JUST ASK THAT WE WOULD CARRY OVER TO THE NEXT BOARD MEETING THE ISSUE OF ASSEMBLY BILL 2521 AND THE POSITION OF THE BOARD WITH REGARD TO THIS LEGISLATION.

CHAIRMAN PENNINGTON: OKAY. VERY GOOD.
THANK YOU.

A ITEM NO. 5: CONSIDERATION OF THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD'S
WORKING STRUCTURE

CHAIRMAN PENNINGTON: OKAY. NOW WE'LL MOVE --
WE TOOK UP 26, NOW WE'LL MOVE TO ITEM 5, WHICH IS
CONSIDERATION OF THE CALIFORNIA INTEGRATED WASTE
MANAGEMENT BOARD'S WORKING STRUCTURE, MR. LEWIS B.
HASTINGS.

MR. HASTINGS: GOOD AFTERNOON, MR. CHAIRMAN AND
MEMBERS OF THE BOARD. I AM LEWIS B. HASTINGS, ADVISOR
TO CHAIRMAN PENNINGTON. I WILL BE MAKING A VERY BRIEF
PRESENTATION ON THIS ITEM.

SINCE 1995 THE BOARD HAS BEEN LOOKING
INTERNALLY AT ITS STRUCTURE TO IDENTIFY AND REMOVE
BARRIERS TO COORDINATION AND COLLABORATION WITH THE
GOAL BEING TO PROVIDE A MORE EFFICIENT AND EFFECTIVE
SERVICE TO OUR STAKEHOLDERS AND TO MEET THE GOALS AND
MANDATES OF THIS BOARD. THEREFORE, IT IS APPROPRIATE
THAT THIS BOARD LOOK AT ITS FORMAL STRUCTURE AND
DETERMINE WHETHER ITS STRUCTURE OR MODIFICATION OF
THAT STRUCTURE IS NEEDED TO SUPPORT THESE GOALS OF

SERVICE TO OUR STAKEHOLDERS AND EFFECTIVELY CARRYING OUT OUR MANDATES.

THE AGENDA ITEM HAS PROPOSED THREE OPTIONS TO THE BOARD. HOWEVER, THE BOARD IS NOT REQUIRED TO ADOPT ANY PARTICULAR STRUCTURE. THEY HAVE BASICALLY TWO REQUIREMENTS, ONE, TO MEET ONCE A MONTH AND THE OTHER, IF THEY CHOOSE TO FORM COMMITTEES THAT THOSE COMMITTEES HAVE NOT LESS THAN THREE MEMBERS.

WITH THOSE BRIEF REMARKS, THAT CONCLUDES MY PRESENTATION, AND I'LL BE AVAILABLE TO ANSWER ANY QUESTIONS.

CHAIRMAN PENNINGTON: OKAY. THANK YOU.

I THINK YOU ALL HAVE BEEN GIVEN A COPY OF A SUGGESTED MOTION THAT IS SIMILAR TO ONE THAT I BROUGHT TO THE ADMIN COMMITTEE WITH SOME CHANGES. I'D LIKE TO GO THROUGH THAT AND MAKE IT AS A MOTION, AND IF THERE'S ANY DISCUSSION ON MY MOTION WE'LL BE HAPPY TO DO THAT.

I MOVE THAT THE BOARD TAKE THE FOLLOWING ADDITION:

ONE, SUSPEND ALL THE EXISTING COMMITTEES.

TWO, TO CONDUCT TWO FULL BOARD MEETINGS EACH MONTH WITH A SECOND DAY AS NEEDED.

THREE, AUTHORIZE THE BOARD CHAIRPERSON TO APPOINT WORKING GROUPS AS NEEDED TO ADDRESS SPECIFIC TERMED PROJECTS. THE BOARD AT THE MEETING IMMEDIATELY FOLLOWING THE APPOINTMENTS SHALL AFFIRM ALL WORKING GROUP APPOINTMENTS.

FOUR, AUTHORIZE THE BOARD CHAIRPERSON TO APPOINT BOARD MEMBERS AS PROGRAM LIAISONS TO SERVE AS LIAISON BETWEEN THE BOARD AND STAFF FOR A SPECIFIC BOARD PROGRAM OR ACTIVITY.

AND, FIVE, AT ONE OF THE JANUARY, 1999, BOARD MEETINGS THE BOARD WILL REINSTATE THE COMMITTEE STRUCTURE. THE BOARD WILL UNDERTAKE A FULL REVIEW AND EVALUATION OF THE COMMITTEE STRUCTURE AND TAKE ACTION IT DEEMS APPROPRIATE.

DISCUSSION? I NEED A SECOND.

MEMBER FRAZEE: I'LL SECOND IT.

MS. TOBIAS: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: YES?

MS. TOBIAS: I HAVE ONE POINT --

CHAIRMAN PENNINGTON: SURE.

MS. TOBIAS: -- AND IT'S PRETTY MINOR, BUT I JUST WANTED TO CLARIFY IT. IN LEWIS' STAFF REPORT ON PAGE 5-3, WHICH IS THE COPY I'M LOOKING AT, THE

DISCUSSION UNDER B BASICALLY TALKS ABOUT ADVANTAGES, AND THEN ON THE LAST LINE IT SAYS THAT COMMITTEES WOULD BE MAINTAINED TO HANDLE THE MORE MINISTERIAL TYPE FUNCTIONS. AND, AS I SAY, THIS IS VERY MINOR. I WANT TO POINT OUT THAT IT SHOULD PROBABLY READ MORE ROUTINE TYPE FUNCTIONS AS OPPOSED TO MINISTERIAL TYPE FUNCTIONS.

A MEMBER OF THE STAFF RAISED THE ISSUE TO ME OF DID THAT MEAN THAT THAT WAS MINISTERIAL IN TERMS OF -- AS OPPOSED TO DISCRETIONARY, WHERE THE BOARD DIDN'T HAVE DISCRETION. AND I THINK IT WAS JUST A BAD CHOICE OF WORDS THERE. SO I'D LIKE TO MAKE IT CLEAR THAT THAT'S NOT REALLY REFERRING TO MINISTERIAL DUTIES OF THE BOARD, BUT TO MORE THE ROUTINE ACTIVITIES. I JUST DIDN'T WANT THAT ON THE RECORD, SINCE THERE HAD BEEN SOME QUESTION ABOUT THE BOARD'S DISCRETIONARY VERSUS MINISTERIAL DUTIES.

CHAIRMAN PENNINGTON: OKAY. THE MOTION HAS BEEN -- MR. FRAZEE?

MEMBER FRAZEE: YES, I WILL SECOND -- EXCUSE ME, I SECONDED THE MOTION.

I DO HAVE ONE ITEM I WANTED TO RAISE, AND THAT'S ITEM 3, THE STATEMENT THE BOARD AT THE MEETING

IMMEDIATELY FOLLOWING THE APPOINTMENT SHALL AFFIRM ALL WORKING APPOINTMENTS. THE SHALL IMPLIES THAT YOU DON'T HAVE ANY DISCRETION, AND SO WHAT'S THE PURPOSE OF AFFIRMING THEM? I THINK THAT LINE NEEDS TO BE REWORKED A LITTLE BIT. SHALL CONSIDER --

CHAIRMAN PENNINGTON: GEE, WHIZ, THEY DON'T LET ME GET AWAY WITH ANYTHING, DO THEY?

MEMBER EATON: IT COMES FROM HIS BACKGROUND AND TRAINING.

CHAIRMAN PENNINGTON: WHAT WAS THE WORD HE USED, "SHALL CONSIDER" --

MEMBER FRAZEE: SHALL CONSIDER FOR APPROVAL --

CHAIRMAN PENNINGTON: FOR APPROVAL OR DISAPPROVAL?

MEMBER FRAZEE: OR, YES, CONSIDER AFFIRMING ALL WORKING GROUP --

CHAIRMAN PENNINGTON: SHALL CONSIDER, OKAY, AFFIRMING. OKAY, THAT'S FINE.

ANY OTHER DISCUSSION?

MEMBER JONES: JUST ONE QUICK COMMENT.

CHAIRMAN PENNINGTON: SURE.

MEMBER JONES: THERE'S A LOT OF PEOPLE HERE THAT WERE HERE AT THE ADMIN, IT WAS A BIGGER CROWD, THEY

WERE KIND OF DISAPPOINTED WHEN THIS ITEM DIDN'T COME UP EARLIER I THINK.

BUT I THINK THAT THIS -- I HOPE THAT THIS SENDS A CLEAR MESSAGE, THAT THIS IS GOING TO TAKE A FOUR-OH VOTE, AND THERE ARE ONLY FOUR OF US UP HERE. AND WE ARE WORKING TO MOVE THIS ORGANIZATION FORWARD.

AND I THINK THAT THAT IS CRITICAL, THAT THE STAFF UNDERSTANDS HOW COMMITTED THIS BOARD IS, ALL THE MEMBERS OF THIS BOARD TO MOVING FORWARD. AND IT'S WHY THIS PROCESS WORKS AS WELL AS IT DOES.

CHAIRMAN PENNINGTON: THANK YOU, MEMBER JONES.

SECRETARY, PLEASE CALL THE ROLL.

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

THE MOTION CARRIES.

MEMBER EATON: MR. CHAIR?

CHAIRMAN PENNINGTON: YES?

MEMBER EATON: IS IT APPROPRIATE NOW THAT THIS IS PASSED TO DISCUSS DATES FOR THOSE MEETING --

CHAIRMAN PENNINGTON: SURE.

MEMBER EATON: -- OR, I MEAN, NOT SO MUCH -- BUT I THINK BECAUSE OF THE OTHER MEETING, SOME OF OUR CALENDARS ARE ALREADY SET, AND I THINK THIS BECOMES EFFECTIVE IMMEDIATELY.

CHAIRMAN PENNINGTON: RIGHT.

MEMBER EATON: AND AS IT SHOULD. BUT, WHETHER OR NOT WE'RE GOING TO COMBINE THE TWO BOARD MEETINGS ON THE SPECIAL BOARD MEETING DAY AND THE REGULAR MEETING, OR A DIFFERENT DAY. I THINK JUST IF WE CAN KIND OF JUST --

CHAIRMAN PENNINGTON: RIGHT. I'M GLAD YOU RAISED THAT, BECAUSE I WAS ABOUT TO SAY THAT ONE OF THE THINGS I'D LIKE TO DO IS DIRECT THE STAFF TO CANCEL THE MEETINGS CURRENTLY NOTICED FOR AUGUST, AND MOVE THE ITEMS INTO ONE OF THE TWO BOARD MEETINGS DURING THE MONTH OF AUGUST.

I HAVE A PROPOSED SCHEDULE THAT WE DON'T HAVE TO AFFIRM NOW, BUT I'VE GOT AUGUST 13TH AND 26TH, SEPTEMBER 9TH AND THE 23RD, OCTOBER --

MEMBER EATON: WAIT, WAIT, WAIT.

CHAIRMAN PENNINGTON: SURE.

MS. TOBIAS: EXCUSE ME.

MEMBER EATON: 8/24, TOO.

CHAIRMAN PENNINGTON: 8/24, YEAH.

MEMBER EATON: BECAUSE WE HAVE A SPECIAL BOARD MEETING. JUST TO KIND OF GET --

MS. TOBIAS: YEAH, I NEED THE 24TH, IT'S A TIMING PROBLEM.

CHAIRMAN PENNINGTON: OKAY.

MS. TOBIAS: OR, RATHER I SHOULD SAY NOT A PROBLEM BUT A TIMING ISSUE. SO, THE SPECIAL BOARD MEETING NEEDS TO STAY ON THE 24TH.

CHAIRMAN PENNINGTON: YEAH, IT WILL.

MS. TOBIAS: OKAY.

CHAIRMAN PENNINGTON: IT WILL. YEAH.

MEMBER EATON: SEPTEMBER 9TH IS ADMISSIONS DAY, IS THAT STILL A STATE HOLIDAY?

MS. TOBIAS: NO.

CHAIRMAN PENNINGTON: I DON'T BELIEVE SO.

MEMBER EATON: 9/9, AND WHAT'S THE OTHER --

MS. TOBIAS: ACTUALLY, THAT WAS EXCHANGED FOR A DIFFERENT HOLIDAY, SO.

CHAIRMAN PENNINGTON: 10/9 AND 10/23 -- I'M

SORRY, 9/9 AND 9/23. AND THEN 10/6, WHICH IS OCTOBER 6TH, AND 10/21, NOVEMBER -- 11/4 AND 11/18, AND DECEMBER 2, 12/2 AND 16.

MEMBER EATON: IS 11/4 THE DAY AFTER THE ELECTION?

CHAIRMAN PENNINGTON: IS IT REALLY?

MEMBER EATON: I THINK SO. WE MAY WANT TO JUST -- NOT CAST THEM IN STONE, WE MAY ALL BE TRAVELING FROM DIFFERENT DIRECTIONS. AND WE MAY NOT BE IN THE MOST, SHALL WE SAY, PROPER STATE IN WHICH TO --

CHAIRMAN PENNINGTON: RIGHT, I WAS GOING TO SAY, MAYBE WE SHOULDN'T START THAT MEETING UNTIL NOON OR SOMETHING, HUH?

MS. TOBIAS: MR. PENNINGTON, I DIDN'T HEAR WHEN THE AUGUST ONES ARE. ARE WE JUST --

CHAIRMAN PENNINGTON: THE AUGUST ONES WILL BE -- WE'VE GOT AUGUST 13 --

MS. TOBIAS: OH, OKAY, THANKS.

CHAIRMAN PENNINGTON: -- AUGUST 24 FOR THE SPECIAL, AND AUGUST 26TH.

MS. TOBIAS: OKAY. THANK YOU.

CHAIRMAN PENNINGTON: SURE.

MEMBER EATON: AND IF WE JUST -- IF YOU WOULD

CIRCULATE THOSE. I THINK THE ONLY PROBLEM THAT I KNOW OF RIGHT NOW IS ON THE 13TH I'LL NEED A LITTLE BIT OF TIME, SO IF WE STARTED NOT AT PERHAPS 9:30, JUST ADJUSTING THE TIME, I THINK I WOULD BE ABLE TO BE THERE.

CHAIRMAN PENNINGTON: OKAY.

MEMBER EATON: BUT WE CAN DISCUSS THAT AS WELL.

CHAIRMAN PENNINGTON: SURE.

MEMBER EATON: BUT THAT'S HELPFUL, AND I THANK YOU.

MEMBER JONES: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YES, MEMBER JONES?

MEMBER JONES: I KNOW THAT YOU'RE GOING TO BE WORKING WITH THE EXECUTIVE STAFF AND EVERYBODY TO TRY TO FIGURE OUT, BUT I'M HOPING THAT WHAT WE SAW IN COMMITTEE MEETINGS AS FAR AS THE FULLNESS -- AND I THINK YOU GUYS HAVE TO HAVE SOME DISCUSSIONS ABOUT THE BRIEFINGS.

ONE OF THE ITEMS THAT WE BROUGHT UP AT THE ADMIN MEETING WAS THAT NOW THAT THERE IS NO COMMITTEES, IF WE DO NOT DELIBERATE ON CERTAIN BRIEFING FUNCTIONS MORE THAN ONE OF US CAN GO, ACTUALLY THREE OF US COULD GO.

BUT WE JUST HAVE TO DISCLOSE -- RIGHT? I MEAN, AM I -- I JUST WANTED YOU GUYS TO THINK ABOUT IT BECAUSE IT IS A DOST SAVINGS ISSUE. I THINK I HAD SAID TWO AND SOMEBODY SAID THREE. SO, WHERE WE CAN GET BRIEFINGS AND WE JUST HAVE TO ACKNOWLEDGE IF WE ASK QUESTIONS TO THE PUBLIC WHAT THE ISSUES WERE THAT WE RAISED QUESTIONS ABOUT, IF THEY WOULD BE ANY DIFFERENT THAN THE ITEM.

BUT, IT WOULD SEEM TO ME IT WOULD BE A WAY TO MOVE EVEN MORE INTO STREAMLINING AND SAVING OUR STAFF'S TIME IF THEY COULD DEAL WITH THREE OF US AT ONE TIME, IF WE COULD EVER FIND OUR CALENDARS TO COINCIDE.

CHAIRMAN PENNINGTON: WELL, I THINK YOU'RE RIGHT, AND I THINK THAT THERE ARE LOTS OF ADJUSTMENTS THAT HAVE TO BE MADE, AND THAT'S WHY WE'RE GOING TO DO THIS ON A TRIAL BASIS AND WHY WE'RE GOING TO LOOK AT IT AGAIN IN JANUARY AND SEE IF IT'S BEEN SUCCESSFUL. IF WE FIND THAT IT'S WORKING WELL WE MAY CHOOSE TO DO IT, OR WE MAY CHOOSE TO MAKE SOME MODIFICATIONS, OR WE MAY CHOOSE TO GO BACK TO THE OLD STRUCTURE. SO, WE WILL BE TRYING TO REFINE IT AND MAKE SURE THAT EVERYBODY IS FULLY INFORMED AND THAT WE HAVE AN

OPPORTUNITY TO HAVE AN OPEN DISCUSSION OF A LOT OF ITEMS.

MEMBER EATON: AND JUST FOR THE RECORD, THE GOVERNMENTAL EFFICIENCY EXPERT WHO SUGGESTED THREE WAS ONE JEFF DANZINGER.

(OFF THE RECORD)

CHAIRMAN PENNINGTON: OKAY, FOLKS, SHALL WE COME BACK TO ORDER?

LET'S SEE, NOW WE'RE GOING TO TAKE UP ITEM 10: CONSIDERATION OF OPTIONS RELATING TO IMPLEMENTATION OF THE PERMIT CONSOLIDATION ZONE PILOT PROGRAM, SB 1299 PEACE 1995. DOROTHY RICE.

AGENDA ITEM NO. 10: CONSIDERATION OF OPTIONS
RELATING TO IMPLEMENTATION OF THE PERMIT
CONSOLIDATION ZONE PILOT PROGRAM
(SB 1299 PEACE 1995)

MS. RICE: THANK YOU. SUZANNE HAMBLETON WILL MAKE THIS PRESENTATION.

MS. HAMBLETON: GOOD AFTERNOON. FOR THE RECORD, MY NAME IS SUZANNE HAMBLETON. THIS AGENDA ITEM SUMMARIZES THE PERMIT CONSOLIDATION ZONE PILOT PROGRAM AND REQUESTS THAT ULTIMATELY THE BOARD MAKE SOME DECISIONS THAT WILL BE DESCRIBED LATER.

THIS ITEM WAS FORWARDED TO THE BOARD TODAY FROM THE P&E COMMITTEE WITH NO RECOMMENDATION.

THE 1299 STATUTE WAS SIGNED IN 1995, REGULATIONS WERE PROMULGATED IN THE SPRING OF 1997. IN THE SUMMER OF 1997 REPRESENTATIVES FROM TRADE AND COMMERCE, AND CAL EPA BOARDS AND DEPARTMENTS, AND OTHER ENVIRONMENTAL PERMITTING STATE AGENCIES WERE ASKED TO ASSIST WITH THE IMPLEMENTATION OF THE PROGRAM.

THE PILOT PROGRAM IS INTENDED TO STREAMLINE CALIFORNIA'S ENVIRONMENTAL PERMITTING PROCESS WHILE PRESERVING CALIFORNIA'S COMMITMENT TO A SAFE AND HEALTHFUL ENVIRONMENT. THE MAJOR COMPONENTS OF SB 1299 ARE THE CREATION OF PERMIT CONSOLIDATION ZONES AND THE ALLOWANCE OF A SINGLE FACILITY COMPLIANCE PLAN IN LIEU OF EXISTING ENVIRONMENTAL PERMITS FOR NEW AND EXPANDING FACILITIES.

THE PERMIT CONSOLIDATION ZONE PILOT PROGRAM IS IN EFFECT UNTIL THE YEAR 2002 UNLESS ANOTHER PIECE OF LEGISLATION DELETES OR EXTENDS THIS DATE.

OUR PERMIT CONSOLIDATION ZONE IS A GEOGRAPHIC AREA CONTIGUOUS OR NON-CONTIGUOUS DESIGNATED WITHIN THE JURISDICTION OF A CITY OR

CITIES, OR COUNTY OR COUNTIES, OR BOTH. THE APPROVAL OF THE ZONE IS BASED ON RECOMMENDATION BY A REVIEW PANEL.

EACH ZONE ENTERS INTO A MEMORANDUM OF UNDERSTANDING WITH PARTICIPATING ENVIRONMENTAL PERMITTING AGENCIES. THE MOUS SPECIFY THE TYPES OF FACILITIES THAT ARE ELIGIBLE TO OPERATE UNDER THE AUTHORITY OF A PERMIT OF A FACILITY COMPLIANCE PLAN.

WITHIN A ZONE, A ZONE ADMINISTRATOR IS DESIGNATED AND RESPONSIBLE FOR ADMINISTRATION OF THE PROGRAM.

HERE IS A LIST OF THE ZONE APPLICANTS. THEY ARE: THE COUNTY OF FRESNO; THE COUNTY OF KERN, MINUS THE CITY OF BAKERSFIELD; THE CITY OF BAKERSFIELD; AND THE CITIES OF SOUTHERN ORANGE COUNTY.

THESE FOUR APPLICATIONS ARE PENDING APPROVAL BASED ON SUBMITTAL OF SIGNED MOUS.

WITHIN A DESIGNATED ZONE A PROJECT APPLICANT WITH A NEW OR EXPANDING FACILITY COULD VOLUNTARILY OPT TO SUBSTITUTE A FACILITY COMPLIANCE PLAN IN LIEU OF EXISTING ENVIRONMENTAL PERMITS. THE FACILITY COMPLIANCE PLAN MUST MEET THE REQUIREMENTS OF ALL THE INDIVIDUAL ENVIRONMENTAL PERMITS THAT WOULD

OTHERWISE BE REQUIRED. THE PLAN DOES NOT ABROGATE THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. THE PERMITTING AUTHORITY MAY ADD CONDITIONS BASED ON STATUTE, REGULATIONS OR LOCAL ORDINANCES.

THE FACILITY COMPLIANCE PLAN HAS A REVIEW PROCESS WHERE INDIVIDUAL AGENCIES DETERMINE ADEQUACY AND COMPLETENESS OF THE PLAN WITHIN 45 DAYS OF RECEIPT. THERE HAS BEEN ADDITIONAL LANGUAGE THAT HAS BEEN ADDED TO THE MOU THAT PROVIDES FOR SUBMITTAL OF A DRAFT FACILITY COMPLIANCE PLAN AND THE DETERMINATION OF COMPLETENESS AND ADEQUACY AT THE STAFF LEVEL BEFORE THE OFFICIAL 45-DAY TIME LINE COMMENCES.

THE FACILITY COMPLIANCE PLAN MUST PROVIDE EQUIVALENT OPPORTUNITY FOR PUBLIC PARTICIPATION, NOTICE, AND ADMINISTRATIVE APPEAL REQUIRED BY THE REVIEW PROCESS THAT WOULD OTHERWISE BE USED.

THE 45-DAY TIME FRAME MAYBE WAIVED IF MUTUALLY AGREED TO BY THE PLAN APPLICANTS AND PERMITTING AUTHORITY. THIS IS A FACILITY COMPLIANCE TIME LINE. THE TOP BOX SHOWS THAT A PLAN APPLICANT ISSUES A NOTICE OF INTENT TO BE PREPARED BY EACH PARTICIPATING PERMITTING AUTHORITY.

THE NOTICE OF INTENT IS SUBMITTED AT LEAST 60

DAYS BEFORE THE SUBMITTAL OF THE PLAN. THE NOTICE CONTAINS THE PROJECT DESCRIPTION, AMONG OTHER THINGS.

THE ZONE ADMINISTRATOR MUST FACILITATE DISCUSSION BETWEEN THE APPLICANT AND THE PERMITTING AGENCIES DURING THE PERIOD WHEN THE PLAN IS BEING PREPARED.

THE SECOND BOX SHOWS THAT, SUBSEQUENT TO THE NOTICE OF INTENT AND PRIOR TO SUBMITTING THE PROPOSED FACILITY COMPLIANCE PLAN, THE PLAN APPLICANT SUBMITS A DRAFT FACILITY COMPLIANCE PLAN CONCURRENTLY TO THE ZONE ADMINISTRATOR AND THE PERMITTING AUTHORITIES. THE ZONE ADMINISTRATOR SOLICITS PUBLIC COMMENT ON THE DRAFT PLAN AND DISTRIBUTES ALL COMMENTS TO EACH PERMITTING AUTHORITY.

THE PLAN APPLICANT MODIFIES THE DRAFT IN RESPONSE TO THE COMMENTS RECEIVED PRIOR TO SUBMITTING THE PROPOSED PLAN TO THE PERMITTING AUTHORITIES FOR APPROVAL.

THE THIRD BOX SHOWS THE APPLICANT AS SUBMITTING THE PROPOSED FACILITY COMPLIANCE PLAN TO THE ZONE ADMINISTRATOR IN EACH OF THE PERMITTING AGENCIES. THE PERMITTING AGENCIES APPROVE OR DISAPPROVE THE FACILITY COMPLIANCE PLAN WITHIN 45

DAYS. THE DETERMINATION IS SUBMITTED TO THE ZONE ADMINISTRATOR AND THE PLAN APPLICANT BY THE 45TH DAY.

IF DISAPPROVED, THE PERMITTING AUTHORITY MUST SPECIFY WHY THE PLAN IS DEFICIENT. AFTER RESUBMITTAL THE PERMITTING AUTHORITY HAS 30 DAYS TO APPROVE OR DISAPPROVE THE PLAN. THE PLAN APPLICANT MAY CHOOSE TO APPEAL THE DECISION, IF THE DECISION WAS DISAPPROVAL, TO THE PERMITTING AUTHORITY.

OKAY. THERE'S A FEW THINGS THAT THE BOARD NEEDS TO CONSIDER TODAY. WHICH OF THE SOLID WASTE PERMITS ARE ELIGIBLE FOR THE PROGRAM? AND, IF THE BOARD DETERMINES THAT SOME OF THE PERMIT TIERS ARE ELIGIBLE HOW WOULD THIS BE HANDLED? DOES THE MEMO OF UNDERSTANDING ADDRESS THE BOARD CONCERNS? AND, WHAT IS THE BOARD'S ROLE IN THE APPROVAL OF THE FACILITY COMPLIANCE PLAN?

OKAY. WHICH OF THE PERMITS ARE ELIGIBLE? CURRENTLY THE REGISTRATION STANDARDIZING FULL PERMITS ARE POTENTIALLY ELIGIBLE FOR THE PILOT PROGRAM. OR, ANOTHER OPTION IS TO SELECT -- OR, AN OPTION IS TO SELECT THE REGISTRATION PERMIT AS AN ELIGIBLE TIER AND SELECT THE STANDARDIZED AND FULL PERMIT TIERS AS ELIGIBLE ON A CASE-BY-CASE BASIS.

HOW WOULD THE CASE-BY-CASE DECISIONS BE DETERMINED? WOULD ELIGIBILITY OF THE FACILITY BE DETERMINED AT A MEETING OF THE BOARD, OR COULD THAT DECISION BE DELEGATED TO THE EXECUTIVE DIRECTOR?

THE QUESTION, DOES THE MOU ADDRESS BOARD CONCERNS? THERE ARE TWO AREAS OF THE MOU THAT WARRANT SOME DISCUSSION. ONE I'VE ALREADY TOUCHED UPON IS WHICH PERMITS ARE ELIGIBLE TO BE SUBSTITUTED BY A FACILITY COMPLIANCE PLAN.

AND THEN THE APPEAL PROCESS THAT WOULD BE USED BY THE APPLICANT. IF A PLAN APPLICANT CHOSE TO APPEAL THE DECISION OF A PERMITTING AUTHORITY, THE LANGUAGE IN SB 1299 STATUTE AND REGULATION ALLOW FOR PERMITTING AUTHORITY TO USE THEIR EXISTING APPEAL PROCESS. HOWEVER, THE STATUTE STATES THAT THE PROCESS MUST BE CONCLUDED IN 60 DAYS.

THE SOLID WASTE APPEAL PROCESS, WHICH IS THE AB 59 PROCESS, IS A TWO-PHASE PROCESS COMMENCING WITH THE LOCAL HEARING PANEL, WHICH TAKES AT LEAST 70 DAYS. AND IF THE APPELLATE CHOOSES TO APPEAL THAT DECISION OF THE LOCAL HEARING PANEL TO THE BOARD IT CAN TAKE UP TO AN ADDITIONAL 90 DAYS.

THE STAFF WOULD LIKE TO ADD ADDITIONAL

LANGUAGE TO THE MOU TO ENSURE THAT WE WOULD USE THE WASTE BOARD'S PROCESS. ON PAGE 10-23 OF YOUR PACKET, WHICH IS THE MOU, NUMBER NINE, WE WOULD LIKE TO ADD THE ADDITIONAL LANGUAGE -- I THINK THAT'S BEEN PASSED OUT -- STARTING AT THE END OF NUMBER NINE. AND IT WOULD READ:

"THE APPEAL PROCESS FOR THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD, FOR A FINDING OF INADEQUACY, MAY TAKE LONGER THAN 60 DAYS AS PROVIDED IN PUBLIC RESOURCES CODE SECTIONS 44.300, *ET SEQ.* THE WASTE BOARD'S PARTICIPATION IN THE FACILITY COMPLIANCE PLAN PROCESS IS CONDITIONED UPON AGREEMENT AMONG THE PARTIES PRIOR TO ITS DECISION TO PARTICIPATE, AND THAT THE WASTE BOARD STATUTORY TIME FRAMES FOR APPEAL PROCESS FOUND IN PUBLIC RESOURCES CODE SECTIONS 44.300, *ET SEQ.*, ARE CONTROLLING."

IF A PLAN APPLICANT CHOSE TO APPEAL CONDITIONS OF THE FACILITY COMPLIANCE PLAN AFTER THE APPROVAL OF THE PLAN THEN THE APPEAL PROCESS WOULD BE THE CURRENT AB 59 PROCESS, THE 1299 STATUTE IS SILENT ON TERMS OF APPEALING CONDITIONS AFTER A PLAN HAS BEEN APPROVED.

ADDITIONALLY, IN NUMBER 13 OF THE AGREEMENT, WHICH IS NOW ON PAGE 10-24, THE STAFF WOULD LIKE TO ADD LANGUAGE TO MAKE SURE THE AGREEMENT DOES NOT TAKE EFFECT FOR ANY AGENCY UNTIL THAT AGENCY SIGNS THE AGREEMENT.

OKAY. ANOTHER DECISION THAT HOPEFULLY WILL BE MADE IS WHAT IS THE BOARD'S ROLE IN THE APPROVAL OF THE FACILITY COMPLIANCE PLAN. WOULD THE BOARD LIKE TO CONSIDER THE CONCURRENCE OF THE PLAN AT A MEETING OF THE BOARD, OR COULD THIS BE DELEGATED TO THE EXECUTIVE DIRECTOR?

IN SUMMARY, THE DECISIONS FOR THE BOARD ARE: TO DETERMINE WHICH SOLID WASTE PERMITS ARE ELIGIBLE, THE REGISTRATION TIER, THE STANDARDIZED TIER, THE FULL TIER, AND IF SO, ON WHAT BASIS, AND SOME COULD BE ELIGIBLE ON A CASE-BY-CASE BASIS.

FOR THE PERMIT TIERS THAT ARE ELIGIBLE ON A CASE-BY-CASE BASIS HOW WOULD THE BOARD LIKE TO HANDLE THESE? WOULD THEY LIKE TO BE HANDLED AT, AS I SAID, A MEETING OF THE BOARD OR DELEGATED TO THE EXECUTIVE DIRECTOR?

WE NEED TO DECIDE WHETHER OR NOT WE ARE

GOING TO SIGN THE AGREEMENTS. AND WE ARE GOING TO HOPEFULLY DETERMINE HOW TO CONCUR WITH THE -- OR, DETERMINE HOW CONCURRENCE WITH THE FACILITY COMPLIANCE PLAN WILL OCCUR, THROUGH A MEETING OF THE BOARD OR CAN THAT BE A DELEGATION.

THE BOARD MAY CHOOSE TO COME UP WITH OTHER OPTIONS, OR TAKE NO ACTION.

AND, IN SUMMARY, THESE ARE THE QUESTIONS THAT STAFF WOULD LIKE TO BE ANSWERED TODAY. I THINK I'LL JUST LEAVE THAT UP THERE.

I'D LIKE TO SAY THAT MS. CHRIS KENNEY OF CAL EPA IS IN ATTENDANCE TODAY IN CASE YOU HAVE QUESTIONS OF CAL EPA. AND THIS CONCLUDES MY PRESENTATION.

CHAIRMAN PENNINGTON: QUESTIONS OF STAFF?
MEMBER EATON?

MEMBER EATON: YES. THE 70 AND 90 DAYS OF AB 59 IS STATUTE. CORRECT?

MS. HAMBLETON: YES. IT'S NOT EXACTLY 70 AND 90, BUT IT'S APPROXIMATELY THOSE AMOUNT OF DAYS.

MEMBER EATON: AND THE 60 DAYS THAT IS CONTAINED WITHIN SB 1299, THAT'S STATUTORY AS WELL?

MS. HAMBLETON: CORRECT.

MEMBER EATON: SO IF THERE WERE A CONFLICT BETWEEN THE TWO WHICH WOULD BE CONTROLLING?

MS. HAMBLETON: I DEFER.

MS. TOBIAS: IS THAT A RHETORICAL QUESTION, MEMBER EATON? YOU PROBABLY KNOW BETTER THAN I DO.

IN THE CASE -- BASICALLY WHAT HAPPENS IS WHEN YOU HAVE CONFLICT BETWEEN STATUTES YOU'D HAVE TO GO THROUGH THE STANDARD TEST, WHICH IS TO DECIDE IS THERE A WAY TO MAKE THEM BOTH WORK AT THE SAME TIME, WHAT'S THE AMBIGUITY, ET CETERA. THERE'S A WHOLE TEST THAT YOU GO THROUGH BEFORE YOU FIND THAT THERE IS TRULY A CONFLICT. SO IT'S SOMETHING THAT WE MIGHT BE SITTING IN COURT ON.

MEMBER EATON: THE OTHER THING IS, I HAVE A PROBLEM WITH THE DEFINITION OF CASE-BY-CASE, BECAUSE THAT MEANS A LOT OF DIFFERENT THINGS TO A LOT OF DIFFERENT PEOPLE. AND I WAS WONDERING IF EITHER STAFF, OR EXECUTIVE STAFF, OR LEGAL COUNSEL COULD KIND OF GIVE ME A DEFINITION. I'VE BEEN HERE AS TO WHAT THAT KIND OF MEANS.

DOES THAT MEAN THAT WE WOULD -- WELL, LET ME JUST ASK THE QUESTION.

MR. CHANDLER: I THINK IT'S A GOOD QUESTION,

BECAUSE I HAVE HEARD THIS 1299 PROCESS BE REPRESENTED THAT IT IS A CASE-BY-CASE, IF YOU WILL, REVIEW OF THE PROJECTS THAT COME FORWARD. AND, THEREFORE, THAT IT KIND OF GOES WITHOUT SAYING THAT THE BOARD WOULD HAVE THE RIGHT ON A CASE-BY-CASE -- SHOULD, LET'S SAY, WE SELECT SOME TIER LEVEL, THAT THEY WOULD COME THROUGH THE BOARD ON A CASE-BY-CASE BASIS.

I THINK WHAT LENDS ITSELF TO SOME INTERPRETATION, THOUGH, WOULD BE AT WHAT POINT DOES THE BOARD TAKE UP ON A CASE-BY-CASE THE ISSUE OF WHETHER WE WANT TO SEE A PARTICULAR PERMIT IN SOME PARTICULAR TIER COME THROUGH THIS COMPLIANCE PROCESS UNDER 1299.

I WOULD HATE TO HAVE A PROCESS COMPLETE ITSELF, A COMPLIANCE PLAN PUT FORWARD, AND THEN IT COME TO THE BOARD ON A CASE-BY-CASE REVIEW AND HAVE AT THAT TIME US SAY, WELL, IN THIS PARTICULAR CASE WE'RE NOT COMFORTABLE WITH THIS COMPLIANCE PLAN APPROACH SO WE WOULD LIKE TO SEE IT BE HANDLED MORE TRADITIONALLY.

I THINK THE CASE-BY-CASE REVIEW, IF THERE'S GOING TO BE ONE, SHOULD OCCUR VERY EARLY IN THE PROCESS, WHERE WHEN AN LEA HEARS FROM AN OPERATOR THAT THEY HAVE AN EXPANSION OF A FACILITY, OR A NEW

COMPOSTING OPERATION AND THEY'D LIKE TO BRING IT THROUGH THIS PROCESS, BEFORE ANY COMPLIANCE WORK IS EVEN DEVELOPED THAT SOMEHOW THERE BE A NOTIFICATION PROCESS TO US, AND WE CAN RENDER A DECISION RIGHT THERE. THAT ON THIS PARTICULAR CASE WE ARE COMFORTABLE OR NOT COMFORTABLE IN HAVING THAT PERMIT PROCEED FORWARD UNDER THE 1299 PROCESS, OR PROCEED FORWARD UNDER OUR PROCESS.

SO, I THINK IT'S A GOOD QUESTION, BECAUSE I THINK THE CASE-BY-CASE HAS SOMETIMES BEEN -- AT LEAST EXPLAINED TO ME, THAT IT WOULD OCCUR MORE --

MEMBER EATON: AT THE LATTER END OF THE PROCESS?

MR. CHANDLER: -- AS THE PROJECTS COME FORWARD, UNDER THIS PROCESS IT WOULD THEN BE BEFORE THE BOARD ON A CASE-BY-CASE BASIS. AND I DON'T KNOW HOW THAT WOULD ALL WORK OUT.

MS. TOBIAS: I THINK THAT THIS WOULD HAVE TO OCCUR AT THE START OF THE PROCESS, THAT YOU COULDN'T BASICALLY GO INTO IT AND PULL IT BACK OUT. SO I THINK THERE WOULD HAVE TO BE SOME KIND OF MECHANISM.

AND MAYBE SUZANNE WANTS TO SPEAK TO THAT IN TERMS OF DECIDING WHEN SOMEBODY COMES IN AND SAYS WE'RE READY TO START THIS, AND WE WANT TO GO THROUGH

THIS PROCESS, BASICALLY EITHER THE EXECUTIVE DIRECTOR OR SOMEBODY DECIDES, YES, THAT'S FINE.

I DON'T KNOW IF WE'RE ANTICIPATING EACH ONE OF THOSE COMING TO THE BOARD. I THINK THAT GETS INTO KIND OF AN INTERESTING QUESTION AS TO ARE WE HELPING EXPEDITE THIS PROCESS, OR IS THIS ACTUALLY A LONGER PROCESS THAN JUST GETTING IN AND GETTING YOUR PERMIT.

SO, I THINK THAT HAS TO BE KIND OF TAKEN INTO ACCOUNT ON THAT --

MS. RCE: THE ONLY THING THAT I WOULD ADD IS I THINK THAT'S WHY WE'RE BRINGING ALL THESE DIFFERENT SPECIFIED DECISIONS.

THE FIRST ONE WAS A BIGGER DECISION OF ALL THE TYPES OF PERMITS THAT THE BOARD CURRENTLY CONCURS IN, WHICH ARE YOU INTERESTED IN HAVING BE PART OF THIS PROGRAM, GENERALLY, NOT ON THE CASE-BY-CASE BASIS, IF THERE ARE ANY.

IF THERE AREN'T, WE WERE LOOKING FOR A DECISION POINT THERE IN TERMS OF, SAY, YOU'RE TALKING ABOUT THE FULL PERMIT. IF YOU WOULD ONLY BE COMFORTABLE LOOKING AT THAT ON A CASE-BY-CASE BASIS, WHAT I BELIEVE WE ENVISIONED WAS AN APPLICANT COMES FORWARD AND IS INTERESTED IN

USING THIS PROCESS FOR A PARTICULAR FULL PERMIT. SAY IT'S A LANDFILL, YOU WOULD DETERMINE ON A CASE-BY-CASE BASIS WHETHER YOU WANTED THAT FACILITY TO GO THROUGH THE PROCESS.

IN OTHER WORDS, THE FIRST DECISION WAS WHAT PERMITS ARE GENERICALLY IN AND WHICH ARE DEALT WITH ON A CASE-BY-CASE BASIS. AND THEN THE SECOND QUESTION IS, ONCE YOU'VE DECIDED THE CASE-BY-CASE WHAT IS THE PROCESS FOR DOING THAT. DO YOU BRING IT TO THE BOARD FOR THAT DECISION, OR IS THERE SOME OTHER PROCESS?

CHAIRMAN PENNINGTON: MEMBER JONES?

MEMBER JONES: I THINK THAT THAT ILLUSTRATION OF A LANDFILL IS PROBABLY THE BEST ILLUSTRATION. THE WAY I READ THIS PROCESS, SOMEBODY DOES A COMPLIANCE PLAN, GETS IT TO US, AND GETS IT TO EVERY AFFECTED AGENCY, AND THEY HAVE 45 DAYS TO ACT. OKAY?

SWEETESER LEFT THE ROOM. BUT, OSTROMROAD (PHONETIC) TOOK NINE YEARS --

MR. CHANDLER: 13 TOTAL

MEMBER JONES: BUT, I MEAN, NINE WHEN WE KICKED IT UP? NINE YEAWE'RE TALKING ABOUT 45 DAYS. NOW, NINE YEARS IS ENTIRELY TOO LONG, THERE'S NO DOUBT

ABOUT IT. FORTY-FIVE DAYS, IT SENDS SHIVERS UP MY SPINE, BECAUSE IT WILL LEND ITSELF TO LAW SUITS. IT TALKS ABOUT THE PEOPLE'S RIGHT TO BE INCLUDED IN THE PROCESS. OKAY?

I HAVE A PROBLEM WITH THAT DISPARITY. I DON'T HAVE ANY PROBLEM WITH TRYING TO MAKE THINGS EASIER, MOVE ALONG. BUT IN THE CASE OF LANDFILL THERE ARE TRULY MULTIPLE STATE AGENCIES INVOLVED. THERE'S THE WATER BOARD AND THE WASTE BOARD, AND UNDER 1220 THEY CAN WRITE A JOINT TECHNICAL DOCUMENT. RIGHT? WHICH I THINK THERE'S STATUTE ON, AND REGS, AND ALL SORTS OF LITTLE FORMATS. THE AIR BOARD WOULD PROBABLY GET INVOLVED, AND TOXICS WOULD GET INVOLVED. SO THAT KIND OF MAKES SENSE TO ME, THAT YOU DO SOMETHING THERE THAT INCLUDES A LOT OF PEOPLE INSTEAD OF JUMPING THROUGH A LOT OF HOOPS.

WHERE I HAVE A PROBLEM IS THAT OUR PROCESS RIGHT NOW, IF YOU WERE GOING TO BRING A TRANSFER STATION FORWARD, YOU WOULD GET A CONDITIONAL USE PERMIT LOCALLY, YOU WOULD GO OUT AND YOU WOULD TALK TO THE LEA. YOU WOULD PROBABLY HAVE TO GO OUT AND TALK TO A LOCAL AIR QUALITY DISTRICT JUST TO MAKE THEM AWARE. YOU'D HAVE TO DO A LOT OF THINGS. BUT THE

ONLY PERSON THAT GIVES THE PERMIT IS THIS BOARD. THE ONLY ONE THAT CONCURS WITH THAT PERMIT IS THIS BOARD.

BUT, UNDER THE MOU, BECAUSE THERE ARE OTHER LOCAL AGENCIES THAT HAVE OVERSIGHT, DOES THAT MEAN THAT OUR NORMAL FUNCTION OF CONCURRING AND NOT CONCURRING WITH PERMITS IN A FORMAT THAT WE DEAL WITH GETS THROWN OUT?

AND THAT -- WELL, YOU SAY NO. TELL ME WHY NO.

MS. HAMBELTON: WELL, THE STATUTE SAYS THAT ANYTHING THAT WE WOULD HAVE NORMALLY DONE WE STILL DO.

MEMBER JONES: WHICH IS CONCUR OR NOT CONCUR.

MS. HAMBLETON: RIGHT. SO THAT WOULD OCCUR. THEN THE ONLY THING THAT -- THAT WOULD ONLY BE IN THE 45 DAYS. IN OTHER WORDS, THERE'S THIS NOTICE OF INTENT WHERE THE APPLICANT SAYS, I'M GOING TO -- I'M PLANNING ON PREPARING THIS FACILITY COMPLIANCE PLAN, THEY HAVEN'T DONE IT YET, BUT I'M PLANNING ON DOING IT.

AND THEN THERE'S THE DRAFT STAGE --

MEMBER JONES: THAT'S 60 DAYS.

MS. HAMBLETON: IT'S 60 DAYS --

MEMBER JONES: PRIOR TO GETTING A --

MS. HAMBLETON: THE FINAL.

MEMBER JONES: OKAY. SO NOW WE'RE AT 105 DAYS.

I JUST WANT TO PUT --

MS. HAMBLETON: RIGHT.

MEMBER JONES: -- THAT LITTLE PORTION OF THE 13 YEARS. OKAY.

MS. HAMBLETON: OKAY. BUT ALSO BE AWARE THAT THE CEQA COMPLIANCE HAS ALREADY OCCURRED, WHICH PROBABLY WAS SEVEN OR EIGHT YEARS OF THAT 13, POSSIBLY, I DON'T KNOW.

MEMBER JONES: BUT HOW DOES IT OCCUR WITHOUT A PROJECT DESCRIPTION? AND WITHOUT A PLAN?

MS. HAMBLETON: WELL, THEY HAVE THEIR OWN -- I MEAN, CEQA'S SORT OF SEPARATE FROM THIS. WHAT I'M ENVISIONING -- WHAT HAPPENS IS THAT THE RSI USUALLY COMES OUT OF THE CEQA DESCRIPTION, SO THE CEQA COMES FIRST.

MEMBER JONES: THAT IS PART OF IT. I MEAN, IT'S PART OF IT.

MS. HAMBLETON: RIGHT.

MEMBER JONES: AND THEN IT GETS TWEAKED.

TODAY WE LOOKED AT B&J DROP BOX. OKAY?
AND WHAT WE APPROVED WAS THE APPLICATION FOR THE

FACILITY BASED ON TWO PAGES OF CONDITIONS. THE CONDITIONS WERE PUT ON BY THE LEA.

MS. HAMBLETON: RIGHT.

MEMBER JONES: WE CONCURRED WITH THEIR CONDITIONS.

WHAT I'M READING AS 1299 IS THAT THE LEA OR THE WASTE BOARD COULD PUT ON CONDITIONS, BUT IT IS REALLY THE OPERATOR'S JOB, OR THE PROPONENT'S JOB TO INCLUDE THOSE ISSUES IN A COMPLIANCE PLAN.

MS. HAMBLETON: THAT'S CORRECT.

MEMBER JONES: AND I'M JUST -- THAT'S CONTRADICTORY TO OUR STATUTES, FIRST OFF, FOR US. BECAUSE WE ARE NOT ALLOWED TO ADD CONDITIONS.

SO, IN THAT CASE, WHICH STATUTE DO WE DECIDE TO PICK FOR THAT ONE? OUR EXISTING ONE OR THIS ONE?

MS. HAMBLETON: WELL, WE GO BACK TO THE TEST.

MEMBER JONES: THERE YOU HAVE THE TEST, THIS WORKS FOR ME, THIS DON'T WORK FOR YOU.

BUT, YOU KNOW WHAT I'M SAYING? IT IS -- THE WAY I READ THIS THING, WE DON'T HAVE THE RIGHT TO PUT CONDITIONS ON UNDER OUR STATUTES. BUT, WHEN I READ 1299, WE ACTUALLY HAVE THE OBLIGATION TO PUT

CONDITIONS ON.

MS. HAMBLETON: WELL, 1299 ACTUALLY SAYS THE PERMITTING AUTHORITY. AND I KNOW WHEN THIS WAS WRITTEN I DON'T THINK IT ENVISIONED THE RELATIONSHIP THAT WE HAVE WITH THE LEAS. BECAUSE, WE DO HAVE A DIFFERENT RELATIONSHIP THAN ALL THE OTHER BOARDS AND DEPARTMENTS, BASICALLY.

BUT, IT SAYS THE PERMITTING AUTHORITY CAN PUT CONDITIONS ON. AND WE ARE LISTED AS A PERMITTING AUTHORITY, AS WELL AS THE LEA.

MS. TOBIAS: AND I WANT TO SAY THAT I'M NOT SURE THAT THE LEGAL OFFICE IS GOING TO BASICALLY COME OUT WITH AN INTERPRETATION THAT SAYS THAT UNDER THIS PARTICULAR PROCESS WE'RE THE PERMITTING AUTHORITY AND THAT YOU CAN PUT ON PERMIT CONDITIONS, AND IN OUR NORMAL ONE YOU CAN'T. SO, I THINK THIS IS SOMETHING THAT, AS FAR AS THE LEGAL OFFICE IS CONCERNED, IT'S UP IN THE AIR ON THAT CONDITIONS ISSUE.

MEMBER EATON: WELL, I THINK PERHAPS ALSO WE KIND OF GO BACK TO WHAT THE ORIGINAL INTENT WAS OF SB 1299, AND THAT'S REALLY A STREAMLINE APPROACH. AND I THINK THAT SENATOR PEACE, DURING THAT TIME, WAS COMPLETELY INSIGHTFUL AND VISIONARY IN THE FACT OF

TRYING TO MAKE THIS STREAMLINED.

I THINK HOW WE LOOK AT HOW WE FIT THIS INTO OUR SCHEME IS THAT THE REGISTRATION PERMIT, AND ONLY THE REGISTRATION PERMIT AT THIS TIME, SEEMS TO FIT WITHIN THAT TIME FRAME. AFTER ALL, IF IT'S EXPEDIENCY, STREAMLINING AND NOT HAVING SOME OF THESE TECHNICAL QUESTIONS GO UP....

AND, I MUST REMIND YOU, IT IS A PILOT PROGRAM. SO IT'S NOT LIKE THAT WHAT WE HAVE -- SO, I THINK AS YOU -- SORT OF AS WE ENTER THE COLD WATER, OR THE HOT WATER, OR THE WARM WATER, THAT MAYBE WE DO IT ONE TOE AT A TIME, AND MAYBE JUST AT THE PRESENT TIME JUST GO REGISTRATION AND SEE HOW THAT GOES, AND WE TRY AND WORK ON SOME OF THESE OTHER PROBLEMS.

MEMBER JONES: I DON'T HAVE ANY PROBLEM WITH THAT. I DON'T WANT TO SEEM -- YOU KNOW, I AGREE WITH YOU. THIS WAS AN INDUSTRIAL DEVELOPMENT BILL. IT WAS TO HELP MOVE, INDUSTRIAL DEVELOPMENT, I DON'T THINK IT WAS TO CONSOLIDATE OUR PERMITTING AUTHORITY.

I TAKE A LITTLE BIT OF -- I KIND OF WONDER WHERE -- SOME OF THE THINGS THAT YOU WANTED DECISIONS ON, ONE OF THEM WAS SHOULD THE BOARD CONCUR WITH THE FACILITY COMPLIANCE PLAN OR SHOULD WE DELEGATE IT TO

THE EXECUTIVE DIRECTOR. SEEMS TO ME THAT UNDER STATUTE THE ONLY PERSON THAT CAN -- THE ONLY GROUP OR ENTITY HERE THAT CONCUR WITH THE PERMIT, IF IT'S A FULL PERMIT OR SOMETHING LIKE THAT IS THE BOARD.

RIGHT?

MS. HAMBLETON: I'M LOOKING OVER THERE.

MS. TOBIAS: I THINK GENERALLY THAT'S THE CASE.

I THINK THAT THE WAY WE HAD INTERPRETED STANDARDIZED PERMITS, FOR EXAMPLE, WITH RECOMMENDING THAT THOSE COULD BE ISSUED, IS THAT THE MORE MINISTERIAL A PERMIT BECOMES THE MORE YOU HAVE THE POSSIBILITY AS A LEGISLATIVE BODY TO DELEGATE THAT TO AN ADMINISTRATOR.

BECAUSE, IF YOU SET OUT THE GUIDELINES AND CONSTRAIN THAT ADMINISTRATOR'S ABILITY, THEN THERE ARE SOME THINGS YOU CAN DELEGATE. SO A STANDARDIZED PERMIT, BY VIRTUE OF ITS NAME, YOU KNOW, WE BROUGHT TO YOU THE POSSIBILITY BEFORE OF DELEGATING THAT TO THE EXECUTIVE DIRECTOR. BECAUSE, IT FITS INTO THAT PARAMETER.

I DON'T SEE ANY ABILITY TO DELEGATE A FULL PERMIT CONCURRENCE TO THE EXECUTIVE DIRECTOR. I DON'T THINK THAT'S A POSSIBILITY. BUT, I DO THINK, AS YOU

GET SOMETHING INTO THE FACT THAT'S MORE STANDARDIZED, OR A SET, OR MORE OF A MINISTERIAL PERMIT, THEN THAT'S MORE OF A POSSIBILITY.

MS. JONES: BECAUSE IT GOES TO THE HEART OF 1299, 1299 SAYS THAT WE HAVE A RIGHT -- WHERE PERMITS ARE DISCRETIONARY, THEN THE BOARDS WILL DO THEIR DUE DILIGENCE, DO THEIR JOB, AND EITHER VOTE IT UP OR DOWN.

SO, IF IT IS -- IF WE'RE LOOKING AT IT THAT WAY, THAT IN FACT THERE IS -- THAT IT IS DISCRETIONARY, THEN I DON'T THINK YOU TURN -- I DON'T THINK -- I UNDERSTAND WHAT YOU'RE SAYING. I DON'T THINK YOU CAN TURN THAT DISCRETIONARY ACTION OVER BECAUSE IT'S NOT MINISTERIAL -- DO YOU KNOW WHAT I MEAN? -- AT THAT POINT. AND, BECAUSE I DON'T HAVE ANY PROBLEM WITH TURNING OVER THE REGISTRATION TIER AND THEN WORKING THROUGH THIS THING.

I DO HAVE A -- I DO AGREE WITH THE DISCUSSION ON CASE-BY-CASE, BECAUSE I THINK YOU NEED TO SEE IT IMMEDIATELY WHEN IT'S PROPOSED TO DETERMINE WHO THE AGENCIES ARE INVOLVED IN THIS THING, AND WHAT IS IT GOING TO LOOK LIKE.

AND THE OTHER THING IS THAT IF THE ZONE

ADMINISTRATOR IN -- I THINK WAS KERN, THERE'S FOUR OF THEM LISTED, I THINK ONE OF THEM WAS KERN COUNTY, CALLS A MEETING TO GET THE PARTIES TOGETHER, I'M ASSUMING THAT THAT MEANS YOU GUYS HAVE TO GO DOWN THERE?

WELL, I MEAN, IT WOULD SEEM TO ME THAT THAT WOULD HAVE SOME IMPLICATIONS ON THE WAY WE DO BUSINESS. BECAUSE, A LOT OF THAT STUFF BETWEEN THE LEA AND THE OPERATOR IS DONE BY THE PHONE. AND IF THE ZONE ADMINISTRATOR DECIDES HE WANTS TO HAVE THESE IN-PERSON MEETINGS EVERY WEEK, THEN THAT MEANS PEOPLE FROM THE STAFF ARE GOING TO HAVE TO GO DOWN THERE EVERY WEEK TO PARTAKE IN THAT.

AND MAYBE THAT'S OKAY. BUT I'M JUST -- I JUST THINK WE NEED TO BE AWARE THAT IT IS A CHANGE IN THE WAY THAT WE WOULD NORMALLY DEAL WITH THESE THINGS.

AND THAT WOULD JUST -- YOU KNOW, HOW MUCH AT THEIR BECK AND CALL ARE YOU? I MEAN, JUST -- YOU JUST MIGHT WANT TO THINK ABOUT IT.

MS. TOBIAS: WELL, I THINK ALONG WITH THAT THE BOARD MAY WANT TO -- EITHER NOW OR AT SOME POINT IN THE FUTURE -- COME UP WITH SOME KIND OF GUIDELINES AS TO WHAT KINDS OF PERMITS THEY'D EITHER LIKE TO NEVER

SEE SENT THROUGH THE PROCESS, OR MOSTLY SENT THROUGH THE PROCESS.

FOR INSTANCE, I HEARD MR. FRAZEE BRING UP A CONCERN -- AND I'M NOT SURE IT'S ENOUGH TO WARRANT THIS BUT -- AT THE COMMITTEE MEETING, IF WE ARE THE ONLY STATE AGENCY INVOLVED AND ALL THE REST OF THEM ARE LOCAL AGENCIES, PERHAPS THOSE ARE ONES THAT WE REALLY WOULDN'T SEE PUTTING THROUGH THIS PROCESS. SO THERE'S ONE GUIDELINE ALREADY.

MEMBER JONES: THAT'S HOW I INTERPRETED IT.

MS. TOBIAS: PERHAPS ANOTHER ONE IS, IS THAT AT THIS TIME WE DON'T SEE ANY FULL SOLID WASTE FACILITY PERMITS FOR NEW LANDFILLS GOING THROUGH THIS PROCESS.

SO, I DO THINK THERE ARE MAYBE SOME LINES THAT WE COULD DRAW, OR SOME GUIDELINES THAT WE COULD COME UP WITH THAT MIGHT HELP APPLICANTS OR OPERATORS WHO ARE COMING THROUGH THE PROCESS TO KIND OF SAY, WELL, YOU KNOW, THIS LOOKS LIKE A GOOD ONE MAYBE FOR THE BOARD TO TRY, LET'S GO IN AND LET'S ASK THEM IF THIS IS ONE THAT THEY COULD PUT THROUGH THIS PROCESS.

OR, THEY SHOULD KNOW AHEAD OF TIME THAT, NO WAY, AND NOT WASTE THEIR TIME.

CHAIRMAN PENNINGTON: OKAY. WE HAVE SOME

COMMENTS FROM THE AUDIENCE. MR. EVAN EDGAR, PLEASE?

MR. EDGAR: THANK YOU CHAIRMAN, AND BOARD MEMBERS. MY NAME IS EVAN EDGAR OF EDGAR ASSOCIATES.

WHEN SB 1299 PASSED I WAS PRETTY EXCITED, BECAUSE THEY'D JUST PASSED AB 1220 FOR LANDFILLS AND IT WAS WORKING. WE GOT A LOT OF BENEFIT OUT OF IT.

WHEN I FIRST LOOKED AT SB 1299 I LOOKED AT IT FOR DIVERSION FACILITIES, AND ESPECIALLY FOR NEW FACILITIES FOR CALIFORNIA. I THINK THE INTENT IS ALWAYS FOR LESSER NEW FACILITIES, NOT FOR LANDFILLS, AND THAT IT WAS SUPPOSED TO BE SOME TYPE OF PERMIT STREAMLINING. IT HAD REALLY GOOD INTENTIONS AND IT WAS SUPPOSED TO BE A VOLUNTARY PROGRAM.

I LIKED IT SO MUCH THAT I WENT TO ALL THE WORKING GROUP MEETINGS IN 1996 AND 1997 WITH MS. KENNEY AND MR. KEN SELLOVER, ABOUT HOW TO IMPLEMENT THIS PLAN.

AND, IN FACT, IN 1996 I WROTE A FACILITY COMPLIANCE PLAN FOR A 10,000-CUBIC YARD FACILITY, A REGISTRATION PERMIT. I COMBINED AIR, WASTE AND WATER IN ONE STAND-ALONE DOCUMENT, AND GOT IT DONE IN THREE MONTHS.

SO, I THINK THE INTENT WAS FOR DIVERSION

FACILITIES THAT ARE NEW, AND IT HAS SOME BENEFIT. SO, 1299 CAN WORK, AND UNDER A TRIAL BASIS, FOR THE REGISTRATION PERMIT ALONE.

I DON'T EVER SEEING IT WORK FOR ANY STANDARDIZED OR ANY FULL PERMIT THAT WOULD BE A DISCRETIONARY ACTION THAT WOULD BE BY THIS WASTE BOARD. I THINK IF IT'S GOING TO BE DELEGATED ON A MINISTERIAL LEVEL TO THE LEA, THAT IT CAN BE PARLAYED INTO A 1299 PROGRAM. I THINK IT CAN WORK.

I GUESS ALL CAL EPA IS SAYING IS GIVE PEACE A CHANCE. THANK YOU.

CHAIRMAN PENNINGTON: BRUCE, DID YOU WANT TO SAY ANYTHING? OKAY.

OKAY. IS THERE MORE DISCUSSION HERE? IF NOT --

MS. HAMBLETON: I ACTUALLY WANTED TO HAVE -
- I WANTED TO MAKE ONE MORE COMMENT.

I DON'T ENVISION THAT THERE WILL BE THAT MANY PROJECTS COMING THROUGH WITH THIS PROJECT FOR SOLID WASTE. SO IN A WAY I'M -- ALTHOUGH WE DON'T HAVE A STAFF RECOMMENDATION, I WANTED TO ENCOURAGE YOU TO -- BECAUSE IT'S A PILOT PROJECT, MAYBE JUST TRY THE THINGS THAT -- SEE WHAT COMES THROUGH ON A CASE-BY-

CASE BASIS, SEE WHAT IT IS, AND THEN DETERMINE THEN, INSTEAD OF SHUTTING THE DOOR BEFORE WE EVEN HAVE AN OPPORTUNITY TO SEE WHAT KIND OF PROJECTS MIGHT COME THROUGH, IF ANY.

MEMBER EATON: I DON'T THINK YOU HAVE TO SHUT THE DOOR. I THINK WHAT YOU CAN DO IS MAKE SURE THAT THERE'S A WELCOME MAT OUT SO THAT YOU CAN GET THROUGH THE DOOR.

AND I THINK SOME OF THE QUESTIONS THAT COME THERE, FROM WHAT I HEARD TODAY, AFTER YOU GET BY SOME OF YOUR DECISIONS WHICH PERMITS ARE ELIGIBLE, YOU NEVER GET TO THE OTHER QUESTIONS IF YOU DEAL WITH JUST THE REGISTRATION TIER AS A PILOT PROJECT. I THINK THAT'S WHERE WE WANT TO BE.

THE MOU AND ANY OF THE OTHER THINGS CAN BE AMENDED AS THEY COME ALONG, AND DIALOGUE, AND WE GET SOME OF THESE THINGS WORKED OUT. I THINK THAT'S PERFECTLY WITHIN THE FRAMEWORK BY WHICH THE AUTHOR AND THOSE WHO WERE INITIALLY IN ON IT SOUGHT TO GO IN STREAMLINING AND THEN YOU'RE 45 DAYS AND OUT.

I THINK THAT'S WHERE WE SHOULD GO TODAY, AND I WOULD ACTUALLY FRAME A MOTION SUCH THAT WOULD SAY THAT FOR PURPOSES OF THIS ITEM THAT WE OFFER UP

INTO THE MOU THE REGISTRATION PERMIT ONLY.

CHAIRMAN PENNINGTON: OKAY.

MS. TOBIAS: MR. PENNINGTON, ONE OF THE DECISIONS THAT I DO THINK WE NEED TODAY IS WHETHER YOU ARE GOING TO HAVE THE EXECUTIVE DIRECTOR SIGN THE MOU OR NOT. THAT IS SOME DIRECTION THAT WE DO NEED TODAY.

CHAIRMAN PENNINGTON: CAN YOU PUT IT ALL ON ONE MOTION? OR, DO YOU WANT US TO --

MS. TOBIAS: I DON'T HAVE A NEED FOR ONE SINGLE MOTION.

I JUST WANTED TO POINT OUT -- I WASN'T SURE EXACTLY WHERE WE WERE GOING, BUT I DID WANT TO SAY THAT WAS ONE THING WE NEEDED TO ADDRESS.

CHAIRMAN PENNINGTON: STATE YOUR MOTION AGAIN.

MEMBER EATON: THAT I WOULD MOVE THAT, FOR PURPOSES OF AGENDA ITEM 10, THE MOU, THAT WE WOULD ENTER INTO -- INCLUDE THE REGISTRATION PERMIT ONLY. AND THAT -- I THINK THAT'S IT.

CHAIRMAN PENNINGTON: MS. KENNEY WANTS TO SPEAK TO THIS. DO YOU WANT TO HAVE HER SPEAK WHILE YOU'RE WORKING ON THAT?

GO AHEAD.

MS. KENNEY: MY NAME'S CHRIS KENNEY FROM CAL

EPA. AND I JUST WANTED TO KIND OF REEMPHASIZE AGAIN SOME OF THE THINGS THAT SUZANNE SAID AND STAFF HAD SAID.

THAT IT IS A PILOT PROJECT, AND WE DO HAVE REPORTS TO MAKE BACK TO THE LEGISLATURE ON THE PROGRESS OF THE LEGISLATION. SO WE WOULD LOOK TO ASKING THE BOARD TO KEEP AN OPEN MIND ON WHAT WE CALL THIS CASE-BY-CASE.

I EXPECT VERY, VERY FEW, IF ANY, PROJECTS THAT WOULD INVOLVE INTEGRATED WASTE BOARD. BUT I'D LIKE YOU TO CONSIDER THAT, IN FACT, IF WE DID GET ONE FOR A TRANSFER STATION OR SOMETHING LIKE THAT, YOU WOULD LOOK AT IT FROM DAY ONE, EARLY ON IN THE PROCESS, AND SIT DOWN AND SAY CAN THIS WORK. AND NOT TO SHUT THE DOOR.

IF YOU ONLY PUT IT ON REGISTRATIONS THEY FEEL LIKE YOU'RE SHUTTING THE DOORS ON POSSIBILITIES. WE'RE SEEING IF 1299 NEEDS TO WORK -- CAN WORK, OR IF IT NEEDS SOME AMENDMENTS TO IT OR WHATEVER. SO I WOULD ENCOURAGE YOU TO LEAVE THE DOOR OPEN.

MEMBER EATON: OH, I BELIEVE THE DOOR IS OPEN. I JUST THINK FOR TODAY WHAT WE'RE LOOKING AT IS, WE JUST -- IN KEEPING WITH THE AUTHOR'S LEGISLATIVE

INTENT, AS WELL AS OTHER KINDS OF THINGS, THE REGISTRATION PERMIT IS THE FIRST ONE TO OFFERED UP. AND IF THERE ARE OTHER OCCASIONS, THAT WE WOULD BE WILLING TO CONSIDER THOSE.

MS. KENNEY: TO CONSIDER, NOT TO EXCLUDE THEM. BECAUSE PART OF THE AGREEMENT, WHEN YOU SIGN IT, YOU HAVE A LIST, AN ATTACHMENT --

MEMBER EATON: CORRECT.

MS. KENNEY: -- THAT THESE ARE THE PERMITS.

MEMBER EATON: CORRECT. BUT THAT WOULDN'T BE PART OF THE AGREEMENT.

MS. KENNEY: IT IS PART OF THE AGREEMENT.

MEMBER EATON: WELL, NOT PART OF --

MS. KENNEY: IT'S NOT PART OF MY MOTION. MY MOTION IS THAT THE REGISTRATION PERMIT IS WHAT WE WOULD MAKE IT PART OF THE AGREEMENT.

CHAIRMAN PENNINGTON: BUT WE WOULD LOOK AT THE OTHERS ON A CASE-BY-CASE BASIS AND SEE IF THEY FIT, AND WE COULD SEND THEM THROUGH. IS THAT --

MEMBER EATON: NO. NO, IT WOULD BE JUST REGISTRATION ONLY. BECAUSE THEN WE HAVE TO GET TO THE OTHER DECISIONS THAT TAKE PLACE. THE REGISTRATION ONLY FITS NICELY INTO THIS.

IF THERE IS A NEED, THEN WE COULD EITHER ENTER INTO A SUBSEQUENT MOU WITH REGARD, OR ADD AN ADDENDUM OR AN AMENDMENT AT SOME FUTURE TIME, IF THERE WOULD BE THE CASE.

I THINK WE'RE DEALING IN HYPOTHETICALS. THERE MAY NOT EVER COME A CASE WHERE ANY OF THESE EITHER STANDARDIZED OR FULL PERMITS COME BEFORE IN THIS PROCESS. SO, WHY EVEN GO THERE?

I THINK THAT WHAT WE WERE LOOKING FOR IS TO ENCOURAGE PEOPLE TO GET INVOLVED IN THIS 1299 PROCESS.

THE EASIEST WAY TO DO THAT IS TO MAKE IT EFFICIENT, AND THE WAY TO DO IT WITH EFFICIENT IS WITH THE EASIEST PERMIT BY WHICH THOSE TIME FRAMES CAN BE ACCOMMODATED WITHOUT TRYING TO THROW UP ROADBLOCKS. THAT'S WHAT THE WHOLE STREAMLINING'S ABOUT. AND REGISTRATION PERMITS FITS NICELY INTO THAT PARTICULAR FRAMEWORK.

CHAIRMAN PENNINGTON: SO, YOUR MOTION IS TO --

MEMBER EATON: WOULD BE TO ENTER INTO THE MOU WITH CAL EPA, AND WITH RESPECT TO THE REGISTRATION PERMIT ONLY. AND THAT WE WOULD THEN BE AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN THAT MOU ON BEHALF OF THE BOARD. WITH THE MODIFICATIONS NECESSARY IN THE

SHEET THAT WAS HANDED OUT, WHICH WAS CALLED -- IF WE MIGHT MAKE IT ATTACHMENT 1?

MS. HAMBLETON: SURE. IF I JUST MIGHT MAKE ONE CORRECTION ON THAT? THE MOU IS WITH THE ZONE APPLICANTS RATHER THAN WITH CAL EPA.

MEMBER JONES: YOU DON'T HAVE TO SIGN ONE WITH CAL EPA?

MS. KENNEY: NO.

MEMBER EATON: OKAY. WELL, WAIT THEN. NOW I'M -- SO, ARE YOU SAYING THAT THIS PROPOSED MOU IS -- WOULD HAVE BEEN BETWEEN US, KERN COUNTY, BAKERSFIELD, AND THOSE PEOPLE?

MEMBER JONES: WE HAVE --

MS. KENNEY: THERE WOULD BE --

MEMBER JONES: AND WE WOULD HAVE PREDETERMINED -

-

MS. KENNEY: PERMITTING AUTHORITIES AND THE ZONE APPLICANTS. CAL EPA HAS NO PERMITTING AUTHORITY.

MEMBER JONES: NO?

MS. KENNEY: YEAH.

CHAIRMAN PENNINGTON: WE ACTUALLY HAVE FOUR OF THESE --

MS. HAMBLETON: CORRECT.

CHAIRMAN PENNINGTON: -- OR FIVE, OR WHATEVER.

MS. HAMBLETON: FOUR. AT THIS POINT IN TIME
THERE ARE FOUR.

CHAIRMAN PENNINGTON: OKAY.

MEMBER JONES: BUT WHAT ABOUT OUR AB 59 STUFF?
IS THAT INCLUDED IN THIS SOME WAY?

MS. TOBIAS: THE APPEAL PROCESS TIME?

MEMBER JONES: YEAH. THAT'S --

MS. TOBIAS: YEAH, THAT'S THE -- THOSE ARE THE
AMENDMENTS THAT WE ARE ASKING MEMBER EATON TO PUT IN
THERE. SO IT BASICALLY SAYS THAT OUR PARTICIPATION'S
BASICALLY BASED -- PREDICATED ON THE AGREEMENT OF ALL
THE PARTIES TO ACKNOWLEDGE THAT OUR APPEALS TIME IS
LONGER THAN WHAT'S GENERALLY IN THIS.

MEMBER JONES: ONE OTHER THING THAT I READ IN
THE MOU WAS THAT -- OR, I THINK IT WAS IN THE MOU,
THAT THERE WAS A PARAGRAPH OR TWO THAT WE WOULD
CONTINUE TO WORK TOGETHER TO TRY -- THROUGH THIS PILOT
PROCESS TO TRY TO ENLARGE IT OR DO WHATEVER.

WAS THAT IN THIS ONE?

MS. TOBIAS: YES, IT IS. IT'S NUMBER SIX,
PARAGRAPH SIX ON 10-21. OR PAGE FIVE, WHATEVER YOU'RE
LOOKING AT.

MEMBER JONES: OKAY. I THINK THAT WHAT MEMBER EATON IS SAYING, BY JUST DOING THE REGISTRATION TIER, AND IF WE SIGN THESE MOUS, UNDER NUMBER SIX WE'RE AGREEING THAT WE WILL CONTINUE TO WORK TO GROW THIS PROGRAM IF WE THINK WE SHOULD.

SO, I DON'T THINK IT'S NECESSARY -- I MEAN, I KIND OF -- I THINK WITH THAT PARAGRAPH IN IT AREN'T WE BOUND TO NEVER CLOSE THE DOOR?

MS. KENNEY: WELL, LET ME JUST MAKE -- ONE OTHER STATEMENT THAT YOU MADE, MEMBER EATON. IT IS NOT HYPOTHETICAL. THAT THERE WILL, IN FACT, BE A PROJECT THAT WILL INVOLVE A INTEGRATED WASTE BOARD AUTHORITY TO APPROVE -- OR, CONCUR, THAT WILL COME TO ONE OF THE PARTS OF 1299. SO, IN THE NOT TOO DISTANT FUTURE WE WILL BE BRINGING YOU AN ISSUE OF WILL YOU CONSIDER THIS TYPE OF PERMIT TO BE PART OF 1299.

MEMBER JONES: SO THERE IS ONE ALREADY IN THE PIPELINE, BUT JUST A COUPLE -- OKAY.

IS IT A LANDFILL?

MS. KENNEY: NO.

MS. HAMBLETON: WELL, THERE -- ACTUALLY --

MEMBER JONES: A RECYCLING FACILITY?

MS. HAMBLETON: KERN COUNTY IS SPEAKING ABOUT

TWO POSSIBLE PROJECTS. SO, ONE IS A LANDFILL AND ONE IS A TRANSFER STATION.

MS. KENNEY: OH, IS IT A LANDFILL?

MS. HAMBLETON: I DON'T KNOW VERY MUCH ABOUT THEM. THEY'RE IN THE CONCEPTUAL STAGE. I DON'T KNOW IF THEY'VE ALREADY COMPLETED CEQA. SO, IF THEY HAVEN'T, THAT WOULD BE A LONG TIME BEFORE WE WOULD SEE THESE PROJECTS.

BUT WHAT I'M HEARING IS THAT IF THEY WERE TO FOLLOW THIS ROUTE, THAT I WOULD -- OR, WE WOULD -- STAFF WOULD COME BACK AND -- AND AT THAT TIME WOULD COME BACK TO THE BOARD AND ASK IF YOU WOULD CONSIDER THEM.

IS THAT WHAT I'M HEARING?

MEMBER EATON: WE WOULD SEEK TO AMEND THE MOU WITH RESPECT TO THAT PARTICULAR PARTY.

MS. KENNEY: YEAH, THAT WOULD BE ONE WAY WE COULD DO IT.

MS. HAMBLETON: OKAY.

MEMBER EATON: THAT'S WHAT IT WOULD BE, BECAUSE IT'S THE MOU THAT GOVERNS. SO THAT WHAT WE WOULD BE ABLE TO DO AT THAT POINT IS TO DRAFT THE MOU IN SUCH A FASHION THAT MEETS NOT ONLY THE REQUIREMENTS OF 1299,

BUT ANY OF THESE OTHER ITEMS THAT HAVE COME UP TODAY.

AND THAT'S ALL WE'RE LOOKING TO. IT'S LIKE AN INDIVIDUAL CONTRACT. THAT IF -- YOU KNOW, IT MAY VERY WELL WORK, AND WE WOULD BE ABLE TO DRAFT THINGS WITH THEM. SO IT'S ACTUALLY EITHER CREATING A -- I GUESS YOU WOULD SAY AN ADDENDUM AND/OR A WHOLLY NEW CONTRACT BASED UPON THE ITEM BEFORE US.

SO, THAT'S WHAT I MEANT BY KEEPING THE DOOR OPEN. AND THAT'S PROBABLY A BETTER WAY TO PROCEED.

MS. HAMBLETON: THANK YOU FOR THAT CLARIFICATION.

MEMBER JONES: SECOND MEMBER EATON'S MOTION.

CHAIRMAN PENNINGTON: OKAY.

MEMBER FRAZEE: I WAS JUST GOING TO SUGGEST THAT THERE MAY BE SOME VALUE FROM A PUBLIC RELATIONS, GOOD FAITH STANDPOINT IN INCLUDING THAT POSSIBILITY, AS THE RESOLUTION IS WRITTEN, ON A CASE-BY-CASE BASIS OF TAKING FULL AND STANDARDIZED PERMITS. I THINK IF YOU DON'T INCLUDE THOSE, THEN YOU CLOSE THE DOOR TO AN APPLICANT TO EVEN CONSIDER IT ON A CASE-BY-CASE BASIS.

AND I WAS ONE WHO SAID, INITIALLY, REGISTRATION PERMITS ONLY. BUT I -- THERE'S SOMETHING TO BE SAID FOR SHOWING GOOD FAITH IN THIS DECISION.

YOU CAN ALWAYS SAY NO ON A
CASE-BY-CASE BASIS, SO.

MS. TOBIAS: I THINK THERE'S SOMETHING TO THAT,
OF INSTEAD OF PUTTING IT IN A MOU, TO PUTTING IT IN
THE RESOLUTION AS THE INTENT OF THE BOARD. JUST AS
THE DISCUSSION REFLECTED, THAT IT WOULD BE SOMETHING
THAT THE BOARD WOULD BE WILLING TO TAKE UP.

I THOUGHT MEMBER EATON'S IDEA OF BASICALLY
DEALING THROUGH THE MOU WAS A GOOD ONE. I THINK THE
UPSIDE OF IT IS THAT WE HAVE AN MOU NOW THAT'S
STANDARDIZED, THAT WOULD BE OUT THERE WITH EVERYBODY.

SO IT REALLY SETS UP, I THINK, THE EXPECTATION THAT
WE WOULDN'T DEVIATING FROM IT TO A GREAT EXTENT.

ON THE OTHER HAND, IT ALSO SAYS THAT WE CAN
SOMEWHAT TAILOR THE SITUATION TO WHATEVER'S COMING IN,
BECAUSE I THINK THERE IS A BIG DIFFERENCE BETWEEN A
REGISTRATION TYPE FACILITY, A TRANSFER STATION, AND A
LANDFILL.

SO, I THINK SOMETHING IN THE RESOLUTION
THAT BASICALLY REFLECTED THAT IS A GOOD HALFWAY
MEASURE TO THAT. AND I THINK THAT'S BETTER THAN IN
THE MOU, PERSONALLY, THOUGH.

CHAIRMAN PENNINGTON: SO HOW DO WE DRAFT THAT?

MS. TOBIAS: WELL, I THINK WE COULD EITHER -- I THINK WE UNDERSTAND THE INTENT OF WHAT MEMBER EATON'S MOTION WAS, AND THE DISCUSSION THAT FOLLOWED THAT WHERE HE BASICALLY ARTICULATED THE USE OF THE MOU FOR THAT. SO, I THINK WE COULD DRAFT UP A PARAGRAPH TO THAT RESOLUTION THAT WOULD REFLECT THAT IF THE BOARD FEELS COMFORTABLE WITH US DOING THAT.

MEMBER EATON: YES, I THINK THAT MR. FRAZEE IS ABSOLUTELY CORRECT IN THAT, IN THAT WE JUST KEEP THOSE TWO SEPARATE, BUT THEY ARE A PART OF THE OVERALL PACKAGE.

MEMBER FRAZEE: BUT DOESN'T THE RESOLUTION SAY THAT IN ITS ENTIRETY NOW? DOES IT NEED --

MS. HAMBLETON: CURRENTLY THE RESOLUTION ACTUALLY STATES THAT -- THE WAY IT WAS DRAFTED, AND THIS WAS JUST SORT OF GUESSWORK WHEN I DID DRAFT IT -- THAT THE STANDARDIZED AND THE FULL PERMIT WOULD BE CONSIDERED ON A CASE-BY-CASE BASIS. BUT, THAT WOULD BASICALLY HAVE TO BE -- SOUNDS LIKE IT WOULD HAVE TO BE CHANGED TO WORD IT THE WAY MS. TOBIAS JUST SAID, A LITTLE BIT. SO THAT CASE-BY-CASE ISN'T ACTUALLY STATED.

MS. TOBIAS: WELL, ACTUALLY, IF YOU LOOK IN THE

"NOW, THEREFORE, BE IT RESOLVED" -- I'M ON PAGE 10-25
-- IT SAYS:

"THE STANDARDIZED AND FULL PERMIT TIER COULD
BE SUBSTITUTED BY A FACILITY COMPLIANCE PLAN ON A
CASE-BY-CASE BASIS CONDITIONED ON THE APPROVAL OF
THE BOARD."

WE COULD EITHER MOVE THAT SENTENCE TO A
WHEREAS, WHICH IS INSTEAD OF THE RESOLUTION PARAGRAPH
THE RATIONALE PARAGRAPH, AND JUST ADD IN THAT THAT
WOULD BE -- WHEN IT SAYS "CONDITIONED BY THE APPROVAL
OF THE BOARD," CONDITIONED BY THE APPROVAL OF THE
BOARD BY AMENDING -- BY PROVIDING A NEW OR AMENDING
THE MOU TO --

MEMBER FRAZEE: WELL, YEAH. RIGHT --

MS. TOBIAS: -- PROVIDE FOR THAT --

MEMBER FRAZEE: -- THAT WOULD ACCOMPLISH IT.
SURE.

MS. TOBIAS: SO, THAT'S WHAT I WOULD SUGGEST, IS
BASICALLY MOVING THAT SENTENCE TO A WHEREAS PARAGRAPH,
PUT IN A PROVISION OF THE MOU IN THERE, AND THEN GOING
FROM THERE.

MEMBER FRAZEE: YEAH, BECAUSE I THINK WE OUGHT
TO LEAVE THAT DOOR OPEN A LITTLE BIT.

CHAIRMAN PENNINGTON: RIGHT.

MEMBER FRAZEE: AND YOU CAN ALWAYS SAY NO.

MEMBER JONES: AND WHEN WE SAY CASE-BY-CASE BASIS, DO WE WANT TO FURTHER REITERATE THAT THAT'S GOING TO BE AT THE BEGINNING OF THE PROCESS? OR, IS THERE A NEED --

MS. TOBIAS: SURE.

MEMBER JONES: -- TO DO THAT? I THINK THERE IS --

MS. TOBIAS: I THINK IT WOULD BE GOOD TO SAY THAT. I THINK THAT'S CERTAINLY OUR INTENT. I REALLY WOULD FEEL LIKE THAT WOULD NOT BE GOOD FOR ANY OPERATOR/APPLICANT TO GET ALL THE WAY THROUGH THE PROCESS AND FIND OUT WE DIDN'T WANT TO DO IT THAT WAY.

SO, WE'LL PUT SOMETHING IN THERE THAT BASICALLY SAYS, YOU KNOW, PRIOR TO STARTING THIS PROCESS UNDER --

CHAIRMAN PENNINGTON: WE WOULD HAVE TO DO THAT, THOUGH, WOULDN'T WE?

MS. TOBIAS: -- SB 1299, ET CETERA. BUT I REALLY THINK THAT'S HOW IT'S SUPPOSED TO WORK --

CHAIRMAN PENNINGTON: WELL, IF YOU SAY

SUBSTITUTE -- YOU HAVE TO MAKE THAT DECISION UP FRONT.

RIGHT? STANDARDIZE THE FULL PERMIT COULD BE
SUBSTITUTED BY A FACILITY COMPLIANCE ON A CASE-BY-
CASE, THAT WOULD BE YOU'VE GOT TO DO IT UP FRONT.

MEMBER JONES: YOU AND I WOULD.

CHAIRMAN PENNINGTON: THE BOARD WOULD AMEND THE
MOU.

MEMBER JONE: I'M SAYING THE BOARD WOULD, BUT I'M
NOT SO SURE THAT -- YOU KNOW, I WANT -- I'M JUST
TRYING TO MAKE SURE THAT ALL THE PEOPLE IN THE
HINTERLANDS (PHONETIC) KNOW TO COME IN EARLY.

MS. TOBIAS: MR. PENNINGTON, MAY I ALSO ADD MS.
BOARSLER (PHONETIC) IS RAISING THE ISSUE THAT WE'VE
ASKED TO HAVE THIS LANGUAGE ON THE AB 59 PROCESS
AMENDED INTO THE MOU.

IF IT'S NOT AMENDED INTO THE MOU, OR IF
THAT'S A PROGRAM, IF THE BOARD WOULD AGREE TO THIS IT
MIGHT BE GOOD IF WE PUT THE WHEREAS PARAGRAPH IN HERE
THAT BASICALLY SAYS THAT THIS IS ALSO SUBJECT TO
AGREEING THAT OUR APPEAL PROCESS IS OBSERVED. AND
THAT WAY IT'S IN OUR INTENT, WHICH MAYBE IF THIS
DOESN'T GET APPROVED THEN WE -- THE BOARD'S INTENT IS
STILL CLEAR ON THAT.

WOULD THAT BE --

MEMBER JONES: IT WORKS FOR ME.

MS. TOBIAS: OKAY. GREAT. THANK YOU.

MEMBER JONES: YEAH, THAT'S FINE.

MR. CHANDLER: SO, AS I UNDERSTAND IT, WHILE WE'RE MAKING REFERENCE IN THE RESOLUTION TO A PROCESS IN WHICH THE LOCAL JURISDICTIONS CAN COME FORWARD AND REQUEST CONSIDERATION FROM THE BOARD ON STANDARDIZED OF FULL, THE MOU THAT YOU'RE ASKING THAT I SIGN SIMPLY ADHERE TO THE REGISTRATION TIER AT THIS TIME.

MR. PENNINGTON: CORRECT. YEAH.

MR. CHANDLER: THAT'S CORRECT? THAT'S THE TEMPLATE THAT WOULD GO FORWARD? OKAY. I JUST WANTED TO BE CLEAR ON THAT.

MEMBER JONES: CAN WE INCLUDE A COPY OF OUR RESOLUTION WITH THE MOU? JUST SO THAT THEY SEE WHERE WE'RE -- YOU KNOW, SO THAT THEY UNDERSTAND? IS THAT -- DOES THAT WORK?

CHAIRMAN PENNINGTON: SURE.

MEMBER JONES: THEN THEY'VE GOT THE FULL INTENT THAT -- YOU KNOW, THAT WE'RE NOT SAYING CASE-BY-CASE CARTE BLANCHE. BRING IT TO US, LET US DETERMINE EARLY ON, AND WE WILL DETERMINE --

MR CHANDLER: AND IT WOULD REQUIRE --

MEMBER JONES: -- THAT THE MOU ISN'T JUST FOR
THE REGISTRATION --

MR. CHANDLER: -- A NEW MOU OR AN ADDENDUM TO
THE MOU --

MEMBER JONES: RIGHT.

MR. CHANDLER: -- TO BE STRUCTURED IN ORDER FOR
THAT ADDITIONAL LATITUDE --

MEMBER JONES: RIGHT. YEAH.

MR. CHANDLER: -- TO BE AFFORDED.

CHAIRMAN PENNINGTON: OKAY. ARE WE CLEAR ON
THAT? ARE WE GOING TO VOTE ON HERE?

MEMBER EATON: WELL, PERHAPS WE SHOULD ASK MR.
EDGAR IF PEACE IS TRULY AT HAND.

CHAIRMAN PENNINGTON: OKAY. ARE WE READY? IF
THERE'S NO FURTHER DISCUSSION, WILL THE SECRETARY CALL
THE ROLL?

THE SECRETARY: BOARD MEMBER EATON?

MEMBER EATON: AYE.

THE SECRETARY: FRAZEE?

MEMBER FRAZEE: AYE.

THE SECRETARY: JONES?

MEMBER JONES: AYE.

THE SECRETARY: CHAIRMAN PENNINGTON?

CHAIRMAN PENNINGTON: AYE.

MOTION CARRIES.

AGENDA ITEM NO. 6: CONSIDERATION OF BOARD

COMMITTEE ASSIGNMENTS (ORAL PRESENTATION)

CHAIRMAN PENNINGTON: ITEM NO. 6 IS A MOOT POINT, SINCE WE DEALT WITH IT DURING ITEM 7, I THINK IT WAS.

MS. TOBIAS: FIVE.

CHAIRMAN PENNINGTON: THAT'S WHAT I MEAN.

OPEN DISCUSSION

CHAIRMAN PENNINGTON: SO, THAT BRINGS US TO OPEN DISCUSSION. AND RANDY POLLACK WOULD LIKE TO ADDRESS THE BOARD UNDER OPEN DISCUSSION.

MR. POLLACK: THANK YOU, MR. CHAIRMAN AND MEMBERS OF THE BOARD. RANDY POLLACK ON BEHALF OF THE SOAP AND DETERGENT ASSOCIATION. AND I JUST WANTED TO COME AND GIVE YOU A QUICK UPDATE ON THE RPPC CERTIFICATION PROCESS, AND HOW THAT PROCESS IS GOING ALONG.

AND, AS YOU KNOW, THE INITIAL LISTS THAT, WHEN IT WENT OUT, THERE WERE SOME PROBLEMS WITH SOME OF THE ADDRESSES THAT THE BOARD HAD. AND I KNOW THE

STAFF HAS BEEN WORKING HARD TO CORRECT THOSE AND MAKE SURE THAT THE CERTIFICATION FORMS WERE DIRECTED TO THE CORRECT PARTIES.

ONE OF THE ISSUES THAT WE'RE STILL HAVING DIFFICULTY WITH IS WITH THE CONTAINER CERTIFICATION FORM. AND THAT'S JUST THE ONE ISSUE THAT I WANT TO RAISE HERE.

IN SOME CONVERSATIONS THAT WE HAD WITH COMPANIES, THERE IS CERTAINLY DIFFICULTIES FROM GETTING THAT INFORMATION FROM THE CONTAINER MANUFACTURER'S FORM -- EXCUSE ME, FROM THE CONTAINER MANUFACTURERS FOR SEVERAL REASONS.

ONE, SOMETIMES THEY'RE GOING THROUGH A BROKER, AND SO THEY HAVE SENT THE INFORMATION OUT TO THE BROKER AND THEY'RE STILL WAITING TO GET BACK THAT INFORMATION. BECAUSE NOW THE BROKER HAS TO FORWARD THAT TO THE CONTAINER MANUFACTURER.

ALSO, ONE OTHER COMPANY MENTIONED A PROBLEM WHERE THEY HAVE ABOUT 300 PRODUCT LINES. AND THESE ARE ALL DIFFERENT CONTAINERS. THEY'RE NOT ALL WITHIN GROUPS, SO THEY'RE IN THE PROCESS OF MAILING 300 LETTERS OF THEIR CONTAINERS, AND THEN FORWARD ON TO THE BOARD THE ADDITIONAL INFORMATION AS IT COMES IN.

THE OTHER CONCERN IS WHAT GOOD FAITH EFFORTS DO WE NEED TO MAKE TO DEMONSTRATE THAT WE HAVE SENT OUT THAT INFORMATION? FOR EXAMPLE, WE COULD SEND THREE LETTERS TO A CONTAINER MANUFACTURER, AND WE WERE WONDERING IF THERE WAS SOME DIRECTION FROM THE BOARD OR STAFF OF WHAT WE SHOULD DO IN CONTACTING THEM SO THAT WE CAN DEMONSTRATE TO THE BOARD THAT THERE HAS BEEN A GOOD FAITH EFFORT OF OBTAINING THAT INFORMATION.

THIS IS NOT SAYING THAT WE AREN'T OBTAINING IF, WE ARE OBTAINING A LOT OF INFORMATION. BUT I THINK THAT YOU'RE GOING TO SEE, IN SOME INSTANCES, THAT THE INFORMATION MIGHT NOT BE COMPLETE WITHIN THE 60 DAYS.

SO, THOSE ARE JUST THE CONCERNS THAT I WANTED TO RAISE BEFORE THE BOARD AND TO THE STAFF, AND HOPEFULLY CONTINUE THE DIALOGUE. AND I'D BE HAPPY TO ANSWER ANY QUESTIONS.

CHAIRMAN PENNINGTON: I THINK THE EXECUTIVE DIRECTOR HAS THE ABILITY TO EXTEND THE -- GIVE YOU AN EXTENSION IN THE TIME PERIOD. SO, YOU MAY WANT TO DISCUSS WITH MR. CHANDLER THE APPROPRIATENESS OF GETTING AN EXTENSION TO THAT 60-DAY PERIOD.

AND I THINK THAT, IN TERMS OF THE GOOD FAITH THING, IF YOU TALK TO THE STAFF YOU SHOULD BE ABLE TO WORK THAT OUT. OBVIOUSLY, WE'RE ALL -- THE BOARD MEMBERS -- ARE WILLING TO HEAR FROM YOU IF YOU'RE NOT SATISFIED WITH WHAT YOU WORK OUT WITH THE STAFF.

MR. POLLACK: SO FAR THE STAFF HAS BEEN WONDERFUL TO DEAL WITH. WE'VE BEEN HAVING SOME GOOD CONVERSATIONS. THEY'VE ALSO PROVIDED SOME QUESTIONS AND ANSWERS THAT THEY FORWARDED OUT TO SOME OF OUR MEMBER COMPANIES, AND EVERYBODY WHO WAS ON THE LIST, WHICH WAS VERY HELPFUL.

CHAIRMAN PENNINGTON: MEMBER JONES.

MEMBER JONES: MEMBERSHIP LOOKED AT -- SINCE THEY'RE THE ONES THAT ARE ON THE HOOK FOR THIS, SINCE THEY'RE THE ONES THAT FILL THE CONTAINER, HAVE THEY LOOKED AT POSSIBLY MAKING THOSE CONTAINER MANUFACTURERS UNDERSTAND JUST HOW EXPENSIVE THIS COULD BE TO THEM?

MR. POLLACK: YES, AND --

MEMBER JONES: AND, THEREFORE, HOW EXPENSIVE IT COULD BE TO THE POSSIBLE LIKELIHOOD OF THEIR CONTINUED BUSINESS ARRANGEMENTS?

MR. POLLACK: OH, ABSOLUTELY. AND IF YOU'RE DEALING WITH A FEW CONTAINER MANUFACTURERS IT'S A LOT EASIER, BECAUSE THEN YOU CAN PINPOINT THE FOLKS IN THOSE COMPANIES THAT YOU HAVE A DAILY CONTACT WITH.

UNFORTUNATELY, MANY OF THESE COMPANIES ARE DEALING WITH EITHER BROKERS OR MANY CONTAINER MANUFACTURERS, AND TO TRY AND GET THE MESSAGE ACROSS SOMETIMES PROVES DIFFICULT.

CHAIRMAN PENNINGTON: OKAY?

MR. POLLACK: ALL RIGHT. THANK YOU.

ADJOURNMENT

CHAIRMAN PENNINGTON: IF YOU'LL INDULGE ME FOR A MINUTE I WANT TO TAKE A MOMENT TO, ON BEHALF OF THE BOARD, TO ACKNOWLEDGE THE PASSING OF ONE OF THE LEGENDS IN THE WASTE MANAGEMENT IN CALIFORNIA. FRANK BOWERMAN PASSED AWAY EARLIER THIS MONTH. AND HE HAS LEFT A LEGACY OF VISION, PERSONAL DEDICATION, AND PROFOUND ACHIEVEMENT IN THE FIELD OF ENVIRONMENTAL PROTECTION.

CALIFORNIA'S PREMIER STATUS IN WASTE MANAGEMENT IS DUE IN LARGE PART TO THE INFLUENCE OF LEADERSHIP PROVIDED BY A SELECT GROUP OF PIONEERS IN THIS FIELD, AND FRANK WAS A CHARTER MEMBER OF THAT

GROUP.

FRANK WAS A MAN OF MANY ACCOMPLISHMENTS, AND I'D LIKE TO RECOUNT JUST A FEW OF THEM. HE CREATED THE ENVIRONMENTAL ENGINEERING DEPARTMENT AT THE UNIVERSITY OF SOUTHERN CALIFORNIA, THEREFORE CONTRIBUTING TO THE PROGRESS WE'VE SEEN THROUGH THE YEARS IN THE METHODS AND TECHNOLOGIES WE EMPLOY TO MANAGE WASTE. FRANK ALSO SERVED WITH JOHN MOSCONE AS ONE OF THE ORIGINAL MEMBERS OF THE FIRST WASTE MANAGEMENT BOARD HERE IN SACRAMENTO BACK IN 1973. HE FINISHED HIS CAREER AS DIRECTOR OF THE ORANGE COUNTY INTEGRATED WASTE MANAGEMENT DEPARTMENT DURING WHICH TIME THE DEPARTMENT EARNED A REPUTATION FOR EFFICIENCY AND SENSIBLE MANAGEMENT OF WASTE IN A CHANGING WORLD.

THE PEOPLE OF ORANGE COUNTY PAID TRIBUTE TO FRANK'S MANY CONTRIBUTIONS BY ADOPTING HIS NAMESAKE FOR THE LANDFILL THAT FRANK HIMSELF SPONSORED YEARS BEFORE. THE FRANK BOWERMAN LANDFILL IS A COMPELLING DEMONSTRATION THAT TODAY'S MODERN LANDFILLS, COMPLETE WITH STATE-OF-THE-ART SYSTEMS AND PROCESSES, IS A SEA CHANGE FROM THE OLD DUMPS OF YESTERYEAR. AND THIS IS ANOTHER IMPORTANT PART OF HIS LEGACY.

ON BEHALF OF THE BOARD I'D LIKE TO EXTEND

OUR CONDOLENCES TO FRANK'S FAMILY AND FRIENDS, AND
EXTEND OUR HEARTFELT THANKS FOR HIS MANY CONTRIBUTION
TO THE PEOPLE OF THIS GREAT STATE.

NOW, WE WILL ADJOURN. WE WILL RECESS INTO
AN EXECUTIVE SESSION TO DISCUSS SOME --

MR. CHANDLER: MR. CHAIRMAN?

CHAIRMAN PENNINGTON: YEAH?

MR. CHANDLER: BEFORE WE DO ADJOURN I JUST WOULD
LIKE TO WISH DOROTHY RICE A HAPPY MATERNITY LEAVE, AS
SHE EMBARKS --

CHAIRMAN PENNINGTON: OH, THAT'S RIGHT, SHE'S
GOING ON --

MR. CHANDLER: -- ON HER MATERNITY LEAVE
STARTING THIS FRIDAY OF THIS WEEK. AND IT WILL BE NOT
LONG BEFORE SHE'S BACK, SHE'LL BE JOINING US ON
DECEMBER 1ST FROM MATERNITY LEAVE. BUT, I WANT TO
JUST WISH HER THE BEST OF HEALTH AND SUCCESS AS SHE
BRINGS HER NEW BABY GIRL INTO THE WORLD.

CHAIRMAN PENNINGTON: RIGHT.

MR. CHANDLER: SO, THANK YOU.

CHAIRMAN PENNINGTON: GOOD. THANK YOU.

(APPLAUSE.)

WE'LL ADJOURN TO AN EXECUTIVE SESSION FOR

LEGAL AND PERSONAL MATTERS, AND ADJOURN FOLLOWING THAT
SESSION.

(WHEREUPON, THE CIWMB REGULAR MONTHLY BUSINESS
MEETING WAS CONCLUDED.)