

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

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BOARD MEETING

JANUARY 27, 1999

PLACE: 8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA

REPORTED BY JANENE GIBBS

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2 MEMBERS PRESENT:

3 CHAIRMAN PENNINGTON

4 BOARD MEMBER EATON

5 BOARD MEMBER FRAZEE

6 BOARD MEMBER JONES

7 BOARD MEMBER ROBERTI

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2 I. CALL TO ORDER

3 CHAIRMAN PENNINGTON: WELL, GOOD
4 MORNING, AND WELCOME TO THE JANUARY 27TH, 1999,
5 MEETING OF THE CALIFORNIA INTEGRATED WASTE
6 MANAGEMENT BOARD.

7 II. ROLL CALL AND DECLARATION OF QUORUM

8 CHAIRMAN PENNINGTON: WOULD THE
9 SECRETARY CALL THE ROLL?

10 THE SECRETARY: BOARD MEMBER EATON?

11 MEMBER EATON: HERE.

12 THE SECRETARY: FRAZEE?

13 MEMBER FRAZEE: HERE.

14 THE SECRETARY: JONES?

15 MEMBER JONES: HERE.

16 THE SECRETARY: ROBERTI?

17 CHAIRMAN PENNINGTON?

18 CHAIRMAN PENNINGTON: HERE. WE HAVE
19 A QUORUM.

20 DO ANY BOARD MEMBERS HAVE ANY EX
21 PARTE COMMUNICATIONS TO REPORT? WE'LL START WITH
22 MR. EATON.

23 MEMBER EATON: NO, I DON'T BELIEVE
24 50, WITH THE EXCEPTION OF PAUL WILLMAN, I'M NOT
25 SURE IF HE'S STILL ONE OF OUR EMPLOYEES, HE'S

1 LEAVING. I DID GET A CHANCE TO SAY HELLO TO HIM
2 THIS MORNING, SO JUST TO BE ON THE SAFE SIDE I'LL
3 SAY I TALKED TO PAUL WILLMAN THIS MORNING TO WISH
4 HIM GOOD LUCK. AND IF HE IS AN EMPLOYEE THEN WE
5 CAN DISREGARD IT, IF HE ISN'T I CAN PUT IT DOWN
6 AS EX PARTE

7 CHAIRMAN PENNINGTON: MR. JONES?

8 MEMBER JONES: MINE ARE UP TO DATE.
9 SAID HELLO TO LARRY SWEETSER AND MR. WILLMAN, AND
10 THAT WAS IT, SO.

11 CHAIRMAN PENNINGTON: OKAY. MR.
12 FRAZEE?

13 MEMBER FRAZEE: MY ONLY ONE INCLUDES
14 PAUL WILLMAN.

15 MEMBER EATON: QUICKLY HE'S GOING TO
16 FIND OUT THE OTHER SIDE.

17 CHAIRMAN PENNINGTON: I HAVE LETTERS
18 FROM STEVE ANDERSEN, A CITY COUNCILMAN WITH THE
19 CITY OF HAWTHORNE, AND JERRY JAMGOTCHIAN, SO --
20 ON ITEM NO. 9, LETTERS FROM PAMELA BENNETT, CHAIR
21 OF THE CCDEH, AND DONALD HOM WITH GLENN COUNTY.

22 III. OPENING REMARKS

23 CHAIRMAN PENNINGTON: IF THERE'S
24 ANYBODY WHO WISHES TO ADDRESS ANY ITEM ON THE
25 AGENDA THIS MORNING THE SPEAKER REQUEST FORMS ARE

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1 AT THE BACK OF THE TABLE, AND IF YOU'D FILL ONE
2 OUT AND GET IT TO MS. KELLY WE WILL TRY TO MAKE
3 SURE THAT YOU ARE HEARD.
4 BEFORE WE GO TO BOARD ANNOUNCEMENTS I
5 HAVE A LITTLE STATEMENT THAT I'D LIKE TO MAKE
6 THIS MORNING PERTAINING TO TODAY'S AGENDA. THERE
7 ARE SEVERAL ITEMS ON THE AGENDA WHICH HAD BEEN
8 PULLED, AND WHICH I HAVE AGAIN PLACED ON THE
9 AGENDA. I UNDERSTAND THAT SEVERAL OF MY
10 COLLEAGUES ARE CONCERNED ABOUT MY ACTION, SO I'D
11 LIKE TO TAKE THIS OPPORTUNITY TO EXPLAIN MY
12 ACTION.
13 UNDER OUR RULES THE CHAIRMAN OF THE
14 BOARD CONTROLS THE AGENDA. ANY MEMBER OF THE
15 BOARD MAY REQUEST THAT THE CHAIRMAN PULL AN ITEM,
16 OR THE CHAIRMAN MAY PULL AN ITEM HIMSELF, OR THE
17 EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE
18 CHAIRMAN, MAY RECOMMEND THAT AN ITEM BE PULLED,
19 THE REASONS USUALLY BEING THAT THE ITEM IS NOT
20 READY FOR BOARD CONSIDERATION.
21 IT HAS BEEN MY PRACTICE IN ALL CASES
22 TO ADVISE OTHER BOARD MEMBERS THAT AN ITEM IS
23 BEING PULLED, AND THE REASONS THAT THE ITEMS HAVE
24 BEEN PULLED. I BELIEVE THAT THIS IS A GOOD
25 PRACTICE.

1 I APPRECIATE MR. CHANDLER'S CONCERN
2 FOR ALL BOARD MEMBERS' SCHEDULES, AND OVER THE
3 PAST THREE AND A HALF YEARS OF MY CHAIRMANSHIP I
4 HAVE ALWAYS BEEN CONSIDERATE OF THE BOARD
5 MEMBERS' SCHEDULES.
6 HOWEVER, I HAVE RETURNED THREE ITEMS
7 TO THE AGENDA: ITEM NO. 8, WASTE TIRE FACILITY
8 PERMIT FOR LAKIN TIRE; ITEM NO. 10, A SCOPE OF
9 WORK FOR THE CLEANUP OF THE OXFORD TIRE PILE;
10 AND, ITEM 20, THE INTERAGENCY AGREEMENT ON USED
11 OIL. I FELT THAT IT WAS IMPORTANT THAT THEY BE
12 CONSIDERED BY THE BOARD AT THIS MEETING TODAY.
13 LAKIN TIRE IS A WASTE TIRE FACILITY
14 PERMIT AND IT IS A COMPANY THAT HAS CONTINUALLY
15 WORKED WITH THE BOARD ON THE TIRE ISSUES.
16 AND NO. 20, THE BOARD APPROVED THE
17 CONTRACT CONCEPT SIX MONTHS AGO AND WE SHOULD GO
18 FORWARD, OR REALLOCATE THE MONEY.
19 ITEM NO. 10, THE OXFORD TIRE PILE
20 CLEANUP HAS A NUMBER OF ISSUES THAT SHOULD BE
21 DECIDED IN THE NEAR FUTURE, OR WE WILL LOSE THE
22 OPTION OF OBTAINING FUNDING FOR THE FISCAL YEAR.
23 THERE ARE ALSO HEALTH AND SAFETY AND
24 ENVIRONMENTAL ISSUES RELATED TO THAT TIRE SITE
25 WHICH MUST BE ADDRESSED.

1 SINCE, HOWEVER, THERE IS CONCERN
2 AMONG MY FELLOW BOARD MEMBERS ABOUT TAKING THESE
3 ITEMS UP TODAY, I WILL REMOVE THEM FROM TODAY'S
4 AGENDA.
5 I DO WANT TO MAKE IT CLEAR THAT I AM
6 VERY CONCERNED ABOUT THE SITUATION ON OXFORD, AND
7 ENCOURAGE THE BOARD TO CONTINUE ITS EFFORTS TO
8 REMEDIATE THIS SITE AS EXPEDITIOUSLY AS POSSIBLE.
9 OKAY. ANNOUNCEMENTS THAT WE HAVE, WE
10 DO NOT HAVE ANY AGENDA ITEMS TO BE HEARD UNDER
11 THE CONTINUED BUSINESS AGENDA ITEM, OR THE
12 CONSENT CALENDAR.
13 ITEMS 1, 3, 11, AND THOSE THAT I JUST
14 TALKED ABOUT, 8, 10 AND 20, HAVE BEEN PULLED FROM
15 TODAY'S AGENDA.
16 WE'LL START WITH ANY REPORTS --
17 BEFORE WE DO THAT, LET THE RECORD SHOW THAT
18 SENATOR ROBERTI IS HERE, AND I'LL ASK IF HE HAS
19 ANY EX PARTES.
20 MEMBER ROBERTI: YES, MR. CHAIRMAN.
21 JERRY JAMGOTCHIAN, CITY OF HAWTHORNE, REGARDING
22 THE CITY OF HAWTHORNE SRRE. S. KENT STODDARD
23 (PHON) REGARDING FINANCIAL ASSURANCES FROM WASTE
24 MANAGEMENT. AND STEVEN ANDERSEN, CITY OF
25 HAWTHORNE, REGARDING THE CITY OF HAWTHORNE.

1 CHAIRMAN PENNINGTON: OKAY, THANK
2 YOU.

3 AGENDA ITEM IV: REPORTS AND PRESENTATIONS

4 ORAL REPORTS FROM BOARD MEMBERS

5 CHAIRMAN PENNINGTON: NOW, REPORTS
6 FROM BOARD MEMBERS. ANY BOARD MEMBERS? MR.
7 EATON.

8 MEMBER EATON: I'M DEFERRING TO MR.
9 JONES TODAY ON THE 21ST CENTURY.

10 CHAIRMAN PENNINGTON: MR. JONES.

11 MEMBER JONES: MR. CHAIRMAN, I HAVE
12 TWO. UNLESS YOU WANT ME TO DO THE 21ST CENTURY,
13 I CAN DO IT IN THE THIRD ONE.
14 BUT, I SPOKE YESTERDAY AT THE BOARD
15 OF EQUALIZATION BUILDING TO THE DEPARTMENT OF
16 GENERAL SERVICES AND ALL THE STATE AGENCIES ON
17 THE STATE AGENCY BUY RECYCLED PROGRAM -- TOUGH
18 CROWD. BUT, WE DID OUR BEST TO TRY TO MOTIVATE
19 THEM TO UNDERSTAND OUR ISSUES FROM THE STANDPOINT
20 OF THEIR OPPORTUNITY TO TAKE A LEADERSHIP ROLE IN
21 PROCURING AS MUCH AS THEY CAN THAT IS BUILT WITH
22 RECOVERED RECYCLABLES SO THAT WE CAN CONTINUE TO
23 MOVE MARKETS. AND IT WAS A SUCCESSFUL DAY.

24 SENATOR CHESBRO WAS THE OPENING
25 SPEAKER. AND OUR STAFF WAS INSTRUMENTAL -- WE

1 ARE A CONSULTANT TO THAT GROUP. AND JERRY HART
2 (PHON) AND THOSE FOLKS DID A GREAT JOB, AND I
3 WANT TO PUBLICLY THANK THEM FOR THEIR EFFORTS,
4 AND GO FROM THERE.

5 DO YOU WANT ME TO WAIT ON THE 21ST
6 TILL --

7 CHAIRMAN PENNINGTON: OH, NO GO
8 AHEAD.

9 MEMBER JONES: ON THE 21ST CENTURY
10 PROJECT THAT MR. EATON HAS DEFERRED TO ME --
11 BECAUSE, NORMALLY I DEFER IT TO HIM -- FOR THOSE
12 OF YOU THAT WERE THERE, WE THINK THAT THE ISSUE
13 SUMMIT WAS AN ABSOLUTE SUCCESS. IT IS VERY EASY
14 TO TALK ABOUT ISSUES AND TRENDS.
15 AS YOU SEE AROUND THE WALL, THAT IS
16 THE GRAPHIC ARTIST'S PORTRAYAL OF THE DAY AS THE
17 ISSUES WERE DISCUSSED. AT THE BREAKS OR AT LUNCH
18 TAKE AN OPPORTUNITY AND WALK AROUND AND TAKE A
19 LOOK AT THAT. I THINK THAT CAPTURING THESE IDEAS
20 REALLY IS AN ART THAT IS EVIDENT WHEN YOU LOOK AT
21 THESE THINGS.

22 THE SECOND PART OF WHAT IS GOING
23 TO BE A THREE- OR FOUR-PART SERIES IN THE BOARD'S
24 EFFORTS TO LOOK INTO THAT FIRST DECADE OF THE
25 21ST CENTURY IS THE FUTURE SEARCH, WHICH IS GOING

1 TO BE HELD MARCH 9TH AT THE SACRAMENTO CONVENTION
2 CENTER.
3 AND WHAT WE ARE GOING TO DO, AND THIS
4 IS VERY BRIEFLY, BOARD TEAMS NOW ARE GOING TO
5 START GOING THROUGH THE ISSUES AND THE TRENDS,
6 AND REVIEW THEM, AND PULL THOSE TOP 10 ISSUES AND
7 TRENDS OUT, AND TRY AND DEVELOP THEM. AND AT
8 THAT CONFERENCE, AT THAT FUTURES SEARCH
9 CONFERENCE, WE ARE GOING TO WORK ON AN EXERCISE
10 WHERE WE CAN START TO BUILD SCENARIOS, BEST CASE
11 AND WORST CASE SCENARIOS, ON EACH OF THOSE
12 IDENTIFIED ISSUES. IT IS A UNIQUE WAY OF TRYING
13 TO LOOK AT THE GOOD SIDE AND THE BAD SIDE OF WHAT
14 MAY BE COMING DOWN. AND THEN THIS BOARD WILL
15 TAKE THAT INFORMATION AT THE END OF THE DAY, OR
16 AT THE END OF THE DAYS, AND START WORKING ON WHAT
17 THE PROBABLY SCENARIOS WOULD BE. SO THIS PROCESS
18 HAS THREE TO FOUR STEPS TO IT BEFORE WE ACTUALLY
19 COME OUT WITH A DELIVERABLE THAT WE'LL BE ABLE TO
20 USE.
21 BUT I THINK THE PARTICIPATION OF THE
22 STAKEHOLDERS IS PARAMOUNT IN US ACHIEVING OUR
23 GOAL, WHICH IS TO HELP FORM POLICY AND HELP BE A
24 RESOURCE TO BOTH THE LEGISLATURE AND THE
25 ADMINISTRATION ON WHAT TYPES OF ISSUES TO LOOK

1 FORWARD TO.
2 IN THE CITY OF INDUSTRY, OUR LAST
3 BOARD MEETING THAT WE HELD, WE PUBLICLY THANKED
4 OUR CONSULTANTS, AS WELL AS OUR STAFF, AND I
5 THINK IT'S PROBABLY APPROPRIATE AGAIN. I'LL MISS
6 SOMEBODY, AS I DID LAST TIME, MR. EATON HAD TO
7 GET SOME NAMES. BUT DONNA HOGAN AND MAUREEN
8 GOODALL, AND TRACY HARPER, AND RUBIA PACKARD, AND
9 SUE PETERSEN, AND RALPH CHANDLER, AND KEITH
10 SMITH, AND PATTI BERTRAM, AND JOHN FRITH, AND --
11 I'M TRYING TO THINK WHO SITS AROUND THE TABLE
12 WITH US -- AND THOSE PEOPLE WORKED VERY, VERY
13 HARD ON THIS, AND DID AN OUTSTANDING JOB. THE
14 PROBLEM IS, IS THAT THEY HAVE RAISED THE
15 EXPECTATION NOW, SO OUR NEXT MEETING IS GOING TO
16 HAVE TO BE THAT MUCH BETTER, AND WE'RE CONFIDENT
17 IT WILL BE.

18 THANKS.

19 CHAIRMAN PENNINGTON: VERY GOOD. MR.
20 FRAZEE, DO YOU HAVE --

21 MEMBER FRAZEE: YES, MR. CHAIRMAN, I
22 HAVE A PRESENTATION TO MAKE, AND I'D LIKE TO DO
23 THAT FROM THE PODIUM. AND IF YOU WOULD CARE TO

24

25 JOIN ME?

1 WELL, MR. CHAIRMAN, I HAVE A
2 RESOLUTION TO PRESENT, AND THIS IS RELATIVE TO
3 COMMENDING DANIEL G. PENNINGTON FOR HIS SERVICE
4 AS CHAIRMAN OF THIS BOARD FOR THE PAST THREE AND
5 A HALF YEARS.
6 BEFORE DOING THAT THERE'S A COUPLE OF
7 COMMENTS THAT I'D LIKE TO MAKE. WHEN I WAS
8 APPOINTED TO THE WASTE BOARD, JUST FOUR YEARS AGO
9 COMING UP THIS NEXT MONTH, THE CONVENTIONAL
10 WISDOM WAS THAT I WAS GOING TO BE CHAIRMAN, AND I
11 HEARD THAT FROM ALL KINDS OF PLACES. AND THE
12 RATIONALE WAS SINCE THERE WERE TWO VACANCIES AND
13 I WAS GIVEN THE LONGEST ONE OF THOSE VACANCIES,
14 THAT THAT MEANT THAT THE GOVERNOR INTENDED FOR ME
15 TO BE CHAIRMAN.
16 A SHORT TWO OR THREE MONTHS AFTER
17 THAT I RECEIVED A CALL FROM THE GOVERNOR'S
18 OFFICE, AND THE INDICATION WAS THE GOVERNOR IS
19 APPOINTING DAN PENNINGTON TO THE WASTE BOARD, TO
20 FILL THE OTHER VACANCY, AND HE EXPECTS MR.
21 PENNINGTON TO BE THE CHAIRMAN. AND SO,
22 NATURALLY, I HAD A SENSE OF DISAPPOINTMENT, BUT
23 THAT SENSE OF DISAPPOINTMENT LASTED ABOUT 30
24 SECONDS. AND IT WAS REPLACED WITH A SENSE OF
25 RELIEF, AND I'VE ENJOYED THAT RELIEF FOR THE PAST

1 THREE AND A HALF YEARS NOW, AS I'VE WATCHED DAN
2 PERFORM ALL OF THE JUGGLING ACT, TRYING TO KEEP
3 ALL THE BALLS IN THE AIR AT THE SAME TIME, AND
4 HAVE OBSERVED THE MARVELOUS JOB THAT HE'S BEEN
5 DOING IN THAT OFFICE.
6 YOU KNOW, THE WASTE BOARD IS UNIQUE
7 AMONG ALL OF THE VARIOUS BOARDS AND COMMISSIONS
8 OF STATE GOVERNMENT, JUST IN ITS STRUCTURE. BUT
9 I THINK IT'S UNIQUE IN ANOTHER WAY, AND IT CAME
10 HOME TO ME AT THE 21ST CENTURY PROJECT DOWN IN
11 THE CITY OF INDUSTRY, SORT OF REINFORCED MY
12 BELIEF, THAT THERE'S NO OTHER REGULATORY AGENCY
13 IN GOVERNMENT THAT GOES TO THE EXTENT THAT THIS
14 AGENCY DOES IN BRINGING IN ALL OF THE PLAYERS,
15 ALL OF THE REGULATED COMMUNITY, ALL OF THE
16 INTEREST GROUPS, AND REACHING A CONSENSUS BEFORE
17 MOVING AHEAD.
18 AND I THINK THAT TENOR HAS CERTAINLY
19 BEEN SET, MR. CHAIRMAN, BY YOU AT THE TOP. AND I
20 THINK THAT'S A PATTERN THAT PERHAPS EXISTED
21 BEFORE YOU AND I ARRIVED, AND I'VE ASSUMED THAT
22 IT WAS, BUT I THINK THAT YOU'VE CERTAINLY HELPED
23 THAT ALONG. AND IT'S REALLY, AS I SAY, A
24 LANDMARK IN GOVERNMENT. YOU KNOW, WE HEAR SO
25 MUCH ABOUT REINVENTING GOVERNMENT, AND I THINK

1 WE'VE ALREADY DONE THAT HERE AT THE WASTE BOARD
2 IN THIS COOPERATIVE ARRANGEMENT THAT HAS BEEN
3 BROUGHT FORTH.
4 I THINK ALSO, IN OBSERVING YOUR
5 OPERATION, AND THE CHAIRMAN'S OFFICE, YOUR STAFF,
6 YOUR VERY EXCELLENT STAFF SHOULD SHARE IN THIS
7 RESOLUTION ALSO. UNFORTUNATELY, THEIR NAMES ARE
8 NOT HERE, BUT MARLENE AND SUSAN AND LOU (PHON)
9 HAVE REALLY BEEN GREAT, BECAUSE THEY'VE PERFORMED
10 NOT JUST FOR YOU, BUT FOR THE ENTIRE BOARD IN
11 WHAT THEY HAVE BEEN ABLE TO DO.
12 50 I GUESS, AS I SAID IN THE
13 BEGINNING, MY DISAPPOINTMENT WAS REPLACED WITH
14 RELIEF. IT WAS THE ONLY ELECTION IN MY 26 YEARS
15 IN PUBLIC OFFICE THAT I LOST, BUT IT -- THAT LOSS
16 COULDN'T HAVE BEEN TO A BETTER PERSON, AND YOU'VE
17 CERTAINLY PROVEN THAT OVER THE THREE AND A HALF
18 YEARS THAT WE'VE WORKED TOGETHER.
19 SO I'D LIKE TO PRESENT TO YOU THIS
20 RESOLUTION, I JUST WISH IT WOULD HAVE BEEN
21 FRAMED. AND HAD I KNOWN, BEFORE I HAULED ALL
22 THOSE FRAMES HOME FROM -- 17 BOXES OF RESOLUTIONS
23 THAT I'VE RECEIVED OVER MY 26 YEARS, I WOULD HAVE
24 SNATCHED ONE OF THOSE FRAMES OUT AND GOT THIS
25 FRAMED FOR YOU.

1 BUT, THIS RESOLUTION, SIGNED BY ALL
2 OF THE REMAINING MEMBERS OF THE BOARD, AS WELL AS
3 RALPH CHANDLER, THE EXECUTIVE DIRECTOR, COMMENDS
4 YOU FOR YOUR SERVICE AND WISHES YOU THE VERY BEST
5 FOR YOUR FUTURE ENDEAVORS. AND I KNOW THAT
6 YOU'RE GOING TO CONTINUE TO BE HERE AT THE BOARD
7 WORKING JUST AS HARD AS YOU HAVE, EVEN THOUGH YOU
8 WILL NO LONGER BE CHAIRMAN. (APPLAUSE.)
9 AND, MR. CHAIRMAN, YOUR ADVISOR, LOU
10 HASTINGS, HAS SOME COMMENTS THAT HE WOULD LIKE TO
11 MAKE ALSO.
12 MR. HASTINGS: THANK YOU, MR. FRAZEE,
13 BOARD MEMBERS.
14 MR. CHAIRMAN, YOU NOTED THIS THIS
15 MORNING, I'M SURE, SO I WOULD LIKE TO PRESENT TO
16 YOU THE GAVEL YOU HAVE USED FOR THE PAST THREE
17 AND A HALF YEARS AS CHAIRMAN OF THE BOARD. IT
18 SAYS WITH APPRECIATION TO DANIEL G. PENNINGTON,
19 CHAIRMAN, CIWMB, JUNE 1995 - JANUARY 1999.
20 CHAIRMAN PENNINGTON: THANK YOU.
21 (APPLAUSE.) WELL, I'M OVERWHELMED, THANK YOU
22 VERY MUCH.
23 I HAD A LITTLE STATEMENT THAT I WAS
24 GOING TO MAKE AT THE END OF THE MEETING TODAY, SO
25 IF YOU'LL LET ME GIVE THAT STATEMENT TO YOU NOW,

1 I THINK IT'S THE BEST WAY THAT I CAN SAY THANK
2 YOU.
3 TODAY WILL COMPLETE THE 51ST BOARD
4 MEETING WHICH I HAVE PRESIDED OVER AS CHAIRMAN.
5 I'M NOW GOING TO TURN THE GAVEL OVER TO DANNY
6 EATON, AND I DO THIS WITH BOTH HIGH EXPECTATIONS
7 AND, OF COURSE, SOME SADNESS.
8 I KNOW THAT THE RELATIONSHIP BETWEEN
9 MR. EATON AND THE NEW ADMINISTRATION, THE BOARD
10 WILL HAVE AN EXCELLENT OPPORTUNITY TO GAIN THE
11 SUPPORT OF THE AGENCY AND THE VARIOUS STATE
12 CONTROL AGENCIES TO MOVE FORWARD IN THE ENDEAVOR
13 TO REACH THE, OR EXCEED THE, 50 PERCENT MANDATE
14 GOAL WHICH, WITH THEIR RELATIONSHIP, WILL ALLOW
15 US TO HAVE FEW ROADBLOCKS WITH THE
16 ADMINISTRATION.
17 IN ADDITION, WITH MR. EATON'S VAST
18 KNOWLEDGE AND EXPERIENCE AT THE CAPITOL, COUPLED
19 WITH THAT OF SENATOR ROBERTI, THE ROAD THROUGH
20 THE LEGISLATIVE PROCESS WILL BE SMOOTH, AND THAT
21 THE SUPPORT FOR THE LEGISLATIVE ISSUES NECESSARY
22 FOR THE BOARD TO FULFILL ITS MISSION, WILL BE
23 EASILY OBTAINED.
24 I HAVE HIGH EXPECTATIONS OF THE BOARD
25 STAFF. THIS STAFF IS ONE OF THE MOST DEDICATED

1 GROUP OF INDIVIDUALS IN STATE SERVICE. THE STAFF
2 IS PROFESSIONAL, HARDWORKING, WELL EDUCATED, AND
3 ON TOP OF THE ISSUES, AND ALWAYS GOES THE EXTRA
4 DISTANCE TO HELP INDUSTRY AND LOCAL GOVERNMENT
5 ACHIEVE THE STATUTORY THRUST OF AB 939. SO, I DO
6 HAVE HIGH EXPECTATIONS THAT THE BOARD WILL, WITH
7 THE SUPPORT OF THIS MAGNIFICENT STAFF, REACH ITS
8 MISSION WITHIN THE PROPER TIME FRAMES.
9 FURTHER, I HAVE HIGH EXPECTATIONS FOR
10 THE INDIVIDUAL BOARD MEMBERS. AS WITH PEOPLE WHO
11 HAVE SPENT MOST OF THEIR LIVES IN THE POLITICAL
12 TRENCHES, IT IS HARD NOT TO FALL INTO THE ROUTINE
13 OF PARTISAN POLITICS. BUT EACH OF THE MEMBERS OF
14 THIS BOARD HAS MADE A VERY DEFINITE EFFORT TO
15 AVOID POLITICS, AND TO STICK TO THE MISSION AT
16 HAND. THEREFORE, I HAVE HIGH EXPECTATIONS THAT
17 WE WILL CONTINUE TO SET ASIDE THE PARTISAN
18 ISSUES, AND DEAL WITH THE ISSUES THAT HAVE AN
19 IMPACT ON THE REDUCTION OF WASTE.
20 I AM HONORED TO HAVE HAD THE
21 OPPORTUNITY TO SERVE AS YOUR CHAIRMAN. IT HAS
22 BEEN INTERESTING, FUN, AND MOST OF ALL, A
23 PRIVILEGE TO CALL EACH OF YOU MY COLLEAGUES.
24 IN ADDITION, I HAVE HAD THE HONOR AND
25 PRIVILEGE TO SERVE WITH COLLEAGUES WHO HAVE LEFT

1 THE BOARD, SUCH AS SENATOR WES CHESBRO, JANET
2 GOTCH, PAUL RELLIS, SAM AGIGIA, AND MOST RECENTLY
3 JOHN AMADEO AND STEPHEN RHODES. I VERY MUCH
4 APPRECIATE THE SUPPORT THAT EACH OF YOU HAVE
5 GIVEN ME OVER THE PAST THREE AND A HALF YEARS.
6 IT IS WITH SOME SADNESS THAT I
7 RELINQUISH THE CHAIR. HOWEVER, I DO LOOK FORWARD
8 TO BEING ABLE TO SPEND MORE TIME AND ENERGY ON
9 THE ISSUES, AS OPPOSED TO HELPING THE SENIOR
10 STAFF NAVIGATE THIS SHIP OF STATE THROUGH THE
11 WATERS OF THE STATE BUREAUCRACY.
12 I CANNOT LEAVE THE CHAIRMANSHIP
13 WITHOUT THANKING THE ENTIRE BOARD STAFF FOR
14 ALWAYS BEING READY TO HELP ME, AND FOR GIVING ME
15 GOOD GUIDANCE.
16 I ALSO WANT TO THANK RALPH CHANDLER
17 FOR HIS MANY HOURS WORKING WITH ME ON MANY OF THE
18 PROGRAMS, POLICIES, AND ADMINISTRATIVE ISSUES
19 FACING THE BOARD.
20 I ALSO WANT TO THANK MY PERSONAL
21 STAFF, MARLENE KELLY, SUSAN WESTLAKE, AND LOU
22 HASTINGS FOR THEIR DEDICATION AND THEIR LOYALTY
23 TO ME, AND TO MAKING EACH BOARD MEETING FLOW WITH
24 AS FEW BUMPS AS POSSIBLE.
25 AND, FINALLY, I ALSO -- AS I STEP TO

1 THE BACK BENCH FOR THE LAST YEAR OF MY TERM -- I
2 MUST THANK FORMER GOVERNOR PETE WILSON FOR GIVING
3 ME THE OPPORTUNITY TO SERVE THE PEOPLE OF THIS
4 GREAT STATE OF CALIFORNIA.
5 I THANK YOU ALL FOR YOUR SUPPORT
6 THROUGH THE YEARS. EACH OF YOU HAVE COME IN TO -
7 - A LOT OF YOU HAVE COME IN TO SEE ME, AND HAVE
8 EDUCATED ME IN THE WORLD OF WASTE. IT'S BEEN A
9 VERY, VERY WONDERFUL EXPERIENCE, AND AN ABSOLUTE
10 PRIVILEGE TO HAVE HAD THIS HONOR. THANK YOU ALL
11 VERY MUCH. (APPLAUSE.)
12 OKAY. AGAIN, THANK YOU, THAT WAS
13 WONDERFUL.
14 ORAL REPORT FROM THE EXECUTIVE DIRECTOR AND
15 EXECUTIVE STAFF
16 CHAIRMAN PENNINGTON: NOW WE'LL GO TO
17 A REPORT FROM THE EXECUTIVE DIRECTOR AND THE
18 EXECUTIVE STAFF. MR. CHANDLER.
19 MR. CHANDLER: THANK YOU, MR.
20 CHAIRMAN. I DO NOT HAVE ANY ITEMS SPECIFIC TO MY
21 DIRECTOR'S REPORT. BUT I DO HAVE A COUPLE OF
22 RESOLUTIONS THAT I WOULD LIKE TO OFFER TO STAFF.
23 SO, IF YOU'LL EXCUSE ME, I'LL MOVE TO THE PODIUM
24 AS WELL.
25 I DO HAVE, AS I MENTIONED, A COUPLE

1 OF RESOLUTIONS I'D LIKE TO OFFER TO STAFF. BUT,
2 BEFORE I DO THAT, AND PERHAPS TO PUNCTUATE SOME
3 OF THE REMARKS THAT WERE JUST MENTIONED TO YOU,
4 MR. CHAIRMAN, I WOULD LIKE TO ADD A LITTLE
5 MEMENTO AS WELL. PERHAPS SOMETHING THAT, IN
6 ADDITION TO THE WORK THAT YOU ARE VERY WELL KNOWN
7 FOR HERE AT THE BOARD, THERE'S ANOTHER AREA OF
8 YOUR PERFORMANCE HERE AT THE BOARD THAT I THINK
9 NEEDS TO BE RECOGNIZED.
10 AND IT HAS TO DO WITH AN AFTERNOON
11 LAST AUGUST, AN AFTERNOON THAT, AS HE HAS
12 SOMETIMES THE WONT TO DO, MR. PENNINGTON SLIPPED
13 OUT AND WENT TO THE LIGHTHOUSE GOLF CLUB. AND ON
14 THAT AFTERNOON IN AUGUST, AT THE SEVENTH HOLE
15 SOMETHING MIRACULOUS HAPPENED. AT LEAST THAT'S
16 HOW THE STORY GOES, BECAUSE IT'S BEEN TOLD, AND
17 I'VE EVEN SEEN THE NEWSPAPER ARTICLE, THAT
18 REPRESENTED THAT ON THAT DAY MR. DAN PENNINGTON
19 MADE A HOLE IN ONE ON THAT SEVENTH HOLE.
20 SO, IT WAS WITH MUCH EXCITEMENT THAT
21 THE EXECUTIVE STAFF GOT TOGETHER, PUT A FEW BUCKS
22 IN THE KITTY AND WE GOT YOU THIS WONDERFUL
23 MEMENTO THAT I KNOW YOU WILL WANT TO HAVE ON THE
24 TOP OF YOUR MANTLE, AND I'LL HAND IT TO YOU NOW.
25 AND YOU UNDERSTANDING THIS LITTLE CUT-OUT HERE IS

1 FOR THAT LITTLE ORANGE BALL THAT YOU USED WHEN
2 YOU PLAYED THAT DAY. SO, DAN, IN ALL JEST, BUT
3 IN SINCERITY FROM THE EXECUTIVE STAFF, I'LL HAND
4 THIS LITTLE.... (APPLAUSE.)

5 CHAIRMAN PENNINGTON: ACTUALLY, THE
6 BALL ISN'T JUST ORANGE, IT'S ORANGE AND RED, AND
7 SEVERAL COLORS MIXED INTO IT THERE.

8 MR. CHANDLER: WELL, MR. EATON, REST
9 ASSURED, I UNDERSTAND THAT PAUL'S FIRST DAY IS
10 MONDAY, SO YOU DON'T HAVE TO WORRY ABOUT THE EX
11 PARTE.

12 BUT, LET ME RECOGNIZE PAUL WILLMAN,
13 WHO COULD -- IF YOU WOULD, PLEASE COME FORWARD.
14 AS MANY OF YOU HAVE HEARD, PAUL HAS
15 MADE THE LEAP INTO THE PRIVATE SECTOR, I THINK
16 MUCH -- HE IS TO BE RECOGNIZED FOR WHY HE WAS
17 SELECTED BY WASTE MANAGEMENT TO, AS I UNDERSTAND,
18 TAKE ON A SIGNIFICANT POSITION TO OVERSEE SOME OF
19 THEIR OPERATIONS FOR CALIFORNIA IN THE AREA OF
20 FACILITY COMPLIANCE. I DON'T KNOW IF IT'S
21 SOUTHERN CALIFORNIA SPECIFICALLY, OR THE ENTIRE
22 STATE BUT, NEVERTHELESS, I THINK IT'S A REAL
23 COMPLIMENT TO PAUL'S EXCELLENT EFFORTS.
24 THE BOARD HAS A RESOLUTION -- AND,

1 PAUL, I DON'T THINK I'M GOING TO GO THROUGH THE
2 WHOLE WHEREAS', I'M JUST GOING TO HAND YOU THE
3 RESOLUTION IN THE INTEREST OF TIME.
4 BUT I DON'T WANT TO LEAVE WITHOUT
5 SAYING THAT, YOU KNOW, IT'S TOUGH BEING TETHERED
6 OUT IN THE SOUTHERN CALIFORNIA OFFICES. PAUL IS
7 -- YOU KNOW, AT ONE TIME WE HAD THREE SOUTHERN
8 CALIFORNIA OFFICES, REDLANDS, VALENCIA, AND
9 FULLERTON. IT WAS A TOUGH DECISION, BUT WHEN THE
10 BOARD'S BUDGET WAS TIGHT SEVERAL YEARS AGO WE
11 MADE THE DECISION TO CONSOLIDATE THE THREE
12 REGIONAL FIELD OFFICES INTO A SINGLE OFFICE IN
13 FULLERTON, AND PAUL CONTINUED ON AS THE LEAD
14 SUPERVISOR FOR OUR SOUTHERN CALIFORNIA
15 OPERATIONS, AND DID A MIRACULOUS JOB. BROUGHT
16 THE STAFF TOGETHER, CONTINUED TO HELP US MOVE
17 INTO THAT TRANSITION OF MORE OF A COMPUTER-BASED
18 ORGANIZATION DOWN THERE, TELE-COMMUTING WHILE
19 MAINTAINING THE OVERSIGHT WE NEEDED AT THOSE
20 FACILITIES, AND YOU DID IT WITH GREAT
21 PROFESSIONALISM.
22 SO, PAUL, ON BEHALF OF THE ENTIRE
23 ORGANIZE AND THE BOARD, CONGRATULATIONS ON YOUR
24 NEW ASSIGNMENT. BEST OF LUCK TO YOU. AND STAY
25 IN TOUCH, AND LET US KNOW FROM THE OTHER SIDE HOW

1 WE CAN CONTINUE TO IMPROVE STATE GOVERNMENT.
2 THANK YOU. (APPLAUSE.)
3 MR. WILLMAN: I JUST WANT TO SAY
4 THANKS A LOT. IT'S AN INCREDIBLE HONOR.
5 ALTHOUGH I DON'T HAVE -- THIS IS THE FIRST, I
6 DON'T HAVE 17 LIKE MR. FRAZEE, AND I DIDN'T GET A
7 GAVEL. BUT, I JUST WANT TO SAY THANKS A LOT.
8 AND JUST WHAT A GREAT ORGANIZATION THIS HAS BEEN
9 TO WORK FOR.
10 I'VE BEEN HERE FOR 10 YEARS NOW, AND
11 JUST THE CHANGES I'VE SEEN FROM 10 YEARS AGO, THE
12 FIRST TIME I EVER WENT OUT IN THE FIELD TO A SITE
13 DOWN SOUTH AND, YOU KNOW, YOU COULD PROBABLY FIND
14 20 TO 25 VIOLATIONS AT THAT TIME. AND YOU GO OUT
15 THERE NOW AND YOU'RE HARD-PRESSED TO FIND ONE OR
16 TWO VIOLATIONS.
17 AND I THINK THAT'S A REFLECTION ON
18 JUST THE QUALITY OF THE PEOPLE I'VE HAD TO WORK
19 WITH OVER THE YEARS. AND NOT JUST HERE AT THE
20 BOARD, BUT ALSO THE LEAS AND THE OPERATORS, TOO.
21 AND I JUST WANT TO SAY THANKS A LOT, AND IT'S
22 JUST BEEN A PLEASURE WORKING FOR THIS BOARD.
23 THANKS. (APPLAUSE.)
24 CHAIRMAN PENNINGTON: I MIGHT ADD
25 THAT HE MAY HAVE NOT GOTTEN A GAVEL, BUT HE GOT A

1 FRAME.
2 MR. CHANDLER: THAT'S WHAT HAPPENS
3 WHEN YOU HELP MR. FRAZEE MOVE, SEE.
4 OUR SECOND RESOLUTION THIS MORNING IS
5 TO COMMEND THE RETIREMENT OF DR. BOB BLACKSTONE.
6 BOB, YOU'RE IN THE BACK, WHY DON'T
7 YOU COME FORWARD, PLEASE? AND, BOB, I SIMILARLY
8 WANTED TO SAY A FEW REMARKS WITHOUT, AGAIN, GOING
9 THROUGH ALL THE WHEREAS'
10 I JUST WANT TO AGAIN PUBLICLY THANK
11 YOU FOR YOUR WORK AT THE BOARD. I KNOW IT WAS
12 WITH GREAT PROFESSIONALISM THAT, THE DAY I CAME
13 TO YOU AND ASKED IF YOU WOULD MIND HELPING THE
14 AGENCY ON THEIR TECHNOLOGY CERTIFICATION PROGRAM
15 I DIDN'T HAVE TO GO INTO MUCH DETAIL AT ALL
16 BEFORE YOU JUMPED AT THE OPPORTUNITY, AND WENT
17 OVER THERE, AND CERTAINLY HELPED THAT AGENCY --
18 WHICH WAS GOING THROUGH SOME TOUGH TIMES, AS YOU
19 KNOW -- AND TRYING TO PULL THAT PROGRAM TOGETHER.
20 AND ALL REPORTS I GOT IS YOU DID AN EXCELLENT
21 JOB.
22 YOU'VE ALWAYS BEEN A SPIRIT OF
23 INNOVATION AND EXCITEMENT IN THE ORGANIZATION,
24 PRESSING MANAGEMENT AND OTHERS, AND THE STAFF
25 AROUND YOU TO LOOK AT THE -- PERHAPS THE

1 ALTERNATIVE SIDE OF AN ISSUE, AND HOW WE CAN MAKE
2 GOVERNMENT BETTER, AND BRINGING A LOT OF
3 EXPERIENCE ALONG THE WAY THAT CERTAINLY HELPED
4 OUR PROGRAMS GROW.
5 SO, AGAIN, IT'S WITH MUCH PRIDE AND
6 APPRECIATION THAT I PRESENT YOU WITH THIS
7 RESOLUTION FROM THE ENTIRE BOARD COMMENDING YOUR
8 RETIREMENT FROM STATE SERVICE. THANKS.
9 (APPLAUSE.)
10 DR. BLACKSTONE: THANK YOU VERY MUCH,
11 RALPH.
12 IT HAS BEEN -- I'LL ECHO THE WORDS
13 PAUL JUST SAID, IT'S BEEN A REAL HONOR TO WORK
14 WITH THIS ORGANIZATION, AND THE QUALITY STAFF
15 PEOPLE. I'VE BEEN HERE PERHAPS EVEN A LITTLE
16 MORE THAN A DECADE, AND HELPED TO DREAM SOME OF
17 THE NEW CHANGES IN, WORKING TO ESTABLISH AB 939
18 WHEN IT WAS BORN, WITH MANY CHANGES.
19 AND I DON'T THINK, IN ALL THE YEARS
20 THAT I'VE WORKED IN A VARIETY OF ORGANIZATIONS,
21 INCLUDING ACADEMIA AND CHURCHES -- I HAVE NEVER,
22 IN ALL MY LIFE, WORKED WITH A MORE DEDICATED
23 GROUP OF PEOPLE, MORE PROFESSIONAL, MORE
24 HARDWORKING, AND IT HAS REALLY BEEN AN HONOR.
25 I ALSO REJOICE -- AS OTHERS HAVE

1 MENTIONED, BOARD MEMBERS AND OTHERS HAVE REFERRED
2 TO THE PROGRESS WE'VE MADE -- I HAVE WATCHED THAT
3 HAPPEN IN THE LAST DECADES, AND I REJOICE IN THE
4 PROGRESS IN WHAT REALLY IS THE OLDEST ASSIGNMENT
5 GIVEN TO THE HUMAN SPECIES. IT'S IN GENESIS,
6 CHAPTER 2, "TAKE CARE OF THE GARDEN." THANK YOU.

7 (APPLAUSE.)

8 ORAL REPORT ON THE STATUS OF THE 21ST CENTURY

9 POLICY DEVELOPMENT PROCESS

10 (DONE BY MR. JONES DURING ORAL
11 REPORTS FROM BOARD MEMBERS.)

12 AGENDA ITEM V: CONTINUED BUSINESS AGENDA ITEMS,

13 AND

14 AGENDA ITEM VI: CONSENT AGENDA

15 (NONE PER PENNINGTON'S OPENING
16 REMARKS.)

17 AGENDA ITEM VII: NEW BUSINESS AGENDA ITEM

18 ITEM NO. 2: CONSIDERATION OF A REVISED SOLID

19 WASTE FACILITY PERMIT FOR THE PACHECO PASS

20 SANITARY LANDFILL, SANTA CLARA COUNTY

21 CHAIRMAN PENNINGTON: OKAY. WE'VE
22 DONE THE 21ST CENTURY, AND SO I GUESS WE'LL MOVE
23 TO ITEM NO. 2, CONSIDERATION OF A REVISED SOLID
24 WASTE FACILITY PERMIT FOR THE PACHECO PASS
25 SANITARY LANDFILL IN SANTA CLARA COUNTY. JULIE

1 NAUMAN.

2 MS. NAUMAN: GOOD MORNING, MR.
3 CHAIRMAN AND MEMBERS, JULIE NAUMAN, DEPUTY
4 DIRECTOR OF THE PERMITTING AND ENFORCEMENT
5 DIVISION. BEFORE WE HAVE STAFF PRESENT THIS ITEM
6 I JUST WANTED TO HIGHLIGHT FOR YOU TWO POLICY
7 ISSUES THAT ARE RELEVANT TO YOUR CONSIDERATION OF
8 THIS ITEM. ONE OF THESE IS AN ISSUE THAT HAS NOT
9 COME BEFORE THE BOARD PREVIOUSLY, WHILE THE OTHER
10 ISSUE INVOLVES A POLICY THAT THE BOARD ADOPTED
11 BACK IN 1994, AND I WANTED TO TAKE THIS
12 OPPORTUNITY JUST TO REFRESH YOUR MEMORIES WITH
13 RESPECT TO THAT POLICY.
14 WHEN THE BOARD CONSIDERS A PERMIT
15 WE'RE GUIDED BY TITLE 27, WHICH LISTS THE
16 REQUIRED PARTS OF A PROPOSED PERMIT PACKAGE. THE
17 REQUIRED ELEMENTS INCLUDE, AND WE OFTEN TALK
18 ABOUT ALL OF THESE IN OUR STAFF REPORT TO YOU,
19 ISSUES SUCH AS COMPLIANCE WITH CEQA, CONSISTENCY
20 WITH STATE MINIMUM STANDARDS, CLOSURE PLAN AND
21 FINANCIAL ASSURANCES, REPORT OF FACILITY
22 INFORMATION, AND THE CONFORMANCE FINDING, WHICH
23 REQUIRES THE STATEMENT THAT THE FACILITY IS IN
24 FACT IN COMPLIANCE WITH PUBLIC RESOURCES CODE
25 50000 OR 50001.

1 THESE SECTIONS REQUIRE THAT FOR ANY
2 NEW OR EXPANDING SOLID WASTE FACILITY THE
3 LOCATION OF THE FACILITY MUST BE IDENTIFIED IN
4 THE APPROVED COUNTYWIDE SITING ELEMENT. THE
5 SITING ELEMENT IS A PART OF THE COUNTYWIDE
6 INTEGRATED WASTE MANAGEMENT PLAN, WHICH WE
7 COMMONLY REFER TO AS THE CIWMP. THE ISSUE OF
8 CONFORMANCE WITH THE SITING ELEMENT HAS BEEN
9 IDENTIFIED BY STAFF AS AN ISSUE NEEDING FURTHER
10 BOARD DISCUSSION AND DIRECTION.
11 DURING OUR PRESENTATION OF ITEM NO.
12 2, ELLIOT BLOCK, OF THE LEGAL OFFICE, WILL
13 ADDRESS THE POLICY QUESTION WITH YOU.
14 THE SECOND ISSUE I'D LIKE TO BRING TO
15 YOUR ATTENTION IS THE REQUIREMENT THAT WE
16 DETERMINE THAT A FACILITY MEET STATE MINIMUM
17 STANDARDS, SUCH AS DUST, GAS, DAILY COVER, JUST
18 TO MENTION A FEW.
19 BACK IN 1994, THE BOARD CONSIDERED
20 AND ADOPTED A POLICY FOR THE REVIEW OF SOLID
21 WASTE FACILITY PERMITS WHERE VIOLATIONS OF STATE
22 MINIMUM STANDARDS EXIST. THE POLICY ADDRESSES
23 LONG-TERM VIOLATIONS, MEANING THOSE VIOLATIONS
24 SUCH AS GAS CONTROL, THAT TYPICALLY WOULD TAKE
25 MORE THAN 90 DAYS TO CORRECT.

1 UNDER THAT POLICY THE BOARD MUST MAKE
2 THE FOLLOWING FINDINGS: (1) THAT THERE IS NO
3 IMMEDIATE THREAT TO PUBLIC HEALTH, SAFETY, OR THE
4 ENVIRONMENT; (2) THE OPERATOR HAS SUBMITTED AN
5 INTERIM GAS CONTROL PLAN THAT DETAILS THE PROBLEM
6 AND HOW THE PROBLEM OR VIOLATION WILL BE
7 CORRECTED; (3) THE LEA HAS PREPARED AN
8 ENFORCEMENT ORDER IDENTIFYING THE ELEMENTS TO BE
9 COMPLETED IN ORDER TO ACHIEVE COMPLIANCE BY A
10 SPECIFIED DATE; AND, FINALLY, THE OWNER OR
11 OPERATOR IS IN FACT MAKING A GOOD-FAITH EFFORT TO
12 COMPLY WITH THE ENFORCEMENT ORDER AND/OR
13 FOLLOWING THE ACCEPTED INTERIM GAS CONTROL PLAN
14 TO CORRECT THE VIOLATION.
15 OVER THE PAST FOUR YEARS THE BOARD
16 HAS APPROVED APPROXIMATELY A DOZEN SOLID WASTE
17 FACILITY PERMITS UNDER THIS LONG-TERM VIOLATIONS
18 POLICY.
19 ITEM NO. 2, THE PACHECO PASS SITE,
20 HAS BEEN ON OUR INVENTORY OF FACILITIES WHICH
21 VIOLATES STATE MINIMUM STANDARDS SINCE 1977. THE
22 SITE MEETS ALL THE CRITERIA OF THE BOARD'S LONG
23 TERM GAS VIOLATION PERMIT POLICY. BUT, SINCE
24 THERE'S A LENGTHY DISCUSSION OF THE SITE'S
25 HISTORY RELATIVE TO GAS VIOLATIONS I WANTED TO

1 PROVIDE YOU THIS BACKGROUND ON THE POLICY SO THAT
2 YOU CAN UNDERSTAND HOW OUR STAFF HAS APPLIED THE
3 POLICY TO THIS PERMIT, AND TO ITS RECOMMENDATION.
4 SO, WITH THAT BACKGROUND, I'D NOW
5 LIKE TO TURN THE PRESENTATION OVER TO JOHN
6 WHITEHILL.
7 MR. WHITEHILL: GOOD MORNING. THIS
8 ITEM, AS MENTIONED, IS CONSIDERATION OF THE
9 REVISED PERMIT FOR THE PACHECO PASS SANITARY
10 LANDFILL, WHICH IS LOCATED IN THE UNINCORPORATED
11 SOUTHERN PORTION OF SANTA CLARA COUNTY, ABOUT
12 FOUR MILES EAST OF THE CITY OF GILROY.
13 THE 1985 PERMIT IS BEING REVISED TO
14 REFLECT CHANGES ASSOCIATED WITH THE PREVIOUSLY
15 UNKNOWN FAULTS THAT WERE DISCOVERED DURING
16 EXCAVATION OF AN EXPANSION AREA THAT WAS APPROVED
17 IN 1985. AS A RESULT, FUTURE CELLS WILL NOW ONLY
18 BE ALLOWED TO BE FILLED WITH INERT WASTE, AND THE
19 CELL THAT THEY'RE CURRENTLY IN IS THE LAST CELL
20 THAT WILL BE ALLOWED TO ACCEPT MUNICIPAL SOLID
21 WASTE, AND THAT WILL BE FILLED IN APPROXIMATELY
22 THE YEAR 2004.
23 THE OTHER CHANGES ARE THAT THEY WILL
24 NOW ACCEPT FRIABLE ASBESTOS, IN ADDITION TO ALL
25 THE OTHER INERT WASTE THAT THEY'LL BE ACCEPTING

1 IN THOSE CELLS. AND THE NEW PERMIT WILL REFLECT
2 THAT FACT THAT THEY'LL BE RECEIVING OCCASIONAL
3 PEAK TONNAGES OF UP TO A THOUSAND TONS PER DAY.
4 ALSO, THERE HAVE BEEN ADDITIONAL
5 ENVIRONMENTAL CONTROLS AND SITE IMPROVEMENTS AT
6 THE SITE.
7 AS THIS ITEM WENT TO PRINT THERE WERE
8 STILL TWO OUTSTANDING ISSUES, FINANCIAL ASSURANCE
9 AND CONFORMANCE WITH CIWMP, AS MENTIONED EARLIER.
10 WE HAVE SINCE VERIFIED THAT THE OPERATOR IS IN
11 COMPLIANCE WITH THE FINANCIAL ASSURANCE
12 REQUIREMENTS, AND OUR LEGAL STAFF WILL DISCUSS
13 THE CIWMP CONFORMANCE ISSUES IN A MOMENT.
14 I WOULD ALSO LIKE TO POINT OUT,
15 AGAIN, THAT THIS FACILITY IS CURRENTLY IN
16 VIOLATION OF THE BOARD'S LANDFILL GAS STANDARDS.
17 HOWEVER, WE HAVE BEEN ABLE TO MAKE THE FINDINGS
18 OF THE LONG-TERM GAS VIOLATION POLICY.
19 AS MENTIONED EARLIER, WE HAVE MADE
20 THE FINDING THAT THERE IS NO IMMEDIATE THREAT TO
21 PUBLIC HEALTH/SAFETY, OR THE ENVIRONMENT. IT'S A
22 REMOTE LANDFILL, THERE IS NO STRUCTURES WITHIN A
23 THOUSAND FEET. THE NEAREST RESIDENCE IS ABOUT
24 3,000 FEET AWAY. THE SURROUNDING PROPERTY IS
25 ZONED AGRICULTURAL, AND THE NEAREST PROPERTY

1 THAT'S AFFECTED IS A PART OWNER OF THE LANDFILL.
2 THE OTHER FINDING WE MADE IS THAT THE
3 OPERATOR HAS SUBMITTED AN INTERIM GAS CONTROL
4 PLAN, AND IT SHOWS THAT THEY'LL BE ABLE TO USE
5 THE SAME PLAN THAT BROUGHT TWO OTHER WELLS INTO
6 COMPLIANCE, AND THAT THEY EXPECT TO BE IN
7 COMPLIANCE BY THIS SPRING.
8 ALSO, THE LEA HAS PREPARED AN
9 ENFORCEMENT ORDER, AND THE LATEST EDITION OF THE
10 GAS CONTROL PLAN HAS BEEN INCORPORATED INTO THAT
11 ENFORCEMENT ORDER.
12 AND, JUST AS A CORRECTION, THE SITE'S
13 BEEN ON THE INVENTORY SINCE 1997. I THINK YOU
14 SAID '77.
15 AND THE OPERATOR, WE BELIEVE, IS
16 MAKING A GOOD-FAITH EFFORT TO COMPLY WITH THE
17 ENFORCEMENT ORDER. AS I MENTIONED, THEY'VE
18 ALREADY BROUGHT A FEW OF THE WELLS INTO
19 COMPLIANCE. THEY HAVE A PLAN TO BRING IT INTO
20 COMPLIANCE, AND WE BELIEVE THEY'RE TAKING THE
21 NECESSARY STEPS TO REACH THEIR GOALS THAT ARE IN
22 THE PLAN, AND IN THE NOTICE AND ORDER.
23 SO, IN THIS PARTICULAR INSTANCE,
24 STAFF FEEL THAT THE BENEFITS OF UPDATING THIS
25 PERMIT AT THIS TIME OUTWEIGH THE POTENTIAL

1 IMPACTS OF THE GAS AS IT EXISTS RIGHT NOW.
2 IN SUMMARY, THE LEA AND BOARD STAFF
3 HAVE MADE THE FOLLOWING FINDINGS. THAT THE LEAD
4 AGENCY AND OPERATOR HAVE COMPLIED WITH THE
5 REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL
6 QUALITY ACT. WE ALSO MADE THE FINDING THAT THE
7 DESIGN AND OPERATION ARE IN COMPLIANCE WITH STATE
8 MINIMUM STANDARDS, WITH THE ACCEPTANCE OF THE
9 LANDFILL GAS VIOLATION MENTIONED. THE PROPOSED
10 PERMIT IS CONSISTENT WITH THE STANDARDS ADOPTED
11 BY THE BOARD, INCLUDING THE BOARD'S LONG-TERM GAS
12 VIOLATION POLICY.
13 HOWEVER, BOARD STAFF HAVE NOT YET
14 MADE THE FINDING THAT THIS FACILITY IS CONSISTENT
15 WITH THE APPROVED COUNTY INTEGRATED WASTE
16 MANAGEMENT PLAN. AND, FOR THIS REASON, BOARD DO
17 NOT HAVE A RECOMMENDATION AT THIS TIME. AND
18 ELLIOT BLOCK, FROM OUR LEGAL OFFICE, WILL TALK
19 ABOUT THIS ISSUE.
20 MR. BLOCK: BEING PASSED OUT TO YOU
21 RIGHT NOW IS A COPY OF THE TWO RELEVANT PAGES
22 FROM THE SITING ELEMENT THAT RELATE TO PACHECO
23 PASS, AS I GET THE OVERHEADS HERE LINED UP.
24 THE FIRST THING, BEFORE I START
25 DISCUSSING THIS ISSUE, IS I WANTED TO REEMPHASIZE

1 SOMETHING THAT JOHN JUST SAID. WHICH IS THAT THE
2 STAFF IS NOT MAKING A RECOMMENDATION, IN ONE WAY
3 OR ANOTHER, REGARDING THE CONFORMANCE FINDING FOR
4 THIS FACILITY. WHAT WE ARE DOING IS BRINGING
5 FORWARD AN ISSUE THAT THE BOARD HAS NOT HAD AN
6 OPPORTUNITY TO ADDRESS. THIS IS, IN FACT, THE
7 FIRST TIME THAT IT'S COME UP WHERE WE HAVE A
8 COUNTY THAT'S POST-GAP, SUBJECT TO A -- A
9 INTEGRATED WASTE MANAGEMENT PLAN HAS BEEN
10 APPROVED, WHERE A PROPOSED EXPANSION OF A
11 FACILITY IS COMING FORWARD THAT HAS A DIFFERENT
12 DESCRIPTION THAN THE DESCRIPTION THAT'S IN THE
13 SITING ELEMENT.
14 SO, JUST BRIEFLY TO GO OVER THOSE, AS
15 YOU'LL SEE ON THE MONITOR IN FRONT OF YOU AND
16 AROUND THE ROOM, THE PROPOSED SOLID WASTE
17 FACILITY BEFORE YOU HAS -- SHOWS UP TO 1,000 TONS
18 A DAY, OR WHAT WE TYPICALLY REFER TO AS A PEAK.
19 THE PROJECTION IN THE REPORT OF DISPOSAL SITE
20 INFORMATION, THE RDSI, SHOWS THAT THEY EXPECT TO
21 BE TAKING 425 TONS PER DAY ON AVERAGE.
22 THE APPROVED SITING ELEMENT
23 DESCRIPTION -- AND THAT'S THE COPY OF WHICH YOU
24 HAVE -- I'VE JUST HANDED OUT -- DESCRIBES THIS
25 SITE AS HAVING A MAXIMUM PERMITTED TONNAGE OF 288

1 TONS PER DAY, WITH AN AVERAGE DAILY TONNAGE OF
2 215 TONS PER DAY. AND, ALSO DOES SPECIFY THAT NO
3 EXPANSION PLANS ARE BEING CONSIDERED. SO, IN
4 JUST LOOKING AT THE AVERAGE DAILY TONNAGE, THE
5 INCREASE IN THE AVERAGE DAILY TONNAGE FROM WHAT'S
6 DESCRIBED IN THE SITING ELEMENT IS 210 TONS PER
7 DAY.
8 THE REASON THAT WE HAVE AN ISSUE TO
9 BRING BEFORE THE BOARD TODAY IS A RESULT OF SOME
10 AMBIGUITIES IN THE STATUTE THAT APPLIES AFTER THE
11 INTEGRATED WASTE MANAGEMENT PLAN HAS BEEN
12 APPROVED.
13 PUBLIC RESOURCES CODE SECTION 50001
14 PROVIDES THAT NO PERSON SHALL ESTABLISH OR EXPAND
15 A SOLID WASTE FACILITY UNLESS. AND IN THE CASE
16 OF A DISPOSAL FACILITY THIS STATUTE PROVIDES THAT
17 THE LOCATION OF WHICH IS IDENTIFIED IN THE
18 COUNTYWIDE SITING ELEMENT.
19 TWO ISSUES ARE RAISED BY THIS
20 LANGUAGE. THE FIRST ONE IS WHETHER OR NOT THE
21 PROPOSED PERMIT MUST BE CONSISTENT WITH THE
22 LOCATION IDENTIFIED IN THE SITING ELEMENT, WHAT
23 I'VE SOMETIMES DESCRIBED AS THE DOT ON THE MAP,
24 AND THAT'S WHY I GAVE YOU TWO PAGES FROM THE
25 SITING ELEMENT, ONE PAGE IS THE MAP AND ONE PAGE

1 IS THE DESCRIPTION. OR, DOES IT HAVE TO BE
2 CONSISTENT WITH THE DESCRIPTION THAT'S CONTAINED
3 IN THE SITING ELEMENT.
4 DURING THE GAP PERIOD, BASED ON SOME
5 SITE DIFFERENCES IN THE LANGUAGE AND THE STATUTE,
6 WE HAVE ALWAYS LOOKED AT THE DESCRIPTION AND MADE
7 THE DETERMINATION THAT THERE'S CONSISTENCY THERE
8 IN THE DESCRIPTION. THE LANGUAGE IS SOMEWHAT
9 DIFFERENT IN 50001 AND WOULD ALLOW FOR AN
10 INTERPRETATION THAT THE DOT ON THE MAP IS, IN
11 FACT, SUFFICIENT IN THE POST-GAP PERIOD.
12 IT'S A SIGNIFICANT ENOUGH ISSUE, IN
13 TERMS OF THE IMPACT ON HOW PERMITS COME FORWARD,
14 THAT STAFF WANTED TO BRING THIS ISSUE BEFORE THE
15 BOARD FOR SOME DISCUSSION. AND I'M GOING TO TALK
16 A LITTLE BIT ABOUT THAT, SOME OF THE OTHER
17 PROBLEMS WITH THAT AMBIGUITY IN A MOMENT.
18 THE SECOND ISSUE THAT'S RAISED IS
19 WHAT IS AN EXPANSION. IS THAT, UNDER THE --
20 DURING THE GAP PERIOD EXPANSION HAS GENERALLY
21 BEEN VIEWED AS INVOLVING A CHANGE IN DAILY
22 TONNAGE AT A LANDFILL, AND THERE'S SOME LANGUAGE
23 IN THE GAP STATUTE THAT PROVIDES THAT.
24 THE QUESTION BECOMES, IN THE POST-GAP
25 SITUATION, WHETHER WE SHOULD BE LOOKING AT DAILY

1 TONNAGE OR WHETHER WE SHOULD BE LOOKING AT CHANGE
2 IN THE CAPACITY OF THE LANDFILL. THE PRIMARY
3 PURPOSE OF THE SITING ELEMENT HAVING TO DO WITH
4 THE 15-YEAR CAPACITY REQUIREMENT.
5 SO, JUST TO BRIEFLY OUTLINE THOSE
6 ISSUES. IN TERMS OF THE ISSUE AS TO WHETHER
7 CONFORMANCE REQUIRES CONSISTENCY IN TERMS OF THE
8 LOCATION, OR THE DESCRIPTION OF THE FACILITY, AS
9 MENTIONED EARLIER, THE TEXT OF PUBLIC RESOURCES
10 CODE SECTION 50001 DOES REFERENCE THE LOCATION OF
11 WHICH IS IDENTIFIED. AND I THINK THAT YOU'LL
12 HEAR FROM SOME FOLKS IN A FEW MOMENTS TO SAY THAT
13 THAT LANGUAGE SEEMS TO BE PLAIN ENOUGH, A DOT ON
14 THE MAP SHOULD BE SUFFICIENT IN THAT WE WOULD
15 ALLOW FOR A CONFORMANCE FINDING.
16 THE PROBLEM THAT WE HAVE IDENTIFIED
17 IS THAT THE STATUTORY LANGUAGE ALSO APPLIES TO
18 NOT JUST NEW FACILITIES, BUT EXPANSIONS OF
19 EXISTING FACILITIES. AND, SO IT RAISES AN ISSUE
20 AS TO IF THIS APPLIES TO AN EXPANSION, BY
21 DEFINITION AN EXPANSION OF A FACILITY WILL ALWAYS
22 HAVE -- THAT DOT WILL ALWAYS BE ON THE MAP, AND
23 SO WHY WOULD IT BE NECESSARY TO SEND IT THROUGH
24 THE CONFORMANCE-FINDING PROCESS.
25 AND THEN ALSO, IN TERMS OF LOOKING AT

1 JUST THE CONTEXT OF THE SITING ELEMENT, ONE OF'
2 THE PURPOSES OF THE SITING ELEMENT IS TO ALLOW
3 FOR THE COORDINATION OF WASTE MANAGEMENT PLANNING
4 BY ALL THE CITIES WITHIN A COUNTY. IT WOULD
5 APPEAR THAT SOME DESCRIPTION OF THE OPERATIONS,
6 AND NOT JUST THE LOCATION ON A MAP, WOULD BE
7 NECESSARY FOR THAT PURPOSE.
8 THE OTHER ISSUE THAT IS RAISED BY THE
9 STATUTE IS WHAT IS EXPANSION. AS I MENTIONED
10 PREVIOUSLY, THE GAP STATUTE SPECIFICALLY
11 IDENTIFIES AN EXPANSION AS SOMETHING THAT
12 INVOLVES A SIGNIFICANT INCREASE IN THE TONNAGE
13 HANDLED AT THE LANDFILL. THE STATUTE THAT WE'RE
14 DEALING WITH NOW JUST SIMPLY USES THE WORD
15 "EXPANSION" AND DOESN'T PROVIDE ANY ADDITIONAL
16 DESCRIPTION.
17 SO, ONE POSSIBLE WAY OF INTERPRETING
18 THAT IS THAT EXPANSION, REALLY IT RELATES TO JUST
19 SOMETHING THAT WOULD RESULT IN A SIGNIFICANT
20 CHANGE IN THE CAPACITY OF THE FACILITY. THIS IS
21 BASED ON THE IDEA THAT THE PURPOSE OF THE SITING
22 ELEMENT IS TO ENSURE 15 YEARS OF DISPOSAL
23 CAPACITY, AND AS LONG AS THE DISPOSAL -- THAT 15-
24 YEAR CAPACITY WAS NOT AFFECTED, THE CONFORMANCE
25 FINDING SHOULD NOT BE A PROBLEM.

1 A SECOND WAY TO LOOK AT THAT IS,
2 HOWEVER, TO USE THE SAME INTERPRETATION THAT'S
3 BEEN USED DURING THE GAP PERIOD, WHICH IS TO LOOK
4 AT CHANGE IN DAILY TONNAGE. AND THIS WOULD BE
5 BASED ON THE IDEA THAT THE PURPOSE OF THE SITING
6 ELEMENT IS TO ALLOW FOR COORDINATED PLANNING OF
7 WASTE STRATEGIES THAT -- RECOGNIZING THAT THE
8 CHANGES IN FLOW OF SOLID WASTE WITHIN THE COUNTY
9 IS THE TYPE OF INFORMATION THAT YOU WOULD WANT
10 THE CITIES TO HAVE.
11 WE HAVE SPENT SOME TIME RESEARCHING
12 LEGISLATIVE HISTORY, AND TRYING TO SEE IF THERE
13 WAS SOMETHING THAT WE COULD BRING FORWARD TO THIS
14 DISCUSSION, TO SAY THAT ONE INTERPRETATION OR THE
15 OTHER WAS A MORE OBVIOUS RIGHT ANSWER THAN THE
16 OTHER. AND, UNFORTUNATELY, IN TERMS OF
17 DOCUMENTARY EVIDENCE, WE HAVE NOT FOUND SOME
18 THINGS. I THINK YOU ARE GOING TO HEAR FROM SOME
19 PEOPLE IN A FEW MOMENTS THEIR RECOLLECTIONS OF
20 WHAT THE INTENT OF THE STATUTE WAS WHEN IT WAS
21 FIRST ENACTED.
22 SO, IN TERMS OF OPTIONS THAT THE
23 BOARD HAS TODAY. THE BOARD COULD CERTAINLY FIND
24 THAT THIS PROPOSED PERMIT IS IN CONFORMANCE WITH
25 THE SITING ELEMENT, IF IT DECIDES THAT LOCATION

1 IS SUFFICIENT, IDENTIFICATION OF LOCATION IS
2 SUFFICIENT. OR, EVEN IF A CONSISTENT DESCRIPTION
3 IS NECESSARY, THAT AN EXPANSION IS ONLY SOMETHING
4 THAT AFFECTS THE 15-YEAR CAPACITY. IN THIS
5 PARTICULAR CASE, THERE ARE NO ISSUES RELATED TO
6 THE 15-YEAR CAPACITY FROM THE PROPOSED EXPANSION.
7 THE COUNTY AND THE FACILITY ARE WELL OVER THAT
8 NUMBER.
9 THE BOARD HAS THE OPTION OF FINDING
10 THAT THERE IS NO CONFORMANCE HERE, BECAUSE
11 CONSISTENCY WITH THE DESCRIPTION IN THE SITING
12 ELEMENT IS REQUIRED, AND EXPANSION DOES INCLUDE
13 THE IDEA OF AN INCREASE IN DAILY TONNAGE. THE
14 CONSEQUENCES OF FINDING THAT THE PERMIT IS NOT IN
15 CONFORMANCE WOULD BE THAT THE BOARD WOULD BE
16 REQUIRED TO OBJECT TO THE PERMIT.
17 ONE ADDITIONAL OPTION, WHICH I HAVE
18 ON THIS LIST -- BUT, OF COURSE, IT DEPENDS ON AT
19 THE OPTION OF THE OPERATORS -- THAT THE OPERATOR
20 WERE WILLING TO WAIVE TIME FOR CONSIDERATION OF
21 THE PERMIT BY THE BOARD, WE COULD PUT THIS MATTER
22 OVER FOR A PERIOD OF TIME AND HAVE A POLICY
23 DISCUSSION, A BROADER DISCUSSION ABOUT THIS
24 ISSUE. BUT, AGAIN, THAT WOULD BE UP TO THE
25 OPERATOR, AND I DON'T BELIEVE THAT -- I'VE LEFT

1 IT ON THE LIST OF OPTIONS, BUT I'M NOT SURE THAT
2 THAT'S SOMETHING THAT THEY'RE WILLING TO PUT INTO
3 PLAY.

4 AND I DO BELIEVE ACTUALLY THERE IS A
5 FOURTH OPTION THAT THE OPERATOR'S PROBABLY GOING
6 TO OFFER, BUT I THINK I'LL LET THEM DESCRIBE THAT
7 FOURTH OPTION FOR YOU.

8 ARE THERE ANY QUESTIONS?

9 CHAIRMAN PENNINGTON: QUESTIONS OF
10 STAFF? SENATOR ROBERTI?

11 MEMBER ROBERTI: SORT OF A QUESTION
12 OF STAFF AND AN OBSERVATION ON MY PART. I SEE IN
13 THIS ITEM, AND ON AN ITEM THAT'S COMING UP,
14 SIMILAR QUESTIONS. AND THE PEOPLE WHO ARE
15 PETITIONING THE BOARD RIGHT NOW -- I GUESS IN OUR
16 POSITION, IN CASE THERE IS A CHANGE OR A
17 REDIRECTION OF BOARD POLICY, OR A CLARIFICATION
18 OF WHAT OUR DIRECTION IS, MAYBE IT SHOULDN'T
19 REBOUND AGAINST THESE APPLICANTS WHO HAVE NO
20 NOTICE, UNLESS THERE'S SOME PUBLIC HAZARD WHICH
21 IS INVOLVED.

22 WHICH I DON'T SENSE FROM MY BRIEFINGS
23 AND -- THAT THAT'S GOING TO BE THE CASE. SO, HOW
24 I VOTE ON THE TWO ISSUES THAT ARE GOING TO BE
25 COMING BEFORE US MAY NOT INDICATE HOW I REALLY

1 FEEL ABOUT THE ISSUE.
2 I TEND TO THINK, FOR A NUMBER OF
3 REASONS, THAT THESE PROPOSALS THAT I UNDERSTAND
4 ARE GOING TO BE COMING BEFORE US IN GREATER
5 FREQUENCY, ALL SHOULD BE CONSIDERED EXPANSIONS OF
6 SOLID WASTE FACILITIES. AND I'M NOT TALKING
7 ABOUT TODAY'S MATTERS.
8 I DON'T UNDERSTAND WHAT DIFFERENCE IT
9 MAKES, AN INCREASE IN TONNAGE, OR A EXPANSION
10 GEOGRAPHICALLY AS A SITE, AS FAR AS DISTURBANCES
11 TO THE AIR AND THE WATER MAY BE CONCERNED, IT
12 STRIKES ME AS ALL THE SAME.
13 AND, I TEND TO THINK THAT'S THE CLEAR
14 MEANING OF WHAT THE LEGISLATION IS. I, FRANKLY,
15 DON'T SEE A GREAT QUESTION. BUT DEFERRING TO
16 STAFF, AND DEFERRING TO COUNSEL, THAT THERE IS A
17 COMPLICATION HERE, I'M WILLING TO LET THAT
18 CONDITION MY VOTE FOR TODAY.
19 ANOTHER POINT I THINK THAT'S
20 IMPORTANT AS TO WHY THE COUNTYWIDE SITING ELEMENT
21 SHOULD BE CONSIDERED MORE INCLUSIVE AND,
22 THEREFORE, MORE RESTRICTIVE AS TO WHAT COUNTIES
23 CAN OR CANNOT DO, OR SEEK WAIVERS ON, IS THIS ALL
24 DOES INVOLVE NOTICE. NOTICE TO PEOPLE WHO MAY BE
25 AFFECTED, WHETHER THEY'RE PROPERTY OWNERS THAT'RE

1 NEARBY, WHETHER THEY'RE RESIDENTS -- AND I
2 UNDERSTAND IN THE TWO CASES BEFORE IS THAT IS NOT
3 A MAJOR CONSIDERATION. BUT, THE PRECEDENT THAT
4 WE ESTABLISH FROM THINGS THAT ARE NOT MAJOR
5 CONSIDERATIONS CAN AFFECT THOSE SITUATIONS WHERE
6 YOU DO HAVE A MAJOR CONSIDERATION OF NOTICE.
7 AND I DON'T KNOW OF ANYTHING THAT'S
8 MORE IMPORTANT THAN NOTICE TO AFFECTED PARTIES
9 WHEN YOU HAVE AN EXPANSION OF A SOLID WASTE
10 FACILITY. AND I THINK IT'S ABSOLUTELY CLEAR THAT
11 AN INCREASE IN TONNAGE IS AN EXPANSION OF A SOLID
12 WASTE FACILITY IN ANYBODY'S BOOK, EXCEPT SOMEBODY
13 WHO'S TRYING TO CUT VERY FINE LINES.
14 SO, TODAY'S VOTE -- BECAUSE I
15 UNDERSTAND THAT THERE COULD BE A CERTAIN AMOUNT
16 OF UNFAIRNESS, IF SUDDENLY THE BOARD REDIRECTS
17 POLICY -- AND ONE VOTE ON A BOARD OF SIX IS
18 IMPORTANT -- WOULDN'T NECESSARILY BE VERY FAIR.
19 AND SINCE I TRUST STAFF'S PROTESTATIONS TO ME — 20 DURING THE
BRIEFINGS AND WHAT I ANTICIPATE I'LL
21 HEAR THIS MORNING -- THAT THERE ISN'T A MAJOR
22 HAZARD INVOLVED, I INTEND TO VOTE FOR THIS
23 PACHECO PASS AND THE BUTTE COUNTY ISSUE.
24 BUT, TO SERVE NOTICE THAT ON THE
25 FUTURE -- MY THOUGHT ON THE MATTER IS PRETTY

1 CLEAR, IT'S AN EXPANSION. AND, ABSENT SOME
2 ENORMOUS EMERGENCY TO THE CONTRARY, I INTEND THAT
3 TO BE WHAT GUIDES ME IN FUTURE VOTES. AND I
4 GUESS MY LITTLE NARRATION RIGHT NOW IS JUST TO
5 SET NOTICE OF HOW I FEEL.

6 CHAIRMAN PENNINGTON: VERY GOOD. ANY
7 OTHER QUESTIONS OF STAFF? OKAY, THANK YOU.

8 DENISE DELMATIER: DID YOU WANT TO
9 TALK?

10 MR. SWEETSER: WELL, ACTUALLY I CAN
11 CONDENSE THIS DOWN INTO ONE, HOPEFULLY. I'M
12 LARRY SWEETSER, DIRECTOR OF REGULATORY AFFAIRS
13 FROM NORCAL WASTE SYSTEM, OWNER/OPERATOR OF THE
14 SITE.

15 I THINK THIS IS A PRETTY SIMPLE
16 ISSUE. AT LEAST IT HAS BEEN IN PAST PERMITS IN
17 OTHER FACILITIES WE'VE GONE TO. IT IS AN
18 INTERESTING QUESTION THAT HAS COME UP, AND THERE
19 MIGHT BE SOME APPLICATIONS THERE. AND I THINK,
20 IF I UNDERSTOOD ELLIOT RIGHT, THE FOURTH OPTION
21 ALLUDED TO IS THE ONE WE WERE TALKING ABOUT AS A
22 POLICY ISSUE. GIVEN THE AMOUNT THE FREQUENCY
23 THIS ISSUE'S BEEN COMING UP, AND THE INTENSITY,
24 NO DOUBT IT IS A POLICY ISSUE TO BE LOOKED AT,
25 BOTH IN DEFINITIONS AND IN APPLICATION.

1 BUT, WHAT WE HAVE ON THIS PERMIT IS
2 NOT A CIRCULAR ARGUMENT, IN OUR MINDS, IT'S MORE
3 A SEPARATE ARGUMENT OF THE -- BETWEEN THE PERMIT
4 AND THE PLANNING DOCUMENT.
5 THE BOTTOM LINE FOR THE COUNTY -- AND
6 THEY'VE STATED IT MANY TIMES, BOTH WITHIN THE
7 SITING ELEMENT AND OTHER AREAS -- IS, WITH OR
8 WITHOUT THIS FACILITY THERE IS ADEQUATE CAPACITY,
9 SO THAT GUARANTEE IS THERE. IN FACT, WE ACTUALLY
10 DO HAVE AN IDENTIFICATION DESCRIPTION IN THE
11 SITING ELEMENT, AND THIS IS THE MOST CURRENT OF
12 OUR SITE.
13 THE KEY POINT IS -- BEING POST-GAP --
14 THAT OUR FACILITY DOES MEET THE REQUIREMENTS OF
15 50001 BY BEING -- THE LOCATION IS IDENTIFIED, AND
16 THAT HAS ALWAYS BEEN UNDERSTOOD TO BE A DOT ON
17 THE MAP, THAT'S WHAT WE'VE DONE. WE'VE ACTUALLY
18 DONE MORE IN THIS CASE. IF THERE ARE CHANGES
19 WITHIN THE SITING ELEMENT THEN IT'S APPROPRIATE
20 THAT WE HAVE THAT SITING ELEMENT LOOKED AT. BUT,
21 WE DON'T SEE THAT AS ENCOMPASSING A DELAY ON THE
22 PERMIT'S PART. ESPECIALLY SINCE THERE'S EXISTING
23 CAPACITY AND SUFFICIENT CAPACITY THERE.
24 THERE'S NO DOUBT THAT THE SITING
25 ELEMENT NEEDS TO HAVE A LOT MORE INFORMATION THAT

1 IS REQUIRED ON THE CONFORMANCE FINDING. THAT'S
2 WHAT THE PLAN WAS FOR.
3 AND THAT'S BASICALLY THE SHORT
4 VERSION OF WHAT WE NEED. I'M WILLING TO ANSWER
5 ANY QUESTIONS. I THINK WE'VE MADE A SITE-
6 SPECIFIC STANCE.
7 WE'VE GOT AN OPERATOR HERE READY TO
8 ANSWER ANY QUESTIONS.

9 CHAIRMAN PENNINGTON: MR. EATON?

10 MEMBER EATON: YES. WITH REGARD TO -
11 - AND, FIRST, I SHARE SENATOR ROBERTI'S COMMENTS.
12 AND, ACTUALLY WE HAD LOOKED AT SOME OF IT. AND I
13 THINK THAT NO MATTER WHAT WE DO TODAY, WE OUGHT
14 TO AT LEAST SOMEHOW INSTRUCT THE STAFF TO COME
15 BACK AS QUICKLY AS HUMANLY POSSIBLE WITH SOME
16 OPTIONS FOR THE BOARD. BECAUSE IF IT IS COMING
17 UP WITH REGULARITY -- TWO TODAY, HOW MANY WE KNOW
18 NEXT MONTH AND THE FOLLOWING MONTH -- THAT IF WE
19 COULD JUST DO THAT I THINK THAT WOULD BE HELPFUL.
20 THE INCREASED TONNAGE FOR THIS
21 PARTICULAR FACILITY -- AND YOU'RE GOING TO SEE A
22 LOT MORE OF THIS, BECAUSE YOU PROBABLY HAVE MANY
23 MORE LEGAL MINDS, NOT THAT THEY HAVE ANYTHING
24 OVER ANYONE ELSE, BUT THEY SORT OF TRY TO CROSS
25 "T"S AND DOT "I"S — IS THAT TONNAGE RELATED TO -

1 - WHAT IS THAT INCREASED TONNAGE?

2 MR. SWEETSER: IT'S FOR THE OVERALL
3 SITE. THIS WHOLE PERMIT IS TO BRING US IN
4 COMPLIANCE AND GET RID OF ALL THE PROBLEMS WE'VE
5 HAD IN THE PAST. IT WILL ESSENTIALLY BRING US IN
6 COMPLIANCE WITH OPERATING REALITIES TODAY, AS
7 WELL AS THE WASTE STREAMS AND OTHER THINGS WE
8 TAKE.

9 SO, THE AVERAGE TONNAGE -- THE
10 TONNAGE DESCRIBED IN HERE IS FOR THE SITE. IN
11 REALITY WHAT WE'RE LOOKING AT IS AN INCREASE IN
12 THE INERT AREA. WE HAVE AN INERT CELL THAT NEEDS
13 TO BE FILLED, FOR VARIOUS REASONS, AND THAT'S
14 WHAT MOST OF THIS CAPACITY WILL BE DESIGNATED
15 FOR. AND IT'S A PEAK, USUALLY, IT'S NOT A
16 REGULAR --

17 MEMBER EATON: AND THAT'S WHY I WAS
18 KIND OF ASKING, BECAUSE IN THIS SITUATION WE HAVE
19 A CROSS-PURPOSE WHERE WE HAVE A LOCAL
20 JURISDICTION SAYING DUE TO A PARTICULAR
21 EARTHQUAKE ZONE YOU'RE NO LONGER ABLE TO PUT IN
22 CERTAIN KINDS OF WASTE.

23 MR. SWEETSER: EXACTLY.

24 MEMBER EATON: SO THAT I THINK IF YOU
25 LOOK AT A WRAPPER FROM A, YOU KNOW, COMMERCIAL

1 ESTABLISHMENT, THAT WOULD TEND -- I THINK IT'S
2 FAIRLY OBVIOUS THAT IT'S LIGHTER THAN A PIECE OF
3 WOOD -- HOPEFULLY, EXCEPT IF IT'S BALSA WOOD,
4 PERHAPS -- BUT, GENERALLY.
5 AND SO, THEREFORE, PERHAPS IN YOUR
6 SITUATION THE INCREASED TONNAGE IS DUE MORE TO
7 THE FACT OF THE -- AS YOU SAID, THE INERT AS
8 OPPOSED TO THE OTHER KINDS OF WASTE. AND I WOULD
9 JUST HOPE THAT THE STAFF LOOKS AT THAT ISSUE IN A
10 BALANCING, PERHAPS MAYBE AS A SERIES OF FACTORS,
11 AS IT CONSIDERS WHAT CONSTITUTES EXPANSION.
12 BUT I THINK OVERALL IT WOULD, BUT
13 THERE ARE THOSE KINDS OF EXCEPTIONS WHERE WEIGHT
14 AND A COMPLICATION DUE TO MEANS BEYOND YOUR
15 CONTROL..

16 MR. SWEETSER: THERE HAS BEEN VERY LITTLE
17 SIGNIFICANT INCREASE IN MSW, MUNICIPAL SOLID
18 WASTE, TONNAGE THROUGHOUT THE YEARS. IN FACT,
19 THERE'S QUITE A LOT OF COMPETITION IN SANTA CLARA
20 COUNTY FOR THAT WASTE STREAM. SO WE DON'T EXPECT
21 A MAJOR INCREASE THERE, IT'S THE INERT AREAS THAT
22 WHAT ARE A CONCERN.
23 AND, ABSOLUTELY, WE NEED TO COME BACK
24 AND GET THIS GUIDANCE. WE HAVE OTHER PERMITS
25 PENDING, WE'VE HAD SOME IN THE PAST WHERE THE

1 ISSUE COMES UP, AND IT SEEMS TO BE SOMETHING THAT
2 NEEDS TO BE RESOLVED AS A POLICY ISSUE. AND WE'D
3 BE GLAD TO WORK WITH THE BOARD ON THAT ISSUE.

4 CHAIRMAN BENNINGTON: ANY OTHER
5 QUESTIONS?

6 MR. SWEETSER: THANK YOU.

7 CHAIRMAN PENNINGTON: WE HAVE TWO OTHER
8 PEOPLE WHO HAVE ASKED TO SPEAK, IF NECESSARY, SO
9 I'M NOT SURE IT'S NECESSARY -- I'M SORRY, DENISE.

10 MS. DELMATIER: THANK YOU, MR. CHAIRMAN.

11 DENISE DELMATIER ON BEHALF OF NORCAL WASTE
12 SYSTEMS.

13 I JUST WANTED TO ALSO THANK BOARD
14 MEMBER ROBERTI FOR HIS COMMENTS, AND WE AGREE
15 WITH THOSE COMMENTS. AND OBVIOUSLY, WE HAVE A
16 NEW POLICY QUESTION THAT HAS BEEN RAISED, WE'RE
17 THE FIRST ONE OUT OF THE CHUTE HERE, AND WE'D
18 LIKE TO SEE THE BOARD CONVENE THE
19 STAKEHOLDERS/INTERESTED PARTIES TO ADDRESS THE
20 POLICY ISSUE.

21 HOWEVER, SEPARATE AND APART FROM THIS
22 PERMIT APPLICATION. IT IS A MAJOR POLICY ISSUE
23 THAT REQUIRES A GREAT DEAL OF ATTENTION, AND ALL
24 OF THE PARTIES SHOULD BE BROUGHT TOGETHER,
25 INCLUDING THE ENVIRONMENTAL COMMUNITY, INCLUDING

1 LOCAL GOVERNMENT, THE WASTE RECYCLING INDUSTRY,
2 SO THAT WE CAN PROVIDE A SOLUTION. AND IT MAY,
3 IN FACT, REQUIRE LEGISLATIVE CHANGE.
4 SO, WE ENCOURAGE THAT TO TAKE PLACE
5 AS QUICKLY AS QUICKLY AS POSSIBLE, BECAUSE WE DO
6 HAVE PERMITS COMING FORWARD. BUT WE WOULD
7 ENCOURAGE THAT THAT TAKE PLACE SEPARATE AND APART
8 FROM THIS PERMIT APPLICATION, SINCE WE WERE JUST
9 GIVEN NOTICE, OBVIOUSLY, AS TO THIS NEW POLICY
10 ISSUE. AND WOULD ENCOURAGE THE BOARD, THEN, TO
11 CONCUR IN THIS PERMIT TODAY.

12 CHAIRMAN PENNINGTON: VERY GOOD.
13 QUESTIONS? MR. FRAZEE?

14 MEMBER FRAZEE: I WAS JUST GOING TO
15 INDICATE THAT THIS MAY BE A -- AND I THINK YOU
16 BEAT ME TO THE PUNCH ON THIS -- THAT THIS MAY BE
17 BEYOND POLICY DECISION, IT MAY REQUIRE
18 LEGISLATION TO CORRECT THE AMBIGUITY IN
19 LEGISLATION.

20 AS FAR AS MR. ROBERTI'S COMMENT ON
21 THE NOTICE PART OF THIS, I THINK IN EVERY ONE OF
22 THESE PERMIT DEALINGS, THAT THAT IS TAKEN CARE OF
23 IN OUR FINDING ON THE ADEQUACY OF THE
24 ENVIRONMENTAL DOCUMENT, THAT'S WHERE THE NOTICE I
25 BELIEVE TAKES PLACE. AND, IF WE FIND THAT THE

1 EIR WAS PROPERLY HANDLED, THEN THAT CERTAINLY
2 TAKES CARE OF ANY NOTICE CONSIDERATIONS THAT WE
3 WOULD HAVE, AND IT WOULD NOT BE OUR
4 RESPONSIBILITY BEYOND THAT TO BE ENGAGED IN ANY
5 REQUIREMENTS FOR NOTICE.

6 MEMBER ROBERTI: I TEND TO AGREE WITH YOU
7 ON THAT, EXCEPT I THINK FOR PURPOSES OF THE
8 COUNTY AND I THINK THERE WILL BE A NOTICE
9 PROBLEM. I COULD BE WRONG.

10 CHAIRMAN PENNINGTON: OKAY. ANY OTHER
11 QUESTIONS? NO?
12 OKAY. I HAVE CHARLES BIRD.

13 MR. BIRD: YES, MR. FRAZEE ADDRESSED THE
14 QUESTION THAT I WAS GOING TO TALK ABOUT.

15 CHAIRMAN PENNINGTON: VERY GOOD, THANK
16 YOU.
17 JIM DEWEESE, YOU SAID IF NECESSARY.

18 DO YOU THINK IT'S NECESSARY? I GUESS YOU DO.

19 MR. DEWEESE: I WILL KEEP IT BRIEF. I'M
20 THE SOLID WASTE MANAGER FROM BUTTE COUNTY, SO
21 OBVIOUSLY WE ARE CONCERNED HOW THE PACHECO PASS
22 LANDFILL ISSUES GOES, BECAUSE WE FEEL OURS WILL
23 PROBABLY GO THE SAME WAY SINCE WE HAVE THE SAME
24 ISSUE.

25 SO, WE JUST WANTED TO OFFER THE

1 OPPORTUNITY TO THE BOARD, IF YOU WOULD LIKE US TO
2 PRESENT OUR VIEWPOINTS ON THE CONFORMANCE FINDING
3 ISSUE, THAT IT MAY BE MORE APPROPRIATE TO DO SO
4 AT THIS TIME RATHER THAN UNDER ITEM NO. 4. AND,
5 YOU KNOW, I WILL LEAVE THAT TO THE DISCRETION OF
6 THE BOARD.

7 CHAIRMAN PENNINGTON: I THINK IT'S FINE
8 FOR YOU TO GO AHEAD NOW.

9 MR. DEWEESE: OKAY. THAT BEING THE CASE,
10 I WOULD LIKE TO TURN IT OVER TO SOME PEOPLE WHO
11 ARE MORE UP TO SPEED ON THE LEGAL ISSUES AND THE
12 REGULATORY ISSUES THAN I AM. SO, WE HAVE SOME
13 OTHER PEOPLE, NAMELY MR. CHUCK WHITE FROM WASTE
14 MANAGEMENT, THAT WILL SPEAK ON BEHALF OF OUR
15 OPERATOR.

16 CHAIRMAN PENNINGTON: YOU KNOW, IT WOULD
17 SEEM TO ME THAT IF WE'RE GOING TO TAKE THIS UP AT
18 ANOTHER BOARD MEETING, THIS WHOLE CONFORMANCY
19 THING, MAYBE WE OUGHT TO HOLD THE DISCUSSION ON
20 THAT UNTIL WE GET IT AGENDIZED, INSTEAD OF
21 HOLDING UP THIS PERMIT WHILE WE TALK ABOUT THAT.
22 IF THAT —

23 MR. DEWEESE: YEAH. OBVIOUSLY, WE'RE
24 JUST CONCERNED ABOUT THE FATE OF OUR PERMIT.

25 CHAIRMAN PENNINGTON: SURE.

1 MR. DEWEESE: I THINK OUR PERMIT FOR THE
2 NEAL ROAD LANDFILL IS THE OLDEST EXISTING PERMIT
3 IN THE STATE RIGHT NOW, AND WE WOULD VERY MUCH
4 LOVE TO SEE THAT REVISED TO REFLECT THE CURRENT
5 OPERATIONS. THANK YOU.

6 CHAIRMAN PENNINGTON: AGAIN, I'VE GOT
7 CHUCK WHITE, AND I'VE GOT MIKE MOHAJER.

8 MR. WHITE: THANK YOU, MR. CHAIRMAN. AS
9 JIM INDICATED, FROM BUTTE COUNTY, THAT HIS
10 CONCERN -- WASTE MANAGEMENT IS THE OPERATOR OF
11 THE NEAL ROAD LANDFILL IN BUTTE COUNTY. WE ARE
12 NOT SPEAKING ON BEHALF OR AGAINST THE PACHECO
13 ROAD LANDFILL, BUT THERE IS A QUESTION WITH
14 RESPECT TO THE INTERPRETATION OF 44009.
15 WE BELIEVE 44009 DOES REFER
16 SPECIFICALLY TO 50001, 50001 USED THE TERM
17 IDENTIFYING THE FACILITY PROVIDED THE FACILITY OR
18 THE EXPANSION IS IDENTIFIED, WHICH WE BELIEVE IT
19 IS IN BOTH THE PACHECO ROAD CASE, OR THE NEAL
20 ROAD CASE. THAT GIVES YOU SUFFICIENT GROUNDS TO
21 MAKE A FINDING OF CONFORMANCE AS REQUIRED UNDER
22 44009. WE WOULD ENCOURAGE YOU TO DO SO. THANK
23 YOU.

24 CHAIRMAN PENNINGTON: THANK YOU. VERY
25 GOOD.

1 MIKE MOHAJER, I SEE YOU WANT TO TALK
2 POLICY.
3 MR. MOHAJER: THANK YOU, MR. CHAIR,
4 MEMBERS OF THE BOARD.
5 THE ISSUE OF THIS CONFORMANCE FOR THE
6 SITING ELEMENT, AS YOU KNOW, IS A CRITICAL ISSUE
7 FOR LOS ANGELES COUNTY. WE HAVE DISCUSSED IT
8 APRIL OF '98, OVER HERE, AGAIN JUNE OF '98, AND
9 JUNE 24TH, '98, WHEN THE SITING ELEMENT WAS
10 APPROVED. AND WE ARE STILL WAITING FOR THE ISSUE
11 TO GET RESOLVED.
12 JUST SIMPLY SAYING AMENDING THE
13 SITING ELEMENT, IT IS NOT A SIMPLE ISSUE WHEN ANY
14 AMENDMENT TO THE DOCUMENT WOULD REQUIRE THE
15 APPROVAL OF THE MAJORITY OF THE CITIES.
16 AND THIS IS REALLY SOMETHING THAT
17 NEEDS TO BE PURSUED PROBABLY ON A FASTER SCALE
18 THAN IT HAS BEEN. AND ANY HELP THAT WE CAN
19 PROVIDE WE'LL BE MORE THAN HAPPY TO. THANK YOU.

20 CHAIRMAN PENNINGTON: WE APPRECIATE THAT.
21 SENATOR ROBERTI?

22 MEMBER ROBERTI: YES. NOT ON THIS
23 GENTLEMAN, BUT THE ONE BEFORE, I JUST WANT TO
24 MAKE A SMALL COMMENT. IT WAS MR. WHITE. HE MADE
25 AN INTERESTING COMMENT, AND THAT WAS THAT HIS

1 INTERPRETATION OF THE STATUTE WAS THAT WE -- HE
2 FELT THAT WE COULD GRANT THE WAIVER BASED ON THAT
3 INTERPRETATION OF THE STATUTE. OR, GRANT THE
4 PERMIT, I GUESS, EXCUSE ME.
5 AND I JUST TO INTERJECT THAT COULD
6 AND SHOULD ARE VERY, VERY DIFFERENT, AND THE
7 TENOR OF HIS PRESENTATION WAS COULD MEANT SHOULD.
8 AND I WANT HIM TO KNOW THAT'S WHAT THIS BOARD'S
9 ALL ABOUT. THE FACT THAT A STATUTE DOES
10 AUTHORIZE SOMETHING, OR COULD AUTHORIZE SOMETHING
11 DOESN'T MEAN THAT WE MUST AUTHORIZE IT.
12 AND I KNOW THE BOARD FEELS THAT WAY,
13 BUT I JUST HAD THE FEELING FROM THE SPEAKER, WITH
14 ALL DEFERENCE, BECAUSE HE'S REPRESENTING A PARTY
15 AND THAT'S HIS JOB, THAT I DON'T SEE IT QUITE
16 THAT WAY.

17 CHAIRMAN PENNINGTON: VERY GOOD. OKAY.

18 MEMBER JONES: MR. CHAIRMAN?

19 CHAIRMAN PENNINGTON: YES, MR. JONES.

20 MEMBER JONES: I HAVE A QUESTION FOR
21 ELLIOT. I KNOW WE'RE GOING TO GET INTO THIS AS A
22 POLICY DISCUSSION AT SOME POINT, BUT IF THAT
23 SITING ELEMENT DESCRIPTION, WHICH HAS TO BE WHAT
24 THE TONNAGE IS PERMITTED FOR TODAY, WHEN THAT
25 SITING ELEMENT IS DONE, IF THEY PUT UNDER

1 EXPANSION, POSSIBLE EXPANSION TO THE FOOTPRINT,
2 OR POSSIBLE EXPANSION IN TONNAGES, WOULD THERE BE
3 AN ISSUE? DOES IT THEN CONFORM WITH 50001?

4 MR. BLOCK: WELL, THE PARTICULAR
5 HYPOTHETICAL YOU'VE GIVEN I THINK DOESN'T CHANGE
6 THE EQUATION FOR -- FROM A STAFF POINT OF VIEW.
7 I MEAN, THAT'S A QUESTION, IS THAT SUFFICIENT?
8 IS IT ENOUGH TO SIMPLY SAY IN THE SITING ELEMENT
9 THERE ARE PLANS TO EXPAND, BUT NOT PROVIDE ANY
10 DETAILS ON THAT? OR, DOES THERE HAVE TO BE SOME
11 NUMBER ASSOCIATED WITH THE EXPANSION?
12 AND, AGAIN, IT GOES BACK TO WHAT THIS
13 BOARD WILL VIEW THE SITING ELEMENT REQUIREMENT TO
14 BE. THAT'S AN ISSUE I THINK THAT I'LL MAKE SURE
15 WE INCLUDE IN WHAT WE BRING BACK, EXACTLY HOW
16 DETAILED IT HAS TO BE.
17 I CAN TELL YOU, AROUND THE STATE, IT
18 VARIES WIDELY WHAT THE DOCUMENTS LOOK LIKE. SOME
19 JURISDICTIONS LITERALLY JUST PUT IN THEIR
20 EXISTING FACILITIES AND DID NOT DESCRIBE
21 EXPANSIONS, AND FOR A VARIETY OF REASONS. SOME
22 OF WHICH MAY HAVE BEEN THEY JUST FIGURED THEY'D
23 TAKE CARE OF THAT IN THE FUTURE, AND FOR SOME OF
24 THEM THEY JUST DIDN'T HAVE ANY PLANS. SOME OF
25 THEM HAVE INCLUDED VERY DETAILED DESCRIPTIONS OF

1 EXPANSIONS WITH NUMBERS, AND WITH POSSIBLE
2 SCENARIOS AND THE LIKE.
3 AND AT THIS POINT IN TIME, THAT'S A
4 DECISION UNDER THE STATUTES AND THE REGS THAT,
5 YOU KNOW, THIS BOARD HAS LEFT TO THE
6 JURISDICTIONS TO DECIDE WHO DETAILED THEY WANTED
7 TO MAKE THAT. SO THAT'S ONE OF THE ISSUES I
8 THINK THAT'S ON THE TABLE, AS TO WHAT THAT
9 DESCRIPTION OF EXPANSIONS NEEDS TO LOOK LIKE.

10 MEMBER JONES: OKAY. BECAUSE I STRUGGLED
11 WITH THIS THING QUITE A BIT, BECAUSE I ALWAYS
12 WORRY ABOUT THE GUY THAT'S GOT A 50-TON-A-DAY
13 SITE AND TURNS IT INTO A 10,000-TON-A-DAY SITE.
14 BUT THE MORE I THOUGHT ABOUT IT, THE
15 MORE I THOUGHT THAT THERE IS A ROLE FOR LOCAL
16 GOVERNMENT. AND LOCAL GOVERNMENT'S ROLE IS TO
17 ENSURE CEQA AND THE ENVIRONMENTAL PROTECTION
18 WITHIN ITS JURISDICTIONS.
19 AND THE FACT THAT TO GET ANY PERMIT
20 THROUGH, TO GET HERE, HAS GOT TO GO THROUGH A
21 LOCAL PROCESS THAT I -- YOU KNOW, THAT DEALS WITH
22 THOSE ISSUES, PUTS THEM OUT FOR COMMENT, AND THEN
23 MAKES A DETERMINATION -- AND I KNOW THAT MOST OF
24 THOSE DETERMINATIONS ARE MADE AT EITHER THE BOARD
25 OF SUPERVISORS OR THE CITY COUNCILS. AND I'VE

1 SAT IN AN AWFUL LOT OF THEM, AND IF THERE WERE
2 PEOPLE THAT WERE -- HAD AN ISSUE, THEY WERE
3 THERE.
4 AND I'M WONDERING -- WHERE I'M HAVING
5 A PROBLEM IS THAT -- IS, YOU KNOW, THE ROLE OF
6 THIS BOARD IS TO MAKE SURE THAT THOSE FACILITIES
7 HAVE BEEN IDENTIFIED, THAT PEOPLE UNDERSTAND WHAT
8 IS GOING ON. IT WAS ALMOST AN ACCOUNTABILITY
9 ISSUE, IT SEEMED LIKE AT THE TIME, TO MAKE SURE
10 THAT PEOPLE PLANNED AND UNDERSTOOD WHAT WAS GOING
11 TO HAPPEN, AND THEY WERE LOCATED. AND IF THEY
12 KNEW A TRANSFER STATION'S GOING TO GO INTO A
13 FACILITY THE, BY ALL MEANS, THAT'S GOT TO GO UP
14 THROUGH THE PROCESS, IT'S GOT TO BE AN AMENDED
15 SITING ELEMENT, THOSE ISSUES.
16 BUT WE DO PERMIT REVISIONS EVERY DAY.
17 SO, IF WE WERE TO EXPAND A PERMIT FROM 250 TONS A
18 DAY TO 400 TONS A DAY, IS THAT AN EXPANSION?
19 AND, DOES THAT EXPANSION TRIGGER THEM NOT GETTING
20 A PERMIT REVISION, BUT HAVING TO GO BACK AND DO A
21 SITING ELEMENT REVISION? AND, THAT BOTHERS ME
22 FROM A POINT OF BUREAUCRACY. YOU KNOW, I MEAN,
23 HOW MANY PIECES OF PAPER DO WE HAVE TO HAVE WITH
24 IT WRITTEN DOWN TO MAKE SURE THAT THE PUBLIC'S
25 HEALTH AND SAFETY ARE PROTECTED?

1 AND, SO I'M INTERESTED IN THE DEBATE
2 AND IN THE POLICY, BUT I JUST -- I ABSOLUTELY
3 THINK THAT CEQA'S THE KEY TO THIS THING. AND
4 THAT IT'S IDENTIFIED. I MEAN, IF IT WAS A NEW
5 ONE, BY ALL MEANS, IT HAS TO GO THROUGH THE
6 PROCESS. BUT A REVISION OF A THOUSAND TONS, OR A
7 REVISION OF A HUNDRED TONS COULD TRIGGER THE
8 EXACT SAME CONSEQUENCES, WHERE YOU'D HAVE TO GO
9 BACK AND DO SITING ELEMENTS AND DO ALL THOSE
10 THINGS, AND I DON'T -- I'M TRYING TO ASSESS THE
11 BENEFIT, SO.

12 CHAIRMAN PENNINGTON: YVONNE HUNTER.

13 MS. HUNTER: GOOD MORNING, YVONNE HUNTER
14 WITH THE LEAGUE OF CALIFORNIA CITIES. I WAS JUST
15 HERE TO MONITOR AND LISTEN TO THE POLICY
16 DISCUSSION, AND I'M NOT HERE IN ANY WAY TO
17 COMMENT ON THE PERMIT.
18 BUT, MR. JONES RAISED SOME ISSUES
19 THAT I'VE THOUGHT ABOUT. AND AS THE BOARD
20 PROVIDES DIRECTION TO STAFF ON THE SCOPE OF THE
21 POLICY ISSUES TO CONSIDER, I WOULD ENCOURAGE THEM
22 TO COVER EXACTLY WHAT MR. JONES HAS RAISED, AND
23 SOMETHING THAT I'VE BEEN THINKING ABOUT.
24 AND THAT IS, I HAVE NO IDEA, FRANKLY,
25 WHEN IT'S APPROPRIATE TO REVISE A SITING ELEMENT

1 AND WHEN IT'S NOT. AND I THINK WE NEED TO LOOK
2 AT WHY ONE WOULD REVISE A SITING ELEMENT UNDER
3 DIFFERENT CIRCUMSTANCES.
4 BUT AT THE SAME TIME, TYING INTO
5 SENATOR ROBERTI'S COMMENT ABOUT PUBLIC COMMENT
6 AND PUBLIC NOTICE, WE NEED TO LOOK AT WHEN IN THE
7 PROCESS CEQA KICKS IN, WHAT KIND OF PUBLIC NOTICE
8 IS INVOLVED THERE, AND WHEN IN THE PROCESS THE
9 APPROPRIATE LAND USE PERMITS, CONDITIONAL USE
10 PERMITS KICK IN, AND WHAT THE NOTICE IS THERE.
11 AS WELL AS THE LEAS PROCESS.
12 I MEAN, ALL OF THESE THINGS ARE GOING
13 ON IN PARALLEL, AND SOME OF THEM MAY BE ADEQUATE
14 FOR THE NOTICE PROVISION THAT IS ENVISIONED IN A
15 SITING ELEMENT, SOME OF THEM MAY NOT. BUT I
16 THINK IF WERE GOING TO REVISIT THE POLICY WE
17 NEED TO LOOK AT ALL OF THOSE, AND THE LEAGUE WILL
18 BE HAPPY TO PARTICIPATE IN THOSE DISCUSSIONS.

19 CHAIRMAN PENNINGTON: ALL RIGHT. THANK
20 YOU.
21 SENATOR ROBERTI?

22 MEMBER ROBERTI: YEAH, I'M GOING TO BORE
23 YOU WITH MY EXPERIENCE OF TWO DAYS AGO, IT HAD
24 NOTHING TO DO WITH WASTE MANAGEMENT. BUT I GOT A
25 NOTICE FROM THE CITY OF LOS ANGELES, WHERE I

1 LIVE, THAT MY NEIGHBOR WAS GOING TO BUILD A SIX-
2 FOOT WALL UNDER MY NOSE. WELL, NOT WANTING TO
3 FIGHT THAT BATTLE OUT HERE -- FORTUNATELY I'M IN
4 A POSITION WHERE I CAN TAKE AN ADMIN DAY, GO
5 HOME, TRAVEL TO THE PLANNING COMMISSION WITH MY
6 WIFE, AND LOOK LIKE A GRIEVED RESIDENT, WITH
7 WHOEVER ELSE IS GOING TO COME WITH US, THERE....
8 WHEN YOU HAVE SOMETHING LIKE THIS
9 BEING SITED NEXT DOOR TO YOU, WHETHER IT'S YOUR
10 BUSINESS OR YOUR HOME, NOTHING DRIVES YOU
11 CRAZIER. AND IT DROVE ME CRAZY. WELL, WHY
12 SHOULD YOU BE CRAZY, YOU'RE A STATE SENATOR --
13 WELL, IT DROVE ME CRAZY. YOU KNOW? I MEAN, I
14 DON'T CARE WHO I WAS.
15 SO, I REALLY THINK WE SHOULD BE VERY,
16 VERY CAUTIOUS WHEN WE SHORTCUT NOTICE ON THINGS
17 THAT HAVE AFFECT ON PEOPLE'S PERSONAL PROPERTY.
18 BECAUSE, THEY -- THE NEIGHBOR, THE EDIFICE IN
19 QUESTION -- AND I ASSURE YOU, IF I WAS DRIVEN
20 CRAZY BY A WALL -- AND WHICH THEY WERE TRYING TO
21 MAKE IT BEAUTIFUL -- CAN YOU IMAGINE, I WOULD
22 HAVE GONE THROUGH THE CEILING IF I THOUGHT IT WAS
23 GOING TO BE A DUMP SITE.
24 AND, SO I THINK WE HAVE TO BE VERY
25 CAUTIOUS OF WHEN WE WAIVE NOTICE. AND I THINK

1 WOMAN WHO JUST SPOKE MADE THE POINT, THESE
2 DEADLINES ARE ALL TOGETHER DIFFERENT. AND WE
3 I DON'T THINK ANY OF US KNOW HOW THE DEADLINES
4 INTERRELATE AND COORDINATE WITH EACH OTHER.
5 50, JUST REEMPHASIZING, BECAUSE SHE
6 SHE STIRRED ME TO ANOTHER SPEECH, THAT NOTICE
7 IS TERRIBLY IMPORTANT. AND TO ME IT'S ALMOST AS
8 IMPORTANT AS THE ENVIRONMENTAL CONSIDERATIONS
9 THAT WE'RE DEALING WITH. PEOPLE WANT TO FEEL
10 THAT THEY HAD A CHANCE TO BE HEARD AT EVERY STEP
11 ALONG THE WAY.

12 CHAIRMAN PENNINGTON: VERY GOOD. HOW
13 ABOUT

14 MS. TOBIAS: MR. CHAIR, COULD I I'D
15 LIKE TO ADD I'D LIKE TO ADD, SEPARATE FROM
16 WHAT MR. BLOCK WENT OVER, IN TERMS OF THE
17 CONFORMANCE FINDINGS AND THE LEGALITIES OF THAT?
18 BUT, I DO FEEL IT'S IMPORTANT TO
19 POINT OUT THAT IT HAS BEEN BASICALLY WHEN
20 POLICY ISSUES LIKE THIS ARISE BEFORE THE BOARD,
21 EVEN AT THE LAST MINUTE, AND THERE HAVE BEEN SOME
22 A LOT OF TIMES IN OUR I THINK OUR EFFORT TO
23 GET AGENDA ITEMS BEFORE THE BOARD IN AN
24 EXPEDITIOUS MANNER, A LOT OF TIMES THESE POLICY
25 ITEMS DO BECOME MORE APPARENT AT THE TIME THAT

1 WE'RE BRINGING THE ITEM FORWARD.
2 AND I THINK HERE, WHERE IT INVOLVES
3 TWO AGENDA ITEMS, NOT JUST ONE, I THINK IT MAKES
4 IT VERY CLEAR THAT THERE IS -- AS I THINK YOU'VE
5 ALL ACKNOWLEDGED -- A POLICY ISSUE HERE. AND I
6 THINK -- I JUST FEEL LIKE I'D BE -- IT WOULD BE
7 REMISS TO NOT POINT OUT THAT IT HAS BEEN A
8 PRACTICE OF THE BOARD TO SET THESE SPECIFIC
9 AGENDA ITEMS ASIDE, TO NOT MAKE SPECIFIC AGENDA
10 ITEMS KIND OF CARRY THE WEIGHT OF A POLICY
11 DECISION, BUT TO SET THEM ASIDE AND TAKE UP THE
12 POLICY ITEM.
13 I AM UNCOMFORTABLE WITH THE IDEA THAT
14 THERE WILL BE, POTENTIALLY, FACILITIES OUT THERE
15 THAT WILL BE GOING THROUGH A DIFFERENT PROCESS.
16 THESE THROUGH ONE (SIC) AND POSSIBLY, DEPENDING
17 ON WHAT THE BOARD COMES UP WITH, ON HOW THEY WANT
18 TO DEAL WITH THIS POLICY IN THE FUTURE. IT MAY
19 NOT BE ANY DIFFERENT, AND THEN IN THAT CASE ALL
20 OF THE FACILITIES WOULD HAVE BEEN TREATED THE
21 SAME.
22 BUT, I'M UNCOMFORTABLE, I HAVE TO
23 SAY, JUST FROM MY OWN VIEWPOINT HERE, IN TERMS OF
24 THE BOARD'S PRACTICE ON THIS, AND ALSO HAVING
25 FACILITIES THAT HAVE BEEN TREATED DIFFERENTLY.

1 SO, I FELT THAT WAS IMPORTANT TO HEAR FROM THE
2 LEGAL OFFICE.

3 CHAIRMAN PENNINGTON: THANK YOU.
4 MR. FRAZEE?

5 MEMBER FRAZEE: YES. I CERTAINLY SHARE
6 SOME OF THOSE FEELINGS. BUT, JUST AS A COUNTER
7 TO THAT, I THINK THAT, YOU KNOW, THE REAL BOTTOM- 8 LINE PURPOSE OF
CIWMP IS TO ENSURE CAPACITY. AND
9 I THINK THIS ONE CAN BE TREATED DIFFERENTLY THAN
10 PERHAPS OTHERS, IN THAT THE CAPACITY IS ASSURED.
11 I UNDERSTAND THAT, WITH OR WITHOUT
12 THIS FACILITY, SANTA CLARA COUNTY STILL HAS 30
13 YEARS OF CAPACITY. SO, I THINK THAT THIS IS ONE
14 THAT CAN BE TAKEN OUTSIDE OF THE BOX AND LET THE
15 POLICY DECISION GO FOR ANOTHER DAY BEFORE THAT --
16 HINGING ON THAT SINGLE POINT OF THE PURPOSE OF
17 THE COUNTYWIDE INTEGRATED PLAN IS TO ENSURE
18 CAPACITY, AND THAT IS NOT IN QUESTION HERE.
19 SO, I DON'T THINK THIS ONE REALLY
20 DISTURBS -- AND, THIS LOOKS LIKE IT'S GOING TO BE
21 A LENGTHY DISCUSSION AND, AS I SUGGESTED EARLIER,
22 MAY EVEN REQUIRE LEGISLATION, WHICH WOULD TAKE
23 THE BETTER PART OF A YEAR, AND I THINK IT'S FAR
24 MORE IMPORTANT TO GET SOME OF THESE PERMITS
25 UPGRADED IN THE INTERIM.

1 MS. TOBIAS: WELL, I ACKNOWLEDGE THAT IT
2 IS A LENGTHY PROCESS. AND, I GUESS, GIVEN WHAT
3 YOU'VE JUST SAID I'M GLAD I DID BRING IT UP --

4 MEMBER FRAZEE: YEAH.

5 MS. TOBIAS: -- BECAUSE I THINK YOU'RE
6 MAKING A DISTINCTION THERE THAT WILL PROVIDE SOME
7 GUIDANCE FOR ANY OTHER FACILITIES THAT ARE COMING
8 IN, IN BETWEEN NOW AND WHEN THE BOARD GETS A
9 POLICY. SO, I THINK THAT'S THE IMPORTANT THING,
10 IS TO MAKE IT CLEAR, YOU KNOW, WHY THE BOARD
11 FEELS THAT THEY CAN GO AHEAD WITH THESE
12 FACILITIES.

13 AND, BECAUSE I THINK THAT THE CASE
14 WILL BE, IS THAT THE REST WILL EXPECT TO BE
15 TREATED THE SAME WAY, AND I THINK YOU'RE
16 DELINEATING, GIVEN THE INTENT OF THE CIWMP, AT
17 LEAST WHAT YOU SEE AS A REASON TO DO THAT, SO.

18 MEMBER FRAZEE: AND HAVING SAID THAT, I
19 JUST HOPE THAT NEAL ROAD FALLS IN THAT SAME
20 CATEGORY.

21 MS. TOBIAS: ACTUALLY, I JUST ASKED MR.
22 BLOCK THAT AND HE SAYS IT DOES, SO THAT WAS MY
23 IMMEDIATE CONCERN.

24 MEMBER FRAZEE: SO, MR. CHAIRMAN, I'M
25 GOING TO MOVE ADOPTION OF RESOLUTION 1999-27, AND

1 THIS IS THE CONSIDERATION OF A REVISED PERMIT FOR
2 THE PACHECO PASS SANITARY LANDFILL.

3 CHAIRMAN PENNINGTON: VERY GOOD.

4 MEMBER ROBERTI: MR. CHAIRMAN?

5 CHAIRMAN PENNINGTON: YES.

6 MEMBER ROBERTI: IF I COULD OFFER AN
7 AMENDMENT, MAYBE THE AUTHOR OF THE MOTION WILL
8 TAKE IT. AND THAT IS THAT THE LANGUAGE
9 'CONFORMANCE WITH THE COUNTY INTEGRATED WASTE
10 MANAGEMENT PLAN' BE STRICKEN BECAUSE -- AND THE
11 WHEREAS CLAUSE, THE LAST WHEREAS CLAUSE -
12 BECAUSE I AM VOTING FOR THIS, OR INTEND TO VOTE
13 FOR THE RESOLUTION, BUT NOT BECAUSE IT'S IN
14 CONFORMANCE WITH THE COUNTY INTEGRATED WASTE
15 MANAGEMENT PLAN, BECAUSE I THINK THAT'S THE BIG
16 QUESTION.

17 MEMBER FRAZEE: WELL, AS THE MAKER OF THE
18 MOTION, I CANNOT ACCEPT THAT. I THINK THAT'S THE
19 WHOLE PURPOSE. THAT'S A FINDING THAT MUST BE
20 MADE BEFORE WE CAN MOVE AHEAD, AND THAT JUST
21 TAKES THIS WHOLE DISCUSSION OUT OF THE REALM OF
22 CONSIDERATION.

23 MS. TOBIAS: MR. ROBERTI, WHICH WHEREAS
24 WAS THAT, PLEASE -- SENATOR ROBERTI?

25 MEMBER ROBERTI: IT IS -- LET ME SEE.

1 I THINK IT'S THE LAST ONE.

2 MS. TOBIAS: THE LAST ONE? THANK YOU.

3 CHAIRMAN PENNINGTON: MR. FRAZEE HAS

4 MOVED. CAN WE HAVE A SECOND FOR MR. FRAZEE'S --

5 IF NOT. . .? MR. JONES?

6 MEMBER JONES: I'LL SECOND IT.

7 I UNDERSTAND WHAT THE SENATOR'S

8 SAYING ON THE CONFORMANCE. I THINK THAT --

9 MEMBER ROBERTI: I DON'T SEE WHY WE NEED

10 TO SAY THAT.

11 MEMBER JONES: IT HAS TO CONFORM TO YOUR

12 PERMIT.

13 MEMBER ROBERTI: STRIKING IT DOESN'T MEAN

14 IT'S CONFORMING OR NOT CONFORMING.

15 MS. TOBIAS: WOULD IT HELP TO PUT MR.

16 FRAZEE'S POINT IN THERE, WHICH WAS THAT IT'S

17 CONFORMANCE WITH THE INTENT? OR, CONFORMANCE

18 WITH THE PLAN AND THE INTENT OF THE PLAN, AS TO

19 CAPACITY, SO THAT IT CLARIFIES WHAT THE BOARD'S

20 MAKING A DISTINCTION ON?

21 MEMBER ROBERTI: OKAY. I'LL BE EASY

22 GOING HERE. IF YOU PUT THE WORD "INTENT" OF THE

23 -- IF YOU QUALIFY THE WHOLE THING WITH THE WORD

24 "INTENT" I PROBABLY COULD ACCEPT IT. CONFORMANCE

25 WITH THE INTENT OF THE COUNTY INTEGRATED WASTE

1 MANAGEMENT PLAN.

2 MS. TOBIAS: OR, I WAS -- I DON'T KNOW IF
3 THIS IS NOT ENOUGH, BUT I WAS SAYING, IN
4 CONFORMANCE WITH THE PLAN AND THE INTENT OF THE
5 PLAN, SO THAT IT KIND OF COVERS BOTH BASES. SO
6 THAT WOULD BE ONE OTHER OPTION.

7 MS. DELMATIER: MR. CHAIRMAN?

8 CHAIRMAN PENNINGTON: YES?

9 MS. DELMATIER: I CERTAINLY APPRECIATE
10 MR. ROBERTI'S CONCERNS REGARDING THE PRECEDENT,
11 AND THE POLICY QUESTION THAT HAS BEEN RAISED
12 TODAY.

13 AS MR. FRAZEE POINTED OUT, IT'S OUR
14 UNDERSTANDING, IN READING THE STATUTES, THAT IN
15 FACT THE STATUTES DO REQUIRE THAT THE BOARD MAKE
16 A FINDING OF CONFORMANCE. AND IF WE FAIL TO MAKE
17 THAT FINDING, IN ADOPTION OF THE PERMIT, THEN IT
18 SUBJECTS THIS PERMIT TO LEGAL CHALLENGE. AND, SO
19 WE DO HAVE A CONCERN ABOUT ADOPTING AND
20 CONCURRING THE PERMIT WITHOUT THAT STATUTORILY-
21 REQUIRED FINDING.

22 MEMBER ROBERTI: COULD YOU GIVE ME THE
23 SECTION WHERE IT SAYS THAT?

24 MR. WHITE: I BELIEVE THAT'S SECTION 44009
25 OF THE PUBLIC RESOURCES CODE.

1 MEMBER ROBERTI: YEAH. RIGHT OFF THE TOP
2 OF MY HEAD, YEAH, I REMEMBER THAT --

3 MR. WHITE: YEAH, I HAVE IT HERE, SECTION
4 44009 STATES, IN PART THAT:
5 "IF THE BOARD DETERMINES THAT THE
6 PERMIT IS NOT CONSISTENT WITH SECTIONS
7 50000 OR 50001, THEN THE BOARD SHALL
8 OBJECT TO THE PROVISIONS OF THE PERMIT
9 AND SHALL SUBMIT THOSE OBJECTIONS TO THE
10 LOCAL ENFORCEMENT AGENCY FOR ITS
11 CONSIDERATION."

12 MEMBER ROBERTI: BUT THAT DOESN'T STRIKE
13 ME THAT WE HAVE TO, THEN, PUT THIS LANGUAGE IN.
14 UNLESS WE'RE TRYING TO DOT EVERY "1" AND CROSS
15 EVERY "T" FOR PETITIONER. EVEN AT THE RISK OF
16 ESTABLISHING A PRECEDENT THAT WILL GO -- BE FAR
17 MORE REACHING THAN WHAT I WANT TO DO.
18 I'M WILLING TO ADJUST FOR YOU, BUT I
19 DON'T SEE WHY WE SHOULD HAVE TO CROSS EVERY, YOU
20 KNOW, "T" AND POSSIBLY ESTABLISH A PRECEDENT.

21 MS. DELMATIER: MAY I SUGGEST AN
22 ALTERNATIVE? AND ASK FOR LEGAL COUNSEL, FOR SOME
23 ASSISTANCE IN THIS REGARD?
24 IS IT POSSIBLE TO ADOPT THE PERMIT,
25 AS WE HAVE ALWAYS DONE, AND HAS BEEN A CHECK-OFF

1 ITEM ON ALL PERMITS? AND AGAIN, THIS WOULD -- IF
2 WE WERE NOT TO PROVIDE FOR THIS FINDING, THAT IN
3 FACT WOULD ESTABLISH A PRECEDENT AND A DEPARTURE
4 FROM PREVIOUS PRACTICE. AND I RECOGNIZE THAT --
5 WHAT THE CONCERN IS.
6 BUT, AS AN ALTERNATIVE -- AND ASKING
7 FOR ASSISTANCE FROM LEGAL COUNSEL IN THIS REGARD
8 -- COULD WE PROVIDE A LETTER OF EXPLANATION
9 ATTACHED TO THE PERMIT, THAT THE BOARD IS GOING
10 TO LOOK AT THIS LARGER POLICY QUESTION, AND THAT
11 THAT LARGER POLICY QUESTION, IN ADOPTING THIS
12 PERMIT TODAY, WILL NOT PREJUDICE THAT DECISION ON
13 THE LARGER POLICY QUESTION?

14 MS. TOBIAS: WELL, I DON'T HAVE A PROBLEM
15 WITH THAT, BECAUSE I THINK -- MY UNDERSTANDING IS
16 THAT IT REALLY IS THE INTENT OF WHERE THE BOARD'S
17 GOING TODAY ANYWAY. SO I THINK THAT COULD EITHER
18 BE IN THE MOTION, IT COULD EITHER BE IN A SECOND
19 MOTION AFTER THE APPROVAL OF IT.

20 I DO THINK THAT THE BOARD NEEDS TO
21 TELL STAFF THAT YOU DO WANT STAFF TO GO AHEAD AND
22 WORK ON THIS POLICY ISSUE. ALTHOUGH, I THINK THE
23 TRANSCRIPT WILL ALSO REFLECT THIS DISCUSSION.

24 MS. DELMATIER: I UNDERSTAND THE
25 TRANSCRIPT WILL REFLECT THE DISCUSSION. BUT IN

1 TRYING TO PROVIDE CLARIFICATION FOR MR. ROBERTI'S
2 CONCERNS, I THINK THAT THAT WOULD PROVIDE
3 ADDITIONAL CLARIFICATION, AS FAR AS THIS DECISION
4 TODAY WOULD NOT PREJUDICE THE POLICY QUESTION,
5 EITHER FOR THIS PERMIT OR ANY OTHER PERMIT.

6 MEMBER ROBERTI: RIGHT. AND THAT MAY BE
7 SOMETHING WE CAN DO IN A SECOND MOTION. I THINK
8 WE COULD DO IT IN THIS MOTION, TOO, IF WE WANT
9 TO. BUT I WOULD SAY THAT'S PROBABLY SOMETHING WE
10 COULD DO IN A SECOND MOTION. THAT STAFF BE
11 DIRECTED TO MEET WITH THE VARIOUS STAKEHOLDERS,
12 AND COME BACK WITH A RECOMMENDATION AT A TIME
13 WHICH STAFF FEELS IS EXPEDITIOUS, AND YET
14 SUFFICIENT. AND SO, YEAH, I WOULD -- I LIKE THE
15 SUGGESTION, AND I WOULD SAY THAT THAT COULD BE A
16 FOLLOW-UP MOTION.

17 ABSENT SOME STATEMENT THAT THIS
18 CONFORMANCE WITH THE COUNTY INTEGRATED WASTE
19 MANAGEMENT PLAN IS -- HAS TO BE STATED, I DON'T
20 SEE WHY IT'S NECESSARY. I HAVEN'T HEARD WHY IT
21 HAS TO BE STATED, EXCEPT FOR THE COMFORT ON THE
22 PART OF THE PETITIONER.

23 MS. TOBIAS: WELL, IT IS ONE OF THE
24 FINDINGS THAT WE TYPICALLY MAKE, AND I THINK IF
25 YOU DON'T HAVE IT IN THERE THAT PROBABLY

1 INTRODUCES SOME ELEMENT OF QUESTION.
2 I HAVE ONE MORE SUGGESTION, AND THAT
3 IS TO SAY CONFORMANCE -- THAT THE BOARD FINDS
4 THAT ALL STATE AND LOCAL REQUIREMENTS HAVE BEEN
5 MADE, INCLUDING CONSISTENCY WITH BOARD STANDARDS,
6 CONFORMANCE WITH THE INTENT TO PROVIDE 15 YEARS
7 OF CAPACITY IN THE COUNTY INTEGRATED WASTE
8 MANAGEMENT PLAN.

9 MEMBER ROBERTI: I'LL GO ALONG WITH THAT.

10 MEMBER FRAZEE: YEAH.

11 I'LL AMEND MY MOTION AND THE RESOLUTION
12 TO REFLECT THAT --

13 CHAIRMAN PENNINGTON: OKAY.

14 MS. DELMATIER: MR. CHAIRMAN?

15 CHAIRMAN PENNINGTON: YES?

16 MS. DELMATIER: IF I MIGHT? AS

17 REPRESENTING THE APPLICANT IN THIS REGARD,
18 OBVIOUSLY WE WOULD -- AND I THOUGHT WE HAD
19 AGREEMENT HERE IN TRYING TO ADDRESS MR. ROBERTI'S
20 CONCERNS. IT CERTAINLY WOULD BE OUR PREFERENCE
21 TO PROVIDE FOR THE SECOND MOTION, IN PROVIDING
22 THE CLARIFICATION ON THE POLICY QUESTION, AS
23 OPPOSED TO HAVING THAT EXPRESS FLEXIBILITY
24 LANGUAGE THAT COULD BE SUBJECT TO INTERPRETATION
25 IN THE PERMIT ADOPTION RESOLUTION ITSELF.

1 SO, IF WE COULD HAVE THE SECOND
2 MOTION, FOR PURPOSES OF CLARIFICATION, THAT THE
3 POLICY QUESTION IS NOT PREJUDICED BY ADOPTION OF
4 THIS PERMIT, THAT WOULD BE OF GREAT ASSISTANCE.
5 AND, I THOUGHT THAT THAT WAS WHAT WE WERE
6 DISCUSSING.

7 MEMBER ROBERTI: WELL, I DON'T WANT TO
8 PREJUDICE -- THE SECOND -- I DON'T WANT TO
9 PREJUDICE THE POLICY QUESTION EITHER, TILTING
10 TOWARD THE WAY I'M LEANING, OR TILTING THE WAY
11 THAT PROBABLY HAS BEEN SORT OF BOARD POLICY. SO,
12 YEAH, THAT'S MY POSITION. BUT I DON'T WANT TO
13 TILT IT ONE WAY OR THE OTHER.

14 MS. DELMATIER: EXACTLY. AND NEITHER DO
15 WE, BECAUSE THAT IS A FUNDAMENTAL POLICY QUESTION
16 THAT'S GOING TO BE DEBATED AT LENGTH, AND IT WILL
17 BE RATHER CONTROVERSIAL. AND WE ALL KNOW THAT,
18 IN FAIRNESS WE ALL KNOW THAT. SO, WE DON'T WANT
19 TO TILT ONE WAY OR THE OTHER. WE WANT THIS
20 ADOPTION -- THIS PERMIT TODAY TO BE ABSOLUTELY
21 NEUTRAL IN THAT REGARD.

22 50 THAT'S WHY, IF WE PUT IT IN THE
23 PERMIT ADOPTION RESOLUTION, I DO IN FACT BELIEVE
24 THAT WE WILL BE TILTING. IF WE PUT IT IN A
25 SECOND MOTION THAT CLARIFIES THE BOARD'S POLICY -- CALIFORNIA

1

2 MEMBER ROBERTI: I UNDERSTAND WHAT YOU'RE
3 SAYING. BUT THAT MEANS YOU STILL WANT
4 CONFORMANCE WITH THE COUNTY INTEGRATED WASTE
5 MANAGEMENT PLAN IN THERE --

6 MS. DELMATIER: THAT IS SUBJECT TO
7 INTERPRETATION DOWN THE ROAD, ONCE THE BOARD
8 ADOPTS THAT POLICY.

9 MEMBER ROBERTI: I KIND OF LEAN TOWARDS
10 THE -- WELL, THE LANGUAGE WHICH MS. TOBIAS IN A
11 SPIRIT OF COMPROMISE OFFERED, AND I DON'T THINK
12 THAT AFFECTS YOU AT ALL, ONE WAY OR THE OTHER.

13 MS. DELMATIER: ONE OF THE POLICY
14 QUESTIONS THAT WE WILL BE ADDRESSING IN THAT
15 LARGER DISCUSSION IS WHO, IN FACT, IS RESPONSIBLE
16 FOR DEMONSTRATING THE MINIMUM 15-YEAR DISPOSAL
17 CAPACITY. AND AS WE HAVE DEBATED IN THE
18 LEGISLATURE OVER THIS VERY BILL, AB 3001, CORTEZE
19 (PHON), AND DEBATED IN THE DISCUSSIONS, IN FACT,
20 IN AB 939, THAT RESPONSIBILITY SOLELY LIES WITH
21 CITIES AND COUNTIES, THE LOCAL AGENCIES. AND BY
22 PUTTING THIS INTENT LANGUAGE, DEMONSTRATING A 15-
23 YEAR DISPOSAL CAPACITY, IN A PRIVATE PERMIT
24 APPLICATION, AGAIN, WE WILL BE IN FACT TILTING
25 THAT DISCUSSION.

1 MEMBER ROBERTI: BUT ISN'T THAT WHAT
2 WE'RE DOING ANYWAY, WITH THIS LANGUAGE WHICH --
3 OR, YOU'RE APPARENTLY RECOMMENDING? I MEAN, IT'S
4 SUBSUMED IN THIS LANGUAGE ANYWAY.

5 MS. DELMATIER: BUT IT WOULD NOT BE AN
6 OFFICIAL ADOPTION IN THE PERMIT APPLICATION. IT
7 WOULD BE AN EXPLANATORY LANGUAGE, SEPARATE AND
8 APART FROM THE PERMIT RESOLUTION.

9 MEMBER ROBERTI: WELL, I DON'T UNDERSTAND
10 WHY YOU WOULD BE CONCERNED WITH THE 15-YEAR
11 LANGUAGE. IN FACT, THAT'S --

12 MS. DELMATIER: BECAUSE WE'RE LINKING THE
13 PERMIT APPLICATION TO THE CITY AND COUNTY
14 RESPONSIBILITY --
15 (THE PARTIES SIMULTANEOUSLY SPEAK.)

16 MEMBER ROBERTI: -- WE'RE LINKING IT WITH
17 THE CONFORMANCE -- WITH YOUR LANGUAGE. SO, I
18 MEAN, I DON'T UNDERSTAND THE PROBLEM.

19 MS. TOBIAS: I THINK THAT'S A GOOD IDEA.

20 MEMBER ROBERTI: I MEAN, YOU JUST WANT
21 BROADER LANGUAGE, AND I UNDERSTAND THAT. BUT ON
22 MY VOTE, I'M NOT PREPARED TO GIVE IT. AND I WANT
23 TO BE FAIR, SIMPLY ON A NOTICE TO YOUR ENTITY,
24 THAT YOU SHOULDN'T BE THE FIRST ONE UP AND BE HIT
25 WITH A NEW POLICY CONSIDERATION. AND, THERE ARE

1 NO PUBLIC HAZARDS INVOLVED, AND I TAKE THAT TO BE
2 THE CASE.

3 BUT, I DON'T WANT TO GO ANY FURTHER
4 THAN THAT, BECAUSE THIS ISSUE IS MUCH MORE
5 EXPANSIVE THAN NORCAL OR PACHECO PASS.

6 MS. DELMATIER: AND, MR. ROBERTI, YOU'RE
7 RAISING VERY GOOD ISSUES HERE. AND BEING AN
8 EXPERIENCED LEGISLATIVE ADVOCATE ON THE
9 LEGISLATIVE FRONT, I CONCUR WITH YOUR ASSESSMENT.

10 CHAIRMAN PENNINGTON: WE HAVE A MOTION ON
11 THE FLOOR TO ADOPT RESOLUTION 99-27, AS AMENDED
12 BY MS. TOBIAS' LANGUAGE, SECONDED BY MR. JONES.
13 IF THERE'S NO FURTHER DISCUSSION,
14 COULD WE CALL THE ROLL, PLEASE?

15 THE SECRETARY: BOARD MEMBER EATON?

16 MEMBER EATON: AYE.

17 THE SECRETARY: FRAZEE?

18 MEMBER FRAZEE: AYE.

19 THE SECRETARY: JONES?

20 MEMBER JONES: AYE.

21 THE SECRETARY: ROBERTI?

22 MEMBER ROBERTI: AYE.

23 THE SECRETARY: CHAIRMAN PENNINGTON?

24 CHAIRMAN PENNINGTON: AYE.

25 THE MOTION CARRIES.

1 WE'RE GOING TO TAKE ABOUT FIVE

2 MINUTES HERE.

3 (OFF THE RECORD: BRIEF RECESS.)

4 //

5 ITEM NO. 4: CONSIDERATION OF A REVISED SOLID

6 WASTE FACILITY PERMIT FOR NEAL ROAD LANDFILL,

7 BUTTE COUNTY

8 CHAIRMAN PENNINGTON: OKAY. NEXT WE'LL

9 GO TO ITEM NUMBER FOUR, CONSIDERATION OF A

10 REVISED SOLID WASTE FACILITY PERMIT FOR NEAL ROAD

11 LANDFILL.

12 MS. NAUMAN: THIS ITEM BEFORE YOU IS THE

13 CONSIDERATION OF A REVISED SOLID WASTE PERMIT FOR

14 THE NEAL ROAD LANDFILL IN BUTTE COUNTY. THE

15 PROPOSED PERMIT IS TO ALLOW FOR THE DISPOSAL OF

16 170 TONS OF WASTE PER DAY TO ACCOMMODATE FOR THE

17 INCREASED ACREAGE OF 165 ACRES WITH 101 ACRES FOR

18 DISPOSAL AND A SUBSEQUENT EXTENSION OF A CLOSURE

19 DATE TO 2018. THE PROPOSED PERMIT ALSO SETS A

20 MAXIMUM ELEVATION OF 495 FEET.

21 THE CEQA DOCUMENTATION HAS BEEN FOUND

22 TO MEET ALL REQUIREMENTS.

23 IN YOUR ITEM, AS IT'S PRINTED, THERE

24 IS NO RECOMMENDATION DUE TO AN OUTSTANDING ISSUE

25 OF OPERATING LIABILITY. THIS HAS SINCE BEEN

1 RESOLVED AND THE OPERATOR HAS PROVIDED THE
2 NECESSARY INFORMATION, AND IT MEETS THE
3 REQUIREMENTS.
4 THE ONLY REMAINING ISSUE IS THE
5 CONFORMANCE FINDING, AS WITH PACHECO PASS.
6 STAFF IS WILLING TO FOLLOW THE SAME
7 DIRECTIONS AS GIVEN IN THE PREVIOUS ITEM. ELLIOT
8 BLOCK IS AVAILABLE TO DISCUSS THE SPECIFICS IF
9 YOU NEED HIM TO.

10 CHAIRMAN PENNINGTON: OKAY. IS THAT IT?

11 MS. NAUMAN: THIS CONCLUDES MY
12 PRESENTATION. AND CHARLIE BIRD, WITH THE LEA IS
13 ALSO HERE TO ANSWER QUESTIONS.

14 CHAIRMAN PENNINGTON: OKAY. ANY
15 QUESTIONS OF -- YES, MR. FRAZEE?

16 MEMBER FRAZEE: PERHAPS YOU'D IDENTIFY
17 YOURSELF FOR THE RECORD?

18 MS. KARL: OH, I'M SORRY, CHRISTINE KARL
19 FROM THE PERMITTING AND INSPECTION BRANCH.

20 MEMBER FRAZEE: THE QUESTION I HAVE
21 REALLY COMES OUT OF THE PREVIOUS ITEM, AND I SEE
22 THIS ONE AS PERHAPS BEING A LITTLE DIFFERENT, IN
23 THAT THERE IS NOT A LARGE NUMBER OF LANDFILLS IN
24 BUTTE COUNTY.

25 DOES THIS STILL — WILL EXCEED THE

1 15-YEAR CAPACITY TEST FOR THE COUNTY?

2 YOU MIGHT IDENTIFY THE OTHER

3 LANDFILLS.

4 MR. BIRD: THERE ARE NO OTHER MUNICIPAL

5 LANDFILLS IN BUTTE COUNTY, THIS IS THE ONLY ONE.

6 CHAIRMAN PENNINGTON: EXCUSE ME, WILL YOU

7 IDENTIFY YOURSELF FOR THE RECORD?

8 MR. BIRD: THIS IS THE ONLY ONE UNDER

9 PERMIT IN BUTTE COUNTY.

10 I'M CHARLES BIRD, I'M THE LEA FOR

11 BUTTE COUNTY.

12 CHAIRMAN PENNINGTON: OKAY, THANK YOU.

13 MR. BIRD: I'M GETTING AHEAD OF MYSELF.

14 YES, 165 ACRES WE WILL HAVE CAPACITY

15 PROBABLY SOMEWHERE UP AROUND THE YEAR 2030, 2040,

16 WHEN WE COME BACK TO THE BOARD TO REVISE THE

17 PERMIT TO OPEN UP THE REMAINING PORTION OF IT.

18 BUT RIGHT NOW WE FIGURE WE'RE GOOD FOR AT LEAST

19 2018.

20 MEMBER FRAZEE: 2018. THAT HAS A SLIGHT

21 BEARING ON MY DECISION ON THIS, BECAUSE YOU'RE

22 HINGING YOUR ENTIRE COUNTY CAPACITY ON A SINGLE

23 LANDFILL, AND I'LL HAVE TO WEIGH THAT WHEN -- TO

24 SEE. I GUESS THE EXPANSION CAPACITY IS HERE, AND

25 THAT HELPS MY COMFORT LEVEL QUITE A LITTLE BIT ON

1 THIS.

2 BUT IN THE CASE OF SANTA CLARA

3 COUNTY, THERE ARE NUMEROUS LANDFILLS, PLUS

4 NEIGHBORING COUNTY LANDFILLS THAT COULD TAKE UP

5 ANY GAPS, SO.

6 CHAIRMAN PENNINGTON: MR. JONES, DID YOU

7 HAVE A QUESTION?

8 MEMBER JONES: WELL, JUST ONE ISSUE. THE

9 RESOLUTION, AS IT'S PRINTED DOESN'T HAVE THE SAME

10 PARAGRAPH. SO I'M WONDERING --

11 MS. KARL: I DISCUSSED THAT WITH ELLIOT

12 BLOCK, AND HE SAID -- LET'S SEE, THE SECOND FROM

13 THE LAST WHEREAS?

14 MEMBER JONES: YEAH. I DON'T HAVE A

15 PROBLEM WITH WHAT YOU SAID HERE, BECAUSE WHAT YOU

16 SAID IS BOARD STAFF HAVE EVALUATED THE PROPOSED

17 PERMIT FOR CONSISTENCY WITH THE STANDARDS ADOPTED

18 BY THE BOARD.

19 AND IT SEEMS TO ME THAT THAT KIND OF

20 TAKES CARE OF SENATOR ROBERTI'S ISSUE, BECAUSE

21 THE POLICY OF THE BOARD, THE STANDARD OF THE

22 BOARD IS THAT WE'RE GOING TO GO IN AND DO A

23 POLICY ISSUE ON CONFORMANCE.

24 SO, WHERE THIS WAS A DROP-DEAD ISSUE,

25 IT'S NOT EVEN AN ISSUE HERE, AND I JUST THOUGHT

1 IT WAS, YOU KNOW, THE GIFT OF THE PEN -- OF THE
2 WORD SMITH. AND THEY HAVE AVOIDED ABOUT A HALF
3 HOUR OF DISCUSSION.

4 MS. TOBIAS: WELL, LET ME TRY TO KILL
5 THAT. I REALLY DON'T KNOW WHY THESE RESOLUTIONS
6 WOULD DIFFER. AND I HAVE TO SAY THAT IT WOULD BE
7 THE PREFERENCE OF MYSELF THAT THE RESOLUTIONS
8 WOULD BE PRETTY MUCH THE SAME, BECAUSE OF THE
9 SIMILARITY OF THE ISSUES AND, YOU KNOW, FOR ANY
10 FUTURE ACTIONS. SO --

11 MEMBER JONES: SHOULD WE GO BACK AND
12 CHANGE THE FIRST ONE?

13 MS. TOBIAS: MR. JONES, THAT WOULD
14 CERTAINLY BE ONE OF YOUR PREROGATIVES. I WOULD
15 ARGUE FOR THE LANGUAGE OF THE FIRST ONE MYSELF,
16 BUT....

17 MEMBER JONES: I'M HAPPY WITH THE WAY THE
18 RESOLUTION IS THERE.

19 CHAIRMAN PENNINGTON: SENATOR ROBERTI?

20 MEMBER ROBERTI: I WOULD SAY WE SHOULD
21 JUST PROBABLY GO WITH THE IDENTICAL LANGUAGE.

22 CHAIRMAN PENNINGTON: OKAY, WE HAVE SOME

23

24 MEMBER ROBERTI: AND I WOULD HATE TO

25 TREAT A COUNTY-OWNED FACILITY WITH LESS DEFERENCE

1 THAN I AM A PRIVATELY-OWNED FACILITY, AT LEAST
2 THEY SHOULD BE EQUAL.

3 CHAIRMAN PENNINGTON: YOU'LL AGREE WITH
4 THAT.

5 MEMBER JONES: ABSOLUTELY I WILL,
6 ABSOLUTELY.

7 MEMBER EATON: CALL THE ROLL.

8 CHAIRMAN PENNINGTON: OKAY. NOW WE HAVE
9 JIM DEWEESE.

10 MEMBER JONES: DO THEY WANT TO SPEAK OR
11 DO THEY WANT TO HEAR A MOTION? ARE THERE ANY
12 OPPOSED?

13 CHAIRMAN PENNINGTON: NO, THEY'RE ALL FOR
14 IT.

15 MEMBER JONES: MR. CHAIRMAN, I'D LIKE TO
16 MAKE A MOTION. I WANT TO AMEND RESOLUTION 1999-
17 30 TO INCLUDE AN ADDITIONAL WHEREAS, THAT SAYS
18 WHEREAS THE -- WHATEVER THE LANGUAGE WAS FROM THE
19 ONE, SO I DON'T MISSPEAK, AND WOULD MOVE THAT FOR
20 ADOPTION WITH THAT LANGUAGE INCLUDED AS A LAST
21 WHEREAS.

22 MS. TOBIAS: I THINK IT'S A REPLACEMENT
23 FOR THE SECOND TO THE LAST WHEREAS, AND I THINK
24 THERE'S JUST THE PHRASE LEFT OUT OF THAT ONE. I
25 DON'T HAVE MINE BECAUSE MARLENE TOOK IT FOR THE

1 LANGUAGE. BUT I THINK YOU COULD JUST SUBSTITUTE
2 THE LANGUAGE OF THAT WHEREAS.

3 MEMBER JONES: FOR THE SECOND TO THE LAST
4 WHEREAS?

- 5 MS. TOBIAS: THE SECOND TO THE LAST ONE.
6 I THINK THAT WOULD MEET THE NEEDS OF CONSISTENCY.

7 MEMBER JONES: THAT'S MY MOTION.

8 MEMBER FRAZEE: I WOULD SECOND THAT.

9 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
10 MOVED BY MR. JONES, AND SECONDED BY MR. FRAZEE,
11 ADOPTION OF RESOLUTION 99-30, AS AMENDED BY MS.
12 TOBIAS.

13 IF THERE'S NO FURTHER DISCUSSION,
14 WILL THE SECRETARY CALL THE ROLL?

15 THE SECRETARY: BOARD MEMBER EATON?

16 MEMBER EATON: AYE.

17 THE SECRETARY: FRAZEE?

18 MEMBER FRAZEE: AYE.

19 THE SECRETARY: JONES?

20 MEMBER JONES: AYE.

21 THE SECRETARY: ROBERTI?

22 MEMBER ROBERTI: AYE.

23 THE SECRETARY: CHAIRMAN PENNINGTON?

24 CHAIRMAN PENNINGTON: AYE.

25 THE MOTION CARRIES.

1 YES, SENATOR ROBERTI?

2 MEMBER ROBERTI: IS IT PROPER NOW TO
3 OFFER A MOTION THAT WE DIRECT THE STAFF TO MAKE
4 AN ASSESSMENT OF THE ENTIRE PROBLEM REGARDING
5 SECTION FIFTY ONE AND THAT THEY BE DIRECTED TO
6 MEET WITH THE VARIOUS STAKEHOLDERS FOR INPUT, AND
7 AT A REASONABLE TIME CERTAIN COME BACK TO THE
8 BOARD WITH THEIR RECOMMENDATIONS SO WE CAN ENGAGE
9 IN A POLICY STATEMENT.

10 AND, I DON'T KNOW, MAYBE MS. TOBIAS
11 COULD TELL US WHAT SHE THINKS A REASONABLE AMOUNT
12 OF TIME WOULD BE?

13 MS. TOBIAS: I'LL DEFER TO MS. FRIEDMAN.

14 MR. CHANDLER: NO, JUDY'S NOT HERE. BUT
15 IT'S ALSO GOING TO INVOLVE THE PERMITTING AND
16 ENFORCEMENT DIVISION.

17 I THINK WE COULD BE BACK BEFORE YOU
18 IN 60 DAYS. I'D LIKE TO HAVE -- NOT MAKE A
19 COMMITMENT THAT WE'LL BE BACK HERE AT THE
20 FEBRUARY BOARD MEETING, BUT WE WILL CERTAINLY
21 SHOOT FOR THE BOARD MEETING THAT WILL OCCUR
22 SOMETIME IN MARCH, AS WE SET OUR CALENDAR.

23 MEMBER ROBERTI: IF NOT MARCH, APRIL?

24 MR. CHANDLER: THE MARCH/APRIL TIME
25 FRAME.

1 MEMBER ROBERTI: OKAY.

2 MEMBER FRAZEE: I WILL SECOND THAT
3 MOTION.

4 CHAIRMAN PENNINGTON: OKAY.

5 MEMBER JONES: MR. CHAIRMAN, MAY I ASK
6 THE SENATOR A QUESTION?

7 CHAIRMAN PENNINGTON: MR. JONES,
8 CERTAINLY.

9 MEMBER JONES: OR THE BOARD. THOSE
10 FACILITIES THAT COME FORWARD FOR REVISIONS IN
11 THEIR PERMIT BETWEEN NOW AND THE TIME WE
12 DETERMINE THAT POLICY, WILL WE BE INCLINED TO
13 TREAT THEM. .

14 BECAUSE THERE'S GOING TO BE SOME THAT
15 ARE IN THE TUBE, I'M SURE, THAT ARE GOING TO COME
16 FORWARD IN A MONTH --

17 MEMBER ROBERTI: THAT'S A GOOD QUESTION,
18 I HADN'T THOUGHT OF THAT. WELL, IT DEPENDS ON
19 THE PARAMETERS OF DISCUSSION. THESE TWO PERMITS
20 WERE FAIRLY NON-CONTROVERSIAL. I MEAN, THEY
21 DIDN'T REALLY CARRY ANY BAGGAGE EXCEPT THEY GOT
22 STUCK WITH THE INTERPRETATION, AND I DON'T KNOW
23 IF THAT'S THE CASE ON THE OTHERS.

24 MS. TOBIAS: WELL, FROM THE LEGAL POINT -

25

1 CHAIRMAN PENNINGTON: SO WE'D HAVE TO
2 LOOK AT IT ON A CASE-BY-CASE BASIS.

3 MEMBER ROBERTI: I THINK WE HAVE TO LOOK
4 AT IT ON A CASE-BY-CASE BASIS. BUT MAYBE, YOU
5 KNOW, HOPEFULLY IF MR. CHANDLER CAN BE BACK WITH
6 US BY MARCH, AND CERTAINLY NO LATER THAN APRIL,
7 THEN I DON'T HAVE TOO GREAT A PROBLEM, IF WE HAVE
8 SIMILAR CASES LIKE THIS, LIKE THESE TWO, VOTING
9 THE SAME WAY.

10 IF THERE'S A PROBLEM -- IF THERE IS
11 ANY PUBLIC OPPOSITION, THEN I'D BE INCLINED TO
12 WANT TO PUT THEM OVER, UNLESS --

13 MEMBER JONES: SURE.

14 MEMBER ROBERTI: -- UNLESS WE HAVE NO
15 OPTION.

16 MEMBER EATON: YOU KNOW, ONE OF THE WAYS
17 MAYBE TO ALSO HANDLE IT, BECAUSE IT IS A
18 LEGITIMATE ISSUE, IS THAT IF WE COULD EITHER,
19 THROUGH OUR -- THE APPROPRIATE DIVISION, PROBABLY
20 PERMITTING, INFORM THE LEAS AND THE OTHER TYPES
21 OF -- AND WITH THE HELP OF BOTH THE STAFF, AS
22 WELL, INFORMING THEM THAT THIS IS TAKING PLACE
23 AND THAT THE PERMITS WILL BE LOOKED AT. THAT
24 KIND OF FALLS, OR DOVETAILS, INTO YOUR NOTICE
25 REQUIREMENT.

1 IT'S SIMPLY -- I WOULD ASSUME WE
2 COMMUNICATE WITH THEM ON A REGULAR BASIS ANYWAY,
3 I DON'T THINK IT HAS TO BE RISEN TO THE LEVEL OF
4 AN ADVISORY, BUT SURELY SOME KIND OF
5 COMMUNICATION, EITHER -- YOU KNOW, FORMALLY THAT
6 THIS IS TAKING PLACE. AND THAT MAY HELP -- OR,
7 STEM SOME OF THEM FROM COMING FORWARD AT THE TIME
8 -- GIVE US THAT TIME TO MAKE THAT POLICY.

9 MS. TOBIAS: WELL, I MIGHT ALSO ADD, FROM
10 THE POINT OF VIEW OF THE LEGAL OFFICE, THAT I
11 THINK THAT THE BOARD DID SET A PARAMETER, IN THE
12 SENSE OF LOOKING AT THE CAPACITY ISSUE. AND
13 THAT'S ONE OF THE REASONS I RAISED THIS PROBLEM
14 OF TAKING UP A PERMIT BEFORE WE HAVE A POLICY.
15 SO I THINK IF' SOMEBODY, YOU KNOW,
16 ASKS US, WE ARE GOING TO BASICALLY REFER BACK TO
17 THIS DISCUSSION THAT TALKS ABOUT THE NOTICING
18 THAT SENATOR ROBERTI BROUGHT UP, AND THAT -- THE
19 CAPACITY ISSUE THAT MR. FRAZEE BROUGHT UP, IN
20 TERMS OF DO THEY HAVE THE CAPACITY, DO THEY MEET
21 THE INTENT AT LEAST OF THAT PLAN. AND I THINK
22 THAT THAT'S WHAT WE WOULD BE LOOKING AT AS WE
23 REVIEW THOSE AGENDA ITEMS, UNTIL WE GET A POLICY
24 ITEM FINISHED.

25 MEMBER JONES: YEAH. MY CONCERN WAS THAT

1 THOSE FACILITIES THAT WOULD COME FORWARD WOULD AT
2 LEAST GET THAT, YOU KNOW, INDIVIDUAL TYPE LOOK-
3 AT, AS OPPOSED TO WE'RE NOT GOING TO LOOK AT THEM
4 UNTIL WE HAVE THIS POLICY. BECAUSE, BELIEVE IT
5 OR NOT, THAT CAN GET VERY CRAZY. SO NOT A
6 PROBLEM, THAT'LL WORK.

7 CHAIRMAN PENNINGTON: OKAY. WE HAVE A
8 MOTION BY SENATOR ROBERTI, AND SECONDED BY MR.
9 FRAZEE, TO CONVENE THE POLICY DISCUSSION ON
10 CONFORMANCY.

11 IF THERE'S NO FURTHER DISCUSSION,
12 WILL THE SECRETARY CALL THE ROLL?

13 THE SECRETARY: BOARD MEMBER EATON?

14 MEMBER EATON: AYE.

15 THE SECRETARY: FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: ROBERTI?

20 MEMBER ROBERTI: AYE.

21 THE SECRETARY: CHAIRMAN PENNINGTON?

22 CHAIRMAN PENNINGTON: AYE.

23 THE MOTION CARRIES.

24 ITEM NO. 13: CONSIDERATION OF INYO COUNTY'S

25 REVISED COMPLIANCE SCHEDULE FOR SUBMITTAL OF THE

1 COUNTYWIDE SITING ELEMENT

2 CHAIRMAN PENNINGTON: WE'RE GOING TO TAKE
3 ONE OUT OF ORDER HERE, 13, WHICH IS CONSIDERATION
4 OF INYO COUNTY'S REVISED COMPLIANCE SCHEDULE FOR
5 SUBMITTAL OF THE COUNTYWIDE SITING ELEMENT.

6 MR. SCHIAVO: GOOD MORNING CHAIRMAN,
7 BOARD MEMBERS, I'D LIKE TO PRESENT ITEM NO. 13,
8 CONSIDERATION OF INYO COUNTY'S REVISED COMPLIANCE
9 SCHEDULE FOR SUBMITTAL OF THE COUNTYWIDE SITING
10 ELEMENT. AND I'M PAT SCHIAVO OF THE OFFICE OF
11 LOCAL ASSISTANCE.

12 BEFORE WE GO ON WITH THE FORMAL
13 PRESENTATION I'D JUST LIKE TO MENTION THAT ALL OF
14 THE DOCUMENTS WERE ORIGINALLY DUE IN 1996, AND
15 SINCE THAT TIME THE BOARD HAS GIVEN OUT SEVERAL
16 EXTENSIONS TO JURISDICTIONS TO SUBMIT THE
17 DOCUMENTS.

18 SO, DIANE SHIMIZU WILL BE MAKING THE
19 FORMAL PRESENTATION FOR YOU.

20 CHAIRMAN PENNINGTON: THANK YOU.

21 MS. SHIMIZU: GOOD MORNING CHAIRMAN
22 PENNINGTON AND BOARD MEMBERS. ITEM NO. 13 IS A
23 REQUEST BY INYO COUNTY TO EXTEND THE DEADLINE FOR
24 SUBMITTING THE COUNTYWIDE SITING ELEMENT TO APRIL
25 23RD, 1999.

1 ON JANUARY 28TH, 1998, THE BOARD
2 HEARD AN ITEM REGARDING JURISDICTIONS WITH LATE
3 PLANNING DOCUMENTS. THE BOARD ADOPTED RESOLUTION
4 98-28, ACCEPTING COMPLIANCE SCHEDULES FOR
5 SUBMITTING THE MISSING DOCUMENTS FOR SEVERAL
6 JURISDICTIONS, INCLUDING INYO COUNTY.
7 AT THE APRIL 29TH, 1998, BOARD
8 MEETING THE BOARD CONSIDERED AND APPROVED REVISED
9 COMPLIANCE SCHEDULES FOR SUBMITTING PLANNING
10 DOCUMENTS.
11 INYO COUNTY SUBMITTED A REVISED
12 COMPLIANCE SCHEDULE IN WHICH THEY SET A DUE DATE
13 OF DECEMBER 9TH, 1998, FOR SUBMITTING THE MISSING
14 SITING ELEMENT AND SUMMARY PLAN.
15 THE COUNTY PETITIONED THE BOARD AND
16 WAS EXEMPTED FROM PREPARING A SUMMARY PLAN AT THE
17 AUGUST 13TH, 1998, BOARD MEETING. THIS MEANT
18 THAT THE SITING ELEMENT WAS THE ONLY DOCUMENT TO
19 BE SUBMITTED BY DECEMBER 9TH.
20 THE COUNTY HIRED A CONSULTANT TO
21 DRAFT THE SITING ELEMENT. BOARD STAFF RECEIVED
22 THE PRELIMINARY DRAFT SITING ELEMENT ON JUNE 8TH,
23 1998, AND MAILED COMMENTS TO INYO COUNTY ON JULY
24 17TH. AT THE SAME TIME, HOWEVER, THE CONSULTANTS
25 THAT DRAFTED THE PRELIMINARY DRAFT SITING ELEMENT

1 CLOSED THEIR OFFICE. THE COUNTY CHOSE TO FIND
2 ANOTHER CONSULTING FIRM TO COMPLETE THE PROJECT.
3 ON NOVEMBER 19TH, 1998, THE COUNTY'S
4 NEWLY-HIRED CONSULTANT FOR THE SITING ELEMENT
5 PROJECT CALLED STAFF TO PROPOSE A REVISED
6 COMPLIANCE SCHEDULE. STAFF RECEIVED THE FORMAL
7 WRITTEN REQUEST FROM THE COUNTY TO REVISE THE
8 COMPLIANCE SCHEDULE ON DECEMBER 4TH, 1998.
9 WHEN THE DECEMBER 9TH DEADLINE PASSED
10 WITHOUT RECEIPT OF INYO COUNTY'S SITING ELEMENT
11 STAFF SENT A LETTER TO THE INYO COUNTY BOARD OF
12 SUPERVISORS STATING THAT THE COUNTY HAD 60 DAYS
13 FROM RECEIPT OF THAT LETTER TO SUBMIT THE
14 COMPLETED DOCUMENT.
15 THE LETTER EXPLAINED THAT, IN THE
16 ABSENCE OF AN APPROVED EXTENSION TO THE DUE DATE,
17 IF THE MISSING DOCUMENT WAS STILL NOT RECEIVED
18 WITHIN THE 60-DAY PERIOD, THEN THE BOARD WOULD
19 SCHEDULE A HEARING AT THE EARLIEST POSSIBLE DATE
20 TO DETERMINE WHETHER TO IMPOSE ADMINISTRATIVE
21 CIVIL PENALTIES AGAINST THE COUNTY.
22 SINCE THIS AGENDA ITEM WAS WRITTEN
23 INYO COUNTY HAS MADE ADDITIONAL PROGRESS ON THEIR
24 SITING ELEMENT. THE COUNTY'S CONSULTANT
25 SUBMITTED A SECOND DRAFT OF THE SITING ELEMENT

1 AND REQUESTED ADDITIONAL FEEDBACK FROM STAFF.
2 THIS DRAFT, RECEIVED ON DECEMBER 29TH, ADDRESSED
3 MOST OF THE BOARD STAFF'S COMMENTS MADE ON THE
4 PRELIMINARY DRAFT. STAFF FAXED COMMENTS ON THE
5 SECOND DRAFT TO THE COUNTY AND CONSULTANT ON
6 JANUARY 15TH OF THIS YEAR.
7 ALTHOUGH STAFF ARE WORKING CLOSELY
8 WITH THE JURISDICTION TO EXPEDITE THE PROCESS OF
9 COMPLETING THE COUNTY'S SITING ELEMENT, THERE
10 STILL REMAINS THE BOARD'S CONCERN OVER THE
11 APPARENT INEQUITY IN ALLOWING SOME JURISDICTIONS
12 TO EXTEND THEIR COMPLIANCE SCHEDULES WHEN OTHER
13 JURISDICTIONS HAVE SUBMITTED THEIR DOCUMENTS ON
14 TIME.
15 ADDITIONALLY, THE BOARD HAS PROVIDED
16 GENERAL DIRECTION THAT THE MISSING DOCUMENTS BE
17 SUBMITTED BY THE END OF 1998.
18 STAFF ARE, THEREFORE, RECOMMENDING
19 DISAPPROVAL OF INYO COUNTY'S REVISED COMPLIANCE
20 SCHEDULE.
21 CHUCK HAMILTON OF INYO COUNTY, AND
22 THE COUNTY'S CONSULTANT, EVAN NIKIRK, ARE PRESENT
23 TODAY TO ADDRESS THIS ITEM.
24 THIS CONCLUDES MY PRESENTATION. ARE
25 THERE ANY QUESTIONS?

1 CHAIRMAN PENNINGTON: QUESTIONS OF STAFF?
2 OKAY. IF NOT, CHUCK HAMILTON.
3 MR. HAMILTON: GOOD MORNING, CHUCK
4 HAMILTON, DIRECTOR OF THE WASTE MANAGEMENT
5 PROGRAM IN INYO COUNTY. BEFORE I -- I HAVE EVAN
6 NIKIRK WITH ME, TOO, FROM ENVIRONMENTAL RESOURCES
7 INTERNATIONAL, CARSON CITY.
8 BEFORE I MAKE ANY COMMENT WITH REGARD
9 TO ITEM 13, I JUST WANT TO TAKE A SECOND AND
10 THANK THIS BOARD, AND BOARD MEMBERS FRAZEE AND
11 JONES IN PARTICULAR, AND YOUR STAFF, FOR ALL THE
12 HELP THAT YOU GAVE US IN CLEANING UP OUR EXISTING
13 TIRE PILE IN INYO COUNTY. THE TIRES ARE GONE,
14 AND THERE ARE SOME LEFT THAT WE ARE USING AS
15 DAILY COVER, AS AN ALTERNATIVE DAILY COVER. AND
16 I APPRECIATE YOUR STAFF'S HELP AND THE BOARD'S
17 HELP.
18 WITH REGARD TO ITEM 13, AS STAFF
19 STATED, THE COUNTY DID SUBMIT A SITING ELEMENT IN
20 JUNE OF '98, AND AT THAT SAME TIME -- AND WE DID
21 RECEIVE COMMENTS FROM STAFF AND WE -- AT THE SAME
22 TIME -- THIS IS WHEN THE CONSULTANT, VICTOR
23 ENGINEERING, THAT PREPARED THE SITING ELEMENT WAS
24 CLOSING THEIR OFFICE, AND IT THREW US INTO SOME
25 TURMOIL.

1 AND SO WE WERE OUT SCRAMBLING TO TRY
2 TO FIND ANOTHER CONSULTANT TO ADDRESS THE
3 COMMENTS IN THE ORIGINAL SITING ELEMENT. AND WE
4 WENT THROUGH THE PROCESS OF HIRING A NEW
5 CONSULTANT, AND IT WAS ERI, EVAN NIKIRK, AND HE
6 WAS BROUGHT UP TO SPEED.

7 AND THEN WE GAVE HIM THE SITING
8 ELEMENT PROVISIONS AS OUR TOP PRIORITY TO BE
9 SUBMITTED TO THE STATE. AND AS STAFF HAS STATED,
10 THE SITING ELEMENT IS DONE AND IS BEING
11 CIRCULATED FOR REVIEW RIGHT NOW. AND WE WILL BE
12 RECEIVING COMMENTS FROM THE STAKEHOLDERS, THE
13 COMMENTS ARE DUE FEBRUARY 12TH.

14 NOW, WE CAN MAKE A MARCH 31 DEADLINE,
15 OR SUBMITTAL DATE FOR LOCAL ADOPTION IF WE WERE
16 TO DO A NOTICE OF EXEMPTION FOR CEQA --

17 MEMBER JONES: YOU CAN'T DO THAT.

18 MR. HAMILTON: -- OR A MAY 31ST DEADLINE,
19 IF WE GO THROUGH THE NEG DEC PROCESS.

20 IN TALKING WITH THE INYO COUNTY
21 PLANNING DIRECTOR, HE'S REVIEWED THE SITING
22 ELEMENT AND HE HAS MADE COMMENT THAT THE PROJECT,
23 IN HIS OPINION, DOES MEET THE EXEMPTION STATUS
24 UNDER CEQA REQUIREMENTS. BECAUSE, HE WAS SAYING
25 THAT THE PLANNING -- OR, THE CEQA ELEMENT IS A

1 PLANNING DOCUMENT -- OR, SITING ELEMENT, I'M
2 SORRY, IS A PLANNING DOCUMENT, AND IT'S AN
3 ONGOING PROJECT.
4 AND THE COUNTY LANDFILLS DO EXCEED
5 THE 15-YEAR CAPACITY REQUIREMENT. IN FACT, WE
6 HAVE A AVERAGE SITE LIFE OF 76 YEARS FOR OUR
7 LANDFILLS.
8 AND, ALSO, THAT ANY FUTURE PERMITTING
9 AND/OR EXPANSION WILL REQUIRE CEQA REVIEW PRIOR
10 TO THE PROJECT IMPLEMENTATION.
11 WE FEEL THAT WE ARE MAKING GOOD
12 STRIDES IN INYO COUNTY WITH OUR NEW CONSULTANT
13 BEING ON BOARD, AND GETTING ON TRACK. WE WERE
14 JUST INSPECTED BY YOUR STAFF LAST WEEK.
15 AND THEN, LIKE I SAID, THE TIRES ARE
16 GONE. WE'VE GOT FENCING UP AROUND OUR LAST -- WE
17 HAVE FIVE LANDFILLS, AND WE STARTED WITH A FIVE-
18 YEAR PLAN, THIS IS THE FIFTH YEAR OF THAT FIVE-
19 YEAR PLAN, AND WE JUST COMPLETED THE FENCING OF
20 OUR LAST SITE OUT IN TACOPA (PHON), THAT'S OUT
21 NEAR DEATH VALLEY.
22 WE HAVE BID OPENINGS TODAY TO FENCE
23 THE BISHOP/SUNLAND (PHON) SITE. WHEN WE REMOVED
24 THE TIRES -- PART OF THOSE TIRES WERE A PERIMETER
25 FENCE, AND SO WE ARE OPENING BIDS TODAY TO

1 CONSTRUCT A FENCE AROUND THE SITE.
2 AND WE HAVE COMPLETED THE SITE
3 COVERAGE. WE WANTED -- WE CONTRACTED WITH A
4 EQUIPMENT OPERATOR OUT OF RIDGECREST, CALIFORNIA,
5 TO PROVIDE COVERAGE OF SOME DAYLIGHTING WASTE ON
6 TWO OF OUR SITES, AND THAT'S BEEN COMPLETED. IT
7 TOOK LONGER THAN WE THOUGHT IT WAS GOING TO TAKE,
8 BUT IT'S -- HE HAS NOW COMPLETED THE WORK.
9 AND WE ARE WORKING AT A FEVERISH
10 PACE. EVERYTHING IS IN THE PIPELINE TO BE
11 COMPLETED, WE JUST NEED A LITTLE MORE TIME. THE
12 FUNDING IS THERE FOR -- THE BOARD OF SUPERVISORS
13 HAS ALLOCATED THE FUNDING TO FINISH THE WORK.
14 IT'S JUST THAT WE NEED A LITTLE MORE TIME, AND I
15 ASK THAT THE BOARD PLEASE GIVE US THAT TIME.
16 THAT'S ALL I'VE GOT TO SAY, UNLESS
17 THERE'S ANY QUESTIONS.

18 CHAIRMAN PENNINGTON: QUESTIONS OF MR.
19 HAMILTON?

20 DID MR. NIKIRK WANT TO SAY ANYTHING?

21 OKAY.

22 MEMBER JONES: MR. CHAIRMAN?

23 CHAIRMAN PENNINGTON: MR. JONES.

24 MEMBER JONES: I HAVE A COUPLE COMMENTS.

25 CHAIRMAN PENNINGTON: OKAY.

1 MEMBER JONES: THE WORD "FEVERISH PACE"
2 AND "INYO COUNTY" JUST DON'T WORK IN THE SAME
3 SENTENCE, AND I SAY THAT WITH RESPECT.
4 BUT I ALSO SAY IT WITH THE FACT THAT
5 I'VE GONE THERE, I'VE BEEN THERE, I WAS ASKED TO
6 GO THERE TO HELP ON SOME ISSUES. AND I KEEP
7 GETTING UPDATES FROM OUR STAFF ON HOW WE'RE DOING
8 ON OUR COMPLIANCE, HOW WE'RE DOING ON THOSE TYPES
9 OF THINGS, AND WE'RE FALLING BEHIND.
10 WE PUSHED, MR. FRAZEE AND I, AND MR.
11 RELIS (PHON) TO DEAL WITH A TIRE ISSUE, THAT HAD
12 SOME STRINGS ATTACHED TO IT, THAT I UNDERSTAND
13 PROBABLY AREN'T BEING TAKEN CARE OF.
14 AND, YOU KNOW, AT WHAT POINT DO WE
15 SAY THAT ENOUGH'S ENOUGH? BECAUSE THERE IS A
16 POINT, IN MY MIND. THERE'S A POINT WHEN THESE
17 THINGS HAVE TO BE DONE.
18 NOW WE'RE TALKING ABOUT A NOTICE OF
19 EXEMPTION TO GET THIS DONE EARLIER, WHEN OUR
20 BOARD STAFF HAS ALWAYS SAID A NOTICE OF EXEMPTION
21 DOESN'T WORK FOR THESE DOCUMENTS, IT IS A NOTICE
22 OF DETERMINATION, SO THAT PEOPLE HAVE THE RIGHT
23 TO COMMENT. TO GO THROUGH THE PROCESS THAT CEQA
24 IS DEALT WITH, THAT YOU'VE GOT PUBLIC ACCESS TO
25 THE ISSUES, AND SO THAT'S GOING TO TAKE YOU OUT A

1 LITTLE BIT LONGER.
2 BUT, YOU KNOW, THESE THINGS WERE DUE
3 IN 1996. AND I AM VERY SYMPATHETIC, AS YOU KNOW,
4 TO THE PLIGHT OF RURAL CALIFORNIA.
5 AND I'M ALSO RELIEVED THAT YOUR BOARD
6 OF SUPERVISORS, AND I HAVE SAID IT BEFORE, HAVE
7 STEPPED UP AND DONE SOME INCREDIBLY COURAGEOUS
8 THINGS. WHEN THEY FENCED IN WHAT WAS ALWAYS A
9 RIGHT IN INYO COUNTY TO GO TO THE DUMP ANYTIME
10 YOU WANTED TO AND DUMP WHATEVER YOU WANTED, AND
11 WITHOUT ANY OVERSIGHT OF WHAT THAT MATERIAL COULD
12 BE, THAT TOOK A LOT OF COURAGE FROM THAT BOARD OF
13 SUPERVISORS. AND WE HAVE BEEN WORKING VERY, VERY
14 HARD TO TRY AND GET INYO COUNTY INTO COMPLIANCE,
15 AND YOUR BOARD HAS MADE THE APPROPRIATE FUNDING
16 LEVELS AVAILABLE.
17 BUT, I'VE GOT TO TELL YOU, WE'RE
18 GOING TO HAVE TO -- THIS IS A SITING ELEMENT,
19 THIS AIN'T BRAIN SURGERY. YOU KNOW, THIS IS
20 STUFF THAT CAN GET DONE QUICKLY. AND I THINK IT
21 HAS TO BE DONE QUICKLY.
22 AND I'M SERIOUS WHEN I SAY, YOU KNOW,
23 FEVERISH -- FEVERISH, IN MY MIND MEANS WHATEVER
24 IT TAKES TO GET THE JOB DONE WHEN I PROMISE TO
25 GET THE JOB DONE. AND YOU PROMISED TO GET THIS

1 JOB DONE BY THE END OF LAST YEAR. AND THAT'S AN
2 ISSUE FOR ME.

3 MR. HAMILTON: I CAN APPRECIATE THAT.
4 THANK YOU.

5 IT'S JUST THAT -- YOU KNOW, I CAN
6 OFFER SOME EXCUSES, AND THAT'S WHAT THEY ARE, YOU
7 CAN GIVE UP A MILLION EXCUSES AND NOT ONE GOOD
8 ONE. BUT, WE DID GO THROUGH SOME PROBLEMS WITH
9 OUR EXISTING -- I MEAN, OUR FORMER CONSULTANT.
10 AND LIKE I SAID, THE WORK IS IN THE PIPELINE NOW
11 AND IT'S GOING TO BE COMPLETED. NOT AS SOON AS
12 I'D LIKE TO SEE IT COMPLETED, BUT IT'S IN THE
13 WORKS, IT'S DONE.

14 LIKE THE SITING ELEMENT IS THERE,
15 IT'S JUST GOING THROUGH THE REVIEW PROCESS NOW,
16 AND THAT'S THE 45-DAY, OR THE 30-DAY REVIEW
17 PERIOD. AND THEN WE DO A NOTICE OF
18 DETERMINATION, THAT'S A 45-DAY PERIOD, THROUGH
19 CEQA. AND WE CAN DO THAT. AND I MENTIONED THE
20 EXEMPTION ONLY TO TRY TO SPEED IT UP, BUT WE CAN
21 DO THE NOTICE OF DETERMINATION, BUT THAT'S GOING
22 TO TAKE A 45-DAY PERIOD.

23 AND, YEAH, I'D LOVE TO SEE IT DONE
24 TOO. I DIDN'T WANT TO BE HERE DOING THIS. BUT,
25 TO IMPOSE A -- YOU KNOW, FINES OR PENALTIES, I

1 CAN'T SPEED THAT PROCESS UP. AND I WANT -- IF I
2 COULD, I WOULD. I JUST KNOW THAT GOING THROUGH
3 THE CEQA PROCESS IS GOING TO TAKE SOME TIME.
4 IT'S THERE, IT'S GOING TO BE DONE.

5 MEMBER JONES: THE FACT THAT YOUR CITY --
6 OR, I MEAN, YOUR COUNTY PROBABLY CAN'T AFFORD THE
7 FINES IS AN ISSUE.
8 BUT THERE WERE CONDITIONS THAT WERE
9 ATTACHED TO THE TIRE CLEANUP?

10 MR. HAMILTON: UM-HUM.

11 MEMBER JONES: THERE WERE CONDITIONS THAT
12 WERE ATTACHED TO THE COMPLIANCE SCHEDULE.
13 AND WE'RE DEALING WITH THIS AS A
14 PLANNING ISSUE, BECAUSE THAT'S ALL IT IS, IT'S A
15 SUMMARY PLAN, THE SITING ELEMENT. BUT, YOU KNOW,
16 IF WE HAD THE OTHER TWO ISSUES IN THE AGENDA ITEM
17 BEHIND IT -- YOU KNOW?

18 MR. HAMILTON: RIGHT.

19 MEMBER JONES: THEN WHERE WOULD WE BE?
20 WOULD WE BE LOOKING AT, YOU KNOW, MORE
21 PROMISE...?

22 I GUESS WHAT I'M SAYING, I'M NOT SURE
23 THAT WE NEED TO FINE ANYBODY -- I KNOW WE HAVE TO
24 GET THIS THING DONE. BUT I DON'T KNOW WHAT IT'S
25 GOING TO TAKE TO LET YOU KNOW THAT, AS FAR AS

1 THIS BOARD MEMBER GOES, MY PATIENCE HAS RUN AS
2 THIN AS PARTS OF MY SCALP. AND IT IS NOT GOING
3 TO BE STRETCHED, BECAUSE IT JUST AIN'T GOING
4 BACK. AND I'M TELLING YOU -- I MEAN, THIS CAN'T
5 KEEP GOING, IT JUST CAN'T.

6 MR. HAMILTON: AND I AGREE 100 PERCENT.

7 CHAIRMAN PENNINGTON: OKAY, ANY
8 ADDITIONAL QUESTIONS?

9 MEMBER FRAZEE: MR. CHAIRMAN?

10 CHAIRMAN PENNINGTON: MR. FRAZEE.

11 MEMBER FRAZEE: I CERTAINLY SHARE MR.

12 JONES' CONCERNS ON THIS ONE, AND IT IS A
13 DIFFICULT ONE. BUT I'M WONDERING WHAT IS
14 ACHIEVED BY NOT GRANTING THE EXTENSION, AND GOING
15 THROUGH THE PROCESS OF BRINGING -- SETTING A
16 HEARING, POTENTIAL FINES AND ALL OF THAT. AND
17 THAT'S GOING TO RUN CONCURRENT WITH THE FACT
18 THEY'RE GOING TO FINISH THIS ANYWAY.
19 SO, IT MEANS A LOT MORE WORK FOR US.

20 IT PUTS A CLOUD ON INYO COUNTY. AND OF ALL OF
21 THE COUNTIES IN THE STATE, THEY HAVE HAD THE
22 BIGGEST CHALLENGE I THINK, BECAUSE OF THE HUGE
23 GEOGRAPHIC AREA THAT THEY'RE REQUIRED TO SERVE,
24 WITH ALL OF THE LANDFILLS THAT ARE NECESSARY,
25 PLUS THE MINIMUM POPULATION AND THE MINIMUM

1 RESOURCES. AND I THINK THEY'VE MADE SOME GREAT
2 STRIDES.
3 YOU KNOW, I GUESS I'M JUST FEELING
4 BIG AND EASY HERE NOW THAT I'M LEAVING THE BOARD.
5 BUT I WOULD BE WILLING TO GRANT THEM THEIR
6 REQUEST FOR -- WHAT'S THE DATE? APRIL 23RD.

7 CHAIRMAN PENNINGTON: DO YOU WANT TO MAKE
8 THAT AS A MOTION?

9 MR. NIKIRK: MR. CHAIRMAN, IF I MAY
10 THROWN IN A COMMENT?

11 MEMBER EATON: LET ME JUST ASK A QUICK --

12 CHAIRMAN PENNINGTON: MR. EATON?

13 MR. NIKIRK: MY NAME IS EVAN NIKIRK, AND
14 I'M WITH ERI IN CARSON CITY. WE'RE THE
15 CONSULTANT TO THE -- INYO COUNTY.
16 AND I JUST WANTED TO SAY THAT THE
17 SITING ELEMENT HAS BEEN COMPLETED AND, AS CHUCK
18 STATED, IS GOING THROUGH THE 30-DAY REVIEW
19 PROCESS RIGHT NOW. BOARD STAFF HAVE SUBMITTED
20 THEIR COMMENTS, AND THEY HAVE BEEN RESPONDED TO.
21 COMMENTS ARE MINIMAL AT THIS POINT. I DON'T
22 EXPECT ANY SUBSTANTIAL COMMENTS. AND LOCAL
23 ADOPTION I EXPECT TO TAKE PLACE VERY CLOSE TO THE
24 CONCLUSION OF THAT 30-DAY REVIEW PERIOD. AND AT
25 THAT POINT IT'S JUST A MATTER OF COMPLETING THE

1 CEQA PROCESS.

2 MEMBER ROBERTI: MR. CHAIRMAN? SO, AS I
3 UNDERSTAND WHAT YOUR -- WHAT IS STILL INCOMPLETE
4 IN THE PROCESS IS THE LOCAL COMMENT, THE PUBLIC
5 COMMENT RATHER, PRIMARILY?

6 MR. NIKIRK: AND CEQA, PRIMARILY.

7 MEMBER ROBERTI: AND CEQA?

8 MR. NIKIRK: I THINK THAT WAS -- SENATOR
9 ROBERTI, I THINK THAT WHAT WAS MORE OF A CONCERN
10 TO US, WAS THE REPRESENTATION THAT THEY INTEND TO
11 SEEK A NOTICE OF EXEMPTION. THEY MIGHT SEEK
12 NOTICE OF EXEMPTION.

13 MEMBER ROBERTI: FROM?

14 MR. CHANDLER: FROM THE NOTICING OF -- IN
15 THE CEQA PROCESS, THE VERY DOCUMENT YOU'RE JUST
16 REFERRING TO, AND I JUST WANT TO MAKE SURE THAT,
17 GIVEN OUR EARLIER DISCUSSION, THAT WE HAVE
18 SOMETHING TO SAY ABOUT THAT. AND I BELIEVE
19 COUNSEL WILL BE HERE SHORTLY.

20 MEMBER ROBERTI: AND HOW MUCH TIME WILL
21 WE BE TALKING ABOUT IF WE DIDN'T GIVE THE NOTICE
22 OF EXEMPTION? I MEAN, THE -- NO, THE NOTICE OF
23 EXEMPTION FROM THE CEQA.

24 MR. NIKIRK: IF THE NEGATIVE DECLARATION
25 PROCESS IS PURSUED, THEN I WOULD SUSPECT THAT --

1 OR, I WOULD EXPECT IT TO BE COMPLETED BY MAY 31ST
2 OF THIS YEAR, JUST BECAUSE OF THE TIME FRAME FOR
3 THE VARIOUS APPROVAL PROCESSES, INCLUDING GOING
4 THROUGH THE STATE CLEARINGHOUSE FOLLOWING THE
5 LOCAL ADOPTION.

6 CHAIRMAN PENNINGTON: SHALL WE TRY AGAIN,
7 MR. EATON?

8 MS. TOBIAS: CAN I JUST ASK -

9 MEMBER EATON: OH, SURE, ABSOLUTELY. ALL
10 MY QUESTIONS ARE GETTING ANSWERED.

11 CHAIRMAN PENNINGTON: MR. EATON HAS THE
12 FLOOR.

13 MEMBER EATON: GO AHEAD.

14 MS. TOBIAS: I'M JUST WONDERING, ON YOUR
15 SCHEDULE -- I'M LOOKING AT THE ONE IN THE AGENDA,
16 AND I'M WONDERING ON A NEG DEC PROCESS, ARE YOU
17 OFF THIS SCHEDULE NOW? BECAUSE IT BASICALLY SAYS
18 THAT YOU WERE GOING TO FILE A CEQA DOCUMENT
19 DECEMBER 18TH.

20 BUT IT SOUNDS LIKE YOU'RE GOING TO DO
21 -- IF YOU'RE FILING A NEG DEC SOMEWHERE AROUND
22 MARCH 1ST, OR MARCH 15TH, YOU'RE GOING TO HAVE 30
23 DAYS TO CIRCULATE THE NEG DEC, INCLUDING THE
24 HEARINGS WITH THAT.

25 SO, IS MAY 31ST YOUR BEST ESTIMATE ON

1 -- REALISTICALLY, WHAT YOU'RE GOING TO DO THERE?

2 MR. NIKIRK: YES, IT IS.

3 MS. TOBIAS: OKAY.

4 CHAIRMAN PENNINGTON: OKAY. DO YOU WANT
5 TO TRY NOW, MR. EATON?

6 MEMBER EATON: I JUST THINK THE LONG AND

7 SHORT OF IT IS -- AND IT'S JUST A VERY SIMPLE

8 QUESTION WITH SCHEDULING AND WHAT HAVE YOU -- IF

9 YOU'RE ASKING FOR AN EXTENSION TO APRIL 23RD, YOU

10 CAN'T MEET IT UNDER THE WORST-CASE SCENARIO. I'M

11 JUST TRYING TO FIND OUT WHAT -- IF THERE'S

12 SYMPATHY HERE, WHAT IS THE WORST CASE SCENARIO?

13 IF WE GRANT YOU AN EXTENSION TO APRIL

14 23RD, YOU COME BACK AT EITHER THE MARCH OR THE

15 APRIL MEETING AND SAY WE TRIED TO GET YOU, BUT WE

16 -- YOU KNOW, WE'VE JUST GOT 20 MORE DAYS, WE

17 MIGHT AS WELL JUST FIGURE OUT WHAT'S THE WORST-

18 CASE SCENARIO HERE AND THEN, BASED UPON THAT,

19 MAKE A DETERMINATION WHETHER OR NOT THAT'S

20 REASONABLE.

21 THAT'S ALL. I MEAN, SO THAT'S REALLY

22 -- WHAT IS THE WORST-CASE SCENARIO? I MEAN, HELP

23 ME THROUGH THE PROCESS.

24 MR. NIKIRK: YEAH. THE WORST-CASE

25 SCENARIO IS MAY 31ST.

1 MEMBER JONES: MR. CHAIRMAN?

2 CHAIRMAN PENNINGTON: MR. JONES.

3 MEMBER JONES: I THINK THAT'S -- AS MUCH

4 AS I WANT TO SEE THE FAST TRACK, THE DATES, I

5 DON'T THINK, ARE GOING TO -- I DON'T KNOW IF THEY

6 WILL. BUT LET'S SAY JUNE 15TH. AND I'M

7 WONDERING. .

8 MR. CHAIRMAN, I'M PREPARED TO MOVE

9 THAT WE DO THE RESOLUTION TO ADOPT A REVISED

10 SCHEDULE, THE APPROVAL OF A REVISED SCHEDULE TO

11 JUNE 15TH, BUT I WOULD LIKE TO ADD SOMETHING.

12 CHAIRMAN PENNINGTON: OKAY.

13 MEMBER JONES: AND THAT IS THE FACT THAT

14 TODAY WE HAVE THE RIGHT TO HOLD A HEARING AND

15 ASSESS FINES. I'M NOT PREPARED TO DO THAT TODAY,

16 OBVIOUSLY I DON'T THINK THE OTHER BOARD MEMBERS

17 ARE.

18 MY FRUSTRATION IS FROM THE FACT THAT

19 I SPENT A LOT OF MY OWN TIME TRYING TO WORK WITH

20 YOU GUYS, SO.... BUT I THINK THAT YOU NEED TO

21 KNOW THAT THERE IS A POTENTIAL FOR A \$10,000--A-- 22 DAY FINE. NOW,

IN JURISDICTIONS OF YOUR SIZE

23 MAYBE THAT'S 2500 BUCKS, I DON'T KNOW.

24 BUT, I THINK JUNE 15TH IS THE DATE

25 THAT IT NEEDS TO BE DONE. AND IF IT ISN'T THEN I

1 THINK -- YOU KNOW, I'D LIKE TO ADD THAT WE SET UP
2 A HEARING 60 DAYS FROM THAT DATE FOR NON-
3 COMPLIANCE THAT'S GOING TO INCLUDE FINES. AND
4 THE NEG DEC HAS TO BE DONE, NOT A NOTICE OF
5 EXEMPTION. THE PUBLIC HAS TO BE ABLE TO COMMENT.

6 MR. HAMILTON: I CAN ACCEPT THAT.

7 CHAIRMAN PENNINGTON: SENATOR ROBERTI?

8 MEMBER ROBERTI: I JUST WANT TO ADD THAT,
9 ALONG THE LINES OF WHAT MR. FRAZEE WAS SAYING,
10 INYO COUNTY'S VERY, VERY LARGE AND HAS FEW
11 RESOURCES. AND I WAS COMING IN PREPARED TO GO
12 ALONG WITH THE FINE.

13 BUT, ONE REASON WHY YOU HAVE FEW
14 RESOURCES IS BECAUSE THE CITY OF LOS ANGELES HAS
15 TAKEN MOST OF THEM. AND, SO I THINK I OWE THE
16 COUNTY OF INYO AT LEAST ONE OF MY FIRST VOTES,
17 AND GIVE YOU A LITTLE DEFERENCE, BECAUSE IT IS A
18 PROBLEM. SO, I THINK MR. JONES IS ON THE RIGHT
19 TRACK HERE.

20 CHAIRMAN PENNINGTON: CAN I TAKE THAT AS
21 A SECOND TO MR. JONES' --

22 MEMBER ROBERTI: YEAH --

23 MR. SCHIAVO: MR. CHAIRMAN, MAY I MAKE
24 ONE COMMENT?

25 CHAIRMAN PENNINGTON: SURE.

1 MR. SCHIAVO: I JUST WANT TO GIVE OUT
2 WHAT THE STATUS IS WITH -- FOR OUTSTANDING
3 DOCUMENTS, BECAUSE THAT WILL BE IMPACTED BY THIS
4 PROCESS.

5 CHAIRMAN PENNINGTON: OKAY.

6 MR. SCHIAVO: THERE ARE CURRENTLY
7 APPROXIMATELY 20 DOCUMENTS OUTSTANDING BY 12
8 DIFFERENT JURISDICTIONS. AND WE HAVE SENT, BASED
9 ON THE ORIGINAL DIRECTION, APPROXIMATELY A DOZEN
10 -- I THINK IT'S 14 60-DAY LETTERS OUT TO
11 JURISDICTIONS THAT THEY MUST COMPLY WITHIN THOSE
12 60 DAYS OR WE BRING THEM FORWARD FOR COMPLIANCE.
13 I JUST WANTED TO ENTER THAT INFORMATION.

14 MEMBER FRAZEE: HOW MANY OF THOSE
15 DOCUMENTS ARE COUNTYWIDE SITING ELEMENTS?

16 MR. SCHIAVO: THERE'S NINE OUTSTANDING
17 SITING ELEMENTS. FIVE HHWES, HOUSEHOLD HAZARDOUS
18 WASTE ELEMENTS, AND SEVEN SUMMARY PLANS.

19 CHAIRMAN PENNINGTON: OKAY. WE HAVE A
20 MOTION BY MR. JONES TO ADOPT RESOLUTION 99-17, TO
21 APPROVE THE REVISED COMPLIANCE SCHEDULE FOR THE
22 SUBMISSION OF THE COUNTYWIDE SITING ELEMENT, WITH
23 A NEW DUE DATE OF JUNE 15TH, 1999, FOR INYO
24 COUNTY, WITH THE ADDITIONAL AMENDMENT THAT IF
25 THEY DO NOT MEET THIS DEADLINE THAT WE HOLD A

1 HEARING WITHIN 60 DAYS TO CONSIDER --

2 MEMBER ROBERTI: -- A NEGATIVE

3 DECLARATION PROCESS --

4 CHAIRMAN PENNINGTON: RIGHT.

5 MEMBER JONES: AND A NEG DEC.

6 CHAIRMAN PENNINGTON:

7 SO, THIS WAS SECONDED BY SENATOR

8 ROBERTI. ANY FURTHER DISCUSSION?

9 MEMBER EATON: IS THIS CONSIDERED,

10 BECAUSE OF THE RESOURCE EXTRACTION, A WATERED 1 DOWN RESOLUTION?

OKAY.

12 CHAIRMAN PENNINGTON: WOULD THE SECRETARY

13 CALL THE ROLL, PLEASE?

14 THE SECRETARY: BOARD MEMBER EATON?

15 MEMBER EATON: AYE.

16 THE SECRETARY: FRAZEE?

17 MEMBER FRAZEE: AYE.

18 THE SECRETARY: JONES?

19 MEMBER JONES: AYE.

20 THE SECRETARY: ROBERTI?

21 MEMBER ROBERTI: AYE.

22 THE SECRETARY: CHAIRMAN PENNINGTON?

23 CHAIRMAN PENNINGTON: AYE.

24 THE MOTION CARRIES.

25 WE'LL ADJOURN FOR LUNCH, RETURN AT

1 1:45.

2 MR. HAMILTON: THANK YOU VERY MUCH.

3 (WHEREUPON, THE LUNCHEON RECESS WAS

4 TAKEN.)

1 AFTERNOON SESSION

2 - - - -

3 CHAIRMAN PENNINGTON: WE'LL START WITH
4 SENATOR ROBERTI, DO YOU HAVE ANY EX PARTES?

5 MEMBER ROBERTI: NO, I DO NOT.

6 CHAIRMAN PENNINGTON: OKAY. MR. FRAZEE?

7 MEMBER FRAZEE: NO, NONE FOR ME.

8 CHAIRMAN PENNINGTON: MR. EATON?

9 MEMBER EATON: NO.

10 CHAIRMAN PENNINGTON: MR. JONES, ANY EX
11 PARTES?

12 MEMBER JONES: JUST A QUICK ONE WITH EVAN
13 EDGAR ON C&D REGS.

14 CHAIRMAN PENNINGTON: VERY GOOD. I HAVE
15 NONE.

16 ITEM NO. 5: CONSIDERATION OF A REVISED SOLID

17 WASTE FACILITY PERMIT FOR FALLBROOK RECYCLING AND

18 TRANSFER FACILITY, SAN DIEGO COUNTY

19 CHAIRMAN PENNINGTON: SO NOW WE'LL MOVE
20 TO ITEM NO. 5, CONSIDERATION OF A
21 REVISED SOLID WASTE FACILITY PERMIT FOR
22 FALLBROOK RECYCLING AND TRANSFER
23 FACILITY, SAN DIEGO COUNTY. JULIE
24 NAUMAN.

1 MS. NAUMAN: THANK YOU, MR. CHAIRMAN. TAD
2 IS GOING TO DO THIS.

3 CHAIRMAN PENNINGTON: ALL RIGHT.

4 MR. GEBREHAWARIAT: GOOD AFTERNOON. THE
5 FALLBROOK RECYCLING AND TRANSFER FACILITY -- I'M
6 SORRY, I AM TADESE GEBREHAWARIAT, FROM THE
7 PERMITTING AND INSPECTION BRANCH.

8 SO, STARTING OVER, THE FALLBROOK
9 RECYCLING AND TRANSFER FACILITY IS OWNED BY ETCO
10 (PHON) DISPOSAL CORPORATION. THE FACILITY IS
11 OPERATED BY THE FALLBROOK REFUSE SERVICES, WHICH
12 IS A SUBSIDIARY OF ETCO.

13 THE PROPOSED PERMIT IS TO ALLOW THE
14 FOLLOWING: AN INCREASE IN THE MAXIMUM DAILY
15 TONNAGE FROM 300 TO 400, AND AN INCREASE OF A
16 DAILY LEVEL OF TRAFFIC AT THE FACILITY FROM 134
17 TO 155 VEHICLES PER DAY.

18 BY WAY OF SUMMARY, STAFF AND THE LEA
19 HAVE DETERMINED THAT ALL THE REQUIREMENTS FOR THE
20 PROPOSED REVISED PERMIT HAVE BEEN MET.

21 AMONG OTHER THINGS, THE BOARD
22 APPROVED THE INTEGRATED WASTE MANAGEMENT PLAN FOR
23 THE COUNTY OF SAN DIEGO IN JUNE OF 1997. AND
24 SINCE THIS FACILITY IS A TRANSFER STATION WHICH
25 IS NOT, AS A CONDITION OF ITS PERMIT, RACED TO

1 RECOVER FOR REUSE OR RECYCLE AT LEAST FIVE
2 PERCENT OF THE VOLUME WHICH THEY ARE RECEIVED,
3 THE FACILITY IS NOT REQUIRED TO COMPLY WITH THE
4 PUBLIC RESOURCE CODE SECTION 50001, UNDER THE
5 PROVISIONS OF RACKED SECTION 50001(B).
6 TWO, THAT THE PROPOSED DESIGN AND
7 OPERATION OF THE FACILITY, AS DESCRIBED IN THE
8 EXISTING REPORT OF STATION INFORMATION, OR RSI,
9 AND AMENDMENTS THERETO, WOULD ALLOW FOR FACILITY
10 OPERATION IN COMPLIANCE WITH THE STATE MINIMUM
11 STANDARDS FOR SOLID WASTE PROCESSING AND
12 HANDLING.
13 AND, THAT CEQA HAS BEEN COMPLIED
14 WITH.
15 IN CONCLUSION, THE STAFF RECOMMEND
16 THAT THE BOARD ADOPT SOLID WASTE FACILITY PERMIT
17 DECISION NO. 99-31, CONCURRING WITH THE ISSUANCE
18 OF SOLID WASTE FACILITY PERMIT NO. 37AA0923.
19 AND MS. ROBERTA RAFRANEER (PHON),
20 REPRESENTING THE LEA'S OFFICE, IS HERE TO ANSWER
21 ANY QUESTIONS THAT THE BOARD MEMBERS MAY HAVE.
22 AND THIS CONCLUDES MY PRESENTATION.
23 MEMBER ROBERTI: MR. CHAIRMAN?
24 CHAIRMAN PENNINGTON: SENATOR ROBERTI.
25 MEMBER ROBERTI: IT STRIKES ME THAT THIS

1 IS A FAIRLY PRO FORMA REQUEST, SO I WOULD LIKE TO
2 MOVE RESOLUTION 1999-31.

3 CHAIRMAN PENNINGTON: OKAY. AND MR.
4 FRAZEE?

5 MEMBER FRAZEE: MR. CHAIRMAN, I WOULD
6 SECOND THAT, WITH A COUPLE OF COMMENTS.

7 I VISITED THIS FACILITY TWICE, ONCE
8 PRIOR TO ITS RECONSTRUCTION, AND THEN SINCE IT'S
9 BEEN OPERATIONAL, AND IT'S A FIRST CLASS
10 FACILITY. AND, UNLIKE SO MANY OTHERS, THE PEOPLE
11 IN THE COMMUNITY LIKE IT, AND THERE HAVE BEEN
12 VIRTUALLY NO OPPOSITION TO ANY OF THE CHANGES
13 THAT HAVE TAKEN PLACE AT THIS FACILITY.

14 CHAIRMAN PENNINGTON: VERY GOOD. IT'S
15 BEEN MOVED BY SENATOR ROBERTI, AND SECONDED BY
16 MR. FRAZEE, THE ADOPTION OF RESOLUTION 1999-31.
17 IF THERE IS NO FURTHER DISCUSSION,
18 WILL THE SECRETARY CALL THE ROLL, PLEASE?

19 THE SECRETARY: BOARD MEMBER EATON?

20 MEMBER EATON: AYE.

21 THE SECRETARY: FRAZEE?

22 MEMBER FRAZEE: AYE.

23 THE SECRETARY: JONES?

24 MEMBER JONES: AYE.

25 THE SECRETARY: ROBERTI?

1 MEMBER ROBERTI: AYE.

2 THE SECRETARY: CHAIRMAN PENNINGTON?

3 CHAIRMAN PENNINGTON: AYE.

4 THE MOTION CARRIES.

5 ITEM NO. 6: CONSIDERATION OF ADOPTION OF A

6 NEGATIVE DECLARATION AND CONSIDERATION OF A NEW

7 MAJOR WASTE TIRE FACILITY PERMIT FOR THE CRM

8 COMPANY, LLC, LOS ANGELES COUNTY

9 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM

10 6, CONSIDERATION OF THE ADOPTION OF THE NEGATIVE

11 DECLARATION AND CONSIDERATION OF A NEW MAJOR

12 WASTE TIRE FACILITY PERMIT FOR THE CRM COMPANY,

13 LLC, IN LOS ANGELES COUNTY. JULIE NAUMAN.

14 MS. NAUMAN: THANK YOU. MR. CHAIRMAN AND

15 MEMBERS, JULIE NAUMAN, DEPUTY DIRECTOR OF

16 PERMITTING AND ENFORCEMENT DIVISION. THIS ITEM,

17 AND THE ITEM THAT FOLLOWS, NO. 7, BOTH DEAL WITH

18 TIRE FACILITIES.

19 AND JUST, AGAIN, AS A LITTLE BIT OF

20 BACKGROUND, AT YOUR JANUARY, 1998, MEETING THE

21 BOARD APPROVED EMERGENCY TIRE REGULATIONS,

22 REMOVING A NUMBER OF EXCLUSIONS FROM THE

23 REGULATIONS.

24 ON JUNE 16TH OF 1998, THE OFFICE OF

25 ADMINISTRATIVE LAW APPROVED THE EMERGENCY

1 REGULATIONS WHICH DID TWO THINGS, REMOVED TWO
2 NON-STATUTORY EXCLUSIONS FOR WASTE TIRE
3 FACILITIES, AND CLARIFIED AN EXISTING STATUTORY
4 EXCLUSION.
5 THE REGULATORY CHANGE WAS THEN FILED
6 WITH THE OFFICE OF THE SECRETARY OF STATE, AND
7 BECAME EFFECTIVE ON JUNE THE 16TH OF LAST YEAR.
8 THE EXCLUSIONS HELD BY OPERATORS AT THOSE WASTE
9 TIRE FACILITIES AFFECTED BY THE REGULATORY
10 CHANGES WERE REVOKED, EFFECTIVE ON THAT DATE.
11 OPERATORS OF THOSE AFFECTED FACILITIES ARE NOW
12 SUBJECT TO WASTE TIRE FACILITY PERMIT
13 REQUIREMENTS AND WASTE TIRE STORAGE AND DISPOSAL
14 STANDARDS.
15 NOW, THE TWO SITES THAT YOU HAVE
16 BEFORE YOU TODAY IN ITEM 6 AND 7 -- ONE IS A NEW
17 FACILITY, AND THAT'S ITEM NO. 6, AND ONE IS A
18 REVISED PERMIT TO INCREASE CAPACITY, ITEM NO. 7.
19 BOTH OF THESE ARE CRUMB RUBBER (PHONS.)
20 OPERATIONS AND ARE SUBJECT TO THE NEW
21 REGULATIONS.
22 WITH THAT, I'LL TURN IT OVER TO TERRY
23 SMITH.
24 MR. SMITH: MR. CHAIRMAN, BOARD MEMBERS,
25 I WOULD LIKE TO FIRST POINT OUT THAT THERE'S AN

1 ERROR IN THE AGENDA ITEM IN THE -- THROUGHOUT THE
2 AGENDA ITEM AND THE PERMIT AND RESOLUTION.
3 THERE'S AN ADDRESS ERROR, IT SAYS 15880 AND IT
4 SHOULD BE 15800 SOUTH AVALON BOULEVARD.
5 THE CRM COMPANY INTENDS TO PROCESS
6 WHOLE WASTE TIRES INTO CRUMB RUBBER. THE
7 PROPOSED PERMIT WILL ALLOW UP TO 80,000 WASTE
8 TIRES, OR TIRE EQUIVALENTS, TO BE STORED ON SITE.
9 DOCUMENTATION ACCOMPANYING THE PERMIT APPLICATION
10 INDICATES THAT CRM'S CRUMB RUBBER MANUFACTURING
11 EQUIPMENT WILL BE ABLE TO PROCESS UP TO 500 WASTE
12 TIRES PER HOUR, THAT'S 4,000 WASTE TIRES IN AN
13 EIGHT-HOUR SHIFT. I MIGHT ADD THAT I VISITED THE
14 SITE BACK IN OCTOBER, AND THE EQUIPMENT THERE IS
15 QUITE IMPRESSIVE.
16 THE PROPOSED PROJECT IS LOCATED IN AN
17 AREA ZONED FOR HEAVY MANUFACTURING, SO LOCAL
18 APPROVALS DID NOT TRIGGER CEQA OR AN
19 ENVIRONMENTAL REVIEW.
20 APPROVAL OF AN ISSUANCE OF A WASTE
21 TIRE FACILITY PERMIT IS A DISCRETIONARY ACTION,
22 AND IS CONSIDERED A PROJECT UNDER THE CALIFORNIA
23 ENVIRONMENTAL QUALITY ACT.
24 THE BOARD ASSUMED THE ROLE OF LEAD
25 AGENCY AND PREPARED AN ENVIRONMENTAL DOCUMENT FOR

1 THE PROPOSED PROJECT AS IT RELATES TO THE STORAGE
2 OF WASTE TIRES.
3 THE BOARD PREPARED A MITIGATED
4 NEGATIVE DECLARATION, WHICH INCLUDES AN ANALYSIS
5 OF THE PROPOSED PROJECT. AS REQUIRED BY CEQA,
6 THE NEGATIVE DEC IDENTIFIED THE PROPOSED
7 PROJECT'S POTENTIAL SIGNIFICANT ENVIRONMENTAL
8 IMPACTS AND PROVIDED MITIGATION MEASURES TO
9 REDUCE THOSE IMPACTS TO LESS THAN SIGNIFICANT
10 LEVELS.
11 THE DOCUMENTATION WAS CIRCULATED
12 THROUGH THE STATE CLEARINGHOUSE FOR AGENCY
13 REVIEW. A PUBLIC NOTICE WAS PLACED IN THE LOS
14 ANGELES TIMES AND ON THE INTERNET. THE PUBLIC
15 REVIEW PERIOD EXTENDED FROM DECEMBER 1ST THROUGH
16 DECEMBER 31ST OF 1998, AND NO COMMENTS WERE
17 RECEIVED DURING THE PUBLIC REVIEW PERIOD.
18 BEFORE THE WASTE TIRE FACILITY PERMIT
19 CAN BE ISSUED THE BOARD MUST CONSIDER AND ADOPT
20 THE NEGATIVE DEC. A COPY OF THE NEGATIVE DEC IS
21 INCLUDED IN THIS ITEM AS ATTACHMENT NO. 4. THE
22 NEGATIVE DEC IS NOW BEFORE THE BOARD FOR
23 CONSIDERATION AND ADOPTION.
24 BOARD STAFF HAS DETERMINED THAT ALL

1 THE OTHER STATE AND LOCAL REQUIREMENTS FOR THIS
2 PROPOSED PERMIT HAVE BEEN MET. THE PROJECT'S
3 DESIGN AND PROPOSED OPERATIONS ARE CONSISTENT
4 WITH STATE STANDARDS, AND THE APPLICABLE LOCAL
5 REQUIREMENTS HAVE BEEN MET.
6 HOWEVER, THERE IS ONE ISSUE THAT
7 SHOULD PROBABLY BE MENTIONED AT THIS TIME, AND
8 THAT'S AN ENFORCEMENT ISSUE. ON JANUARY THE 8TH,
9 1999, ENFORCEMENT STAFF OF THE FACILITIES
10 OPERATION BRANCH INSPECTED THE CRM FACILITY AND
11 FOUND THE OPERATOR IN VIOLATION OF DIVISION 30 OF
12 THE PUBLIC RESOURCES CODE SECTION 42834, AND
13 TITLE 14 OF THE CALIFORNIA CODE OF REGULATIONS,
14 SECTION 18420(A), OPERATING WITHOUT A PERMIT.
15 THERE WERE 5,000 TIRES ON SITE. IN LIEU OF
16 ENFORCEMENT ACTIONS BOARD STAFF HAS ORDERED THE
17 OPERATOR TO IMMEDIATELY CEASE ACCEPTANCE OF ANY
18 WASTE TIRES UNTIL THE WASTE TIRE FACILITY PERMIT
19 HAS BEEN OBTAINED.
20 FURTHERMORE, MR. BARRY TAKALLOU,
21 PRESIDENT OF THE CRM COMPANY, HAS STIPULATED TO A
22 \$5,000 FINE TO BE PAID IN FULL NO LATER THAN
23 JANUARY 27TH, 1999. MR. TAKALLOU PAID THAT FINE
24 THIS MORNING.
25 IN CONCLUSION, STAFF RECOMMENDS THAT

1 THE BOARD ADOPT THE NEGATIVE DEC, DECISION NUMBER
2 99-24, AND PERMIT DECISION NUMBER 9908, APPROVING
3 THE ISSUANCE OF MAJOR WASTE TIRE FACILITY PERMIT
4 NO. 19 PLO A41.

5 MR. BARRY TAKALLOU AND MR. MIKE
6 HARRINGTON, REPRESENTING THE OPERATOR, ARE
7 PRESENT AND AVAILABLE TO ANSWER ANY QUESTIONS
8 THAT YOU MAY HAVE.
9 THIS CONCLUDES THE STAFF
10 PRESENTATION.

11 CHAIRMAN PENNINGTON: THANK YOU.
12 QUESTIONS OF STAFF? SENATOR ROBERTI?

13 MEMBER ROBERTI: YES, MR. CHAIRMAN. I
14 GUESS MY ONE CONCERN IS THE EXTENT TO WHICH THE
15 BOARD MIGHT BE LIABLE IF WE ADOPT THE RESOLUTION
16 AND A PROBLEM OF ANY SORT ARISES. I'M TOLD THAT
17 THE TRUST FUND DOES NOT EXTEND SUFFICIENTLY TO
18 COVER A FULL LIABILITY.

19 MR. SMITH: RIGHT NOW WE HAVE A TRUST
20 FUND, OR A BUILD-UP MECHANISM, IN PLACE, AND THE
21 APPLICANT HAS MET THE MINIMUM REQUIREMENTS OF
22 THAT, WHICH IS TO DEPOSIT ONE-FIFTH OF THE AMOUNT
23 OF THE TOTAL COST OF THE CLEANUP. HE HAS TO HAVE
24 THE TOTAL COST IN PLACE WITHIN FIVE YEARS.

25 MEMBER ROBERTI: WELL, IT CONCERNS ME A

1 LITTLE BIT BECAUSE THE APPLICANT HAS TO PUT IN 20
2 PERCENT OF THE TOTAL COST OF THE CLEANUP. BUT
3 THE APPLICANT, IT APPEARS, DOES NOT HAVE A
4 SPOTLESS RECORD. SIMPLY BECAUSE -- DIDN'T THE
5 APPLICANT TAKE IN MORE TIRES THAN HE'S ALLOWED?
6 SO, SHOULDN'T THE BOARD TAKE THAT
7 INTO CONSIDERATION? OR, CAN THE BOARD -- MAYBE A
8 BETTER WORD IS, CAN THE BOARD TAKE THAT INTO
9 CONSIDERATION IN WHAT WE DO OR WHAT CONDITIONS WE
10 PLACE, IF WE CAN PLACE CONDITIONS, BECAUSE TAKING
11 IN TIRES THAT YOU WEREN'T ALLOWED TO TAKE IN
12 SEEMS TO INDICATE THAT THE APPLICANT AT SOME
13 POINT, AT SOME JUNCTURE, WAS PLAYING FAST AND
14 LOOSE WITH PUBLIC LIABILITY? HIS OWN OR SOMEBODY
15 ELSE'S? AND —

16 CHAIRMAN PENNINGTON: MS. TOBIAS, CAN YOU
17 SHED --

18 MS. TOBIAS: CAN I READ THAT MEMO THAT WE
19 HAVE THAT I HAVE NOT SEEN YET THAT WENT TO STAFF?
20 SO, IF YOU'VE GOT ANY OTHER QUESTIONS, CAN I HAVE
21 JUST A MOMENT TO READ THIS?

22 CHAIRMAN PENNINGTON: SURE.

23 MS. TOBIAS: THANK YOU.

24 CHAIRMAN PENNINGTON: AND SENATOR ROBERTI
25 IS CORRECT IN THAT, AS I UNDERSTAND IT, YOU GET

1 FIVE YEARS TO BUILD THAT UP. BUT YOU COULD FILL
2 THE FACILITY WITH TIRES AND NOT ACTUALLY HAVE THE
3 TRUST FUND COVERING --

4 MR. SMITH: RIGHT.

5 CHAIRMAN PENNINGTON: -- AND THAT
6 APPLIES, OF COURSE, TO ALL OF THEM --

7 (THE PARTIES SIMULTANEOUSLY SPEAK.)

8 CHAIRMAN PENNINGTON: -- AT THIS POINT.

9 MR. SMITH: I UNDERSTAND THAT. BUT IN
10 THIS CASE --

11 CHAIRMAN PENNINGTON: RIGHT.

12 MR. SMITH: -- AND I DON'T KNOW WHAT THE
13 MOTIVATION WAS, I'M SUSPICIOUS AS TO WHY THE
14 TIRES WERE BEING IMPROPERLY COLLECTED.

15 CHAIRMAN PENNINGTON: MAYBE YOU CAN
16 ADDRESS THAT, MR. HARRINGTON?

17 MR. HARRINGTON: GOOD AFTERNOON, BOARD,
18 MY NAME IS MIKE HARRINGTON, I'M WITH CRM
19 CORPORATION. SENATOR ROBERTI, LET ME RESPOND TO
20 YOUR CONCERNS. IT IS CORRECT, WE WERE IN
21 VIOLATION OF THOSE STANDARDS. BUT MITIGATING
22 CIRCUMSTANCES ARE ALWAYS, I THINK, WORTH
23 CONSIDERATION.

24 WHAT WE WERE DOING IS -- AS STAFF HAS
25 SAID, THEY WERE OUT IN NOVEMBER AND SAW -- OR,

1 OCTOBER AND SAW THE EQUIPMENT. QUITE EXTENSIVE,
2 QUITE NEW, WITH WARRANTY RUNNING.
3 AS PART OF OUR SETUP AND PART OF OUR
4 PRELIMINARY TO ACTUALLY OPERATING, QUOTE/UNQUOTE,
5 "IN FULL PRODUCTION" WE NEEDED TO, AT THE
6 SUGGESTION OF OUR CONSULTANTS AND ENGINEER, RUN
7 ENOUGH MATERIAL THROUGH THE SYSTEM TO MAKE SURE
8 THAT IT WAS OPERATIONAL, TO MAKE SURE THAT WE
9 DIDN'T HAVE ANY WARRANTY CLAIMS OR WARRANTY
10 PROBLEMS.
11 WE WERE TRYING TO STAY WITHIN THE
12 499-TIRE CAP MINIMUM, AND BROUGHT IN TIRES IN THE
13 MORNING TO RUN, AGAIN TO ENSURE THAT THE -- ONLY
14 THE EQUIPMENT WAS OPERATIONAL, AND EDISON HAD A
15 POWER OUTAGE. WELL, THE TIRES WERE COMING IN,
16 EDISON WAS THERE, AND IF -- I DON'T KNOW IF THE
17 INSPECTOR IS HERE, OR IF IT'S IN HIS REPORT,
18 YOU'LL FIND OUT THAT THE POWER WAS OUT THAT
19 ENTIRE DAY.
20 ALL OF THOSE TIRES WERE CONSUMED AND
21 ACTUALLY TURNED INTO CRUMB RUBBER WITHIN 24
22 HOURS, NO ADDITIONAL TIRES OUTSIDE THE
23 REGULATIONS HAVE BEEN TAKEN. IT WAS A KIND OF A
24 ONE-TIME --
25 MEMBER JONES: SO DOES THE STAFF CONCUR

1 THAT THE EXCESS TIRES THAT WERE COLLECTED, IT WAS
2 PURSUANT TO THE SHORTAGE, A POWER SHORTAGE THE
3 EDISON COMPANY INFLICTED ON THE APPLICANT?

4 MR. HARRINGTON: WE CAN SAY THAT THE
5 POWER WAS OUT WHEN THE INSPECTOR WAS THERE. WE
6 DON'T USUALLY RUN IN THE DARK.

7 CHAIRMAN PENNINGTON: OKAY. DID YOU WANT
8 TO MAKE A COMMENT, MS. TOBIAS?

9 MS. TOBIAS: WELL, LET ME GIVE THE BOARD,
10 FIRST OF ALL, SOME SENSE OF WHAT THE REGULATIONS
11 SAY, AND THEN WHAT ROOM TO MOVE THERE IS.

12 AS I UNDERSTAND IT, THE REQUIREMENT
13 FOR THE TRUST FUND WAS TAKEN OUT OF THE COPY OF
14 THE LANGUAGE FOR THE SOLID WASTE SIDE OF THE
15 HOUSE, IF YOU WILL. SO, IT BASICALLY DOES SAY
16 THAT THEY SHALL -- MAY ESTABLISH A TRUST FUND.
17 AND THEN IT SAYS "PAYMENTS INTO THE TRUST FUND
18 SHALL BE MADE ANNUAL BY THE OPERATOR OVER A FIVE-
19 YEAR PERIOD."

20 HOWEVER, AT THE BEGINNING OF THE
21 ARTICLE, IN 18425 PERMIT ISSUANCE, IT DOES SAY
22 THAT UPON THE APPLICANT'S COMPLIANCE WITH THIS
23 CHAPTER THE BOARD MAY MAKE FINDINGS AND ISSUE THE
24 PERMIT AS PROVIDED, AND THE PERMIT SHALL SPECIFY
25 THE CONDITIONS UNDER WHICH THE WASTE TIRE

1 FACILITY SHALL COMPLY WITH THIS CHAPTER.
2 SO, I THINK THAT IF THE BOARD FEELS
3 THAT -- BASED EITHER ON A PREVIOUS RECORD THAT
4 THERE'S A REASON TO DO THAT, THAT THERE'S THE
5 LEGISLATIVE ABILITY TO GO AHEAD AND CHANGE HOW
6 THE TRUST FUND NORMALLY OPERATES.

7 MEMBER ROBERTI: INCLUDING THE AMOUNT
8 THAT COULD BE --

9 MS. TOBIAS: CORRECT.

10 MEMBER ROBERTI: -- EXPECTED OF THEM TO
11 PUT DOWN.

12 MS. TOBIAS: RIGHT. RIGHT.
13 AS WELL AS THE TIMETABLE. I THINK
14 THAT THE WAY THAT THIS COULD BE INTERPRETED UNDER
15 18474 OF THE TRUST FUND IS THAT -- AND THIS IS
16 PROBABLY KIND OF A MINIMUM REQUIREMENT, IF THE
17 BOARD WISHES TO DO SOMETHING DIFFERENT THAT THEY
18 COULD GO AHEAD AND DO THAT -- THEN IT'S THE
19 APPLICANT'S CHOICE AS TO WHETHER THEY WANT TO GO
20 AHEAD WITH THE BOARD'S CONDITION OR NOT.

21 MR. HARRINGTON: LET ME SAY, WITH A
22 PAYMENT OF A \$2 MILLION FACILITY, AND OVER SEVEN
23 FIGURES IN EQUIPMENT, YES, WE WILL OBVIOUSLY
24 COMPLY WITH WHATEVER THE BOARD WISHES US TO DO,
25 AS FAR AS MEETING ANY CRITERIA THAT YOU WISH TO

1 COME UP WITH.

2 HOWEVER, AS WITH AN EARLIER SESSION

3 TODAY, THIS HAS NOT HISTORICALLY BEEN THE BOARD'S

4 POSITION, EVEN WITH APPLICANTS WHO HAVE BEEN OUT

5 OF COMPLIANCE ACCEPTING TIRES DURING A PERMIT

6 APPLICATION TIME.

7 AGAIN, THIS WAS A ONE-TIME

8 ABERRATION, IF YOU WILL, AND WE LOOK FORWARD TO

9 BEING A FRIEND AND HELP TO THE BOARD IN RECYCLING

10 A WASTE TIRE PROBLEM THAT IS FACED IN CALIFORNIA.

11 MEMBER ROBERTI: YEAH, I WISH I HAD MORE

12 INFORMATION AS TO WHERE THE FAULT LIES WITH THE

13 ACCUMULATION OF THE TIRES. THE FACT IS, YOU ARE

14 PAYING A FINE, WHICH IS --

15 MR. HARRINGTON: SENATOR ROBERTI,

16 ABSOLUTELY, THE FAULT LIES WITH US. WE, IN AN

17 EFFORT TO ENSURE THAT THE EQUIPMENT WOULD RUN

18 PROPERLY, HAD TO, AT THE BEHEST OF OUR

19 CONSULTANTS, RUN THE EQUIPMENT. WE WERE TRYING

20 TO BRING TIRES IN, IN A MANNER THAT WOULD STAY

21 WITH -- UNDER THE 499 CAP, AND BRING THEM IN ON A

22 SCHEDULED BASIS. WE HAD THEM SCHEDULED IN. THE

23 POWER, PER EDISON -- I MEAN, IT WAS OUT. WE

24 WOULD HAVE STAYED WELL UNDER 500 TIRES AT ANY

25 GIVEN POINT, ON THE GROUND, HAD THE POWER NOT

1 GONE OUT. IT'S AN UNFORTUNATE SITUATION FOR US.
2 I DON'T MEAN TO MINIMIZE OUR
3 RESPONSIBILITY IN IT. BUT, WE CERTAINLY HAD NO
4 INTENT TO DECEIVE, DEFRAUD, OR MAKE A FLAGRANT
5 STATEMENT OF BEING IN OPERATION PRIOR TO THE
6 PERMIT, AS EVIDENCED BY OUR OPERATION TODAY. WE
7 ARE STILL WAITING FOR THIS BOARD'S APPROVAL, AND
8 HAVE A LOT OF CAPITAL TIED UP.

9 MEMBER ROBERTI: I WILL GRANT -- NOT FOR
10 JUST PURPOSES OF ARGUMENT, I BASICALLY WILL GRANT
11 WHAT YOU SAY, BUT YOU STILL TOOK A RISK IN THE
12 ACCUMULATION.
13 AND I TEND TO THINK THAT THE 20
14 PERCENT SHOULD BE VIEWED I MEAN, IT'S SUCH A
15 LOW FIGURE, THAT IT HAS TO BE VIEWED AS A TOTAL
16 COMPLIANCE, GOOD GUY -- I'M NOT SAYING THAT
17 YOU'RE NOT, BUT JUST - STELLAR RECORD, AND THEN
18 IT'S LIKE YOU GET YOUR....

19 YOU KNOW, YOU GET THE BEST AUTO
20 INSURANCE WHEN YOU HAVE THE PERFECT RECORD. IT
21 DOESN'T MEAN THAT THE PERSON THAT HAS ONE MOVING
22 VIOLATION IS A BAD PERSON, OR SHOULD BE DENIED
23 AUTO INSURANCE, BUT IT MEANS THAT YOU'RE GOING TO
24 HAVE TO PAY A HIGHER RATE BECAUSE YOU'RE A
25 RISKIER PERSON.

1 AND THIS 20 PERCENT IS AWFULLY LOW,
2 AND IT DOES EXPOSE US TO LIABILITY IF THE
3 OPERATOR IS NOT CAUTIOUS. AND I THINK IT'S SAFE
4 TO SAY THAT YOU WEREN'T CAUTIOUS. NOT A BAD GUY.
5 BUT, I MEAN, LIKE THE INSURANCE -- LIKE THE MOTOR
6 VEHICLE OPERATOR WHO HAS ONE MOVING VIOLATION,
7 YOU SHOULDN'T HAVE THE 20 PERCENT RATE, YOU
8 SHOULD COME UP WITH SOMETHING HIGHER.
9 AND, I THINK YOUR CASE IS A LITTLE
10 BIT DIFFERENT, IN MY MIND, TO THE ONES WHERE WE
11 DID GRANT SOMETHING THAT WAS A -- AMOUNTS TO A
12 WAIVER, BECAUSE IN THOSE CIRCUMSTANCES -- AND
13 MAYBE STAFF CAN TELL ME IF I'M WRONG, I'M WILLING
14 TO BE TOLD -- IN THOSE CASES THE SITUATION WAS
15 ONE WHERE THERE WAS ABSOLUTELY TESTIMONY OF ANY
16 HAZARD WHATSOEVER. BUT YOUR SITUATION DOES
17 INDICATE POTENTIAL LIABILITY, IF YOU VIEW US AS
18 AN INSURER. AND YOU DON'T HAVE THAT PERFECT
19 RECORD WHERE YOU SHOULD GET THE VERY BEST RATE,
20 IN MY HUMBLE ESTIMATION.

21 MS. NAUMAN: WELL, SENATOR ROBERTI, IF I
22 COULD JUST ALSO ADD, THE TRUST FUND IS ONE OF
23 SEVERAL FORMS OF FINANCIAL ASSURANCE THAT IS
24 AVAILABLE TO US. AND I ASKED LEGAL COUNSEL IF
25 THEY WOULD OPINE, OR GIVE US SOME GUIDANCE, AS TO

1 WHETHER OR NOT THE BOARD HAS ANY DISCRETION TO
2 PRECLUDE AN OPERATOR FROM EXERCISING THE OPTION
3 TO UTILIZE A TRUST FUND AND, INSTEAD, DIRECT THEM
4 TO ONE OF THE OTHER FORMS OF FINANCIAL ASSURANCE
5 WHICH DOESN'T HAVE THE SAME TYPE OF RISK
6 ASSOCIATED WITH IT AS THE TRUST FUND DOES.

7 MS. TOBIAS: IN SECTION 18473, WHICH
8 TALKS ABOUT ACCEPTABLE MECHANISMS, AND A
9 COMBINATION OF THOSE MECHANISMS, IT SAYS THAT THE
10 OPERATOR SHALL USE ANY ONE, OR ANY COMBINATION OF
11 THE MECHANISMS SPECIFIED, AND THEN IT LISTS TRUST
12 FUND, SURETY BOND, LETTER OF CREDIT, GOVERNMENT
13 SECURITIES, OR ENTERPRISE FUND.

14 I THINK THAT IT IS, AGAIN, WITHIN THE
15 LEGISLATIVE ABILITY OF THE BOARD TO BASICALLY SAY
16 THAT, DUE TO PAST ACTS, OR PREVIOUS
17 RESPONSIBILITIES THAT HAVE BEEN CARRIED OUT IN A
18 MANNER THAT'S NOT SATISFACTORY TO THE BOARD, THAT
19 ONE OF THESE MAY NOT BE SUFFICIENT TO MAKE THE
20 BOARD COMFORTABLE, THAT FINANCIAL ASSURANCES ARE
21 ACTUALLY IN PLACE.

22 I DO WANT TO SAY THAT I THINK -- I
23 DON'T WANT TO SAY THAT'S A STRETCH, BUT I DO
24 THINK IT'S OUTSIDE OF WHAT THE BOARD HAS DONE
25 BEFORE. BUT I'M COMFORTABLE WITH THAT, AT THIS

1 TIME, TO BASICALLY SAY THAT THE BOARD WOULD LIKE
2 SOME OTHER DEVICE THAT WOULD GO FURTHER, IN TERMS
3 OF SATISFYING THAT. UNLESS THEY WANT TO USE THE
4 TRUST FUND, AND FUND IT TO THE TOTAL NUMBER OF
5 TIRES. SO, IT SEEMS TO ME THAT YOU COULD GO
6 EITHER WAY ON THAT.

7 MEMBER ROBERTI: MR. CHAIRMAN, IF I COULD
8 JUST ADD TO THAT?

9 CHAIRMAN PENNINGTON: YES.

10 MEMBER ROBERTI: IT'S NOT MY INTENTION TO
11 DRAIN THE APPLICANT HERE. BUT, IT IS MY
12 INTENTION TO MAKE A POINT THAT WE SHOULDN'T GIVE
13 THE VERY BEST RATE TO SOMEBODY WHO DOESN'T HAVE A
14 GOOD RECORD.
15 NOW, I WISH I WAS MORE CONVERSANT
16 WITH ALL THE POSSIBILITIES -- I THINK I NEED SOME
17 HELP FROM STAFF ON THIS -- AS TO WHAT OTHER
18 OPTION IS AVAILABLE. BUT, I THINK WE HAVE TO
19 LOOK AT IT FOR SOME OTHER OPTION. BECAUSE, JUST
20 TO REFER ONE MORE TIME, TO NOT BELABOR IT TOO
21 MUCH, TO THE AUTO INSURANCE SITUATION, THAT'S THE
22 BEST RATE, 20 PERCENT IS BEST RATE FOR SOMEBODY
23 WHO HAS ABSOLUTELY NO PROBLEM. IT'S JUST TOO
24 GOOD A DEAL, AND THAT'S NOT WHAT WE'RE DEALING
25 WITH HERE.

1 (THE PARTIES SIMULTANEOUSLY SPEAK.)

2 MEMBER JONES: MR. CHAIRMAN?

3 CHAIRMAN PENNINGTON: MR. JONES, AND THEN

4 MR. FRAZEE.

5 MEMBER JONES: I AGREE WITH THE SENATOR.

6 I MEAN, THIS FIVE-YEAR PLAN HAS BEEN A LITTLE

7 BOTHERSOME TO ME ON THESE THINGS, BUT I THINK WE

8 HAVE SOME OPTIONS, TOO, THAT WE COULD THINK

9 ABOUT.

10 AND ONE WOULD BE, IF YOU'RE GOING TO

11 FUND THE TRUST FUND AT A 20 PERCENT CLIP, THEN

12 MAYBE WE NEED TO LOOK AT THE 80,000 TIRES --

13 WHICH IS OUR EXPOSURE, THAT'S THE RISK TO THE

14 STATE OF CALIFORNIA -- AND PERMIT CONDITION THE

15 AMOUNT OF ALLOWABLE TIRES ON SITE TO COINCIDE

16 WITH THE FUNDING LEVEL OF THE TRUST FUND.

17 IF, IN FACT, YOU FUNDED THE 20

18 PERCENT, THEN YOU'RE ALLOWED 16,000 TIRES ON

19 SITE, WHEN YOU FUND TO 40 PERCENT YOU'RE ALLOWED

20 32,000 TIRES. THAT WOULD KEEP THE RISK IN

21 BALANCE WITH THE TRUST FUND, AND WOULD REQUIRE

22 ONLY MATERIALS MANAGEMENT, ON YOUR SIDE, WITHOUT

23 THE BURDEN OF AN ADDED FINANCIAL BURDEN. IT DOES

24 REQUIRE MATERIALS MANAGEMENT. BUT, IT MINIMIZES

25 THE RISK TO THE STATE OF CALIFORNIA. AND IT

1 SEEMS LIKE AN OPTION THAT'S CONSISTENT WITH
2 BUSINESS.

3 CHAIRMAN PENNINGTON: MR. FRAZEE?

4 MEMBER FRAZEE: YES. AFTER HEARING MR.
5 JONES' STATEMENT, I THINK THAT I WOULD SIDE WITH
6 THAT.

7 BUT, I DID WANT TO MAKE THE POINT
8 THAT WE'RE DEALING SOMEWHAT WITH THE PROVERBIAL
9 APPLES AND ORANGES. THE SITUATION HERE, THE CASE
10 OF THE VIOLATION, THAT ON ONE HAND, AND THE
11 PERHAPS PERCEIVED INADEQUACY TRUST FUND ON THE
12 OTHER.

13 ONE OF THE MITIGATING CIRCUMSTANCES,
14 I THINK, ON THE VIOLATION CIRCUMSTANCE IS JUST, A
15 FEW MONTHS AGO THEY COULD HAVE HAD 5,000 TIRES ON
16 THERE WITHOUT ANY KIND OF A PERMIT AT ALL. IS
17 THAT NOT CORRECT? UNTIL WE CHANGED THE POLICY?

18 MR. SMITH: NO, THAT'S NOT CORRECT. THEY
19 COULD HAVE HAD 500 OR LESS TIRES --
20 (THE PARTIES SIMULTANEOUSLY SPEAK.)

21 MEMBER FRAZEE: -- DIDN'T WE HAVE THE
22 EXEMPTION FOR A RECYCLING FACILITY?

23 MR. SMITH: YES, BUT THEY WOULD HAVE TO
24 APPLY FOR IT, THEY WOULD HAVE TO APPLY FOR THE
25 EXEMPTION, OR THE EXCLUSION.

1 MR. HARRINGTON: FOR A MINOR WASTE TIRE
2 FACILITY PERMIT, WHICH REALLY, WE WOULD HAVE
3 DONE, BUT WE WENT AHEAD AND WENT THROUGH THE
4 FINANCIAL RESPONSIBILITY TO GET THE MAJOR.
5 TO GO BACK TO THE AUTO INSURANCE, ONE
6 OF THE THINGS THAT WE DID, AND KIND OF AN ACT OF
7 CONTRITION, WAS TO STIPULATE THE FINE AND TO PAY
8 IT IMMEDIATELY, ON SOMETHING THAT -- I THINK THE
9 FINE MIGHT HAVE BEEN A LITTLE STEEP. SO, I'M
10 ASKING FOR THE TRAFFIC SCHOOL ROUTE ON THIS.

11 MEMBER ROBERTI: YEAH, BUT HERE'S THE
12 POINT, TO CARRY THE ANALOGY. NORMALLY, SEE,
13 THERE'S TWO COPS, WHERE YOU HAVE YOUR PUBLIC
14 LIABILITY YOU HAVE TO GO TO TRAFFIC SCHOOL, AND
15 IF YOU'RE A REAL BAD BUY YOU HAVE TO SPEND A
16 NIGHT IN JAIL -- BUT, PROBABLY JUST TRAFFIC
17 SCHOOL --
18 (THE PARTIES SIMULTANEOUSLY SPEAK.)

19 MR. HARRINGTON: WE WEREN'T DRINKING AT
20 THE TIME.

21 MEMBER ROBERTI: BUT, THE INSURANCE
22 CARRIER STILL RESERVES HIS PENALTY FOR YOU, WHICH
23 IS SOMETIMES THE WORST PENALTY, AND IT HAS REALLY
24 NOTHING TO DO WITH WHAT THE PUBLIC LIABILITY IS.
25 UNFORTUNATELY, IN OUR SITUATION, I

1 GUESS YOU'VE GOT -- WITH BOTH THE INSURER AND THE
2 TRAFFIC COP ARE THE SAME. BUT, THEY'RE REALLY
3 TWO SEPARATE -- I THINK THEY'RE TWO SEPARATE
4 ISSUES.

5 (THE PARTIES SIMULTANEOUSLY SPEAK.)

6 MS. TOBIAS: SENATOR ROBERTI, I THINK
7 THIS IS PROBABLY A GOOD TIME TO INTERJECT, AND --
8 IF WE'RE TALKING ABOUT DIFFERENT LEVELS OF
9 PUNISHMENT AND SANCTION.

10 I THINK THAT ONE OF THE THINGS THAT
11 WOULD BE IMPORTANT TO ADD HERE IS THAT ONE OF THE
12 THINGS THAT'S DRIVING STAFF'S INTEREST, IN TRYING
13 TO MAKE SURE THAT WE HAVE ADEQUATE FINANCIAL
14 ASSURANCES ON THIS SITE, IS NOT NECESSARILY THE
15 FACT THAT THERE'S BEEN A VIOLATION OF STARTING IN
16 ON THIS SITE BEFORE THE PERMIT IS ISSUED, BUT
17 THAT SEVERAL OF THE INDIVIDUALS WHO ARE INVOLVED
18 WITH THIS PARTICULAR CORPORATION ARE INDIVIDUALS
19 WHO WERE INVOLVED WITH A PREVIOUS CORPORATION WHO
20 HAVE DEFAULTED ON A LOAN TO THE BOARD. AND I
21 THINK THAT THAT'S -- I NEEDED TO ADD THAT. SO,
22 IT'S NOT SO MUCH THE ISSUE OF THE TIRE PLACEMENT.
23 SO —

24 MEMBER ROBERTI: THAT'S EVEN MORE
25 CRITICAL. THAT'S MORE CRITICAL.

1 MS. TOBIAS: SO I THINK -- AND PERHAPS,
2 YOU KNOW, OBVIOUSLY THE APPLICANTS SHOULD BE
3 GIVEN AN OPPORTUNITY TO ADDRESS THAT. BUT, I
4 THINK THAT'S THE TRACK RECORD THAT WE'RE REALLY
5 TALKING ABOUT HERE, IS -- TO A CERTAIN EXTENT.
6 I WILL SAY THAT IT'S A DIFFERENT
7 CORPORATION. I'M NOT SAYING THAT NECESSARY, YOU
8 KNOW, SOMEONE IS TARRED WITH THAT BRUSH FOREVER,
9 BUT THERE IS A PAST HISTORY HERE, AND I THINK
10 THAT'S WHAT NEEDS TO BE PUT OUT ON THE TABLE.

11 MR. HARRINGTON: THANK YOU, MS. TOBIAS,
12 FOR BRINGING THAT UP, I WAS WONDERING WHEN IT WAS
13 GOING TO COME, AND NONE OF THE PRINCIPALS OF CRM,
14 WITH THE EXCEPTION OF A CONSULTANT TO THE
15 ESTABLISHMENT YOU'RE REFERRING TO ARE THE SAME.
16 THERE WAS A CONSULTANT TO THAT, THAT IS THE SAME,
17 WITH CRM.
18 I'D ALSO HAVE YOU -- POINT OUT, THAT
19 ON YOUR LOAN THAT DEFAULTED, WOULD YOU CARE TO
20 TELL THE BOARD EXACTLY HOW MUCH THE BOARD LOST
21 AND WASN'T ABLE TO RECOVER ON THE LOAN?

22 MS. TOBIAS: IF YOU KNOW THAT YOU CAN GO
23 AHEAD, I DON'T THINK I HAVE THOSE FIGURES --

24 MR. HARRINGTON: OKAY. THE BOARD -- THE
25 AMOUNT WAS ZERO. THE BOARD GOT ALL OF ITS MONEY

1 BACK.
2 AND ALSO, WITH THE CITY IF INDUSTRY,
3 WITH TIGON (PHON), WHERE THEY THOUGHT BANKRUPTCY
4 LOOMING, AND EVERYONE WAS WONDERING, GEE, HOW DID
5 200,000 TIRES APPEAR HERE, WHY DIDN'T WE DO THAT.
6 THE BOARD MIGHT ALSO WANT TO KNOW THAT THAT
7 BANKRUPTCY, THE NUMBER OF TIRES LEFT ON SITE WAS
8 ZERO.
9 SO, IF PAST HISTORY IS ANY INDICATOR,
10 SENATOR ROBERTI, THAT SHOULD BE REALLY A DEFINING
11 MOMENT FOR THE BOARD. THEY GOT ALL THEIR MONEY
12 BACK, THERE WERE NO TIRES LEFT ON SITE.

13 MS. TOBIAS: MR. HARRINGTON, COUNSEL IS
14 ALSO ADVISING ME THAT IN THAT CASE, WE DID HIRE -
15 - THAT BANKRUPTCY WAS FILED, THAT IT WAS FILED IN
16 ANOTHER STATE, AND THAT WE WERE REQUIRED TO HIRE
17 OUTSIDE COUNSEL IN THAT STATE TO TAKE THIS
18 THROUGH BANKRUPTCY.
19 IS THAT ACCURATE.

20 MR. HARRINGTON: YOU KNOW, YOU'RE ASKING
21 ME TO COMMENT ON A CORPORATION THAT I KNOW
22 NOTHING ABOUT. AS A MATTER OF FACT, IT WAS A
23 KENTUCKY, I BELIEVE, CORPORATION, A TOBACCO. . .
24 I'M NOT SURE.

25 MS. TOBIAS: OHIO, I THINK --

1 (THE PARTIES SIMULTANEOUSLY SPEAK.)

2 MR. HARRINGTON: HOPEFULLY, YOU WOULD
3 HAVE BETTER INFORMATION ON THAT THAN I WOULD
4 HAVE. THEY DIDN'T OWE ME ANY MONEY.

5 MEMBER FRAZEE: MR. CHAIRMAN?

6 CHAIRMAN PENNINGTON: MR. FRAZEE.

7 MEMBER FRAZEE: COULD I PURSUE SOMETHING,
8 AS LONG AS WE'RE DISCUSSING OTHER COMPANIES?
9 YOUR FORMER EMPLOYER, BAS, WHAT KIND
10 OF A TRUST ARRANGEMENT DID THIS BOARD IMPOSE UPON
11 THEM?

12 MR. HARRINGTON: THE BAS --

13 MEMBER FRAZEE: THE 20 PERCENT ONE?

14 MR. HARRINGTON: ABSOLUTELY, THE 20
15 PERCENT ONE. AND IN THAT ONE WE ALSO HAD A CEASE
16 AND DESIST, AND A SMALL PROBLEM WITH TIRES. JUST
17 TO REMAIN OPERATIONAL THE COMPANY CONTINUED TO
18 TAKE TIRES IN AND RECYCLE THEM.

19 I HOPE THE BOARD, SOMEWHERE IN THIS,
20 REMEMBERS THAT WE'RE NOT IN THE BUSINESS OF
21 STORING TIRES, WE'RE IN THE BUSINESS OF RECYCLING
22 TIRES TO CRUMB RUBBER, AND ONE HELL OF A LOT OF
23 CALIFORNIA WASTE TIRES WILL BE RECYCLED INTO
24 CRUMB RUBBER AND MARKETED.

25 THE SUGGESTION THAT SOMEHOW WE'RE,

1 YOU KNOW, IN THE BUSINESS OF STOCKPILING TIRES
2 SEEMS A MISNOMER. WE'RE IN THE BUSINESS OF
3 RECYCLING TIRES. I MEAN, IF YOU COME DOWN AND
4 LOOK AT THE FACILITY, AND LOOK AT THE EQUIPMENT,
5 IT'S NOT CONDUCIVE TO STORING TIRES, IT'S
6 CONDUCIVE TO RECYCLING TIRES.

7 MEMBER FRAZEE: MR. HARRINGTON, I'M
8 TRYING TO HELP.

9 MR. HARRINGTON: THANK YOU.

10 MEMBER FRAZEE: IN SPITE OF WHAT IT MAY
11 SOUND LIKE.

12 THE POINT I'M TRYING TO MAKE IS THAT
13 WE IMPOSED A CERTAIN SET OF STANDARDS ON BAS, IE.
14 THE 20 PERCENT FUNDING. AND I THINK THERE'S SOME
15 DEGREE OF UNFAIRNESS IF WE WERE TO CHANGE THAT
16 AND IMPOSE A HIGHER STANDARD ON A COMPETITOR.

17 MR. HARRINGTON: THANK YOU.

18 (THE PARTIES SIMULTANEOUSLY SPEAK.)

19 MEMBER ROBERTI: MR. HARRINGTON, FROM MY
20 PURVIEW, YOU'RE MAKING A VERY STRONG CASE THAT
21 YOU SHOULD BE GRANTED SOMETHING, BUT YOU HAVEN'T
22 MADE THE CASE THAT YOU SHOULD BE GRANTED THE BEST
23 DEAL, IN MY MIND, ONE PERSON HERE SPEAKING. AND
24 UNFORTUNATELY, I'M NOT TOTALLY CONVERSANT WITH
25 ALL THE VARIOUS OPTIONS THAT WE COULD GRANT YOU

1 THAT WOULD RATCHET UP YOUR OBLIGATION SO YOU GET
2 THE SECOND BEST DEAL.
3 BUT I REALLY DON'T THINK, WITH YOUR
4 RECORD, AND NOT THE WORST RECORD IN TOWN, BUT
5 WITH YOUR RECORD OF BOTH ACCUMULATION OF TIRES,
6 FOR WHATEVER REASON, AND EVEN MORE IMPORTANT, THE
7 DEFAULT, THAT WE SHOULD GIVE YOU THE BEST DEAL.

8 MR. HARRINGTON: WE'RE A DIFFERENT
9 CORPORATION, DIFFERENT PEOPLE, DIFFERENT
10 EVERYTHING.

11 MEMBER ROBERTI: WELL, I UNDERSTAND. I
12 UNDERSTAND YOUR POINT OF VIEW.

13 MR. HARRINGTON: NO, NO, IT ISN'T A POINT
14 OF VIEW. I MEAN, THEY ARE TRULY DIFFERENT
15 PEOPLE, IT'S A DIFFERENT OPERATION, IT'S -- THERE
16 IS ONE PERSON THAT IS -- WAS WITH THE PREVIOUS
17 COMPANY, AND THAT IS WITH THE CURRENT COMPANY,
18 THAT'S IT.

19 MEMBER EATON: PERHAPS, I MEAN, WHY NOT -
20 - ALL FOUR HAVE SPOKEN, LET ME SEE IF I CAN'T
21 PERHAPS MAYBE SHED -- USING THE SAME ANALOGY,
22 SINCE YOU'RE USING ABOUT, YOU KNOW, DRIVING
23 RECORD AND INSURANCE, PERHAPS MAYBE IF WE FOLLOW
24 A CONSISTENT LINE, AND WHAT WILL HAPPEN IS THAT
25 WE FOLLOW WHAT MR. JONES SAID, THAT FOR EACH TIRE

1 ON THERE, THERE'S AN EQUIVALENT LEVEL, AND THAT
2 WE CONDITION IT AFTER A CERTAIN PERIOD OF TIME,
3 LIKE IN AUTO INSURANCE, IF YOU HAVE A GOOD RECORD
4 THEN WE CAN GO BACK TO A PERFORMANCE LEVEL OF 20
5 OR 40 OR 60 PERCENT. YOU KNOW, KIND OF LIKE
6 YOU'VE HAD, YOU KNOW, ONE MARK ON YOUR RECORD,
7 AND IF YOU KEEP YOUR RECORD CLEAN FOR "X" AMOUNT
8 OF TIME THEN GENERALLY THE INSURANCE COMPANIES
9 WILL LOOK AT IT AND SAY, OKAY, YOU KNOW, IT WAS A
10 ONE-TIME MISTAKE OR A TWO-TIME MISTAKE, YOUR RATE
11 GETS LOWERED.
12 AND IF THAT SEEMS TO BE A FAIR THING,
13 IS WHAT SENATOR ROBERTI'S TALKING ABOUT, THAT
14 YOU'RE ASKING FOR SOMETHING BUT YOU DON'T DESERVE
15 IT, YOU DON'T DESERVE THE BEST PRICE, YOU DON'T
16 DESERVE THE WORST PRICE, BUT AT LEAST FOR THE
17 TIME BEING, YOU KNOW, YOU'VE GOT TO GET A COUPLE
18 OF MORE CARDS BEFORE YOU LEAVE GO.

19 MR. HARRINGTON: MR. EATON, COULD I
20 ADDRESS THAT?

21 MEMBER EATON: SURE.

22 MR. HARRINGTON: COULD I THEN GO --
23 INSTEAD OF AN INITIAL 20 PERCENT GO AHEAD AND
24 ACCELERATE THE FIRST TWO YEARS' WORTH OF
25 PAYMENTS? AND IF IN THAT TIME THAT MY NEXT

1 PAYMENT IS DUE, IF THE BOARD FEELS THAT IT ALL IS
2 -- SHOULD BE THERE OR THAT -- IN OTHER WORDS,
3 I'LL GO AHEAD AND DOUBLE-UP, IN OTHER WORDS, KEEP
4 EVERYTHING AS IT IS, AND I'LL JUST MAKE THE NEXT
5 PAYMENT THAT WOULD BE DUE NEXT YEAR THIS YEAR, AT
6 SOME TIME THAT -- AND I THINK THAT WOULD ADDRESS
7 MR. ROBERTI'S CONCERNS WITH NOT HAVING THE BEST
8 RATE, BUT ALSO ALLOW US NOT TO BE PUT AT A
9 TERRIBLY COMPETITIVE DISADVANTAGE.

10 MEMBER JONES: MR. CHAIRMAN?

11 CHAIRMAN PENNINGTON: MR. JONES.

12 MEMBER JONES: MR. HARRINGTON, IF YOU
13 WERE TO DOUBLE UP AND PAY THE 40 PERCENT, THEN
14 WOULD YOU, INSTEAD OF HAVING 80,000 TIRES HAVE
15 40,000 TIRES?

16 MR. HARRINGTON: NO. WE WOULD LIKE TO
17 HAVE THE AVAILABILITY TO HAVE 80,000 TIRES ON
18 SITE.

19 MEMBER JONES: WELL, ONE THING THAT
20 HAPPENED WITH BAS, WHEN WE LOOKED AT THIS ON THIS
21 20 PERCENT FUNDING, WAS THE FACT THAT BAS OWNED
22 ALL THAT PROPERTY. THERE WAS A REAL ISSUE WITH,
23 YOU KNOW, IF THEY WERE ABANDONED THERE WAS A
24 STAKE, THAT FOR THEM TO GET ANY OF THEIR MONEY
25 OUT THEY'D HAVE TO CLEAN UP THE TIRE PILE --

1 MR. HARRINGTON: THANK YOU VERY, VERY
2 MUCH.

3 MEMBER JONES: -- AND THERE WAS THOSE
4 KINDS OF THINGS --

5 MR. HARRINGTON: BAS BOUGHT THE PROPERTY
6 WITH A MORTGAGE, CRM OWNS THE PROPERTY FREE AND
7 CLEAR.

8 MEMBER JONES: DO YOU WANT TO PUT THE
9 PROPERTY UP AS PART OF THE TRUST?

10 MR. HARRINGTON: I DON'T THINK WE SHOULD
11 HAVE TO, THAT'S TOTALLY OUTSIDE THE SCOPE OF
12 THIS.

13 WE ARE STAYING WITHIN THE
14 REGULATIONS. BUT AS YOU POINT OUT --

15 MEMBER JONES: SO ARE WE. AND WHAT WE'RE
16 TRYING TO DO IS LET YOU WALK OUT OF HERE WITH A
17 PERMIT, OR I AM AND EVERYBODY ELSE IS. BUT
18 SOMEHOW -- AND IT'S NOT THE FIRST TIME -- WE'RE
19 NOT ON THE SAME PAGE. WE'RE TRYING TO HELP YOU
20 GET ALONG.

21 IF YOU OWN THAT PROPERTY FREE AND
22 CLEAR, AND THERE IS NO ENCUMBRANCE AGAINST IT,
23 WHAT RISK IS THERE IN PUTTING THAT UP -- AND I
24 DON'T EVEN KNOW IF IT'S LEGAL, BUT PUTTING THAT
25 UP AS A TRUST FUND FOR THE CLEANUP?

1 IT WAS A CONDITION OF -- I MEAN, NOT
2 A CONDITION, BUT WAS ONE OF THE CRITERIA WE
3 LOOKED AT WITH BAS, THE FACT THAT THERE WAS A --
4 THEY HAD A STAKE.

5 MR. HARRINGTON: I UNDERSTAND THAT. AND
6 YOU UNDERSTOOD THAT THEY HAD A STAKE, AND THEY'D
7 HAVE TO CLEAN IT UP IF IT WAS SOLD. I'M ASKING
8 YOU, I GUESS, TO UNDERSTAND THAT SAME THING, THAT
9 WE ALSO HAVE THAT STAKE IN OWNERSHIP POSITION,
10 AND TO CLOUD THE TITLE WITH THE CLEANUP LANGUAGE
11 WOULD SEEM A LITTLE CUMBERSOME AT BEST.
12 WOULD YOU GO WITH SOME TYPE OF
13 ACCELERATED PAYMENT?

14 MEMBER JONES: WHAT I'M TRYING TO -- I
15 OFFERED. I SAID YOU PUT DOWN 40, MAYBE WE'D DO
16 40,000 TIRES. THERE IS A WAY TO MINIMIZE OUR
17 RISK.
18 THERE ARE OTHER ISSUES WITH PARCO
19 THAT, YOU KNOW, WERE ON THE ENFORCEMENT SIDE,
20 LIKE FINDING TRAILERS FULL OF TIRES ALL OVER THE
21 PLACE, AFTER WE HAD SAID YOU COULDN'T BRING
22 ANYMORE IN.
23 THIS PICTURE -- I DON'T LIKE GETTING
24 INTO THESE PICTURE-PAINTING THINGS BECAUSE, AS
25 MUCH AS YOU CAN SAY, WE CAN SAY. THERE'S NO

1 BENEFIT. WE'RE NOT HERE TO SLAM YOU, WE'RE HERE
2 TO TRY TO MAKE SURE THAT THE STATE AND THE PEOPLE
3 OF THE STATE ARE COVERED, AND YOU'RE COVERED,
4 THAT YOU CAN OPERATE. IT WAS AN OPTION THAT I
5 OFFERED.

6

7 MR. HARRINGTON: I ACCEPT THE OPTION OF
8 THE 40,000 TIRES WITH THE 40 PERCENT PAYMENT.

9 MEMBER EATON: IT WORKS FOR ME IF IT
10 WORKS FOR THE REST OF THE BOARD MEMBERS.
11 AND THEN WE ACCELERATE AS IT'S PAID.

12 YOU KNOW, WHEN YOU MAKE THE NEXT ONE THEN IT
13 WOULD GO UP. AND I GUESS WHEN IT'S FULLY FUNDED
14 IT WILL GO TO 80.

15 DOES THAT WORK?

16 MEMBER EATON: THAT'S FINE.

17 CHAIRMAN PENNINGTON: AND THAT WORKS FOR
18 YOU. OKAY.

19 MR. HARRINGTON: YES.

20 MEMBER JONES: NOW, ARE YOU WILLING TO GO
21 BACK AND IMPOSE THAT IDENTICAL SOLUTION TO BAS,
22 WHICH YOU CAN'T DO BECAUSE YOU'VE ALREADY ISSUED
23 THEM A PERMIT? AND AREN'T WE ENGAGING IN UNEQUAL
24 TREATMENT? WE HAVE ALMOST IDENTICAL SITUATIONS
25 HERE. BOTH HAD SOME VIOLATION PROBLEMS EARLY ON.

1 MEMBER JONES: DID BAS HAVE A DEFAULT
2 PROBLEM?

3 MEMBER EATON: NO. IN FACT, BAS WAS THE
4 BENEFICIARY OF A GRANT FROM THIS BOARD.

5 MEMBER JONES: LOTS OF GRANTS.

6 MEMBER EATON: LOTS OF GRANTS. AND THIS
7 COMPANY HASN'T ASKED FOR ANY.

8 MS. NAUMAN: BUT IF YOU WANT A
9 DISTINCTION I THINK -- AND PLEASE CORRECT ME IF
10 I'M WRONG -- IS THAT THEIR VIOLATIONS AROSE AFTER
11 THEY GOT THEIR PERMIT, NOT -- THEY DIDN'T HAVE A
12 PREVIOUS RECORD BEFORE WE ACTED ON THE PERMIT.

13 THINK THAT'S THE DIFFERENCE HERE, IS THAT WE'VE
14 GOT SOMEBODY WITH INVOLVEMENT OF PREVIOUS PEOPLE
15 THAT WERE INVOLVED IN A PREVIOUS SITUATION WITH
16 THE BOARD, WE'VE GOT AN EXISTING VIOLATION AS WE
17 START OFF. WHEREAS, AS FAR AS I RECALL, AND THIS
18 COULD BE WRONG, BAS RAN INTO THEIR PROBLEMS
19 AFTERWARDS, AFTER WE GRANTED THE PERMITS. IS
20 THAT NOT RIGHT?

21 I'M JUST SAYING THE DIFFERENCE IS A
22 PREVIOUS RECORD, OR SOMETHING THAT HAPPENS AT THE
23 TIME --

24 CHAIRMAN PENNINGTON: DIDN'T THEY OPERATE
25 UNDER SOME OF THE EXEMPTIONS AS WELL?

1 MR. HARRINGTON: NO.

2 MEMBER FRAZEE: BAS WAS OPERATING UNDER
3 AN EXEMPTION TO BEGIN WITH.

4 (THE PARTIES SIMULTANEOUSLY SPEAK.)

5 MR. HARRINGTON: BAS HAD A MINOR WASTE
6 TIRE FACILITY PERMIT, HAD THEY -- EXCEEDED IT,
7 HAD A CEASE AND DESIST ORDER, CONTINUED TO
8 OPERATE AND ACCEPT TIRES, AND WHILE THEY WERE
9 MAKING APPLICATION FOR THEIR --

10 (THE PARTIES SIMULTANEOUSLY SPEAK.)

11 MEMBER FRAZEE: I DON'T WANT TO CONFUSE
12 THE ISSUE, BECAUSE I THINK IT'S A GOOD SOLUTION.
13 BUT I JUST AM FEARFUL OF THE UNEQUAL TREATMENT.

14 CHAIRMAN PENNINGTON: DIDN'T THEY BUY AN
15 INSURANCE POLICY?

16 MS. NAUMAN: I'M TRYING TO THINK.

17 CHAIRMAN PENNINGTON: LIKE A LANDFILL
18 (INDISC.)?

19 MS. NAUMAN: WELL, I'LL READ THE ONES
20 THAT ARE AVAILABLE.

21 MEMBER JONES: WELL, I THINK WE HAVE IT
22 RESOLVED, THOUGH, DON'T WE? WE HAVE IT RESOLVED.
23 THEY ACCEPTED THE 40,000 TIRES AT --

24 MR. HARRINGTON: FORTY PERCENT.

25 MEMBER JONES: -- 40 PERCENT, AS IT GOES

1 UP WE'LL GO IN INCREMENTS AND RAISE IT. STAFF'S
2 GOING TO HAVE TO WRITE THAT PERMIT TO PUT IN THAT
3 ACCELERATION SCHEDULE.

4 MEMBER EATON: DOES THAT MEAN IF THEY GET
5 — AT 40,000, THEY WANT TO GO TO 50,000, THAT
6 THAT'S AUTOMATICALLY ACCELERATED, SO THEY HAVE --
7 50, IT'S NOT JUST INCREMENTS OF 20? SO LET'S SAY
8 THEY HAVE --

9 CHAIRMAN PENNINGTON: RIGHT, THEY SHOULD
10 BE ABLE TO ADD 10,000 TO THEIR TRUST FUND AND --

11 MEMBER EATON: THAT'S WHAT I'M TRYING TO
12 GET AT, YEAH. IF THEY SO CHOOSE.

13 I THINK WHAT YOU'RE -- KIND OF WHAT
14 YOU'RE TALKING ABOUT IS SOME THINGS WE HAVE SEEN
15 IN THE PAST WITH TRUSTS ON SOME OTHER SITES. ONE
16 SITE I REMEMBER IN PARTICULAR THAT I RECALL, A
17 FAIRLY LARGE ONE, CAME IN AND FULLY FUNDED A
18 TRUST. SO THEY PLOPPED DOWN 100 PERCENT OF THEIR
19 FUNDING, YOU KNOW, BASICALLY THEY CAME IN AND PUT
20 ALL THEIR MONEY DOWN, HAD THEIR TIRES ON THE
21 GROUND ALREADY, AND THERE WAS NO ACCUMULATION.
22 WITH WHAT YOU'RE TALKING ABOUT NOW
23 WITH MR. HARRINGTON, IT WOULD BE -- THE PERMIT
24 WOULD HAVE TO REFLECT SOME KIND OF EITHER
25 PROGRESSIVE SCHEDULING AND -- OR IF THEY HAD --

1 AND IF YOU CAPPED THEM AT 40,000 TIRES IN THE
2 PERMIT THEY WOULD HAVE TO COME IN AND REVISE THE
3 PERMIT TO GO ANY HIGHER THAN THAT.
4 OTHERWISE, YOU'RE GOING TO HAVE TO
5 BUILD A PERMIT CONDITION IN THERE TO ALLOW THEM
6 SOMEWHERE TO PROGRESS UP, AND WHEN THEY'RE MAKING
7 THEIR DEPOSITS, AS OPPOSED TO RIGHT NOW, A TRUST
8 DEPOSITED INTO ANNUALLY UPON ISSUANCE OF THE
9 PERMIT, SO THEY HAVE A WHOLE ENTIRE YEAR. WE'D
10 HAVE TO BUILD IN SOMETHING THERE IN ORDER TO MAKE
11 THOSE THINGS HAPPEN EITHER BEFORE THEY ACCUMULATE
12 OR SOON AFTERWARDS. EITHER YOU'RE GOING TO GET
13 THEM ON THE FRONT END OR THE TAIL END.

14 MEMBER EATON: MY POINT PRECISELY. I WAS
15 JUST SEEKING CLARIFICATION SO WE'RE ALL ON THE
16 SAME PAGE. BECAUSE THESE HAVE A WAY OF COMING
17 BACK, AND THAT'S SORT OF -- ALL I WAS TRYING TO
18 DO, AND I APPRECIATE THAT BECAUSE THAT'S WHERE
19 WE'RE REALLY TRYING TO GO.

20 MEMBER JONES: THEN LET ME TRY TO LAY
21 THIS OUT, AND SOMEBODY HAS TO WRITE IT DOWN.
22 THAT WE ISSUE A WASTE TIRE PERMIT THAT IN -- WHEN
23 THE TRUST FUND IS FULLY FUNDED THAT PERMIT IS FOR
24 80,000 WASTE TIRES. 80,000 IS WHAT THIS PERMIT
25 IS FOR, OKAY? MAXIMUM. AS OF TODAY, DO 40

1 PERCENT OF -- I DON'T KNOW WHAT THE FUNDING LEVEL
2 IS, THAT'S WHY I'M DEALING WITH THIS 40 PERCENT
3 STUFF.
4 SO YOU'RE GOING TO PUT TWO PAYMENTS
5 IN WHICH EQUAL 40 PERCENT OF WHAT YOUR TRUST
6 OBLIGATION IS. AND I SAID THEN YOU GET 40,000
7 TIRES, WHICH IS HALF OF THE 80. IT'S A LITTLE
8 BIT UP FROM WHAT WE HAD SAID ORIGINALLY.
9 I THINK THAT IN A YEAR, OR SOONER,
10 WHEN YOU FUND THE NEXT 20 PERCENT, THEN THOSE --
11 THAT PERMIT ACCEPTANCE WILL GO FROM 40,000 TO, I
12 GUESS, 50,000. RIGHT? OR, IT WOULD BE -- NO, IT
13 WOULD BE 40,000 --

14 MS. NAUMAN: WELL, I THINK MAYBE THE
15 STAFF COULD HELP WITH -- WHAT'S THE COST
16 ESTIMATE? BECAUSE WE'RE NOT NECESSARILY DEALING
17 WITH, YOU KNOW, A DOLLAR PER TIRE OR SOMETHING.

18 MEMBER JONES: RIGHT. WHAT I'M TRYING TO
19 GET TO HERE, BECAUSE I DON'T -- I'M NOT SURE WE
20 NEED TO DO THE MATH. THEY'RE GOING TO DO A 40
21 PERCENT PROPORTION OF THEIR OVERALL TRUST
22 LIABILITY, AND FOR THAT THEY CAN HAVE 40,000
23 TIRES ON SITE.

24 MS. NAUMAN: OKAY. THEN WE'LL JUST KEEP
25 RATCHETING IT UP.

1 MEMBER JONES: ESCALATE IT UP, WITH THE
2 MAXIMUM TO BE 80,000 TIRES ON SITE, WHICH IS WHAT
3 THE PERMIT...?

4 MS. NAUMAN: RIGHT.

5 MEMBER JONES: AND THEY WOULD BE ABLE TO
6 HAVE THAT MANY ON SITE WHEN THE PERMIT -- WHEN
7 THE TRUST FUND IS FULLY FUNDED.

8 MS. NAUMAN: HOW MANY YEARS DO YOU WANT
9 TO GIVE TO FUND THIS TRUST FUND?

10 MEMBER JONES: I WOULD SAY FOUR.

11 MS. NAUMAN: OKAY.

12 MEMBER JONES: BASED ON THE FACT THAT IT
13 WAS A FIVE-YEAR TRUST, YOU'RE DOING TWO THIS
14 YEAR. RIGHT, MR. HARRINGTON?

15 MR. HARRINGTON: CORRECT.

16 MEMBER JONES: DO YOU WANT THREE YEARS
17 LEFT TO GET UP TO THE 80, OR DO YOU WANT TO
18 ACCELERATE THAT?

19 MR. HARRINGTON: IF THE THREE YEARS ARE
20 LEFT, LET'S LEAVE THEM. BUT WE COULD PAY ALL
21 THREE OF THEM, SAY, NEXT YEAR AND BE AT 80
22 PERCENT --

23 MEMBER JONES: AND IF YOU WERE 100
24 PERCENT FUNDED YOU WOULD HAVE THE ABILITY UNDER
25 THIS --

1 MR. HARRINGTON: AT ANY TIME -- RIGHT.

2 MEMBER JONES: -- TO HAVE 80,000 TIRES ON
3 SITE.

4 MR. HARRINGTON: RIGHT. AND THAT WE
5 DON'T HAVE TO COME BACK TO THE BOARD EACH TIME TO
6 TRY TO BUMP IT UP TO THE --

7 MEMBER JONES: EXACTLY, EXACTLY.

8 MS. TOBIAS: AND THE 40 PERCENT THAT HE'S
9 PAYING NOW IS GOING TO BE PAID COMPLETELY NOW,
10 NOT KIND OF NOW AND THEN ANOTHER AT THE END OF
11 THE YEAR, SO IT'S --

12 MR. HARRINGTON: WELL, I THINK THERE'S 20
13 PERCENT ALREADY, AND GIVE US, SAY, TILL THE END
14 OF FEBRUARY FOR THE OTHER --

15 MS. TOBIAS: WELL, THE WAY IT WOULD DO
16 IS, GENERALLY WE WOULD ISSUE THE PERMIT WHEN YOU
17 PAID THE NEXT -- THAT OTHER 20 PERCENT.

18 MR. HARRINGTON: NO. BECAUSE AT 20
19 PERCENT WE SHOULD BE ABLE TO OPERATE AS SOON AS -
20 - IF THE BOARD, IN ITS WISDOM, WERE TO ADOPT THIS
21 WE SHOULD BE ABLE TO START OPERATING IMMEDIATELY.
22 WE WILL PUT IN THE ADDITIONAL 20
23 PERCENT ON A TIME TABLE ACCEPTABLE TO THE BOARD.
24 IF IT'S TOMORROW, NEXT WEEK, NEXT MONTH, WHENEVER
25 IT'S ACCEPTABLE, AND THEN WE WILL CONTINUE TO

1 MAKE 20 PERCENT NO LATER THAN 12 MONTHS AFTER
2 WHENEVER YOU SAY OUR SECOND 20 PERCENT IS DUE.

3 MS. NAUMAN: SO, FOR MY CLARIFICATION, 20
4 PERCENT NOW FOR 16,000 TIRES? ARE WE ALL TALKING
5 THE SAME NUMBER OF TIRES?

6 MEMBER JONES: THE DEAL WAS TWO PAYMENTS,
7 40,000 TIRES. IF WE'RE NOT AT TWO PAYMENTS WE'RE
8 BACK AT 16,000, AS FAR AS I'M CONCERNED.

9 MR. HARRINGTON: OKAY.

10 MEMBER JONES: THAT WAS THE DEAL. IS
11 THAT REASONABLE?

12 MR. HARRINGTON: THAT'LL WORK.

13 MEMBER JONES: OKAY.

14 MR. HARRINGTON: THAT'LL LET US GET
15 STARTED.

16 MEMBER JONES: THAT WILL WORK WITH THE
17 BOARD MEMBERS?

18 MEMBER ROBERTI: RIGHT.

19 MEMBER FRAZEE: AS A POINT OF ORDER I
20 WANT TO MOVE THE ADOPTION OF THE NEGATIVE
21 DECLARATION, RESOLUTION 99-24.

22 MEMBER EATON: AND I'LL SECOND THAT.

23 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY
24 MR. FRAZEE, AND SECONDED BY MR. EATON, THAT WE
25 ADOPT THE NEGATIVE DECLARATION FOR THE NEW WASTE

1 TIRE FACILITY PERMIT FOR CRM COMPANY.

2 IF THERE'S NO FURTHER DISCUSSION,

3 WILL THE SECRETARY CALL THE ROLL, PLEASE?

4 THE SECRETARY: BOARD MEMBER EATON?

5 MEMBER EATON: AYE.

6 THE SECRETARY: FRAZEE?

7 MEMBER FRAZEE: AYE.

8 THE SECRETARY: JONES?

9 MEMBER JONES: AYE.

10 THE SECRETARY: ROBERTI?

11 MEMBER ROBERTI: AYE.

12 THE SECRETARY: CHAIRMAN PENNINGTON?

13 CHAIRMAN PENNINGTON: AYE.

14 THE MOTION CARRIES.

15 CHAIRMAN PENNINGTON: THE SECOND MOTION

16 IS **

17 * CONSIDERATION OF THE SOLID WASTE FACILITY

18 PERMIT ****FILL IN.

19 MEMBER JONES: OKAY. I MOVE RESOLUTION

20 99-08, WHICH INCLUDES THE AMENDED LANGUAGE, WHICH

21 IS A MAXIMUM 80,000 AND THEN THE INCREMENTAL

22 CHANGES AS THE FUNDING IS DONE AS WE PREVIOUSLY

23 DISCUSSED.

24 CHAIRMAN PENNINGTON: OKAY. WE'LL NEED A

25 SECOND FOR THAT.

1 MEMBER FRAZEE: I'LL SECOND.

2 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
3 MOVED BY MR. JONES, SECONDED BY MR. FRAZEE, THE
4 ADOPTION OF RESOLUTION 99-08, AS AMENDED.

5 ALL THOSE IN FAVOR --

6 MS. TOBIAS: MR. CHAIR, I'M SORRY. MAYBE
7 YOU BETTER MAKE SURE -- SO, AS I UNDERSTAND THIS,
8 THIS IS BASICALLY THE 80,000, BUT IT'S THE 20
9 PERCENT THAT'S ALREADY IN THERE, SO IT'S
10 OPERATING AS 14,000.

11 MEMBER JONES: SIXTEEN THOUSAND.

12 MS. TOBIAS: SIXTEEN, I'M SORRY.

13 MEMBER JONES: IT WILL GO TO 40,000 WHEN
14 THE NEXT PAYMENT EQUALING 20 PERCENT, AND HE WILL
15 INCREASE AS THEY FUND OVER THE NEXT THREE-YEAR
16 PERIOD.

17 MS. TOBIAS: THE INCREMENTS ARE EQUALLY -

18

19 MEMBER JONES: THE INCREMENTS ARE EQUAL.

20 MS. TOBIAS: -- DISTRIBUTED OVER --

21 MEMBER JONES: EXACTLY.

22 MS. TOBIAS: — THE PAYMENT STAGES —

23 MEMBER JONES: UNTIL YOU GET TO 80,000.

24 MR. HARRINGTON: BUT CAN BE ACCELERATED

25 AT OUR OPTION.

1 MEMBER JONES: IT CAN BE ACCELERATED AT
2 YOUR OPTION. YOU PAY IT OFF IN FOUR WEEKS YOU'RE
3 AT 80,000, YOU DON'T HAVE TO COME BACK.

4 CHAIRMAN PENNINGTON: OKAY. ANY FURTHER
5 DISCUSSION?

6 MEMBER EATON: BUT YOU DO HAVE TO NOTIFY
7 THE APPROPRIATE PERSONS WHEN YOU WANT TO EITHER
8 ACCELERATE OR YOU WANT TO INCREASE PAST EACH
9 AMOUNT. YOU'VE GOT TO AT LEAST LET US KNOW,
10 OTHERWISE WE'LL BE OUT THERE TO LET YOU KNOW.
11 YOU KNOW THAT.

12 MR. HARRINGTON: I'M WELL AWARE OF THAT.

13 CHAIRMAN PENNINGTON: ANY FURTHER
14 QUESTIONS?

15 IF NOT, WILL THE SECRETARY CALL THE
16 ROLL?

17 THE SECRETARY: BOARD MEMBER EATON?

18 MEMBER EATON: AYE.

19 THE SECRETARY: FRAZEE?

20 MEMBER FRAZEE: AYE.

21 THE SECRETARY: JONES?

22 MEMBER JONES: AYE.

23 THE SECRETARY: ROBERTI?

24 MEMBER ROBERTI: AYE.

25 THE SECRETARY: CHAIRMAN PENNINGTON?

1 CHAIRMAN PENNINGTON: AYE.
2 THE MOTION CARRIES.
3 7: CONSIDERATION OF' A NEW MAJOR WASTE TIRE
4 FACILITY PERMIT FOR THE DAVIS STREET TRANSFER
5 STATION, ALAMEDA COUNTY

6 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM
7 NO. 7, CONSIDERATION OF A NEW MAJOR WASTE TIRE
8 FACILITY PERMIT FOR THE DAVIS STREET TRANSFER
9 STATION, ALAMEDA COUNTY. TERRY SMITH.

10 MR. SMITH: YES, I'LL PRESENT THAT ONE,
11 AS WELL.

12 THIS ITEM, THIS DAVIS STREET TRANSFER
13 STATION IS CURRENTLY OPERATING UNDER A MINOR
14 WASTE TIRE FACILITY PERMIT ISSUED IN FEBRUARY OF
15 '98. THE EXPANSION OF THE CRUMB RUBBER
16 MANUFACTURING OPERATIONS IS PLANNED, SO THERE'S A
17 NEED TO EXPAND THE TIRE STORAGE AT THE SITE. THE
18 ISSUES ARE, THIS PROPOSED PERMIT WILL ALLOW
19 STORAGE OF UP TO 12,000 TIRES ON SITE.
20 BOARD STAFF HAVE DETERMINED THAT ALL
21 STATE AND LOCAL REQUIREMENTS FOR THE PROPOSED
22 PERMIT HAVE BEEN MET. THE PROJECT DESIGN AND
23 OPERATION ARE CONSISTENT WITH STATE MINIMUM
24 STANDARDS. THE APPLICABLE LOCAL REQUIREMENTS
25 HAVE BEEN MET. AND THE CALIFORNIA ENVIRONMENTAL

1 QUALITY ACT HAS BEEN SATISFIED.
2 STAFF HAVE DRAFTED A WASTE TIRE
3 FACILITY PERMIT FOR THIS PROJECT, WHICH IS
4 INCLUDED AS ATTACHMENT NO. 1 OF THIS ITEM.
5 IN CONCLUSION, STAFF RECOMMEND THAT
6 THE BOARD ADOPT PERMIT DECISION NO. 99-09,
7 APPROVING ISSUANCE OF WASTE TIRE FACILITY PERMIT
8 NO. 01-TI-0037.
9 I'M NOT SURE IF THERE'S ANY
10 REPRESENTATIVES OF THE OPERATOR HERE. I THINK
11 BILL GILMOUR WAS HERE EARLIER, BUT I'M NOT SURE
12 HE'S HERE NOW.
13 THIS CONCLUDES OUR PRESENTATION.

14 CHAIRMAN PENNINGTON: OKAY. ANY
15 QUESTIONS OF STAFF?

16 MEMBER FRAZEE: JUST THE UNDERSTANDING
17 THAT THE FINANCIAL ASSURANCE MECHANISM ACTUALLY
18 TAKES INTO ACCOUNT THE ENTIRE 12,000 TIRES.

19 MR. SMITH: YES, IT DOES, IT'S A
20 PERFORMANCE BOND.

21 MEMBER JONES: MR. CHAIRMAN?

22 CHAIRMAN PENNINGTON: MR. JONES.

23 MEMBER JONES: I'D LIKE TO MAKE A MOTION
24 TO MOVE RESOLUTION 1999-09, THE CONSIDERATION OF
25 THE NEW MAJOR WASTE TIRE FACILITY PERMIT FOR THE

1 DAVIS STREET TRANSFER STATION.

2 CHAIRMAN PENNINGTON: OKAY. WE NEED A SECOND
3 HERE.

4 MEMBER FRAZEE: I'LL SECOND.

5 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY
6 MR. JONES, SECONDED BY MR. FRAZEE, THE ADOPTION
7 OF RESOLUTION 99-09, TO CONCUR IN THE ISSUANCE OF
8 A WASTE TIRE FACILITY PERMIT FOR THE DAVIS STREET
9 TRANSFER STATION.
10 IF THERE'S NO FURTHER DISCUSSION,
11 WILL THE SECRETARY CALL THE ROLL?

12 THE SECRETARY: BOARD MEMBER EATON?

13 MEMBER EATON: AYE.

14 THE SECRETARY: FRAZEE?

15 MEMBER FRAZEE: AYE.

16 THE SECRETARY: JONES?

17 MEMBER JONES: AYE.

18 THE SECRETARY: ROBERTI?

19 MEMBER ROBERTI: AYE.

20 THE SECRETARY: CHAIRMAN PENNINGTON?

21 CHAIRMAN PENNINGTON: AYE.

22 THE MOTION CARRIES.

23 9: CONSIDERATION OF STAFF

24 RECOMMENDATIONS FOR REVISIONS TO THE PROPOSED CONSTRUCTION-

25 DEMOLITION DEBRIS REGULATIONS, AND

1 APPROVAL TO NOTICE A 15-DAY COMMENT PERIOD.

2 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM
3 NO. 9, CONSIDERATION OF STAFF RECOMMENDATION FOR
4 REVISIONS TO THE PROPOSED CONSTRUCTION-DEMOLITION
5 DEBRIS REGULATIONS, AND APPROVAL TO NOTICE A 15-
6 DAY COMMENT PERIOD. JULIE NAUMAN.

7 MS. NAUMAN: MR. CHAIRMAN, I'VE ASKED
8 MARCIA KEISS, WHO HAS BEEN THE LEAD ON THIS
9 REGULATION PACKAGE, TO PROVIDE YOU WITH A LITTLE
10 BIT OF BACKGROUND AND CONTEXT. WHILE THE ITEM
11 THAT WE'RE BRINGING BEFORE YOU IS JUST FOR THE
12 15-DAY ADDITIONAL COMMENT PERIOD, I THINK IT'S
13 IMPORTANT TO UNDERSTAND THE PROCESS THAT WE HAVE
14 USED TO DEVELOP THIS REGULATION PACKAGE.

15 MS. KIESSE: GOOD AFTERNOON, CHAIRMAN
16 PENNINGTON AND BOARD MEMBERS. THIS ITEM CONCERNS
17 THE PROPOSED C&D AND INERT DEBRIS REGULATIONS.
18 I'M GOING TO START WITH A LITTLE BACKGROUND.
19 HISTORICALLY, SOLID WASTE REGULATIONS

20

21 CHAIRMAN PENNINGTON: EXCUSE ME. WOULD
22 YOU IDENTIFY YOURSELF FOR THE RECORD?

23 MS. KIESSE: I'M SORRY, WE ALREADY KNOW
24 EACH OTHER, THAT'S WHY -- SHE WAS AT THE PUBLIC
25 HEARING. MY NAME IS MARCIA KIESSE.

1 HISTORICALLY, SOLID WASTE REGULATIONS
2 WERE SET UP FOR MUNICIPAL SOLID WASTE LANDFILLS
3 AND TRANSFER STATIONS. MORE OR LESS A ONE-SIZE-
4 FITS-ALL PERMIT, WHICH WAS A FULL PERMIT.
5 THE PROVISIONS OFTEN WERE NOT
6 APPLICABLE TO THEIR SOLID WASTE OPERATIONS, WHICH
7 DEAL WITH NON-TRADITIONAL WASTE STREAM SUCH AS
8 COMPOST, ASH, AND IN THIS CASE, CONSTRUCTION AND
9 DEMOLITION DEBRIS. THIS RESULTED IN UNEVEN
10 APPLICATION OF STANDARDS, AND CONFUSION AMONG THE
11 REGULAR COMMUNITY AND LEAS.
12 IN 1994 THE BOARD ADOPTED A TIER
13 PERMIT FRAMEWORK TO ALLOW FOR MORE FLEXIBILITY.
14 THE BOARD THEN DIRECTED STAFF TO DEVELOP
15 REGULATIONS TO PLACE THESE NON-TRADITIONAL --
16 WELL, SOLID WASTE OPERATIONS AND FACILITIES,
17 INCLUDING THE NON-TRADITIONAL ONES, INTO SPECIFIC
18 TIERS COMMENSURATE WITH THE POTENTIAL IMPACTS
19 THAT THEY MIGHT POSE TO PUBLIC HEALTH AND SAFETY,
20 AND THE ENVIRONMENT.
21 APPROXIMATELY ONE AND A HALF YEARS
22 AGO P&E STAFF BEGAN DEVELOPMENT OF THE C&D INERT
23 DEBRIS REGULATIONS. WE STARTED BY VISITING SITES
24 THAT STORE, HANDLE AND DISPOSE OF CONSTRUCTION
25 AND DEMOLITION AND THE INERT DEBRIS, AND BY

1 HOLDING THREE INFORMAL WORKSHOPS, ONE IN REDDING,
2 ONE IN SACRAMENTO, AND ONE IN DIAMOND BAR.
3 AN AGENDA ITEM, IN NOVEMBER OF 1997,
4 DETERMINED THAT THE BOARDS HAD LEGAL AUTHORITY TO
5 REGULATE C&D AND INERT DEBRIS.
6 THE BOARD DIRECTED THE STAFF TO TRACK
7 THESE REGULATIONS WITH THE TRANSFER PROCESS OF
8 REGULATIONS WHICH WERE STILL BEING DEVELOPED, AND
9 TO OBTAIN ADDITIONAL PERSPECTIVES ON C&D AND
10 INERT DEBRIS ISSUES.
11 STAFF REQUESTED PUBLIC PARTICIPATION
12 ON A FOCUSED WORK GROUP, WITH REPRESENTATIVES
13 FROM INDUSTRY, ENVIRONMENTAL GROUPS, AND LOCAL
14 AND STATE REGULATORY AGENCIES. THIS GROUP MET
15 FOUR TIMES TO REVIEW AND DISCUSS THE APPROPRIATE
16 LEVEL OF REGULATION, AND TO ASSIST IN THE
17 DEVELOPMENT OF DRAFT TEXT. THESE DRAFTS WERE
18 AVAILABLE ON THE BOARD'S WEB SITE AND AS HARD
19 COPIES.
20 IN FEBRUARY AND MARCH OF 1998, WE
21 HELD TWO MORE INFORMAL WORKSHOPS, ONE IN
22 SACRAMENTO AND ONE IN DIAMOND BAR. WE DID NOT
23 HAVE ONE IN REDDING BECAUSE OF THE LOW ATTENDANCE
24 AT THE FIRST ONE THAT WE HAD HAD.
25 THE MOST RECENT DRAFT WAS DEVELOPED

1 ON SEPTEMBER 23RD, AND WAS NOTICED OCTOBER 16TH,
2 AND POSTED ON THE BOARD'S WEB SITE. WE HAVE
3 COMPLETED THE 45-DAY COMMENT PERIOD, WHICH ENDED
4 ON DECEMBER 28TH, AND WE HAD A PUBLIC HEARING ON
5 JANUARY 13TH.
6 WE ARE HERE NOW TO REQUEST AN
7 ADDITIONAL 15-DAY COMMENT PERIOD IN ORDER TO
8 REVISE THE NOTICED DRAFT TEXT TO ADDRESS THE
9 CHANGES THAT WE'VE RECEIVED THROUGH THE PUBLIC
10 COMMENT PERIOD AND THE PUBLIC HEARING. WE HAVE
11 COPIES OF A WORKING DRAFT RIGHT NOW, WHICH STILL
12 NEEDS REFINEMENT BECAUSE, EVEN AS OF THIS MORNING
13 WE'RE STILL FINDING THINGS THAT WE NEEDED TO
14 CHANGE. BUT, I WILL GO OVER BASICALLY WHAT THESE
15 CHANGES WERE.
16 THE MOST SIGNIFICANT CHANGE, I THINK,
17 IS TO MAKE THEM TRACK MORE CLOSELY WITH THE
18 TRANSFER STATION REGS. AND WHAT WE DID IS TO
19 DEVELOP A NEW SECTION, WHICH IS SIMILAR TO THE
20 ONES IN THE TRANSFER STATION REGS, THAT CONTAIN
21 THE DEFINITIONS AND PROVISIONS THAT CONCERNED
22 ACTIVITIES THAT WON'T BE COVERED BY THIS ARTICLE.
23 ANOTHER CHANGE IS TO CLARIFY THE
24 DEFINITION OF CONSTRUCTION AND DEMOLITION DEBRIS.
25 AND I, AT THIS POINT, WOULD LIKE TO MAKE NOTE OF

1 A CHANGE THAT WAS SUGGESTED TO ME BY RICK BEST
2 THIS MORNING. AND I WILL READ THAT PARTICULAR
3 CHANGE RIGHT NOW. IT'S CONSTRUCTION AND
4 DEMOLITION DEBRIS MEANS SOLID WASTE RESULTING
5 FROM CONSTRUCTION, REMODELING, REPAIR, CLEANUP,
6 OR DEMOLITION OPERATIONS THAT ARE NOT HAZARDOUS
7 AS DEFINED IN TITLE 22, SECTION 66261.3, ET SEQ.
8 THIS TERM INCLUDES, BUT IS NOT LIMITED TO,
9 ASPHALT, CONCRETE, PORTLAND CEMENT CONCRETE,
10 BRICK, LUMBER, GYPSUM WALLBOARD, CARDBOARD AND
11 OTHER ASSOCIATED PACKAGING, ROOFING MATERIAL,
12 CERAMIC TILE, CARPETING, PLASTIC PIPE, AND STEEL.
13 THE TERM DOES NOT INCLUDE CONSTRUCTION DEBRIS
14 COMMINGLED WITH 10 PERCENT OR GREATER BY VOLUME
15 OF OTHER TYPES OF NON-HAZARDOUS SOLID WASTE.
16 HOWEVER, C&D DEBRIS MAY BE COMMINGLED WITH ROCKS,
17 SOIL, TREE STUMPS AND OTHER VEGETATIVE MATTER
18 RESULTING FROM LAND CLEARING AND LANDSCAPING FOR
19 CONSTRUCTION OR LAND DEVELOPMENT PROJECTS.
20 I'LL GO BACK NOW TO SOME OF THE
21 CHANGES. ANOTHER ONE I THINK IS SIGNIFICANT IS
22 BENEFICIAL REUSE OF INERT DEBRIS. AND WHEN WE
23 RE-LOOKED AT THAT, WE ENDED UP REMOVING SOME OF
24 THE ACTIVITIES THAT HAD, IN THE PREVIOUS DRAFT,
25 BEEN EXCLUDED. THEY NOW WILL BE IN THE -- NOT

1 SUBJECT TO THIS TIER.
2 ONE OF THE PROVISIONS IN THE PREVIOUS
3 DRAFT WAS FOR AN ENGINEERED INERT FILL. AND IT
4 WAS BROUGHT TO OUR ATTENTION THAT IT'S NOT ALWAYS
5 DESIRABLE TO HAVE AN ENGINEERED INERT FILL FOR
6 EVERY LAND USE, EVERY PLANNED USE. AND, FOR
7 EXAMPLE, IF THEY ARE GOING TO DO WETLANDS OR A
8 GOLF COURSE IT'S NOT DESIRABLE THAT IT BE
9 COMPACTED. AND THEN IN THE SITUATION WHERE
10 YOU'RE PUTTING RIPRAP ON SLOPES TO CONTROL
11 EROSION, IT'S NOT POSSIBLE TO COMPACT IT TO THOSE
12 STANDARDS.

13 I'LL GO OVER A LITTLE BIT BRIEFLY THE
14 REVISED CHART THAT WE PREPARED, ACTUALLY, JUST
15 LAST NIGHT.

16 MS. TOBIAS: MARCIA, DOES THE BOARD HAVE
17 COPIES OF THAT? TELL THEM WHAT PAGE YOU'RE ON?

18 MS. KIESSE: I THINK IT'S A SEPARATE
19 SHEET.

20 MS. TOBIAS: WE'LL GET THAT FROM THE BACK
21 AND --

22 MS. KIESSE: THAT'S THE ONE.

23 MS. TOBIAS: MAYBE YOU COULD TELL THEM,
24 MARCIA, WHILE DEB'S GETTING THAT CHART, WHERE YOU
25 JUST READ FROM, YOUR PREVIOUS ITEM, SO THAT THEY

1 COULD TAG THAT?

2 MS. KIESSE: WELL, BENEFICIAL REUSE IS ON
3 PAGE EIGHT, STARTING WITH LINE 19. AND I'M
4 REFERRING TO THE NEW DRAFT, NOT THE ONE THAT'S IN
5 THE BOOK, THAT BOOK.

6 MEMBER JONES: THE PROPOSED DRAFT, WHERE
7 IT SAYS PAGE EIGHT OF 28?

8 MS. TOBIAS: THE ONE THAT WE JUST PASSED
9 OUT.

10 MS. KIESSE: THE HEADER SAYS "PROPOSED
11 TEXT WITH REVISIONS, JANUARY, 1999."

12 MEMBER JONES: OKAY.

13 MS. KIESSE: SO, ON PAGE EIGHT, LINE 19,
14 IT STARTS THE SECTION THAT TALKS ABOUT WHAT USED
15 TO BE ENGINEERED INERT FILLS, AND IT'S ACTUALLY
16 BENEFICIAL REUSE OF INERT DEBRIS.

17 MEMBER ROBERTI: MR. CHAIRMAN?

18 CHAIRMAN PENNINGTON: SENATOR ROBERTI.

19 MEMBER ROBERTI: WHEN YOU SPEAK OF
20 BENEFICIAL OF INERT DEBRIS, IS IT UNDER THAT
21 BASIS THAT THESE SITES ARE NOT CONSTRUCTION AND
22 DEMOLITION SITES, OR THEY HAVEN'T BEEN CONSIDERED
23 THAT?

24 MS. KIESSE: THEY WERE CONSIDERED LIKE A
25 RECYCLING CENTER. IT'S ANOTHER USE OF THE

1 MATERIAL, RATHER THAN DISPOSAL.

2 MEMBER ROBERTI: AND YET IF WE'RE FILLING
3 A MINE SITE WITH -- WHAT WE CALLED A MINE SITE
4 WITH DEMOLITION MATERIAL, WHICH CONFUSES ME AS TO
5 WHY, THEN, IT ISN'T A CONSTRUCTION AND DEMOLITION
6 SITE THAT SHOULD COME FULLY WITHIN THE PURVIEW OF
7 THIS BOARD FOR PERMITTING PURPOSES, AS WELL.

8 MS. KIESSE: WELL, WE MAKE THE
9 DISTINCTION BETWEEN THE CONSTRUCTION AND
10 DEMOLITION, WHICH COULD INCLUDE PUTRESCIBLE
11 (PHON) MATERIALS LIKE WOOD AND GYPSUM BOARD, AND
12 INERT DEBRIS, WHICH WOULD BE LIKE CONCRETE AND
13 BROKEN ASPHALT, AND THINGS LIKE THAT. AND, SO IF
14 THEY ARE USING ONLY THE INERT PORTION OF C&D --
15 50 IT WOULD BE, YOU KNOW, CRUSHED PAVEMENT OR
16 SOMETHING LIKE THAT, THEN THAT WOULD BE
17 CONSIDERED A BENEFICIAL REUSE.

18 MEMBER ROBERTI: SO THAT'S CONSIDERED
19 BENEFICIAL REUSE AND, THEREFORE, DOESN'T COME
20 WITHIN THE PURVIEW OF THOSE SIGHTS THAT WE WOULD
21 NORMALLY PERMIT.

22 MS. KIESSE: THERE'S ACTUALLY A COUPLE
23 OTHER STIPULATIONS HERE, BESIDES THE FACT THAT
24 THEY'RE USING INERT DEBRIS.

25 MEMBER ROBERTI: SO THEY HAVE TO USE

1 INERT DEBRIS --

2 MS. KIESSE: RIGHT. AND THE FIRST THING

3 IS IT HAS TO BE INERT --

4 (THE PARTIES SIMULTANEOUSLY SPEAK.)

5 MS. KIESSE: RIGHT.

6 MEMBER ROBERTI: -- WHATEVER.

7 MS. KIESSE: THE FIRST THING IS, IT HAS

8 TO BE INERT.

9 THE SECOND THING IS, IT HAS TO BE

10 PART OF AN APPROVED PLAN, SUCH AS A MINE

11 RECLAMATION PLAN OR A PUBLIC HIGHWAY CONSTRUCTION

12 PLAN, OR MAYBE AN EROSION CONTROL PLAN.

13 AND, IT NEEDS TO CONFORM WITH THE

14 ZONING AND LAND USE CONTROLS FOR THAT AREA.

15 MEMBER ROBERTI: AND DO THESE SITES ALL

16 CORRESPOND TO THE THREE CRITERIA THAT YOU

17 ENUNCIATED?

18 MS. KIESSE: I'M NOT SURE I UNDERSTAND

19 YOUR QUESTION. IF THEY MEET THESE THREE

20 REQUIREMENTS, THEN THEY'RE OUTSIDE OF OUR --

21 THEY'RE NOT REGULATED BY THIS ARTICLE.

22 MEMBER ROBERTI: AND SO ALL OF THE SITES

23 THAT ARE ENGAGING IN THE RECYCLING PROCESS THAT

24 YOU ARE SPEAKING TO --

25 MS. KIESSE: WAIT, ARE YOU TALKING ABOUT

1 LIKE SPENT QUARRIES, FOR EXAMPLE?

2 MEMBER ROBERTI: YEAH, SPENT QUARRIES IS
3 WHAT I'M TALKING ABOUT.

4 MS. KIESSE: OKAY. ALL RIGHT.

5 MEMBER ROBERTI: AND WHEN THEY'RE BEING
6 REFILLED.

7 MS. KIESSE: RIGHT.

8 MEMBER ROBERTI: IS THERE ANY INFORMATION
9 AS TO REFILLING TAKING PLACE IN THESE KINDS OF
10 SITES WHICH WOULD DEAL WITH THE REFILLING OF --
11 IT WOULDN'T COVER ALL THREE -- ONE OF THE
12 CRITERIA IS MISSING.

13 MS. KIESSE: YEAH. WELL, THERE ARE SOME
14 MINE RECLAMATION SITES THAT ARE NOT BEING
15 REFILLED WITH INERT DEBRIS. OR, I AM AWARE OF A
16 FEW, I GUESS, LET'S PUT IT THAT WAY.

17 MEMBER ROBERTI: AND, THEREFORE, ARE THEY
18 CONSIDERED, FOR OUR PURPOSES --

19 MS. KIESSE: THEY WOULD BE REGULATED BY
20 THIS ARTICLE, THEY WOULD NOT BE OUTSIDE. AND IN
21 SOME CASES THEY MIGHT ACTUALLY NEED A FULL PERMIT
22 AS A LANDFILL.

23 MEMBER ROBERTI: HOW MANY OF THESE SITES ARE
24 THERE?

25 MS. KIESSE: I COULDN'T TELL YOU. OUR

1 DATABASE HAS SOME SITES THAT -- THE SITES THAT WE
2 KNOW OF, AND I IMAGINE THERE ARE SOME THAT WE
3 DON'T KNOW ABOUT.

4 MEMBER ROBERTI: BUT YOU BELIEVE OR KNOW
5 THAT THERE ARE SOME SITES THAT ARE BEING FILLED
6 WITH PUTRESCIBLE MATERIALS THAT PROBABLY DO NOT
7 HAVE THE FULL PERMIT.

8 MS. KIESSE: YES. AND I THINK THE REASON
9 FOR THAT IS THE DEPARTMENT OF CONSERVATION HAS
10 THE JURISDICTION OVER MINE RECLAMATION. AND THEY
11 ALLOW QUARRIES TO BE BACKFILLED WITH WHAT THEY
12 CALL MINING WASTE. AND IF YOU LOOK AT THE
13 DEFINITION OF MINING WASTE, IT INCLUDES ALMOST
14 ANYTHING, WHATEVER HAPPENED TO BE ON THE SITE AT
15 THE TIME. SO, IT'S REASONABLE TO BELIEVE THAT
16 THERE WOULD BE PUTRESCIBLE MATERIALS WITHIN THOSE

17

18 MEMBER ROBERTI: DO THEY HAVE
19 JURISDICTION EVEN IF IT AMOUNTS TO BEING A
20 LANDFILL?

21 MS. KIESSE: WELL, WE MET WITH DIVISION
22 OF MINES AND GEOLOGY STAFF, AND THEY TOLD US THAT
23 WHEN THEY SEE A MINE RECLAMATION PLAN WHERE THE
24 PROPONENTS ARE PLANNING TO USE OTHER THAN INERT
25 MATERIAL THEY ADVISE THEM TO GO TO THE BOARD TO

1 GET A SOLID WASTE FACILITY PERMIT.

2 MEMBER ROBERTI: BUT YOU BELIEVE THERE
3 ARE SITUATIONS WHERE THEY HAVE NOT COME TO THE
4 BOARD.

5 MS. KIESSE: COULD BE, YES.

6 MEMBER ROBERTI: WELL, THEN I THINK THE
7 BOARD OUGHT TO FIND OUT. IT COULD BE AN ISOLATED
8 CASE, IT COULD BE A PRETTY WIDE-RANGING THING, I
9 DON'T THINK WE KNOW, OR HAVE ANY WAY OF KNOWING
10 RIGHT NOW.

11 50 MY OWN RECOMMENDATION IS -- I KNOW
12 IT'S ANCILLARY TO WHAT WE'RE DISCUSSING RIGHT
13 NOW, BUT MY OWN RECOMMENDATION WOULD BE THAT WE
14 DO SORT OF A LITTLE INVENTORY CENSUS AND REPORT
15 BACK --

16 CHAIRMAN PENNINGTON: RIGHT. WELL, WE'RE
17 GOING TO, AT SOME POINT --

18 MEMBER ROBERTI: -- AS TO HOW MANY OF
19 THESE -- WHAT'S THE WORD, LANDFILL, MINE FILL?
20 WISH --

21 CHAIRMAN PENNINGTON: MINE RECLAMATION.

22 MS. KIESSE: MINE RECLAMATION.

23 MEMBER ROBERTI: MINE RECLAMATION, ARE
24 USING PUTRESIBLE MATERIAL.

25 MS. TOBIAS: WELL, AND I THINK --

1 MEMBER ROBERTI: AND WHATEVER ELSE MIGHT
2 QUALIFY THEM FOR -- OR, REQUIRE THEM TO GET A
3 FULL PERMIT.

4 MS. TOBIAS: AND I THINK AT THE SAME TIME
5 WE MIGHT WANT TO LOOK AT THE JURISDICTIONAL
6 ASPECTS OF, YOU KNOW, HOW THESE TWO FIT TOGETHER.
7 TO MY KNOWLEDGE, WE NEVER HAVE ISSUED A PERMIT
8 FOR A MINE RECLAMATION, YOU KNOW, PLAN OR PROJECT
9 THAT HAS COME IN SAYING THAT THEY WERE GOING TO
10 USE, YOU KNOW, SOME TYPE OF WASTE. SO, I THINK
11 IF WE'RE GOING TO GO IN THIS DIRECTION, AND
12 ESPECIALLY IF WE ARE GOING TO LOOK AT THE
13 JURISDICTIONAL AUTHORITY ASPECT OF IT AS WELL.

14 MEMBER JONES: MR. CHAIRMAN?

15 CHAIRMAN PENNINGTON: MR. JONES.

16 MEMBER JONES: MAY I ASK ONE OTHER
17 QUESTION?

18 CHAIRMAN PENNINGTON: SURE.

19 MEMBER JONES: WHEN WE'RE TALKING ABOUT
20 BENEFICIAL REUSE FOR A PROJECT LIKE THIS, DOES
21 THAT BENEFICIAL REUSE CONSTITUTE DIVERSION
22 CREDIT?

23 MS. KIESSE: I WOULD TEND TO SAY YES, IT
24 DOES, BECAUSE IT'S NOT BEING TAKEN TO A LANDFILL.

25 MEMBER JONES: BUT IT IS USING -- IT'S

1 BEING USED TO FILL THE LAND, AS PART OF A
2 RECLAMATION PROJECT. AND IF THAT MINE WAS NOT
3 AROUND, IF THAT QUARRY DID NOT EXIST IN THAT
4 TERRITORY, AND YET THERE WERE FOUR OR FIVE
5 PERMITTED SOLID WASTE LANDFILLS, THAT MATERIAL
6 WOULD GO TO THOSE SOLID WASTE LANDFILLS, AND THEY
7 WOULDN'T GET CREDIT.

8 MS. TOBIAS: MR. JONES, MR. BLOCK WAS
9 GOING TO PERHAPS OPINE ON THIS ISSUE.

10 MEMBER JONES: AND I JUST THINK IT'S -- I
11 THINK WE'RE TALKING ABOUT BENEFICIAL REUSE.
12 BECAUSE THE PACHECO PASS LANDFILL ISSUE THAT WE
13 HEARD ABOUT TODAY WITH THE MERPHS (PHON), I HEARD
14 THE PHRASE USED THAT WE NEED THE INERTS TO BUILD
15 UP AS A BENEFICIAL REUSE, TO BE ABLE TO BUILD THE
16 SITE SO THEY COULD KEEP DOING THE MSW. AND, YOU
17 KNOW, IN FACT, ARE WE PREPARED TO GIVE DIVERSION
18 CREDIT FOR THAT?

19 MEMBER EATON: GIVE DIVERSION CREDIT?

20 MEMBER FRAZEE: I DON'T THINK SO.

21 MEMBER JONES: I DON'T EITHER, BUT I
22 THINK WE NEED TO DEFINE IT BECAUSE --

23 MEMBER FRAZEE: BUT IN THE CASE OF WHERE
24 THE, SAY, CRUSHED CONCRETE IS BEING REUSED BACK
25 IN THE HIGHWAY --

1 MEMBER JONES: A HUNDRED PERCENT.

2 MEMBER FRAZEE: -- THAT SHOULD BE, SO --

3 MEMBER JONES: EVERY BIT OF IT.

4 MEMBER FRAZEE: -- IT'S A DEFINITIONAL
5 PROBLEM, SO.

6 MEMBER JONES: EVERY BIT OF IT. AND
7 THAT'S WHY I BROUGHT IT UP UNDER THE DEFINITION.
8 BECAUSE I THINK WHEN YOU REUSE IT FOR THAT KIND
9 OF GOAL, FOR THAT KIND OF A PROJECT, IT
10 ABSOLUTELY GETS CREDIT. IF YOU BRING IT IN AND
11 USE IT AS THE ROAD BASE UP THE ROAD TO THE
12 LANDFILL, IT SHOULD GET THE CREDIT, BECAUSE YOU
13 WOULD OTHERWISE HAVE HAD TO GO OUT AND BUY THAT
14 MATERIAL.

15 BUT, TO FILL A QUARRY AS PART OF A
16 RECLAMATION PROJECT, TO CONSIDER IT BENEFICIAL
17 REUSE AND GIVE DIVERSION CREDIT FOR THAT IS A
18 STRETCH IN MY MIND.

19 MS. KIESSE: WELL, I THINK WHAT MADE ME
20 THINK THAT IT PROBABLY SHOULD QUALIFY FOR
21 DIVERSION IS THAT THEY'RE NOT JUST DUMPING IT,
22 FOR LACK OF A BETTER WORD, THEY'RE ACTUALLY --
23 USUALLY THEY ARE GOING TO HAVE -- THEY HAVE SOME
24 OTHER USE. THEY'LL PROBABLY BE PROCESSING IT, SO
25 THERE'S SOME MONEY AND EFFORT GOING INTO IT, AND

1 IT'S NOT JUST A INERT LANDFILL.

2 MS. TOBIAS: WELL, I HAVEN'T DONE SMERA
3 (PHON) IN A NUMBER OF YEARS. BUT I THINK, JUST
4 TO ADDRESS A PART OF YOUR POINT, MR. JONES, AND
5 THAT IS, THAT COULD MAKE A DIFFERENCE BETWEEN,
6 YOU KNOW, BRINGING A SITE BACK UP TO ITS ORIGINAL
7 LEVEL AS OPPOSED TO LEAVING IT IN A DEPRESSED
8 STATE.

9 SO I THINK THIS WHOLE AREA WOULD
10 BENEFIT FROM, YOU KNOW, US COMING BACK AND KIND
11 OF TELLING YOU MORE ABOUT SMERA, MORE ABOUT THE
12 JURISDICTION.

13 I THINK ELLIOT HAS A COUPLE OF
14 COMMENTS ON THE DIVERSION ASPECT. BUT, YOU KNOW,
15 I THINK THIS IS A VERY COMPLEX SUBJECT THAT
16 STARTS RUNNING INTO NOT ONLY, YOU KNOW, OTHER
17 STATUTES THAT WE DON'T DEAL WITH NORMALLY, BUT I
18 THINK IT'S A VERY GOOD ONE FOR THE BOARD TO BE
19 ON. SO I JUST THINK WE'D ALL BENEFIT IF WE CAME
20 BACK IN A MORE ORGANIZED FASHION, IN TERMS OF
21 ANSWERING YOUR QUESTIONS.

22 SO, ELLIOT, COULD YOU JUST ADDRESS
23 THE --

24 MR. BLOCK: SURE. ELLIOT BLOCK WITH THE
25 LEGAL OFFICE. I JUST WANTED TO CLARIFY A COUPLE

1 OF THINGS, NOT MAKE RECOMMENDATIONS ONE WAY OR
2 THE OTHER.
3 IN TERMS OF THE -- WHAT'S BEING
4 DISCUSSED AS THE DIVERSION CREDIT ISSUE, WHICH WE
5 TYPICALLY TALK ABOUT AS DISPOSAL REDUCTION, IN
6 TERMS OF THE WAY THE STATUTES AND THE REGULATIONS
7 ARE WRITTEN, THE WAY YOU HAVE DESCRIBED IT IS, IN
8 FACT, CORRECT. SOMETHING COUNTS AS DISPOSAL IF
9 IT IS DISPOSED OF AT A PERMITTED SOLID WASTE
10 DISPOSAL FACILITY.
11 AND, THEREFORE, IF MATERIAL WAS BEING
12 PLACED IN A FACILITY THAT DID NOT REQUIRE A
13 PERMIT UNDER OUR REGULATIONS IT WOULDN'T COUNT
14 UNDER THE DISPOSAL REDUCTION SYSTEM, AND THAT'S
15 OBVIOUSLY AN ISSUE FOR THE BOARD TO DECIDE HOW
16 THAT LINE GETS DRAWN. SO, I DID WANT TO CLARIFY
17 THAT, THAT IS CORRECT HOW THAT WORKS.
18 IN TERMS OF THE REGULATORY
19 PROVISIONS, THERE'S AN ISSUE THAT WAS RAISED
20 ABOUT THE FACT THAT THERE ARE SOME LANDFILLS THAT
21 MAY BE TAKING -- I'M SORRY, SOME MINE RECLAMATION
22 PROJECTS THAT MAY BE USING NON-INERT MATERIALS.
23 AND I BELIEVE THAT THE REGULATIONS, AS WRITTEN --
24 THERE'S AN ISSUE AS TO WHETHER THAT WOULD QUALIFY
25 UNDER THE REGULATIONS, VERSUS WHETHER IT'S

1 ACTUALLY HAPPENING OUT IN THE REAL WORLD.
2 THE REGULATIONS AS WRITTEN WOULDN'T
3 ALLOW FOR THAT TO BE OUT OF THE SYSTEM, BUT THERE
4 IS AN ISSUE AS TO WHETHER THAT'S IN FACT
5 HAPPENING. AND THAT'S AN ISSUE SEPARATE FROM HOW
6 THE REGS SHOULD BE WRITTEN, POTENTIALLY,
7 DEPENDING ON WHETHER THERE'S A WAY TO, IN FACT,
8 GAIN SOME ASSURANCE AS TO WHETHER WE CAN FIND OUT
9 HOW MUCH OF THAT IS HAPPENING OUT IN THE REAL
10 WORLD, AND WHETHER THERE'S A - THAT CAN BE
11 ADDRESSED.
12 THE ONLY OTHER ISSUE I WANT TO RAISE,
13 AND IT'S MORE HISTORICAL, IN TERMS OF THE
14 DISCUSSIONS WITH OFFICE OF MINES AND GEOLOGY, ONE
15 OF THE THINGS -- I'LL BRING IT UP, THIS IS
16 ACTUALLY SOMETHING I -- IT'S JUST OFF THE TOP OF
17 MY HEAD, SO I JUST THOUGHT I WOULD THROW IT OUT.
18 IN TERMS OF THE DISCUSSION THAT'S GONE ON WITH
19 THAT OFFICE, MARCIA HAS CERTAINLY CORRECTLY
20 IDENTIFIED WHAT THAT OFFICE SAID THEY DO.
21 AND THE REASON THAT THESE REGULATIONS
22 HAVE GONE FORWARD AS THEY HAVE IS BASED ON SOME
23 DISCUSSION WE HAD A YEAR OR SO AGO, WHEN WE DID
24 SOME LEGAL AUTHORITY ITEM REGARDING THESE, WAS
25 THE IDEA THAT IF THERE WAS ANOTHER STATE AGENCY

1 THAT WAS ALREADY REGULATING THIS AREA, THAT THE
2 BOARD WOULD NOT THEN ALSO REGULATE ON TOP OF IT.
3 IT'S NOT SO MUCH THE LEGAL AUTHORITY, IN TERMS OF
4 THE DEFINITIONS IN THE PUBLIC RESOURCES CODE, AS
5 MUCH AS THE 1220 LANGUAGE, AB 1220 LANGUAGE ABOUT
6 NOT OVERLAPPING JURISDICTION OF OTHER -- THAT ARE
7 WITHIN THE OTHER AGENCIES.
8 50, ONE OF THE THINGS THAT WE COULD
9 POTENTIALLY DO -- IN ADDITION TO GOING BACK AND
10 TALKING TO THE OFFICE OF MINES AND GEOLOGY TO GET
11 SOME MORE REAL WORLD INFORMATION, IN TERMS OF
12 WHAT'S GOING ON OUT THERE -- I SUPPOSE WE COULD
13 EXPLORE DOING SOMETHING SIMILAR TO WHAT WE DID
14 WITH THE DEPARTMENT OF OCCUPATIONAL SAFETY AND
15 HEALTH -- I ALWAYS MIX UP THE WORDS -- REGARDING
16 AN MOU.
17 AND IF THERE'RE SOME ISSUES ABOUT
18 NOTICES TO WHETHER MINOR RECLAMATION PLANS ARE
19 COMING IN THAT WOULD NOT NECESSARILY FIT THE
20 RIGHT WAY WITHIN THE REGULATIONS THAT WE ADOPT
21 THEN THAT WE COULD HAVE SOME SORT OF NOTICE
22 PROVISION SO THAT WE'RE WORKING TOGETHER WITH
23 THAT AGENCY TO MAKE SURE THAT THERE ISN'T A HOLE
24 THAT SOMETHING FALLS THROUGH.
25 SO, I DON'T KNOW IF THAT HELPS

1 CLARIFY OR NOT.

2 BOARD MEMBER: JUST ONE QUICK QUESTION.

3 WHEN YOU SAID THAT IF IT WAS IN AN UNPERMITTED
4 FACILITY, IT WAS SOMETHING THAT WE DIDN'T PERMIT,
5 IT WOULD NOT COUNT, WOULD COUNT?

6 MR. BLOCK: WELL, PERMITTED, OR ONE THAT
7 REQUIRES A PERMIT I GUESS IS PERHAPS MAYBE -- IN
8 TERMS OF THE WAY THE STATUTE AND THE REGULATIONS
9 ARE WORDED, WHAT COUNTS AS DISPOSAL IS SOLID
10 WASTE DISPOSED OF AT A PERMITTED DISPOSAL
11 FACILITY.

12 CHAIRMAN PENNINGTON: MR. FRAZEE.

13 MEMBER FRAZEE: I JUST WANTED TO POINT
14 OUT, OR PERHAPS ASK THE QUESTION, THERE -- NOT
15 EVERY HOLE IN THE GROUND IS SUBJECT TO THE MINE
16 RECLAMATION ACT. YOU KNOW, ALL THOSE THAT ARE
17 HISTORIC, THAT WERE EXISTING PRIOR TO THE
18 ENACTMENT OF THE ACT, ARE -- THERE'S A
19 POSSIBILITY THAT SOME OF THOSE ARE BEING REFILLED
20 WITHOUT ANY SUPERVISION FROM ANY AGENCY.

21 MR. BLOCK: RIGHT.

22 MEMBER FRAZEE: AND, SO THAT'S ANOTHER
23 AREA TO TAKE A LOOK AT.

24 MR. BLOCK: AND I BELIEVE THAT THE WAY WE
25 WERE WRITING THE REGULATIONS WOULD NOT HAVE LEFT

1 THAT LOOPHOLE. IN OTHER WORDS, WHAT -- ONE OF
2 THE CONDITIONS TO BE OUT OF THIS PARTICULAR
3 REGULATIONS WAS THAT YOU HAD AN APPROVED PLAN.
4 SO IF IT WAS A SITE THAT DIDN'T OTHERWISE HAVE
5 IT, THAT WOULDN'T PULL THEM OUT OF THE
6 REGULATIONS. BUT --

7 MEMBER FRAZEE: IN FACT, THE VERY BEST
8 EXAMPLE OF THAT IS EAGLE MOUNTAIN, WHICH WAS
9 OPERATED AND CLOSED -- THE LARGEST HOLE IN THE
10 GROUND, OPERATED AND CLOSED PRIOR TO THE
11 ENACTMENT OF THE MINE RECLAMATION ACT. AND SO IT
12 CANNOT BE USED WITHOUT A PERMIT.

13 CHAIRMAN PENNINGTON: SENATOR ROBERTI.

14 MEMBER ROBERTI: I DON'T KNOW IF THIS IS
15 IN ORDER, MR. CHAIRMAN, BUT -- BECAUSE I KNOW
16 WE'RE ON A MAIN RESOLUTION RIGHT NOW. BUT I
17 WOULD LIKE TO PROPOSE THAT STAFF BE DIRECTED TO
18 COME UP WITH A CENSUS I GUESS, THAT'S THE ONLY
19 WORD I CAN THINK OF, OF USED QUARRIES -- IS THAT
20 OUR WORD? -- THAT POSSIBLY SHOULD BE SUBJECT TO A
21 REGULATION, THAT ARE NOT, EITHER BY THIS AGENCY
22 OR BY ANY AGENCY, PER MR. FRAZEE'S COMMENT JUST
23 NOW.

24 AND, TWO, THAT WE EXPLORE ANY
25 JURISDICTIONAL -- AND THAT THEY EXPLORE ANY

1 JURISDICTIONAL CONFLICT, AS BETWEEN THE
2 REGULATORY ROLE OF THIS AGENCY AND ANY OTHER
3 AGENCIES, IN PARTICULAR THE OFFICE OF MINES AND
4 GEOLOGY.

5 AND, THAT WE EXPLORE TO WHAT EXTENT
6 DIVERSION CREDITS ARE GIVEN, OR APPLICABLE, IN
7 THE USED QUARRY LANDFILLS.

8 CHAIRMAN PENNINGTON: OKAY.

9 MEMBER ROBERTI: AND THAT THE STAFF
10 REPORT BACK TO US AT SOME REASONABLE TIME.

11 CHAIRMAN PENNINGTON: I THINK WE HAVE A
12 SENSE OF YOUR MOTION. PERHAPS WE COULD APPROVE
13 THE MOTION IN CONCEPT AND ASK YOUR STAFF TO WRITE
14 THE ACTUAL MOTION. WOULD THAT BE OKAY?

15 DOES ANYBODY WANT TO SECOND THIS?

16 MEMBER EATON: SECOND.

17 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY
18 SENATOR ROBERTI, AND SECONDED BY MR. EATON, THAT
19 WE TAKE -- ASK STAFF TO UNDERTAKE A PROJECT OF
20 IDENTIFYING EXISTING QUARRIES, USED QUARRIES AND
21 MINE RECLAMATION AREAS THAT ARE BEING USED AS
22 LANDFILLS, OR INERT FILLS, AND REPORT BACK TO US.
23 IF THERE'S NO FURTHER DISCUSSION ON
24 THAT, WILL THE SECRETARY CALL THE ROLL?

25 THE SECRETARY: BOARD MEMBER EATON?

1 MEMBER EATON: AYE.

2 THE SECRETARY: FRAZEE?

3 MEMBER FRAZEE: AYE.

4 THE SECRETARY: JONES?

5 MEMBER JONES: AYE.

6 THE SECRETARY: ROBERTI?

7 MEMBER ROBERTI: AYE.

8 THE SECRETARY: CHAIRMAN PENNINGTON?

9 CHAIRMAN PENNINGTON: AYE.

10 THE MOTION CARRIES.

11 CHAIRMAN PENNINGTON: DO WE NEED MORE TO

12 GO THROUGH HERE? WE KIND OF GOT SIDETRACKED

13 THERE A LITTLE BIT.

14 MS. KIESSE: YEAH, WE DID.

15 MS. TOBIAS: YEAH, I JUST HAD ONE OTHER

16 THING TO POINT OUT. WHEN I SPOKE ABOUT THE NEW

17 SECTION THAT WE PUT TOGETHER THAT CONTAINS THE

18 DEFINITIONS AND PROVISIONS FOR ACTIVITIES THAT

19 WON'T BE COVERED BY THIS ARTICLE -- THAT'S ON

20 PAGE FIVE.

21 AND I'D LIKE TO REEMPHASIZE THIS,

22 THIS IS STILL A WORKING DRAFT, AND WE STILL HAVE

23 TO MAKE SOME REFINEMENTS TO IT. THE NEXT DRAFT

24 THAT WE WOULD COME OUT WITH WILL BE POSTED ON THE

25 BOARD'S WEB SITE, AND WOULD HAVE THE UNDERLINES

1 AND STRIKEOUTS SO THAT YOU COULD SEE THE CHANGES
2 FROM THE SEPTEMBER 23RD DRAFT.
3 THANK YOU.

4 CHAIRMAN PENNINGTON: ANY FURTHER
5 QUESTIONS OF STAFF? IF NOT, MR. LARRY SWEETSER
6 WOULD LIKE TO ADDRESS THIS ISSUE.

7 MR. SWEETSER: GOOD AFTERNOON, CHAIRMAN
8 PENNINGTON, BOARD MEMBERS, MY NAME IS LARRY
9 SWEETSER, DIRECTOR OF REGULATORY AFFAIRS FOR
10 NORCAL WASTE SYSTEMS. I HAD A LITTLE CHEERING
11 SECTION IN THE BACK BECAUSE I BROUGHT MY PICTURE.
12 FIRST OFF, I'D LIKE TO COMPLIMENT
13 SENATOR ROBERTI ON GETTING RIGHT TO THE HEART OF
14 THIS WHOLE TIERED PERMITTING ISSUE, AND THAT IS
15 HOW YOU TELL THE DIFFERENCE. THAT'S BEEN AN
16 ISSUE THROUGHOUT THIS WHOLE PROCESS, WAY BACK
17 WHEN WE STARTED THE WHOLE THING. IN FACT, I
18 BELIEVE IT'S SEPTEMBER '91 MR. CHANDLER HAD A
19 MEMO OUT THERE DISCUSSING THE 15 CUBIC YARD
20 ISSUE, AND THAT'S WHEN THE WHOLE TIERED
21 PERMITTING STARTED OFF, TRYING TO FIGURE OUT HOW
22 YOU TELL THE DIFFERENCE.
23 WE HAVE A MAJOR CONCERN WITH THIS
24 PACKET THAT WE'VE HAD THROUGHOUT THE PROCESS --
25 AND WE'RE GETTING PRETTY CLOSE, WE'RE JUST NOT

1 THERE YET -- AND THAT IS THE INCONSISTENCY OVER
2 DEFINITIONS, THE APPLICATION OF THE OPERATING
3 STANDARDS, AND THE LEVELS OF THE TIERS
4 THEMSELVES.
5 AND IN SORT OF FULFILLING MY ROLE AS
6 HISTORIAN, AS I MENTIONED, WE STARTED A LONG TIME
7 AGO WITH THIS WHOLE 15 CUBIC YARDS, WHAT IS IT,
8 HOW DO YOU TELL THE DIFFERENCE. AB 939 CREATED A
9 WHOLE HOST OF NEW FACILITIES. THERE USED TO BE
10 TRADITIONAL RECYCLERS AND GARBAGE COMPANIES, NOW
11 WE'VE GOT A WHOLE MISH-MASH OF THINGS IN BETWEEN.
12 MANY OF US STILL HAVE OUR TRADITIONAL ROLES, SOME
13 OF US HAVE CROSSED OVER THOSE LINES. WE'RE
14 TRYING TO FIGURE OUT WHERE THOSE LINES ARE.
15 AND WHAT WE DID COME UP WITH -- AFTER
16 MANY YEARS AND MANY DISCUSSIONS, AND BOARD STAFF
17 FACILITATED VERY WELL AT THE END -- IS DIVIDING
18 THAT LINE WITH A TWO-PART TEST. I DON'T KNOW IF
19 YOU'VE BEEN BRIEFED ON THAT, BUT IT'S WHERE YOU
20 HAVE A SOLID WASTE HANDLING ACTIVITY TAKING STUFF
21 IN, IF THEY HAVE LESS THAN 10 PERCENT RESIDUAL,
22 AND THEY'RE SEPARATED FOR USE COMING IN, THEY'RE
23 NOT A SOLID WASTE FACILITY SUBJECT TO PERMITS.
24 AND THAT IS SOMETHING THAT EVERYONE ENDED UP
25 AGREEING WITH AS A BASIS.

1 SO, WITH THAT, WE STARTED SLOTTING -- 2 AS THOSE DISCUSSIONS WERE
GOING ON WE WERE

3 SLOTTING VARIOUS TIERS IN THE MIX, AND C&D WAS

4 ONE OF THOSE. C&D IS DIFFERENT THAN THE OTHER

5 TIERS IN THAT THEY'RE SO CLOSE TO A TRANSFER

6 STATION, SOLID WASTE TRANSFER STATION THAT I

7 CAN'T TELL THE DIFFERENCE, AND MOST PEOPLE CAN'T

8 EITHER, OVER WHERE YOU HAVE A DIFFERENCE BETWEEN

9 A C&D LOAD COMING IN WITH A LITTLE BIT OF

10 GARBAGE, AND A GARBAGE LOAD WITH A LOT OF C&D.

11 BUT, THEY ARE TREATED DIFFERENTLY IN THIS PACKAGE

12 AND THAT IS CAUSE FOR CONCERN.

13 OUR ISSUE'S BEEN PRETTY SIMPLE, AND

14 I'LL START OFF WITH ONE OF MY HISTORICAL

15 PICTURES, TO ELABORATE ON THE OLD DAYS. THIS IS

16 MY TWO DEBRIS BOXES IN THE BOONIES, THIS WAS

17 REQUIRING A FULL PERMIT WAY BACK WHEN. AND UNTIL

18 THE TIER PERMITTING PACKAGE GOES THROUGH THAT'S

19 WANT THE STANDARD IS. AND EVERYONE AGREED THAT

20 WAS NOT APPROPRIATE.

21 ON THE OTHER HAND, WE HAD ACTIVITIES,

22 SUCH AS THIS, THAT WERE RUNNING UNPERMITTED. SO,

23 THAT'S WHERE WE STARTED DRAWING THE LINE.

24 NOW, TO THE C&D ISSUES -- WELL,

25 ACTUALLY, ONE MORE POINT ON THE REGULATORY TIERS

1 -- I DON'T THINK THAT'S ME SHAKING THE PODIUM.
2 THERE IS REASONS WHY SOME PEOPLE WOULD NOT WANT
3 TO ENTER INTO THE FULL-BLOWN TIER PERMITTING
4 STRUCTURE, AND THAT IS PART OF IT -- LET'S SEE IF
5 I CAN ZOOM IN A LITTLE BIT MORE FOR THE AUDIENCE.
6 WHEN WE (INDISC.) THE NOTIFICATION
7 TIER -- THIS IS CONSISTENT THROUGHOUT, YOU HAVE
8 QUARTERLY INSPECTIONS -- REGISTRATION AND FULL
9 PERMITS ARE PERMITS, THEY ARE SOLID WASTE
10 FACILITIES AS OPPOSED TO AN OPERATION, THEY HAVE
11 MONTHLY INSPECTIONS.
12 UNDER THE APPLICATION, THE
13 NOTIFICATION IS SIMPLY A POSTCARD. YOU SEND IN
14 WHAT YOU'RE DOING, IT GETS FILED, YOU GO ABOUT
15 AND DO WHAT YOU NEED TO DO, AND THAT'S
16 APPROPRIATE FOR MANY TYPES OF FACILITIES. FOR
17 REGISTRATION YOU HAVE TO DO MORE OF AN
18 APPLICATION, A LITTLE MORE DETAIL. FOR FULL YOU
19 HAVE TO DO A WHOLE REPORT OF FACILITY
20 INFORMATION, MANY TIMES A BINDER-FULL.
21 CEQA'S ANOTHER ISSUE, UNDER
22 NOTIFICATION. IT'S LOCAL-ONLY, FOR THE OTHERS
23 THEY'RE PERMITS AND, THEREFORE, THEY NEED A
24 HIGHER LEVEL OF SCRUTINY. THE APPROVAL IS MUCH
25 DIFFERENT, AS WELL. SO, THERE'S A LOT OF

1 INCENTIVE FOR SOMEONE, NOT THE TRADITIONAL
2 RECYCLERS OR THE TRADITIONAL SOLID WASTE PEOPLE,
3 BUT THE PEOPLE IN THE MIDDLE, TO TRY AND
4 CIRCUMVENT THE REQUIREMENT.
5 THIS GETS TO THE HEART OF THE
6 TRANSFER STATION TIER. SO I TOOK THE LIBERTY OF
7 PAIRING THEM SIDE-BY--SIDE, AND THERE'S A RATHER
8 GLARING DISCREPANCY BETWEEN THE TWO, AND THAT'S
9 ONE OF OUR PRIMARY CONCERNS. IS, WHEN YOU LOOK
10 AT WHAT WE DID IS SORT TIERS BY NUMBERS OF TONS
11 COMING IN, THE THEORY BEING -- AND SOME PEOPLE
12 DISPUTE IT -- BUT THE THEORY THAT WE WENT WITH
13 WAS THAT THE MORE MATERIAL HANDLED THE POTENTIAL
14 MORE PROBLEM COULD ARISE, THAT'S A HIGHER TIER.
15 AND WHEN WE HAVE THE DIFFERENCE
16 BETWEEN A TRANSFER STATION AND A C&D, AS YOU SEE,
17 BOTH HERE AND HERE, THE NUMBERS ARE ESSENTIALLY
18 THE SAME, ONE'S JUST IN A LOWER RANKING. AND THE
19 SAME THING FOR REGISTRATION VERSUS FULL. AND
20 THAT CAUSES CONCERN BECAUSE, AGAIN, WE GET BACK
21 TO THE POINT, IS HOW DO YOU TELL THE DIFFERENCE
22 ON A FACILITY OR A LOAD COMING IN.
23 THERE ARE INHERENT DIFFERENCES IN
24 C&D, AND THERE ARE REASONS TO TREAT THEM SOMEWHAT
25 DIFFERENTLY, BUT WE HAVEN'T GOT TO THAT POINT.

1 THE OTHER ASPECT, ASIDE FROM THE
2 NUMBERS AND GETTING CONSISTENCY THERE, IS THE
3 OPERATING STANDARDS. AND THOSE OF US THAT HAVE
4 TO LIVE UNDER STATE MINIMUM STANDARDS TRY TO FIND
5 COMFORT IN TRYING TO MAKE THESE THINGS
6 CONSISTENT.
7 AND, ADMITTEDLY, THE C&D ARE CLOSE TO
8 WHAT THE SOON-TO-BE-APPROVED TRANSFER STATIONS
9 ARE. THERE ARE SOME MAJOR DIFFERENCES IN A
10 NUMBER OF STANDARDS, SOME OF WHICH DON'T APPLY TO
11 C&D AT ALL, SOME OF WHICH DO, ONE OF THOSE BEING
12 DUST AND NOISE, AND ALSO NUISANCES, BUT THE MAIN
13 ONE IS NOISE.
14 THE PROVISION UNDER C&D -- AND I
15 WON'T READ THESE THINGS -- DOES CONTAIN AN
16 ISSUE.... ONE ITEM, IN THE TRANSFER STATION REGS
17 THAT IS NOT IN THE C&D REGS THAT I THINK SHOULD
18 BE, IS THAT COMPLIANCE WITH SPECIFIC PROVISIONS
19 REGARDING NOISE CONTROL IN A LOCAL LAND USE
20 APPROVAL, SUCH AS A CONDITIONAL USE PERMIT OR
21 CEQA MITIGATION MEASURES, SHALL BE CONSIDERED
22 COMPLIANCE WITH THE STANDARD. SO, IF YOU'RE
23 COMPLYING WITH ANOTHER STANDARD, YOU WOULD COMPLY
24 WITH IT HERE. IT'S NOT AS EXPLICIT IN THE C&D
25 REGS. THE SAME THING FITS FOR DUST AND OTHERS.

1 SO, THERE'S NOT QUITE A MESH OF WHAT
2 THOSE STANDARDS ARE. AND, ADMITTEDLY, SOME MAY
3 NOT NEED TO BE THERE, BUT THESE REGULATIONS DON'T
4 SHOW THAT.

5 SO, WHEN AN LEA GOES OUT TO A
6 FACILITY AND YOU TRY TO FIGURE OUT WHAT TYPE OF
7 FACILITY THEY'RE GOING TO REGULATE AS, YOU END UP
8 WITH SOME OF THESE DISCREPANCIES, AS FAR AS WHAT
9 THE OPERATING STANDARD TO IMPOSE ON THEM, OR WHAT
10 THE TRANSFER -- WHAT THE TIER LEVEL IS THEY'RE
11 GOING TO BE INTO.

12 AND I KNOW MANY OF AN OPERATOR THAT WOULD
13 MUCH RATHER BE IN A LOWER TIER THAN A HIGHER
14 TIER, IF THEY CAN DO THAT. IN FACT, AS HAS BEEN
15 POINTED OUT BEFORE, MANY OF THEM ACTUALLY
16 ADVERTISE FOR WASTE, AND THIS FACILITY ACTUALLY
17 IS UNPERMITTED, THEY'VE HAD QUESTIONS RAISED, AND
18 SO FAR THEY'VE BEEN OKAY. BUT, THEY DO ADVERTISE
19 FOR GENERAL WASTE.

20 MEMBER JONES: IT'S A RECYCLING CENTER,
21 ISN'T IT? NO, I'M BEING FACETIOUS.

22 MR. SWEETSER: DEPENDS ON DEFINITIONS.
23 YOU KNOW THAT ONE VERY WELL.

24 WHICH BRINGS ME TO MY INFAMOUS SHAM
25 (PHON) RECYCLING SLIDE. AND, AGAIN, WE'RE NOT

1 LOOKING -- WE HAVE FACILITIES, LANDFILLS, WE HAVE
2 TRANSFER STATIONS, WE HAVE INERT FACILITIES, WE
3 HAVE RECYCLING CENTERS, WE HAVE FACILITIES BOTH
4 WITHIN AND WITHOUT THE BOARD'S AUTHORITY, AND WE
5 WANT TO KEEP THEM THAT WAY. A LOT OF THE
6 TRADITIONAL RECYCLING INDUSTRY, AND EVEN IN THIS
7 CASE, INERT FACILITIES AND OTHERS HAVE
8 FACILITIES, RIGHTLY, OUTSIDE THE BOARD'S
9 AUTHORITY.
10 WHAT WE'RE ALL RUNNING INTO IS THE
11 PEOPLE THAT DON'T COME TO THESE MEETINGS, THE
12 ONES THAT (INDISC.) THESE.
13 THIS IS, AS A REMINDER, A SELF- 14 CLAIMED C&D OPERATION IN SAN
FRANCISCO, ORDERED
15 TO CLOSE TWO YEARS AGO, STILL ACTIVELY RUNNING,
16 AND THE BOARD HAS PROVIDED 2136 GRANT FUNDS TO
17 IT.
18 MEMBER ROBERTI: IN SAN FRANCISCO?
19 MR. SWEETSER: IN SAN FRANCISCO. THE LEA
20 HAS TRIED, MUCH TO THEIR EFFORT, AND WE'VE BEEN
21 UNSUCCESSFUL IN SHUTTING THESE TYPES OF
22 FACILITIES DOWN. AND THAT'S WHERE WE GET INTO A
23 LOT OF PROBLEMS WITH THE LACK OF CONSISTENCY OF
24 THE REGS.
25 YES, SIR?

1 MEMBER JONES: THIS IS STILL RUNNING? IS
2 THIS MOBILE? MOBILE'S STILL BRINGING STUFF IN?

3 MR. SWEETSER: THE LAST TIME I CHECKED.
4 IT COMES AND GOES.

5 MS. KIESSE: MR. JONES, JUST TO LET YOU
6 KNOW, WE LOOKED AT THAT FOR ONE OF OUR PRIORITY
7 TEAM TARGETS, AND AT THE TIME WE LOOKED AT IT
8 THEY WERE NOT TAKING IN WASTE, WASTE WAS STILL
9 THERE. HOWEVER, 2136 HAS CLEANED UP A BIG
10 MAJORITY OF THE SITE. THERE'S STILL SOME WASTE
11 THERE, BUT THERE'S NO NEW WASTE BEING DEPOSITED.
12 THAT AREA, THOUGH, DOES GENERATE A
13 LOT OF WASTE, IT'S KIND OF LIKE A MAGNET FOR
14 WASTE DEPOSITING. SO, THERE MIGHT BE SOME
15 OVERNIGHT DROP-OFF, BUT THAT OPERATOR HAS NOT
16 BEEN TAKING WASTE AT THAT LOCATION.

17 MEMBER JONES: BUT HE STILL HAS HIS
18 TRUCKS AND HIS BOXES.

19 MR. SWEETSER: HIS BOXES ARE STILL THERE.

20 MEMBER JONES: SO I DIDN'T --
21 (THE PARTIES SIMULTANEOUSLY SPEAK.)

22 MEMBER JONES: -- COST RECOVERY I WANTED.

23 MR. SWEETSER: NO, YOU DID NOT.

24 WHICH GETS TO THE POINT -- AND AFTER
25 ALL THE EFFORT WE SPENT ON TRANSFER STATIONS

1 THESE PEOPLE ARE STILL OUT THERE ON THESE ISSUES,
2 CAUSING BOTH THE TRADITIONAL RECYCLERS AND THE
3 TRADITIONAL SOLID WASTE PEOPLE PROBLEMS.
4 AND WHAT WE STRIVED FOR IN THE
5 BEGINNING IS CONSISTENCY WITH THOSE TRANSFER
6 STATION TIERS THAT WE FOUGHT SO HARD FOR AND,
7 HOPEFULLY, REFLECTED IN THE PACKAGE. WE'RE
8 CLOSE, WE'RE NOT QUITE THERE YET, SO I WOULD URGE
9 YOU TO GO OUT FOR ADDITIONAL COMMENT ON THAT.
10 I THINK THERE IS TIME THAT CAN BE
11 ALLOWED BEFORE THAT TO SIT DOWN WITH THOSE OF US
12 THAT HAVE THESE CONCERNS ON A VARIETY OF ISSUES,
13 AND SEE IF WE CAN FINALIZE THE AGREEMENT. AND I
14 THINK IT WOULD BE HELPFUL TO DO THAT ONCE THE
15 TRANSFER STATIONS ARE DONE, OAL IS SATISFIED,
16 THEN WE KNOW WHAT THE CLARITY IS FROM THERE, AND
17 THEN CAN APPLY IT MOST APPROPRIATELY. AND I
18 THINK THAT'S WHAT TIERS IS ABOUT.
19 I CAN ANSWER MORE QUESTIONS, OR GO
20 INTO SOME MORE INFORMATION, BUT I THINK THAT HITS
21 THE HIGHLIGHTS.

22 CHAIRMAN PENNINGTON: QUESTIONS OF MR.
23 SWEETSER?

24 MEMBER FRAZEE: I DO HAVE JUST ONE.

25 CHAIRMAN PENNINGTON: MR. FRAZEE.

1 MEMBER FRAZEE: ARE YOU SATISFIED WITH
2 THE DEFINITION OF NOT SUBJECT TO IN THE REGS?
3 THAT'S KIND OF A KEY POINT FOR ME, THE EXCLUDED -
4 - NOT EXCLUDED, BUT THE NOT-SUBJECT-TO CATEGORY.

5 MR. SWEETSER: I WAS GETTING LOST BACK
6 THERE ON WHICH SECTION THAT ACTUALLY WAS, BUT --

7 MEMBER FRAZEE: WELL, WE HAVE A CHART
8 THAT LISTS IT ALSO, BUT IT'S PAGE EIGHT, STARTING
9 WITH LINE 19.

10 MS. TOBIAS: MARCIA, DO YOU HAVE A CHART
11 THAT YOU FLIP FOR MR. SWEETSER THAT HE CAN FLIP
12 THROUGH?

13 MEMBER FRAZEE: YOU KNOW, I THINK THAT'S
14 THE POINT WE HAVE TO START FROM, AND BE SURE THAT
15 WE'RE ALL READING FROM THE SAME SHEET OF MUSIC ON
16 THAT.

17 MEMBER JONES: IT STARTS ON PAGE FIVE,
18 MR. FRAZEE?

19 MEMBER FRAZEE: WHAT?

20 MEMBER JONES: DOES IT START ON PAGE
21 FIVE?

22 MEMBER FRAZEE: WELL, THE ACTUAL -- THE
23 EXCLUSION PART STARTS ON PAGE -- AT LEAST MY
24 READING, PAGE EIGHT, LINE 19.

25 MEMBER JONES: PAGE EIGHT? OKAY.

1 MR. SWEETSER: I BELIEVE YOU'RE DEALING
2 WITH WHAT'S EXCLUDED OUTSIDE THE BOARD'S
3 AUTHORITY, AS FAR AS INERT SITES AND --

4 MEMBER FRAZEE: YEAH, AND THIS TERM OF
5 EXCLUSION, AND NOT-SUBJECT-TO -- I'M CONFUSED IN
6 MY MIND, BUT IT'S THE NOT-SUBJECT-TO CATEGORIES.

7 MR. SWEETSER: I THINK I HAVE TO DEFER ON
8 THAT ONE. I MEAN, THERE ARE A NUMBER OF INERT
9 SITES THAT SHOULD BE THERE, SOME OF WHICH ARE
10 NOT. AND I THINK THERE'S OTHER PEOPLE THAT ARE
11 PLANNING TO ADDRESS THAT ISSUE.

12 BUT, THERE IS A DEFINITION THAT WAS
13 WORKED OUT, AS FAR AS WHAT IS EXCLUDED FROM BOARD
14 AUTHORITY, AND THAT WAS A VERY GOOD FUNCTIONAL
15 DEFINITION.

16 MEMBER FRAZEE: OKAY.

17 CHAIRMAN PENNINGTON: OKAY. IF THERE ARE
18 NO OTHER QUESTIONS FOR MR. SWEETSER --

19 MR. SWEETSER: THANK YOU VERY MUCH.

20 CHAIRMAN PENNINGTON: -- WE'LL MOVE ON TO
21 EVAN EDGAR -- WHO SAYS A MIND IS A TERRIBLE THING
22 TO WASTE.

23 MR. EDGAR: I SEE YOU'RE FEELING BETTER.

24 GOOD AFTERNOON, MY NAME IS EVAN EDGAR OF EDGAR
25 ASSOCIATES, ON BEHALF OF THE CALIFORNIA REFUGE

1 REMOVAL COUNCIL. I'M THE DIRECTOR OF REGULATORY
2 AFFAIRS.
3 CRC MEMBERS OPERATE C&D PROCESSING
4 FACILITIES THROUGHOUT CALIFORNIA AT LANDFILLS
5 FROM RICHMOND TO SAN LUIS, AT MERPHS FROM TAHOE
6 TO SAN JOSE, AND FROM TRANSFER STATIONS FROM
7 ORANGE COUNTY TO MODESTO. AND FOR THE WHOLE TIME
8 C&D PROCESSING FACILITIES HAVE BEEN UNDER A SOLID
9 WASTE FACILITIES PERMIT. OVER THE LAST 10 YEARS
10 IT'S BEEN ONE SIZE FITS US.
11 WE'VE BEEN HEAVILY REGULATED, AND
12 WE'VE COMPLIED WITH STATE MINIMUM STANDARDS, WE
13 KNOW THEM, AND THEY'RE ACHIEVABLE, THEY'RE NOT
14 THAT TOUGH. THEY'RE PERFORMANCE-BASED, AND OVER
15 THE YEARS WE'VE ACHIEVED A LOT OF DIVERSION AT
16 C&D PROCESSING FACILITIES ASSOCIATED WITH OUR
17 SOLID WASTE FACILITIES PERMIT.
18 TODAY'S PACKAGE DOES ACTUALLY
19 DEREGULATE CERTAIN ASPECTS OF C&D, AS IT SHOULD.
20 BUT, AT THE SAME TIME, IT BRINGS OTHER FACILITIES
21 THAT WERE OUTSIDE OF THE REGULATION INTO PARITY
22 WITH STATE MINIMUM STANDARDS. AND WE APPROVE OF
23 THAT, THAT'S BEEN THE WHOLE EQUITY ISSUE THAT
24 WE'VE BEEN BRINGING UP FOR THE LAST YEAR AND A
25 HALF. SO, WHAT I CALL THESE REGULATIONS ARE THE

1 EQUAL OPPORTUNITY REGULATIONS, IN WHICH WE
2 FINALLY GET EQUITY WITH GOOD DEFINITIONS.
3 THE C&D REGULATIONS NEED TO TRACK THE
4 TRANSFER STATION REGULATIONS, AS POINTED OUT BY
5 MR. SWEETSER, WE WOULD CONCUR WITH THAT. WE'VE
6 LEARNED A LOT FROM THAT PROCESS. PLUS, WE
7 LEARNED A LOT FROM THE COMPOST REGULATIONS ON THE
8 STORAGE OF DIFFERENT TYPE OF MATERIALS, SUCH AS
9 ORGANIC MATERIALS AND COMMINGLED C&D MATERIALS.
10 I BELIEVE THAT WE'RE TRYING TO INSERT SOME OF
11 THAT INFORMATION INSIDE OF THE REGULATIONS, AS
12 WELL. SO, I THINK WE'VE DONE A PRETTY GOOD JOB
13 ON THAT.
14 I THINK SENATOR ROBERTI'S COMPLETELY
15 ON TARGET WITH REGARDS TO THE MINING ISSUE. I'VE
16 WORKED IN BAKERSFIELD, AND THROUGHOUT CALIFORNIA,
17 ON DIFFERENT TYPES OF MINING RECLAMATION PLANS
18 AND DID MY RESEARCH ON THIS TOPIC.
19 TALKING TO THE MINES AND GEOLOGY
20 STAFF, THEY LOOK AT RECLAMATION PLANS SUCH AS
21 THIS BOARD LOOKS AT CLOSURE AND POST-CLOSURE
22 MAINTENANCE PLANS FOR LANDFILLS. THEY'RE WORRIED
23 ABOUT THE FINAL FILL, AND HOW TO MAINTAIN THE
24 FINAL FILL. HOW IT'S FILLED UP -- IF IT'S FILLED
25 UP WITH ON-SITE MATERIALS, THAT'S GREAT. BUT

1 WHEN YOU IMPORT MATERIALS TO THAT SITE, AND IT'S
2 COMMINGLED C&D, THEN YOU DO HAVE PROBLEMS.
3 IF YOU LOOK AT THE REAL-WORLD CASE
4 STUDY -- WE HAD A GENTLEMAN UP HERE FROM
5 BAKERSFIELD ABOUT FOUR OR FIVE MONTHS AGO, HE WAS
6 TALKING ABOUT CARDBOARD, CARPET, AND THAT'S RIGHT
7 IN HIS WASTE DISCHARGE REQUIREMENTS. AND THAT IS
8 REAL WORLD, AND HE'S OPERATING WITHOUT A PERMIT,
9 HE'S OPERATING WITHOUT PAYING BOE (PHON) FEES,
10 BUT HE'S GETTING AB 939 DIVERSION CREDITS FROM
11 KERN COUNTY. THAT IS A REAL-WORLD CASE STUDY,
12 IT'S CALLED THE HALLOWAY (PHON) RANCH. SO,
13 THAT'S SOMETHING WE CAN ADD TO YOUR CASE STUDIES.
14 WITH REGARDS TO THE DEFINITIONS THAT
15 MR. FRAZEE POINTED OUT, ON WHAT IS NOT EXCLUDED,
16 I THINK THERE'S A PRETTY GOOD DEFINITION OF WHAT
17 SHOULD BE EXCLUDED, BUT WITH A LITTLE MORE
18 INFORMATION ON THE MINE RECLAMATION SITES.
19 THERE'S ABOUT FIVE PAGES OF DEFINITIONS THERE
20 THAT LEAD UP TO YOUR QUESTION, AND I THINK THAT'S
21 PRETTY CLOSE.
22 MEMBER FRAZEE: YEAH, RIGHT.
23 MR. EDGAR: AND I THINK IT'S PRETTY
24 CLOSE. IT'S PRETTY CLOSE, EXCEPT FOR THE MINE
25 RECLAMATION ASPECT.

1 WE CONCUR WITH THE STAFF
2 RECOMMENDATION NUMBER ONE. I THINK WE HAVE A LOT
3 OF NEW INFORMATION TODAY, NOT ONLY FROM NEW
4 DEFINITIONS PUT FORTH BY RICK BEST, AND SOME
5 ADDITIONAL TESTIMONY TODAY, SO I WOULD ENJOY
6 TAKING ANOTHER 15 DAYS TO LOOK AT THE C&D REGS.
7 A LOT OF GOOD WORK'S BEEN PUT IN ON IT, AND WE
8 CAN AFFORD ANOTHER 15 DAYS.
9 ONE ASPECT THAT WAS BROUGHT UP IN THE
10 STAFF REPORT WAS THE TRANSITIONARY (SIC) PERIOD
11 ON AB 59, AND THAT'S VERY IMPORTANT. I HAVE SOME
12 MEMBERS OF CRC THAT WOULD LIKE TO UTILIZE A
13 REGISTRATION SOLID WASTE FACILITIES PERMIT
14 WITHOUT BEING SHUT DOWN DUE TO AB 59 CONCERNS.
15 THINK THAT WAS A GOOD IDEA TO ADDRESS THAT, AND
16 WE WANT TO BE IN COMPLIANCE AS SOON AS THESE
17 REGULATIONS ARE ADOPTED.
18 THANK YOU FOR THE OPPORTUNITY TODAY.

19 CHAIRMAN PENNINGTON: QUESTIONS OF MR.
20 EVAN EDGAR? NONE? THANK YOU.
21 NEXT WE'LL HEAR FROM CHARLIE BIRD.

22 (THE PARTIES SIMULTANEOUSLY SPEAK.)

23 CHAIRMAN PENNINGTON: IN FACT -- WELL,
24 LET'S GET THROUGH THIS ONE AND THEN WE'LL TAKE A
25 BREAK. IS THAT OKAY?

1 OKAY. GO AHEAD, MR. BIRD.
2 MR. BIRD: THANK YOU. GOOD AFTERNOON,
3 MEMBERS OF THE BOARD. I'M CHARLES BIRD, THE LEA
4 FROM BUTTE COUNTY. I ALSO REPRESENT THE NORTHERN
5 CALIFORNIA TECHNICAL ADVISORY COMMITTEE LEAS.
6 AND SPEAKING FOR THEM THIS AFTERNOON,
7 WE CERTAINLY WOULD BE IN FAVOR OF A 15-DAY
8 COMMENT PERIOD. WE'D BE IN FAVOR OF EVEN A
9 LONGER ONE IF AT ALL POSSIBLE.
10 OUR PROBLEM UP IN THE NORTH STATE IS
11 THAT MOST OF US ARE EITHER ONE- OR TWO-PERSON
12 OPERATIONS, AND WE HAVE AN AWFUL LOT OF THINGS TO
13 CONSIDER, WE'VE GOT TO KEEP OUR INSPECTIONS GOING
14 AND EVERYTHING. AND OFTEN TIMES THESE THINGS
15 JUST KIND OF OVERWHELM US.
16 AND IN OUR LAST DISCUSSIONS ABOUT THE
17 C&D REGS, I DIDN'T TALK TO ANYONE IN OUR GROUP,
18 AND WE HAVE 11 COUNTIES WHO FELT LIKE THEY REALLY
19 HAD ADEQUATE TIME TO GO THROUGH THEM. THEY'RE A
20 LITTLE BIT CONCERNED ABOUT WHAT THEY CONSIDER TO
21 BE SOME OF THE AMBIGUITIES IN THE LANGUAGE WHICH
22 WOULD CAUSE THEM SOME ENFORCEMENT PROBLEMS. AND
23 SO WE CERTAINLY WOULD BE IN FAVOR OF EVEN HAVING
24 A LONGER COMMENT PERIOD, IF AT ALL POSSIBLE.
25 THANK YOU.

1 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
2 MR. BIRD?
3 IF NOT, WE'LL HEAR FROM CHARLIE REA.
4 MR. REA: CHARLIE REA WITH THE
5 CONSTRUCTION MATERIALS ASSOCIATION OF CALIFORNIA,
6 WE REPRESENT AGGREGATE PRODUCERS AND READY-MIX
7 PRODUCERS IN THE NORTHERN TWO-THIRDS OF THE
8 STATE.
9 PRIMARILY I WANTED TO THANK THE STAFF
10 FOR WORKING WITH US ON ISSUES WE'VE HAD WITH THE
11 PROPOSED REGULATIONS, AND IT SEEMS LIKE THEY'VE
12 BEEN LISTENING, AND THE CURRENT DRAFT TAKES A LOT
13 OF OUR CONCERNS INTO ACCOUNT.
14 AND, PRIMARILY, OUR MEMBERS'
15 INTERESTS ARE THE RECYCLING OF THE ASPHALT AND
16 CONCRETE FOR REUSE IN ROAD BASE, AND THEN THE
17 MINE RECLAMATION TO HELP USE CONCRETE AND ASPHALT
18 RUBBLE TO STABILIZE SLOPES AND FILL THE PITS, AND
19 JUST USE OF INERT MATERIALS. THANKS.
20 CHAIRMAN PENNINGTON: THANK YOU.
21 ANY QUESTIONS OF MR. REA? OKAY, THAT
22 CONCLUDES THE PUBLIC COMMENT ON THIS ISSUE.
23 DOES ANYBODY WANT TO MAKE A MOTION?
24 BOARD MEMBER: I THINK WE'RE WORKING ON
25 TRYING TO DO THIS. IF WE DO -- IF WE EXTEND THE

1 15-DAY COMMENT PERIOD, BUT IN THAT PROCESS COME
2 BACK WITH THE SMARA INFORMATION, OR -- OR IF IT
3 TAKES YOU A LITTLE BIT LONGER, YOU KNOW, WHATEVER
4 IT TAKES TO GET THAT DONE -- RIGHT? AND THEN AT
5 THE COMPLETION OF THAT INFORMATION DELIVER THAT
6 AT THE SAME TIME WITH THIS, AND THEN WE CAN MAKE
7 A DETERMINATION IF IT HAS TO GO OUT FOR ANOTHER
8 15 DAYS OR NOT AT THAT TIME. BUT, I THINK WE
9 CAN'T -- YOU KNOW, WE NEED TO HAVE THAT SMARA
10 INFORMATION.
11 SO I WOULD -- MY MOTION IS TO EXTEND
12 THE 15-DAY -- OR, START THE 15-DAY COMMENT
13 PERIOD, INSTRUCT STAFF TO DO THE SMARA, BRING IT
14 BACK AS PART OF THIS PACKAGE, AND THEN WE'LL MAKE
15 A DETERMINATION AT THAT POINT.

16 MS. TOBIAS: I'M CONFUSED WITH WHAT YOU
17 WANT TO DO, MR. JONES, AND MAYBE I DIDN'T EXPLAIN
18 IT.

19 YOU COULD EITHER START THE 15-DAY
20 REVIEW TODAY, THAT WOULD ENCOMPASS THE CHANGES
21 THAT MARCIA BROUGHT FORWARD TODAY, AND THEN IN
22 THE MEANTIME WE WOULD DO THE OTHERS. BUT I DON'T
23 -- WE'RE NOT GOING TO BE BACK IN 15 DAYS --

24 MEMBER JONES: OH, NO, I UNDERSTAND THAT.

25 MS. TOBIAS: -- WITH THE SMARA.

1 SO, AND THEN THE OTHER CHOICE WOULD

2 BE TO NOT START THE 15-DAY --

3 MEMBER JONES: UNTIL YOU COME BACK --

4 MS. TOBIAS: -- REVIEW TODAY, BUT TO HOLD

5 IT UNTIL WE GET BACK IN CASE IT CHANGES OTHER

6 THINGS.

7 AND, SO MY RECOMMENDATION IS, IS THAT

8 YOU SIMPLY GO WITH THE MOTION THAT YOU HAD

9 EARLIER, WHICH IS TO GO OUT AND DO THAT AND -- AS

10 SOON AS WE ARE ABLE. AND, YOU KNOW, WE KNOW THE

11 C&D REGS HAVE BEEN WORKED ON FOR A WHILE. SO, AS

12 SOON AS IT'S EXPEDIENT WE WILL BRING IT BACK, AND

13 THEN YOU CAN DECIDE ON THE REVIEW FOR THE WHOLE

14 PACKAGE. NOW, YOU COULD DO EITHER, BUT THAT'S MY

15 RECOMMENDATION, IS TO BASICALLY DO IT ALL AT THE

16 SAME TIME.

17 MEMBER JONES: THAT WAS MY FAULT. THAT'S

18 ACTUALLY KIND OF WHAT I THOUGHT WE WERE GOING TO

19 DO, AND THEN SOMEWHERE IN THAT CONVERSATION I

20 THOUGHT I HEARD THE 15 DAYS HAD TO BE

21 IMPLEMENTED. SO --

22 CHAIRMAN PENNINGTON: OR CAN YOU PUT IT

23 OUT FOR A LONGER PERIOD?

24 MEMBER JONES: OR JUST DO THE WORK, AND

25 THEN WE'LL START THE 15 WHEN IT GETS BACK? IF

1 THAT'S —

2 CHAIRMAN PENNINGTON: OKAY, THAT'S FINE

3 WITH ME.

4 MEMBER JONES: -- IF THAT WORKS. THAT'S

5 THE MOTION.

6 CHAIRMAN PENNINGTON: SURE. OKAY.

7 MEMBER JONES: WE'RE INSTRUCTING STAFF TO

8 DO THE SMARA, THE --

9 MS. TOBIAS: S-M-A-R--A.

10 MEMBER JONES: IT IS THE MINE --

11 MS. TOBIAS: SURFACE MINING AND

12 RECLAMATION ACT.

13 MEMBER JONES: -- SURFACE MINING --

14 THAT'S SENATOR ROBERTI'S --

15 MEMBER ROBERTI: NO, I DIDN'T CALL IT

16 SMARA, BUT --

17 CHAIRMAN PENNINGTON: BECAUSE WE DON'T

18 KNOW WHEN IT'S GOING TO BE --

19 (THE PARTIES SIMULTANEOUSLY SPEAK.)

20 MEMBER JONES: -- TO GET THAT WORK DONE,

21 AND THEN BRING IT BACK ALONG WITH THE -- AN ITEM

22 THAT WE CAN FURTHER GO THROUGH THESE REGS. AND

23 MAYBE AT THAT POINT WE CAN GO OUT FOR THE FINAL

24 15 DAYS.

25 CHAIRMAN PENNINGTON: MS. KELLY WAS

1 HOPING THAT IT WAS A CANDY BAR.

2 MEMBER JONES: I THINK IT IS, ISN'T IT,
3 OR SOMETHING LIKE THAT?

4 CHAIRMAN PENNINGTON: WE NEED A SECOND ON
5 THIS.

6 MEMBER FRAZEE: I'LL SECOND.

7 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
8 MOVED BY MR. JONES TO HAVE THE STAFF DEVELOP
9 MORE INFORMATION ON THE SMARA, AND START A 15-DAY
10 COMMENT PERIOD FOLLOWING, BRING IT BACK TO THE
11 BOARD AT A LATER DATE, SECONDED BY MR. FRAZEE.
12 IF THERE'S NO FURTHER DISCUSSION,
13 WILL THE SECRETARY CALL THE ROLL?

14 THE SECRETARY: BOARD MEMBER EATON?

15 MEMBER EATON: AYE.

16 THE SECRETARY: FRAZEE?

17 MEMBER FRAZEE: AYE.

18 THE SECRETARY: JONES?

19 MEMBER JONES: AYE.

20 THE SECRETARY: ROBERTI?

21 MEMBER ROBERTI: AYE.

22 THE SECRETARY: CHAIRMAN PENNINGTON?

23 CHAIRMAN PENNINGTON: AYE.

24 WE'LL TAKE ABOUT A 10-MINUTE BREAK

25 HERE.

1 (OFF THE RECORD; BRIEF RECESS.)

2 ITEM NO. 12: CONSIDERATION OF STAFF

3 RECOMMENDATION ON THE REGIONAL AGENCY FORMATION

4 AGREEMENT BETWEEN THE CITY OF CITRUS HEIGHTS AND

5 THE COUNTY OF SACRAMENTO

6 CHAIRMAN PENNINGTON: OKAY. WE'RE GOING

7 TO NOW MOVE TO CONSIDERATION OF STAFF

8 RECOMMENDATIONS ON THE REGIONAL AGENCY FORMATION

9 AGREEMENT BETWEEN THE CITY OF CITRUS HEIGHTS AND

10 THE COUNTY OF SACRAMENTO.

11 I KNOW THERE ARE SOME PEOPLE HERE

12 FROM LOS ANGELES WHO ARE ANXIOUS TO HEAD TO THE

13 AIRPORT, WE'LL GET TO YOU HERE IN JUST A MINUTE

14 OR TWO, SO THAT WE CAN HOPEFULLY GET YOU OUT OF

15 HERE IN TIME TO GET HOME.

16 50, LET'S START HERE WITH JUDY

17 FRIEDMAN? KYLE? WHO'S DOING THIS?

18 MR. SCHIAVO: KYLE WILL DO THE

19 PRESENTATION. THIS IS KYLE'S FIRST PRESENTATION,

20 SO.

21 CHAIRMAN PENNINGTON: OH, GOOD, WELCOME.

22 MEMBER JONES: WE'LL BE KIND.

23 MR. POGUE: GOOD AFTERNOON, MR. CHAIRMAN

24 AND BOARD MEMBERS. THE ITEM BEFORE YOU IS

25 CONSIDERATION OF THE REGIONAL AGENCY AGREEMENT

1 BETWEEN THE CITY OF CITRUS HEIGHTS AND THE COUNTY
2 OF SACRAMENTO.
3 THE CITY OF CITRUS HEIGHTS,
4 INCORPORATED EFFECTIVE JANUARY 1, 1997, WAS
5 PREVIOUSLY PART OF THE SACRAMENTO UNINCORPORATED
6 AREA. ALL INTEGRATED WASTE MANAGEMENT PLANNING
7 ELEMENTS FOR THE SACRAMENTO UNINCORPORATED AREA,
8 INCLUDING THE AREA THAT IS NOW THE CITY OF CITRUS
9 HEIGHTS AT THE TIME THOSE ELEMENTS WERE PREPARED
10 AND APPROVED.
11 THIS PROPOSED REGIONAL AGENCY IS
12 BEING ESTABLISHED FOR THE PURPOSE OF
13 CONSOLIDATING INTEGRATED WASTE MANAGEMENT
14 PLANNING AND DIVERSION REPORTING. ADDITIONALLY,
15 THIS REGIONAL AGENCY WILL ELIMINATE THE NEED FOR
16 THE CITY OF CITRUS HEIGHTS TO PREPARE PLANNING
17 DOCUMENTS, AND THE COUNTY OF SACRAMENTO TO AMEND
18 ITS CURRENT PLANNING DOCUMENTS.
19 AS A REGIONAL AGENCY, SACRAMENTO
20 COUNTY AND THE CITY OF CITRUS HEIGHTS MAY SUBMIT
21 ANNUAL REPORTS, DISPOSAL REPORTS, AND OTHER
22 REPORTING DATA AS ONE ENTITY, INSTEAD OF
23 SUBMITTING SEPARATE REPORTS FOR EACH
24 JURISDICTION. THIS WILL FACILITATE ACCURATE
25 TRACKING AND TIMELY REPORTING OF QUARTERLY

1 DISPOSAL TONNAGE.
2 A REGIONAL AGENCY WILL SAVE TIME AND
3 MONEY IN GATHERING INFORMATION AND PREPARING
4 REPORTS, ALLOWING THE CITY AND COUNTY TO
5 CONCENTRATE THEIR EFFORTS ON EFFECTIVELY AND
6 EFFICIENTLY IMPLEMENTING DIVERSION PROGRAMS.
7 STAFF FINDS THAT THE SACRAMENTO
8 COUNTY/CITY OF CITRUS HEIGHTS JOINT POWERS
9 AGREEMENT MEETS THE REQUIREMENTS TO BE DEEMED A
10 REGIONAL AGENCY, AND RECOMMENDS THAT THE BOARD
11 APPROVE THE SACRAMENTO COUNTY/CITY OF CITRUS
12 HEIGHTS JOINT POWERS AUTHORITY AS A REGIONAL
13 AGENCY.
14 THIS CONCLUDES MY PRESENTATION. 11M
15 HAPPY TO ANSWER ANY QUESTIONS. AND,
16 ADDITIONALLY, STEVE HARRIMAN, A REPRESENTATIVE
17 FOR THE CITY OF CITRUS HEIGHTS AND COUNTY OF
18 SACRAMENTO IS AVAILABLE TO ANSWER ANY QUESTIONS
19 YOU MAY HAVE. THANK YOU.

20 CHAIRMAN PENNINGTON: THANK YOU. GOOD
21 PRESENTATION.
22 ANY STAFF QUESTIONS, QUESTIONS OF
23 STAFF?

24 MEMBER ROBERTI: THIS SEEMS RELATIVELY
25 PRO FORMA, AS WELL --

1 CHAIRMAN PENNINGTON: IT WOULD BE ON THE
2 CONSENT CALENDAR.

3 MEMBER ROBERTI: I WOULD MOVE THE
4 ADOPTION OF RESOLUTION -- WHAT NUMBER ARE WE
5 HERE?

6 CHAIRMAN PENNINGTON: ON 99-20.

7 MEMBER FRAZEE: -- 43.

8 (THE PARTIES SIMULTANEOUSLY SPEAK.)

9 MEMBER ROBERTI: -- THREE, SO MOVED.

10 MEMBER FRAZEE: YES, I'LL SECOND.

11 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN

12 MOVED BY SENATOR ROBERTI, AND SECONDED BY MR.

13 FRAZEE, THE ADOPTION OF RESOLUTION 99-20. ANY

14 FURTHER DISCUSSION?

15 CHAIRMAN PENNINGTON: I'M SORRY, I'M

16 LOOKING AT THE WRONG PAGE, 99-43 -- I'M TRYING TO

17 GET AHEAD OF MYSELF.

18 IF THERE'S NO FURTHER DISCUSSION,

19 WILL THE SECRETARY CALL THE ROLL?

20 THE SECRETARY: BOARD MEMBER EATON?

21 MEMBER EATON: AYE.

22 THE SECRETARY: FRAZEE?

23 MEMBER FRAZEE: AYE.

24 THE SECRETARY: JONES?

25 MEMBER JONES: AYE.

1 THE SECRETARY: ROBERTI?

2 MEMBER ROBERTI: AYE.

3 THE SECRETARY: CHAIRMAN PENNINGTON?

4 CHAIRMAN PENNINGTON: AYE.

5 MOTION CARRIES.

6 ITEM NO. 14: CONSIDERATION OF STAFF

7 RECOMMENDATION ON THE ADEQUACY OF THE AMENDED

8 NON-DISPOSAL FACILITY ELEMENT FOR INCORPORATED

9 TULARE COUNTY

10 CHAIRMAN PENNINGTON: WE WILL NOW

11 MOVE TO ITEM 14, CONSIDERATION OF STAFF

12 RECOMMENDATION ON THE ADEQUACY OF THE AMENDED

13 NON-DISPOSAL FACILITY ELEMENT FOR UNINCORPORATED

14 TULARE COUNTY. PAT?

15 MR. SCHIAVO: THIS PRESENTATION WILL BE

16 MADE BY DIANE SCHIMIZU, WHO IS JUST NOW ARRIVING.

17 CHAIRMAN PENNINGTON: GOOD. THANK YOU.

18 MS. SCHIMIZU: GOOD AFTERNOON, CHAIRMAN

19 PENNINGTON AND BOARD MEMBERS. ITEM NO. 14 IS

20 STAFF'S FINDING ON THE ADEQUACY OF THE AMENDED

21 NON-DISPOSAL FACILITY ELEMENT, OR NOFE, FOR

22 UNINCORPORATED TULARE COUNTY.

23 THE COUNTY'S NDFE HAS BEEN AMENDED TO

24 REFLECT THE COUNTY'S SEVEN EXISTING TRANSFER

25 STATIONS, AS WELL AS THE PROPOSED EARLIMART

1 TRANSFER STATION. ALSO ADDED TO THE AMENDED NDFE
2 ARE WOOD INDUSTRIES COMPANY, A COMPOSTING
3 FACILITY, AND SUNSET WASTE PAPER, A MATERIALS
4 RECOVERY FACILITY.

5 STAFF ANALYZED THE AMENDED NDFE AND
6 FOUND THAT IT COMPLIES WITH STATUTORY AND
7 REGULATORY REQUIREMENTS. THEREFORE, STAFF
8 RECOMMEND APPROVAL OF UNINCORPORATED TULARE
9 COUNTY'S NDFE.

10 THIS CONCLUDES MY PRESENTATION. DO
11 YOU HAVE ANY QUESTIONS FOR ME?

12 CHAIRMAN PENNINGTON: ANY QUESTIONS FOR
13 STAFF?

14 A MOTION HAS BEEN MADE BY MEMBER FRAZEE,
15 SECONDED BY MR. EATON, THE ADOPTION OF RESOLUTION
16 99-20.

17 IF THERE'S NO FURTHER DISCUSSION,
18 WILL THE SECRETARY CALL THE ROLL, PLEASE?

19 THE SECRETARY: BOARD MEMBER EATON?

20 MEMBER EATON: AYE.

21 THE SECRETARY: FRAZEE?

22 MEMBER FRAZEE: AYE.

23 THE SECRETARY: JONES?

24 MEMBER JONES: AYE.

25 THE SECRETARY: ROBERTI?

1 MEMBER ROBERTI: AYE.

2 THE SECRETARY: CHAIRMAN PENNINGTON?

3 CHAIRMAN PENNINGTON: AYE.

4 MOTION CARRIES.

5 ITEM NO. 15: CONSIDERATION OF ADOPTION OF A

6 COMPLIANCE ORDER RELATIVE TO THE BIENNIAL REVIEW

7 FINDINGS FOR THE SOURCE REDUCTION AND RECYCLING

8 ELEMENT FOR THE CITY OF HAWTHORNE, LOS ANGELES

9 COUNTY

10 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM

11 15, CONSIDERATION OF ADOPTION OF A COMPLIANCE

12 ORDER RELATIVE TO THE BIENNIAL REVIEW FINDINGS

13 FOR THE SOURCE REDUCTION AND RECYCLING ELEMENT

14 FOR THE CITY OF HAWTHORNE IN LOS ANGELES COUNTY.

15 MR. SCHIAVO: AND THIS PRESENTATION WILL

16 BE MADE BY GARY COLLORD.

17 CHAIRMAN PENNINGTON: OKAY.

18 MR. COLLORD: GOOD AFTERNOON, CHAIRMAN

19 PENNINGTON AND MEMBERS OF THE BOARD.

20 AT IT'S DECEMBER 15TH, 1998, MEETING

21 THE BOARD CONDUCTED A BIENNIAL REVIEW OF THE CITY

22 OF HAWTHORNE'S SRRE. THE PURPOSE OF THE BIENNIAL

23 REVIEW WAS TO DETERMINE WHETHER OR NOT THE CITY

24 HAD ADEQUATELY IMPLEMENTED THE SRRE, AND ACHIEVED

25 THE 1995 DIVERSION REQUIREMENTS, AND IF NOT,

1 WHETHER THE ISSUANCE OF A COMPLIANCE ORDER WAS
2 WARRANTED.
3 THE BOARD CONSIDERED A NUMBER OF
4 ISSUES IN ITS REVIEW, INCLUDING THE NATURE AND
5 NUMBER OF DIVERSION PROGRAMS IMPLEMENTED BY THE
6 CITY, THE CITY'S REPORTED DIVERSION RATE, A
7 DISPUTE OVER THE DISPOSAL STATUS OF A LARGE
8 AMOUNT OF CONSTRUCTION AND DEMOLITION DEBRIS
9 DURING THE BASE YEAR, AND WHETHER THE CITY HAD
10 DEMONSTRATED A GOOD-FAITH EFFORT TO IMPLEMENT THE
11 SRRE.
12 THE BOARD DETERMINED THAT, BASED ON
13 AVAILABLE INFORMATION, THE CITY HAD NOT
14 ADEQUATELY IMPLEMENTED ITS SRRE, HAD NOT ACHIEVED
15 THE 1995 DIVERSION REQUIREMENT, AND HAD NOT
16 DEMONSTRATED A GOOD-FAITH EFFORT TO IMPLEMENT THE
17 SRRE.
18 THE BOARD DIRECTED STAFF TO DRAFT A
19 COMPLIANCE ORDER WITH SPECIFIC CONDITIONS FOR
20 ACHIEVING COMPLIANCE FOR THE BOARD'S
21 CONSIDERATION AT TODAY'S MEETING. THE BOARD ALSO
22 GRANTED HAWTHORNE AN ADDITIONAL 30 DAYS TO
23 RESPOND TO SPECIFIC ISSUES OUTLINED IN STAFF'S
24 LETTER OF SEPTEMBER 16TH, 1998, DURING THIS
25 INTERIM PERIOD.

1 THE CITY RESPONDED TO STAFF'S
2 INQUIRIES ON JANUARY 15TH, 1999. IN THE RESPONSE
3 THE CITY CLARIFIED THE STATUS OF ITS DIVERSION
4 PROGRAMS AND IDENTIFIED THREE ADDITIONAL
5 DIVERSION PROGRAMS, INCLUDING PROMOTION OF
6 DROUGHT-TOLERANT LANDSCAPING, TIRE REUSE ON CITY
7 VEHICLES, AND A COMMERCIAL RECYCLING ORDINANCE.
8 THE CITY ALSO SUFFICIENTLY EXPLAINED THE REASONS
9 WHY MANY OF THE SRRE PROGRAMS WERE NOT
10 IMPLEMENTED AS ORIGINALLY PLANNED.
11 THE CITY, HOWEVER, WAS UNABLE TO
12 LOCATE ANY DEFINITIVE RECORDS TO CONFIRM WHETHER
13 THE 53,000 TONS OF C&D MATERIAL WAS DISPOSED OR
14 DIVERTED, ALTHOUGH THE CITY FIRMLY BELIEVES THE
15 MATERIAL WAS DISPOSED, BASED ON DISPOSAL
16 PRACTICES IN EFFECT AT THE TIME.
17 THE CITY ALSO DID NOT PROVIDE ANY
18 ADDITIONAL INFORMATION ABOUT THE AMOUNT OF
19 RECYCLABLE MATERIALS OR COMPOST DIVERTED BY THE
20 FRANCHISE HAULER, AND THIS INFORMATION WOULD BE
21 VERY HELPFUL IN HELPING STAFF CONFIRM THE
22 ACCURACY OF THE REPORTED DIVERSION RATE, AND THE
23 ADEQUACY OF THE CITY'S DIVERSION PROGRAMS.
24 ALTHOUGH THE CITY PROVIDED A THOROUGH
25 RESPONSE TO MOST OF THE ISSUES RAISED IN STAFF'S

1 LETTER, THE NUMBER AND NATURE OF THE CITY'S
2 DIVERSION PROGRAMS, INCLUDING THE THREE
3 ADDITIONAL PROGRAMS, STILL DO NOT APPEAR TO
4 SUPPORT THE DIVERSION RATES REPORTED BY THE CITY.
5 AS PREVIOUSLY NOTED, THE CITY REMAINS
6 UNABLE TO CONFIRM THE DISPOSAL, OR DIVERSION
7 STATUS OF THE 53,000 TONS OF C&D MATERIAL, AND
8 HAS PROVIDED NO ADDITIONAL INFORMATION ABOUT THE
9 AMOUNT OF MATERIAL DIVERTED THROUGH ITS VARIOUS
10 DIVERSION PROGRAMS. AS A RESULT, STAFF BELIEVES
11 THE ADOPTION OF A COMPLIANCE ORDER FOR HAWTHORNE
12 IS STILL WARRANTED.
13 FOR THE LAST WEEK OR SO, THE CITY HAS
14 BEEN WORKING WITH BOARD STAFF AND NOW,
15 APPARENTLY, ACKNOWLEDGES THE NEED TO IMPLEMENT
16 ADDITIONAL PROGRAMS, AND AGREES THAT THE SRRE
17 SHOULD BE REVISED, WITH THE BOARD'S ASSISTANCE,
18 TO INCLUDE A MORE EFFECTIVE SCHEDULE OF PROGRAMS.
19 IN LIGHT OF THIS ADDITIONAL
20 INFORMATION, STAFF BELIEVES IT'S APPROPRIATE TO
21 MODIFY THE PROPOSED COMPLIANCE ORDER CONDITIONS.
22 IN PARTICULAR, THE STAFF BELIEVES THE PROPOSED
23 CONDITION TO REQUIRE THE CITY TO REVISE ITS WASTE
24 GENERATION STUDY SHOULD BE DROPPED.
25 AS AN ALTERNATIVE, STAFF RECOMMENDS

1 THAT THE BOARD EITHER ALLOW THE CITY TO REMOVE
2 THE DISPUTED 53,000 TONS OF C&D MATERIAL IN LIEU
3 OF REQUIRING A NEW BASE YEAR STUDY, OR ACCEPT THE
4 CITY'S WASTE GENERATION FIGURES AS ORIGINALLY
5 REPORTED IN THE SRRE.

6 IN EITHER CASE, STAFF RECOMMENDS THAT
7 AN ADDITIONAL CONDITION BE ADDED TO THE ORDER
8 WHICH REQUIRES THE CITY TO EXECUTE A MUTUALLY-
9 ACCEPTABLE PERFORMANCE PLAN WITH MEASURABLE
10 DIVERSION PROGRAM OBJECTIVES WITH THE BOARD BY
11 MARCH 31ST OF 1999. SHOULD THE CITY AND STAFF BE
12 UNABLE TO AGREE ON A MUTUALLY-ACCEPTABLE PLAN,
13 STAFF WILL SEEK FURTHER DIRECTION FROM THE BOARD.

14 ARE THERE ANY QUESTIONS FOR STAFF?

15 CHAIRMAN PENNINGTON: QUESTIONS FOR
16 STAFF? MR. FRAZEE.

17 MEMBER FRAZEE: ARE THOSE CHANGES
18 REFLECTED IN THE COMPLIANCE ORDER AS IT'S
19 SUBMITTED, OR ARE THOSE --

20 MR. COLLORD: NO, THEY'RE NOT.

21 MEMBER FRAZEE: DO YOU HAVE A COPY OF
22 THOSE ANYWHERE?

23 MR. COLLORD: NOT OFFICIALLY DRAFTED YET.
24 WE WOULD HAVE TO WORK ON THAT.

25 MEMBER EATON: MR. CHAIR?

1 CHAIRMAN PENNINGTON: MR. EATON.

2 MEMBER EATON: JUST FOR CLARIFICATION,

3 THE OPTIONS FOR US IN DROPPING THE

4 CHARACTERIZATION STUDY IS EITHER -- IS IT A

5 CONDITION -- IF WE ACCEPT -- LET ME TRY AND

6 RESTATE THIS. IF WE DROP THE CHARACTERIZATION

7 STUDY REQUIREMENT THAT WAS IN OUR BINDER, THEN WE

8 HAVE THE OPTION OF SAYING THE 53,000 TONS

9 APPLIES. CORRECT?

10 MR. COLLORD: RIGHT.

11 MEMBER EATON: OR WE HAVE THE OPTION OF

12 SAYING IT DOESN'T APPLY.

13 MR. COLLORD: CORRECT.

14 MEMBER EATON: IS STAFF RECOMMENDING AT

15 ALL THAT IF WE CHOOSE THE FIRST OPTION, THE

16 53,000 AND THE STUDY IS DROPPED, BUT IF WE DON'T

17 ACCEPT THE 53,000 THEN THE CHARACTERIZATION STUDY

18 SHOULD BE DONE?

19 MR. COLLORD: IF THE 53,000 TONS IS

20 DROPPED THEN THE CALCULATION, DIVERSION

21 CALCULATION WOULD BE ABOUT 14 PERCENT IN THE BASE

22 YEAR, WHICH SEEMS TO BE A LOT MORE CONSISTENT

23 WITH WHAT THE PROGRAM IMPLEMENTATION LEVELS ARE.

24 IF WE LEAVE THE 53,000 TONS IN, THEN THE

25 CALCULATION IS THAT 48 PERCENT, WHICH WE BELIEVE

1 IS SOMEWHAT HIGH.

2 IN DISPUTE IS, IS THE INFORMATION

3 THAT THE JURISDICTION PROVIDED TO US ADEQUATE

4 ENOUGH, AND --

5 MEMBER EATON: SO STAFF IS JUST DROPPING THE
6 CHARACTERIZATION STUDY.

7 MR. COLLORD: YES.

8 MEMBER EATON: BUT NOT CONDITIONED UPON WHETHER
9 WE ACCEPT THE 53,000, OR NOT.

10 MR. COLLORD: RIGHT. CORRECT.

11 MEMBER EATON: I JUST WANT TO TRY AND GET IT
12 CLEAR, BECAUSE I'M --

13 MR. COLLORD: YEAH.

14 MEMBER EATON: OKAY. AND THAT -- AND THE BASIS
15 OF THAT IS JUST ONE OF, WHAT, RESOURCES OR IT WOULDN'T BE
16 REALLY --

17 MR. COLLORD: RESOURCES --

18 MEMBER EATON: -- OUR CALL AT THAT POINT?

19 MR. COLLORD: YEAH.

20 MEMBER EATON: OKAY. I JUST KIND OF WANTED TO
21 GET CLARITY ON THAT.

22 MEMBER FRAZEE: I'M JUST GOING TO
23 COMMENT, I THINK YOU MISSPOKE WHEN YOU SAID CHARACTERIZATION
24 STUDY.

25 MEMBER EATON: YEAH, ITS GENERATION.

1 MEMBER FRAZEE: IT'S GENERATION, RIGHT.

2 MEMBER JONES: MR. CHAIRMAN?

3 CHAIRMAN PENNINGTON: YES, MR. JONES.

4 MEMBER JONES: THE IDEA OF -- WELL, I'VE

5 MET WITH THE CITY, I'VE MET WITH STAFF -- WELL,

6 MAYBE WE ALL HAVE, OR I DON'T KNOW IF WE ALL HAVE

7 -- AND, BUT ONE OF THE ISSUES WAS WE HAVE -- WE

8 ARE CONSTANTLY WORKING ON TRYING TO CLARIFY

9 NUMBERS DOWN IN SOUTHERN CALIFORNIA, AND IT IS A

10 UNIQUE SITUATION WHEN WE TRY TO DO THAT. AND I

11 GET A LITTLE BIT CRAZY.

12 BUT, BY THE SAME TOKEN, THE

13 CONSULTANT THAT DID THIS JOB I THINK IS A

14 DIFFERENT CONSULTANT THAN WE NORMALLY SEE ON A

15 LOT OF THESE ISSUES, AND THEY'RE USUALLY THE

16 OPPOSITE WAY.

17 SO, THIS IS VERY SIMILAR TO A

18 JURISDICTION THAT HAD A CO-GENERATION PLANT IN

19 ITS BOUNDARIES, AND THAT ASH WAS BEING

20 LANDFILLED, AND NOW THE COGEN PLANT GOES DOWN,

21 THE ASH DOESN'T GO INTO THE FACILITY ANYMORE,

22 THEY GET DIVERSION CREDIT BECAUSE THEY'VE GOT

23 THAT HIGHER -- THEY GET THE BENEFIT OF SHUTTING

24 DOWN AN INDUSTRY.

25 WE PROBABLY -- ONE OF MY SUGGESTION

1 WAS THAT THE BENEFIT OF THE DOUBT SHOULD GO TO
2 THE CITY ON THE WASTE GENERATION STUDY IF
3 PROGRAMS ARE IMPLEMENTED, IF PROGRAMS ARE DONE,
4 AND DONE NOT JUST IN AN CURSORY MODE BUT
5 AGGRESSIVELY, SO THAT THE INTENT OF AB 939
6 PROGRAMS AND DIVERSION, AND CHANGING PEOPLE'S
7 LIFE, YOU KNOW, AND DOING ALL THOSE TYPES OF
8 THINGS IS ACHIEVED.
9 AND I WOULD SUGGEST, RATHER THAN DROP
10 THE WASTE GENERATION, WE COULD HOLD IT IN
11 ABEYANCE AS ONE OF OUR OPTIONS IF WE'RE NOT
12 SATISFIED THAT, IN FACT, PROGRAMS ARE BEING
13 SUCCESSFUL. AND MAYBE WE NEED TO LOOK AT THE
14 GENERATION EFFECTIVE AT SOME DATE AND SEE HOW THE
15 PLAN WOULD WORK.
16 BUT I THINK IT'S UNFAIR TO -- WELL, I
17 DON'T WANT TO SAY THAT BECAUSE.... BUT, I'M
18 WILLING TO GIVE THE BENEFIT OF THE DOUBT, WITH
19 THAT -- WITH THE IDEA THAT THEY WORK WITH STAFF,
20 MUTUALLY ACCEPTABLE, IN MY MIND, NEEDS TO HAVE A
21 PRECURSOR ON IT THAT SAYS GOOD FAITH. AND WHAT
22 IS MUTUALLY ACCEPTABLE TO ME IS A LOT OF
23 PROGRAMS, NOT JUST A CURSORY REVIEW.
24 AND I WAS IN DISCUSSIONS WITH THE
25 CITY, THE CITY MANAGER, AND MAYBE WE NEED HIM TO

1 COME UP HERE AND JUST AFFIRM THAT IT WILL TILT IN
2 OUR DIRECTION, YOU KNOW, I MEAN, AS FAR AS PLANS
3 GO, SO THAT WE'RE SURE THAT WE'RE GOING TO
4 ACHIEVE WHAT NEEDS TO BE ACHIEVED, AND WHAT IS
5 THE HEART OF THE LAW.

6 CHAIRMAN PENNINGTON: WELL, WE HAVE A
7 COUPLE OF SPEAKERS HERE.

8 MR. CORMIER: GOOD AFTERNOON, MR.
9 CHAIRMAN AND MEMBERS OF THE BOARD. LET ME BEGIN
10 BY, FIRST OF ALL, THANKING YOU FOR YOUR COURTESY
11 OVER THE LAST FEW --

12 CHAIRMAN PENNINGTON: WHY DON'T YOU TELL
13 HER WHO YOU ARE?

14 MR. CORMIER: I'M BUD CORMIER, I'M THE
15 CITY MANAGER FOR THE CITY OF HAWTHORNE.
16 I'D ALSO LIKE TO THANK THE STAFF FOR
17 THEIR COURTESY, BECAUSE THEY'VE WORKED WITH US
18 VERY WELL OVER THE LAST COUPLE OF DAYS.

19 I WOULD CONCUR WITH EVERYTHING THAT
20 BOARD MEMBER JONES JUST SAID, I DON'T HAVE A
21 PROBLEM WITH THAT AT ALL.

22 I DO WANT TO -- BECAUSE I PROMISED
23 THEM I WOULD -- MY COUNCIL ASKED ME TO CONVEY TO
24 YOU IN THE STRONGEST POSSIBLE TERMS,
25 UNEQUIVOCALLY, THAT THEY WANT TO WORK TO THE

1 SATISFACTION OF THE BOARD. I HOPE YOU BELIEVE
2 THAT BECAUSE IT'S TRUE. AND, I'LL SAY THE SAME
3 THING FOR THE ENTIRE MANAGEMENT STAFF OF THE CITY
4 OF HAWTHORNE.
5 WE ARE PERFECTLY WILLING -- IN FACT,
6 WE HAVE MADE ARRANGEMENTS -- EVEN TODAY HAD
7 TALKED TO SOME PEOPLE FROM YOUR LOCAL ASSISTANCE
8 TEAM THAT ARE COMING DOWN IN EARLY FEBRUARY TO
9 GIVE US A HAND. WE'RE VERY, VERY WILLING TO WORK
10 WITH YOUR STAFF, AND REPORT BACK SOMETHING
11 ACCEPTABLE TO THEM AND TO US, ON MARCH 31ST. AND
12 I FEEL VERY GOOD THAT THAT'S ACHIEVABLE. MY
13 STAFF PEOPLE WILL BE AVAILABLE 100 PERCENT OF THE
14 TIME THAT THEY'RE NEEDED TO BE FOR THIS PURPOSES.
15 WE DID OBJECT, AND WE DO OBJECT, AND
16 WE HOPE YOU WON'T DEPRIVE US OF THE 53,000 TONS
17 BECAUSE WE RELIED ON THAT. I MEAN, WE HAVE NO
18 REASON TO BELIEVE THAT THAT IS A BAD NUMBER. WE
19 HAVE SOME GOOD REASON TO BELIEVE -- ALTHOUGH IT'S
20 NOT OVERWHELMING WE HAVE SOME GOOD REASON TO
21 BELIEVE THAT IT'S A GOOD NUMBER, NOBODY'S EVER
22 SHOWN US ANYTHING TO MAKE US SUSPECT THE NUMBER.
23 UNFORTUNATELY, AS YOU MAY HAVE
24 HINTED, MR. JONES, WE DID HAVE A CONSULTANT ON
25 BOARD SEVERAL YEARS AGO. WHEN THIS WHOLE ISSUE

1 CAME UP A COUPLE OF MONTHS AGO WE WENT TO HIM TO
2 TRY AND FIND THE DOCUMENTATION, AND WE WERE TOLD
3 BY THIS FIRM THAT AFTER FIVE YEARS HAD ELAPSED
4 THEY DESTROYED ALL THEIR DOCUMENTATION.
5 WE DID A THOROUGH INVESTIGATION OF
6 OUR OWN FILES, WE WENT BACK, WE TALKED TO THE
7 ORIGINAL CONTRACTOR, WHERE 42,000 ROUGHLY OF THIS
8 IS CONCERNED. WE GOT WHATEVER INFORMATION WE
9 COULD AND WE PASSED IT ON TO YOU.
10 AGAIN, WE DIDN'T FIND ANYTHING TO
11 DISPUTE THE NUMBERS, WE DID FIND SOME SMALL
12 AMOUNT OF EVIDENCE THAT POINTS TO THE VALIDITY OF
13 NUMBERS. SO, THAT'S WHERE WE'RE AT.

14 CHAIRMAN PENNINGTON: ANY QUESTIONS?

15 OKAY, THANK YOU.

16 ROB BERNHEIMER.

17 MR. CORMIER: MR. CHAIRMAN, WHILE HE'S

18 COMING UP --

19 CHAIRMAN PENNINGTON: YES?

20 MR. CORMIER: I WONDER WHAT THE -- CAN

21 SOMEONE TELL ME THE SOURCE OF THIS DOCUMENT?

22 CHAIRMAN PENNINGTON: YEAH, THAT'S FROM

23 JERRY JAMGOTCHIAN, WHO'S GOING TO COME AFTER HIM.

24 MR. CORMIER: I JUST WANT TO MAKE A POINT

25 HERE, MR. CHAIRMAN, ABOUT MATERIAL THAT'S

1 DISTRIBUTED TO US, AND IT ACTUALLY COMES INTO
2 FORMAL EVIDENCE WITHOUT ANY IDENTIFYING MARKS AS
3 TO WHO THE PRODUCER OF IT WAS, WHAT THE SLANT IS
4 ON IT OR ANYTHING.

5 IT WOULD -- IN THE METHOD AS PRINTED,
6 IT WOULD TEND TO LEAD YOU TO BELIEVE THAT THIS
7 WAS SOMETHING SUBMITTED BY THE CITY OF HAWTHORNE,
8 AND THEN READING THE CONTENTS I FIND QUITE THE
9 CONTRARY. BUT I JUST THINK THAT WE OUGHT TO BE
10 CAREFUL ABOUT ALLOWING THE DISTRIBUTION OF
11 MATERIAL WITHOUT ANY IDENTIFYING SOURCE ON IT.

12 CHAIRMAN PENNINGTON: YOU'RE CORRECT.

13 I'M FORTUNATE THAT I HAVE THIS THAT SAYS BLUE
14 PACKET.

15 MR. CORMIER: OH, OKAY.

16 CHAIRMAN PENNINGTON: BUT I'M SURE THAT

17 MR. JAMGOTCHIAN WILL FILL US IN.

18 MR. BERNHEIMER: ROB BERNHEIMER WITH

19 FERGUSON & BERNHEIMER, I REPRESENT THE WASTE
20 HAULER AGENCY DISPOSER IN THE CITY OF HAWTHORNE.

21 I DON'T THINK WE NEED TO GO ANY
22 LONGER ON SOME OF THESE ISSUES, I THINK MOST OF
23 THE QUESTIONS HAVE BEEN ANSWERED. I WILL BE
24 AVAILABLE IF, AT THE END OF THIS, THERE ARE ANY
25 QUESTIONS THAT I CAN ANSWER, AND THAT IF ANY

1 OTHER ISSUES NEED TO BE ADDRESSED I'LL BE HAPPY
2 TO DO SO, BUT I THINK MR. CORMIER ADEQUATELY
3 EXPRESSED EVERYTHING. THANK YOU.

4 CHAIRMAN PENNINGTON: VERY GOOD, THANK
5 YOU.

6 JERRY JAMGOTCHIAN. I ONLY ASK THAT
7 WE DON'T GO THROUGH THIS WHOLE THING AND TAKE AN
8 HOUR --

9 MR. JAMGOTCHIAN: YES, I ASSURE YOU I
10 WON'T.

11 CHAIRMAN PENNINGTON: OKAY. THANK YOU.

12 MR. JAMGOTCHIAN: THAT IS A DOCUMENT THAT
13 I PREPARED ON BEHALF OF MYSELF, AND FOR THE BOARD
14 AND BOARD STAFF'S REVIEW.
15 AS I HAVE IN THE PAST, AT THE RECENT
16 HEARING ON THE 15TH OF DECEMBER, I PRESENTED IT
17 TO THE CLERK AND SHE JUST -- I THOUGHT SHE WAS
18 GOING TO DISTRIBUTE IT WHEN I SPOKE. BUT, I'M
19 SORRY, BUT IT IS MY DOCUMENT.

20 THE DOCUMENT PROVIDES THE
21 INFORMATION THERE IS PROVIDED BY THE CITY SRRE,
22 AND I JUST WANT TO RUN THROUGH SOME PORTIONS OF
23 IT. AND I LEFT YOU A COMPLETE COPY, SO IF YOU
24 WANT TO REVIEW IT LATER TIME IT'LL BE AVAILABLE
25 FOR YOU.

1 MEMBER FRAZEE: THE POINT I WAS MAKING
2 WAS THAT IT WOULD BE HELPFUL IF YOUR NAME WERE TO
3 APPEAR ON THE DOCUMENT SO WE WOULD BE ABLE TO TIE
4 IT —

5 MR. JAMGOTCHIAN: YES. I'D BE HAPPY TO
6 PROVIDE THAT NEXT TIME.

7 IN THE COMPLIANCE ORDER THAT I TRUST
8 THE BOARD WILL ISSUE TO THE CITY OF HAWTHORNE,
9 I'D LIKE YOU TO CONSIDER THREE FACTORS TO INCLUDE
10 WITHIN THE COMPLIANCE ORDER. THE FIRST FACTOR IS
11 -- AND ALL THESE FACTORS ARE ESSENTIALLY BASED BY
12 THE SRRE THAT THE CITY OF HAWTHORNE COMPLETED IN
13 1991.

14 THE FIRST ONE IS, REQUIRE THE CITY OF
15 HAWTHORNE TO HIRE -- IT'S THAT YELLOW PIECE OF --
16 ORANGE PIECE OF PAPER AT THE BACK -- REQUIRE THAT
17 THE CITY HIRE THREE FULL-TIME SOLID WASTE
18 MANAGEMENT PERSONNEL.

19 MR. CORMIER REFERRED TO HIS STAFF.
20 HE DOESN'T HAVE A STAFF, WHEN IT TALKS ABOUT
21 SOLID WASTE MANAGEMENT PERSONNEL. HIS STAFF TO
22 DATE IS THE PLANNING DIRECTOR, WHO IS ALSO THE
23 REDEVELOPMENT DIRECTOR, AND THE PUBLIC WORKS
24 DIRECTOR WHO HAS RECENTLY BEEN SLOTTED INTO THIS
25 POSITION ON A TEMPORARY BASIS.

1 THE SRRE CALLS FOR -- AND I'LL SHOW
2 YOU IN THE SRRE -- THREE FULL-TIME SOLID WASTE
3 MANAGEMENT PEOPLE UNTIL A 25 PERCENT DIVERSION
4 HAS BEEN REACHED. I'LL SHOW YOU WHAT I BELIEVE,
5 AND WHAT STAFF WILL -- AND WHAT THE BOARD WILL
6 AGREE AS, I THINK, AS A TRUE DIVERSION IN THE
7 CITY OF HAWTHORNE.
8 THE SECOND REQUEST IS -- AND WE'LL
9 TALK ABOUT THIS BRIEFLY -- REQUIRING THE CITY OF
10 HAWTHORNE TO ENFORCE TWO PROVISIONS IN THEIR
11 SRRE. AND THE REASON WHY THIS IS IMPORTANT IS
12 BECAUSE THE CITY HAS STATED THAT THE HAULER
13 DOESN'T SUPPLY ANY NUMBERS TO THE CITY, SO HOW
14 CAN THEY SUPPLY ANY NUMBERS TO THE BOARD. AND
15 WE'LL TALK ABOUT THAT BRIEFLY.
16 THE BIG PROBLEM HERE, I THINK, IN
17 THIS MATTER IS THAT THE BOARD STAFF HAS A LOT OF
18 WORK TO DO IN A LOT OF CITIES, AND THEY DON'T GET
19 A LOT OF THE INFORMATION THAT MAY BE TRUTHFUL.
20 IN THIS PARTICULAR CASE, IN THIS PARTICULAR CITY,
21 DOCUMENTATION HAS BEEN PROVIDED THAT'S NOT
22 TRUTHFUL.
23 THE CITY OF HAWTHORNE AND ITS COUNCIL
24 -- WHO ELECTED NOT TO APPEAR ON DECEMBER 15TH,
25 AFTER THE BOARD REQUESTED THEM TO APPEAR, AS WELL

1 AS AFTER THEY SAID THEY WOULD APPEAR HAS NOW
2 APPEARED FOR ONE REASON, AND ONE REASON ONLY.
3 THEY'RE CONCERNED ABOUT THE FINES AND THE
4 POTENTIAL THAT THE BOARD COULD CONTINUE TO LOOK
5 AT THEM IN A SCORNFUL WAY.
6 STAFF HAS HUNG IN THERE AND DONE THE
7 BEST THEY CAN TO GET THE CITY OF HAWTHORNE INTO
8 SOME POSITION OF COOPERATION, AND I BELIEVE THAT
9 THEY HAVE. AND THEY DESERVE A LOT OF CREDIT FOR
10 DOING THAT, BECAUSE THE CITY OF HAWTHORNE, AS YOU
11 ALL KNOW, RESPONDED FOUR MONTHS LATE WITH THESE
12 DOCUMENTS. AND THE DOCUMENTS THAT THEY DID
13 SUPPLY WERE SUBSTANDARD AT BEST.
14 THE TIME LINE OF THE DOCUMENT
15 SUBMISSION YOU ALL KNOW ABOUT, SO I'D LIKE TO RUN
16 THROUGH BRIEFLY SOME OF THE HIGHLIGHTS OF THIS
17 PACKAGE.

18 CHAIRMAN PENNINGTON: WHILE YOU'RE DOING
19 THAT, I WOULD LIKE TO POINT OUT THAT THE CITY
20 WASN'T HERE BECAUSE WE TOLD THEM THEY DIDN'T HAVE
21 TO BE HERE.

22 MR. JAMGOTCHIAN: THAT'S FINE. THANK
23 YOU. THEY STILL COULD HAVE MADE THE APPEARANCE,
24 I MEAN....

25 THE FIRST ISSUE IS SRRE -- THE TABLE

1 TWO, TALKING ABOUT FUNDING. THE CITY OF
2 HAWTHORNE'S PROGRAMS HAVE BEEN FULLY FUNDED SINCE
3 1992. AND CURRENTLY THE CITIZENS OF HAWTHORNE
4 PAY \$448,000 A YEAR FOR RECYCLING. THE CAPITAL
5 COSTS OF \$799,000 WERE FULLY PAID. AND, SO THE
6 CITIZENS OF HAWTHORNE ARE CURRENTLY PAYING FOR
7 RECYCLING \$63,000 MORE A YEAR THAN THE SRRE
8 REQUESTED. THAT'S TABLE TWO OF THE SRRE.
9 ALL THESE TABLES, BOARD MEMBER
10 FRAZEE, COME FROM THE SRRE, A COPY OF THE SRRE.
11 NOW, RECORD KEEPING IS AN IMPORTANT
12 ISSUE. THE RECORD KEEPING IS VERY IMPORTANT, AS
13 YOU ALL ARE AWARE, BECAUSE STAFF CAN'T DO THEIR
14 JOB WITHOUT RECORDS. THE SRRE IN THIS SECTION
15 REQUIRES -- SECTION 3611, THAT THE HAULER WILL BE
16 REQUIRED TO KEEP RECORDS AND REPORT TO THE CITY
17 QUARTERLY. JUST KEEP THAT IN MIND, AND WE'LL
18 CONTINUE.
19 AGENCY DISPOSALS CONTRACT SAYS, IN
20 ARTICLE 10, ON PAGE 10, THAT THE CONTRACTOR
21 AGREES TO OBEY OUR LAWS AND COMPLY WITH OUR
22 ORDINANCES, AND RESOLUTIONS, AND RULES, AND
23 REGULATIONS ADOPTED BY THE CITY IN THE
24 PERFORMANCE OF THE AGREEMENT.
25 YET, IN MR. CORMIER'S LETTER OF

1 JANUARY 15TH, HE STATES -- THIS IS HIS LETTER
2 THAT'S PROBABLY CONTAINED IN YOUR PACKAGE -- THAT
3 AS THE WASTE HAULER AGENCY IS NOT REQUIRED TO
4 REPORT DIVERSION AND/OR RECYCLING ACTIVITY TO THE
5 CITY. NOW, THIS IS HIS LETTER TO THE BOARD
6 JANUARY 15TH.
7 HOW CAN YOU EXPECT BOARD STAFF TO DO
8 ANY DIVERSION REVIEW IF THE HAULER ISN'T
9 PROVIDING RECYCLING INFORMATION TO THE CITY?
10 FURTHER, THE RECYCLING ORDINANCE IN
11 THE CITY OF HAWTHORNE HAS A REPORTING REQUIREMENT
12 ON THE RECYCLERS. WELL, IF YOU LOOK AT THE
13 PARAGRAPH THAT'S HIGHLIGHTED ON THE BOTTOM OF
14 NUMBER FOUR IN MR. CORMIER'S LETTER, IT SAYS:
15 "DUE TO THE DISPOSAL BASE REPORTING SYSTEM IN
16 PLACE FOR AB 939, AND THE RELUCTANCE OF
17 COMMERCIAL RECYCLERS TO PROVIDE INFORMATION, THE
18 CITY IS CONSIDERING DROPPING THE REPORTING
19 REQUIREMENT."
20 NOW, WHAT GOOD IS THAT? IF THERE'S
21 NOT GOING TO BE REPORTING BY THE HAULER, AND
22 THERE'S NOT GOING TO BE REPORTING BY THE
23 RECYCLERS, WHAT KIND OF REPORTING IS THE BOARD
24 GOING TO GET?
25 IN 1991 THE HAULER WAS REQUESTED TO

1 DO A REPORT ON DIVERSION. SECTION 2332 OF THE
2 SRRE, TO DATE, THE SRRE'S FRANCHISE HAULER HAS
3 STILL NEVER REPORTED ANY DIVERSION OF ANY
4 MATERIALS.
5 ADDITIONALLY, SECTION 9.3 OF THE SRRE
6 STATES: "ADDITIONAL CITY STAFF RESOURCES. THE
7 CITY WILL NEED A TOTAL OF THREE FULL-TIME
8 EQUIVALENT STAFF FOR SOLID WASTE MANAGEMENT." IN
9 1991, NO STAFF MEMBERS WERE EXCLUSIVELY
10 DESIGNATED FOR SOLID WASTE MANAGEMENT. THAT'S
11 SRRE SECTION 9.3.
12 SRRE TABLE 9.2 -- EXCUSE ME, 1.2
13 SHOWS THAT THREE SOLID WASTE MANAGEMENT PEOPLE
14 SHOULD BE IN PLACE. TO DATE THERE STILL AREN'T
15 THREE PEOPLE IN PLACE, AND THE PERSON THAT'S IN
16 CHARGE IS ALSO THE REDEVELOPMENT DIRECTOR AND THE
17 PLANNING DIRECTOR.
18 AND, ONCE AGAIN I STRESS THAT ALL
19 THESE PROGRAMS HAVE BEEN FULLY FUNDED SINCE 1991,
20 AND \$4.2 MILLION HAS BEEN PAID BY THE CITY OF
21 HAWTHORNE TO THE AGENCY DISPOSAL COMPANY FOR
22 RECYCLING.
23 ADDITIONALLY, 461, MONITORING METHODS
24 AND OBJECTIVES IN THE SRRE REQUIRE THE HAULER TO
25 KEEP RECORDS, AND THAT IS IN HERE, YOU CAN REVIEW

1 ALSO.
2 NOT TO MENTION PROGRAM FOLLOW-UP BY
3 THE CITY, THAT'S SRRE SECTION 3612.
4 I GUESS THE NEXT QUESTION YOU SHOULD
5 ASK YOURSELF IS WHY ISN'T THE CITY PROVIDING
6 OVERSIGHT OF THE HAULER. WELL, IT'S VERY EASY.
7 AND, I'VE ADDRESSED THIS TO THE BOARD BEFORE.
8 TWENTY-FIVE PERCENT, OR TWO AND A
9 HALF MILLION DOLLAR-PER-YEAR FRANCHISE FEE. THIS
10 CITY WILL DO WHATEVER IT TAKES TO PROTECT THIS
11 HAULER, BECAUSE THE GENERAL FUND OF THIS CITY
12 CANNOT LOSE TWO AND A HALF MILLION DOLLARS.
13 IN FACT, IT'S QUITE INTERESTING THAT
14 THE CITY'S LEGAL COUNSEL ISN'T EVEN HERE.
15 THAT PROJECTION IS FURTHER EVIDENCED
16 BY THE LOS ANGELES DISTRICT ATTORNEY'S OFFICE
17 ADVISING MR. CORMIER, THE CITY MANAGER, THAT
18 AGENCY -- HIS WORDS WERE: "THE CITY COULD BE A
19 VICTIM OF A THREAT PERPETRATED BY AGENCY
20 DISPOSAL." THE LETTER'S IN YOUR PACKAGE, DATED
21 NOVEMBER 13TH, 1996.
22 NOVEMBER 27TH, 1996, MR. CORMIER
23 STATES HE'S -- THAT, QUOTE: "I'M PRETTY WELL
24 SATISFIED THAT THERE'S NOTHING WRONG."
25 LITIGATION PURSUES. I PURSUED

1 LITIGATION AGAINST THE HAULER IN THE NAME OF THE
2 CITY IMPROPERLY (INDISC.) ACTION, AGENCY PAYS THE
3 CITY AND MY ATTORNEY \$284,000 OUT OF 864,000 THAT
4 THE CITY IMPROPERLY PAID AGENCY FOR DUMP FEES
5 WHICH THEY NEVER PAID. THE ARTICLE'S IN THERE,
6 IT'S ENTITLED (INDISC.) DUMPS HAWTHORN SUIT. THE
7 AGENCY ADMITTED TO KNOWINGLY FILING FALSE CLAIMS
8 AND INVOICES TO THE CITY OF HAWTHORNE. SO, A
9 WHISTLE-BLOWER'S LAW SUIT.
10 FURTHER, THE CITY, IN THEIR SPIRIT OF
11 RECYCLING, FILES LITIGATION AGAINST PEOPLE THAT
12 WANT TO RECYCLE. THERE'S A LAW SUIT IN YOUR
13 PACKAGE, IT'S FILED IN 1996. THE BASIS OF THE
14 LAW SUIT ISN'T VIOLATION OF THE RECYCLING ACT,
15 IT'S ECONOMIC ADVANTAGE AND(INDISC.) INTERFERENCE
16 WITH THE HAULER. SO, WE'RE NOT TALKING ABOUT
17 RECYCLING HERE, I BELIEVE WE'RE TALKING ABOUT AN
18 ECONOMIC ADVANTAGE AND THE CITY'S PROTECTION OF
19 AGENCY AS THEIR ECONOMIC ADVANTAGE.
20 I SHARED WITH YOU LAST MEETING A
21 DEPOSITION OF(INDISC.) MR. RICHARD MANSFIELD
22 (PHON), WHO'S IN THE AUDIENCE, WHERE HE STATED --
23 OR, MY ATTORNEY ASKED HIM, (PRESUMED QUOTATION)
24 "DO YOU UTILIZE THE SRRE IN CONDUCTING RECYCLING
25 ACTIVITIES IN THE CITY OF HAWTHORNE?" HIS ANSWER

1 WAS A CLEAR NO. IF HE DOESN'T USE THE SRRE HOW
2 CAN HE PROVIDE INFORMATION THAT'S FACTUAL TO THE
3 CITY, AND THE CITY PROVIDE FACTUAL INFORMATION TO
4 THE BOARD'S STAFF?

5 ACTUAL DIVERSION. AND I BELIEVE GARY
6 AND CHRIS COULD ADDRESS THIS IF THEY FEEL
7 UNCOMFORTABLE WITH THIS DIVERSION NUMBER. THE
8 CITY OF HAWTHORNE REPORTED -- AND CORRECT ME IF
9 I'M WRONG, GARY -- FOR ALL DIVERSION MATERIAL,
10 760 TONS -- I'M GOING TO SAY BETWEEN 700 AND 760
11 TONS. USING THEIR BASE YEAR NUMBER OF 128,450
12 TONS, THAT'S LESS THAN ONE-PERCENT DIVERSION. IF
13 ONE-PERCENT DIVERSION IS SATISFACTORY FOR THE
14 CITY OF HAWTHORNE WE HAVE A SERIOUS PROBLEM WITH
15 AB 939. AND, THESE NUMBERS ARE NUMBERS PROVIDED
16 BY THE CITY.

17 NOW, MR. COLLORD AND MR. SMITH, DO
18 YOU HAVE ANY OTHER DIVERSION -- ANY OTHER
19 RECYCLING NUMBERS OTHER THAN 760 TONS FOR THE
20 YEARS -- ANY YEAR, 1996, 1997, 1998?

21 MR. COLLORD: THE LAW DOES NOT REQUIRE
22 THEM TO GIVE US DIVERSION NUMBERS FOR THOSE
23 YEARS. WE USE A DISPOSAL-BASED SYSTEM. AND, SO
24 IT'S BASED ON DISPOSAL RELATIVE TO THE BASE YEAR.
25 (THE PARTIES SIMULTANEOUSLY SPEAK.)

1 MEMBER JONES: WHAT WAS THAT NUMBER?
2 WHAT WAS THE DISPOSAL THAT YEAR, DO YOU KNOW? DO
3 YOU HAVE IT WITH YOU? DOESN'T MATTER, KEEP
4 GOING.

5 MR. JAMGOTCHIAN: THEIR DISPOSAL IS
6 TYPICALLY ABOUT -- THEIR DISPOSAL'S APPROXIMATELY
7 60,000 (SIC) A YEAR. THE REASON WHY I KNOW THAT
8 IS I HAVE DUMP TICKETS FROM THE TRANSFER STATION
9 WHERE THEY TAKE THE MAJORITY OF THEIR REFUSE,
10 BACK TO 1994.

11 MEMBER JONES: SIXTY THOUSAND TONS OF
12 DISPOSAL --

13 MR. JAMGOTCHIAN: SIXTY THOUSAND TONS OF
14 DISPOSAL FOR EVERYTHING.

15 MEMBER JONES: ALL RIGHT. AND THE BASE
16 YEAR YOU PUT UP IS 128,450.

17 MR. JAMGOTCHIAN: THAT'S THEIR BASE YEAR
18 THAT THEY SAY SHOULD BE KEPT. AND --

19 MEMBER JONES: AND THE WAY THAT THE LAW
20 WAS CHANGED, THE LAW WAS CHANGED NOT TO REPORT
21 WHAT DIDN'T EXIST, IT SAID TELL US HOW MUCH YOU
22 DISPOSE OF AND WE'LL --

23 MR. JAMGOTCHIAN: RIGHT. AND WE'LL TALK
24 ABOUT --

25 MEMBER JONES: - AND WE'LL GET TO THE

1 NUMBER.

2 MR. JAMGOTCHIAN: RIGHT, WE'LL TALK ABOUT

3 THAT, THAT'S ALMOST A...

4 50, THE POINT -- THE LESS THAN ONE

5 PERCENT DIVERSION ISSUE IS SOMETHING THAT -- THAT

6 IS ACTUAL (PHON) IN REAL WORLD NUMBERS TODAY,

7 BECAUSE THEY'VE ONLY REPORTED 760 TONS OF

8 DIVERSION IN THE YEARS 1996, 1997, AND 1998,

9 TOTAL. AND THEIR REPORTS ARE ALL CONTAINED IN

10 YOUR PACKAGE.

11 FURTHER, JUST THIS WEEK I GET A

12 LETTER FROM THE CITY ESSENTIALLY SAYING -- IT'S

13 IN YOUR PACKAGE -- THAT THE CITY IS NOT IN ANY --

14 IS NOT IN POSSESSION OF ANY BACK-UP DOCUMENTS FOR

15 ANY OF THESE RECYCLING NUMBERS THAT THEY SUBMIT

16 TO THE CITY. SO, THE CITY DOESN'T GET ANY BACK- 17 UP DOCUMENTATION

TO VERIFY THAT THESE NUMBERS ARE

18 ACCURATE. AND, IN FACT, THERE'S NO REQUIREMENT

19 FOR THE RECYCLER TO PROVIDE THEM. SO, ONCE AGAIN

20 WE'RE TALKING ABOUT THERE'S NO OVERSIGHT OF THIS

21 HAULER.

22 AND OF COURSE, WE BROUGHT THIS UP

23 LAST TIME, IN HAWTHORNE IT COSTS \$590 A TON TO

24 RECYCLE. THAT THEY GET PAID \$447,000 A YEAR -- A

25 YEAR -- THEY RECYCLE 760 TONS, BASED UPON WHAT

1 THEY REPORT, AND THEN THEY GET PAID \$590 A TON.

2 IT'S NOT A BAD BUSINESS.

3 THERE'S A RESIDENT THAT FELT STRONGLY

4 ENOUGH ABOUT THIS ISSUE THAT WOULD LIKE TO COME

5 UP BRIEFLY, FOR A COUPLE OF MINUTES, AND EXPLAIN

6 THE AGENCY'S RESIDENTIAL BAG-AND-TAG PROGRAM.

7 ERIC, YOU WANT TO COME UP REAL QUICK?

8 BY THE WAY, SENATOR ROBERTI, WE HAVE

9 THE SAME PROBLEM, I GUESS, IS THAT YOU HAVE A

10 WALL (PHON) PROBLEM, I HAVE A RECYCLING PROBLEM.

11 I OWN A SHOPPING CENTER IN HAWTHORNE. THREE

12 YEARS AGO I REQUESTED TO DO RECYCLING IN MY

13 SHOPPING CENTER, AND WAS PROMPTLY SUED, AND SAID

14 THAT THEY DIDN'T DO COMMERCIAL RECYCLING. AND

15 THAT'S KIND OF THE REASON WHY I'M HERE.

16 MR. HARTMAN: MR. CHAIRMAN, BOARD

17 MEMBERS, THAN YOU FOR THIS OPPORTUNITY TODAY TO

18 COME UP HERE TO JUST BRIEFLY EXPLAIN TO YOU AS A

19 RESIDENT OF THE CITY OF HAWTHORNE --

20 CHAIRMAN PENNINGTON: WE NEED TO HAVE YOU

21 IDENTIFY YOURSELF.

22 MR. HARTMAN: MY NAME IS ERIC HARTMAN.

23 CHAIRMAN PENNINGTON: THANK YOU.

24 MR. HARTMAN: THANK YOU.

25 FIVE YEARS AGO I MOVED INTO THE CITY

1 OF HAWTHORNE FROM THE SURROUNDING COMMUNITIES OF
2 -- WHICH I GREW UP IN, MANHATTAN BEACH AND
3 REDONDO BEACH, THOSE ARE THE TWO CITIES THAT I'VE
4 EVER LIVED IN OTHER THAN HAWTHORNE.
5 THE RECYCLING PROGRAMS THAT I COME
6 FROM ARE CONSISTING OF RECYCLING BINS, DIFFERENT
7 SIZED TRASH CANS AVAILABLE TO YOU, FACILITIES TO
8 TAKE TUOLENES AND PAINT THINNERS, AND PAINTS FOR
9 THE RESIDENTS. AND THIS IS WHAT I HAVE TO BASE
10 WHAT I HAVE NOW IN THE CITY OF HAWTHORNE, A BAG-
11 AND-TAG PROGRAM, WHICH IS JUST A STICKER THAT THE
12 CITY PROVIDES YOU TO PUT ON A RECEPTACLE THAT YOU
13 HAVE TO PURCHASE, TRASH BAGS THAT YOU HAVE TO
14 PURCHASE.
15 AND, I DON'T KNOW IF ANY OF YOU HAVE
16 EVER GONE TO HOME DEPOT AND BOUGHT 300 BAGS AND
17 BOXES, THEY'RE \$30.00. I FEEL LIKE I'M PAYING TO
18 RECYCLE, ON TOP OF PAYING TO RECYCLE. WE'RE
19 PAYING ALREADY, OUT OF OUR CITY TAXES, UNDER AB
20 939 IF I'M NOT MISTAKEN OF SOME SORT, AND ON TOP
21 OF IT I HAVE TO GO BUY BAGS OR A TRASH CAN, OR
22 SOMETHING TO PUT MY RECYCLING IN. AND I JUST, AS
23 A CITIZEN, DON'T FEEL THAT THIS IS A REAL
24 RECYCLING PROGRAM. AND THE WORD "CUNARD" (PHON)
25 COMES TO MIND.

1 I CALLED UP THE AGENCY AND I ASKED
2 THEM FOR RECYCLING BINS AND THEY TELL ME, WE
3 DON'T PROVIDE THEM, THEY'RE TOO COSTLY, WE DON'T
4 DO THAT PROGRAM. I RECEIVE NOTHING FOR
5 EDUCATIONAL MATERIAL FROM THE CITY. WHERE TO
6 TAKE RECYCLING, PAINTS, NOTHING, WE GET NOTHING
7 FROM THEM.
8 AND IT JUST SEEMS TO ME, BOARD
9 MEMBERS AND CHAIRMAN, THAT THE STANDARD IS
10 ALREADY SET OUT THERE IN THE COMMUNITIES, IT
11 SEEMS LIKE, THAT BINS AND DIFFERENT TRASH-SIZED
12 BARRELS, AND FACILITIES TO GO AND TAKE YOUR
13 PAINTS AND YOUR THINNERS TO HAS ALREADY SET THE
14 STANDARD. AND THE BAG-AND-TAG PROGRAM JUST FALLS
15 WAY SHORT OF THAT STANDARD.
16 AND, I THANK YOU FOR LISTENING TO ME.
17 I DIDN'T PREPARE ANYTHING, AND I APOLOGIZE FOR
18 THAT.

19 CHAIRMAN PENNINGTON: THAT'S ALL RIGHT.

20 MR. HARTMAN: THANK YOU.

21 CHAIRMAN PENNINGTON: ANY QUESTIONS? NO?

22 THANK YOU.

23 MR. JAMGOTCHIAN, WE NEED TO MOVE

24 ALONG.

25 MR. JAMGOTCHIAN: I'M ALMOST FINISHED.

1 CHAIRMAN PENNINGTON: OKAY, THANK YOU.

2 MR. JAMGOTCHIAN: THE BASE YEAR TONNAGE

3 ISSUE. CHAIRMAN AND MEMBERS OF THE BOARD, THE

4 CITY'S REQUEST IS, ONE OF THE DOCUMENTS THAT THEY

5 FILED SAID IT'S A SHOTGUN APPROACH, WE REALLY

6 DIDN'T KNOW HOW MUCH IT WAS, IT WAS A SHOTGUN.

7 AND, IT'S REALLY INTERESTING. I

8 FOUND OUT WHO DID THE SRRE AND WHO WORKED FOR

9 EMCON. AND THE GENTLEMAN THAT WORKED FOR EMCON

10 SUBMITTED A STATEMENT THAT'S ATTACHED TO THIS. I

11 GAVE HIS NUMBER AND HIS NAME TO THE WASTE BOARD,

12 REPRESENTATIVES MR. COLLORD AND MR. SCHMIDLE, AND

13 ASKED THEM TO CONTACT HIM. I DON'T WANT TO READ

14 THE STATEMENT, BUT I DO WANT TO TELL YOU A COUPLE

15 THINGS.

16 MEMBER JONES: WHERE'S IT AT?

17 MR. JAMGOTCHIAN: IT'S THIS LETTER --

18 IT'S IN SECTION NUMBER -- IT'S A FAX, AND THE

19 PERSON CAN BE CONTACTED TO VERIFY THAT HE WROTE

20 THIS. ESSENTIALLY IT'S A LETTER THAT HAS COME TO

21 MY ATTENTION, THAT'S THE WAY IT STARTS, ON THE

22 BOTTOM -- IT LOOKS LIKE THIS.

23 ESSENTIALLY WHAT HE SAYS IS NONE OF

24 THIS STUFF WAS DUMPED, IT WAS ALL DIVERTED. AND

25 WHY WOULD A DEMOLITION COMPANY PAY FOR DISPOSAL

1 MATERIAL THAT IS INERT, AND NORMALLY SENT TO AN
2 INERT FILL, OR RECYCLED IN THE SECOND-GRADE
3 CONSTRUCTION MATERIAL AND/OR PAY THE LANDFILL
4 TIPPING FEES AT THAT TIME, WHICH WERE IN. EXCESS
5 OF \$700,000.

6 IT'S REALLY INTERESTING. DO YOU KNOW
7 WHO THE DIRECTOR OF THE REDEVELOPMENT AGENCY WAS
8 AT THIS TIME, WHEN THIS REDEVELOPMENT PROJECT IN
9 1990-1991 OCCURRED? NONE OTHER THAN MR. CORMIER,
10 THE CITY MANAGER. OBVIOUSLY HE KNOWS WHERE IT
11 WENT.

12 50, THE BASE YEAR NUMBER, BASED UPON
13 PUBLIC RESOURCES CODE SECTION 41781.2(C), AS YOU
14 ALL ARE AWARE, REQUIRES THAT THE CITY DEMONSTRATE
15 THAT THE MATERIAL WAS DIVERTED. AND IT
16 SPECIFICALLY RESULTED IN DIVERSION. THE CITY'S
17 MADE NO FINDING -- PROVED NOTHING IN THIS REGARD,
18 THAT IT WAS DUMPED.

19 MEMBER JONES: MR. CHAIRMAN?

20 CHAIRMAN PENNINGTON: YES, MR. JONES?

21 MEMBER JONES: CAN I ASK YOU A QUESTION?

22 MR. JAMGOTCHIAN: YES.

23 MEMBER JONES: WHO SENT THIS?

24 MR. JAMGOTCHIAN: IT WAS SENT BY THE

25 EMCON PERSON WHO HANDLED THIS, HIS NAME IS LOUIS

1 EPILIDO (PHON)

2 MEMBER JONES: HOW 'COME IT'S NOT TITLED,

3 IT'S NOT SIGNED, IT'S NOT -- IT'S AWFULLY

4 CONVERSIVE (SIC) --

5 MR. JAMGOTCHIAN: RIGHT.

6 MEMBER JONES: -- FOR AN ENGINEER.

7 MR. JAMGOTCHIAN: I'LL TELL YOU WHY.

8 MEMBER JONES: AND I -- BELIEVE ME, I'VE

9 LIVED AROUND ENGINEERS MY WHOLE LIVE, AND I DON'T

10 KNOW THEM TO BE THIS CONVERSIVE.

11 MR. JAMGOTCHIAN: WELL, I'LL TELL YOU

12 WHY. MR. EPILIDO WAS VERY CONCERNED ABOUT

13 WRITING THIS, AND I TOLD HIM THAT HE WOULD GET A

14 CALL FROM THE BOARD IF THEY WANTED TO VERIFY IT.

15 AND MR. EPILIDO'S NAME WAS IN A PRIOR BOOKLET, I

16 CAN PROVIDE HIS NUMBER TO YOU IF YOU'D LIKE TO

17 CALL HIM, AND HE'LL BE HAPPY TO EXPLAIN THIS, AND

18 HE'LL BE HAPPY TO STAND BEHIND WHAT HE WROTE. HE

19 FAXED THIS TO ME DIRECTLY.

20 MEMBER JONES: IS HE WRITING IT AS AN

21 EMPLOYEE OF EMCON?

22 MR. JAMGOTCHIAN: NO, HE'S NOT WRITING IT

23 -- I ASKED HIM, WHEN HE WAS AN EMPLOYEE OF EMCON,

24 IF HE KNEW ANYTHING ABOUT THIS ISSUE, AND HE

25 SAID, YES, I KNOW ALL ABOUT IT, AND THIS IS WHAT

1 HE WROTE.

2 MEMBER JONES: SO IF I WERE TO CALL GENE
3 HERSONG (PHON), WHO'S THE CEO OF EMCON, AND ASK
4 HIM TO VERIFY THAT ONE OF HIS EMPLOYEES WOULD
5 WRITE THIS LETTER TO SUPPORT WORK THAT THEY
6 CHARGED THE CITY, AND THEN LATER SENT TO US,
7 SIGNED OFF BY THIS GENTLEMAN --

8 MR. JAMGOTCHIAN: RIGHT.

9 MEMBER JONES: -- THAT IT WAS ACCURATE,
10 WHAT KIND OF RESPONSE AM I GOING TO GET?

11 MR. JAMGOTCHIAN: WELL, MR. EPILIDO NO
12 LONGER WORKS THERE, FOR ONE ISSUE.

13 SECONDLY, ALL I DID WAS DO THE DUE
14 DILIGENCE TO FIND OUT WHAT THE TRUTH WAS. AND IF
15 STAFF WANTED TO VERIFY --

16 MEMBER JONES: THAT'S ALL I'M TRYING TO
17 DO. BECAUSE WHEN IT'S NOT NAMED --

18 MR. JAMGOTCHIAN: RIGHT.

19 MEMBER JONES: -- THEN I HAVE A HARD TIME
20 -- YOU KNOW, THAT --

21 MR. JAMGOTCHIAN: THAT'S WHY I MADE HIS
22 TELEPHONE NUMBER AVAILABLE TO THE STAFF, TO
23 CONFIRM THIS IN ADVANCE OF THIS MEETING.

24 BOARD MEMBER JONES, YOU KNOW, FROM MY
25 PERSPECTIVE, HE'S SCARED ABOUT THINGS HAPPENING

1 TO HIM, AND HE PROVIDED THE LETTER OUT OF
2 COURTESY TO ME. AND I ASKED HIM IF THE BOARD
3 COULD CONTACT HIM, THE BOARD NEVER CONTACTED HIM,
4 BOARD STAFF NEVER CONTACTED HIM.

5 MR. SMITH: MR. CHAIRMAN, THE XEROX I
6 HAVE -- THE FAX I HAVE IS DATED YESTERDAY AT 8:30
7 IN THE MORNING, SO WE HAVE NOT HAD A CHANCE TO --

8 CHAIRMAN PENNINGTON: ALL RIGHT.

9 MR. JAMGOTCHIAN: I JUST GOT IT TWO DAYS
10 AGO. BUT, I MEAN, AS SOON AS I GOT IT I TALKED
11 TO GARY COLLORD AND I SAID PLEASE CALL HIM.

12 ADDITIONALLY --

13 CHAIRMAN PENNINGTON: YOU KNOW, YOU'VE
14 BEEN GOING ON FOR --

15 MR. JAMGOTCHIAN: OKAY. IF I COULD HAVE
16 FIVE MINUTES?

17 CHAIRMAN PENNINGTON: -- 35 MINUTES.

18 MR. JAMGOTCHIAN: IF I COULD HAVE FIVE
19 MINUTES THAT'LL CONCLUDE IT. THANK YOU.

20 MR. JAMGOTCHIAN: I'LL TRY TO DO IT IN
21 THREE.

22 CHAIRMAN PENNINGTON: OKAY. I'LL KEEP
23 YOU TO THREE.

24 (THE PARTIES SIMULTANEOUSLY SPEAK.)

25 MR. JAMGOTCHIAN: ADDITIONALLY, AGENCY

1 DISPOSALS COUNSEL HAS CHALLENGED THE WASTE BOARD
2 BY STATING THAT THE BOARD HAS GIVEN NO DIRECT
3 LEGAL AUTHORITY TO REVISE THE CITY'S BASE YEAR
4 NUMBER, AND THAT THE BOARD CANNOT, UNDER EXISTING
5 LAW OR PRINCIPLES AND FUNDAMENTAL FAIRNESS
6 REQUIRE A REVISION OF HAWTHORNE'S BASE YEAR
7 NUMBER.
8 NOW, I DON'T KNOW IF THAT'S ACCURATE
9 OR NOT. I BELIEVE THAT MR. BLOCK JUST DISPUTES
10 THAT FIGURE. BUT, I'LL LEAVE IT UP TO THE BOARD
11 TO MAKE A DECISION. BUT, I THINK THAT THE BASE
12 YEAR NEVER NEEDS TO BE REVIEWED, AND THE STUDY
13 NEEDS TO BE DONE.
14 I NOTICE THAT NUMBER 18 TODAY IS TO
15 CORRECT A BASE YEAR DISPOSAL TONNAGE NUMBER FOR
16 THE CITY OF FRESNO.
17 AS I EARLIER MENTIONED, THE
18 REASONABLE TONNAGE ON A YEARLY BASIS IN HAWTHORNE
19 -- APPROXIMATELY 60,000 TONS A YEAR. THAT'S A
20 CONSISTENT NUMBER FROM 1993 FORWARD, AND WE CAN
21 PROVIDE AGENCY'S DISPOSAL NUMBERS TO YOU.
22 THEY'RE EASILY ATTAINABLE. WE GOT THEM FROM A
23 LITIGATION THAT WE HAD AGAINST AGENCY FROM WASTE
24 MANAGEMENT'S FACILITY IN GARDENA. IT'S A
25 TRANSFER STATION.

1 AND, FINALLY, THE BIGGER ISSUE -- AS
2 YOU ALL READ IN THE REFUSE NEWS, THERE'S AN
3 ARTICLE THAT WAS WRITTEN BY (INDISC.), TALKING
4 ABOUT THE BOARD'S RESOLVE TO LEVEE FINES, AND TO
5 ENFORCE THE PROVISIONS OF AB 939. AND, IN THIS
6 PARTICULAR CASE, I GUESS IT WAS MR. WADELL'S
7 (PHON) FEELING THAT IF THE BOARD DIDN'T DO
8 SOMETHING -- COMPLIANCE ORDER BEING THE FIRST
9 GOOD STEP -- THAT THIS BOARD MIGHT BE CONSIDERED
10 A BUREAUCRATIC PAPER TIGER. I DON'T AGREE WITH
11 THAT, BECAUSE I THINK THERE HAVE BEEN STRIDES
12 THAT HAVE ALREADY BEEN MADE.
13 BUT, THERE ARE A LOT OF HAULERS AND
14 CITIES THAT ARE WATCHING THIS CHALLENGE TO THE
15 WASTE BOARD BY HAWTHORNE AND ITS COUNSEL. THE
16 CITY HAS CLEARLY NOT RECYCLED SINCE 1991. I
17 BELIEVE STAFF HAS DONE THEIR PRESENTATION TO
18 IDENTIFY THAT LACK OF RECYCLING.
19 AND, WE'RE TALKING ABOUT 1995-96
20 RIGHT NOW. 1997 AND 1998 ARE IN THE SAME
21 PERCENTAGE FACTOR, WHETHER IT'S 14 PERCENT, AS
22 MR. SCHIAVO SAID, OR IT'S LESS THAN ONE PERCENT
23 AS PROVIDED BY THE MEMBERS.
24 I THANK YOU FOR YOUR TIME, I
25 APPRECIATE YOUR INTEREST.

1 CHAIRMAN PENNINGTON: THANK YOU.

2 ANY QUESTIONS? OKAY, THANK YOU.

3 MR. BERNHEIMER: (PRESUMED) . MR.

4 CHAIRMAN, IF I COULD JUST HAVE THREE MINUTES TO

5 CLARIFY THE RECORD ON A COUPLE THINGS? I WILL

6 NOT GO THROUGH IT IN DETAIL.

7 CHAIRMAN PENNINGTON: OKAY.

8 MR. BERNHEIMER: BUT, I FEEL COMPELLED,

9 UNFORTUNATELY, TO RESPOND TO THE STATEMENTS OF

10 MR. JAMGOTCHIAN.

11 ONCE AGAIN, WE HAVE FOUND HIM TO

12 COMPLETELY DISTORT THE TRUE NATURE OF THE FACTS,

13 AND LEAVE THIS BOARD WITH A FALSE IMPRESSION. I

14 ASK THAT THE BOARD HONESTLY CONSIDER THE

15 CHARACTER OF THE INDIVIDUAL PROVIDING THIS

16 INFORMATION.

17 MR. JANGOTCHIAN, BY WAY OF HISTORY,

18 WAS SANCTIONED BY A SUPERIOR COURT IN LOS ANGELES

19 IN 1996 FOR FILING A FALSE DECLARATION UNDER

20 PENALTY OF PERJURY IN A CASE ADVERSE TO THE CITY,

21 AND TO THE WASTE HAULER. THE COURT SPECIFICALLY

22 FOUND THAT MR. JAMGOTCHIAN WILLFULLY AND

23 INTENTIONALLY FILED A DECLARATION IN WHICH HE

24 MADE A FALSE STATEMENT, KNOWN BY HIM AT THE TIME

25 TO BE FALSE. THE JUDGE STATED (PRESUMED

1 QUOTATION) : "I THINK IT IS CLEAR IN THIS CASE
2 THAT HE WILLFULLY LIED TO THE COURT."
3 IN A COURT OF LAW MR. JAMGOTCHIAN
4 PROVIDED EVIDENCE UNDER PENALTY OF PERJURY AND,
5 YET, HE WAS NOT TRUTHFUL. HOW CREDIBLE IS THE
6 INFORMATION HE PROVIDES TO THIS COURT (SIC) WHEN
7 NO PENALTY OF PERJURY IS ATTACHED?
8 I WILL NOT GO THROUGH EACH EXAMPLE OF
9 WHAT HE HAS STATED, BUT LET ME JUST TAKE ONE
10 EXAMPLE FROM HIS PACKET AND SHOW THE BOARD HOW IT
11 IS MISLEADING. THE DOCUMENT WHICH SHOWS A
12 DIVERSION RATE OF POINT-ZERO-ZERO-FIVE-FIVE
13 PERCENT IDENTIFIES DIVERSION OF 760 TONS. MR.
14 JAMGOTCHIAN WAS PROVIDED A REPORT FROM THE CITY,
15 FROM JANUARY 15TH, WHICH SPECIFICALLY ADDRESSED
16 THAT 760-TON ISSUE.
17 STAFF CONFIRMED THAT THEY SENT MR.
18 JAMGOTCHIAN A COPY OF THAT REPORT. THE CITY SENT
19 MR. JAMGOTCHIAN A LETTER EXPLAINING THAT NUMBER.
20 AND, IN FACT, ODDLY ENOUGH, THAT LETTER THAT
21 EXPLAINS THAT NUMBER IS IN MR. JAMGOTCHIAN'S
22 PACKET THAT HE PROVIDED YOU. THAT 760-TON FIGURE
23 IS JUST BUT A SMALL PIECE OF THE DIVERSION PIE,
24 AND TO SOMEHOW ASSERT THAT THAT IS THE ENTIRE
25 DIVERSION IS AN INTENT TO MISLEAD THIS BOARD.

1 LAST MONTH MR. JAMGOTCHIAN PLED NO
2 CONTEST TO A MISDEMEANOR CONTEMPT OF COURT CHARGE
3 STEMMING FROM THE PERJURED DECLARATION.
4 IF YOU, THE MEMBERS OF THE CALIFORNIA
5 INTEGRATED WASTE MANAGEMENT BOARD WERE MEMBERS OF
6 THE JURY IN A LEGAL PROCEEDING, AND ASKED TO
7 WEIGH EVIDENCE PRESENTED BY MR. JAMGOTCHIAN, YOU
8 WOULD BE INSTRUCTED BY THE JUDGE TO ASSESS THE
9 CHARACTER OF THE WITNESS FOR HONESTY AND
10 TRUTHFULNESS. UNDER CALIFORNIA'S BOOK OF
11 APPROVED JURY INSTRUCTIONS, YOU WOULD BE ALLOWED
12 TO CONSIDER PRIOR CONVICTIONS, EVEN MISDEMEANOR
13 CONVICTIONS, WHEN THEY RELATE TO ONE'S CHARACTER
14 FOR HONESTY AND TRUTHFULNESS. IF YOU FOUND AN
15 INDIVIDUAL DID NOT HAVE A HISTORY OF BEING
16 TRUTHFUL, HIS TESTIMONY COULD BE IGNORED ALL
17 TOGETHER.
18 I ASK THAT YOU TRULY CONSIDER THE
19 SOURCE OF THE INFORMATION PROVIDED, AND WEIGH IT
20 ACCORDINGLY. THANK YOU.

21 CHAIRMAN PENNINGTON: OKAY. SENATOR?

22 MEMBER ROBERTI: JUST A BRIEF COMMENT TO
23 THE PRIOR SPEAKER. WE APPRECIATE YOUR CONCERNS
24 BUT MR. JAMGOTCHIAN IS REALLY NOT THE ISSUE.
25 THE ISSUE IS -- WELL, IN PART, DEALS WITH

1 YOUR CONFUSION OF YOUR BASE YEAR AND THE DATA
2 THAT WE HAVE AND WHETHER IT WAS MR. JAMGOTCHIAN
3 OR MR. (INDISC.) WHO BROUGHT THE THING TO OUR
4 ATTENTION, IT DOES STRIKE AS A PROBLEM.

5 CHAIRMAN PENNINGTON: I DON'T HAVE HIM
6 WRITTEN DOWN --

7 MR. BERNHEIMER: AND I THINK THAT, IN
8 REGARDS TO THE ISSUES IN OUR (PHON) BASE YEAR,
9 AND I SAID THIS AT THE OUTSET -- WE MET WITH YOUR
10 STAFF, YOU, UNFORTUNATELY, WERE UNAVAILABLE -- WE
11 MET WITH EACH BOARD MEMBER INDIVIDUALLY AND WE
12 APPRECIATE THE TIME THAT YOU GAVE US. WE WENT
13 THROUGH A DETAILED EXPLANATION OF THOSE ISSUES,
14 AND I DIDN'T WANT TO JUST REITERATE ALL THOSE
15 THINGS HERE.

16 BUT, I THINK THAT THERE IS A VALID --
17 EXPLANATION FOR SOME OF THE CONCERNS THAT WERE
18 RAISED AND I THINK THAT THERE HAVE BEEN A
19 TREMENDOUS NUMBER OF PROGRAMS CONSTITUTED IN
20 HAWTHORNE. THERE WERE FIVE PROGRAMS, WE BELIEVE,
21 THAT WEREN'T IDENTIFIED IN THE SRRE THAT WERE
22 ACTUALLY IMPLEMENTED, FOR A TOTAL OF 12 PROGRAMS,
23 AND I THINK THAT WE HAVE SEEN TREMENDOUS STRIDES.
24 BUT WHAT HAS BEEN POSITIVE ABOUT THIS
25 PROCESS, AND I THINK THIS IS GOOD, IS THE BOARD

1 HAS PUT THE PRESSURE ON, AND I THINK THAT IT HAS
2 LED TO DISCUSSIONS BETWEEN THE CITY, THE WASTE
3 HAULER, AND THE BOARD OF HOW WE CAN IMPLEMENT
4 MORE PROGRAMS. AND THAT'S A POSITIVE PROCESS, AND
5 WE THANK YOU FOR THAT.

6 CHAIRMAN PENNINGTON: VERY GOOD. THANK
7 YOU.

8 MEMBER EATON: MR. CHAIR?

9 CHAIRMAN PENNINGTON: MR. EATON.

10 MEMBER EATON: I WILL ATTEMPT TO SORT OF
11 BRING THIS TO A CLOSE, AND THEN PERHAPS WE CAN
12 MOVE TO THE NEXT ITEM.

13 AS I READ THIS, I BELIEVE THAT ALL OF
14 MY COLLEAGUES HERE ON THE BOARD, AS WELL AS THE
15 CITY OF HAWTHORNE, AND MR. JAMGOTCHIAN, ALL AGREE
16 THAT WE ARE GOING TO ADOPT A COMPLIANCE ORDER
17 TODAY. AND THAT THERE IS NO DISAGREEMENT AMONGST
18 ANY OF THOSE THREE AS TO THE FOUR THINGS THAT
19 HAVE BEEN RECOMMENDED BY THE STAFF, WITH THE
20 EXCEPTION OF THE CHARACTERIZATION STUDY THERE, I
21 THINK, WHICH MR. JONES WILL GET TO.
22 IN ADDITION, MR. JANGOTCHIAN WOULD
23 LIKE TO ADD THREE ADDITIONAL PROVISIONS TO THAT
24 COMPLIANCE ORDER. MY UNDERSTANDING IS THAT THOSE
25 THREE PROVISIONS, OR THREE THINGS ON THE ORANGE

1 SHEET, ARE ALWAYS THE SUBJECT OF NEGOTIATION
2 (INDISC.) WHAT STAFF HAS RECOMMENDED IN THE -- I
3 CAN'T RECALL WHAT YOU CALLED IT, BUT THE
4 MUTUALLY-AGREED UPON PERFORMANCE EVALUATION.
5 SO, I THINK EVERYONE'S KIND OF IN
6 AGREEMENT, IT'S JUST KIND OF QUIBBLING OVER ONE
7 OR TWO DETAILS. SO, I KNOW THAT MR. JONES IS
8 ANXIOUSLY AWAITING TO MAKE HIS MOTION, SO WE CAN
9 BRING IT TO A CLOSE. BUT I THINK EVERYONE IS IN
10 AGREEMENT. THAT EVERYONE AGREES THAT WE SHOULD
11 ADOPT THE COMPLIANCE, SO LET'S GET ON WITH IT.

12 MEMBER JONES: MR. CHAIRMAN.

13 CHAIRMAN PENNINGTON: MR. JONES.

14 MEMBER JONES: I THINK I WILL GET ON WITH
15 IT. I WANT TO MAKE A MOTION TO MOVE THE
16 COMPLIANCE PLAN, COMPLIANCE ORDER, WITH THE
17 EXCEPTION OF, ON PAGE THREE OF SEVEN, WHERE IT
18 SAYS "DEVELOP THE NEW WASTE GENERATION STUDY."
19 WOULD LIKE THAT TO BE HELD IN ABEYANCE PENDING
20 THE OUTCOME OF THE WORK OF THE LOCAL GOVERNMENT
21 ASSISTANCE GROUP WITH THE CITY OF HAWTHORNE, AND
22 WHOEVER THEY'RE GOING TO HAVE INVOLVED, IN
23 PUTTING TOGETHER PROGRAMS AND MONITORING THOSE
24 PROGRAMS FOR SUCCESS. WE WILL INCLUDE THE
25 MEASURABLE AND MUTUALLY-ACCEPTABLE, WITH THE

1 LARGE "M" POINTED TOWARDS THE WASTE BOARD, ON A
2 NEGOTIATED SETTLEMENT FOR PROGRAMS AND
3 COMPLIANCE, THE ISSUES THAT YOU NEED TO -- AND
4 I'M GOING TO USE THE WRONG WORD, BUT THE ACTUAL
5 OPERATIONAL PROGRAMS THAT HAVE TO BE PUT IN PLACE
6

7 MR. SCHIAVO: PERFORMANCE PLAN IS WHAT WE
8 CALL IT.

9 MEMBER JONES: PERFORMANCE PLAN. AND
10 THAT, AS PART OF THAT PERFORMANCE PLAN, YOU
11 INCLUDE DISCUSSIONS ABOUT C&D ORDINANCES, SINCE
12 THIS IS A REDEVELOPMENT AREA, THE IMPLEMENTATION
13 OF A CITY-SPONSORED C&D ORDINANCE THAT PROMOTES
14 RECYCLING OF THOSE MATERIALS ON SITE TO BE USED
15 AS PART OF THE REDEVELOPMENT INFRASTRUCTURE NEEDS
16 TO BE ATTACHED. AND THAT IS MY MOTION.
17 AND INCLUDE THESE THREE SUGGESTIONS
18 AS PART OF YOUR NEGOTIATIONS, OBVIOUSLY. I MEAN,
19 IT'S PART AND PARCEL OF ALL THE OTHER ISSUES YOU
20 HAVE.

21 MR. BLOCK: CHAIRMAN PENNINGTON?

22 CHAIRMAN PENNINGTON: YES.

23 MR. BLOCK: JUST TO CLARIFY, IN THAT
24 MOTION, WOULD THAT THEN INCLUDE SPECIFICALLY
25 SUBTRACTING THE 53,000 FROM THE BASE YEAR?

1 MEMBER JONES: NO.

2 MR. BLOCK: OKAY. BECAUSE THAT'S
3 INCLUDED ON PAGE TWO OF THE -- TWO OF SEVEN OF
4 THE COMPLIANCE ORDER, PARAGRAPHS 2.2 AND 2.3
5 RIGHT NOW REFERENCE THAT. SO WOULD YOU JUST LIKE
6 NOT TO SUBTRACT THE 53,000, OR HOLD THAT IN
7 ABEYANCE --

8 MEMBER JONES: HOLD IT IN ABEYANCE --

9 MR. BLOCK: -- SIMILAR TO THE WAY THE --

10 MEMBER JONES: HOLD THAT IN ABEYANCE
11 BECAUSE WE CAN'T VERIFY IT.

12 MR. BLOCK: OKAY. AND THEN JUST A SECOND
13 POINT OF CLARIFICATION, IN TERMS OF THE MUTUALLY-
14 ACCEPTABLE PLAN, I JUST WANT TO CLARIFY WHETHER,
15 AS LONG AS IT'S ACCEPTABLE TO STAFF AND THE CITY,
16 IS THAT ACCEPTABLE, OR DOES THE BOARD ACTUALLY
17 WANT TO SEE THE PLAN?

18 MEMBER JONES: THAT WORKS FOR ME.

19 CHAIRMAN PENNINGTON: WE NEED A SECOND.

20 MEMBER FRAZEE: WELL, I'M ABOUT READY TO
21 SECOND, BUT I DO HAVE ONE MINOR PROBLEM, AND
22 THAT'S THE INCLUSION OF THIS, AND SPECIFICALLY
23 RECOMMENDATION NUMBER ONE. I DON'T THINK WE HAVE
24 THE AUTHORITY TO REQUIRE A LOCAL GOVERNMENT TO
25 HIRE ANYONE, EVEN COURTS LACK THAT AUTHORITY I

1 BELIEVE.

2 MEMBER JONES: MR. FRAZEE, I AGREE WITH
3 YOU. I JUST WANTED THAT TO BE -- I WANTED THESE
4 THREE ITEMS TO BE INCLUDED IN THE DISCUSSIONS,
5 NOT -- THEY DIDN'T HAVE TO BE IMPLEMENTED, THEY
6 JUST HAD TO BE PART OF THAT DISCUSSION TO BUILD
7 THE THING.

8 IF YOU WANT TO ELIMINATE THEM --
9 BECAUSE ACTUALLY, NUMBER TWO -- NUMBER ONE,
10 NUMBER TWO ARE BOTH REDUNDANT ANYWAY, JUST
11 BECAUSE OF THE WAY THAT THE LAW IS WRITTEN. IT
12 WAS A WAY OF TRYING TO JUST HAVE IT DISCUSSED.

13 CHAIRMAN PENNINGTON: WHY DON'T WE DROP
14 THAT?

15 MEMBER JONES: OKAY. I'M GOING TO DROP
16 THIS PIECE. BUT YOU KNOW WHAT -- YOU WORK ON
17 WHATEVER YOU NEED TO WORK ON.

18 MR. BLOCK: RIGHT.

19 CHAIRMAN PENNINGTON: OKAY?

20 MEMBER FRAZEE: OKAY, I'LL SECOND.

21 CHAIRMAN PENNINGTON: ANY FURTHER
22 DISCUSSION? OKAY.

23 MEMBER ROBERTI: I THINK I'LL HAVE YOU
24 REPEAT THE MOTION FOR ME JUST SO I KNOW --

25 MEMBER JONES: YOU KNOW, I KEEP WALKING

1 DOWN THESE ROADS AND, YOU KNOW, TRYING HERE,
2 AND. . . . THE MOTION IS THAT WE ADOPT THE
3 COMPLIANCE ORDER AS DRAFTED. THAT ON PAGE TWO OF
4 SEVEN, ITEM 2.2 TO BE PULLED

5 MEMBER ROBERTI: TWO-POINT-TWO. I DON'T
6 HAVE THE RIGHT STUFF IN MY BINDER.

7 MEMBER JONES: THIS IS WHERE WE WERE
8 GOING TO DROP 53,000 TONS FROM THE BASE YEAR.

9 MEMBER ROBERTI: SO YOU'RE GIVING THAT TO
10 HAWTHORNE.

11 MEMBER JONES: BUT I'M HOLDING THE BASE
12 YEAR OUT IN ABEYANCE, DEPENDING UPON PROGRAM
13 IMPLEMENTATION AND SUCCESS OF THOSE PROGRAMS. AND
14 IF WE HAVE TO REVISIT IT, WE WILL REVISIT IT
15 ALONG WITH THIS 53,000 TONS.

16 MEMBER ROBERTI: OKAY.

17 MEMBER JONES: AND THAT WE WORK ON A
18 MUTUALLY -- OKAY, AND THEN THAT WE HOLD THE WASTE
19 GENERATION STUDY IN ABEYANCE ALONG WITH THAT
20 53,000. THAT WE WORK ON A PERFORMANCE PLAN THAT
21 IS MUTUALLY ACCEPTABLE TO THE CITY AND THE COUNTY
22 THAT IS WEIGHTED TOWARDS THE WASTE BOARD. AND
23 THAT WE INCLUDE AS PART OF THAT THE -- PART OF
24 YOUR PERFORMANCE PLAN, THAT THEY PUT TOGETHER A
25 C&D ORDINANCE, BECAUSE IT IS A REDEVELOPMENT

1 ZONE, THAT DEALS WITH ON-SITE GENERATION OF C&D
2 WASTE THAT CAN BE USED IN THE INFRASTRUCTURE.
3 AND I THINK THAT'S MY MOTION.

4 CHAIRMAN PENNINGTON: OKAY. THE MOTION
5 IS MOVED BY MR. JONES, SECONDED BY MR. FRAZEE.
6 IF THERE'S NO FURTHER DISCUSSION,
7 WILL THE SECRETARY CALL THE ROLL?

8 THE SECRETARY: BOARD MEMBER EATON?

9 MEMBER EATON: AYE.

10 THE SECRETARY: FRAZEE?

11 MEMBER FRAZEE: AYE.

12 THE SECRETARY: JONES?

13 MEMBER JONES: AYE.

14 THE SECRETARY: ROBERTI?

15 MEMBER ROBERTI: AYE.

16 THE SECRETARY: CHAIRMAN PENNINGTON?

17 CHAIRMAN PENNINGTON: AYE.

18 MOTION CARRIES.

19 ITEM NO. 16: CONSIDERATION OF ADOPTION OF A
20 COMPLIANCE ORDER RELATIVE TO THE BIENNIAL REVIEW
21 FINDINGS FOR THE SOURCE REDUCTION AND RECYCLING
22 ELEMENT FOR THE CITY OF HAWAIIAN GARDENS, LOS
23 ANGELES COUNTY

24 CHAIRMAN PENNINGTON: WE MOVE TO ITEM NO.
25 16, CONSIDERATION OF ADOPTION OF A COMPLIANCE

1 ORDER RELATIVE TO THE BIENNIAL REVIEW FINDINGS
2 FOR THE SOURCE REDUCTION AND RECYCLING ELEMENT
3 FOR THE CITY OF HAWAIIAN GARDENS IN LOS ANGELES
4 COUNTY.

5 MR. SCHIAVO: THIS WILL ALSO BE PRESENTED
6 BY GARY COLLORD.

7 CHAIRMAN PENNINGTON: OKAY.

8 MR. COLLARD: AT ITS DECEMBER 15TH, 1998,
9 MEETING THE BOARD CONDUCTED A BIENNIAL REVIEW OF
10 HAWAIIAN GARDENS' SRRE. THE PURPOSE OF THE
11 BIENNIAL REVIEW WAS TO DETERMINE WHETHER OR NOT
12 THE CITY HAD ADEQUATELY IMPLEMENTED THE SRRE AND
13 ACHIEVED THE 1995 DIVERSION REQUIREMENTS AND, IF
14 NOT, WHETHER THE ISSUANCE OF A COMPLIANCE ORDER
15 WAS WARRANTED.

16 THE BOARD CONSIDERED A NUMBER OF
17 ISSUES IN ITS REVIEW, INCLUDING THE NATURE AND
18 NUMBER OF DIVERSION PROGRAMS IMPLEMENTED, THE
19 CITY'S REPORTED DIVERSION RATE, AND WHETHER THE
20 CITY HAD DEMONSTRATED A GOOD-FAITH EFFORT TO
21 IMPLEMENT THE SRRE.

22 AS YOU'LL RECALL, THE CITY HAD NOT
23 IMPLEMENTED ANY OF THE SRRE'S SELECTED PROGRAMS
24 AND IDENTIFIED ADVERSE BUDGETARY CONDITIONS AS
25 THE REASON FOR NOT IMPLEMENTING THE SRRE.

1 THE BOARD CONCLUDED THAT THE CITY HAD
2 NOT ADEQUATELY IMPLEMENTED THE SRRE, HAD NOT
3 ACHIEVED THE 1995 DIVERSION REQUIREMENT, OR
4 DEMONSTRATED A REASONABLE AND ADEQUATE GOOD-FAITH
5 EFFORT. THE BOARD DIRECTED STAFF TO DRAFT A
6 COMPLIANCE ORDER WITH SPECIFIC CONDITIONS FOR
7 ACHIEVING COMPLIANCE FOR THE BOARD'S
8 CONSIDERATION AT TODAY'S MEETING.
9 THE COMPLIANCE ORDER REQUIRES THE
10 BOARD TO HOLD A PUBLIC HEARING FOLLOWING THE TERM
11 OF THE COMPLIANCE SCHEDULE TO DETERMINE WHETHER
12 OR NOT THE CITY HAS COMPLIED WITH THE CONDITIONS
13 OF THE ORDER. LIKEWISE, A PUBLIC HEARING COULD
14 BE SCHEDULED EARLIER IF THE CITY COMPLIES WITH
15 THE ORDER AHEAD OF SCHEDULE.
16 STAFF RECOMMENDS THAT THE PROPOSED
17 COMPLIANCE ORDERS AND CONDITIONS BE ADOPTED AS
18 DRAFTED.

19 ARE THERE ANY QUESTIONS FOR STAFF?

20 CHAIRMAN PENNINGTON: ANY QUESTIONS FOR
21 STAFF? OKAY, MR. LOPEZ, THE CITY MANAGER IS
22 HERE.

23 MR. LOPEZ: GOOD AFTERNOON. MY NAME IS
24 ANTHONY LOPEZ, I'M THE CITY ADMINISTRATOR FOR THE
25 CITY OF HAWAIIAN GARDENS.

1 FIRST OF ALL, I WISH TO THANK THE
2 STAFF AND THE BOARD ESPECIALLY IN REGARDS TO THE
3 COMPLIANCE ORDER THAT'S GOING TO ASSIST US IN
4 ADDRESSING THE ISSUES.
5 I HAVE TO ADMIT, WHEN I CAME TO THE
6 CITY OF HAWAIIAN GARDENS IN JUNE OF '98, AFTER
7 FOUR AND A HALF YEARS AT ORANGE COVE, I KNEW I
8 WAS COMING TO A CITY WHERE THERE WAS A 75 PERCENT
9 REDUCTION IN EMPLOYEES, THERE WAS A \$6 MILLION
10 DEFICIT, BUT NOBODY TOLD ME ABOUT THIS ONE.
11 BUT, NEEDLESS TO SAY, ONE OF THE
12 THINGS THAT I'VE DONE ALREADY IN ORDER TO ASSURE
13 THAT THERE'S TRUE COMMUNICATION BETWEEN THE CITY
14 AND THE STAFF IS THAT I'VE TAKEN THE LIBERTY OF
15 GIVING CHRIS MY NUMBER WHERE I CAN BE REACHED 24
16 HOURS SEVEN DAYS A WEEK.
17 I CAN ASSURE YOU THAT THIS TYPE OF A
18 VENTURE IS NOT NEW TO ME, IN THE SENSE THAT YEARS
19 AGO I DEALT WITH WILLIAM CRUCKS (PHON) AND THE
20 REGIONAL WATER QUALITY CONTROL BOARD, WHERE I
21 WENT AND MANAGED A CITY THAT THEY HAD A
22 MORATORIUM (INDISC.) THE SAME TWO-YEAR PERIOD OF
23 TIME WORKING WITH MR. CRUCKS' STAFF. THE
24 MORATORIUM WAS LIFTED.
25 ALSO, ON BEHALF OF THE CITY OF

1 HAWAIIAN GARDENS, I TRULY WANT TO APOLOGIZE FOR
2 PUTTING THE BOARD AND THE STAFF IN THIS POSITION,
3 AND THE ISSUE WILL BE ADDRESSED.

4 CHAIRMAN PENNINGTON: VERY GOOD, THANK
5 YOU.

6 ANY QUESTIONS FOR MR. LOPEZ?

7 MEMBER JONES: MR. CHAIRMAN, JUST VERY
8 QUICKLY.

9 MR. ALT (PHON), A REPRESENTATIVE FROM
10 YOUR COMPANY CAME UP AND MADE YOUR CASE.

11 MR. LOPEZ: YES, SIR.

12 MEMBER JONES: HE ALSO AT THAT TIME --
13 WHEN HE TOLD US ABOUT WHAT HAD BEEN GOING ON IN
14 HAWAIIAN GARDENS FOR NINE YEARS AND WHAT HAD BEEN
15 GOING ON SINCE YOU TOOK OVER, I THINK HAD A LOT
16 TO DO WITH THE FACT THAT WE WANTED TO WORK WITH
17 YOU.

18 MR. LOPEZ: THANK YOU.

19 MEMBER JONES: NOT SLAP YOU AROUND OR
20 MAKE YOU AN EMBARRASSMENT FOR YOUR CITY, BUT
21 RATHER ACKNOWLEDGE THE JOB THAT YOU'VE DONE,
22 WHICH IS POSITIVE IN WORKING TOWARDS THE
23 SOLUTION. AND WE APPRECIATE YOUR EFFORTS, WE
24 KNOW YOU'VE GOT A TOUGH ONE.

25 MR. LOPEZ: THANK YOU.

1 MEMBER JONES: AND HOPEFULLY THIS

2 COMPLIANCE SCHEDULE IS SOMETHING THAT YOU CAN

3 WORK WITH, THAT DOESN'T --

4 MR. LOPEZ: MOST DEFINITELY, THERE IS NO

5 DOUBT.

6 MEMBER JONES: -- IN A POSITION WITH YOUR

7 CITY COUNSEL THAT --

8 MR. LOPEZ: THIS WILL BE A GOOD PROGRAM,

9 SIR.

10 MEMBER JONES: GREAT.

11 MR. LOPEZ: THANK YOU.

12 MEMBER EATON: MR. CHAIR, I'D BE HAPPY TO

13 MOVE RESOLUTION 1999-45 AS IT RELATES TO THE

14 ADOPTION OF THE COMPLIANCE ORDER RELATIVE TO THE

15 CITY OF HAWAIIAN GARDENS.

16 MEMBER JONES: I'LL SECOND.

17 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN

18 MOVED BY MR. EATON, SECONDED BY MR. JONES, THE

19 ADOPTION OF RESOLUTION 1999-45, TO APPROVE THE

20 COMPLIANCE ORDER RELATIVE TO THE BIENNIAL REVIEW

21 FINDING FOR THE SOURCE REDUCTION AND RECYCLING

22 ELEMENT FOR THE CITY OF HAWAIIAN GARDENS.

23 IF THERE IS NO FURTHER DISCUSSION,

24 WILL THE SECRETARY CALL THE ROLL?

25 THE SECRETARY: BOARD MEMBER EATON?

1 MEMBER EATON: AYE.

2 THE SECRETARY: FRAZEE?

3 MEMBER FRAZEE: AYE.

4 THE SECRETARY: JONES?

5 MEMBER JONES: AYE.

6 THE SECRETARY: ROBERTI?

7 MEMBER ROBERTI: AYE.

8 THE SECRETARY: CHAIRMAN PENNINGTON?

9 CHAIRMAN PENNINGTON: AYE.

10 MOTION CARRIES.

11 MR. LOPEZ: THANK YOU.

12 ITEM NO. 17: CONSIDERATION OF ADOPTION OF A

13 COMPLIANCE ORDER RELATIVE TO THE BIENNIAL REVIEW

14 FINDINGS FOR THE SOURCE REDUCTION AND RECYCLING

15 ELEMENT AND HOUSEHOLD HAZARDOUS WASTE ELEMENT FOR

16 THE CITY OF COACHELLA, RIVERSIDE COUNTY

17 CHAIRMAN PENNINGTON: MOVE TO ITEM 17,

18 CONSIDERATION OF ADOPTION OF A COMPLIANCE ORDER

19 RELATIVE TO THE BIENNIAL REVIEW FINDINGS FOR THE

20 SOURCE REDUCTION AND RECYCLING ELEMENT AND

21 HOUSEHOLD HAZARDOUS WASTE ELEMENT FOR THE CITY OF

22 COACHELLA IN RIVERSIDE COUNTY.

23 MR. SCHIAVO: THIS WILL ALSO BE PRESENTED

24 BY GARY COLLORD.

25 CHAIRMAN PENNINGTON: GO FOR IT, GARY.

1 MR. COLLORD: OKAY. AGAIN, AT ITS
2 DECEMBER 15TH, 1998, MEETING THE BOARD CONDUCTED
3 A BIENNIAL REVIEW OF COACHELLA'S SRRE AND HHWE.
4 THE PURPOSE OF THE BIENNIAL REVIEW WAS TO
5 DETERMINE WHETHER OR NOT THE CITY HAD ADEQUATELY
6 IMPLEMENTED THE SRRE AND HHWE, ACHIEVED THE 1995
7 DIVERSION REQUIREMENT AND, IF NOT, WHETHER THE
8 ISSUANCE OF COMPLIANCE ORDER WAS WARRANTED.
9 BECAUSE THE CITY HAD FAILED TO SUBMIT
10 ANNUAL REPORTS FOR 1995 AND 1996, AT LEAST UP
11 UNTIL A FEW DAYS BEFORE THE HEARING, THE BOARD
12 DETERMINED THAT, BASED ON AVAILABLE INFORMATION,
13 THE CITY HAD NOT ADEQUATELY IMPLEMENTED THE SRRE
14 AND HHWE, HAD NOT ACHIEVED THE 1995 DIVERSION
15 REQUIREMENT OR DEMONSTRATED A GOOD-FAITH EFFORT.
16 THE BOARD DIRECTED STAFF TO DRAFT A
17 COMPLIANCE ORDER WITH SPECIFIC CONDITIONS FOR
18 ACHIEVING COMPLIANCE FOR THE BOARD'S
19 CONSIDERATION AT TODAY'S MEETING.
20 SINCE THAT TIME THE CITY'S CONSULTANT
21 -- THE CITY HAS HIRED A NEW CONSULTANT WHO HAS
22 SUBMITTED REVISED AND COMPLETE ANNUAL REPORTS FOR
23 '95 AND '96, AND HAS BEEN VERY RESPONSIVE AND
24 COOPERATIVE TO STAFF'S QUESTIONS ABOUT THE STATUS
25 OF THE CITY'S DIVERSION PROGRAMS.

1 THERE IS ONE OUTSTANDING ISSUE
2 CONCERNING SOME 11,000 TONS OF DIVERTED
3 AGRICULTURAL WASTE. HOWEVER, THE ATTORNEY FOR
4 THE CITY'S HAULER BELIEVES HE CAN SUPPLY DATA TO
5 RESOLVE THIS ISSUE IN THE CITY'S FAVOR. EVEN IF
6 THE 11,000 CANNOT BE PROPERLY DOCUMENTED AND IS
7 REMOVED FROM THE CITY'S WASTE GENERATION FIGURES,
8 THE CITY'S DIVERSION RATE IS STILL APPROXIMATELY
9 27 PERCENT FOR '95 AND '96.
10 THE REVISED ANNUAL REPORTS
11 DEMONSTRATE THAT THE CITY IS IMPLEMENTING A VERY
12 COMPREHENSIVE SET OF DIVERSION PROGRAMS WHICH
13 APPEAR TO SUPPORT THE REPORTED DIVERSION RATE OF
14 53 PERCENT FOR 1995.
15 IN STAFF'S OPINION, THE CITY HAS
16 DEMONSTRATED COMPLIANCE WITH THE FIRST TWO
17 CONDITIONS OF THE PROPOSED COMPLIANCE ORDER AND,
18 THEREFORE, RECOMMENDS THAT THEY BE DROPPED.
19 STAFF BELIEVES THE CITY COULD STILL
20 BENEFIT FROM TARGETED ASSISTANCE FROM THE BOARD,
21 AND SHOULD BE REQUIRED TO DEMONSTRATE CONTINUED
22 PROGRESS IN IMPLEMENTING PROGRAMS. STAFF,
23 THEREFORE, RECOMMENDS THAT THE ORDER BE ADOPTED
24 WITH THE LAST TWO CONDITIONS IN PLACE.
25 THE COMPLIANCE ORDER REQUIRES THE

1 BOARD TO HOLD A PUBLIC HEARING FOLLOWING
2 COMPLETION OF THE CONDITIONS, OR THE TERM OF THE
3 COMPLIANCE SCHEDULE, TO DETERMINE WHETHER OR NOT
4 THE CITY HAS COMPLIED WITH THE ORDER. SHOULD THE
5 CITY COMPLY WITH THE CONDITIONS AHEAD OF SCHEDULE
6 STAFF WILL RECOMMEND THAT THE COMPLIANCE ORDER BE
7 LIFTED.

8 ARE THERE ANY QUESTIONS FOR STAFF?

9 CHAIRMAN PENNINGTON: QUESTIONS FOR
10 STAFF?

11 MICHAEL PERRY. YOU'VE STAYED HERE
12 ALL DAY, YOU MIGHT AS WELL COME UP AND TALK, HUH?

13 MR. PERRY: I WAS AFRAID I'D HAVE TO SAY
14 GOOD EVENING, MR. CHAIRMAN AND BOARD MEMBERS, BUT
15 IT'S STILL AFTERNOON, FORTUNATELY. MY NAME IS
16 MIKE PERRY WITH EMCON. WE WERE RETAINED BY THE
17 CITY TO ASSIST THEM IN COMPLYING WITH THE
18 REQUIREMENTS OF AB 939.

19 MR. WOOLSLEY, THE CITY MANAGER,
20 EXPRESSED HIS REGRETS IN NOT BEING ABLE TO ATTEND
21 TODAY'S MEETING. HE IS OBLIGATED FOR SOME
22 BUDGETARY CONSTRAINTS AT THE CITY AND SOME
23 FINANCE MEETINGS THAT ARE GOING ON.
24 THE CITY HAS BEEN WORKING DILIGENTLY
25 WITH THE BOARD STAFF IN SUBMITTING ITS DELINQUENT

1 ANNUAL REPORTS, AND HAS DONE SO IN EARLY
2 DECEMBER, AND AGAIN REVISED REPORTS FOR '95, '96
3 AND '97 WERE SUBMITTED IN JANUARY. ALTHOUGH
4 WRITTEN COMMENTS HAVE NEVER BEEN RECEIVED FROM
5 THE BOARD STAFF, THE CITY HAS REVISED, AS I
6 PREVIOUSLY SAID, ALL THREE ANNUAL REPORTS.
7 VERBAL COMMENTS THAT WE HAVE RECEIVED
8 FROM THE STAFF ON THE '95 AND '96 ANNUAL REPORTS
9 THAT WE HAD RECEIVED INDICATED THE MAIN PROBLEM
10 WAS WE HADN'T IDENTIFIED PROGRAMS EXISTING PRIOR
11 TO THE ADOPTION OF THE -- I'M SORRY, PRIOR TO
12 1990 THAT WOULD FURTHER ASSIST IN DOCUMENTING
13 DIVERSION PROGRAMS, OR DIVERSION PROGRAMS THAT
14 WERE ASSISTING IN THE CITY'S HIGH DIVERSION RATE.
15 ALTHOUGH THE STAFF REPORTS STATES
16 THAT THE INITIAL ANNUAL REPORTS SUBMITTED DID NOT
17 IDENTIFY WHAT PROGRAMS WERE NOT BEING IMPLEMENTED
18 AND WHY, OUR RECORDS INDICATE THAT WE HAD
19 INCLUDED WHAT'S CALLED AS APPENDIX B--3-A IN THE
20 1995 AND '96 ANNUAL REPORTS PREVIOUSLY SUBMITTED,
21 WHICH SUMMARIZED THOSE PROGRAMS THAT HAD NOT BEEN
22 IMPLEMENTED AND WHY.
23 FOR YOUR CONVENIENCE I HAVE
24 SUMMARIZED THE PROGRAMS THAT HAVE NOT BEEN
25 IMPLEMENTED AND WHY. ROUGHLY, THERE ARE SIX

1 PROGRAMS BETWEEN 1990 AND 1999 THAT HAVE NOT BEEN
2 IMPLEMENTED.
3 THOSE PROGRAMS INCLUDE MODIFICATION
4 OF THE RATE STRUCTURE, BUSINESS LICENSE SOURCE
5 REDUCTION PLANS, RATE STRUCTURE INCENTIVES, A
6 COMMERCIAL LANDSCAPE COLLECTION PROGRAM,
7 PROCUREMENT POLICY USE OF COMPOST. A MATERIAL
8 RECOVERY SYSTEM HAS NOT YET BEEN SITED, HOWEVER A
9 TRANSFER STATION HAS BEEN APPROVED, AND I BELIEVE
10 A PERMIT HAS BEEN ISSUED. CONTRACTS ARE STILL IN
11 PLACE TO SEE WHO'S GOING TO PARTICIPATE IN IT.
12 AND THE BAR, RESTAURANT AND HOTEL PROGRAM HAS NOT
13 BEEN FULLY IMPLEMENTED. BUT THESE ARE THE
14 PROGRAMS, BASICALLY SIX PROGRAMS IN THE ENTIRE
15 SRRE THAT HAVE NOT BEEN IMPLEMENTED.
16 HOWEVER, I'D RATHER FOCUS ON -- SOME
17 OF THE PROGRAMS HAVE NOT BEEN IMPLEMENTED FOR
18 MOSTLY ECONOMIC REASONS, INCLUDING BUT NOT
19 LIMITED TO THE CITY'S AREA RECENTLY BEING
20 DESIGNATED BY THE FEDERAL GOVERNMENT AS A FEDERAL
21 EMPOWERMENT ZONE, MAKING IT AVAILABLE FOR MULTI
22 MILLION DOLLARS' WORTH OF REDEVELOPMENT AND FUNDS
23 AND GRANTS AVAILABLE TO IMPROVE THE PROBLEMS WITH
24 THE CITY HAVING TO DO WITH UNEMPLOYMENT
25 INFRASTRUCTURE AND THE LIKE.

1 IN ADDITION, THE CITY IS BATTLING TO
2 MAINTAIN ITS OWN POLICE DEPARTMENT, WHICH IT LOST
3 ON DECEMBER 17TH OF 1998, WITH THE DISBANDING OF
4 THE COACHELLA POLICE DEPARTMENT AND HAVING TO
5 CONTRACT WITH THE RIVERSIDE COUNTY SHERIFF'S
6 DEPARTMENT FOR LAW ENFORCEMENT SERVICES.
7 BUT, INSTEAD OF FOCUSING ON THE
8 NEGATIVE ASPECTS OF THE CITY'S SRRE STATUS, I'D
9 LIKE TO SHOW THE BOARD SOME OF THE PROGRAMS THAT
10 HAVE BEEN IMPLEMENTED WITH THE CITY'S HELP, AND
11 BY THE CITY IN ITS PROGRAMS.
12 BETWEEN 1991 AND 1995 17 PROGRAMS
13 WERE IMPLEMENTED BY THE CITY TO ENSURE COMPLIANCE
14 WITH AB 939. AND AFTER 1995 THERE HAVE BEEN AN
15 ADDITIONAL FOUR PROGRAMS THAT HAVE BEEN
16 IMPLEMENTED. THIS SHOULD BE COMBINED WITH THE
17 PROGRAMS THAT WERE IN PLACE PRIOR TO ADOPTION, OR
18 THE DEVELOPMENT OF THE SOURCE REDUCTION AND
19 RECYCLING ELEMENT.
20 IN EFFECT, THE CITY'S WASTE
21 GENERATION AND CHARACTERIZATION STUDY IDENTIFIED
22 THAT THE CITY WAS ACHIEVING A 42.1 PERCENT
23 DIVERSION RATE IN 1990, AND THIS WAS ADOPTED BY
24 THE SUBPOENA IN 1996.
25 I WOULD STRESS THAT THE MATERIALS

1 THAT ARE IN QUESTION ARE NOT OF THE RESTRICTED
2 MATERIAL TYPE THAT MANY CITIES ARE FACING. THIS
3 IS —

4 MEMBER ROBERTI: MR. CHAIRMAN?

5 CHAIRMAN PENNINGTON: YES.

6 MEMBER ROBERTI: I HATE TO INTERRUPT, BUT
7 HAVEN'T WE CONCEDED THE FACT THAT THE CITY HAS
8 (INAUD.) OF THESE PROGRAMS (INAUD.) RESOLUTION
9 CALLING FOR OVERSIGHT OF THOSE PROGRAMS WHICH
10 HAVE NOT BEEN IMPLEMENTED?

11 HENCE, WE KNOW YOU'RE TRYING TO BE A
12 GOOD GUY, BUT I DON'T SEE WHY WE -- NO OTHER CITY
13 GETS TO COME HERE AND REPEAT ALL THE WONDERFUL
14 THINGS THEY'VE DONE THAT JUST SIMPLY COMPLY WITH
15 OUR REGULATIONS.

16 SO, THERE'S STILL THAT GAP OUT THERE,
17 AND THAT IS WHAT THE RESOLUTION DEALS WITH, AND
18 THAT'S WHAT YOU HAVEN'T COMPLIED WITH. SO, I
19 DON'T SEE THE POINT IN THIS, UNLESS WE WANT EVERY
20 CITY, STARTING WITH LOS ANGELES ON DOWN, TO
21 DISCUSS EVERYTHING THEY'VE EVER COMPLIED WITH.
22 IN MY OWN HUMBLE ESTIMATION.

23 MR. PERRY: MAY I CONTINUE?

24 CHAIRMAN PENNINGTON: SURE.

25 MR. PERRY: THE PURPOSE FOR MY BEING HERE

1 IS, AGAIN, WE'RE RESPECTIVELY REQUESTING THAT THE
2 BOARD CONSIDER A THIRD RECOMMENDATION TO THE
3 STAFF REPORT AND NOT ADOPT RESOLUTION 1999-46, AS
4 THE CITY HAS MADE CONSIDERABLE PROGRESS IN
5 IMPLEMENTING ITS SRRE BOTH IN INTENT AND THE
6 LETTER OF THE LAW.

7 AND THAT THE COMPLIANCE REQUIREMENTS
8 OF IMPLEMENTING ALL PROGRAMS IN A QUARTERLY
9 REPORT TO THE WASTE BOARD ARE ONLY GOING TO
10 FURTHER STRETCH THE LIMITED CITY RESOURCES IN
11 COMPLYING WITH THIS REGULATION, AND KEEP THEM
12 FROM ACTUALLY IMPLEMENTING PROGRAMS.

13 I BELIEVE THAT THE CITY HAS
14 DEMONSTRATED THAT NOT ONLY IS HAS BEEN
15 IMPLEMENTING THE PROGRAMS, AND IT HAS BEEN IN
16 COMPLIANCE WITH AB 939. IT'S ONLY DEFICIENCY HAS
17 BEEN IN REPORTING TO THE WASTE BOARD, WHICH IS
18 HAS DONE WITH ALL THREE ANNUAL REPORTS BEING
19 SUBMITTED TO THE WASTE BOARD.

20 CHAIRMAN PENNINGTON: ANY QUESTIONS?

21 YES, MR. FRAZEE.

22 MEMBER FRAZEE: AS I UNDERSTAND THE STAFF
23 RECOMMENDATION, THAT'S EXACTLY WHAT THEY'RE
24 RECOMMENDING, THAT WE DROP CONDITIONS "A" AND "B"
25 IN THE COMPLIANCE SCHEDULE, AND ONLY GO WITH "C"

1 AND "D," WHICH --

2 MR. PERRY: WHICH IS QUARTERLY REPORTING

3 TO THE WASTE BOARD.

4 MEMBER FRAZEE: -- SAYS DOCUMENT PROGRESS

5 AND IMPLEMENTING SELECTED PROGRAMS, AND WORK WITH

6 THE TARGETED IMPLEMENTATION ASSISTANCE SECTION.

7 SO, I CAN'T SEE WHERE THOSE ARE TOO ONEROUS.

8 MR. PERRY: WE DON'T KNOW WHAT THOSE

9 QUARTERLY MONITORING REQUIREMENTS ARE GOING TO

10 BE, AND THE CITY HAS LIMITED STAFF RESOURCES TO

11 COMPLY WITH THEM. THEY'RE HAVING TROUBLE ENOUGH

12 WITH THEIR ANNUAL REPORTS TO HAVE TO DO THEM

13 QUARTERLY.

14 IN ADDITION, WHAT THIS DOES IS, THIS

15 CREATES ANOTHER BLACK EYE FOR THE CITY IN A TIME

16 WHEN IT'S TRYING TO RECOVER. I MADE IT AKIN TO

17 GETTING A DROP/FAIL IN COLLEGE, IT'S NOT THE END

18 OF THE WORLD BUT IT'S A BLACK MARK THAT GOES ON

19 YOUR RECORD. THE CITY WOULD RATHER NOT GET THE

20 DROP/FAIL.

21 IT'S SUBMITTED ITS FINAL REPORT -- 22 YES, LATE, AND WE'RE

APPEALING TO THE PROFESSOR,

23 OR THE PROFESSORS TO MAKE AN ACADEMIC EXCEPTION,

24 AND ACCEPT THE LATE FINAL EXAM FOR A LETTER GRADE

25 RATHER THAN A DROP/FAIL.

1 MEMBER JONES: HOW DO YOU GET A GRADE,
2 THOUGH, IF YOU DON'T TURN IN A TEST? AND, I
3 THINK THE QUARTERLY REPORTS ARE THE TEST AND
4 THAT'LL GET YOU THE GRADE.

5 I MEAN, YOU'VE GOT PEOPLE THAT ARE
6 DOING THE PROGRAMS, RIGHT?

7 MR. PERRY: THE PROGRAMS ARE IMPLEMENTED,
8 YES.

9 MEMBER JONES: PEOPLE ARE DOING THEM
10 ONGOING.

11 MR. PERRY: YES.

12 MEMBER JONES: HAULERS, RECYCLERS, CITY
13 STAFF?

14 MR. PERRY: ABSOLUTELY. YES.

15 MEMBER JONES: DO THEY HAVE A REQUIREMENT
16 TO REPORT?

17 MR. PERRY: THEY ARE REQUIRED TO REPORT
18 DISPOSAL QUANTITIES, SINCE WE'RE ON A DISPOSAL- 19 BASED METHOD.
YES, THOSE REPORTS ARE ALWAYS

20 RECEIVED FROM THE COUNTY ON A QUARTERLY BASIS.

21 MEMBER JONES: SO WHEN THE TARGET
22 IMPLEMENTATION ASSISTANCE TEAM GOES DOWN AND
23 TRIES TO WORK OUT WHAT'S GOING TO WORK HERE --

24 MR. PERRY: BUT THE STATE HAS GOTTEN
25 THOSE REPORTS EVERY QUARTER FOR THE LAST SEVEN

1 YEARS, OR THE LAST -- YES, SEVEN YEARS.

2 MEMBER JONES: NO, WE HAVEN'T.

3 MR. PERRY: THE QUARTERLY REPORTS ARE

4 REQUIRED TO BE --

5 MEMBER JONES: OH, THE DISPOSAL?

6 MR. PERRY: YES.

7 MEMBER JONES: THAT'S NOT IMPLEMENTATION

8 OF THE PROGRAMS. HAD WE GOTTEN THOSE OTHER

9 REPORTS MAYBE THIS WOULDN'T HAVE HAPPENED.

10 MR. PERRY: AGAIN, WE'RE ASKING WHAT SORT

11 OF DOCUMENTATION OR REPORTING IS THE CITY GOING

12 TO BE REQUIRED TO DO? THEY'VE REPORTED TO THE

13 BOARD AND TO THE STAFF WHAT PROGRAMS ARE BEING

14 IMPLEMENTED, PRIMARILY BECAUSE OF ECONOMIC

15 REASONS.

16 IF IT'S JUST WE'RE GOING TO

17 REGURGITATE THIS REPORT EVERY QUARTER, AS LONG AS

18 WE'RE IN COMPLIANCE -- AS LONG AS WE'RE STILL

19 COMPLYING WITH THE DIVERSION MANDATES I'M NOT

20 SURE THAT IT'S GOING TO SERVE EITHER THE BOARD OR

21 THE CITY, IN TERMS OF FURTHERING ADDITIONAL WASTE

22 REDUCTION EFFORTS.

23 TO WHAT ENDS WILL THE CITY BE -- TO

24 WHAT REPORT WILL THE CITY BE SUBMITTING, AND TO

25 WHAT END WILL BE THE PURPOSE OF THE REPORT?

1 MEMBER JONES: TO COMPLY WITH THE
2 CONDITIONS THAT ARE SET BY THE BOARD, BECAUSE YOU
3 DIDN'T -- YOU WEREN'T ABLE TO GET THROUGH THE
4 BIENNIAL REVIEWS. IT SEEMS REASONABLE. IT IS A
5 BURDEN --

6 MR. PERRY: THE CITY IS APPEALING FOR --

7 MEMBER JONES: IT IS A BURDEN, BUT IT'S A
8 BURDEN ON ALL THE OTHER CITIES AND COUNTIES THAT
9 DO REPORT THAT HAVE SIMILAR SITUATIONS. AND
10 THERE MAY NOT BE 536, BUT I'LL GUARANTEE YOU
11 THERE'S FIVE OR SIX THAT ARE IN THE SAME
12 SITUATION AS COACHELLA. AND THEY REPORT.
13 SO, THOSE ARE THE -- YOU KNOW,
14 THAT'S, IN MY MIND, THE NEED TO PRESERVE THE
15 INTEGRITY AND MAKE SURE THAT THESE PROGRAMS ARE
16 BEING DONE. TO MAKE SURE THEY'RE BEING DONE, YOU
17 KNOW, AT A LEVEL TO GET YOU WHERE YOU NEED TO BE.

18 MR. PERRY: THANK YOU.

19 MEMBER ROBERTI: IS A MOTION IN ORDER?

20 CHAIRMAN PENNINGTON: SURE.

21 MEMBER ROBERTI: I MOVE THAT THE BOARD
22 RECOMMEND -- OR, THE BOARD ADOPT RESOLUTION 1999-
23 46.

24 MEMBER EATON: SECOND.

25 CHAIRMAN PENNINGTON: OKAY. THAT'S --

1 YES?

2 MEMBER FRAZEE: THAT SHOULD BE MODIFIED

3 BY STRIKING CONDITIONS "A" AND "B" --

4 MEMBER ROBERTI: ACCEPTED.

5 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN

6 MOVED BY SENATOR ROBERTI, AND SECONDED BY MR.

7 EATON, THE ADOPTION OF RESOLUTION 1999-46, WITH

8 THE AMENDMENT REMOVING SECTION ONE AND TWO. IS

9 THAT RIGHT?

10 MEMBER FRAZEE "A" AND "B "

11 CHAIRMAN PENNINGTON: "A" AND "B," TO

12 APPROVE THE COMPLIANCE ORDER RELATIVE TO BIENNIAL

13 REVIEW FINDINGS FOR THE SOURCE REDUCTION AND

14 RECYCLING ELEMENT AND HOUSEHOLD HAZARDOUS WASTE

15 ELEMENT FOR THE CITY OF COACHELLA.

16 IS THERE ANY FURTHER DISCUSSION? IF

17 NOT, WILL THE SECRETARY CALL THE ROLL, PLEASE?

18 THE SECRETARY: BOARD MEMBER EATON?

19 MEMBER EATON: AYE.

20 THE SECRETARY: FRAZEE?

21 MEMBER FRAZEE: AYE.

22 THE SECRETARY: JONES?

23 MEMBER JONES: AYE.

24 THE SECRETARY: ROBERTI?

25 MEMBER ROBERTI: AYE.

1 THE SECRETARY: CHAIRMAN PENNINGTON?

2 CHAIRMAN PENNINGTON: AYE.

3 1/

4 ITEM NO. 18: CONSIDERATION OF STAFF

5 RECOMMENDATION TO CORRECT THE BASE YEAR DISPOSAL

6 TONNAGE FOR THE PREVIOUSLY-APPROVED SRRE FOR THE

7 CITY OF FRESNO. FRESNO COUNTY

8 CHAIRMAN PENNINGTON: ITEM 18,

9 CONSIDERATION OF STAFF RECOMMENDATIONS TO CORRECT

10 THE BASE YEAR DISPOSAL TONNAGE FOR THE

11 PREVIOUSLY-APPROVED SOURCE REDUCTION AND

12 RECYCLING ELEMENT FOR THE CITY OF FRESNO, FRESNO

13 COUNTY.

14 MEMBER EATON: MR. CHAIR?

15 CHAIRMAN PENNINGTON: YES?

16 MEMBER EATON: THIS ITEM WAS ORIGINALLY

17 HEARD IN DECEMBER, RIGHT? BUT IT WAS JUST

18 OMITTED?

19 MEMBER FRAZEE: IT WAS A CLERICAL ERROR.

20 MEMBER EATON: IT WAS A CLERICAL ERROR?

21 CHAIRMAN PENNINGTON: YEAH.

22 MEMBER EATON: IS THERE ANY REASON FOR US

23 TO KIND OF GO OVER IT, DO YOU THINK, OR DO WE

24 NEED A PRESENTATION?

25 MR. SCHIAVO: WE WERE JUST GOING TO SAY

1 IT'S AN ADMINISTRATIVE ITEM, TO CLEAN UP LAST
2 MONTH'S --

3 MEMBER EATON: YEAH. SO THEN WE CAN JUST
4 MOVE IT.

5 (THE PARTIES SIMULTANEOUSLY SPEAK.)

6 CHAIRMAN PENNINGTON: SO YOU'RE MAKING A
7 MOTION?

8 MEMBER EATON: YEAH, UNLESS THERE'S, YOU
9 KNOW, AN AGREEMENT OR ANYTHING --

10 CHAIRMAN PENNINGTON: YEAH. IT'S MOVED
11 BY MR. EATON, AND SECONDED BY MR. JONES, THE
12 ADOPTION OF RESOLUTION 1999-19, TO APPROVE THE
13 CORRECTION TO THE BASE YEAR DISPOSAL TONNAGE FOR
14 THE PREVIOUSLY-APPROVED SOURCE REDUCTION
15 RECYCLING ELEMENT FOR THE CITY OF FRESNO, FRESNO
16 COUNTY.

17 IF THERE'S NO FURTHER DISCUSSION,
18 WILL THE SECRETARY CALL THE ROLL, PLEASE?

19 THE SECRETARY: BOARD MEMBER EATON?

20 MEMBER EATON: AYE.

21 THE SECRETARY: FRAZEE?

22 MEMBER FRAZEE: AYE.

23 THE SECRETARY: JONES?

24 MEMBER JONES: AYE.

25 THE SECRETARY: ROBERTI?

1 MEMBER ROBERTI: AYE.
2 THE SECRETARY: CHAIRMAN PENNINGTON?
3 CHAIRMAN PENNINGTON: AYE.
4 MOTION CARRIES.
5 MEMBER JONES: THANK YOU.
6 MEMBER EATON: THANK YOU.
7 CHAIRMAN PENNINGTON: A VERY PRECISE
8 PRESENTATION.
9 ITEM NO. 19: CONSIDERATION OF THE STATUS OF
10 THE CALIFORNIA USED OIL RECYCLING FUND AND THE
11 AWARDING OF ADDITIONAL NONPROFIT GRANTS
12 CHAIRMAN PENNINGTON: ITEM 19,
13 CONSIDERATION OF THE STATUS OF THE CALIFORNIA
14 USED OIL RECYCLING FUND AND THE AWARDING OF
15 ADDITIONAL NONPROFIT GRANTS. WHO HAVE WE GOT?
16 KARIN FISH.
17 MS. FISH: THIS IS PROBABLY NOT AN ITEM
18 FOR AFTER FIVE O'CLOCK. BUT, THAT BEING SAID,
19 WE'LL CONTINUE.
20 OKAY. DUE TO THE COMPLEXITY OF THE
21 OIL PROGRAM, SARA AVILA IS GOING TO BEGIN THE
22 PRESENTATION BY SETTING A BRIEF CONTEXT ON HOW
23 THE STATUTE GOVERNING THIS FUND WORKS. REALLY
24 BRIEF.
25 MS. AVILA: MY NAME IS SARA AVILA WITH

1 ADMIN DIVISION.
2 IN 1991 THE LEGISLATURE PASSED THE
3 CALIFORNIA OIL RECYCLING ENHANCEMENT ACT, WHICH
4 BECAME EFFECTIVE JANUARY 1ST, 1992. THE PURPOSE
5 OF THE CALIFORNIA RECYCLING ENHANCEMENT ACT WAS
6 TO REDUCE THE AMOUNT OF USED OIL DISPOSED OF
7 ILLEGALLY, THEREBY PREVENTING DAMAGE TO THE
8 ENVIRONMENT AND THREATS TO PUBLIC HEALTH, AND TO
9 RECYCLE AND RECLAIM USED OIL.
10 THE CALIFORNIA RECYCLING ACT REQUIRES
11 OIL MANUFACTURERS TO PAY THE BOARD FOUR CENTS FOR
12 EVERY QUART OF LUBRICATING OIL SOLD, TRANSFERRED
13 OR IMPORTED FOR USE IN CALIFORNIA.
14 THE PRIMARY EXPENDITURES FROM THE
15 FUND INCLUDE PAYMENT OF RECYCLING INCENTIVES TO
16 PROGRAM PARTICIPANTS, UP TO THREE MILLION, TO THE
17 BOARD FOR DIRECT ADMIN COSTS, A BUDGET ACT
18 APPROPRIATION TO THE DEPARTMENT OF TOXIC
19 SUBSTANCE CONTROL FOR REPORTING COSTS, AND UP TO
20 ONE MILLION IN RESERVE.
21 FOLLOWING THESE EXPENDITURES, 10
22 MILLION OR HALF OF THE REMAINING FUNDS, WHICHEVER
23 IS GREATER, IS FOR BLOCK GRANTS TO LOCAL
24 GOVERNMENTS.
25 AFTER THE ABOVE EXPENDITURES AND

1 INDIRECT ADMINISTRATION COSTS, SUCH AS FILTER
2 COLLECTION EFFORTS AND CAL EPA APPROPRIATION, THE
3 REMAINING MONIES ARE AVAILABLE TO THE BOARD
4 SOLELY FOR THE FOLLOWING: UP TO 200,000 FOR
5 CONTAMINATED OIL PAYMENTS; AT LEAST 40 PERCENT
6 FOR OPPORTUNITY GRANTS TO LOCAL GOVERNMENTS; AT
7 LEAST 20 PERCENT FOR STATEWIDE EDUCATION AND
8 INFORMATION; AT LEAST 10 PERCENT FOR GRANTS TO
9 NONPROFIT ENTITIES; AND, AT LEAST 10 PERCENT, BUT
10 NOT MORE THAN 50 PERCENT, FOR RESEARCH AND
11 DEMONSTRATION GRANTS.
12 PROGRAM MANAGEMENT DETERMINED THAT
13 THE MOST EFFICIENT WAY TO MANAGE THE GRANT
14 CYCLES, AS WELL AS MONIES IN THE FUND, IS TO
15 AWARD COMPETITIVE GRANTS EVERY OTHER FISCAL YEAR,
16 IN ADDITION TO BLOCK GRANTS ANNUALLY.
17 KARIN?
18 MS. FISH: AT THE OCTOBER MEETING THE
19 BOARD ASKED FOR STAFF TO BRING A FULL ACCOUNTING
20 OF THE OIL FUND BACK TO THE BOARD. THE REASON
21 WAS TO SEE IF THERE WERE SUFFICIENT CASH RESERVES
22 AVAILABLE TO FUND ADDITIONAL NONPROFIT GRANT
23 APPLICANTS NOT BEING CONSIDERED AT THE TIME.
24 PROBLEMATIC TO THE BOARD WAS THE VERY
25 LARGE CASH BALANCE THAT CONTINUES TO REMAIN IN

1 THE FUND.
2 IN DECEMBER STAFF BROUGHT AN ITEM TO
3 THE BOARD THAT WAS APPROVED, THAT WAS DESIGNED TO
4 ENCOURAGE OUR LOCAL PARTNERS TO BE A BIT MORE
5 EXPEDITIOUS ON DRAWING ON THEIR AWARDED FUNDS.
6 FOR THIS ITEM STAFF ANALYZED THE
7 CASH, REVENUE, AND EXPENDITURE TRENDS, THE MANY
8 ENCUMBRANCES IN EACH OF THE GRANT CYCLES, AS WELL
9 AS THE CURRENT AND FUTURE ALLOCATIONS PLANNED BY
10 THE OIL PROGRAM STAFF.
11 CHERI IS GOING TO START AND GO
12 THROUGH THE COMPLICATED FUND CONDITION THAT IS
13 DESIGNED TO ANALYZE THIS FUND. BUT IT'S
14 IMPORTANT TO REITERATE WHAT SARA SAID, AND
15 REMEMBERING THAT THE STAFF IS -- WITH THE
16 EXCEPTION OF THE BLOCK GRANTS -- ON A TWO-YEAR
17 FUNDING CYCLE.
18 SO, CHERI, IF YOU COULD TAKE THEM
19 THROUGH THE FUND CONDITION?
20 MS. ANDERSON: MY NAME'S CHERI ANDERSON.
21 OKAY. I'D LIKE TO DIRECT YOUR
22 ATTENTION TO ATTACHMENT 1, WHICH SHOULD BE IN
23 YOUR PACKAGE, FUND CONDITION CHART.
24 OKAY. THIS IS THE FUND CONDITION FOR
25 THE USED OIL RECYCLING FUND, AND IT'S A DISPLAY

1 OVER A TWO-YEAR PERIOD. AND I'M GOING TO START
2 BY WALKING YOU THROUGH THE COLUMNS OF
3 INFORMATION. SO, THERE'S THREE COLUMNS PER YEAR.
4 THE FIRST, LABELED ALLOCATION FOR
5 STATUTES, DISPLAYS HOW THE FUNDING IS REQUIRED TO
6 BE SPENT. THAT'S ACCORDING TO THE BUDGET ACT
7 APPROPRIATION LEVELS, AND ALSO THE PUBLIC
8 RESOURCES CODE. THAT COLUMN OF INFORMATION FOR
9 BOTH THE YEARS IS PROVIDED FOR INFORMATION AND
10 COMPARISON PURPOSES.
11 THE MIDDLE COLUMN, LABELED ALLOCATION
12 PROGRAM, THAT DISPLAYS HOW FUNDING, AGAIN, IS
13 REQUIRED TO BE SPENT ACCORDING TO BUDGET ACT
14 APPROPRIATION. AND IT ALSO INCLUDES THE EXISTING
15 SPENDING PLAN RIGHT NOW, WITHIN -- THAT IS WITHIN
16 THE FRAMEWORK OF STATUTE.
17 THE THIRD COLUMN OVER, THE FUND
18 BALANCE FOR EACH OF THE FISCAL YEARS. THAT
19 STARTS WITH THE AVAILABLE CASH BALANCE, AND IT
20 DISPLAYS THE AVAILABILITY OF FUNDS AS A RUNNING
21 TOTAL AFTER EACH PROGRAM ITEM HAS BEEN EXPENSED.
22 OKAY?
23 OVER ON THE FAR LEFT OF THE ITEMS
24 LISTED, JUST TO WALK YOU THROUGH, I'LL GROUP SOME
25 OF THOSE ITEMS TOGETHER.

1 CASH ON HAND ON 10/31/98, THAT'S AN
2 UPDATED CASH BALANCE RIGHT OFF OF STATE
3 CONTROLLER'S REPORTS.
4 THE NEXT TWO ITEMS REFLECT SOME
5 ADJUSTMENTS THAT HAVE BEEN MADE TO THE CASH. THE
6 FIRST, THE CURRENT YEAR ADJUSTMENT -- THOSE ARE
7 SOME PENDING AND TRANSIT REVENUES.
8 AND THE NEXT ITEM, THAT IS A
9 REDUCTION YOU SEE OF 31.6 MILLION, LABELED THE
10 COMMITTED PRIOR YEAR AWARDS, THOSE ARE THE
11 PREVIOUSLY-ENCUMBERED AWARDED GRANTS.
12 AND GRANT AWARD HISTORY, IF YOU'D
13 LIKE TO KNOW WHAT GRANT PROGRAMS MAKE THAT DOLLAR
14 AMOUNT UP, THAT'S SHOWN IN ATTACHMENT 3.
15 OKAY. THE NEXT LINES, GOING DOWN, IT
16 JUST ADDS IN ADDITIONAL REVENUE THAT WE'RE
17 PROJECTING TO COLLECT THROUGH THE END OF JUNE,
18 THE END OF THE FISCAL YEAR.
19 THE NEXT 10 LINES -- I'M GOING TO
20 GROUP THOSE TOGETHER -- THOSE ARE EXPENDITURES TO
21 THE FUND AS APPROPRIATED IN THE BUDGET ACT.
22 INCLUDED AND HIGHLIGHTED IN THERE IS A RESERVE, A
23 BUILT-IN RESERVE FOR CONTINGENCIES OF \$1 MILLION.
24 AND, YOU'LL NOTE UP TO THIS POINT IN
25 BOTH THE TWO COLUMNS PER STATUTE AND ALLOCATION

1 PER PROGRAM THE AMOUNTS ARE THE SAME.
2 NOW GETTING INTO THE SHADED BLUE
3 AREA, THAT -- THERE IS GOING TO BE SOME
4 DIFFERENCES HERE.
5 THE REMAINING GRANT ALLOCATION PLAN
6 IS SHOWN, AND THAT'S BASED ON THE AVAILABLE FUND
7 BALANCE THAT'S REMAINING.
8 THE ENDING FIGURE FOR '98-99, WE'RE
9 PROJECTING ON THE BOOKS THAT WE'LL HAVE 1.7
10 MILLION. AND WE WILL TAKE THAT BALANCE, AND
11 IT'LL BE A CARRYOVER, BECAUSE IT'S -- THE GRANT
12 CYCLE PROGRAM HERE IS ALLOCATED OVER TWO YEARS,
13 SO WE ROLL THE 1.7 OVER. AND WE JUST APPLY THE
14 SAME METHODOLOGY FOR SUBTRACTING. FUNDS WERE
15 LIQUIDATED, ACCORDING TO THE BUDGET ACT
16 APPROPRIATION LEVELS AND THE PROPOSED GRANT
17 SPENDING LEVELS.
18 SO, AFTER ALL THE EXPENDITURES WERE
19 ACCOUNTED FOR THE REMAINING FUND BALANCE WAS
20 BROUGHT DOWN TO ZERO. BUT I WANT TO REMIND YOU
21 THAT THERE STILL IS A BUILT-IN -- THE MILLION
22 DOLLAR CONTINGENCY RESERVE.
23 AND THAT PRETTY MUCH ENDS THE WALK
24 THROUGH OF THIS ATTACHMENT, OF THE FUND
25 CONDITION. 50 I'D NOW LIKE TO TURN THE MIKE OVER

1 TO SARA AVILA, AND SHE'LL PRESENT THE STAFF
2 RECOMMENDATION.
3 MS. AVILA: BECAUSE OF THE TWO-YEAR
4 FUNDING PLAN, WE ARE RECOMMENDING OPTION TWO AND
5 THREE.
6 TWO IS THAT THE BOARD NOT PROVIDE
7 FUNDING FOR THE NONPROFIT GRANT APPLICANTS THAT
8 SCORE BELOW 70, DUE TO LACK OF AVAILABLE FUNDS,
9 BASED ON THE TWO-YEAR FUNDING ALLOCATION PLAN.
10 FURTHER FUNDING OF NONPROFIT GRANT APPLICANTS
11 WILL SIGNIFICANTLY IMPACT THE FUNDING LEVELS FOR
12 OPPORTUNITY GRANTS IN '99-2000
13 AND OPTION THREE, REQUIRING THE USED
14 OIL PROGRAM STAFF TO COME BEFORE THE BOARD IN THE
15 SPRING WITH AN UPDATED PROJECTED REVENUE FORECAST
16 AND THEIR RECOMMENDED '99-2000 FUNDING PLAN FOR
17 REVIEW AND APPROVAL BY THE BOARD.
18 ANY QUESTIONS?

19 CHAIRMAN PENNINGTON: ANY QUESTIONS? MR.
20 EATON?

21 MEMBER EATON: MR. CHAIR, I JUST WOULD
22 LIKE TO SAY THANK YOU. BECAUSE, AS YOU REMEMBER,
23 THIS WAS THAT ONE ISSUE THAT WE HAD WITH A NUMBER
24 OF NONPROFITS A NUMBER OF MONTHS AGO, AND WE SORT
25 OF GOT INTO IT. I THINK THAT THE STAFF HAS DONE

1 A SUPERB JOB IN JUST TRYING TO SEPARATE OUT SOME
2 ISSUES.
3 AND I THINK, YOU KNOW, WHAT THEY'RE
4 ASKING FOR IS, AND I WOULD AGREE, THAT IT'S
5 PROBABLY NOT PROPER TO GO BELOW WHAT WE HAD SAID,
6 THE 70 LEVEL, EVEN THOUGH, YOU KNOW, THERE WERE
7 SOME EQUITIES OR INEQUITIES, AS THE CASE MAY BE,
8 PRESENTED. BUT THAT WE CAN PROBABLY WORK WITH
9 THOSE GROUPS. SO, THEREFORE, I THINK THAT, YOU
10 KNOW, THE WHOLE ISSUE OF DOING, AND GIVING THEM A
11 LITTLE MORE TIME TO COME BACK WITH SOME
12 ALLOCATIONS FOR NEXT YEAR MAY SOLVE SOME OF THOSE
13 PROBLEMS.
14 AND SO, THEREFORE, I WOULD MOVE THE
15 RESOLUTION, AND HAVE MS. FISH WORK WITH MR.
16 CHANDLER, IN TERMS OF WHATEVER ELSE NEEDS TO BE
17 TAKEN CARE OF TO GET US READY FOR THE SPRING.
18 CHAIRMAN PENNINGTON: OKAY. I DO HAVE
19 ONE PERSON WHO -- STEVE CASENDZA (PHON)? HE
20 LEFT.
21 MEMBER EATON: HE LEFT.
22 CHAIRMAN PENNINGTON: HE LEFT? OKAY.
23 MEMBER EATON: SO IF THAT'S OKAY, I'LL BE
24 HAPPY TO MOVE RESOLUTION 99-39, RELATIVE TO THE
25 CONSIDERATION OF THE STATUS OF THE CALIFORNIA

1 USED OIL RECYCLING FUND AND THE AWARDING OF
2 ADDITIONAL NONPROFIT GRANTS.

3 MEMBER JONES: I WILL SECOND.

4 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
5 MOVED BY MR. EATON, AND SECONDED BY MR. JONES,
6 THE ADOPTION OF RESOLUTION 99-39, TO APPROVE
7 STAFF RECOMMENDATIONS TO LEAVE THE GRANT
8 ALLOCATION LEVELS AS PLANNED OVER THE TWO-YEAR
9 PERIOD, AND NOT PROVIDE FUNDING FOR THE NONPROFIT
10 GRANT APPLICANTS THAT SCORED BELOW 70.

11 IF THERE'S ANY FURTHER DISCUSSION?

12 IF NOT, WILL THE SECRETARY CALL THE ROLL?

13 THE SECRETARY: BOARD MEMBER EATON?

14 MEMBER EATON: AYE.

15 THE SECRETARY: FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: ROBERTI?

20 MEMBER ROBERTI: AYE.

21 THE SECRETARY: CHAIRMAN PENNINGTON?

22 CHAIRMAN PENNINGTON: AYE.

23 MOTION CARRIES.

24 ITEM NO. 25: CONSIDERATION AND APPROVAL OF

1 IMPLEMENTING COMPLIANCE AUDITS OF NEWSPRINT
2 CONSUMERS (PUBLIC RESOURCES CODE 42750 THROUGH
3 42791)

4 CHAIRMAN PENNINGTON: I'D LIKE TO MOVE TO
5 ITEM 25. I KNOW WE HAVE SOMEBODY -- I THINK WE
6 HAVE SOMEBODY IN THE AUDIENCE TO TESTIFY. THIS
7 IS CONSIDERATION AND APPROVAL OF SCOPE OF WORK
8 FOR IMPLEMENTING THE COMPLIANCE AUDITS FOR THE
9 NEWSPRINT CONSUMERS.

10 I MUST REMIND EVERYBODY THAT I AM A
11 MEMBER OF THE CALIFORNIA NEWSPAPER PUBLISHERS
12 ASSOCIATION, BUT I HAVE CLEARED THIS WITH STAFF
13 COUNSEL AND I DON'T HAVE TO RECUSE MYSELF, AND
14 THAT THERE'S NO CONFLICTIVE INTEREST BETWEEN MY
15 MEMBERSHIP IN CNPA AND WHAT WE'RE DOING TODAY.
16 SO, CAREN TRGOVCICH. YOU DON'T LOOK
17 LIKE CAREN.

18 MS. GILDART: GOOD EVENING, I'M MARTHA
19 GILDART WITH THE WASTE PREVENTION AND MARKET
20 DEVELOPMENT DIVISION. RICK MULLER OF THE
21 SECONDARY TECHNOLOGY SECTION WILL BE PRESENTING
22 THIS ITEM, WHEREIN WE ARE SEEKING APPROVAL OF THE
23 SCOPE OF WORK FOR THE AUDITS FOR THE NEWSPRINT
24 COMPLIANCE PROGRAM.
25 THERE IS A MEMBER OF THE PUBLIC WHO

1 IS HERE WISHING TO SPEAK TO IT, SO WE APPRECIATE
2 BEING MOVED FORWARD.
3 MR. MULLER: GOOD MORNING, MR. CHAIRMAN
4 AND MEMBERS. FOR THE RECORD, MY NAME IS RICK
5 MULLER, I'M CURRENTLY LEAD FOR THE RECYCLED
6 CONTENT NEWSPRINT PROGRAM.
7 AS MARTHA MENTIONED, THIS IS -- THE
8 PURPOSE OF THIS ITEM IS FOR THE BOARD TO CONSIDER
9 A SCOPE OF WORK FOR IMPLEMENTING COMPLIANCE
10 AUDITS OF NEWSPRINT CONSUMERS. AND I'D LIKE TO
11 PROVIDE A LITTLE BIT OF BACKGROUND ON THIS ITEM.
12 AT THE BOARD MEMBER AUGUST 13TH,
13 1998, STAFF WERE DIRECTED TO CONDUCT UP TO 20
14 AUDITS OF NEWSPRINT CONSUMERS, INCLUDING TWO
15 AUDITS OF CONSUMERS THAT APPEAR TO HAVE MET
16 COMPLIANCE WITH THE LAW, AND 18 CONSUMERS
17 TARGETING -- I'M SORRY, 18 AUDITS TARGETING
18 CONSUMERS THAT ARE NOT IN COMPLIANCE WITH
19 REPORTING REQUIREMENTS.
20 THE BOARD APPROVED A CONTRACT CONCEPT
21 AT ITS SEPTEMBER 17TH, 1998, BOARD MEETING, AND
22 THIS CONTRACT CONCEPT WAS FOR \$50,000.
23 THE BOARD HAS STATUTORY AUTHORITY TO
24 AUDIT NEWSPRINT CONSUMERS, AND THIS IS FOUND IN
25 THE PUBLIC RESOURCES CODE SECTION 42771. IT ALSO

1 HAS ADOPTED AN AUDIT POLICY THAT SPECIFIES
2 SPECIFIC CRITERIA TO DETERMINE THE NEED FOR
3 NEWSPRINT CONSUMER AUDITS. THIS POLICY PROVIDES
4 A FRAMEWORK FOR DETERMINING IF AUDITS ARE
5 WARRANTED.
6 THE AUDITS WILL HELP VERIFY
7 COMPLIANCE WITH PROGRAM REQUIREMENTS, AND ALSO
8 ENSURE ACCURACY OF CONSUMPTION DATA CONTAINED IN
9 CONSUMER CERTIFICATIONS.
10 AND I'D LIKE TO BRIEFLY GO OVER THE
11 KEY DELIVERABLES THAT ARE IDENTIFIED IN THE SCOPE
12 OF WORK. THE FIRST ONE IS THAT THE CONTRACTOR
13 WILL RANDOMLY SELECT THE COMPANIES TO BE AUDITED
14 FROM TWO SEPARATE LISTS OF NEWSPRINT CONSUMERS.
15 THE FIRST LIST WOULD BE COMPLIANT, AND THE SECOND
16 IS NON-COMPLIANT COMPANIES.
17 AND I WANT TO EXPLAIN THAT A LITTLE
18 BIT. BY COMPLIANT, I DON'T MEAN COMPANIES THAT
19 ARE IN COMPLIANCE WITH THE LAW, THOSE ARE JUST
20 COMPANIES THAT HAVE SUBMITTED FORMS, AND WE'VE
21 LOOKED AT THEIR CERTIFICATIONS AND THEY APPEAR TO
22 BE IN ORDER.
23 ON THE OTHER HAND, THE NON-COMPLIANT
24 LIST WILL INCLUDE COMPANIES THAT FILED LATE
25 CERTIFICATIONS, THAT WERE DELINQUENT IN FILING

1 CERTIFICATIONS, OR THAT FILED QUESTIONABLE
2 CERTIFICATIONS.
3 ANOTHER KEY DELIVERABLE IDENTIFIED IN
4 THE SCOPE OF WORK IS THAT THE CONTRACTOR WILL
5 PERFORM THE AUDITS AND THEN WILL SUBMIT A
6 COMPANY-SPECIFIC AUDIT REPORT TO THE BOARD WITHIN
7 20 DAYS OF THAT AUDIT.
8 THE BOARD THEN HAS 10 DAYS TO FORWARD
9 THE AUDIT REPORT TO THE ENTITY THAT AS AUDITED.
10 THE REGULATIONS, AND I BELIEVE THE STATUTE,
11 REQUIRE THAT EACH COMPANY THAT'S AUDITED HAS TO
12 RECEIVE THE AUDITED REPORT WITHIN 30 DAYS AND
13 SUBMIT A FINAL REPORT TO THE BOARD PRIOR TO THE
14 LAST INVOICE SUBMITTAL. THE FINAL REPORT WILL
15 INCLUDE A SUMMARY STATEMENT OF FINANCES THAT WILL
16 ASSIST THE BOARD IN IMPLEMENTING THE RECYCLED- 17 CONTENT NEWSPRINT
PROGRAM AND SUGGESTIONS AND
18 RECOMMENDATIONS FOR IMPROVING THE CERTIFICATION
19 FORMS, TERMS OF THE CONTRACT, AND/OR THE TYPE OF
20 AUDITS CONDUCTED.
21 THERE'S A FEW KEY ISSUES THAT I'D LIKE TO
22 BRING UP HERE SURROUNDING THE SCOPE OF WORK, IN
23 AN EFFORT TO ANTICIPATE ANY QUESTIONS.
24 THE FIRST ISSUE IS CONCERNING
25 GOVERNMENT CODE SECTION 19 ONE 30 B, AND THIS

1 BASICALLY REQUIRES THAT CONTRACT SERVICES BE
2 PERFORMED BY CIVIL SERVICE EMPLOYEES WHENEVER
3 FEASIBLE. AND THIS, OF COURSE, INCLUDES IN-HOUSE
4 SERVICES.
5 I DID HAVE DISCUSSIONS WITH OUR AUDIT
6 SECTION HERE AT THE BOARD, AND AFTER THOSE
7 DISCUSSIONS I FELT THAT IT WOULD NOT BE
8 APPROPRIATE TO HAVE THE AUDIT SECTION PERFORM
9 THESE AUDITS. AND THE REASON FOR THIS IS THEY'RE
10 NOT EXPERIENCED IN THE AREA OF COMPLIANCE AUDITS,
11 SO THEY DIDN'T FIT THE CRITERIA THAT WE
12 IDENTIFIED IN THE SCOPE OF WORK.
13 THE SECOND ISSUE HAS TO DO WITH HOW
14 WILL THESE CONTRACT FUNDS BE ENCUMBERED, WHAT IS
15 THE MECHANISM FOR ENCUMBERING THESE FUNDS. WE
16 HAVE CONSIDERED INTER-AGENCY AGREEMENTS, MASTER
17 SERVICES AGREEMENTS, AND INVITATIONS FOR BID AND,
18 OFFICIALLY, WE HAVEN'T SELECTED A MEANS AT THIS
19 TIME. HOWEVER, UNOFFICIALLY -- AND, AS A MATTER
20 OF FACT, YESTERDAY I RECEIVED A CALL FROM THE
21 STATE CONTROLLER'S OFFICE, AND THEY INFORMED ME
22 THAT THEY PLAN TO SEND US A FORMAL ACCEPTANCE OF
23 OUR SCOPE OF WORK FOR THE DESIGNATED AMOUNT OF
24 \$50,000.
25 ANOTHER ISSUE I'D LIKE TO COVER VERY

1 BRIEFLY IS WHY DID WE SELECT FIELD AUDITS AS
2 OPPOSED TO DESK AUDITS. FIELD AUDITS ARE MORE
3 EXPENSIVE, DESK AUDITS CAN BE PERFORMED WITHOUT
4 TRAVEL. AND THE REASON FOR THAT IS THAT -- THE
5 REASON WE FELT THAT DESK AUDITS WERE
6 INAPPROPRIATE FOR THIS SCOPE OF WORK IS THAT
7 WE'RE SELECTING MOSTLY COMPANIES THAT HAVE HAD
8 COMPLIANCE ISSUES WITH THE BOARD, IN PARTICULAR,
9 NOT SUBMITTING FORMS IN A TIMELY MANNER THAT ARE
10 REQUIRED BY LAW. SO, IT'S CLEAR THAT WE PROBABLY
11 DON'T WANT TO DO DESK AUDITS.
12 I'D LIKE TO MENTION BRIEFLY THAT A
13 REPRESENTATIVE FROM CNPA IS HERE, AS MARTHA
14 MENTIONED, KIM EWERT, WHO HAS SOME ISSUES
15 SURROUNDING THE WAY THE AUDIT IS BEING PERFORMED,
16 SO WE'LL HEAR FROM HIM AFTERWARDS.
17 THE OPTIONS FOR THE BOARD ARE AS
18 FOLLOWS.
19 OPTION ONE: APPROVE THE PROPOSED
20 SCOPE OF WORK AS WRITTEN.
21 OPTION TWO: CONDITIONALLY APPROVE
22 THE PROPOSED SCOPE OF WORK, DIRECTING STAFF TO
23 MAKE SPECIFIED CHANGES TO THE SCOPE OF WORK.
24 AND OPTION THREE: DISAPPROVE THE
25 SCOPE OF WORK, DIRECTING STAFF TO MODIFY THE

1 PROPOSED SCOPE OF WORK AND BRING IT BACK TO THE
2 BOARD FOR SUBSEQUENT CONSIDERATION.
3 THE STAFF RECOMMENDATION IS THAT THE
4 BOARD APPROVE OPTION NUMBER ONE AND ADOPT
5 RESOLUTION 99-02.
6 AND, FINALLY, I'D JUST LIKE TO
7 MENTION THAT, IF APPROVED THE BOARD'S ONLY ACTION
8 WILL BE ON THE SCOPE OF WORK, AS THE ACTUAL AWARD
9 FALLS UNDER THE DELEGATION OF AUTHORITY TO THE
10 EXECUTIVE DIRECTOR FOR CONTRACTS OF \$50,000 OR
11 LESS.
12 I'D BE HAPPY TO ANSWER ANY QUESTIONS
13 AT THIS TIME. OR IF YOU'D LIKE TO HOLD THE
14 QUESTIONS UNTIL AFTER MR. EWERT HAS AN
15 OPPORTUNITY, THAT WOULD BE FINE TOO.
16 CHAIRMAN PENNINGTON: QUESTIONS OF STAFF?
17 OKAY, WE'LL HEAR FROM JIM EWERT.
18 MR. EWERT: WELL, I GUESS I DO GET TO SAY
19 GOOD EVENING. MY NAME IS JIM EWERT, AND I
20 REPRESENT THE CALIFORNIA NEWSPAPER PUBLISHERS
21 ASSOCIATION, WHICH IS AN ASSOCIATION OF
22 APPROXIMATELY 500 DAILY AND WEEKLY NEWSPAPERS IN
23 THE STATE OF CALIFORNIA. WE CONSUME A
24 SIGNIFICANT AMOUNT OF NEWSPRINT IN THE STATE.
25 WE UNDERSTAND THAT THIS PROPOSAL, AT

1 LEAST IN PART, AS IT RELATES TO AUDITS OF LATE
2 FILERS, IS MOTIVATED BY THAT FACT, THAT THEY ARE
3 IN FACT FILING THEIR REPORTS, THEIR MANDATED
4 (PHON) REPORTS ON AN UNTIMELY BASIS.
5 NOW, WE OPPOSE THE IDEA OF INCLUDING
6 LATE FILERS IN THE AUDIT PROGRAM. WE'RE NOT
7 OPPOSED TO AUDITS, PER SE, IN SITUATIONS WHERE
8 THERE MAY BE SOME DISCREPANCY IN THE INFORMATION
9 THAT'S PROVIDED TO THE BOARD, WHERE YOU QUESTION
10 THE ACCURACY OF THE INFORMATION THAT'S PROVIDED,
11 AUDITS ARE APPROPRIATE.
12 BUT, WE FAIL TO SEE THE CONNECTION
13 BETWEEN A AUDIT OF SOMEONE WHO IS OTHERWISE
14 COMPLIANT, AND WHOSE INFORMATION IS OTHERWISE
15 ACCURATE, WHILE IT JUST SO HAPPENS THAT THEY ARE
16 FILING LATE. THERE MAY BE ANOTHER APPROPRIATE
17 REMEDY FOR THAT, THAT IS MORE CLOSELY CONNECTED
18 TO THE MALFEASANCE.
19 JUST TO POINT OUT A COUPLE OF THINGS,
20 BEFORE I OPEN UP ANY QUESTIONS THAT YOU MIGHT
21 HAVE. THE NEWSPAPER INDUSTRY FOR THE LAST
22 SEVERAL YEARS HAS REGULARLY EXCEEDED THE MINIMUM
23 REQUIREMENTS FOR NEWSPAPER CONTENT, OF NEWSPRINT
24 CONSUMPTION. AND BECAUSE OF THAT WE DON'T THINK
25 THAT OUR INDUSTRY SHOULD BE SINGLED OUT AND

1 PENALIZED FOR, AS I SAID BEFORE, BEING OTHERWISE
2 COMPLIANT. SO WE URGE YOU TO RECONSIDER THE
3 INCLUSION OF LATE FILERS IN THE SCOPE OF WORK.

4 MEMBER ROBERTI: MR. CHAIRMAN?

5 CHAIRMAN PENNINGTON: SENATOR ROBERTI?

6 MEMBER ROBERTI: ALONG THE LINES OF WHAT
7 THE WITNESS IS SAYING, FOR THOSE WHO ARE IN
8 COMPLIANCE AUDITS ARE A HORRIBLE THING TO GO
9 THROUGH. IT'S ALMOST MEANS YOU'RE BEING PUNISHED
10 JUST BY VIRTUE OF HAVING THE AUDIT. I ONCE HAD
11 AN IRS AUDIT AND --

12 CHAIRMAN PENNINGTON: OH, BOY.

13 MEMBER ROBERTI: -- I CAME THROUGH ALL
14 RIGHT. BUT, I MEAN, IT'S JUST HORRIBLE GOING
15 THROUGH IT. AND, SO I DON'T THINK WE SHOULD
16 WREAK THIS DISADVANTAGE ON SOMEBODY WHO IS
17 ACTUALLY IN COMPLIANCE.

18 THERE HAS TO BE ANOTHER WAY THAT WE -

19

20 CHAIRMAN PENNINGTON: I AGREE.

21 MEMBER ROBERTI: -- GO ABOUT IT. FOR THE
22 OTHER 18, I THINK THAT'S --

23 MR. EWERT: WELL, THE OTHER 18 -- AT

24 LEAST A PORTION OF THE 18 IS WHAT I'M CONCERNED

25 ABOUT AS WELL. BECAUSE IN THAT 18 ARE THE LATE

1 FILERS WHO ARE OTHERWISE COMPLIANT, IT JUST SO
2 HAPPENS THAT THEY HAVE FILED THEIR FORMS AFTER
3 MARCH 1ST. AND WE THINK THERE MAY BE A MORE
4 APPROPRIATE REMEDY FOR ENCOURAGING THOSE ACTORS
5 TO GET THEIR FORMS IN ON TIME, AND AN AUDIT MAY
6 BE A LITTLE BIT TOO MUCH.

7 CHAIRMAN PENNINGTON: LIKE WHAT WOULD YOU
8 SUGGEST?

9 MR. EWERT: A FINE, A HEARING AND A FINE,
10 SOMETHING MORE APPROPRIATE TO THE CONDUCT ITSELF.
11 BUT WHERE THERE IS NO QUESTIONING OF
12 THE ACCURACY OF THE INFORMATION PROVIDED IN THOSE
13 FORMS EXCEPT THAT THEY'RE COMING IN LATE, WE
14 THINK THAT IT'S JUST AN INAPPROPRIATE REMEDY TO
15 LEVY AN AUDIT ON THEM.

16 CHAIRMAN PENNINGTON: OKAY. ANY FURTHER
17 QUESTIONS? YES, MR. FRAZEE.

18 MEMBER FRAZEE: THIS FURTHER COMPLICATES
19 THE ISSUE I GUESS. THE USUAL METHOD OF APPLYING
20 AUDITS IS AT RANDOM, PROBABLY, OR CAUSE, AND IN
21 THIS CASE WE'RE NOT DOING EITHER. WE'RE USING
22 THE AUDIT, IN ONE SENSE, TO PUNISH OR TO GET
23 SOMEONE'S ATTENTION. AND IN THE CASE OF THE TWO
24 COMPLIANT ONES, YOU KNOW, I GUESS THAT FALLS IN
25 THE AT-RANDOM, BUT I DON'T SEE THE VALUE IF

1 THEY'RE ALREADY WELL IN COMPLIANCE.

2 MEMBER JONES: RIGHT.

3 MEMBER FRAZEE: SO I -- YOU KNOW, WITH

4 THE QUESTION OF EXCLUDING THEM AND NOT USING IT

5 AS A PUNISHMENT, THEN YOU EXCLUDE EVERYONE. SO,

6 YOU KNOW, I THINK IT NEEDS TO BE AT RANDOM ACROSS

7 THE BOARD WITH COMPLIANT, NON-COMPLIANT, AND LATE

8 FILERS ALL TOGETHER.

9 CHAIRMAN PENNINGTON: BUT YOU WOULD SAY

10 PICK ONLY FROM THE LATE FILERS, THE RANDOM WOULD

11 BE --

12 MEMBER FRAZEE: NO, BECAUSE --

13 CHAIRMAN PENNINGTON: EVEN THE COMPLIANT

14 ONES?

15 MEMBER FRAZEE: NO. IF YOU'RE GOING TO

16 APPLY IT FAIRLY THEN YOU HAVE TO INCLUDE

17 EVERYONE, EVERY FILER. DON'T YOU?

18 MR. EWERT: OH, I SEE WHAT YOU MEAN.

19 MEMBER FRAZEE: YOU KNOW, IF THE PURPOSE

20 IS PUNISHMENT -- AND I DON'T THINK THAT IS THE

21 PURPOSE --

22 CHAIRMAN PENNINGTON: WELL, I THOUGHT THE

23 PURPOSE WAS TO GET COMPLIANCE WITH THE LAW, NOT

24 PUNISHMENT.

25 MS. TOBIAS: MAYBE WE SHOULD HAVE MS.

1 GILDART GO BACK TO THE POLICY THAT WE ORIGINALLY
2 BROUGHT UP, IN TERMS OF WHY WE'RE DOING THIS.
3 BECAUSE I'LL POINT OUT, THAT THE STATUTE
4 BASICALLY SAYS, IN 42771, THAT: "EVERY CONSUMER
5 OF NEWSPRINT WHO SUBMITS A RECYCLED CONTENT
6 NEWSPRINT USAGE CERTIFICATION PURSUANT TO SECTION
7 42770 MAY BE SUBJECT TO AN AUDIT TO ENSURE THAT
8 THE RECYCLED CONTENT NEWSPRINT WAS USED."
9 AND SO ONE OF THE ISSUES IS, IF
10 PEOPLE ARE TURNING ON CERTIFICATIONS, YOU KNOW,
11 DO WE NEED IT AT THE START OF A PROGRAM AT LEAST,
12 OR AT OTHER CHECKPOINT TIMES, TO VERIFY THAT THAT
13 WAS IN FACT ACCURATE, WHAT THEY SUBMITTED.
14 SO, BUT I THINK IT WOULD BE HELPFUL
15 IF MS. GILDART COULD GO BACK OVER THAT POLICY.
16 MS. GILDART: AND I THINK BOARD MEMBER
17 FRAZEE HAS A VERY GOOD POINT. THE INVOLVEMENT
18 I'VE HAD IN THE PAST WITH AUDITS TEND TO BE WITH
19 THE GRANT PROGRAMS, WHERE IT IS A RANDOM AUDIT
20 ACROSS A WHOLE SPECTRUM, THEY CHOOSE RANDOMLY
21 FROM ALL GRANT RECIPIENTS JUST TO DO SPOT
22 CHECKING.
23 WE'VE ALSO BEEN INVOLVED IN THE MORE
24 PUNITIVE AUDIT, WHEN WE'RE ALREADY AWARE OF
25 WRONGDOING, AND WE ARE THEN GOING THROUGH THE

1 BOOKS TO CHECK SPECIFICALLY FOR THAT WRONGDOING.
2 I THINK WHAT WE'VE GOT HERE IS A
3. BLEND OF THOSE TWO TYPES OF AUDITS, AND I THINK
4 THAT'S CAUSING SOME CONFUSION WITH THE BOARD. AS
5 I UNDERSTAND THE WAY THE PROGRAM SET UP, THE
6 ORIGINAL INTENT HAD BEEN MORE THE RANDOM, SPOT-
7 CHECKING TYPE OF AUDIT.
8 BUT WHAT TRIGGERED THE NEED FOR AN
9 AUDIT WAS THE FACT WE WERE GETTING CHRONICALLY-
10 LATE FILINGS, AND WE WERE GETTING CERTAIN
11 INDIVIDUAL COMPANIES NOT COMPLYING ON A REGULAR
12 BASIS. SO, PERHAPS WHAT WE NEED TO DO IS RE-LOOK
13 AT WHETHER WE WANT TO DO THE MORE PUNITIVE TYPE
14 OF AUDIT.
15 WE DO HAVE MITCH WEISS HERE IN THE
16 AUDIENCE IN CASE WE NEED FURTHER DISCUSSION OF
17 HOW AUDITS ARE CONDUCTED.

18 MEMBER FRAZEE: AND JUST ONE OTHER POINT
19 TO FURTHER CLOUD THE ISSUE, IS THERE ANY PROBLEM
20 WITH THE PROPRIETARY NATURE OF THESE AUDITS? AS
21 I UNDERSTOOD, THEY WERE IN THE PUBLIC DOMAIN ONCE
22 THEY'RE DONE. THERE ISN'T?

23 MR. EWERT: NOT FROM OUR PERSPECTIVE AT
24 LEAST.

25 MEMBER ROBERTI: IN MY ESTIMATION, OUR

1 ONLY JUSTIFICATION FOR AN AUDIT IS IF -- MAYBE
2 IT'S A LITTLE BIT DIFFERENT TACK THAN MR.
3 FRAZEE'S -- IS IF THERE IS A CLEAR NON-COMPLIANCE
4 WITH THE LAW OR THE REGULATION, AND THAT IS
5 FILING LATE, EGREGIOUSLY LATE OR WHATEVER OUR
6 WORD IS, IS A CLEAR NON-COMPLIANCE WITH THE
7 REGULATION, I DON'T HAVE A PROBLEM THEN WITH AN
8 AUDIT AFTER A LENGTHY PERIOD OF TIME WHEN THEY'VE
9 HAD EVERY OPPORTUNITY TO COMPLY.
10 AND I THINK, IN MY MIND THAT'S THE
11 ONLY JUSTIFICATION FOR AN AUDIT. I DON'T, EVEN
12 IN MY MIND, HAVE A JUSTIFICATION FOR AN AUDIT IF
13 SOMEBODY THINKS SOMETHING'S WRONG, BECAUSE THAT -
14 - I MEAN, THAT'S SORT OF PUTTING THE CART BEFORE
15 THE HORSE. YOU'RE PRESUMING THE ERROR BEFORE THE
16 ERROR'S BEEN PROVED. THAT ISN'T THE CASE WITH A
17 LATE, A COMPELLINGLY LATE FILING. SO, I DON'T
18 HAVE A PROBLEM WITH AN AUDIT IN THAT CASE.
19 UNDER ANY CASE, I HAVE A PROBLEM WITH
20 AN AUDIT WHERE THERE IS NO SHOWING OF WRONGDOING,
21 NO TARDINESS, AND WE'RE GOING TO PUT THE POOR
22 SOUL THROUGH AN AUDIT.
23 MS. TOBIAS: THEN, MR. CHAIR, MAYBE WHAT
24 WE NEED TO DO IS RECONSIDER THIS IN LIGHT OF
25 SENATOR ROBERTI'S CONCERNS.

1 LET ME GO BACK OVER, THERE'S AN
2 AGENDA ITEM FROM AUGUST 13TH, 1998, WHICH
3 BASICALLY SETS OUT THE EVALUATION OF AUDIT
4 CRITERIA FOR 1997. AND IT BASICALLY TALKS ABOUT
5 --EVIDENCE OF SIGNIFICANT REDUCTION IN THE RATE OF
6 CONSUMPTION, EVIDENCE OF A SIGNIFICANT (INAUD.)
7 EVIDENCE THAT THE TOTAL RECYCLED NEWSPRINT CANNOT
8 BE RECONCILED WITH THE TOTAL RECYCLED CONTENT
9 NEWSPRINT, ETC.

10 SO, THIS ITEM, AS I UNDERSTAND IT, IS
11 A -- BASICALLY THE SCOPE OF WORK TO GO OUT TO ACT
12 ON THE POLICY, OR THE EVALUATION OF AUDIT
13 CRITERIA THAT THE BOARD'S ADOPTED. IF A BOARD
14 MEMBER, OR SEVERAL BOARD MEMBERS WANT TO
15 RECONSIDER THAT, THEN WE WOULD NEED TO BASICALLY
16 COME BACK ON THAT.

17 MR. EWERT: I WOULD RESPECTFULLY LIKE TO
18 SUBMIT THAT IT'S STILL UNCLEAR TO ME WHAT THE
19 RESULTS OF SUCH AN AUDIT WOULD BE ON THOSE
20 INDIVIDUALS WHO FAILED TO TIMELY FILE THEIR
21 INFORMATION. I MEAN, IF ALL OF THE INFORMATION
22 THAT IS OBTAINED IN THE AUDIT ESSENTIALLY
23 SUPPORTS THE REPORTER'S INFORMATION, WHAT IS THE
24 BOARD LEFT TO DO?

25 CHAIRMAN PENNINGTON: RIGHT.

1 MR. EWERT: I THINK A MORE APPROPRIATE
2 REMEDY WOULD BE TO SIMPLY FIND SOMEONE WHO
3 EGREGIOUSLY FAILS TO GET THEIR INFORMATION IN ON
4 TIME, AND I THINK THAT WILL BE QUITE A SHOT ACROSS THE BOW OF THOSE
WHO
6 INFORMATION IN.

7 MS. TOBIAS: AND I WILL SAY THAT WHILE
8 THE LEGAL OFFICE DOESN'T DISAGREE WITH THAT, YOU
9 KNOW, I THINK THAT WE HAVE IN THE PAST USED A
10 FINE, AND IT PERHAPS IS MORE RELATED TO -- THE
11 PUNISHMENT TO THE ACTIVITY.
12 I JUST WANT TO POINT OUT THAT THIS IS
13 THE BOARD-ADOPTED POLICY. SO THE PROBLEM HERE IS
14 ONE THAT WE'RE ON AN ITEM THAT IS BASICALLY
15 TALKING ABOUT AUTHORIZING A SCOPE OF WORK, AND
16 THEN WE'RE -- BUT WE'RE HAVING A DISCUSSION ON
17 THE APPROPRIATENESS OF WHETHER THIS IS THE POLICY
18 THAT THE BOARD WANTS TO FOLLOW.
19 I'LL ALSO POINT OUT THAT, EVIDENTLY,
20 THIS IS A POLICY THAT WAS ADOPTED EVEN PRIOR TO
21 1998, BUT IS NOW COMING INTO EFFECT BECAUSE WE
22 ARE NOW LOOKING AT THESE NEWSPRINT
23 CERTIFICATIONS.
24 SO, IF THE BOARD WANTS TO RECONSIDER
25 THAT, THAT'S CERTAINLY WITHIN THEIR PURVIEW TO DO

1 SO. BUT I WOULD SUGGEST THAT WE'LL NEED A
2 DIFFERENT AGENDA ITEM IN WHICH TO DO THAT.

3 MEMBER FRAZEE: AS I LISTENED TO THAT
4 POLICY, IT WOULD SEEM TO ME THAT WE COULD CHOOSE
5 TO AUDIT ONLY THOSE WHO FAILED TO FILE AND STILL
6 MEET THE TEST OF THAT POLICY.

7 MS. TOBIAS: I THINK THAT YOU COULD DO
8 THAT IN A SEPARATE ITEM, MR. FRAZEE.
9 BUT I -- AND I APOLOGIZE IF THIS
10 SOUNDS TOO NARROW, BUT I THINK THE PROBLEM IS, IS
11 THAT THIS AGENDA ITEM IS BASICALLY TALKING ABOUT
12 A SCOPE OF WORK. AND IF YOU ARE GOING TO GO BACK
13 AND CHOOSE WHICH ONES YOU WANT TO DO, I HAVE NO
14 PROBLEM WITH YOU DOING THAT, BUT THEN YOU DON'T
15 HAVE THE CORRECT AUDIENCE HERE TONIGHT WHO NEED
16 TO BASICALLY GIVE YOU THE INPUT ON IT.

17 CHAIRMAN PENNINGTON: SO, BUT WE COULD SEND THIS BACK
18 TO STAFF.

19 MEMBER JONES: BUT MR. CHAIRMAN, IF THE
20 SCOPE OF WORK IS THE ACTUAL AUDIT, THE CONDITIONS
21 OF WHO GETS AUDITED ISN'T PART OF THE SCOPE OF
22 WORK, IS IT?

23 I MEAN, IT'S ALLUDED TO HERE BUT THE
24 SCOPE OF WORK ISN'T GOING TO CHANGE, BECAUSE IT'S
25 GOING TO TALK ABOUT HOW MANY YEARS' EXPERIENCE.

1 THE AUDITORS HAVE, WHAT THEY'RE GOING TO DO,
2 THEY'RE GOING TO GO IN, THEY'RE GOING TO GET --
3 YOU KNOW. IT APPEARS TO ME THAT THE TITLE IS THE
4 SCOPE OF WORK FOR AN AUDIT, THE DESCRIPTION OF
5 WHO WE INTENDED WOULD BE FLEXIBLE BECAUSE THEY
6 SAID, YOU KNOW, EITHER MODIFY THIS OR WHATEVER.

7 MS. GILDART: THE ONE THING WITH THE
8 SCOPE OF WORK, THE POLICY THE BOARD CHOOSES TO
9 ADOPT ON HOW TO CONDUCT THE AUDITS WILL AFFECT
10 THE NUMBER OF AUDITS PERFORMED, WHICH DIRECTLY
11 AFFECTS THE BUDGET, AND SO THAT'S THE MAIN
12 CONSIDERATION HERE.
13 THERE'S ONLY ONE ENTITY WHO DID NOT
14 FILE, THE REMAINDER EITHER HAVE CONFUSING OR
15 INADEQUATE DATA OR WERE LATE, AND THOSE WERE THE
16 ONES THE BOARD HAD EXPRESSED CONCERNS AT, AND IN
17 THE AUGUST MEETING HAD LAID OUT DIRECTION FOR THE
18 STAFF IN DEVELOPING THE SCOPE OF WORK.

19 SO, I THINK WE COULD REVISIT THE
20 TERMS OF THE SCOPE OF WORK HERE, BUT THE POLICY
21 WOULD HAVE TO BE SEPARATELY NOTICED.

22 MEMBER JONES: BUT I DON'T HAVE A
23 CONFLICT WITH THE POLICY. I THINK WHAT MR.
24 FRAZEE SAID IS IN READING THAT WE COULD STILL GO
25 AFTER THE ONES THAT DIDN'T DO IT. RIGHT?

1 OR, THE ONES THAT YOU SAID PROVIDED
2 CONFUSING -- HAVE YOU TRIED TO WORK WITH THEM TO
3 GET THAT CONFUSION STRAIGHTENED OUT? IS IT STILL
4 AN ISSUE? IS IT STILL CONFUSED?

MS. GILDART: THEY HAVE NOT RESUBMITTED
6 DATA.

7 MEMBER JONES: THEY HAVEN'T RESUBMITTED
8 IT?

9 MS. GILDART: NO.

10 MEMBER JONES: AND THAT WAS HOW LONG AGO?

11 MS. GILDART: IN JULY.

12 MEMBER JONES: JULY UNTIL NOW?

13 MR. MULLER(?) : THERE WAS ABOUT SIX
14 COMPANIES THAT -- THIS IS JUST BY RECALL, BUT I
15 BELIEVE THERE'S ABOUT SIX COMPANIES THAT FILED
16 WHAT I CALL QUESTIONABLE OR INCOMPLETE
17 CERTIFICATIONS. MOST OF THOSE FAILED TO DOCUMENT
18 EXEMPTION CLAIMS. THERE WAS ABOUT 20 OR 30
19 COMPANIES THAT FILED EXEMPTIONS, ALSO, TO THE
20 LAW, BUT THERE WAS NO REASON TO QUESTION THE
21 EXEMPTION BECAUSE THEY DID DOCUMENT IT.

22 MEMBER FRAZEE: MR. CHAIRMAN, LET ME TRY
23 ONE MORE TIME HERE.

24 CHAIRMAN PENNINGTON: OKAY.

25 MEMBER FRAZEE: I'M LOOKING AT A DOCUMENT

1 THAT'S HEADED SCOPE OF WORK FOR RECYCLED CONTENT
2 NEWSPRINT PROGRAM AUDITS, AND THAT'S WHAT WE'RE
3 DEALING WITH. RIGHT?
4 OKAY. WITHIN THAT SCOPE OF WORK IS
5 -THE SECTION TWO CALLED CONTRACTOR
6 RESPONSIBILITIES. AND THEN FURTHER IN THAT IS
7 THE CONTRACTOR SHALL CONDUCT A MINIMUM OF 20
8 AUDITS OF NEWSPRINT CONSUMERS, AND SPECIFY
9 YOU KNOW, I DON'T SEE WHY WE CAN'T CHANGE THE
10 NUMBERS IN THAT SCOPE OF WORK AND STILL BE IN --
11 MS. TOBIAS: WELL, LET ME SAY IT A
12 DIFFERENT WAY. IT SEEMS TO ME THAT YOU COULD
13 APPROVE THIS SCOPE OF WORK, AND GO BACK AND
14 CHANGE THE NUMBER THAT YOU WANT TO DO.
15 BUT, THAT THIS SCOPE OF WORK
16 BASICALLY APPEARS TO ALLOW FOR UP TO 18 AUDITS.
17 SO, SO LONG AS WHATEVER YOU CHANGE, IN TERMS OF
18 THE POLICY, COMES IN AT 18 OR LESS AUDITS THEN
19 YOU'RE FINE. IF YOU THEN CHOOSE A POLICY THAT
20 INVOLVES MORE THAN 18 AUDITS, THEN YOU'LL HAVE TO
21 COME BACK AND CHANGE WHAT YOU'VE CONTRACTED FOR.
22 DOES THAT MAKE SENSE?
23 CHAIRMAN PENNINGTON: NO.
24 MEMBER FRAZEE: OKAY. BUT IT'S ACTUALLY
25 20.

1 MS. TOBIAS: WELL, WHATEVER THE NUMBER
2 IS.

3 CHAIRMAN PENNINGTON: YOU MEAN IF WE WANT
4 TO CHANGE THAT NUMBER WE HAVE TO HAVE A WHOLE
5 DIFFERENT ---

6 MS. TOBIAS: NO. NO, NO, NO, NO. NO,
7 I'M TALKING ABOUT CHANGING THE CRITERIA. I'M
8 SAYING THAT IF YOU WANT TO APPROVE THIS TONIGHT,
9 AND YOU WANT -- AND YOU'RE APPROVING IT FOR 20,
10 THAT'S WHAT YOU'RE APPROVING IN TERMS OF YOUR
11 SCOPE OF WORK.

12 IF YOU WANT TO GO BACK IN A SEPARATE
13 AGENDA ITEM AND CHANGE YOUR CRITERIA, THAT'S A
14 SEPARATE ISSUE. YOU JUST HAVE TO MAKE SURE THAT
15

16 CHAIRMAN PENNINGTON: SO IF WE WANT TO
17 CHANGE IT FROM NON-COMPLIANT NEWSPAPER GROUP, OR
18 CONSUMER GROUP, TO NON-FILERS, WE'D HAVE TO SEND
19 IT BACK?

20 MS. TOBIAS: IF YOU -- THAT'S RIGHT, IF
21 YOU --

22 MEMBER JONES: THEY'RE STILL NON 2 COMPLIANT. BY NOT
FILING THEY'RE NON-COMPLIANT,
24 IT'S SEMANTICS.

25 MS. GILDART: BUT IF IT'S ONLY ONE ENTITY

1 WHO HAS NOT FILED THEN WE WOULD BE AUDITING ONE
2 ENTITY.

3 CHAIRMAN PENNINGTON: WELL, THAT'S NOT
4 REALLY THE QUESTION THAT I'M ASKING.

5 MS.-GILDART: KAY

6 CHAIRMAN PENNINGTON: I'M ASKING ABOUT --
7 IT SEEMS LIKE TO ME THAT WHAT THE LEGAL COUNSEL
8 IS SAYING, THAT ALMOST ANY CHANGE WE MAKE MEANS
9 THAT WE'VE GOT TO SEND IT BACK.

10 SUPPOSE WE WANT TO SAY 12 FIELD
11 AUDITS?

12 MS. GILDART: RANDOMLY SELECTED? WOULD
13 THERE BE DIRECTION ON HOW WE CHOSE THEM?

14 CHAIRMAN PENNINGTON: DIDN'T SAY ANYTHING
15 ABOUT RANDOMLY SELECTED, IN THAT.... UP HERE,
16 WHERE IT SAYS "THE CONTRACTOR SHALL CONDUCT A
17 MINIMUM OF 20 FIELD AUDITS OF NEWSPRINT
18 CONSUMERS," AND IF WE SAID, WELL, LET'S CHANGE
19 THAT TO 20, LET'S CHANGE IT TO 12, DOES THAT MEAN
20 WE'D HAVE TO SEND THIS BACK, THAT WE'D HAVE TO
21 REJECT THIS?

22 ISN'T THAT WHAT YOU'RE GETTING OUT OF
23 IT?

24 MS. GILDART: I BELIEVE WHAT WOULD
25 HAPPEN, IF YOU'D CONTINUE THROUGH THAT PARAGRAPH,

1 WE FURTHER EXPLAINED THAT THE CONTRACTOR WOULD BE
2 CONDUCTING AT LEAST 18 AUDITS RANDOMLY SELECTED
3 FROM THE NON-COMPLIANT NEWSPRINT CONSUMER GROUP.
4 AND I THINK WHAT KATHRYN IS TRYING TO
5 GET TO IS TRYING TO GET TO IS, IF YOUR POLICY AND
6 CRITERIA CHANGE LATER WE MAY NOT WANT TO LOOK
7 SOLELY AT THE NON-COMPLIANT GROUP, WE MAY WANT TO
8 LOOK ACROSS THE WHOLE SPECTRUM. AND THAT'S WHAT
9 SHE'S CONCERNED ABOUT.

10 MEMBER FRAZEE: IS SOMEONE WHO FILED LATE
11 NON-COMPLIANT?

12 MS. GILDART: YES, IN THE BROAD SENSE OF
13 THE TERM. THERE'S THE LATE FILERS WHO, AFTER WE
14 HAVE RECEIVED THEIR DATA, APPARENTLY ARE IN
15 COMPLIANCE, THOUGH LATE. BUT THEY HAVE STEPPED
16 OUTSIDE OF THE REQUIREMENTS BY BEING LATE. SO,
17 THEY'RE THE MINOR TRANSGRESSOR.

18 THEN THERE'S THE ONES WHO HAVE FILED
19 WHAT WE CALL QUESTIONABLE, OR PERHAPS INACCURATE
20 DATA. AND THEN THERE'S THE ONE COMPANY THAT DID
21 NOT FILE.

22 MS. TOBIAS: LET ME TRY THIS A DIFFERENT
23 WAY. MY QUESTION IS, IS THE AUDIENCE WHO IS
24 INVOLVED ON AUGUST 13TH HERE TONIGHT ON THIS
25 AGENDA ITEM NO. 25? MINE'S A NOTICING ISSUE.

1 WELL, I WOULD BE SURPRISED IF THEY WERE, BUT
2 THAT'S THE ISSUE I'M RAISING.

3 CHAIRMAN PENNINGTON: CNPA WAS HERE.

4 MS. TOBIAS: ARE THERE PEOPLE WHO THOUGHT
5 THAT THE BOARD WAS GOING TO USE THESE AUDIT
6 CRITERIA, AND THAT'S WHAT THEY WANTED YOU TO GO
7 AFTER? IF YOU NARROW IT DOWN, AND YOU'RE GOING
8 AFTER A SMALLER GROUP, ARE THERE PEOPLE WHO
9 DIDN'T GET IT?

10 NOW, OBVIOUSLY, THIS IS A
11 HYPOTHETICAL, BUT IT'S THE NOTICING ISSUE THAT
12 I'M RAISING, AND IT'S FOR THE BOARD TO PROVIDE,
13 I'M JUST RAISING THE ISSUE.

14 MEMBER FRAZEE: IN WHAT OTHER DOCUMENT IS
15 THE 20 STATED?

16 MS. GILDART: THE RESOLUTION ADOPTED BY
17 THE BOARD ON AUGUST 13TH HAD SPECIFIED THAT THERE
18 WOULD BE TWO AUDITS OF COMPLIANT NEWSPRINT
19 CONSUMERS --

20 MEMBER FRAZEE: OKAY.

21 MS. GILDART: -- AND 18 NEWSPRINT
22 CONSUMERS THAT FILED LATE, DELINQUENT, OR
23 QUESTIONABLE CERTIFICATIONS. SO WE WERE TAKING
24 THE BOARD'S ACTION FROM AUGUST 13TH AND PUTTING
25 THAT INTO THE SCOPE OF WORK. SO, IT WASN'T JUST

1 A, YOU KNOW, STAFF-CHOSEN NUMBER, WE WERE
2 IMPLEMENTING YOUR DIRECTION.

3 MEMBER EATON: MR. CHAIRMAN?

4 CHAIRMAN PENNINGTON: WELL, I THINK WE
5 -UNDERSTAND -- YES?

6 MEMBER EATON: LET ME JUST TRY AND HELP
7 THIS. ASSUMING NOTHING TAKES PLACE WITH THE
8 SCOPE OF WORK THIS EVENING, IS THERE ANY
9 PREJUDICE TO ANYONE, OR HARM, BY NOT GOING
10 FORWARD WITH THIS SCOPE OF WORK?

11 MS. GILDART: NO. IT'S JUST A TIGHT TIME
12 LINE.

13 MEMBER EATON: ALL RIGHT. SO WHAT I'M
14 HEARING IS THAT THERE SEEMS TO BE A CONCERN OVER
15 THE PREVIOUS POLICY, AND THAT INCLUDES -- AND
16 THEN YOU GET INTO THE NOTICE REQUIREMENTS.
17 WHY DON'T WE SIMPLY JUST BRING IT
18 BACK EITHER NEXT MONTH? YOU KNOW, I THINK
19 THERE'S SOME NEW THINKING ON IT WITH REGARD TO
20 SOME OF THE COMPLIANT/NON-COMPLIANT TYPE OF
21 AUDITS. IF IT'S NO HARM, IT'S NOT SOMETHING WE
22 HAVE TO GO BACK THROUGH.

23 WE SOLVE THE NOTICE PROBLEM AT THE
24 SAME TIME, AND I THINK IT GIVES ANOTHER CHANCE TO
25 LOOK AT THE POLICY AND NOT BE SO INJURIOUS TO

1 THOSE WHO HAVE MADE ARGUMENTS THIS EVENING. IF
2 IT'S NOT, WE BRING IT BACK NEXT MONTH, IT SOLVES
3 A LOT OF PROBLEMS. IF THAT'S FAIR TO EVERYONE?
4 BECAUSE, I THINK THERE ARE VALID
5 POINTS BOTH ON THE POLICY LEVEL, WHICH WAS JUST
6 BROUGHT UP BY MR. FRAZEE AND SENATOR ROBERTI, AS
7 WELL AS PERHAPS THE OTHER RISK, AND THE ISSUES
8 THAT YOU'VE JUST RAISED TONIGHT. AND IF IT'S NOT
9 A HARM TO STAFF, LIKE IT'S GOING TO -- YOU KNOW,
10 IT'S BEEN AROUND SINCE AUGUST, I'M NOT REALLY
11 SURE IT'S REALLY GOING TO HURT ANYONE. SO IF WE
12 COULD JUST DO THAT, I THINK THAT WOULD PROBABLY
13 BE THE SAFEST THING.

14 CHAIRMAN PENNINGTON: I AGREE. AND I
15 THINK WE OUGHT TO LOOK AT -- YOU KNOW, THE
16 INDUSTRY SAYS FINE THEM, AND THAT'S WHAT WE DO
17 WITH THOSE WHO DON'T COMPLY BY NOT FILING WITH
18 US. MAYBE WE SHOULD TAKE A LOOK AT THAT AND SEE
19 IF THAT'S A BETTER WAY TO DO THIS THAN SLAPPING
20 THEM WITH AN AUDIT.

21 MS. GILDART: COULD I SEEK ONE POINT OF
22 CLARIFICATION? I DON'T KNOW IF KATHRYN CAN HELP
23 US, OR -- GIVEN THAT WE HAVE --

24 CHAIRMAN PENNINGTON: ARE YOU SUGGESTING
25 THAT WE'RE NOT CLEAR ON EVERYTHING WE DO HERE?

1 MS. GILDART: WELL, I'M JUST A NON-
2 CONVERSANT ENGINEER, SO I NEED THINGS VERY
3 CAREFULLY SPELLED OUT.

4 THE POINT OF CLARIFICATION, WE HAVE A
5 BOARD RESOLUTION THAT DIRECTED STAFF TO DO"
6 SOMETHING, AND RATHER THAN JUST HAVE THIS SCOPE
7 OF WORK SENT BACK AND BROUGHT BACK LATER, DO WE
8 NEED FURTHER DIRECTION SO WE CAN TAKE ACTION?

9 (THE PARTIES SIMULTANEOUSLY SPEAK.)

10 MEMBER EATON: -- IS WHAT YOU'RE ASKING.

11 MS. GILDART: YEAH.

12 CHAIRMAN PENNINGTON: YOU'VE COMPLIED
13 WITH THAT. WE TOLD YOU TO BRING IT BACK, AND YOU
14 BROUGHT IT BACK, RIGHT?

15 MS. GILDART: BUT IF YOU'RE TELLING US TO
16 COME BACK NEXT MONTH, WE NEED DIRECTION ON HOW WE
17 WOULD CHANGE IT FROM THE RESOLUTION --

18 MEMBER EATON: I DON'T THINK THAT YOU
19 WOULD COME BACK NEXT MONTH AND CHANGING -- I
20 THINK WHAT WE'RE GOING TO DO IS, WE'RE GOING TO
21 RE-NOTICE THE ITEM BOTH ON A POLICY LEVEL, AND AT
22 THE SAME TIME A SCOPE OF WORK, AND THEN WE CAN
23 FILL IN THE AMENDMENT WITH THE SCOPE OF WORK
24 BECAUSE WE WILL HAVE SUCCESSFULLY COMPLETED THE
25 POLICY DISCUSSION INITIALLY, AND THEN THE ITEM,

1 THEREAFTER, WOULD BE THE SCOPE OF WORK.
2 ASSUMING, OF COURSE, THAT WE AGREE THAT THE SCOPE
3 OF WORK SHOULD EVEN GO FORWARD AFTER WE'VE HAD
4 THE POLICY DISCUSSION. BUT WE HAVE TO DO A WHOLE
5 RE-NOTICE OF BOTH IS WHAT I UNDERSTAND.

6 MEMBER JONES: MR. CHAIRMAN?

7 CHAIRMAN PENNINGTON: MR. JONES.

8 MEMBER JONES: IT SEEMS TO ME THAT WE
9 HAVE TO HAVE THREE ITEMS -- NO, WAIT A SECOND,
10 MARTHA, DON'T GO NUTS. BECAUSE I'M GETTING A
11 LITTLE BIT SIDEWAYS ON THIS, ON THE POLICY. THE
12 POLICY, IN MY MIND, IS THE PROGRAM AND HOW WE'RE
13 GOING TO ENFORCE IT. THE OPERATIONAL ISSUE THAT
14 IS ASSIGNED TO THAT POLICY IS THAT DOCUMENT THAT
15 LAID OUT 20. OKAY?

16 I SEE THEM AS TWO DIFFERENT THINGS,
17 BECAUSE OUR ISSUE WAS TO DO ENFORCEMENT, YOU
18 KNOW, I MEAN TO ENFORCE THE LAW. AND AS PART OF
19 THAT DISCUSSION WHICH CENTERED AROUND POLICY WE
20 INSTRUCTED GO OUT, DO 20, DO 18 AND 20. I DON'T
21 KNOW THAT THAT'S A POLICY DECISION ON HOW WE'RE
22 GOING TO ENFORCE NEWSPRINT, I THINK IT IS THAT --
23 THE PARAMETERS WITHIN WHICH YOU OPERATE, AS FAR
24 AS, YOU KNOW, PUTTING A SCOPE OF WORK TOGETHER.
25 I SEE THOSE AS DIFFERENT.

1 AND I GET A LITTLE NERVOUS WHEN
2 SOMETHING COMES FORWARD THAT WE, I THINK, COULD
3 WORK THROUGH AND FIX THIS THING, AND MOVE ON, BUT
4 WE CAN'T BECAUSE WE CALL IT A POLICY ISSUE THAT
5 THE -STAKEHOLDERS AREN'T HERE FOR. I DON'T SEE IT
6 THAT WAY.

7 50, I THINK WE NEED TO DEAL WITH THIS
8 ON THREE LEVELS, BECAUSE THERE IS AN OVERRIDING
9 POLICY AS TO WHETHER OR NOT WE ARE GOING TO
10 ENFORCE, AND THEN THE OTHER PIECE IS HOW WE'RE
11 GOING TO ENFORCE.

12 MS. TOBIAS: SO I GUESS WHAT I HEAR YOU
13 SAYING IS WHAT YOU'D REALLY -- AND WHAT I THOUGHT
14 WE WERE GOING TO DO, IS WE'RE GOING TO RECONSIDER
15 WHAT THE BOARD DID ON AUGUST 13TH --

16 MEMBER JONES: RECONSIDER THE SPECIFICS
17 OF THAT. BUT I DON'T SEE THAT AS A POLICY. I
18 SEE THAT AS THE OPERATING --

19 MS. TOBIAS: WELL, WHAT IT WAS CALLED --
20 (THE PARTIES SIMULTANEOUSLY SPEAK.)

21 MEMBER JONES: -- THAT THAT GOES ALONG,
22 YOU KNOW --

23 MS. TOBIAS: WHAT IT WAS CALLED WAS AN
24 EVALUATION OF AUDIT CRITERIA. YOU CAN CALL IT
25 ANYTHING YOU WANT. WHAT I'M SAYING IS THAT THE

1 BOARD ADOPTED, BASICALLY, THE DIRECTION THAT WAS
2 PRESENTED IN THE STAFF REPORT ON THAT.

3 MEMBER JONES: UNDERSTOOD. AND THAT
4 CORRECTION, WHEN YOU READ IT TO MR. FRAZEE AND
5 -THE REST OF US GAVE US SOME FLEXIBILITY. IT'S
6 WHEN WE GOT TO THE SPECIFICS THAT WE SAID 18 AND
7 TWO IS WHERE WE SEEM TO DEPART FROM THE TRACK.
8 AND THAT'S ALL I'M SAYING, IS IT DOESN'T MAKE ANY
9 SENSE TO ME. I MEAN, IT JUST SEEMS LIKE --

10 MS. TOBIAS: WELL, LET ME TRY THIS AGAIN
11
12 (THE PARTIES SIMULTANEOUSLY SPEAK.)

13 MEMBER JONES: -- BE ABLE TO GET YOUR
14 WORK DONE WITHOUT ALWAYS HAVING TO PUT IT OVER.

15 CHAIRMAN PENNINGTON: WHY DON'T WE JUST
16 SEND IT BACK?

17 MEMBER JONES: WE'RE GOING TO HAVE TO.
18 BUT IT JUST DOESN'T MAKE ANY SENSE.

19 CHAIRMAN PENNINGTON: ANYBODY WANT TO TRY
20 A MOTION HERE?

21 MEMBER EATON: I MOVE THAT WE SEND IT
22 BACK.

23 CHAIRMAN PENNINGTON: SECOND.

24 MEMBER ROBERTI: TO WHOM ARE WE SENDING
25 IT?

1 CHAIRMAN PENNINGTON: TO THE STAFF.

2 MS. TOBIAS: WHAT I UNDERSTAND THAT WE'LL
3 BE LOOKING AT IS THAT WE WILL BE RE-LOOKING AT
4 THE EVALUATION AUDIT CRITERIA THAT WAS ADOPTED AS
5 POLICY IN 1995, AND BROUGHT BACK IN AUGUST 1998,
6 THAT -- THEN DIRECT THE SCOPE OF WORK. AND I
7 ALSO UNDERSTAND THAT THE BOARD WISHES TO CONSIDER
8 OTHER SANCTIONS, SUCH AS FINES, FOR LATE
9 COMPLIANCE.

10 SO WHAT I'M ANTICIPATING THE ITEM
11 WILL LOOK LIKE IS THAT IT WILL GO BACK OVER THESE
12 AUDIT CRITERIA, AND OBVIOUSLY SOME WILL BE TAKEN
13 OUT. THERE MAY BE SOME THAT STAFF WANTS TO
14 CONTINUE TO RECOMMEND TO YOU. THERE WILL BE A
15 DISCUSSION OF OTHER SANCTIONS FOR LATE
16 COMPLIANCE, AND ANY OTHER ENFORCEMENT ISSUES THAT
17 COME UP AS A RESULT OF THIS DISCUSSION.

18 CHAIRMAN PENNINGTON: MR. EATON'S MOTION
19 IS THAT THIS BE RETURNED TO THE STAFF FOR
20 CONSIDERATION AND REVISION, AND FOR EXPEDIENCE
21 SAKE I'LL SECOND THAT. OKAY?

22 MEMBER ROBERTI: SECOND.

23 CHAIRMAN PENNINGTON: GIVE IT TO THE
24 SENATOR.

25 MEMBER ROBERTI: WHOEVER.

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

4 THE SECRETARY: BOARD MEMBER EATON?

5 MEMBER EATON: AYE.

6 THE SECRETARY: FRAZEE?

7 MEMBER FRAZEE: AYE.

8 • THE SECRETARY: JONES?

9 MEMBER JONES: AYE.

10 THE SECRETARY: ROBERTI?

11 MEMBER ROBERTI: AYE.

12 THE SECRETARY: CHAIRMAN PENNINGTON?

13 CHAIRMAN PENNINGTON: AYE.

14 MOTION CARRIES.

15 MR. EWERT: CHAIRMAN AND BOARD MEMBERS,

16 THANK YOU VERY MUCH.

17 CHAIRMAN PENNINGTON: IT'S GOING ON SIX

18 O'CLOCK, I DON'T KNOW WHETHER -- DO WE NEED TO DO

19 YOU NOW? I MEAN, WE CAN DO IT.

20 MS. GILDART: THERE ARE ADDITIONAL

21 CONTRACT ITEMS THAT WOULD --

22 CHAIRMAN PENNINGTON: WELL, WE'RE GOING

23 TO COME IN TOMORROW MORNING.

24 MS. TOBIAS: THERE'S A QUESTION HERE --

25 CHAIRMAN PENNINGTON: SURE, BREAK. JUST

1 LET ME REMIND YOU, IF WE GO OUTSIDE THIS ROOM
2 WE'RE LOCKED IN HERE, YOU CAN'T GET BACK IN
3 UNLESS YOU PROP THE DOOR OPEN.
4 (OFF THE RECORD.)

ITEM NO. 21: CONSIDERATION AND APPROVAL OF

6 SCOPE OF WORK AND AWARD OF CONTRACT FOR THE 1999
7 GRASSCYCLING PUBLIC EDUCATION CAMPAIGN TO THE
8 WASTE SYSTEMS DIVISION FOR THE COUNTY OF SAN
9 BERNARDINO

10 CHAIRMAN PENNINGTON: ITEM 21, 22, AND
11 24.

12 MR. LEVENSON: THANK YOU MR. CHAIRMAN AND
13 BOARD MEMBERS. THESE THREE ITEMS ALL STEM FROM
14 OUR STRATEGIC PLANNING PROCESS, WITH ORGANIC
15 MATERIALS BEING A PRIORITY AREA. AND THREE OF
16 THE TARGETS -- OR, TWO OF THE TARGETS IN OUR
17 GREENING TEAM PLAN SPEAK TO GRASSCYCLING,
18 LANDSCAPING AND END-USE OUTREACH, WHICH IS THE
19 SUBJECT OF THESE THREE ITEMS.

20 AND THIS SLIDE WAS GOING TO OVERVIEW
21 THE CONTRACTS THAT HAVE BEEN APPROVED BY THE
22 BOARD, AT LEAST THE CONTRACT CONCEPTS. EACH ONE
23 IS COVERED BY ONE OF THESE ITEMS. THERE WAS
24 \$450,000 FOR REGIONAL GRASSCYCLING CAMPAIGNS,
25 THAT'S ITEM NO. 21, 170,000 FOR LANDSCAPE

1 MANAGEMENT OUTREACH, THAT'S ITEM 22, AND 375,000
2 FOR END-USE OUTREACH, AND THAT'S ITEM 24. AND
3 THESE ITEMS SPEAK TO PARTS OF THOSE CONTRACT
4 CONCEPTS.
5 SO ITEM 21 IS SEEKING YOUR APPROVAL
6 FOR THE SCOPE OF WORK AND AWARD OF A CONTRACT FOR
7 THE INLAND EMPIRE GRASSCYCLING CAMPAIGN.
8 SPECIFICALLY \$200,000 TO THE WASTE SYSTEMS
9 DIVISION OF SAN BERNARDINO COUNTY, WHICH WOULD
10 ACT AS THE FISCAL AGENT ON BEHALF OF THE SAN
11 BERNARDINO AND RIVERSIDE COUNTY, AND
12 JURISDICTIONS WITHIN THOSE COUNTIES.
13 THE GOAL OF THIS PARTICULAR CAMPAIGN
14 IS TO DIVERT 10 PERCENT OF THE 246,000 TONS OF
15 CLIPPINGS GENERATED ANNUALLY. THE PRIMARY
16 AUDIENCE IS HOMEOWNERS AND RESIDENTS.
17 AND THE SCOPE OF WORK INCLUDES A
18 REQUIREMENT FOR MATCHING FUNDS AND IN-KIND
19 SERVICES. THE CAMPAIGN HAS GOT OVER \$270,000 IN
20 COMMITMENTS OF MATCHING FUNDS AND IN-KIND
21 SERVICES, WHICH SUE PETANI(PHON), WHO'S HERE ON
22 BEHALF OF THE COUNTY, CAN DETAIL -- CAN PROVIDE
23 YOU MORE DETAILS ON IT IF YOU WISH.
24 IT WOULD CALL FOR A REGIONAL STEERING
25 COMMITTEE. AND THE BASIC TASKS IN THE SCOPE OF

1 WORK ARE TO PLAN THE CAMPAIGN AND HAVE THE
2 STEERING COMMITTEE COORDINATE THE VARIOUS ASPECTS
3 OF IT. TO DEVELOP ADVERTISING, SOME PUBLIC
4 SERVICE ANNOUNCEMENTS, NEWSPAPER, RADIO
5 ANNOUNCEMENTS AND SO ON, TO DO THE MATERIALS
6 DEVELOPMENT OF BROCHURES, INSERTS, WASTE
7 PREVENTION TABS, VARIOUS PROMOTIONAL ITEMS THAT
8 WOULD BE DISTRIBUTED AT A WIDE RANGE OF DIFFERENT
9 ACTIVITIES, TO TRACK PARTICIPATION IN THOSE
10 ACTIVITIES.
11 AND THEN, LASTLY, TO ALSO HAVE AN
12 INDEPENDENT ASSESSMENT CONDUCTED -- THE
13 EFFECTIVENESS OF THIS CAMPAIGN AND ANY OTHER
14 CAMPAIGNS THAT WE WOULD BRING FORWARD TO YOU IN
15 THE NEXT MONTH OR SO. THAT PARTICULAR PART IS
16 ALLOCATED \$50,000 OUT OF THE 200, AND DOES NOT
17 HAVE A MATCHING FUND REQUIREMENT.
18 WE'VE INCLUDED IT IN HERE BASICALLY
19 TO -- FOR A COUPLE OF REASONS. ONE IS TO
20 EXPEDITE IT, SO WE CAN MAKE SURE WE HAVE AN
21 INDEPENDENT PRE-SURVEY CONDUCTED BEFORE ANY
22 ACTIVITIES TAKE PLACE, AND ALSO TO MAKE SURE THAT
23 THERE'S CONSISTENCY IN HOW THE INDEPENDENT
24 ASSESSMENT IS CONDUCTED ACROSS IF WE DO MULTIPLE
25 REGIONS.

1 SO THAT'S ALL I HAVE ON THAT ITEM.

2 STAFF WOULD REQUEST THAT YOU ADOPT

3 OPTION NUMBER ONE, AND APPROVE RESOLUTION 99-15.

4 AND I'D BE HAPPY TO ANSWER ANY QUESTIONS --

5 CHAIRMAN PENNINGTON QUESTIONS ON THIS?

6 MEMBER EATON: I'D JUST LIKE TO THANK

7 HOWARD, BECAUSE I REALLY PUSHED FOR THE

8 INDEPENDENT ASSESSMENT, I THOUGHT THAT WAS A

9 THING THAT WE NEEDED TO VERIFY, AND TO GET SOME

10 MEASUREMENT TOOL.

11 AND WHEN YOU SAY THE TASK FORCE, ARE

12 WE PART OF THAT TASK FORCE? I MEAN, BOARD, BOARD

13 STAFF?

14 MR. LEVENSON: ON THE REGIONAL STEERING -

15

16 MEMBER EATON: YEAH.

17 MR. LEVENSON: WE ARE, BY DINT

18 (PHON) OF BEING THE CONTRACT MANAGER, INVOLVED IN

19 APPROVING ALL OF THE ACTIVITIES AND SO ON.

20 MEMBER EATON: SO WHEN YOU USE THE WORD

21 INDEPENDENT, I MEAN, IS IT --

22 MR. LEVENSON: THIS IS GOING TO BE AN

23 INDEPENDENT, IT IS NOT GOING TO BE THE REGIONAL

24 STEERING COMMITTEE --

25 MEMBER EATON: THAT'S WHAT I WAS ASKING.

1 THAT'S FINE.

2 MR. LEVENSON: RIGHT.

3 MEMBER JONES: 99-15?

4 MEMBER EATON: I'LL MOVE WE ADOPT

5 RESOLUTION 99-15.

6 MEMBER JONES: I'LL SECOND IT.

7 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN

8 MOVED BY MR. EATON, SECONDED BY MR. JONES, THE

9 ADOPTION OF RESOLUTION 99-15, TO APPROVE THE

10 SCOPE OF WORK AND AWARDED OF CONTRACT IN THE

11 AMOUNT OF 200,000 FOR FISCAL YEAR '98-99 IN THE

12 COUNTY OF SAN BERNARDINO FOR THE 1999

13 GRASSCYCLING PUBLIC EDUCATION CAMPAIGN.

14 IF THERE'S NO FURTHER QUESTIONS, WILL

15 THE SECRETARY CALL THE ROLL, PLEASE?

16 THE SECRETARY: BOARD MEMBER EATON?

17 MEMBER EATON: AYE.

18 THE SECRETARY: FRAZEE?

19 MEMBER FRAZEE: AYE.

20 THE SECRETARY: JONES?

21 MEMBER JONES: AYE.

22 THE SECRETARY: ROBERTI?

23 MEMBER ROBERTI: AYE.

24 THE SECRETARY: CHAIRMAN PENNINGTON?

25 CHAIRMAN PENNINGTON: AYE.

1 MOTION CARRIES.

2 ITEM NO. 22: CONSIDERATION AND APPROVAL OF
3 THE SCOPE OF WORK AND AWARD OF CONTRACT FOR THE
4 LANDSCAPE MANAGEMENT OUTREACH PROGRAM TO THE
5 WASTE SYSTEMS DIVISION FOR THE COUNTY OF SAN
6 BERNARDINO

7 CHAIRMAN PENNINGTON: NOW WE MOVE TO ITEM
8 NO. 22.

9 MR. LEVENSON: OKAY, 22 I WILL BE A
10 LITTLE QUICKER ON. WE ARE HERE SEEKING -- THIS
11 IS THE LANDSCAPE MANAGEMENT OUTREACH ASPECT OF
12 THE GREENING TEAM PLAN.
13 AND WE ARE SEEKING YOUR APPROVAL OF
14 THE SCOPE OF WORK AND AWARD OF A CONTRACT, AGAIN,
15 IN THIS CASE TO WASTE SYSTEMS DIVISION FOR SAN
16 BERNARDINO COUNTY TO CONDUCT EDUCATIONAL OUTREACH
17 ACTIVITIES ORIENTED TOWARDS THE COMMERCIAL
18 LANDSCAPING INDUSTRY.

19 I NOTIFIED ALL THE BOARD MEMBERS THAT
20 THIS ITEM ORIGINALLY INCLUDED ORANGE COUNTY, AN
21 AWARD OF A CONTRACT, AND AT ORANGE COUNTY'S
22 REQUEST WE'VE PULLED THAT AND WE WILL BE BRINGING
23 THAT BACK TO YOU NEXT MONTH. SO, THE RESOLUTION
24 THAT IS IN THE AGENDA ITEM ONLY REFERS TO SAN
25 BERNARDINO COUNTY.

1 MEMBER ROBERTI: MOVE THE ADOPTION OF
2 ITEM 99-14.

3 MEMBER FRAZEE: SECOND.

4 CHAIRMAN PENNINGTON: IT IS MOVED BY
5 SENATOR ROBERTI, SECONDED BY MR. FRAZEE, THE
6 ADOPTION OF 99-14, TO APPROVE THE SCOPE OF WORK
7 AND AWARD OF CONTRACT IN THE AMOUNT OF 49,000 FOR
8 FISCAL YEAR '98-99 IN THE COUNTY OF SAN
9 BERNARDINO, LANDSCAPE MANAGEMENT OUTREACH
10 PROGRAM.

11 IF THERE'S NO FURTHER DISCUSSION,
12 WILL THE SECRETARY CALL THE ROLL, PLEASE?

13 THE SECRETARY: BOARD MEMBER EATON?

14 MEMBER EATON: AYE.

15 THE SECRETARY: FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: ROBERTI?

20 MEMBER ROBERTI: AYE.

21 THE SECRETARY: CHAIRMAN PENNINGTON?

22 CHAIRMAN PENNINGTON: AYE.

23 MOTION CARRIES.

24

25 ITEM NO 24: CONSIDERATION AND APPROVAL OF

1 SCOPE OF WORK AND INTERAGENCY AGREEMENT WITH THE
2 UNIVERSITY OF CALIFORNIA AT RIVERSIDE FOR COMPOST
3 AND MULCH END-USE OUTREACH

4 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM
5 NO. 24, CONSIDERATION AND APPROVAL OF SCOPE OF
6 WORK AND INTERAGENCY AGREEMENT WITH THE
7 UNIVERSITY OF CALIFORNIA AT RIVERSIDE FOR COMPOST
8 AND MULCH END-USE OUTREACH.
9 MR. LEVENSON: AGAIN THIS ITEM IS SEEKING
10 YOUR APPROVAL OF THE SCOPE OF WORK AND THE AWARD
11 OF AN INTERAGENCY AGREEMENT TO THE UNIVERSITY OF
12 CALIFORNIA AT RIVERSIDE FOR \$75,000 OUT OF THE
13 ORIGINAL 375 APPROVED FOR THIS CONTRACT CONCEPT.
14 WE HAVE AN RFP OUT ON THE STREETS FOR
15 THE OTHER 300,000. PROPOSALS ARE DUE FRIDAY, AND
16 WE'LL BE BRINGING THAT BACK TO YOU IN MARCH FOR
17 THE AWARD OF CONTRACTS.
18 THIS SPECIFICALLY WOULD BE WITH THE
19 U.C. COOPERATIVE EXTENSION WASTE MANAGEMENT WORK
20 GROUP, WHICH HAS MEMBERS THROUGHOUT THE U.C.
21 SYSTEM, AND IT WOULD BE FOR CONDUCTING A VARIETY
22 OF WORKSHOPS, FIELD DAYS, FACT SHEETS, NEWS
23 BULLETINS, AND THEN ALSO TRACKING THE
24 EFFECTIVENESS OF THAT OUTREACH.
25 WE WOULD RECOMMEND THAT YOU ADOPT

1 OPTION ONE, WHICH IS IN RESOLUTION 99-16.

2 MEMBER JONES: MR. CHAIRMAN?

3 CHAIRMAN PENNINGTON: MR. JONES.

4 MEMBER JONES: I MOVE RESOLUTION 99-16.

5 MEMBER ROBERTI: I- SECOND IT.

6 CHAIRMAN PENNINGTON: IT HAS BEEN MOVED

7 BY MR. JONES, SECONDED BY SENATOR ROBERTI, THE

8 ADOPTION OF RESOLUTION 99-16, TO APPROVE THE

9 SCOPE OF WORK AND INTERAGENCY AGREEMENT WITH THE

10 UNIVERSITY OF CALIFORNIA AT RIVERSIDE IN THE

11 AMOUNT OF \$75,000 FOR FISCAL YEAR '98-99 FOR

12 COMPOST AND MULCH END-USE OUTREACH.

13 WHAT ABOUT 23?

14 MR. LEVENSON: TWENTY-THREE WILL BE

15 PRESENTED BY STEVE AUSTRHEIM-SMITH.

16 CHAIRMAN PENNINGTON: OKAY, ITEM NO. 23,

17 CONSIDERATION --

18 MEMBER FRAZEE: WE DIDN'T VOTE ON THAT --

19 CHAIRMAN PENNINGTON: OH, SORRY. WELL,

20 WAS MOVING REAL FAST, HUH?

21 WILL THE SECRETARY CALL THE ROLL ON

22 THE ADOPTION OF RESOLUTION 99-16?

23 THE SECRETARY: BOARD MEMBER EATON?

24 MEMBER EATON: AYE.

25 THE SECRETARY: FRAZEE?

1 MEMBER FRAZEE: AYE.
2 THE SECRETARY: JONES?
3 MEMBER JONES: AYE.
4 THE SECRETARY: ROBERTI?
5 MEMBER ROBERTI: AYE.
6 THE SECRETARY: CHAIRMAN PENNINGTON?
7 CHAIRMAN PENNINGTON: AYE.
8 MOTION CARRIES.
9 WE'LL MOVE TO --
10 MEMBER EATON: MR. CHAIR?
11 CHAIRMAN PENNINGTON: YES.
12 MEMBER EATON: COULD I JUST ASK HOWARD --
13 HOWARD, YOU WERE HERE AND YOU HEARD ABOUT WE HAD
14 A PROBLEM WITH COMPLIANCE WITH COACHELLA, AS IT
15 RELATED --
16 MR. LEVENSON: NO, I WAS NOT HERE FOR
17 THAT ITEM THIS MORNING.
18 MEMBER EATON: OKAY. WELL, WE HAD A
19 COMPLIANCE ORDER, AND SINCE I KNOW THIS COVERS
20 RIVERSIDE, IT MIGHT BE A GOOD IDEA TO KIND OF
21 MAKE A SPECIAL OUTREACHING TO THEM, AND SHOW HOW
22 -- IF THIS INVOLVES EDUCATION, AND SOME OF THE
23 OTHER KINDS OF THINGS, SINCE THEY ARE ON A
24 COMPLIANCE ORDER. A SPECIAL LITTLE OUTREACH TO
25 THEM SO IT MIGHT HELP THEM ALONG TO COMPLY WITH

1 THEIR SCHEDULE .
2 ITEM NO. 23: CONSIDERATION AND APPROVAL OF
3 SCOPE OF WORK AND AWARD OF CONTRACT TO THE
4 BUILDING INDUSTRY INSTITUTE FOR CONSTRUCTION AND
5 DEMOLITION TRAINING
6 CHAIRMAN PENNINGTON: VERY GOOD. ITEM
7 NO. 23, CONSIDERATION AND APPROVAL OF SCOPE OF
8 WORK AND AWARD OF CONTRACT TO THE BUILDING
9 INDUSTRY INSTITUTE FOR CONSTRUCTION AND
10 DEMOLITION TRAINING.
11 MR. AUSTRHEIM-SMITH: MY NAME IS STEVE
12 AUSTRHEIM-SMITH OF THE WASTE PREVENTION MARKET
13 DEVELOPMENT DIVISION PRESENTING THIS ITEM THIS
14 EVENING. THIS IS FOR A CONTRACT WITH BUILDING
15 INDUSTRY ASSOCIATION FOR \$150,000.
16 THE BUILDING INDUSTRY -- BACK UP JUST
17 A LITTLE BIT -- THE BUILDING INDUSTRY INSTITUTE
18 IS THE TRAINING ARM OF THE CALIFORNIA BUILDING
19 INDUSTRY ASSOCIATION. WE WOULD BE CONTRACTING
20 DIRECTLY WITH THE CALIFORNIA BUILDING INDUSTRY
21 ASSOCIATION TO PROVIDE TRAINING.
22 WE WOULD BE PIGGY-BACKING ON TRAINING
23 THAT'S CURRENTLY FUNDED MOSTLY BY DEPARTMENT OF
24 ENERGY AND THE CALIFORNIA ENERGY COMMISSION.
25 THEIR TRAINING PROGRAMS ARE ALREADY ESTABLISHED,

1 AND WE WOULD BE PIGGY-BACKING WITH THEM AND GOING
2 TO THEIR AUDIENCE OF BUILDERS THROUGHOUT THE
3 STATE.

4 IT'S A RARE OPPORTUNITY FOR US, AND A
5 GREAT WAY TO EXPAND OUR INFORMATION
6 DISSEMINATION, WHICH IS PART OF THE C&D PRIORITY
7 MATERIALS PLAN ALREADY APPROVED AND ADOPTED BY
8 THE BOARD.

9 PRETTY MUCH THAT'S -- I THINK YOU'RE
10 ALL WELL FAMILIAR WITH THIS CONTRACT.

11 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
12 STAFF?

13 MEMBER JONES: MR. CHAIRMAN?

14 CHAIRMAN PENNINGTON: MR. JONES.

15 MEMBER JONES: THIS IS A GREAT STEP I
16 THINK FOR THIS BOARD, THAT'S WHY WE DISCUSSED IT
17 AT LENGTH I THINK A COUPLE OF MONTHS AGO.

18 I'LL MOVE RESOLUTION 99-23.

19 CHAIRMAN PENNINGTON: I'LL SECOND IT.

20 THE ADOPTION OF RESOLUTION 99-23, TO
21 APPROVE THE SCOPE OF WORK AND AWARDED OF
22 CONTRACT IN THE AMOUNT OF \$150,000 FOR FISCAL
23 YEAR '98-99 TO THE BUILDING INDUSTRY INSTITUTE
24 FOR CONSTRUCTION AND DEMOLITION TRAINING WAS
25 MOVED BY MR. JONES, SECONDED BY MR. PENNINGTON.

1 IF THERE'S NO FURTHER DISCUSSION,

2 WILL THE SECRETARY CALL THE ROLL?

3 THE SECRETARY: BOARD MEMBER EATON?

4 MEMBER EATON: AYE.

5 THE SECRETARY: FRAZEE? -

6 MEMBER FRAZEE: AYE.

7 THE SECRETARY: JONES?

8 MEMBER JONES: AYE.

9 THE SECRETARY: ROBERTI?

10 MEMBER ROBERTI: AYE.

11 THE SECRETARY: CHAIRMAN PENNINGTON?

12 CHAIRMAN PENNINGTON: AYE.

13 MOTION CARRIES.

14 ITEM NO. 26, WITHOUT OBJECTION I'LL

15 MOVE THIS BE MOVED TO THE NEXT REGULARLY-

16 SCHEDULED BOARD MEETING.

17 MEMBER JONES: WORKS FOR ME.

18 CHAIRMAN PENNINGTON: NO OBJECTION, SO

19 ORDERED.

20 MEMBER JONES: MR. CHAIRMAN?

21 CHAIRMAN PENNINGTON: YES.

22 MEMBER JONES: JUST REALLY QUICKLY, IF

23 THE BOARD MEMBERS GET A CHANCE TO LOOK AT THE

24 CONDITIONS ON THE PERMITS THAT WE APPROVED TODAY,

25 YOU'LL SEE THE MAXIMUM WAS 17. AND GOING BACK TO

334

1 WHAT WE TALKED ABOUT DOWN AT CITY OF INDUSTRY,
2 ONE OF THEM ACTUALLY ONLY HAD FIVE THAT COVERED
3 EVERYTHING THAT THAT OPERATION. . . . I FORGOT TO
4 BRING IT UP AT THE TIME, I WANTED TO BRING IT UP
5 SO YOU COULD SEE THE DIFFERENCE.

6 VIII. PUBLIC COMMENT

7 CHAIRMAN PENNINGTON: OKAY. THIS COMES
8 TO THE POINT WHERE THERE'S PUBLIC COMMENT, IF
9 ANYBODY IN THE PUBLIC WANTS TO COMMENT. THANK
10 YOU VERY MUCH.

11 IX. ADJOURNMENT

12 CHAIRMAN PENNINGTON: BEFORE I CLOSE THIS
13 MEETING I WANT TO ASK THAT YOU ALL ACKNOWLEDGE
14 MS. KELLY, WHO IS DOING HER LAST DUTIES.
15 (APPLAUSE.)
16 THANK YOU. AND GOOD LUCK MR. EATON.
17 (CONCLUDED AT 6:10 O'CLOCK P.M.)

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

STATE OF CALIFORNIA)

COUNTY OF SOLANO)

I, JANENE BIGGS, authorized to administer oaths pursuant to Section 8211 of the California Code of Civil Procedure, do hereby certify;

That the proceeding was recorded by others and was thereafter transcribed by computer under my direction into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing proceeding and caption named, nor in any way interested in the outcome of the cause named in said caption.

Executed March 3, 1999, at San Rafael, California.



JANENE BIGGS
Official Reporter