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1 SACRAMENTO, CALIFORNIA, NOVEMBER 16, 1999 - 9:30 A.M.

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3 CHAIRMAN EATON: Good morning, everyone,  
4 and welcome to the second day of our November Board  
5 meeting here at the California Integrated Waste Management  
6 Board. We've got what appears to be a short agenda, but  
7 it's long on issues and other matters affecting numerous  
8 items, so we'll get right into it.

9 Madam Secretary, will you please call the  
10 roll.

11 BOARD SECRETARY: Board Members Jones.

12 BOARD MEMBER JONES: Here.

13 BOARD SECRETARY: Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: Here.

15 BOARD SECRETARY: Pennington.

16 BOARD MEMBER PENNINGTON: Here.

17 BOARD SECRETARY: Roberti.

18 Chairman Eaton.

19 CHAIRMAN EATON: Here.

20 All right. Quorum is established.

21 Senator Roberti, I understand, is on his  
22 way. For those of you who were not here yesterday, due to  
23 a couple of considerations in matters being moved around  
24 at the request of a number of individuals, we've taken a  
25 number of items out of order with regard to the agenda.

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1                   Today's agenda, we will complete all the  
2 items that deal with matters affecting whatever is left on  
3 Permits, whatever is left on Special Waste, et cetera, and  
4 then tomorrow we will do our Disposal Reporting item,  
5 which will be an all-day item, and we will finish all of  
6 the other items today and have the one item remaining  
7 tomorrow.

8                   Before we begin, I would ask if there's any  
9 ex parte communications that need to be disclosed.

10                   Mr. Pennington?

11                   BOARD MEMBER PENNINGTON: Yes,  
12 Mr. Chairman.

13                   I got a fax on Agenda Item Number 39, the  
14 SB 675 working groups, recommendations from Chuck Helget,  
15 Ken Stoddard, Mike Falasco, Denise Delmatier and Josh  
16 Pane; a fax on Agenda Item 5, Disposal Reporting System,  
17 from Kimberly Collins Nilsson, Solid Waste Solutions,  
18 Inc.; a letter on Agenda Item 5, Disposal Reporting  
19 System, from Robert Bartlett, Mayor, City of Monrovia; and  
20 a fax from Ed Tomeo from MELP on Item Number 31.

21                   CHAIRMAN EATON: Thank you, Mr. Pennington.

22                   Mr. Jones.

23                   BOARD MEMBER JONES: On the Disposal  
24 Reporting System, Robert Bartlett, Mayor of Monrovia;  
25 Kimberly Nilsson. I got a letter from Donna Carlson

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1 representing the Rubber Asphalt Concrete Association on  
2 the Sacramento RAC Center; and the same letter on 675 by  
3 Chuck Helget, Stoddard, Falasco, Delmatier and Pane; and  
4 one E-mail on Lionudakis, Colleen O'Brien; and then I did  
5 say "hi" to Kelly Aster and a few other folks,  
6 meet-and-greet.

7 CHAIRMAN EATON: Ms. Moulton-Patterson.

8 BOARD MEMBER MOULTON-PATTERSON: Thank you,  
9 Mr. Chair.

10 I received a letter from Councilwoman  
11 Craven from the City of Camarillo asking me to visit;  
12 also a letter from Michael Gersich on the "cartons to  
13 compost" project.

14 And that's it, Mr. Chairman.

15 CHAIRMAN EATON: All right. I will give  
16 the Senator a chance to hopefully get a cup of coffee,  
17 hopefully find a pen, and I will go through and do my ex  
18 parte communications.

19 BOARD MEMBER ROBERTI: Good morning.

20 CHAIRMAN EATON: Good morning.

21 Lillian Kawasaki, City of L.A. regarding  
22 Lake View Terrace project; Lyle Millage regarding Eagle  
23 Mountain Landfill; Donna Carlson, the RAC Center in  
24 Sacramento; Robert Bartlett from the City of Monrovia  
25 regarding Disposal System; Wallace Plueger regarding Eagle

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1 Mountain Landfill; Dorothy Richter regarding Eagle  
2 Mountain Landfill; David Brummond, Santa Barbara County  
3 Public Health Department, regarding the Tajiguas Landfill;  
4 Hugh MacDonald, Eagle Mountain Landfill; Harry Spitz,  
5 Eagle Mountain Landfill; Buddy Cox, Eagle Mountain  
6 Landfill; Al Stadler, Eagle Mountain Landfill; Arledene  
7 Donohew, Eagle Mountain Landfill; Martin Gibson regarding  
8 Eagle Mountain Landfill; H.C. Hollis, Eagle Mountain  
9 Landfill; Jim Greco, California Waste Associates,  
10 regarding Eagle Mountain Landfill; Jacqueline Crowden,  
11 Eagle Mountain Landfill; Molly Bates, Eagle Mountain  
12 Landfill; Kenneth Parker, Eagle Mountain Landfill -- for  
13 those of you in the audience, Eagle Mountain Landfill is  
14 not on today's agenda, but it seems to be getting a lot of  
15 play these days -- Dan Secord regarding Tajiguas Landfill;  
16 I also received the Chuck Helget, Kent Stoddard, Mike  
17 Falasco, Denise Delmatier and Josh Pane, representing  
18 various waste companies, regarding the SB 675 Workgroup  
19 recommendation; Kimberly Nilsson, Solid Waste Solutions,  
20 regarding Disposal Reporting System; and Ed Tomeo  
21 regarding Westley Tire Pile.

22                   Mr. Chandler, do you have any additional  
23 supplemental report?

24                   MR. CHANDLER: No, I do not. Thank you.

25                   CHAIRMAN EATON: Just one second.

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1                   Sorry about that, but as our fax numbers  
2 become more and more public, there are more and more  
3 last-minute communications. One that I think most of the  
4 members received, and Mr. Roberti's office was kind enough  
5 to remind us, is Peggy Langle, Environmental Health  
6 Services Director, we received a fax regarding the  
7 Tajiguas Landfill item on today's agenda.

8                   Senator, do you need a few more minutes?

9                   BOARD MEMBER ROBERTI: I have them.

10                  CHAIRMAN EATON: Okay.

11                  BOARD MEMBER ROBERTI: Mr. Chairman, I  
12 spoke to Mr. Doug Grimm regarding "Project Wheatstraw to  
13 Animal Feed" and a potentiality of a contract regarding  
14 that. I spoke to Councilman John Ferraro, City of Los  
15 Angeles, regarding Eagle Mountain and Sunshine Canyon,  
16 both of these conversations yesterday, November 15th.

17                  CHAIRMAN EATON: All right. What we're  
18 going to do this morning, we are going to take up the  
19 items that were moved from yesterday's agenda, that being  
20 the Downey and the Lakewood items, right after we take up  
21 the SB 675 report, which is due to the legislature and has  
22 the time constraint on it. So if we can take up Item  
23 Number 39, I believe, which is the SB 675 report to the  
24 legislature that we're required on.

25                  Thereafter, we will take up the Downey

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1 item, considering that there's an individual who must  
2 leave and has been here since yesterday regarding the  
3 Downey matter, and we'll take that up second and that will  
4 be followed by the continuation item.

5 Ms. Nauman, welcome.

6 MS. NAUMAN: Thank you. Mr. Chairman and  
7 Board Members, Julie Nauman, Deputy Director Permitting  
8 and Enforcement Division.

9 CHAIRMAN EATON: While you're waiting,  
10 also for those of you who would like to speak on any item,  
11 I see a lot more new faces here, although there are faces  
12 that normally show up. For those who are here for the  
13 first time, there are white slips in the back of the room.  
14 If you desire to speak on any item on today's agenda, if  
15 you will kindly fill out that form with the agenda item  
16 and the appropriate information. Bring it forward to  
17 Ms. Dominguez on my left and your right, for most of you.  
18 We will make sure that you get on the agenda at the  
19 appropriate time, especially in regards to SB 675, which I  
20 understand we're going to be taking up.

21 Great. Thank you.

22 MS. NAUMAN: Thank you again, Mr. Chairman.

23 Item 39 is consideration of Senate Bill 675  
24 working group recommendations for implementation prior to  
25 January 1 of the year 2000.

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1                   I would just like to provide a few  
2 introductory remarks about this effort and how it fits  
3 into some of the other things that are underway within  
4 both the P&E Division and the Markets Division, and we'll  
5 turn it over to staff to actually present the working  
6 group's recommendations.

7                   As you see up on the screen, compostable  
8 organic materials make up approximately 33 percent of the  
9 wastestream in California, a significant amount of the  
10 wastestream, and we feel it's very important for the  
11 composting industry to be able to succeed in order for us  
12 to meet our AB 939 diversion requirements.

13                   Odor problems remain one of the biggest  
14 challenges in dealing with compostable waste materials.  
15 We've initiated a three-prong approach to address this  
16 problem which includes, as is detailed out in your staff  
17 report, a regulatory initiative an interagency initiative  
18 and the SB 675 compliance matter.

19                   With respect to the regulatory initiative,  
20 the following types of issues are intended to be addressed  
21 in that package that is being prepared as we speak. Among  
22 those are requiring a permit for chipping and grinding  
23 operations. These are outside of the regulatory scheme  
24 right now and in some instances are posing some  
25 environmental risks and causing additional concerns in

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1 terms of compost siting and operations. We're also  
2 considering requiring odor management plans as part of  
3 permitting these facilities, and finally allowing  
4 facilities that remain in compliance to exercise some  
5 options to reduce regulatory costs and increase  
6 self-monitoring in the long-term.

7                   The second prong of the three-prong  
8 initiative is the interagency research project that we  
9 have underway as a result of the contract concept that you  
10 approved last year, and through the interagency agreement  
11 through Cal Poly San Luis Obispo, we are developing two  
12 products. One is a best management practices guide for  
13 compostable organic material processing operations. This  
14 will be the basis for direction in the regulatory package.  
15 Another component of that interagency agreement scope is  
16 research on odor occurrences and successful odor  
17 prevention and mitigation strategies, and finally a  
18 research study and methods to investigate airborne  
19 bio-aerosol levels. That work is underway now and we are  
20 beginning to review drafts of the work products coming  
21 from Cal Poly San Luis Obispo.

22                   That brings me to the final prong of this  
23 approach which is the 675 compliance effort.  
24 Implementation of some of the Workgroup recommendations  
25 has already begun and is integrated into both the

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1 regulatory initiative and the interagency research  
2 initiative. The industry input has been gathered and  
3 analyzed through a series of workshops that staff will  
4 give you some more detail about in their presentation, and  
5 we really appreciate that input. It has been critical in  
6 assisting us in determining the usefulness and  
7 appropriateness of the original working group  
8 recommendations.

9                   We are continuing to progress in the  
10 implementation of those recommendations, and with your  
11 direction today, we will begin to implement those that you  
12 choose to direct us to proceed with. The staff is going  
13 to go into some additional detail with you with respect to  
14 the series of workshops that we held in August and  
15 September as a result of direction the Board gave us  
16 earlier this year to expand the participation of the  
17 working group to include more industry representatives to  
18 ensure that we have the full range of considerations  
19 covered. You did make reference this morning to a letter  
20 that you received from a number of industry  
21 representatives that we met with last week.

22                   So with that as background, I would like to  
23 turn it over to Sharon Anderson, who is the Branch Manager  
24 of the LEA Support Services Branch to present the  
25 recommendations of the working group.

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1 MS. ANDERSON: Thanks, Julie.

2 Chairman and Members of the Board, I'll be  
3 giving you a very brief background on the SB 675  
4 compliance prong. However, I wanted to also let you know  
5 we have our wonderful staff in the audience who helped  
6 coordinate all the workshops that gathered the input for  
7 the recommendations that you'll be taking a look at and  
8 considering today, and they can answer any further  
9 questions if you want to dig a little bit deeper.

10 Preliminarily what I would like to do is  
11 direct a quick little piece of attention to a survey in  
12 the back of the room, a random survey that we conducted  
13 about odor, and that's one of the things that 675, the  
14 legislators who designed 675, were really trying to get  
15 at, is the perception at organic facilities, that it's  
16 hard to get them going because of the odor perception.

17 So in the very back of the room you'll see  
18 a chart that shows different types of odors and how people  
19 rated them as far as pleasant, unpleasant, and the level  
20 of intensity. That sort of gives you a general feedback.  
21 A smell occurs in all ranges and it hits people in very  
22 different levels. You can participate on that if you like  
23 and just go back and smell the canisters and do your  
24 rating yourself.

25 Anyhow, in the Legislature's infinite

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1 wisdom, they found it to be necessary to remove the  
2 overlap and duplication between the Air Districts and  
3 Local Enforcement Agencies and the Waste Board, so they  
4 directed to us take a look at balancing diversion and odor  
5 by asking us to convene a working group of Air Districts  
6 and Local Enforcement Agencies and Waste Board people to  
7 develop some recommendations to get at three things.  
8 Those three things are odor measurement and thresholds,  
9 complaint response procedures, and compliance and  
10 enforcement tools.

11                   The initial set of recommendations were a  
12 dozen. They came to you back in April, and we were asked  
13 to go out and get sort of a broader look at these  
14 recommendations and to float those throughout the state of  
15 California. In doing that, our staff went through and  
16 conducted workshops at six different venues. We had 179  
17 attendees total throughout the state including 90 from  
18 industry.

19                   Those who participated went through several  
20 exercises during the whole entire day to focus them on the  
21 recommendations to figure out which ones would be the best  
22 or which ones they would vote for. Those are in front of  
23 you today. There are six in your packet that are  
24 italicized that were voted to be the most popular, and if  
25 you would like, Chairman Eaton, I can read them into the

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1 record.

2 CHAIRMAN EATON: Please.

3 MS. ANDERSON: Those six were: One, under  
4 odor measurement and threshold, "Identify and empower an  
5 agency at the state level to provide ongoing technical  
6 assistance for standardized quantification and  
7 qualification of odors as part of an odor investigation  
8 and detection training program accessible both to  
9 enforcement agencies and facility operators," and,  
10 "Promote the use of the developed standardized odor  
11 complaint protocol by all field staff responding to odor  
12 events at compostable organic material sites."

13 Under complaint response procedures,  
14 there's a couple. We want to, "Update LEA, Local  
15 Enforcement Agency, Advisories related to odor complaint  
16 response and investigation," and there's a parenthesis,  
17 "(At a minimize Advisories 32, 33, and 49) and provide  
18 training to enforcement field staff statewide."

19 The second one under that is, "Develop  
20 statewide complaint response and investigation protocol  
21 and include the protocol in a guidance document. Provide  
22 statewide training on the complaint response and  
23 investigation procedures guidance document." And there  
24 are specific suggestions for what should be in that  
25 comprehensive guidance. "E, develop and provide

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1 information on odor characteristics and related effects to  
2 the public through a community outreach program."

3                   Under compliance or enforcement tools,  
4 "Research the best management practices for prevention and  
5 control of odor events at compostable organic materials  
6 operations handling and composting operations/facilities  
7 for California," and, "Develop and distribute a guidance  
8 document for Enforcement Agencies and operators that  
9 includes best management practices for odor management in  
10 California, including common technologies for detecting  
11 and monitoring odors and updated information siting of  
12 operations, site design, meteorology, topography and other  
13 specifics of integrated operations."

14                   At this point, I'm ready to let you know  
15 that we would recommend that you direct staff to do one of  
16 the following: You can either implement the six Workgroup  
17 recommendations receiving the most support; you could  
18 modify them; you could modify or implement one more or  
19 more of the 12 original Workgroup recommendations; or take  
20 no action.

21                   We recommend option one, which would be to  
22 consider staff Resolution Number 1999-591. If you would  
23 like to ask any questions, like I said, I have numerous  
24 staff here that helped with that team go throughout the  
25 state of California to gather all this information.

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1                   CHAIRMAN EATON: Okay. Before I begin, I  
2 would also like the record to reflect Senator Roberti was  
3 present, and it should be recorded on the roll.

4                   Any questions, Members, of staff before we  
5 get to the public commentary period?

6                   BOARD MEMBER JONES: Mr. Chairman.

7                   CHAIRMAN EATON: Mr. Jones.

8                   BOARD MEMBER JONES: Just one suggestion.

9 On 2-E, Develop and provide information on odor  
10 characteristics and related effects to the public through  
11 a community outreach program, I think that same program  
12 has to be designed and delivered to the operator so that  
13 they understand if something is going to start going  
14 aerobic, what that's going to do, and make them aware of  
15 the concerns of the public and their neighbors, as well as  
16 what they could do to minimize that. So I think that  
17 needs to have a balance message. Other than that, it  
18 looks pretty good.

19                  CHAIRMAN EATON: All right. Any other  
20 questions? I have two individuals, at least two slips,  
21 from Steven Moise from Riverside County LEA.

22                  MR. MOISE: Good morning, Mr. Chairman,  
23 Members of the Board. Steve Moise with Riverside County  
24 LEA Department of Environmental Health here to support  
25 staff's recommendations. We in environmental health and

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1 the LEA together are very supportive of the technology,  
2 methodology approach to solve these problems to the extent  
3 they do not interfere with local CUP conditions that we  
4 have to monitor as well. To the extent that I can, I'm  
5 here and available to answer any questions.

6 CHAIRMAN EATON: Thank you. Any questions?  
7 Evan Edgar.

8 MR. EDGAR: Good morning, Chairman and  
9 Board Members. My name is Evan Edgar. I'm Director of  
10 Regulatory Affairs for Edgar and Associates. I'm here on  
11 behalf of the CRRC, that's the California Refuse Removal  
12 Council. We have 20 permitted facilities in the state of  
13 California, and we are a cosponsor of SB 675. Plus as  
14 CRRC, I am the Chairman of the California Compost Quality  
15 Council, where up to this summer we have permitted --  
16 about one third of the compost industry is now registered  
17 under CCQC, and last month down at Cold Canyon Compost had  
18 the opportunity to register Cold Canyon Compost as a CCQC  
19 facility. They also endorse aspects of SB 675.

20 I'm here today to support staff. We  
21 participate in the workshops. I think they're very  
22 interactive. We had a nice blend of LEAs, a nice blend of  
23 the compost industry, inventors in all aspects from the  
24 equipment salesmen to berma composting. So as a whole,  
25 the workshops are very fruitful.

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1                   We support SB 675 because streamlined odor  
2 nuisance is under one agency, whereas over at the Air  
3 Board, we have many problems over there because the Air  
4 Board has a zero tolerance, and the only reason we had AB  
5 59 as a pilot project back in 1994 for this program was  
6 due to the fact that zero tolerance doesn't work with  
7 composting. Composting has odors, and our aspect is to  
8 minimize them, to bring them into acceptable levels, and  
9 throughout the state in the last ten years they have had  
10 many notable facilities -- Guadalupe in '93, Napa Valley  
11 in '95, and Lionudakis in 1999. I think that what SB 675  
12 will deliver, it will deliver a set of tools that both the  
13 LEA and the public will have in order to address odor  
14 concerns and plus develop a track record whereby SB 675  
15 can be continued indefinitely and have it under the LEA  
16 for many, many years to come.

17                   We support staff and we look forward to the  
18 implementation of the scope of work.

19                   Thank you.

20                   CHAIRMAN EATON: Any questions of  
21 Mr. Edgar?

22                   Mr. Helget and Mr. Larsen. Mr. Helget, you  
23 mentioned "if necessary." Only you can determine that.

24                   MR. HELGET: I left that equivocally.  
25 Chuck Helget representing Allied Waste Industries, and

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1 again just want to echo what Evan said, our support for  
2 the staff. We have composting facilities at Newby Island  
3 and at Fort Landfill in Stockton, and again endorse the  
4 staff recommendations and available for any support or  
5 questions.

6 CHAIRMAN EATON: Thank you.

7 Ms. Moulton-Patterson.

8 BOARD MEMBER MOULTON-PATTERSON: I just  
9 wanted to thank staff. This was very helpful to me and I  
10 thought it was really great work. Thank you very much.

11 MR. LARSON: Mr. Chairman, Members,  
12 briefly. On behalf of Waste Management, I'm George  
13 Larsen. I just again wanted to endorse the  
14 recommendations of the working group and those support  
15 comments are reflected in the letter that you received  
16 today.

17 Thank you.

18 CHAIRMAN EATON: Thank you. And I would  
19 like to thank both the staff and the work group. For  
20 those of you who may not know the history on this piece of  
21 legislation, an ambiguity -- I know it should come to a  
22 big surprise to all of us who have dealt with  
23 legislation -- arose with this piece of legislation  
24 regarding who was part of the work group and who wasn't,  
25 and the staff, as well as the affected stakeholders, came

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1 together in a two-step process -- one in individual  
2 recommendations and the other to form the actual  
3 recommendations today that we're considering, and move  
4 forward in a spirit of cooperation and conciliation as  
5 opposed to confrontation. And I would like to thank the  
6 work group for their patience as well.

7 With that, I'll entertain a motion.

8 BOARD MEMBER PENNINGTON: Mr. Chairman.

9 CHAIRMAN EATON: Mr. Pennington.

10 BOARD MEMBER PENNINGTON: I'll move  
11 adoption of Resolution 1999-591, directing staff to  
12 implement SB 675 workshop recommendations 1B, 2A, 2B, 2E  
13 with the added line to include the carriers, 3B and 3C by  
14 January 1, 2000; continue research and discussion with  
15 stakeholders, and develop proposal agreements to operate  
16 and a more comprehensive set of regulations.

17 BOARD MEMBER MOULTON-PATTERSON: Second.

18 CHAIRMAN EATON: And that's the revised.

19 Mr. Pennington moves and  
20 Ms. Moulton-Patterson seconds that we adopt Resolution  
21 Number 1999-591 as revised.

22 Madam secretary, please call the roll.

23 BOARD SECRETARY: Board Members Jones.

24 BOARD MEMBER JONES: Aye.

25 BOARD SECRETARY: Moulton-Patterson.

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1 BOARD MEMBER MOULTON-PATTERSON: Aye.

2 BOARD SECRETARY: Pennington.

3 BOARD MEMBER PENNINGTON: Aye.

4 BOARD SECRETARY: Roberti.

5 BOARD MEMBER ROBERTI: Aye.

6 BOARD SECRETARY: Chairman Eaton.

7 CHAIRMAN EATON: Aye.

8 Okay. Thank you very, very much.

9 A couple of items that we're going to go  
10 back to, given the fact that it's necessary that we wanted  
11 to have the appropriate individuals here present for the  
12 public comment, as well as Board Members. So now we'll  
13 take up Item 14, which is the Downey item on today's  
14 agenda.

15 So if we can begin with Item Number 14.

16 MS. NAUMAN: Mr. Chairman, as staff is  
17 coming forward, I'll go ahead and introduce the item, the  
18 consideration of a revised Solid Waste Facility Permit for  
19 the Downey area recycling and transfer facility.

20 MR. MARCINIAK: Good morning, Chairman  
21 Eaton and Board Members. I'm Bill Marciniak from the  
22 Board's Permitting and Inspection Branch. I'll be  
23 presenting Agenda Item 14 today in consideration of a  
24 revised Solid Waste Facility Permit for the Downey area  
25 recycling and transfer facility in Los Angeles County.

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1                   The Downey Area Recycling and Transfer  
2 facility is located in the city of Downey and is owned and  
3 operated by the Downey Area Recycling and Transfer  
4 Incorporated. Mr. Maury Adenoff is the president.

5                   The proposed permit is to allow an increase  
6 in the waste receipt from 1,500 tons a day to 5,000 tons a  
7 day, and the change in the facility owner and operator  
8 from Cal-San Incorporated to Downey Area Recycling and  
9 Transfer Incorporated.

10                  The LEA and Board staff have made the  
11 following findings: Proposed changes of the facility are  
12 in conformance with the Non-Disposal Facility Element of  
13 the Countywide Integrated Waste Management Plan; the  
14 proposed permit is consistent with the requirements of  
15 state minimum standards; the California Environmental  
16 Quality Act is being complied with; the LEA has certified  
17 that the application package is complete and correct; and  
18 I have also reviewed the proposed permit and supporting  
19 documentation and found them to be acceptable.

20                  In conclusion, staff recommend that the  
21 board adopt Solid Waste Facility Permit decision 1999-588,  
22 concurring with the issuance of Solid Waste Facility  
23 Permit 19-AA-0801.

24                  Mr. Herbert So (phonetic) of the Los  
25 Angeles County Local Enforcement Agency; as well as the

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1 General Manager of the Downey Area Recycling and Transfer  
2 facility, Mr. Lee Brock; the Operations Manager, Mr. Dave  
3 Heproff; their consultant, Mr. Chip Clemens; and myself  
4 are available to answer any questions that you may have.

5 CHAIRMAN EATON: Any questions of staff or  
6 the three individuals?

7 Senator Roberti.

8 BOARD MEMBER ROBERTI: Yes, Mr. Chairman.

9 Last Friday I went down to the transfer  
10 station. Let me start by saying I think it's an excellent  
11 facility that maximizes the recycling mandate that it has.

12 I do have a couple of concerns, and that is  
13 strictly on mitigation. In reading through this expansion  
14 fact sheet that we have -- maybe the LEA or our own staff  
15 can help me with this -- but what new mitigation --  
16 considering there's going to be a significant increase in  
17 tonnage, maybe triple -- are we asking as far as odor and  
18 noise are concerned?

19 CHAIRMAN EATON: Either staff or anyone  
20 from, I think, the LEA or Mr. Brock or Mr. Clemens.

21 BOARD MEMBER ROBERTI: I may be -- I'm  
22 getting it sort of cursory, but the mitigation that I see  
23 generally uses the words "shall continue to." That  
24 doesn't sound like mitigation.

25 Let me add, in addition, that I did my own

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1 little "man of the street" interview and ran across the  
2 river to Norwalk and talked to three homeowners who  
3 abutted the Rio Hondo River, and this is not the fault of  
4 the facility at all.

5                   First, they had no idea that the facility  
6 was expanding, which has something to do with our own  
7 notice requirements which I think are terrible; number  
8 two, they complained about the odors, and two of them  
9 complained about the noise, and the one who didn't  
10 complain about the noise said, "The only reason why I'm  
11 not complaining about it is that I'm an ex-steel worker  
12 and I'm used to louder noises, but don't use my standard,  
13 as the standard for the rest of the neighborhood."

14                   It was interesting because they understood  
15 the need for a recycling facility. They weren't opposed  
16 to that, I mean, but they wanted a touch of empathy and  
17 did not have a clue that there was going to be an  
18 expansion and it's just across the river, which is not  
19 much of a river.

20                   So this isn't the fault of the facility,  
21 which I want to add is an excellent one, and they've got  
22 to be somewhere, as one of the homeowners told me, but I  
23 do want to know what we are doing as far as mitigation  
24 because here it just says, "Continue, continue, continue,"  
25 and that's not mitigation. That's just continuing to do

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1 what they're doing. If this were still just a  
2 1,500-ton-a-day facility and it's going to be 5,000 --

3 MR. DE BIE: Let me attempt to answer that.

4 BOARD MEMBER ROBERTI: Yes.

5 MR. DE BIE: Mark DeBie with the Permitting  
6 and Inspection Branch, and I may ask the operator's  
7 representatives to come forward and add detail.

8 There was an Environmental Impact Report  
9 completed for this particular project, and that particular  
10 report went through the full CEQA process, which includes  
11 noticing as required by the lead agency, and --

12 BOARD MEMBER ROBERTI: Who was the lead  
13 agency?

14 MR. DE BIE: The City of Downey was the  
15 lead agency.

16 BOARD MEMBER ROBERTI: The City of Downey  
17 is not going to notice the City of Norwalk. They're ever  
18 so happy to have Norwalk enjoy --

19 CHAIRMAN EATON: Go back to the  
20 Hatfields and McCoys.

21 (Laughter)

22 BOARD MEMBER ROBERTI: I'm not faulting  
23 anybody, but something slips between the cracks here, and  
24 I truly believe these people when they said they didn't  
25 have any notice.

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1 MR. MARCINIAK: If I could.

2 The Press Telegram is the Long Beach  
3 newspaper and it covers that entire area, and that's what  
4 the public notice was in. And the City of Downey notified  
5 the City of Norwalk. The City of Downey only went out as  
6 far as 500 feet from the facility property boundaries to  
7 notify those individual property owners.

8 BOARD MEMBER ROBERTI: How far is that?

9 MR. MARCINIAK: Well, the --

10 BOARD MEMBER ROBERTI: Would that reach any  
11 one of the houses?

12 MR. MARCINIAK: No, that wouldn't. But if  
13 you go 500 feet to the east to Norwalk, you're still in  
14 the river. So even if the City of Norwalk was to have  
15 done the same thing as the City of Downey, went out 500  
16 feet, that wouldn't have affected any of the property  
17 owners.

18 BOARD MEMBER ROBERTI: There's a problem  
19 with our notice. It's not staff's -- I'm not criticizing  
20 staff. There's a significant problem with the notice,  
21 especially when you have cross-jurisdiction --

22 MR. DE BIE: The only noticing requirement  
23 that is pertinent to a Solid Waste Facility Permit is that  
24 requirement in our statute, that the LEA maintain a list  
25 of permits that are pending and make those available to

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1 anyone that requests to see that list.

2                   In addition, if the LEA receives any  
3 written request to be noticed on any permit action  
4 relative to a particular facility, they're obligated to  
5 provide them with that information. So the statute is  
6 quite limited on the particular noticing that's required  
7 for a Solid Waste Facility Permit.

8                   Layered on that, though, is the noticing  
9 required for CEQA, and one of the options and guidelines  
10 for noticing CEQA is putting a notice in a paper of  
11 general circulation, and that has been completed for this  
12 project.

13                   BOARD MEMBER ROBERTI: With all due respect  
14 to the Long Beach Press Telegram, I think Long Beach Press  
15 Telegram is read in Long Beach. I would suspect -- this  
16 is strictly somebody who lives in L.A. County, but is a  
17 good distance away. I would suspect that it would be  
18 either local Downey or Norwalk papers where the notice  
19 ought to be, or maybe the L.A. Times, which is more a  
20 paper of general circulation, but not the Long Beach Press  
21 Telegram.

22                   I just don't think people in Norwalk or  
23 Downey with regularity read the Long Beach Press Telegram.  
24 In fact, I would think it would be almost miniscule the  
25 number of people who do. Maybe I'm wrong. Maybe I'm

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1 wrong, but I tend to think I'm right.

2                   CHAIRMAN EATON: If I can, just a couple of  
3 issues. Yesterday, Ms. Moulton-Patterson -- this would  
4 probably not help you with this particular decision -- did  
5 make a request, at both her request and your behalf to  
6 take up the whole issue of noticing as it relates to that,  
7 and I don't know that it would help you here, but there  
8 are two issues with regard to the noticing here, but I  
9 think we may or may not be able to do anything with the  
10 noticing as required with CEQA which may require statutory  
11 change or something within our own internal idea whereas  
12 part of CEQA, as part of our responsible agency roll, we  
13 issue that requirement. That doesn't really help us in  
14 this situation, but I also don't want to get away from the  
15 question you asked first, what happens to the mitigation  
16 when you go from 1,500 to 5,000. So if we can just  
17 address that, I'm not sure that we can answer the second  
18 one.

19                   BOARD MEMBER ROBERTI: I'm not sure either  
20 you or I can answer it. These minimum notice requirements  
21 are based on the premise that if some people at least in  
22 the immediate area of the facility get noticed, word of  
23 mouth will spread to all people, but when no house gets  
24 the notice because 500 feet is in the middle of the river,  
25 you're not going to have word of mouth except for an

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1 occasional boatman down the Rio Hondo which you,  
2 Mr. Chairman, and I, having campaigned in that area a long  
3 time, know there aren't too many.

4 CHAIRMAN EATON: I just can't believe there  
5 are still walking precincts. I love it.

6 (Laughter)

7 BOARD MEMBER ROBERTI: I probably walked  
8 that precinct before. So my -- well, we'll get to the  
9 first question and --

10 CHAIRMAN EATON: That question was what  
11 mitigation -- and I don't want to restate it -- but I  
12 think it is what mitigation --

13 MR. MARCINIAK: Ordinarily we have minimum  
14 standards, you know, for odor and noise and things like  
15 that, too. In addition, in the CUP there's measures also  
16 that the operator is supposed to comply with, and I  
17 mentioned to Jay Jerran -- he's the planner for City of  
18 Downey -- the mitigation -- well, those particular, noise  
19 and odor and our new standards, it talks about the  
20 facility being in compliance as determined by measures  
21 identified in the CUP. That's the way our standards read  
22 now for those.

23 I asked Jay Jerran if they were in  
24 compliance up to this point in time, and he says that all  
25 the CUP requirements had been met as far as the previous

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1 CUP. Now, as far as this CUP, the same, it is essentially  
2 the same, continue as is, and if there happens to be,  
3 let's, say noise impacts or odor impacts, once again the  
4 CUP is sort of in the lead in that they -- the City would  
5 at that point take up the issues because they have to be  
6 in compliance according to the minimum standard according  
7 to the CUP. So --

8 BOARD MEMBER ROBERTI: But the CUP -- yes,  
9 I understand, but the CUP, again, to stress the City of  
10 Downey --

11 MR. MARCINIAK: Right. So getting back to  
12 that since it's in the standard to be in compliance with  
13 the CUP to make sure that those things, those standards  
14 are met, then the City would more or less be in the lead  
15 and probably require additional things at that point.

16 I think some of the language in the CUP  
17 that additional things can be required, and since Jay  
18 mentioned that currently those mitigation measures and  
19 everything had been met for the 1,500, I would imagine and  
20 assume that after this point if something does happen to  
21 come up, they'll take issue with that at that point, but  
22 the previous odor complaints that they had at the  
23 facility, supposedly a couple of those were from some  
24 manhole down the street not necessarily associated with  
25 the site. Noise, as far as hammering, pounding,

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1 construction-type things, repair things that are supposed  
2 to be done inside the building, and those are some of the  
3 mitigation measures of the old CUP as well as the new CUP.

4 I guess we could ask the operator if  
5 anything additional. I think you're right, though,  
6 continue with the same strategy. So we could ask the  
7 operator what their intent is in case something does  
8 occur.

9 BOARD MEMBER ROBERTI: If it's continued --  
10 it's continued, that is a -- that's a qualitative. That  
11 continues a qualitative mitigation but that's nothing  
12 about the quantitative mitigation that I think we have to  
13 be concerned with as well. What they're asking for  
14 essentially is not to change the quality of what they're  
15 taking in but quantity, and it doesn't sound like our  
16 mitigations do anything about the quantity, which I think  
17 would be our normal procedure.

18 Once again, I want to emphasize and stress  
19 as recycling facilities go, this one is excellent. It's  
20 neat, it's clean, and they have to be placed somewhere,  
21 but I don't think the notice and the mitigation at this  
22 point has been sufficient. That's my own thought.

23 BOARD MEMBER JONES: Mr. Chairman.

24 CHAIRMAN EATON: Ms. Moulton-Patterson and  
25 then Mr. Jones and then Ms. Tobias.

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1 BOARD MEMBER MOULTON-PATTERSON: Thank you,  
2 Mr. Chair. Is the operator here today?

3 MR. BROCK: Right.

4 BOARD MEMBER MOULTON-PATTERSON: May I ask  
5 a question, please?

6 MR. BROCK: I'm Lee Brock. I'm the General  
7 Manager of Downey Area Recycling.

8 BOARD MEMBER MOULTON-PATTERSON: Thank  
9 you. I would just like to know, you know, what plans you  
10 have for these neighbors in the way of -- I just think as  
11 a good neighbor, the City of Downey and yourself would  
12 want to communicate with these people, and you know, maybe  
13 there's things that have been done in the past. I don't  
14 know, but could you expand on that a little bit?

15 MR. BROCK: Well, we really haven't had any  
16 complaints from the City of Norwalk. To address a  
17 notification, we notified how we were supposed to notify,  
18 but additionally, the Downey Eagle, and I believe the  
19 American Herald or the Herald American, the two local  
20 newspapers, they ran articles, extensive articles on the  
21 expansion and on the whole project itself. It's not  
22 official notification, but there was word out there that  
23 we were there and we were here.

24 The company itself, not DART so much, but  
25 the parent company or the subsidiary company or Maury's

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1 other company is a trash company, Cal-San Disposal, been  
2 in the community for 40 years, same trucks. Everything  
3 kind of has been going on like it is. We've always been  
4 good neighbors to Norwalk, to Downey, to wherever it is.  
5 The City required us to do what we had to do, and I think  
6 we're doing what we have to do.

7                   As far as traffic goes, they did extensive  
8 traffic studies. People questioned the flow of traffic,  
9 obviously from the amount of tonnage to the current amount  
10 we're asking for, and everybody seemed to be okay with it.  
11 They put in a couple of additional signals at our expense.  
12 And I'm not sure how to answer because we weren't really  
13 questioned on --

14                   BOARD MEMBER ROBERTI: On traffic, and I  
15 would hope we could mitigate it as much possible, but you  
16 have -- this is where the all the freeways come together.

17                   MR. BROCK: Come together.

18                   BOARD MEMBER ROBERTI: And so I suspect, if  
19 not here, where? So I don't myself have that much of a  
20 problem with traffic. I think this is a place where you  
21 put this kind of facility, but I am concerned about  
22 mitigation of odor and noise.

23                   Now, the residents on the other side told  
24 me they had taken up a petition. You probably never saw  
25 the petition.

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1 MR. BROCK: No.

2 BOARD MEMBER ROBERTI: I don't think they  
3 knew -- I asked, "Where did you send the petition?" He  
4 didn't know. I think you're dealing with relatively --  
5 it's a neat, clean neighborhood, but it's relatively  
6 unsophisticated people, so they may have sent the petition  
7 to the City of Norwalk and it could have been somebody who  
8 didn't have a clue what they were talking about.

9 MR. BROCK: We haven't heard about it.  
10 Right in that neighborhood on Firestone is a big nursery.  
11 I don't know what fertilizers and things like that do for  
12 it. We did have a sewer problem, and I'll admit they were  
13 trying to blame it on us, but we were as much a complainer  
14 to the City about odor and everything else, and they did  
15 fix it last week. They came out and brought Russ, whoever  
16 they are, and they cleaned up the whole street. So far  
17 for the last week or two it has been fine.

18 The odor -- we get the floor clean every  
19 night, except for a couple tons that just come in after  
20 the landfill closes and that stays around. We've put in  
21 additional ventilation since the 1,500 permit to the 5,000  
22 permit. We put in three large ventilation fans, ceiling  
23 and wall, and I don't smell it.

24 BOARD MEMBER MOULTON-PATTERSON: I guess --

25 (Laughter)

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1                   BOARD MEMBER MOULTON-PATTERSON: Excuse  
2 me. I just wanted some reassurance that your company is  
3 being a good neighbor to the surrounding areas. I just  
4 have to -- my only way to compare is our own. In the city  
5 of Huntington Beach, our own operator who was very  
6 involved in the community at large, not just Huntington  
7 Beach but Fountain Valley which they also served, in the  
8 educational arena, public library. And I guess it softens  
9 it a little bit to me if you are doing that type of  
10 community educational-type things. So maybe I just needed  
11 some reassurance that you are involved.

12                   MR. BROCK: Maury has been there 40 years.  
13 DART is only a two-year-old company, but there's no doubt  
14 we're going to be involved. It's the same ownership. He  
15 doesn't think about it anymore, he just does it.

16                   BOARD MEMBER MOULTON-PATTERSON: Okay.  
17 Thank you very much.

18                   MR. BROCK: Thank you.

19                   CHAIRMAN EATON: Mr. Jones and Ms. Tobias.

20                   BOARD MEMBER JONES: Mr. Chairman, I've  
21 seen this facility but I also saw it when it was wide  
22 open. They did the recycling activities to comply with AB  
23 939 on the back part of the property without any building,  
24 without anything around, and at that time they were the  
25 only -- they were complying for Downey and their AB 939.

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1                   This is such an improvement, but I think  
2 one of the things, and I think the Senator brings up a  
3 good point about, what is the continue. This facility was  
4 designed probably for more than 5,000 tons a day, as I saw  
5 it. So when -- if it's designed for more than that, then  
6 those conditional or those conditions that are put on  
7 usually are put on to make sure that as that thing  
8 increases in capacity, those conditions are helped.

9                   I will tell you right now, you are going to  
10 have noise at any type of facility. Things break. You  
11 unload a truck, but it's inside a closed building. And  
12 the way they usually do it is they'll list a decibel that  
13 the noise can't rise over a certain decibel level for an  
14 hour. And believe me, if those things exceed that --

15                   BOARD MEMBER ROBERTI: Do we have that kind  
16 of mechanism at the facility?

17                   BOARD MEMBER JONES: Oh, yeah. That's a  
18 local condition. All those conditions are local so that  
19 the local people can come in and talk about it. It seems  
20 to me this thing went to appeal so had you the public  
21 involved in the appeal process locally, and it went  
22 through and it was voted on locally that it would pass,  
23 but all their concerns were in.

24                   At the same time, all the newspapers in  
25 that area -- I don't want to talk for them, but I want to

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1 make sure they answer your questions -- and these guys  
2 always end up keeping me kind of up to speed with what's  
3 going on locally -- that all those articles and that  
4 public interaction happened at a local level where it  
5 should happen.

6                   It's a local issue, and the people of  
7 Norwalk can walk into a Downey City Council meeting. I  
8 think everybody knows that nobody really cares about what  
9 that line is, but the facility was built -- what was it  
10 built for? It's got to be built for more than 5,000.

11                   MR. BROCK: It was built for 5,000.

12                   BOARD MEMBER JONES: 5,000. Okay.

13                   BOARD MEMBER ROBERTI: Four years ago.

14                   BOARD MEMBER JONES: Or three.

15                   MR. CLEMENS: I'm Chip Clemens with Clemens  
16 Environmental. That point is well taken. Usually when we  
17 design these facilities, we actually design them to handle  
18 quite a bit more physically than what we get the original  
19 permits for, and that was the case here, that this  
20 facility could handle this 5,000 tons. We initially came  
21 in for 1,500, and as conditions shift down there and we  
22 see what's happening with the trash flow, we realized we  
23 need to come back now and get a greater operating  
24 capacity.

25                   I think one reason you're not seeing a lot

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1 of mitigation measures in here as we're going up is they  
2 were all included originally that the physical plant isn't  
3 being changed at all. It's just strictly a matter of more  
4 trucks and more intense processing.

5 BOARD MEMBER JONES: And those trucks all  
6 park there anyway.

7 MR. CLEMENS: Right. A great majority of  
8 them are parked just across the street.

9 BOARD MEMBER JONES: A majority of the flow  
10 of that material is from the Cal-San trucks that have been  
11 parked there for 40 years, so while you're seeing two  
12 loads, I guess, sometimes three as opposed to two trips.

13 And sometimes I think that's -- I wish that  
14 proponents for permits, when they came in front of us,  
15 would explain that when you build the facility, you don't  
16 build -- if I'm going to build a facility for 500 tons a  
17 day, that that's what the waste flow is today, that  
18 wouldn't be very prudent on my part. I'm going to build  
19 that thing for a thousand or 1,500 based on what that  
20 community is going to grow out and then go through the EIR  
21 process for 1,500 or whatever, even though I don't have  
22 the wastestream so that you don't go through it. But a  
23 lot of people don't like to permit it for that exaggerated  
24 number until conditions change, so it -- I think those are  
25 some important points.

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1 CHAIRMAN EATON: Ms. Tobias.

2 MS. TOBIAS: Knowing the consequence of  
3 being the messenger, I just wanted to --

4 (Laughter)

5 MS. TOBIAS: -- mention a couple points on  
6 both noticing and the discussion on mitigation measures.

7 First of all, I think it's important to  
8 understand on this project that they did do an EIR on this  
9 as opposed to a Negative Declaration. When you do an EIR,  
10 and you'll notice in the staff report on Page 14-4 they  
11 have done a Notice of Preparation for this, the Notice of  
12 Preparation needs to go out to interested parties. It has  
13 no restrictions of 500 feet or any kind of physical  
14 dimension. It's more who would be interested in this.  
15 And I think what we're seeing is that on some of these  
16 facilities, we could probably do a better job with the  
17 local planning agencies on trying to get them to  
18 understand who we think are the interested parties.

19 We've done CEQA training at a lot of our  
20 workshops with LEAs and we brought in members of local  
21 planning departments to try to get them to understand that  
22 maybe there are traditional people who might be  
23 interested, which are generally the environmental groups,  
24 might not be the people in these types of cases who need  
25 to be notified and they really need to do a better

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1 outreach with this. But the CEQA notification is totally  
2 different than what would be done for a CUP, Conditional  
3 Use Permit, or for any of the requirements that go along  
4 with the zoning and the general plan.

5 I do think when an EIR is done as opposed  
6 to a Negative Declaration, you do have generally the  
7 noticing done in the newspapers in addition to the  
8 noticing that does go out, plus there's generally the  
9 newspaper comments where people are told that this is  
10 going to be a time for them to comment on the document.

11 I would certainly think we have bigger  
12 concerns with Negative Declarations which tend to get  
13 substantially less notice, so I do think in this case with  
14 an EIR, I think there was at least the opportunity whether  
15 or not we're doing as good a job as we can with the  
16 planning agencies to get the word out. I certainly think  
17 there's room to do better.

18 Let me also comment on the mitigation  
19 question, and that is that CEQA requires mitigation for  
20 any kind of substantial adverse impact, so when the  
21 consultants do the documents, what they're going to do is  
22 they're going to do the evaluation of all the different  
23 impact areas and they're going to look to see initially  
24 whether the impact has a significant impact or a less than  
25 significant impact.

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1                   If the impact is significant, then the  
2 consultant, or whoever is preparing the document, is going  
3 to look to see whether there are mitigation measures which  
4 can lower that significant level to a level of less than  
5 significant, and if it can, those mitigation measures will  
6 be included in the document. If they can't, then that's  
7 going to be found to be an unavoidable significant adverse  
8 impact. And again you'll see in your document, or your  
9 agenda item on Page 14-4, that they did find an  
10 unavoidable significant impact in the area of air quality,  
11 which I assume, not having any more information, is  
12 probably traffic impacts and due to the basin air quality  
13 in that area.

14                   You'll also see that staff comments on  
15 transportation, hours of operation, noise issues and  
16 vehicle storage areas, and that those comments were  
17 addressed to staff's satisfaction.

18                   Then one last thing that I would add is  
19 CEQA also allows you to use the standards that are set for  
20 various impact areas to determine whether there would be a  
21 level of significance.

22                   So if they're operating at this time, if  
23 they've received no complaints on odor, as long as they  
24 are in compliance with the state minimum standards that we  
25 set out and which says that they need to -- I don't

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1 remember the exact language of -- minimize the odors, then  
2 they're probably not going to be finding a significant  
3 problem at that time. If they find an odor problem after  
4 the project is approved, then it's going to move from a  
5 permitting or CEQA issue to an enforcement issue.

6                   If there's no complaints, then basically  
7 they're going to be allowed to say that they comply with  
8 our state minimum standards, and to a certain extent,  
9 that's the same with noise, which was what Mr. Jones was  
10 alluding to, which is that every general plan basically  
11 states the noise levels that they can comply with. And so  
12 long as they are under those noise levels or consistent  
13 with them, they will be allowed to basically find that  
14 there's no significant impact; and then once again, if  
15 there are noise levels which exceed the general plan  
16 level, it becomes a permitting problem, it becomes an  
17 enforcement problem. So I hope that helps just to set  
18 some context within the areas.

19                   BOARD MEMBER ROBERTI: Mr. Chairman.

20                   CHAIRMAN EATON: Senator Roberti.

21                   BOARD MEMBER ROBERTI: I appreciate what  
22 both Member Jones and Ms. Tobias have brought to the  
23 discussion. Let me just say that I think in this  
24 particular case even EIR notice is insufficient. You're  
25 dealing with a split city boundary. You're dealing with

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1 what, in effect, is a river boundary -- you might as well  
2 be ten miles away as one mile away as to whether you get  
3 the notice or not -- and I don't have any feeling of  
4 assurance that the interested parties, that is, the  
5 residents, the ones who are most affected, were ever  
6 notified.

7                   One problem with our notice requirements --  
8 and I know we can't necessarily solve it on this issue --  
9 one problem with our notice requirements is that we expect  
10 the same level of sophistication in a working class  
11 neighborhood as you have in Beverly Hills where people  
12 know because they have the trained lawyers as to what  
13 exactly to do affirmatively. We almost require  
14 affirmative action, and sometimes -- of the resident, and  
15 sometimes the affirmative action should be ours if we're  
16 to avoid environmental injustice, as I think can happen in  
17 these kinds of siting cases.

18                   The people involved told me -- and no  
19 reason they volunteered this, I didn't even ask it -- is  
20 they've taken up a petition in protest of the odor. The  
21 fact that nobody knows about the petition just emphasizes  
22 my point, that you cannot rely on residents to know the  
23 ins and outs of every law. Otherwise, rather than abating  
24 odor and abating noise, we once again get into a numbers  
25 game, that if you checked all the appropriate boxes,

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1 you're going to be okay. And people in Beverly Hills know  
2 how to check all the appropriate boxes. I don't submit  
3 the people in Norwalk have that same level of  
4 sophistication, although it's a very nice neighborhood.

5                   This isn't a complaint about the facility,  
6 but it is -- it is a complaint about our processes which  
7 are terribly, terribly inadequate and are just steeped in  
8 an invitation to environmental injustice that -- I just  
9 cannot imagine if this facility were on the border line of  
10 the west side of Los Angeles, increasing from 1,500 to  
11 5,000 with the inadequate notice that we have, whether it  
12 is legal or not legal, with the increased traffic, we  
13 wouldn't have 37 and a half official citations as to  
14 what's wrong with the project. I'm not saying that would  
15 be right, but I'm saying that's exactly what would happen  
16 and we all know that's what would happen.

17                   People in Norwalk were not notified of this  
18 expansion, and I'm not saying that the company had that  
19 affirmative obligation, although I would say as good  
20 neighbors they ought to work toward doing something.

21                   When I went to Stanton, Stanton had some  
22 wonderful odor mitigations including the kind of  
23 landscaping that they were going to engage in. I would  
24 hope that DART would look to something like that. As I  
25 recall, there's absolutely -- there's not a tree between

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1 your driveway to the Rio Hondo. Maybe I'm wrong, but it's  
2 like clear sailing with the odors across the river. I  
3 suspect if this were in Beverly Hills -- first, you  
4 wouldn't have the facility in Beverly Hills, but if you  
5 were, there would be 500,000 trees. You would have a  
6 forest.

7                   That's my thought. It's not a complaint on  
8 your facility, but it's more of a complaint of our minimal  
9 requirements to notify people and that we should do a  
10 little bit more when we are expanding the amount of  
11 garbage that's coming in out of necessity, or trash or  
12 recycling material, that we have to have some mitigation  
13 as to quantity as well as quality, and I don't see that  
14 here. I don't even see an attempt on the part of the  
15 enforcement agencies to require it, and I don't think  
16 people in Norwalk knew that this was coming about. If  
17 maybe some bureaucrat might have gotten some formal  
18 notification, it didn't affect his area of jurisdiction.

19                   So I want to see the facility go forward,  
20 but I also want to see some attempt at good neighbor  
21 mitigation, a little bit more than I've seen right now in  
22 the documents because you haven't been asked.

23                   MR. BROCK: Exactly.

24                   BOARD MEMBER PENNINGTON: Mr. Chairman.

25                   CHAIRMAN EATON: Yes. Mr. Pennington.

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1                   BOARD MEMBER PENNINGTON: I think the  
2 Senator makes some very good points in that proper  
3 notification of the neighbors is paramount, and I think  
4 though that we've agreed to look at that. I think it's an  
5 opportunity for us to look at it in the coming months.

6                   I would encourage staff to take this  
7 seriously, to look at it, but these folks have complied  
8 with what we have asked them to comply with and what the  
9 local agency has asked them to comply with.

10                  So with that in mind, I'm going to move the  
11 adoption of Resolution 1999-588, with the appropriate  
12 findings to indicate that the Board has found the proposed  
13 permit to be consistent with CEQA, in conformance with the  
14 intent of the County Integrated Waste Management Plan,  
15 meets all local and state permit requirements, and is  
16 consistent with the state minimum standards, and  
17 therefore, concur in the proposed permit.

18                  CHAIRMAN EATON: Ms. Moulton-Patterson.

19                  BOARD MEMBER MOULTON-PATTERSON: Thank you.  
20 I'll go ahead and second your motion, Mr. Pennington, but  
21 I would like to -- with that, I would like to -- I totally  
22 agree with Senator Roberti about some of the facilities  
23 are in poor neighborhoods, and I would just ask as the  
24 operator that would you continue your good neighbors  
25 policy and do as much as you can in the schools and the

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1 surrounding areas. I know in our city they've done that  
2 because the facility is located in a very poor area, and  
3 it has gone a long, long ways, and I would just hope that  
4 you would do that. And with that, I second it.

5 BOARD MEMBER ROBERTI: Mr. Chairman.

6 CHAIRMAN EATON: Senator Roberti.

7 BOARD MEMBER ROBERTI: One last question.

8 Would you be willing to engage in some odor-specific  
9 landscaping between your plant and the Rio Hondo?

10 BOARD MEMBER JONES: Mr. Chairman, can I  
11 ask a question?

12 CHAIRMAN EATON: First off, we have a  
13 motion and a second in that order. So if I can just ask  
14 Mr. Pennington to withdraw the motion from a procedural  
15 standpoint so we can get the questions answered and I  
16 think they're important questions. If you could just do  
17 that so we can -- it's just more procedural --

18 BOARD MEMBER PENNINGTON: You can ask  
19 questions. I don't have to withdraw the motion.

20 BOARD MEMBER ROBERTI: I'm not asking for  
21 the motion to be withdrawn.

22 MR. BROCK: Senator, I would have no  
23 problem putting up any kinds of shrubberies or trees. You  
24 were there. There's nothing we don't like about  
25 landscaping and flowers and trees. Our driveway goes

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1 right up to the river. The flood control owns the rest  
2 of -- right up on the other fence. I don't know if  
3 there's room. If there's room, I have no problem --

4 BOARD MEMBER ROBERTI: Based on flood  
5 control.

6 MR. BROCK: I would put trees there in a  
7 minute.

8 BOARD MEMBER JONES: Mr. Chairman, may I  
9 ask a question?

10 CHAIRMAN EATON: Did that answer your  
11 question, Senator?

12 BOARD MEMBER JONES: I understand what  
13 Senator Roberti is trying to do to make this better, but  
14 we're getting on dangerous ground because this Board does  
15 not condition -- does not have the right, the ability, or  
16 the statutory authority to condition a permit, and --

17 BOARD MEMBER ROBERTI: I don't think I  
18 asked for a condition. I was asking for --

19 BOARD MEMBER JONES: If they would do it in  
20 good faith?

21 BOARD MEMBER ROBERTI: In good faith.

22 BOARD MEMBER JONES: I don't have a problem  
23 with that. That was the question because --

24 BOARD MEMBER ROBERTI: We've been through  
25 this before.

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1 BOARD MEMBER JONES: Right. It just made  
2 me nervous.

3 BOARD MEMBER ROBERTI: And it should. I  
4 agree. It should. I was just asking for good faith.

5 CHAIRMAN EATON: All right. And the motion  
6 before us.

7 BOARD MEMBER ROBERTI: And the answer in  
8 good faith was yes, they have no problem.

9 (Laughter)

10 BOARD MEMBER ROBERTI: They have no  
11 problem as long as the flood control district would allow  
12 it.

13 BOARD MEMBER JONES: And I don't doubt it.  
14 I've known Maury a long time. He runs a class operation.

15 CHAIRMAN EATON: All right. We have a  
16 motion and second.

17 Madam Secretary, please call the roll.

18 BOARD SECRETARY: Board Members Jones.

19 BOARD MEMBER JONES: Aye.

20 BOARD SECRETARY: Moulton-Patterson.

21 BOARD MEMBER MOULTON-PATTERSON: Aye.

22 BOARD SECRETARY: Pennington.

23 BOARD MEMBER PENNINGTON: Aye.

24 BOARD SECRETARY: Roberti.

25 BOARD MEMBER ROBERTI: Aye.

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1 BOARD SECRETARY: Chairman Eaton.

2 CHAIRMAN EATON: Aye.

3 MR. BROCK: Thank you all very much.

4 CHAIRMAN EATON: Thank you. It's about  
5 five to 11:00. We've been going for awhile. The court  
6 reporter needs a short break. We'll come back and handle  
7 the Lakewood matter, and then for those of you who are in  
8 the audience, we have a previously scheduled closed  
9 session to begin at 11:30. My guess would be that the  
10 Lakewood matter will take up all, if not all of that time,  
11 before we go into closed session.

12 BOARD MEMBER ROBERTI: How long are we  
13 breaking?

14 CHAIRMAN EATON: About ten minutes, and  
15 then we can do Lakewood and go into closed session at  
16 11:30.

17 BOARD MEMBER ROBERTI: So I can make a  
18 telephone call.

19 CHAIRMAN EATON: Absolutely. So we'll come  
20 back at 11:00.

21 Thank you.

22 (Brief recess taken)

23 CHAIRMAN EATON: All right. We'll get  
24 back in session. We have a closed session and we have  
25 some people coming at 11:30.

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1                   Next item, the item to be continued to  
2 today from yesterday, was the City of Lakewood and  
3 consideration and continuation of an extension of time in  
4 which to see if things could be worked out from our San  
5 Luis Obispo meeting.

6                   Mr. Schiavo.

7                   MR. SCHIAVO: Good morning. I'm Pat  
8 Schiavo of the Diversion, Planning and Local Assistance  
9 Division.

10                   At the October 26th meeting in San Luis  
11 Obispo, staff was directed to work with the City of  
12 Lakewood to try to resolve measurement issues that they  
13 had. Initially staff was directed to review the SERRF  
14 waste-to-energy contract to look at its potential  
15 impairment of the City of Lakewood's ability to meet its  
16 diversion mandates. And making that presentation this  
17 morning regarding those two items this morning will be  
18 Elliott Block of our legal staff to relay information  
19 regarding the SERRF contract, and then Zane Poulson will  
20 discuss the measurement issues.

21                   CHAIRMAN EATON: Mr. Block.

22                   MR. BLOCK: Good morning, Chairman and  
23 Board Members. Elliott Block from the Legal Office. Very  
24 quickly.

25                   After the meeting in San Luis Obispo, City

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1 of Lakewood did send us a copy of the original contract,  
2 the SERRF contract and their amendment, and having  
3 reviewed those, we've concluded that the contract itself  
4 would not prevent the City from meeting the 50-percent  
5 requirements. Very quickly, I'm just going to show you a  
6 couple of sections from that contract.

7                   This is the original contract language from  
8 the original contract, and in 1997 it didn't change much,  
9 but basically this is what would be known as the "quit or  
10 pay" provision from the contract. As you can see, it  
11 specifically says that the guarantee that the City of  
12 Lakewood is making to the SERRF facility is only up to 50  
13 percent of their waste. I'm not showing those provisions,  
14 but that waste is potentially adjusted every year, so it  
15 wouldn't interfere with reducing the waste by 50 percent.  
16 And in the interest of time, the amendment didn't change  
17 it substantially. It still has that 50-percent number.

18                   The only other things I wanted to show you  
19 are two other provisions in the contract that we thought  
20 would be of interest along these lines. Section 208 of  
21 the contract specifies that Lakewood shall not require  
22 that waste that is currently being recycled or which can  
23 reasonably be recycled be delivered to the SERRF under  
24 this agreement -- I'm having to turn and read the monitor  
25 there because the monitor here is a little dark -- and

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1 another provision of the contract, it specifies that  
2 Lakewood and Long Beach agree that no provision of this  
3 agreement is intended to either discourage or prohibit  
4 either voluntarily or locally ordained solid waste  
5 programs or the sale of recyclables to any person.

6 Based on taking a look at those provisions,  
7 we did talk to someone from the SERRF facility. We had  
8 some discussions with the City of Lakewood themselves. We  
9 concluded that the contract itself does not prohibit  
10 meeting either 25 percent or 50 percent.

11 If you have any questions, I can certainly  
12 answer those. Otherwise, I will turn it over to Zane  
13 Poulson.

14 CHAIRMAN EATON: Are there any questions  
15 with regard to the contract? Okay.

16 Mr. Poulson.

17 MR. POULSON: Good morning, Chairman Eaton  
18 and Members of the Board. I'm Zane Poulson with the  
19 Office of Local Assistance.

20 On November 4th, 1999, the City of Lakewood  
21 submitted a request to correct their 1990 base year and  
22 correct their 1995, 1996, and 1997 reporting years.

23 The base year correction, according to  
24 Board staff analysis, the City used a Board-approved  
25 correction method. The City averaged the percentage of

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1 self-haul disposal for 1995 through 1997 as 17.45 percent  
2 and applied the average self-haul percentage back to 1990,  
3 increasing their base year generation tonnage to 95,796  
4 tons.

5                   Staff reviewed the proposed base year  
6 adjustment. Staff's review of the proposed base year  
7 adjustment revealed an error of calculation for self-haul  
8 waste for 1995 through 1997. Staff calculated the 1995 to  
9 1997 self-haul disposal as 15.94 percent and adjusted the  
10 base year disposal as 93,763 tons. Therefore, Board staff  
11 accepts the corrected self-haul amount of 15.49 percent as  
12 a valid estimate. However, staff cannot determine whether  
13 there are any other problems with the 1990 base year  
14 tonnage estimate.

15                   For the 1995 through 1997 reporting year  
16 adjustments, the City disputes some of the self-haul  
17 disposal tonnage that was attributed to the City in 1995  
18 through 1997 by claiming that the waste actually belonged  
19 to other jurisdictions. According to Board staff  
20 analysis, the City used a Board-approved correction method  
21 and the City provided adequate, verifiable documentation  
22 for most, but not all, of the requested reporting year  
23 corrections for 1995 through 1997.

24                   Therefore, Board staff determined that the  
25 corrected reporting year disposal amounts be corrected to

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1 77,024 tons for 1995, 72,169 tons for 1996, and 66,317  
2 tons for 1997. Using the corrected base year generation  
3 amounts and the corrected disposal amounts for 1995  
4 through 1997, staff calculated the diversion rates of 14  
5 percent for 1995, 20 percent for 1996, and 28 percent for  
6 1997.

7                   Part of the analysis with the correction to  
8 the numbers is some of the program analysis, and the City  
9 reports there have been three significant new programs or  
10 expansions to existing programs since 1995 that may  
11 account for the 14 percent increase in diversion from 1995  
12 through 1997.

13                   The only new or expanded program that may  
14 have diverted enough waste in 1997 to account for the 100  
15 percent increase in diversion was the City's road base  
16 diversion program. However, since road base is not a  
17 consistent wastestream and it is unknown how much road  
18 base was actually disposed in 1995, Board staff was unable  
19 to determine what impact the program had on the City's  
20 diversion rate. The City did not supply staff with  
21 verifiable documentation on construction tonnage for 1995  
22 or 1997.

23                   The other two programs were commercial  
24 on-site pick up and composting and street sweeping debris.  
25 Neither program can account for the claimed interest in

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1 diversion rate from 1995 to 1997. Therefore, Board staff  
2 cannot determine that the City has significant programs to  
3 support the claimed diversion rates or warrant the making  
4 of a good faith effort.

5 Thank you very much. Any questions?

6 CHAIRMAN EATON: Any questions of staff?

7 I have one speaker, Mr. Dwayne Piercy, Vice  
8 Mayor, City of Lakewood.

9 Mr. Piercy, welcome.

10 MR. PIERCY: I'm Dwayne Piercy, Vice Mayor  
11 of the City of Lakewood, and today I have Lisa Rapp, the  
12 Director of Public Works from Lakewood; Michael Huls, the  
13 consultant to Lakewood; our City Administrator, Howard  
14 Chambers; and Project Manager, June Anderson. We left the  
15 Council at home.

16 Let me first express appreciation for the  
17 hard work, to the staff and to you Board Members, since we  
18 last met with you three weeks ago. We appreciate all the  
19 efforts that you've made to get to know us.

20 To move us towards an agreement today, we  
21 will propose a common ground to allow several of these  
22 issues to be further explored by our staffs and the  
23 affected third parties while my city completes a new base  
24 year waste generation study using the Board-approved  
25 methodology.

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1                   I want to discuss the adjustment issue  
2 first. We believe that we have adequately documented the  
3 adjustments we are proposing in our base year adjustment.  
4 However, we believe that new base year generation study  
5 will end this controversy altogether. Therefore, we are  
6 willing to invest upwards to \$20,000 or \$30,000 in a new  
7 study. We will also commit to using Board-approved  
8 methodology and sharing the results with you and the staff  
9 no later than March.

10                   While our diversion programs collectively  
11 didn't meet the 1995 goals as projected in our SRRE and  
12 our goal reduction petition, our programs certainly made  
13 up for the level of performance in '96 and '97. Over the  
14 three years from '95 to '97, our waste diversion averaged  
15 22.6 percent, in excess of the Board-set 21 percent goal.

16                   We believe it would be uncharacteristic in  
17 the spirit of this Board to refuse Lakewood a finding of  
18 good faith effort because some may argue that Lakewood  
19 should implement new programs, but I want you to know and  
20 to assure you that we are prepared to adopt new programs  
21 to expand the existing ones within the context of PRC  
22 41786. We are going to request that the TIA staff come  
23 down and assist us in looking at potential programs.

24                   A compliance order would needlessly divert  
25 all of us into a public relations battle. Let's work

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1 cooperatively and allow us to do the right thing,  
2 benefitting from the technical advice that your staff can  
3 offer us.

4                   Finally, let me reiterate our proposal for  
5 a common ground solution to today's issues. We will  
6 voluntarily prepare a base year generation study at our  
7 own expense in accordance with the Board-approved  
8 methodology. We will agree to complete it by a time  
9 certain, not later than the end of March. At that time,  
10 we would report our findings to the Board. In the  
11 meantime, we will submit status reports on a 30-day basis.

12                   In return, we ask that the Board hold in  
13 abeyance any action on a compliance order until the  
14 California Integration Waste Management Board staff and  
15 the Board could consider the study's results and the  
16 related issues. Committing to a new base year waste  
17 generation study may not be perfect outcome from our  
18 perspective, but we believe that it shows our good faith  
19 in working in a partnership with you and your staff.

20                   Let's continue the effective dialogue that  
21 is now clearly established between our staffs. Let's  
22 engage in the science of waste generation analysis. And  
23 finally, let's work together respective of each other's  
24 important responsibilities and constituencies.

25                   I would now ask Michael Huls and Lisa, if

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1 they had any questions that they could answer of a  
2 technical nature from you.

3 Thank you.

4 CHAIRMAN EATON: Any questions of  
5 Mr. Piercy or the city staff or Mr. Huls?

6 BOARD MEMBER JONES: Mr. Chairman.

7 CHAIRMAN EATON: Mr. Jones.

8 BOARD MEMBER JONES: For Mr. Piercy, first  
9 I want to thank you for bringing this forward. I'm going  
10 to struggle with a couple of pieces because we did 62  
11 compliance orders, which I've never viewed as being the  
12 scarlet "C", but consistency is a big issue for me, as it  
13 is for you as a Vice Mayor, but I understand the issues  
14 around public relations.

15 Some of the things that came up in the  
16 course of all this work over the last couple of weeks was  
17 the fact that the SERRF facility does in fact allocate  
18 credit for ash. They just do it by -- if you bring in a  
19 thousand tons on one day, instead of charging on the  
20 disposal reporting a thousand tons, they report 700 tons.  
21 So when you do the math that way, that's a problem because  
22 you actually get a little more credit than you deserve,  
23 but I don't have a problem with that.

24 One of the things that really -- that I'm  
25 having a problem with -- and it's just strictly because

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1 I've seen an awful lot of these facilities and actually  
2 tried to site one in San Francisco -- is 30 percent ash is  
3 a pretty high number. It would not be considered a very  
4 effective facility since they're advertising between 10  
5 and 15 percent ash. And I'm wondering if -- and I don't  
6 know this and that's what this time I think will allow us,  
7 give you the credit plus it would determine -- I'm  
8 wondering if they add the Bentonite and treat the ash  
9 on-site as it's coming out of the hoppers into the boxes  
10 so they can be used as foundation material at one of the  
11 county landfills, and if they're adding that Bentonite but  
12 measuring that as it goes out the scale at the end of the  
13 day, then it's not 30 percent diversion because you've  
14 added Bentonite to it which could make it around -- let's  
15 say 15 percent of that waste would be water and Bentonite  
16 to cure that material, to get it in a position so it could  
17 be diverted.

18 I think we need to spend the time in this  
19 compliance period to look at those issues because this  
20 Board has another policy decision to make. It's always  
21 been the policy of the Board that where the activity takes  
22 place is who gets credit for it. The San District  
23 evidently made this determination three or four years ago,  
24 from what staff says, to give everybody that uses that  
25 facility credit for the ash. I don't think I have a

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1 problem with that, which when you and I met two years ago,  
2 that was a big issue. I don't think I have a problem with  
3 that, but do you understand the fairness of adding the  
4 Bentonite, treating the ash on-site, and if that's what's  
5 measured going out, then in fact you're not entitled to  
6 that part? You're entitled to the ash, not the Bentonite.

7 MR. PIERCY: I would agree with some of  
8 what you say, obviously, because we're asking for time  
9 because there are decisions that need to be made, policy  
10 decision regarding the County's reporting and what we're  
11 doing. We feel somewhat victimized by some of these  
12 situations that we can't answer specifically, that need to  
13 be solved before a compliance order would be placed on our  
14 laps, but we -- so that's why we're asking for an  
15 abeyance, which is time, and I think you would agree that  
16 we need time to solve some of these problems. Now,  
17 specifically to the Benton issue, I think Lisa Rapp would  
18 be able to answer that.

19 MS. RAPP: Well, I think that's something  
20 that we would need to verify with SERRF, although I don't  
21 believe that is counted in, but once again, we would need  
22 to verify it. One thing to keep in mind also is when you  
23 talk about the 30 percent reduction or the 30 percent  
24 that's left over, that's by weight, but the volume is  
25 reduced even more than that. So I think as Vice Mayor

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1 Piercy said, these are questions that we can work with  
2 staff and answer during the next couple of months.

3 BOARD MEMBER JONES: The --

4 CHAIRMAN EATON: Questions?

5 BOARD MEMBER JONES: Well --

6 CHAIRMAN EATON: I have one.

7 BOARD MEMBER JONES: Okay.

8 CHAIRMAN EATON: I have a comment, too.

9 BOARD MEMBER JONES: No, go ahead.

10 CHAIRMAN EATON: You know, this has been  
11 one of the harder ones for me because I know a lot of  
12 friends involved in this, and I've gone back through the  
13 history. I think you're right in the sense that there has  
14 been a better working relationship established, but it  
15 hasn't come easy, and it's come not only at the price of  
16 your city and your personnel, but of the Board as well.

17 But I look at you've come here, you've  
18 asked for more time, you've asked for a reduction. You  
19 got a reduction from 25 percent. That's something other  
20 jurisdictions have not gotten, and it was done under  
21 special circumstances.

22 You've come back four times with numbers  
23 that weren't right or that were in dispute. That's more  
24 than most other jurisdictions have had as well. I have  
25 the transcript from two weeks ago, and you told me you

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1 needed two more weeks just to get it done. Again, here we  
2 are asking for more time, and you're asking for structure,  
3 the same structure that is a compliance order without the  
4 compliance order.

5                   You take that and you balance it against  
6 our position wherein there are 35 other jurisdictions  
7 which are similarly situated where you are. 20 of those  
8 jurisdictions have chosen to do what you're talking about,  
9 which is the waste generation study. Each of those  
10 jurisdictions are under compliance orders. They, too,  
11 have voluntarily come forward and said we want to do this  
12 and get the numbers right and we'll take a compliance  
13 order.

14                   So that's the quandary we're in today, is  
15 the last one through the door gets the break and what  
16 message do we send. You want to talk about public  
17 relations as a Board, as a policy. It's not meant to be  
18 punitive. I don't think there's anything here, but I do  
19 believe that the only way is in some sort of structured  
20 agreement, through a compliance order, that we can finally  
21 solve the problem. And I know that's going to be a public  
22 relations problem, but we will be willing to help that.  
23 It's not a situation out there, but I think if you're  
24 looking at the chronology, you've got to agree that at  
25 each stage we have given, given, given, given, and we've

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1 only gotten closer.

2 I think it's time right now, at least with  
3 regard to what we have to do as a greater general policy  
4 for this state, which is what do we say to the other 20  
5 jurisdictions and what is so special when none of them  
6 have gotten a reduction in their rates. What do we say to  
7 them who have come in voluntarily with the same kind of  
8 proposal and we've put them on a compliance order? We've  
9 all voted for those.

10 BOARD MEMBER ROBERTI: I wanted to speak,  
11 but I want you to answer his question. I'm sure the  
12 Chairman does.

13 MR. PIERCY: We would disagree that we're  
14 one of the 35 or the 20. We think that we have in good  
15 faith effort started back in -- prior to 939 with our  
16 issue and we have met with former staff and we've met with  
17 former Board Members and we have processed this from step  
18 by step more than four times. And we don't see ourselves  
19 being anything different, but we are different in the  
20 sense that where we have been, the good faith issues, the  
21 programs that we have put into effect, and we haven't  
22 fought the 939 situation. We are trying to cooperate and  
23 work in a very special area, that with our SERRF contract.  
24 And so therefore, we feel that we've paid the price, so to  
25 speak, and that we're due to have some consideration from

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1 this Board and that's all it amounts to.

2 Thank you.

3 BOARD MEMBER ROBERTI: Mr. Chairman.

4 CHAIRMAN EATON: Yes. Senator Roberti.

5 BOARD MEMBER ROBERTI: Mr. Chairman,  
6 everything that you've said on this subject is quite valid  
7 and I think is a close issue. I tilt myself towards some  
8 sympathy for the City for two reasons.

9 Reason number one is that their original  
10 contract was made pursuant to our predecessor Board's  
11 request, and they made political and economic decisions  
12 including what I understand was a higher charge early on  
13 which goes to a good faith effort. So the earlier Board,  
14 we cannot divorce ourselves from what the earlier Board  
15 may have done, caused actions and pursuing those actions I  
16 think does go to the issue of good faith which puts  
17 Lakewood in a peculiarly different decision.

18 Number two, the legislature, whether we  
19 like it or not, reduced the amount of their diversion  
20 goal. That may have been done pursuant to lobbying on the  
21 part of the City of Lakewood, whatever, but we can't take  
22 notice of that. What we take notice of is what the  
23 statute is, and the statute is that Lakewood, because of  
24 their SERRF contract and other considerations, was  
25 pursuant to the legislature given specific consideration

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1 for diversion at a lower rate, and I think that, too,  
2 means that the legislature took cognizance of their  
3 peculiar situation, which I think we should too.

4                   Having said all this, I would hope that  
5 Lakewood would be given the right to have its own  
6 generation study and come back to the Board, paid for by  
7 the City of Lakewood. And I hope the Board sees it that  
8 way, but I think it's a close case. I totally understand  
9 how the Chairman and some other Members feel. Independent  
10 of past history of this Board and the past history of the  
11 legislature, Lakewood would otherwise be in a special  
12 situation that other jurisdictions are not.

13                   BOARD MEMBER JONES: Mr. Chairman.

14                   CHAIRMAN EATON: Mr. Jones.

15                   BOARD MEMBER JONES: I understand what  
16 Senator Roberti is saying. I need to say a couple of  
17 things.

18                   First off, I appreciate that Lakewood  
19 signed on to that waste to energy facility. I happen to  
20 think waste to energy facilities make a lot of sense. I  
21 think that I've been portrayed by certain people in the  
22 city as being out to get Lakewood. I'll let you know. In  
23 fact, you and I sat in a room one night and you said, "I  
24 don't agree with everything you said, but at least you've  
25 got the guts to say it. I haven't changed from that day;

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1 have I?

2 MR. PIERCY: No.

3 BOARD MEMBER JONES: So I wasn't out to get  
4 you that day. I'm not out to get you this day. What I am  
5 trying to do is portray consistency. And I think the  
6 Senator is right. You had a contract in place with SERRF.  
7 You bit a big piece of the apple that I think was  
8 commendable, and I think it was probably a good business  
9 decision. And I think that when the legislature -- what  
10 was it? SB 262 or AB 262?

11 MS. RAPP: 260.

12 BOARD MEMBER JONES: 260. It said that  
13 this Board may lessen those requirements, and this Board  
14 did. We took it from 25 to 21. So we did comply with the  
15 intent of the legislation that you put through. I think  
16 the problem that I've always had with this issue is --  
17 it's not even a problem.

18 Part of the legislation was that anything  
19 that was over 15 percent you could look at, and the day I  
20 was there and you guys asked me to work with your hauler a  
21 little bit, I talked about avoiding costs as well as the  
22 15 percent. And I have to tell you and my colleagues on  
23 the Board that if there's any haulers in this room or any  
24 cities that have entered into a contract with anybody  
25 since AB 939, has your rate only gone up 15 percent? It

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1 hasn't. It's gone up -- in fact one of my Board Members  
2 was a city council person. I'm sure their rate went up in  
3 excess of 25, 30, 50, to comply with those programs.

4                   That is a very real issue with all these  
5 programs. They cost money. I'm not asking you to do a  
6 curbside. I told you, I'm not the guy that says you have  
7 to do this, you have to do that. I don't care, but I  
8 think part of the waste generation study, while that  
9 quantifies the numbers which have been hard to deal with  
10 since day one, because even the latest round that I didn't  
11 even notice until I was sitting in my office, going  
12 through it. I've got to tell you, I powered through  
13 Lakewood -- I spent more time on this thing than I ever  
14 needed to, wanted to or should, but it's funny because  
15 when you look at the waste generation, there's a number  
16 that's consistent across the top that says 8,032 tons of  
17 existing diversion, and then all these other things are  
18 added to that.

19                   When the Senator made the motion to give  
20 you a little more time, I said, "Just verify it." I don't  
21 have a problem. If you've got it coming in, I don't have  
22 a problem. Part of that issue with the ash, to tell you  
23 the truth, I don't have a problem. It's your garbage. I  
24 don't have a problem with that, but I don't want to see  
25 just a waste generation study. Part of what we've asked

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1 cities and counties to do, as well as -- and each one is  
2 specific -- is let's look at the programs that are in  
3 place and do they compliment what you need to do.

4                   Again, not asking you to go put in 15  
5 programs, but voluntary programs are just that. They rely  
6 on citizens bringing the material there and dropping it  
7 off, and while it is well intentioned, I dare anybody here  
8 to say if there is a line and you've got something to do  
9 that you don't drive out and when you get back to home,  
10 dump it in your can, that's just the way things happen, I  
11 think.

12                   So I want to see a compliance schedule so  
13 we cannot only talk about the base generation, but we can  
14 take a look at the programs and talk about the ash issues  
15 which need to come in front of us. I don't have a problem  
16 with you taking ash personally, but the five of us, or  
17 however many might be here, need to talk about the policy  
18 implication because the former Board did set a policy on  
19 how we deal with this.

20                   So I'm going to lean towards compliance. I  
21 will tell you, and you can quote me in your local  
22 newspaper, do not view compliance as more than a  
23 formalized mechanism to get to an eventual goal, and with  
24 62 jurisdictions on compliance orders, one not on  
25 compliance out of 536 I would have a hard time going

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1 against what I view as consistency. And that's -- that's  
2 where I'm coming from. It's never been against Lakewood.  
3 You and I know I haven't changed my tune for two years.

4 CHAIRMAN EATON: All right. Members, your  
5 wishes, comments?

6 BOARD MEMBER JONES: Mr. Chairman.

7 CHAIRMAN EATON: Mr. Jones.

8 BOARD MEMBER JONES: I want to move  
9 adoption of Resolution 1999-554, consideration of staff  
10 recommendation to correct reporting year and base year  
11 amounts for the previously approved Source Reduction and  
12 Recycling Element biennial review findings, and  
13 consideration of adoption of a compliance order relative  
14 to biennial findings for the City of Lakewood, Los Angeles  
15 County.

16 CHAIRMAN EATON: I'll second.

17 Madam Secretary, please call the roll.

18 BOARD MEMBER ROBERTI: Mr. Chairman.

19 CHAIRMAN EATON: Senator Roberti.

20 BOARD MEMBER ROBERTI: I would like to see  
21 how this goes. If it doesn't pass, then I would make a  
22 motion that Lakewood be allowed to have its own generation  
23 study and come back to us at some specific time in the not  
24 too distant future, but I don't want to offer a substitute  
25 motion at this point. I think the proper motion is this

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1 one up or down, based on the fact that we are late in the  
2 season, so anything else would be sort of a diversion from  
3 our rules.

4 I don't intend to vote for the motion. If  
5 it doesn't pass, then I will offer a substitute motion,  
6 another motion, but I didn't want to offer a substitute  
7 motion at this time.

8 CHAIRMAN EATON: Thank you, Senator.

9 Madam Secretary, please call the roll.

10 BOARD SECRETARY: Board Members Jones.

11 BOARD MEMBER JONES: Aye.

12 BOARD SECRETARY: Moulton-Patterson.

13 BOARD MEMBER MOULTON-PATTERSON: Aye.

14 BOARD SECRETARY: Pennington.

15 BOARD MEMBER PENNINGTON: Aye.

16 BOARD SECRETARY: Roberti.

17 BOARD MEMBER ROBERTI: No.

18 BOARD SECRETARY: Chairman Eaton.

19 CHAIRMAN EATON: Aye.

20 All right. Thank you.

21 We'll now go into closed session and we

22 shall try and reconvene at 1:45 p.m. this afternoon.

23 Thank you, everyone.

24 (Closed session held)

25 (Lunch recess taken)

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1 CHAIRMAN EATON: All right. Welcome back,  
2 everyone.

3 Members, any ex partes?

4 BOARD MEMBER PENNINGTON: Mr. Chairman, no.

5 BOARD MEMBER JONES: Two quick ones, Larry  
6 Switzer and Jerry Cole.

7 CHAIRMAN EATON: Senator Roberti.

8 BOARD MEMBER ROBERTI: No, none. Thank you  
9 for asking.

10 BOARD MEMBER MOULTON-PATTERSON: No.

11 CHAIRMAN EATON: And I just had two quick  
12 ones, meet-and-greet with Bob Houston and a quick hello to  
13 Ed Tomeo, came up and said hello to Dan Pennington and me.

14 First we're going to do one quick item,  
15 Item D, which shouldn't take us very long, and then we'll  
16 move right into Tajiguas.

17 MR. ESTES: Good afternoon, Chairman and  
18 Board Members. The item before you is consideration of  
19 approval of award of contract for the recycled content  
20 product trade show. Basically we had a bid opening this  
21 morning. We had one qualified bidder, who was the lowest  
22 bidder. I checked references all morning long. They came  
23 up sound, and I'm asking the Board to consider award of  
24 contract in the amount of \$55,782 to the Association  
25 Resource Center Incorporated.

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1 BOARD MEMBER PENNINGTON: Mr. Chairman.  
2 CHAIRMAN EATON: Mr. Pennington.  
3 BOARD MEMBER PENNINGTON: I'll move  
4 Adoption of Resolution 1999-228 in the amount of --  
5 MR. ESTES: \$55,782.  
6 BOARD MEMBER PENNINGTON: -- \$55,782 to  
7 Association Resource --  
8 MR. ESTES: Center, Inc.  
9 BOARD MEMBER PENNINGTON: Center, Inc.  
10 CHAIRMAN EATON: All right.  
11 BOARD MEMBER PENNINGTON: A little  
12 prompting.  
13 BOARD MEMBER MOULTON-PATTERSON: Second.  
14 CHAIRMAN EATON: All right. Mr. Pennington  
15 moves and Ms. Moulton-Patterson seconds that we adopt  
16 Resolution 1999-228 in the amount of \$55,782 to  
17 Association Resources Center Inc.  
18 Madam Secretary, please call the roll.  
19 BOARD SECRETARY: Board Members Jones.  
20 BOARD MEMBER JONES: Aye.  
21 BOARD SECRETARY: Moulton-Patterson.  
22 BOARD MEMBER MOULTON-PATTERSON: Aye.  
23 BOARD SECRETARY: Pennington.  
24 BOARD MEMBER PENNINGTON: Aye.  
25 BOARD SECRETARY: Roberti.

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1 BOARD MEMBER ROBERTI: Aye.

2 BOARD SECRETARY: Chairman Eaton.

3 CHAIRMAN EATON: Aye.

4 Item Number 12, consideration of a revised  
5 Solid Waste Facility Permit for the Tajiguas Landfill in  
6 Santa Barbara County.

7 Ms. Nauman, I understand you have scheduled  
8 a presentation.

9 MS. NAUMAN: Mr. Chairman and Members,  
10 Julie Nauman, Deputy Director, Permitting and Enforcement  
11 Division.

12 For this item, I have suggested an order of  
13 presentation so maybe I can go over that with you while  
14 the County is setting up some exhibits. The staff report  
15 will be given by Brad Penick, who is just joining us at  
16 the table. Following Brad's report, we have  
17 recommendation to the Board. The LEA would like to  
18 provide some additional comments, and the LEA today is  
19 Lisa Sloan. Next we would like to have a representative  
20 from the Water Board from the Central Coast Water Quality  
21 Control Board, Mr. Mike Higgins, provide comments to the  
22 Board on a particular issue. Following that, the County  
23 of Santa Barbara will be making its presentation.  
24 Supervisor Gayle Marshall is here today and followed by  
25 Phil Demery, who is the Director of Public Works.

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1                   At the conclusion of that presentation, I  
2 would suggest we take public comment and provide an  
3 opportunity for staff to respond to any questions you may  
4 have and move on to Board discussion and your decision.  
5 So with that as a proposed order, I would like to ask Brad  
6 to go ahead and give the staff report.

7                   MR. PENICK: Good afternoon. My name is  
8 Brad Penick representing the Permitting and Inspection  
9 Branch.

10                   Tajiguas is a Class III sanitary landfill  
11 which is located approximately 26 miles west of the City  
12 of Santa Barbara in Goleta. The County of Santa Barbara  
13 Public Works Department operates the landfill under a 1995  
14 Solid Waste Facility Permit, and Tajiguas is currently  
15 permitted for an area of 240 acres with a disposal area of  
16 80 acres. The maximum daily tonnage is 1,500 tons per  
17 day, and the designed capacity is 12 million cubic yards  
18 with an estimated closure date of early 2000. The closest  
19 residents to the landfill are the Arroyo Quemada  
20 Community, which is located approximately 2,100 feet  
21 southeast of the landfill across Highway 101.

22                   Tajiguas is approaching its permitted  
23 capacity of 12 million cubic yards and has a projected  
24 closure date of early 2000. County of Santa Barbara Board  
25 of Supervisors has stated that the County is committed to

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1 managing its own waste rather than transporting it to  
2 another County. Accordingly, Public Works and the Board  
3 of Supervisors have adopted a three-phase plan to meet the  
4 future waste disposal needs of southern Santa Barbara  
5 County. The permit revision before the Board pertains to  
6 the first phase of this plan.

7                   The proposed permit revision will allow a  
8 large benchfill project in the currently permitted  
9 disposal area. This benchfill project involves excavating  
10 the intermediate and/or final cover from the existing  
11 benches on the north, south and west faces of the landfill  
12 and filling new reclaimed air space with additional solid  
13 waste.

14                   The placing of additional waste on the  
15 benches will increase their slope from a 3:1 slope angle  
16 to a steeper 2:1 slope and narrow their widths from 25  
17 feet to 15 feet. This change in the final fill plan will  
18 increase the available air space from the currently  
19 permitted 12 million cubic yards to 15.1 million cubic  
20 yards and extend the estimated closure date from early  
21 2000 to late 2006.

22                   Public Works will use the extra site life  
23 gained from the increased air space to develop a second  
24 phase of the plan for future waste disposal in southern  
25 Santa Barbara County. This phase involves expanding the

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1 disposal footprint into an area known as the "back canyon"  
2 or the area known as the "front canyon," both of which are  
3 currently within the permitted boundary. Board CEQA staff  
4 recently received notice of a preparation for the draft  
5 Environmental Impact Report for the expansion and have  
6 attended the scoping session. It is expected that the  
7 second phase of this plan will extend the life of Tajiguas  
8 until approximately the year 2015.

9                   The third and final phase of the County's  
10 plan involves siting a new landfill somewhere within the  
11 County. The first two phases proposed by the County will  
12 give the County the necessary time to plan and permit a  
13 new landfill.

14                   Several groups and individuals in Santa  
15 Barbara County have expressed their opposition to the  
16 current benchfill project and any expansion of Tajiguas  
17 Landfill in correspondence to the LEA and the Board. Some  
18 of the issues that they have raised, which will be  
19 addressed later, pertain to CEQA compliance for the  
20 proposed permit, surface water and ground water concerns,  
21 slope stability and seismic studies, and nuisances such as  
22 litter and dust.

23                   With regards to the proposed permit, Board  
24 staff was able to make all of the following findings: The  
25 Waste Board approved Santa Barbara County's Countywide

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1 Siting Element, Countywide Summary Plan, and Countywide  
2 Integrated Waste Management Plan on October 21st, 1998;  
3 the Tajiguas Sanitary Landfill is identified and described  
4 in the Siting Element, and expansion options pertaining to  
5 the landfill, including 2:1 slopes, are discussed.

6                   The Board's Office of Local Assistance  
7 staff made a finding that the proposed permit revision is  
8 in conformance with Santa Barbara's County's Countywide  
9 Siting Element and Public Resources Code 50001. Board  
10 staff performed an inspection of the facility on October  
11 13th, 1999 and found it to be in compliance with state  
12 minimum standards. The Board's Financial Assurances  
13 Section has evaluated the data submitted by the operator  
14 and has determined that the County's Financial assurance  
15 mechanisms and operating liability are adequate. The  
16 preliminary closure and post-closure maintenance plan was  
17 deemed complete on September 28th, 1999, and Board staff  
18 has determined that the reported disposal site information  
19 and supporting documentation are acceptable.

20                   The County of Santa Barbara Public Works  
21 Department and the Local Enforcement Agency have concluded  
22 that the proposed changes are consistent with the existing  
23 CEQA document (inaudible) in 1988, Environmental Impact  
24 Report and addendum.

25                   In addition, Board CEQA staff received a

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1 memorandum from the County of Santa Barbara Planning and  
2 Development Department that explained consistency between  
3 the proposed project and the existing CEQA documents. The  
4 memo explained that this project would not require any  
5 changes in the permitted maximum daily tonnage, number of  
6 vehicles, permitted acreage, maximum elevation, hours or  
7 days of operation, or types of materials received. The  
8 memo also demonstrated that the project would not present  
9 any new significant impacts not previously considered in  
10 the existing CEQA documents.

11                   After review, staff are of the opinion that  
12 the cited CEQA documents and supporting information are  
13 adequate for the Board's environmental evaluation of the  
14 proposed project.

15                   In closing, staff recommends that the Board  
16 adopt Resolution 1999-586, concurring in the issuance of a  
17 Solid Waste Facility Permit Number 42-AA-0015 for the  
18 Tajiguas Sanitary Landfill.

19                   This concludes staff's presentation.

20                   CHAIRMAN EATON: Any questions of  
21 Mr. Penick?

22                   Ms. Lisa Sloan from the LEA, we welcome her  
23 comments.

24                   MS. SLOAN: Chairman Eaton, Members of the  
25 Board, I'm Lisa Sloan with the Local Enforcement Agency,

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1 Santa Barbara County.

2 I would like to present to you a complaint  
3 record and a compliance history regarding this landfill,  
4 Tajiguas Landfill. Prior to 1996, the LEA records  
5 indicate five complaints were filed regarding dust,  
6 litter, traffic and water quality. Since August 1996,  
7 complaints have averaged about nine per year. Most LEA  
8 investigation responses occurred within 24 hours of  
9 complaint receipt.

10 In 1996, the LEA confirmed 71 percent of  
11 the complaints. In 1997, 46 percent of the complaints  
12 were confirmed, and in 1998 and '99, only 27 percent of  
13 the complaints were confirmed. Confirmed complaints  
14 concerned dust, litter, daily cover and silt blowing into  
15 the ocean.

16 Compliance record -- the most recent  
17 violation documented on an inspection report occurred on  
18 May 29th, 1998 when a litter violation occurred under  
19 gusty wind conditions. Prior to the May 1998 violation,  
20 three inspection reports documented violations in 1997  
21 regarding litter and daily cover, two being in response to  
22 complaints. Several violations occurred in 1996 regarding  
23 cover, litter and birds.

24 The status of a litter, dust and daily  
25 cover work plan is reported to the LEA quarterly and this

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1 is current. State inspections conducted in 1997, 1998 and  
2 1999 found no violations at the landfill. A state focused  
3 inspection on July 15th, 1998 found the three nuisance  
4 standards -- litter, dust and birds -- to be in  
5 compliance.

6 In general, the LEA has found the operator  
7 to provide an effective good faith effort as demonstrated  
8 in their satisfactory record of compliance.

9 In response to several letters of  
10 opposition, the LEA has prepared a response letter dated  
11 November 15th, 1999, available for your information. A  
12 letter from the operator is attached addressing the  
13 concerns raised in the opposition letters.

14 I believe a representative from the  
15 Regional Water Quality Control Board is here to answer any  
16 questions concerning water quality issues.

17 CHAIRMAN EATON: Mr. Higgins, welcome.

18 MR. HIGGINS: Thank you, Mr. Chairman and  
19 Members of the Board. My name is Mike Higgins, and I'm a  
20 Civil Engineer working on behalf of the Board in Santa  
21 Barbara County.

22 If I may, I would simply like to read a  
23 letter that includes our findings with regard to water  
24 quality and the Tajiguas Landfill and there are three -- I  
25 don't think you have a copy of it, Mr. Chairman. It was

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1 only on Friday that we completed the letter.

2                   The letter states that Tajiguas Landfill is  
3 currently in complete compliance with Waste Discharge  
4 Requirements Order Number 93-69, which is our permit for  
5 the landfill. Secondly, the landfill's operators have  
6 satisfactorily addressed or are in the process of  
7 addressing all violations of the order that were noted in  
8 our August 27th, 1999 letter. That -- on November 30th,  
9 Mr. Chairman, the County will submit the responses to the  
10 violations that were noted in that August letter.

11                   And finally, we concur with the findings  
12 and conclusions regarding the slope stability analysis  
13 included in the County's August 16th letter to the  
14 Regional Board and THS, and that was the last issue that  
15 remained for our consideration, was the review of this  
16 report.

17                   So, Mr. Chairman, the -- all the water  
18 quality issues of concern either have been or are being  
19 addressed by the County with regard to this landfill, and  
20 if you have any questions, I would be happy to respond to  
21 them now or later.

22                   CHAIRMAN EATON: Any questions of  
23 Mr. Higgins with regard to the water quality issue? Okay.

24                   MR. HIGGINS: Thank you, Mr. Chair.

25                   CHAIRMAN EATON: Thank you. Now it's my

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1 understanding, Ms. Nauman, Gayle Marshall.

2 MS. MARSHALL: Good afternoon.

3 CHAIRMAN EATON: You made it.

4 MS. MARSHALL: I made it. I'm Gayle  
5 Marshall, member of the County Board of Supervisors.

6 Tajiguas Landfill is located in the 3rd  
7 Supervisorial District, which is my district. Lucky me.  
8 Normally I do not travel out of county. I leave it to  
9 staff and their expertise. However, I would hope that my  
10 presence here today would be an indication of how strongly  
11 I feel of the importance of this permit revision. I won't  
12 bore you with the details of how I had to get here.

13 I've personally been involved in efforts  
14 within our community development and long-term waste  
15 management strategies. The development process has been  
16 lengthy, has resulted in significant delays in the CEQA  
17 process for a Tajiguas Landfill expansion.

18 Due to community input, the Board of  
19 Supervisors requested the formation of a Community  
20 Advisory Committee. We did that to look at alternative  
21 strategies to the expansion of the landfill, and this was  
22 in response to the community. As a member of this  
23 15-member community, I can assure you that we have  
24 analyzed the community's solid waste system in detail and  
25 have given the public numerous opportunities to

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1 participate in the decision making process.

2                   The permit revision for your consideration  
3 today is of vital importance to our community for several  
4 reasons. Number one, approval of this permit revision  
5 allows additional time for our community to continue to  
6 evaluate our long-term refuse disposal strategies through  
7 completion of the CEQA process for the 15-year Tajiguas  
8 expansion.

9                   Approval of the permit revision allows the  
10 County of Santa Barbara to maintain local control of our  
11 waste management system. By preserving the direct control  
12 over our end disposal destination, we preserve our ability  
13 to control costs and avoid future pollution liability.

14                   Approval of this permit revision allows the  
15 County of Santa Barbara to be responsible  
16 environmentalists. We do not want to ship our waste to  
17 another community, to somebody else's backyard, if you  
18 will. We believe that the waste we generate is our  
19 responsibility.

20                   Most importantly, approval of this permit  
21 revision allows the County to continue to improve upon our  
22 waste diversion programs in compliance with AB 939 goals.  
23 Currently our county is diverting approximately 40 percent  
24 of its waste.

25                   We are in the process of implementing plans

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1 to increase that diversion to 50 percent and more.  
2 However at this moment in time, our diversion programs are  
3 funded by our landfill tipping fee. Without the landfill,  
4 our diversion programs could suffer. Finding more stable  
5 funding sources for these diversion programs should be a  
6 goal for the future, but today we need those dollars to  
7 continue.

8 We also want to continue to work with the  
9 community to give them the assurances they need to trust  
10 that we're on the right track. We're open to having our  
11 ground water monitoring independently verified. We want  
12 to form the necessary partnerships within the community to  
13 find another landfill site which is going to meet the  
14 County's needs for the long term. Right now, Tajiguas is  
15 an integral part of our integrated waste system.

16 Approval of this permit revision is  
17 important to our community. Our goals are your goals.  
18 Your goals are our goals. We need the breathing room this  
19 permit revision will give us to succeed. I appreciate the  
20 time, and I'm going to turn it over to the Department --  
21 Public Waste Department Head, Phil Demery.

22 MR. DEMERY: Thank you, Supervisor  
23 Marshall. Phil Demery. I'm the County Public Works  
24 Director. Good afternoon, Chairman Eaton and Members of  
25 the Board.

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1                   A little detail to what Supervisor Marshall  
2 has mentioned is the County of Santa Barbara has a rich  
3 history of community involvement. Case in point, we spent  
4 two, two and a half years on the CEQA process for  
5 evaluation of long-term disposal options in our community,  
6 and what we found is by bringing the public in this long,  
7 lengthy process, we found ourselves void of permitted air  
8 space as of February of the year 2000. This is the reason  
9 you're seeing the benchfill project before you.

10                   Before I start talking about the benchfill  
11 project itself, a little bit of background information to  
12 expand upon Brad's presentation. Back in 1965, the  
13 Tajiguas Landfill site was selected based on several  
14 reasons. First and foremost was its remote location, as  
15 Brad mentioned, 26 miles down our coast, 26 miles from  
16 City of Santa Barbara. It was also selected because there  
17 was access to Highway 101. You can see Highway 101 here.  
18 The landfill is to the north of that highway.

19                   Another important reason it was selected is  
20 because the site has favorable subsurface geology, meaning  
21 it's underlain by several hundred feet of a very tight,  
22 fairly impervious clay stone. And the last reason it was  
23 selected is because it could provide our community, the  
24 south coast community which is now 187,000 residents, with  
25 50 years of refuse disposal capacity.

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1                   What I would like to do now is just turn  
2 your attention to this chart, and all I really want to  
3 show you is all the area bounded by the yellow tape is  
4 property the County owns. We own 1,500 acres along the  
5 Gaviota coast near the landfill, but the landfill itself  
6 is only 240 acres of operational area. Of that 240 acres,  
7 only 78 or 80 acres is the footprint. We own a lot of  
8 land. The adjacent land uses are the Los Padres National  
9 Forest to the left, very large agricultural holdings to  
10 the west and to the east.

11                   The only nearby residential community is  
12 that of Arroyo Quemada. I'll turn your attention -- it's  
13 right here. Arroyo Quemada is a very small onclave of 16  
14 parcels. It's at the mouth of Arroyo Quemada Creek, and  
15 that's a very important part of this because Arroyo  
16 Quemada Creek is a separate and distinct water shed from  
17 that of Canada De La Pila. Canada De La Pila is where  
18 Tajiguas is located.

19                   Now shifting gears, I would like to talk a  
20 little bit about the benchfill. A couple of you, I think,  
21 have been to the Tajiguas Landfill site and you've been at  
22 this same perspective, looking at the slopes. The slopes  
23 currently are 3:1 side slopes. It's pretty darn flat if  
24 you're not familiar with a three-foot horizontal to  
25 one-foot vertical slope.

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1                   This illustration shows how this benchfill  
2 would be accomplished. We're essentially taking the  
3 existing 3:1 slopes and reconfiguring those slopes to a  
4 2:1 side slope. Now obviously the benches, there would be  
5 several benches. This is an illustration. Each of these  
6 benches will be 40 feet vertical height and a 15-foot  
7 bench. We would essentially be accomplishing this by  
8 skimming off the earth cover on the 3:1 slopes, steepening  
9 the slope with refuse, putting the cover back on, and we  
10 would be doing that bench by bench by bench.

11                   This area that's in red that's  
12 cross-hatched would then be the area that we could utilize  
13 for the additional placement of refuse. We're not asking  
14 for a change in the footprint. We're not asking for a  
15 change in the maximum elevation. All we're asking for is  
16 the ability to put more refuse in this same box.

17                   Now, benchfill projects are all over the  
18 state of California. Your Board has approved many  
19 benchfill projects of similar slope as part of the  
20 attachment that hopefully you all have received in front  
21 of you. We have a list of such benchfill projects and  
22 they're numerous. This is not unusual.

23                   Our benchfill project has been seismically  
24 analyzed numerous times. Our geologists have concluded  
25 that our project can far exceed the maximum expected

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1 seismic activity at this particular location based on the  
2 very current information. Our geologists are here today.  
3 They're GLA Consulting and Brian Sturrett (phonetic), and  
4 they'd be happy to answer any questions you may have on  
5 the benchfill.

6                   Again, benchfills are not unique. It has  
7 been studied. They're seismically sound. On top of that,  
8 the LEA conducted a peer review. They hired independent  
9 geologists to review our consultant's design, and with  
10 that also was reviewed by the Regional Water Quality  
11 Control Board, as well as your Waste Board staff. So I  
12 think we have a good project with sound engineering.

13                   There are some people that have voiced some  
14 concerns regarding both our operations of our landfill,  
15 as well as the CEQA processing for the benchfill, so what  
16 I would like to do is spend the remainder of my time here  
17 this afternoon trying to address some of their concerns.

18                   First of all, operations. Well, when you  
19 talk about operations, the unique challenges we all share  
20 throughout the state of California is that of water and  
21 wind. When we talk about water issues, we're talking  
22 about how we deal with drainage control, surface water  
23 quality, and leach collection. In terms of drainage  
24 control, as you heard from Mike Higgins with the Regional  
25 Water Control Board, we're in full compliance. We're in

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1 full compliance of our site. We have cooperated with all  
2 the regulating agencies in the past. We'll do so in the  
3 future. I don't necessarily need to go into the drainage  
4 control unless you have specific questions.

5                   As it relates to an issue that has been  
6 raised here locally and perhaps with your Board is the  
7 issue of bacteria. There's been some suggestion that the  
8 Tajiguas Landfill site is producing bacteria such that it  
9 is somehow contaminating the ocean, and what I can tell  
10 you is that Santa Barbara County, particularly on our  
11 south coast of Santa Barbara, we've been testing creeks  
12 now for a couple of years.

13                   And what we found, of course, is any fresh  
14 water supply, I don't care if it's in Santa Barbara County  
15 or any other county or our state or across the nation,  
16 fresh water is going to have bacteria. It's not an issue.  
17 It exists. And the fact of the matter is in Pila Creek,  
18 which is in this particular water shed where Tajiguas  
19 Landfill is located, we do have bacteria concentrations,  
20 but the fact of the matter is the bacteria concentrations  
21 that we're finding is no worse or no better than the  
22 bacteria concentrations that we're finding in any of the  
23 other creeks that we've been measuring for a couple years  
24 within Santa Barbara County, particularly on the coast of  
25 Santa Barbara.

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1                   What is really different, and you need to  
2 be keenly aware of this, is the fact that bacteria  
3 contamination or bacteria concentrations from fresh water  
4 does not equate to ocean pollution, for the simple reason  
5 is that you need volume of water in order to flush  
6 bacteria to the ocean. If you don't have the volume of  
7 water, you're not going to have the bacteria loading into  
8 the ocean. So what you see here is this is the water shed  
9 of Pila Creek, where our landfill is located. Because of  
10 our operations here, we've actually reduced the water shed  
11 contributor by half. We only have about 240 acres in  
12 normal rainfall runoff events that ever get to the ocean  
13 in volume. You compare that to water sheds three, four,  
14 five, six, ten times that of this small water shed, the  
15 bacteria concentrations we get here, because it doesn't  
16 have the volume, you do not nor will you ever have those  
17 kinds of bacteria loading at the ocean that's ever going  
18 to be a problem.

19                   That's not the case in these other creeks  
20 because they have large water sheds, they have large  
21 volumes of runoff that they can generate, and that  
22 produces the bacterial loading that causes this problem.  
23 In fact, we've had beach closures as a result of that.

24                   The other issue that I want to talk about  
25 in terms of water is ground water. We need to be keenly

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1 aware of ground water issues. I think Supervisor Marshall  
2 mentioned that early on, is that we'd be more than happy  
3 to have an independent body come in and monitor that  
4 testing. The fact of the matter is we provide quarterly  
5 reports to Regional Water Quality Control Board and that  
6 is public information.

7                   We are fortunate in this particular canyon  
8 because it's a hydraulically constricted canyon, meaning  
9 it's pretty narrow at the outlet of this canyon, and  
10 because of its narrowness, we've been able to install a  
11 wide cutoff trench. This cutoff trench is 47 feet deep.  
12 Any ground water, any leachate that comes out of this  
13 landfill, we are collecting in this trench. We collect  
14 anything that comes out of this canyon. We can take that  
15 water, we put it in storage tanks and are able to use it  
16 for dust control.

17                   The fact of the matter is we've installed  
18 five downgradient water monitoring wells below the cutoff  
19 trench, and I'm happy to report since late 1997, we have  
20 no VOCs detected above the California state drinking water  
21 standard. In 1998, we were able to install a landfill gas  
22 recovery system and we've seen even a further reduction in  
23 those VOCs.

24                   So together with that landfill gas recovery  
25 system, as well as the cutoff trench, I think we have a

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1 real good handle. And as mentioned again, we're in full  
2 compliance with the Regional Water Quality Control Board.

3                   The other operational issue that I want to  
4 bring up is that of wind. Wind poses issues that we have  
5 to contend with, issues that we have to manage. Wind  
6 obviously transports dust down canyon. Wind also can  
7 transport litter. We've done several things to manage  
8 wind on our property.

9                   First and foremost, we've confined our  
10 refuse working phase to a small, finite area, so instead  
11 of a large mass of trash subject to wind, we confine it to  
12 a small area. Secondly, our grading operations that we  
13 use to produce the cover material for placement on the  
14 waste, we essentially use a soil cement treatment over  
15 that raw phase to help us not only with soil erosion due  
16 to rain, but also for wind erosion. Thirdly, we've  
17 installed a series of high fences to collect the litter if  
18 it does happen to blow in this canyon. And the last thing  
19 we've done is we've installed a weather monitoring system.  
20 Upon detection of high velocity winds, we have the  
21 capability to dispatch labor crews to not only go out and  
22 pick the litter up from the fences that we've installed,  
23 but also the ability to pick up litter if it blows off  
24 site.

25                   The other key issue that we want to talk

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1 about this afternoon is that of CEQA. Our County of Santa  
2 Barbara has determined that the existing environmental  
3 documents are adequate for the purposes of this particular  
4 benchfill project. There have been some concerns raised  
5 that -- environmental concerns lately which has caused us  
6 to hire assistance of an independent CEQA expert to look  
7 at the determinations we made, and we invited that  
8 individual who we hired to come today to speak and that is  
9 Mr. Whit Manley. After Whit speaks, I will come back with  
10 some very brief conclusionary remarks.

11 MR. MANLEY: I probably will not use the  
12 pointer because I don't want to blind anyone.

13 Chairman Eaton, Members of the Board, thank  
14 you for having me here today. My name is Whit Manley.  
15 I'm an attorney with Remy and Thomas, a law firm located  
16 here in Sacramento. We practice environmental and land  
17 use law. We're probably best known for our CEQA practice,  
18 and because the CEQA issues came up in this case, Santa  
19 Barbara got in touch with us.

20 In August 1999, the County performed an  
21 analysis of this project to determine basically whether  
22 any supplemental environmental review needed to be  
23 performed. That analysis was performed by the Planning  
24 and Development Department in the County. Since that  
25 time, the County received a number of comments expressing

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1 concern about that documentation. Basically that analysis  
2 concluded that the existing EIR and analyses were  
3 sufficient for this project. When the County received  
4 comments questioning that conclusion, they asked me to  
5 make an independent look and offer my own thoughts on  
6 whether the County's approach was appropriate, and having  
7 done that, I conclude that indeed the County has taken an  
8 appropriate approach and that supplemental review is not  
9 required under CEQA, and I'll explain the basis for that  
10 conclusion now. Due to time constraints, I'm not going to  
11 go into all the multiple technical issues that get raised  
12 in the comment letters. I'm going to touch on what I  
13 perceive to be the main CEQA issues.

14                   First of all, I want to set out or describe  
15 briefly the appropriate standard that the County used in  
16 deciding whether to perform supplemental environmental  
17 review. That standard is determined by Public Resources  
18 Code Section 21166. That is the standard that one applies  
19 when you're dealing with what is not a new project but a  
20 modification to an existing project.

21                   It's an entirely different type of inquiry,  
22 and basically what -- in colloquial terms what the agency  
23 needs to do is consider whether the project itself has  
24 changed or whether the circumstances surrounding the  
25 project have changed in a way that is environmentally

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1 meaningful. What does that mean? It means has something  
2 come up either in the project or the circumstances  
3 surrounding the project that mean that the impacts are  
4 going to be a lot greater than previously understood. If  
5 that standard is met, then a supplemental EIR needs to be  
6 prepared, and if that standard is not met, then the agency  
7 can rely on the existing analysis.

8                   Projects change. Circumstances change.  
9 They all do, but they have to rise to the level of being  
10 environmentally significant, and that's what the County's  
11 analysis appropriately focuses upon.

12                   The first issue I want to touch upon is the  
13 passage of time. The environmental analysis that we're  
14 focusing on here was prepared in 1987 and 1988. That's  
15 when the County prepared an EIR and addendum analyzing a  
16 project involving -- raising the maximum elevation of the  
17 landfill to 500 feet above sea level, and that's when the  
18 EIR was prepared. And some issue has come up regarding  
19 whether the mere passage of time is enough to require some  
20 sort of supplemental review. It has, after all, been  
21 approximately 11 years. Actually, there is case law  
22 directly on point, a recent decision out of the First  
23 District Court of Appeal involving a ten-year period  
24 between Negative Declaration and a later redesign of a  
25 project, and the court upheld, in that case the City of

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1 San Francisco's approach, and in so doing it made clear  
2 the passage of time is not enough to require a  
3 supplemental review. You have to focus on whether things  
4 have changed in an environmentally meaningful way.

5                   The second CEQA issue I would like to  
6 address is piecemealing. It's one that has been raised in  
7 some of the comments submitted to the LEA and the Board.  
8 Piecemealing is a principal that appears in a number of  
9 CEQA cases. It basically means you cannot evade review,  
10 environmental review, by taking a big project and dividing  
11 it up into lots of little phases and each phase has tiny  
12 impacts, and yet at the end of the day the agency has  
13 approved what is, in fact, a very large project. Some  
14 agencies have tried this tactic and it hasn't worked.

15                   The question is, is that what's going on  
16 here, and it's not for a very straightforward and simple  
17 reason. This project does involve the Tajiguas Landfill.  
18 It does involve solid waste management. Beyond that, this  
19 project doesn't have any functional connection with the  
20 other proposal that the County has been very candid about  
21 the possibility of expanding Tajiguas Landfill.

22                   This project does not affect the footprint,  
23 and crucially this project will not involve building any  
24 sort of momentum towards the expansion of the landfill,  
25 expanding the footprint. This has functional independent

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1 utility, and if this bench plan is approved, it will not  
2 make the expansion of the Tajiguas Landfill any more or  
3 any less likely than it is today. It will just simply  
4 provide five or six years of disposal capacity so that the  
5 County can conduct the review it needs to if it expands  
6 the footprint of the landfill or does something else. So  
7 that's crucial to the fact this is a standalone project,  
8 and for that reason, this doesn't represent piecemealing  
9 of the project.

10                   The next issue -- I may be tempted to use  
11 the pointer, but I'm trying to restrain myself. The next  
12 issue I would like to address is the change in slope.  
13 Some concern has been expressed that this project involves  
14 going to a 2:1 slope and that that particular aspect of  
15 the landfill has never been subject to any sort of  
16 environmental review and therefore, supplemental review  
17 needs to be performed focusing on slope.

18                   Well, actually the characteristic of this  
19 landfill calling for 2:1 slope has been around for a very,  
20 very long time. Right now, physically the landfill slopes  
21 vary in steepness from a 2:1 to a 3:1 slope, and if you  
22 take into account the current benches having 40 vertical  
23 feet from the top of the landfill to the toe of the  
24 landfill, the overall slope is approximately 3:1 roughly,  
25 and in order to proceed with the bench plan, that will be

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1 made steeper.

2                   The individual benches, the slope of those  
3 will be approximately 2:1. There will be 15-foot benches  
4 every 40 vertical feet, and the overall top to toe slope  
5 will be about 2.4:1. So does that require independent or  
6 supplemental environmental review, and it doesn't. It  
7 doesn't because this project has long been authorized to  
8 go to 2:1 slopes.

9                   When it was originally designed in 1967,  
10 that design called for 2:1 slopes. When the project came  
11 into the Solid Waste Facility Permit process in 1978, a  
12 permit was issued and that reflected the existing design,  
13 2:1 slopes. When the County proposed to go from 400 feet  
14 maximum elevation to 500 feet maximum elevation, the  
15 environmental documents prepared for that reflected the  
16 fact that this was designed for 2:1 slopes. So all the  
17 analysis has been premised on that operational  
18 characteristic.

19                   Now as a practical fact, they didn't make  
20 it that steep, but the analysis of that slope has been  
21 performed. And so the issue is do we need to revisit that  
22 and reopen that question, and actually there is case law  
23 in point. No, you do not need to. If the analysis  
24 focuses on that -- has focused in the past on that  
25 operational characteristic of the landfill, the County

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1 does not need to revisit that issue here and there's no  
2 reason to perform supplemental environmental review.

3                   In any event, a lot of studies have been  
4 performed that demonstrate that going from -- the slope  
5 ranging from 2:1 to 3:1 to a slope of 2:1 is stable and  
6 won't have any significant environmental impacts. So on  
7 that score as well, even if one joins the technical issue,  
8 no supplemental review is required.

9                   There are a couple of other technical  
10 issues I just want to touch upon because they bear on the  
11 CEQA documentation relied on by the County. There are a  
12 lot of technical experts that can speak better to the  
13 issues themselves than I could, but I do want to touch on  
14 the CEQA issues.

15                   First of all, claims have been made since  
16 1988, when the addendum was approved for this landfill,  
17 regulatory standards have changed in some significant ways  
18 and that by itself requires some sort of a supplemental  
19 environmental review. Well, the folks that have made that  
20 claim about what standards they have in mind, obviously a  
21 lot of regulations have been adopted or changed in the  
22 intervening years. By and large they've become a good  
23 deal more stringent, and it's hard to understand, given  
24 that this bench plan will comply with those more stringent  
25 standards, why the application of those more stringent

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1 standards itself would trigger some sort of need to do  
2 supplemental review under CEQA.

3           In any event, another issue that's been  
4 raised is that the ground and surface water conditions,  
5 that information has come up bearing on those impacts.  
6 Well, there's no evidence that the bench plan is going to  
7 have any effect on ground or surface water conditions at  
8 the site, and most importantly, of all the things that  
9 have gone on in recent years and will go on in the coming  
10 months to manage ground and surface water resources at the  
11 site, the bench plan is not going to constrain or hinder  
12 the County's ability to do those things at all. Again,  
13 there isn't any connection between the bench plan and the  
14 ground and surface water conditions at the site.

15           Finally, throughout the course of this long  
16 history of this landfill, there has been a number of  
17 facility permits and environmental documents that were  
18 prepared that identify mitigation to deal with potential  
19 environmental impacts, and the County has complied with  
20 all those mitigation measures and carried out all those  
21 conditions of approval.

22           So with that, in my view, there are no CEQA  
23 reasons, and with that I will be quiet. Thank you.

24           CHAIRMAN EATON: Any questions for  
25 Mr. Manley?

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1                   Mr. Higgins.

2                   MR. DEMERY: Phil Demery again.

3                   I would like to make just four facts for  
4 you to be aware of in terms of concluding remarks. First  
5 and foremost, Tajiguas is a well-run, well-operated  
6 facility. We've demonstrated our commitment to work with  
7 all the regulating agencies. We're in full compliance  
8 with the regulating agencies. There's no question that we  
9 intend to work and cooperate with these agencies in the  
10 future.

11                   Secondly, the benchfill is safe. All the  
12 geologists agree that it's seismically stable based on the  
13 very latest information that we have in seismic events in  
14 this area of Santa Barbara County. Benchfills are common  
15 practice. You've got a copy of a number of benchfills in  
16 our handout material. Some of these benchfills have been  
17 proven to withstand very significant seismic events.

18                   Thirdly, we're in full CEQA compliance.  
19 And the last, and I think the most important point is,  
20 we're going to run out of permitted air space in February  
21 2000. We need this benchfill project approved. As  
22 Supervisor Marshall mentioned, it gives us the time for  
23 our entire community to involve themselves in a process to  
24 identify long-term refuse disposal. Time is of the  
25 essence.

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1                   Appreciate your time. Last thing, we have  
2 our team that's all here today, any questions on bacteria,  
3 surface water runoff. We have a team from Woodward Clyde  
4 here. We have a geology team from GOA and Brian Sturrett  
5 and Associates here as well, and Whit Manley is here, and  
6 we'd be happy to answer any questions you may have.

7                   Thank you very much.

8                   CHAIRMAN EATON: Thank you, Mr. Demery, and  
9 I apologize. I referred to you as Mr. Higgins. I  
10 apologize.

11                  Mr. Jones.

12                  BOARD MEMBER JONES: Mr. Demery, one quick  
13 question. Truthfully I don't know who asked me this  
14 question or if it was something I read that came in from  
15 folks, but the material on the benchfills as they are now  
16 with 3:1 slopes, there was a certain amount of dirt that  
17 had to be placed over the waste to get you those basically  
18 flat slopes. Are you viewing that as a borrow area to  
19 take material off? You're not going into the garbage,  
20 you're just taking the dirt, which would be considered  
21 like a borrow area.

22                  MR. DEMERY: That is correct. We will be  
23 taking the dirt off, we're leaving the garbage in place,  
24 we're putting new garbage and putting cover material over  
25 the top.

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1                   BOARD MEMBER JONES: So that excess cover  
2 material will be the cover material that will go on top,  
3 some of it.

4                   MR. DEMERY: Correct.

5                   BOARD MEMBER JONES: Okay. I want to --  
6 we're going to hear the other folks here pretty quick, but  
7 I do want to thank the County. When we went down because  
8 of our Board meeting, we said we would stay involved with  
9 the public and went down, and I think the public brought  
10 forward a lot of views to us. We obviously brought  
11 forward a lot of views to you. We saw five -- I think  
12 there were five alternatives that were placed in front of  
13 us, and I think this is the way the process needs to work,  
14 is to fill the need and make sure the people know what's  
15 happening. So I want to thank you for that.

16                  CHAIRMAN EATON: Any questions? Okay.

17                  Normally I would just continue with the  
18 support before getting the opposition, but they appear to  
19 be at least (inaudible) back up. So therefore, I'd like  
20 to go to the opposition and frame the issue and begin a  
21 dialogue and discussion with that.

22                  First slip I have is Mr. Kelly Smith.

23                  MR. SMITH: Thank you, Mr. Chairman. Kelly  
24 Smith.

25                  I'm actually just going to introduce the

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1 folks that are coming up and help with the audio visual  
2 for a second and go later on. So if I could turn it over  
3 to Hillary Hauser, who is one of the directors of Heal the  
4 Ocean.

5 MS. HAUSER: Chairman Eaton and Members of  
6 the Board, thank you for allowing me this time to express  
7 myself. I'm Hillary Hauser, the Co-Director and  
8 Co-Founder of the Heal the Ocean. I've been in touch with  
9 you by mail, and my other Co-Founder Co-Director is here  
10 too, Jeffrey Young, who is a lawyer in ocean law.

11 Heal the Ocean really was born out of  
12 protest in Santa Barbara. There was an actual  
13 demonstration on the County building of people really  
14 upset from beaches being closed and closed and closed  
15 because of high bacteria. We represent thousands of  
16 citizens of Santa Barbara. We are totally publicly  
17 funded, and the concern is huge with the closed beaches,  
18 and Arroyo Quemada is the second most closed beach in  
19 Santa Barbara County after Mission Beach. So we're very  
20 concerned about the water quality off our coast and we've  
21 effected a number -- we're not just red-eyed  
22 environmentalists. We're facilitators. We've helped  
23 beach front homes get off septic and on sewers. We work  
24 with the County, and sometimes we butt heads with the  
25 County. On the issue of Tajiguas, we happen to be butting

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1 heads.

2 Tajiguas is a very sore spot on our coast.  
3 The -- number one, it is in a coastal canyon with a river  
4 running through it to the sea. As I listened to previous  
5 testimony about benchfills done everywhere, this is done  
6 everywhere and everywhere, I don't think there are a lot  
7 of landfills that have a river that's trying to be a river  
8 getting to the ocean, and to stop a river that wants to be  
9 a river is really tricky business.

10 I'm going to make a few comments and then  
11 I'm going to show you a short video of a few minutes that  
12 we took at the Tajiguas Landfill so you can see the  
13 erosion, the filtration problem and how this is -- why  
14 we're concerned.

15 As for previous testimony about water  
16 quality being just ducky, Heal the Ocean made a legal  
17 request from the County for the water quality data that's  
18 in the EIR, that we're all waiting for, and we got that  
19 information which I sent to you in a letter of November 2,  
20 and in that -- in compiling that data, which is in the  
21 County's own EIR not yet released, the total and fecal  
22 coliform of Pila Creek is off scale a lot, out of a  
23 57-week period, 32 weeks for (inaudible) and enterococcus.  
24 So through the water quality issues, we have come around  
25 to the issue that's before you today.

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1                   The LEA, Santa Barbara County LEA, has  
2 submitted this permit for benchfill to you and said that  
3 benchfilling is not going to change the water quality as  
4 it is. This is on page 19 of the letter that you received  
5 today from Lisa Sloan. That sense is not going to change  
6 it or make it worse because it's already bad. Let's just  
7 proceed, business as usual. This Waste Board, really, we  
8 would like to see be the lead agency here because the  
9 County has its own self interests.

10                   There is a time pressure, as you've heard.  
11 We can't wait -- they cannot wait they're going to run out  
12 of space before the EIR is finished so we're attempting to  
13 move forward with the benchfilling. Heal the Ocean, we --  
14 in doing our own research, we have -- the first thing I  
15 want to say, Supervisor Marshall mentioned that the  
16 citizens of Santa Barbara were very involved in the  
17 decision to come up with the solutions that you are now  
18 considering as for Tajiguas.

19                   There was a Citizens Alternative Committee  
20 formed, but what we found on attending those meetings was  
21 that the alternative had nothing to do with Tajiguas. It  
22 was alternative ways of dealing with trash. It did not  
23 have anything to do -- the definition of alternative did  
24 not include alternatives to Tajiguas. So that frustrated  
25 us and we begged for this information. We asked if there

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1 had been any other financial analysis done of an  
2 alternative other than Tajiguas, going to another landfill  
3 that is not in a coastal canyon with a river running  
4 through it to the sea.

5                   So we did not get this information even as  
6 late as last week when we met with the Board of  
7 Supervisors and were promised that there had been a  
8 financial analysis. So we did one of our own which we are  
9 submitting to you today. It's an independent analysis.  
10 It's from calling and polling other landfill operators  
11 that are set and ready to take 100 percent of Santa  
12 Barbara's waste.

13                   We've been given the following arguments by  
14 the County -- that it wants to keep control of its waste  
15 management, that it wants to keep consumer cost down, that  
16 it wants to minimize environmental impacts and continue to  
17 provide funding for resource recovery programs. We would  
18 like to point out that the County's control of waste  
19 management is not as efficient or as clean as private  
20 operations who are ready, willing and able to take 100  
21 percent of Santa Barbara County's waste.

22                   Heal the Ocean, together with the Gaviota  
23 Coast Conservancy, has conducted this poll that you have  
24 in front of you, and nearby landfills have all expressed  
25 their willingness to handle the trash. There is no

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1 emergency. This can be done tomorrow.

2                   As far as this emotional issue of out of  
3 County handling your waste, my waste argument, this is the  
4 21st century. We cannot think in terms of arbitrary  
5 boundaries. We are next to the ocean and you put  
6 something in the ocean, next to the ocean, it's going to  
7 end up in the ocean. And we have to get -- there are  
8 landfills that are lined. This landfill is not lined, and  
9 the leaking into the ocean and the erosion and filtration  
10 is there.

11                   The -- many communities in southern  
12 California are using out of County. They're going to  
13 facilities that are equipped to deal with this. So we've  
14 talked to these private operators who are set up to really  
15 handle this in an environmentally good way and we sent you  
16 this report in our letter of November 11. Except for some  
17 unidentified programs subsidized in the north County, the  
18 rest of the programs the County wants to keep, trash  
19 recovery and otherwise would stay in place and the  
20 ratepayers would pay the same rates they do now. These  
21 are from figures that were given to us by the County  
22 itself.

23                   By comparison, the cost of benchfilling,  
24 lining (inaudible), buying a new landfill site and  
25 constructing it would cost the County \$72 million, and

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1 that would not have to come out of ratepayers, but the  
2 taxpayers.

3                   We take issues with the slope. We don't  
4 think it's been adequately looked at in terms of the  
5 erosion and filtration that already exists at Tajiguas.  
6 As far as changing the width of the benches from 25 feet  
7 to 15 feet, the LEA and the County is maintaining it  
8 doesn't require another EIR. We think that this needs to  
9 be looked at by environmental experts.

10                   All right. That's it. The picture is  
11 worth a billion words. I would like to show you a video  
12 that was taken last April that we filmed and it had not  
13 been raining.

14                   UNIDENTIFIED SPEAKER: I've got copies of  
15 that report she's referring to if you didn't get them.

16                   MS. HAUSER: I push VCR and we go? Is that  
17 it? There's no volume.

18                   (Video presentation)

19                   MS. HAUSER: This is just going up the  
20 coast. Most of you, some of you have been there, been to  
21 this landfill already. This parallels the ocean and we're  
22 just driving to give you a sense of going into the front  
23 of the landfill. This is the altitude. This is the  
24 way -- as you look up, this is the slant. Here we are at  
25 the entrance. This is Arroyo Quemada. We entered into

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1 the east side of the landfill. That's the community  
2 that's polluted. We walked in above.

3 This shows you the proximity to the ocean  
4 and as it pans back, you'll see the benches. Now, looking  
5 down from up above, these benches look pretty flat, but  
6 when you're driving up from down below, it's a significant  
7 slope.

8 This is erosion. This is what we can't  
9 control right now. This is a (inaudible) area. A chunk  
10 has fallen out. That's covered with a plastic tarp.

11 Then we went to the back of the canyon.  
12 This is the upper settling pond. This is the siltation.  
13 When it overflows, which it's going to do when it rains  
14 because this is a canyon, over here to the left, see this  
15 concrete thing? This is where they channel it down. All  
16 this siltation runs down this channel. It hadn't been  
17 raining for a while so this is just highly compacted silt  
18 that's dried and we followed the course, and this is how  
19 deep this silt is. This is from the erosion that is not  
20 under control in this landfill.

21 So we followed it down to where Pila Creek  
22 wants to be, and here is where it eroded away, some pipe  
23 in there to funnel it down and through. And once again,  
24 this is the river. This is a landfill that is built in a  
25 river canyon next to the ocean.

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1                   This is the lower sediment, what they call  
2 the lower sediment pond. Pila Creek, this is where it  
3 used to be, and this is channelled under the road through  
4 this culvert here and that's -- but they can't control it  
5 with that. So now it's running down the side of the road  
6 and there's sand bags to keep it from funneling through  
7 the dirt material.

8                   We're going to follow the landfill down to  
9 the ocean, and here it's running along the side of the  
10 road, carving its way through the earth here, pooling by  
11 the side of the road, thick with concrete and block.

12                  And then finally at the bottom of the  
13 landfill is -- it comes out where Pila Creek natural bed  
14 is, comes out through here, trash catcher to catch trash  
15 before it hits the beach, goes under the highway, and here  
16 the pipes that come out onto the beach. This is Pila  
17 Creek after it had not rained in a while, and you're  
18 nearly at the end of this journey as it comes out to the  
19 ocean and foam. That's the end of the video.

20                  In conclusion, this business of every fresh  
21 water creek is going to be -- have bacteria, Pila Creek is  
22 off scale. You have the figures on that from the County's  
23 own EIR. We are requesting this Board to take an active  
24 role in dealing with the public concern in Santa Barbara  
25 and that it reject the permit of benchfilling until there

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1 is proper environmental review.

2 Thank you.

3 CHAIRMAN EATON: Thank you. Any questions  
4 of Ms. Hauser? Well, I have one.

5 My understanding is that that material that  
6 you referred to as tarp are actually liners, and I would  
7 just like some clarification. Is that tarp, as you say?  
8 My understanding is when I visited, it was a liner for the  
9 expansion. That was -- so either someone from the County  
10 or if you have other information. My understanding is  
11 that was liner and you said there was no liner. Which of  
12 those conflicting accounts --

13 MR. DEMERY: Chairman Eaton, Phil Demery  
14 again. That is indeed the liner, part of the liner.

15 CHAIRMAN EATON: Okay. Thank you. All  
16 right.

17 Next, Joel Smith.

18 MR. SMITH: My name is Joel Smith. Thank  
19 you for giving me the opportunity to be here and speak to  
20 you today. I'm going to try and read this. I do it off  
21 the cuff too often. I was told not to do that. I'm going  
22 to try to follow my transcript here.

23 Good afternoon, Board Members. My name is  
24 Joel Smith. I am a co-founder of a group called C.U.R.E.  
25 in Santa Barbara. We are a group of concerned beach users

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1 dedicated to addressing the causes of the deteriorating  
2 ocean and creek water quality in the Santa Barbara area,  
3 and at this time I would like to thank you for the  
4 opportunity to address you today on the issue at hand.

5 I'm also a founding stakeholder of Project  
6 Clean Water which is the Santa Barbara County's current  
7 effort to address beach closures and their causes. I am  
8 the current chair person of the Project Clean Water septic  
9 maintenance and inspection working group and have been for  
10 about a year plus.

11 I should also tell you that I am the son of  
12 one of Santa Barbara's famous environmentalists. My dad  
13 was Dick Smith, who was honored posthumously by having a  
14 National Forest wilderness area named the Dick Smith  
15 Wilderness. It's one of the few people that ever had that  
16 honor. There's only several. I am here honoring my  
17 promise to my dad to carry out his good work in preserving  
18 the environmental quality in the Santa Barbara area and  
19 I'm representing beachgoers generally speaking.

20 I'm sure that you're all aware that there's  
21 some serious problems in the Santa Barbara area, both in  
22 the ocean environment and our water sheds. I should also  
23 tell you, if you don't know, that Santa Barbara is  
24 generally considered to be the birth place of the modern  
25 environmental movement, and this is due largely to the

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1 devastating oil spill in our channel in 1969 and the  
2 community's reaction to the spill.

3                   I mention that to point out the fact that a  
4 nationally known environmentalist died the other day. His  
5 name was Robert Easton. He was instrumental in -- he  
6 fought since the early '30s for the environment and is  
7 responsible, along with my father and Senator Lagomarsino  
8 and others, for the preservation of 250,000 acres of  
9 pristine California back country, including the San Rafael  
10 Wilderness, condor sanctuary and the Dick Smith Wilderness  
11 area. Robert Easton was recently quoted in the News Press  
12 prior to his death. He said, and I quote, in regards to  
13 the future of our environments, "You can look on the  
14 positive side --" that's not part of the quote, "You can  
15 look on the positive side, at the movement to protect the  
16 Gaviota coast. I think people are aware that this is  
17 probably one of the most beautiful places in the world."  
18 That's a nationally known environmentalist who wrote the  
19 Black Tie. He saw the beauty in the Gaviota coast.

20                   Last Friday night, your State Secretary of  
21 Resources, Mary Nichols, told a standing-room-only crowd  
22 of many hundreds of people, and they actually turned  
23 hundreds away, that -- and I'll read you what she said, if  
24 I can, "As a southern California resident, I have a  
25 personal commitment to this area," Nichols said in a

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1 telephone interview Thursday from her Los Angeles home.  
2 "The combination of the oceans and the mountains and the  
3 ranching landscape is unmatched anywhere else. Because of  
4 its size and ruggedness and because of its being  
5 maintained by large landowners, and even in an odd way  
6 because of the oil presence there, the coast is quite  
7 pristine. It has not changed much in 15 years. Saving  
8 the Gaviota coast is a high priority in light of the  
9 urbanization that threatens to engulf California," Nichols  
10 said. "We don't have a decade, and in many instances we  
11 may not have five years," she said. "We're trying to make  
12 sure that we do our part to lock up areas of significant  
13 importance so they will be off limits to growth. We  
14 recognize that growth will occur, but we want to make sure  
15 it doesn't destroy the quality of life that people hold so  
16 dear."

17 I also have with me 250 letters that we got  
18 in one day of soliciting letters. We wrote the letter,  
19 they signed it, and it states that, "I," and I won't read  
20 this person's name, "Am signing this letter, giving my  
21 address to validate and signify my firm opposition to the  
22 proposed expansion of the Tajiguas Landfill. The Board of  
23 Supervisors is the last agency I would expect to be  
24 pursuing a project such as an unlined landfill in the  
25 coastal zone. The Gaviota coast needs protection from

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1 exploitation or industrialization. The County of Santa  
2 Barbara should be leading the way to stop ocean pollution  
3 and should be protecting the coastal environment. No  
4 coastal canyon is suitable for landfilling. I also object  
5 to the use of the neighboring Baron Ranch for the building  
6 of an industrial waste facility. Please join me and many  
7 other county residents in the wish to protect and preserve  
8 our ocean and coastal canyons. Please close the Tajiguas  
9 Landfill."

10 I also have a couple of letters. I have  
11 one from a group called COLAB, and this is a group of --  
12 it's a coalition of labor, agriculture and business, and I  
13 have a letter from the Citizens Planning Association,  
14 which is a local Santa Barbara group that kind of falls  
15 out -- let me say this. I won't make a comment as to  
16 their conservatism or liberalism, but they usually fall on  
17 opposite sides of most issues.

18 I would like to read what COLAB and Andy  
19 Coldwell said about this particular issue. "Dear  
20 Mr. Easton, I'm writing to you on behalf of the more than  
21 1,000 members of the Coalition of Labor, Agriculture and  
22 Business of Santa Barbara County (COLAB). COLAB monitors  
23 the activities of our County government as it serves to  
24 educate decision makers and our community on the important  
25 issues which affect our environment and economy. I will

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1 try to be as brief as possible. Our organization has been  
2 monitoring wastestreams in our County for nearly ten  
3 years. It is our experience that many of the local  
4 municipalities are very reticent to explore true  
5 alternatives to landfill operations as a result of their  
6 desire to maintain control of commensurate streams of  
7 revenue. Santa Barbara County is no exception to this  
8 phenomenon. We believe the County of Santa Barbara has  
9 spent considerable time, energy and money to prevent the  
10 creation of alternatives to the perpetuation and  
11 subsequent expansion of the Tajiguas Landfill. Due to  
12 water pollution concerns, as well as the fact that the  
13 landfill sits smack dab in the middle of what would  
14 otherwise be a pristine section of our coastline, we  
15 believe the life of this landfill should not be expanded  
16 unless and until there has been an honest and objective  
17 attempt to discover alternative methods of waste  
18 disposal." I think that's the part that applies to the  
19 EIR that we're asking for, or more than the EIR. "For  
20 these reasons and many others, we would ask your Board to  
21 intervene in this situation to use the powers vested in  
22 your agency to do what is right, as versus what is  
23 expedient, for our county and our environment. We ask  
24 that you refrain from being an enabler to our  
25 dysfunctional county government which has proven itself to

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1 have no true regard for the issues relating to ocean  
2 pollution and the subsequent need to maximize  
3 opportunities for wastestream diversion. Please do not  
4 give our county a license to perpetuate the life of this  
5 landfill until they have demonstrated a good faith effort  
6 to fully explore alternatives."

7                   Andy, I would say he falls out on the  
8 right. I worked with him in Project Clean Water and he  
9 said I was a long-haired hippie environmentalist, so I  
10 don't feel bad of accusing him of being on the right. I  
11 don't think there's anything wrong with being on the  
12 right, either.

13                   CHAIRMAN EATON: Mr. Smith, we've got a  
14 long agenda, and I don't mean to speed you up, but I would  
15 really like to define the issues that the group that you  
16 represent as to water quality --

17                   MR. SMITH: I'll cut to that in that case.

18                   CHAIRMAN EATON: We have a number of  
19 speakers and we want to begin dialogue, and everybody I  
20 think understands and appreciates the overall larger  
21 policy issue, and that's what brings us here today, but I  
22 also need to have specifics so that we can make a  
23 determination under the guidelines that we have.

24                   MR. SMITH: I understand that and I'll just  
25 comment back briefly that that's a real problem for

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1 somebody like myself because I'm not a lawyer. I'm a  
2 carpenter and a surfer and just recently an active, real  
3 active environmentalist. So it's hard for me to focus on  
4 it like I was a lawyer. I'm not, but I will cut to the  
5 chase.

6                   The issue, we agree with these two groups  
7 that the point was CPA, Citizens Planning Association,  
8 agrees with Andy there should be an EIR and be more fully  
9 addressed than let's just do it because we looked at it in  
10 '88. So I would say that C.U.R.E. feels it is  
11 unconscionable to permit the dangerous plan of vertical  
12 expansion via benchfilling at an unlined landfill in the  
13 middle of a proposed national seashore and looming above  
14 our ocean. C.U.R.E. asks, along with the thousands of  
15 swimmers, surfers, beach walkers and environmentalists  
16 that you require the County to do a proper EIR on this  
17 benchfilling plan. Please.

18                   Thank you.

19                   CHAIRMAN EATON: Thank you. Any questions  
20 of Mr. Smith?

21                   Next speaker is Mr. James Kinninger from  
22 the Arroyo Quemada community. Nice to see you again,  
23 Mr. Kinninger.

24                   MR. KINNINGER: Thank you, Mr. Eaton.

25                   My name is Jim Kinninger and I am a member

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1 of the Arroyo Quemada community. I want to thank this  
2 Board for having this public hearing. I want to thank  
3 your staff. If it was up to the County of Santa Barbara  
4 and the LEA, this would have been given an  
5 over-the-counter approval for this major revision of a  
6 Solid Waste Facility Permit, so I thank you for the public  
7 hearing of this. I thank you, Mr. Eaton and Mr. Jones,  
8 for coming to Santa Barbara to see the landfill  
9 individually and having a meeting down there.

10 A little background on myself. I'm a  
11 native born and raised in the city of Los Angeles. On my  
12 21st birthday, I was the youngest person to swear in at  
13 the Los Angeles Police Department. A year later, I joined  
14 the L.A. City Fire Department and I served 20 years of  
15 faithful duty, retiring at the rank of Task Force  
16 Commander.

17 My time at Tajiguas and Arroyo Quemada, I  
18 have served on the first pollution task force at the  
19 Tajiguas Landfill which was set up about three and a half  
20 years ago. That group eclipsed into the EIR focus group  
21 which I served on for nearly a year before that was  
22 eclipsed by the County's Community Advisory Committee.

23 I want to say that Hillary Hauser stated it  
24 correctly. The Advisory Committee for alternatives to  
25 Tajiguas never came up with an alternative to Tajiguas.

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1 Both the majority report, which wanted everything at  
2 Tajiguas, was thrown out by the Board of Supervisors, and  
3 minority report was never even considered.

4                   To start off, I would just like to refute a  
5 couple things that have been said because I've got my own  
6 program, but a few of the things that are not quite -- I  
7 don't want to say true, but they lack what it needs.

8 Mr. Demery blames the community involvement for the delay  
9 in this process; otherwise, the EIR would have been done.  
10 Well, poor planning on the part of the Public Works  
11 Department is not the fault of the community at large.

12                   He states that the underlying of the  
13 landfill is a real tight clay material and is impervious,  
14 so it's really kind of a semi-lined landfill to begin  
15 with. You have to ask yourself, if that's true, then why  
16 did they go to the trouble to build a 47-foot deep  
17 collection trench to catch the water that flows under the  
18 landfill.

19                   He also states that the VOCs are now less  
20 in the monitoring wells since they put in the gas  
21 collection system. Well, that means at one time there  
22 were a lot of VOCs in the ground water. Where did they  
23 come from if they didn't get through that impermeable  
24 layer?

25                   He mentioned that Arroyo Quemada has been

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1 clustered at Quemada Creek. If you'll notice here on the  
2 map, the photograph that they have, the landfill comes  
3 down Pila Creek, comes right through the community of  
4 Arroyo Quemada. Quemada Creek comes over here. This  
5 community basically stretches from just west of Pila Creek  
6 to just west of Quemada Creek. The main difference in the  
7 two water sheds is that the general material currents  
8 along the coast carry all the waste from the landfill  
9 creek, Pila Creek, right down onto the beach of Arroyo  
10 Quemada.

11                   He speaks that the water shed is very small  
12 at Quemada than at Pila. Well, that's true. It is  
13 smaller, but when you cover it up and pack it with trash,  
14 virtually everything runs off that water shed. So the  
15 volume of water that comes down Pila Creek during a rain  
16 storm is very considerable and really much greater than a  
17 normal, natural canyon.

18                   He mentions the water that comes out of the  
19 collection trench as meeting the drinking water standard  
20 or better. Well, this standard for the canyon is the  
21 background, which is even higher than that.

22                   I would like to show a few slides to  
23 familiarize you with the area. This is a photograph of  
24 the beach at Arroyo Quemada, and I'm zooming in on the  
25 first homes at the east end. You can barely see them, but

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1 what you can see up on the background of the photograph is  
2 that white tank up on the hill. That's at the landfill.

3                   These are photos of the Gaviota coast.  
4 Sorry the color isn't coming out on your monitor, but that  
5 hillside is rich and yellow mustard seed. It's a  
6 beautiful area, the Gaviota coast. It is one that's being  
7 led for preservation. They want to see it designated as a  
8 national shoreline. Lois Capps, our U.S. Representative,  
9 is working on this, along with Hannah Beth Jackson and  
10 Jack O'Connell of the state.

11                   This is an overhead shot of the Tajiguas  
12 Landfill. You can see the tremendous amount of scarring  
13 on the land compared to the agriculture that is done next  
14 door, which is avocados, and the pristine canyon on the  
15 west Arroyo Hondo. The community of Arroyo Quemada is in  
16 the foreground, and the winds from the landfill blow  
17 diagonally down, right over Arroyo Quemada. These are  
18 sundowner winds.

19                   This is a picture of a sundowner wind that  
20 we took from an aircraft. These winds are common out  
21 there. You can see the dust out there. There's that haze  
22 coming off the landfill. Another photo, and that is the  
23 dust off the landfill right in the center of the  
24 photograph. Zoom in a little bit there. And in this  
25 photo not only do we see the dust, but we also see the

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1 benches.

2                   Now, these benches that are being discussed  
3 today, and I want to point out something that was  
4 mentioned earlier about the liner. There is a liner on  
5 the upper portion of the landfill on the east slope. The  
6 landfill is unlined up to the 400-foot level and is only  
7 lined between the 400- and 500-foot level.

8                   Now, they're proposing to start  
9 benchfilling over on this west slope over here and  
10 continue it around on the slopes in the front. I would  
11 like to mention a little bit about the dust. You'll see  
12 some dust in the photos here. This is taken from the road  
13 in front, dust in the landfill.

14                   You were told by the LEA representative  
15 today about the record of incidents at the landfill. I  
16 would like you to know that that record that was given to  
17 you is not an accurate representation of what happens out  
18 there. There is no one in this room and no one on the  
19 staff at the County that knows the impacts of this  
20 landfill better than I do. I moved to Arroyo Quemada in  
21 1970 part-time, full-time in 1988, after I built my house  
22 in 1978 with the help of my father.

23                   This -- impacts that the landfill has had  
24 on my community are major. This is dust that comes out of  
25 there created by an earth-moving machine, and this is dust

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1 just rolling off the burrow area starting to come out.  
2 From the time my wife took photographs to the LEA showing  
3 dust coming off the landfill during a dust storm and was  
4 greeted with, "Well, gee. It's too bad that these aren't  
5 documented." It took three years to get a representative  
6 of the LEA out there to witness a sundowner event. The  
7 LEA had no mechanism for overtime. They had no beepers.  
8 We had no way to call them when these things happen.

9                   These are called sundowner winds. That's  
10 because they happen about dark. These winds blow the  
11 trash. There's a litter fence there, and you can see  
12 trash that has blown past the litter fence onto private  
13 property. Yes, all landfills ha have a problem with trash  
14 and all landfills have a problem with wind, but all  
15 landfills are not located in a coastal zone. One third of  
16 the Tajiguas Landfill is in the coastal zone.

17                   There's a hillside littered with trash.  
18 That's all private property. That trash winds up in the  
19 ocean and on the beach. Here is just a few more shots of  
20 how nice the coast should look like and how nice it does  
21 look like and how beautiful it is in Gaviota.

22                   This is a portion of the landfill that has  
23 eroded after rains. This erosion can be massive, as you  
24 saw in the tape that Hillary Hauser presented. Now, that  
25 erosion has gone into the creek, and I want to digress for

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1 just a moment to show a comparison.

2                   These people give you an idea that the  
3 landfill has improved over time. I say no. You have in  
4 front of you a photograph such as this and this is a  
5 photograph of the outpouring of Pila Creek at the base of  
6 the landfill taken in the late '80s by Bob Cadey, the  
7 supervisor of the landfill. Over the years Cadey has  
8 confided in me, we have developed a friendship, and it is  
9 only recently that he has given me a recent document as to  
10 his observations and experience as being the supervisor of  
11 this landfill from day one until 1994.

12                   Now, you see there is trash in the creek  
13 and that moves it right down to the beach. I realize this  
14 is not the Water Board I'm talking to, but when you're  
15 talking about trash being unearthed from a landfill,  
16 winding up in the ocean and on the beach, you have to look  
17 at things -- I guess the term now is -- there's a new buzz  
18 word, "multimedia."

19                   I'm going to go back to the slide  
20 presentation and show you that this one, this slide here  
21 was taken in 1998, just last year. We zoom in on this and  
22 you're going to see garbage through the catch fence there  
23 and what about the garbage that went through there and  
24 over the top of that? That litter fence is littered with  
25 garbage and that's in '98.

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1                   From that, I would like to refer to the  
2 Regional Water board letter dated August 27th, '99, page  
3 2, second paragraph. "The need to control surface runoff  
4 water from the landfill surfaces cannot be understated.  
5 Currently the County has limited ability to control  
6 sediment laden waste or sediment laden runoff or other  
7 unforeseen releases of waste from the landfill."

8                   They're telling us they can't control this  
9 landfill -- Water Board letter signed for the Executive  
10 Director Roger Briggs by Bradley Haggerman. He goes on to  
11 say, "This is especially a problematic situation given the  
12 current proposal to reopen the west and south facing  
13 benches of the landfill for additional waste. The  
14 drainage from the majority of these benches flows directly  
15 to Pila Creek," and I say to you if it gets into Pila  
16 Creek, it's only moments before it gets into the ocean.

17                   Now, the landfill has come up with several  
18 ideas to control things up there, ideas that have failed.  
19 Here is on the beach waste debris of Styrofoam, but also  
20 wood chips, and these wood chips are used to cover the  
21 landfill, to protect from the dust from coming off.  
22 Here's hypodermic syringes that rolled up on the beach.  
23 This was in '98. There's a collection of a little MELP  
24 waste we find, presents from the landfill.

25                   This is wood chips from the landfill, and

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1 tons of quantity, and when they're in the ocean, they turn  
2 the ocean black. The waves there in the foreground are  
3 actually black with the wood chips, and the landfill at  
4 this time estimated there were 40 cubic yards of wood  
5 chips on the beach right out of that landfill.

6                   This is what the surf is supposed to look  
7 like, blue and beautiful, this is high tide at Arroyo  
8 Quemada, not black.

9                   This is the liner that we spoke about  
10 earlier. This liner goes from 400 to 500 feet. They put  
11 the liner in. They had to do something to protect it, so  
12 they came up with a plan, and I'm sure they had all their  
13 engineers behind it, just like they do with this, and they  
14 covered it with dirt. Well, I'm not a rocket scientist,  
15 but I can tell you what's going to happen during the first  
16 rain, and there it goes right down to the ocean, into the  
17 surf, heavy sediment laden into the surf, and this happens  
18 when the other creeks are not polluting like this, and  
19 I've monitored the other creeks in the area.

20                   This is what it looks like from my living  
21 room, and that's what it looks like from the front porch,  
22 pouring out of Pila Creek. That's a gray whale on its  
23 migration north, which they'll be coming south any day now  
24 and be going north anywhere from April to May. That's  
25 what it should be like all the time out there.

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1                   Now, I'd like to read two things that are  
2 very important. I mentioned to you that I was in  
3 conversation with Robert Cadey, the former supervisor of  
4 the landfill. Mr. Cadey has given me information over the  
5 years about what has been going on there, but he has never  
6 wanted to put it in writing. Fortunately, through the  
7 assistance of our attorney, Kelly Smith, Mr. Cadey decided  
8 to come on the record. I got this signed by Mr. Cadey. I  
9 was there when he signed it this Sunday. We got it to the  
10 Waste Board today, or last night to some of you, and I  
11 would like to read his statement.

12                   Before the California Integrated Waste  
13 Management Board in the matter of the Solid Waste Facility  
14 Permit revision of the Tajiguas Landfill.

15                   CHAIRMAN EATON: Mr. Kinninger, is this the  
16 document here?

17                   MR. KINNINGER: Yes, it is. I'd like to  
18 focus --

19                   CHAIRMAN EATON: It's part of the record.  
20 I don't think we need to read the whole thing into it. If  
21 there's pertinent parts in it --

22                   MR. KINNINGER: Thank you. I will not do  
23 that.

24                   He talks in here about filling the creek  
25 that went down the canyon, the original creek, because

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1 there was a creek there at Pila Creek, and then they  
2 filled it again and diverted it, and they filled it with  
3 tires and demolition material. He states that there was  
4 water coming into that creek from springs that are now  
5 buried, which is a creation of the water under the  
6 landfill are from springs, and they go through the trench  
7 drain. Those are very important things.

8 I personally supervised construction of the  
9 earthen toe at the southern and eastern part of the  
10 landfill. The earthen toe is to serve to hold the waste,  
11 and it's originally placed at the base of the canyon.  
12 He's reviewed the benchfill project and he states, "The  
13 removal of earth from the toe of the landfill would  
14 seriously compromise the stability of the landfill mass at  
15 the base of the landfill."

16 This map, a topo map, Bob Cadey drew in on  
17 here where this creek went, and this area here where it  
18 was the original creek, the next straight line was the  
19 second one, and this is the third one. And this is the  
20 one that acts like a french drain for the water coming  
21 under the water through -- under the waste mass of the  
22 landfill.

23 The last part he does say in here that,  
24 "The removal of that waste mass will compromise the  
25 stability of the landfill," and then Item Number 17 on

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1 page 3, he says, "It is my understanding that the bench  
2 proposal plan is to excavate the berm existing on the  
3 bench phases. To the best of my memory, the west slopes  
4 are only 12 to 15 feet thick, not 40 to 50 feet thick."  
5 Now, I'll zoom in on this and explain why this is so  
6 important.

7                   This is a photograph of the landfill  
8 showing the west facing benches. The County's plan, as I  
9 understand it, calls for this area to begin with for the  
10 landfill of the bench loading. Their plan, as I  
11 understand it, believes that these benches are up to 50  
12 feet thick. Bob Cadey in his statements on paper and his  
13 statements to me said we never covered them with that much  
14 material. It's to my recollection 12 to 15 feet thick.  
15 So 12 to 15 feet thick because he said we were thinking of  
16 coming in later and putting more waste in there. So  
17 there's not near the volume that the County has claimed  
18 there is to work in this area, near the room to work with  
19 as they claim to in this area. This is by the man who  
20 built them.

21                   BOARD MEMBER JONES: Mr. Chairman.

22                   CHAIRMAN EATON: Mr. Jones.

23                   BOARD MEMBER JONES: I'd like to ask a  
24 question. You said that this operator since day one said  
25 he's saying that the dirt on this area is 12 to 15 feet

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1 deep, the cover.

2 MR. KINNINGER: Yeah.

3 BOARD MEMBER JONES: The dirt, not the  
4 garbage. The cover is the dirt.

5 MR. KINNINGER: But on the face, not above  
6 it. He says it's only six feet under the ground, but the  
7 actual bench described in other diagrams here, the benches  
8 were put in like pyramids without the top on them or a  
9 triangle with the top cut off, and they were all dirt and  
10 they were 50 feet across the bottom and 20 feet or so  
11 across the top. And he says in this area they only put in  
12 12 to 15 feet of cover.

13 BOARD MEMBER JONES: Okay. Because they're  
14 going to remove that. They're still -- if that's at this  
15 angle, they're going to go to this angle. So what you're  
16 talking about is six to 12 feet of dirt.

17 MR. KINNINGER: Six to 12 feet of dirt, but  
18 he says he's going to dig in until he uncovers or gets  
19 close to uncovering the trash. He's assuming that he's  
20 got a bench there 50 feet wide and he doesn't. He only  
21 has 12 feet. That's a significant difference, about four  
22 or five times.

23 BOARD MEMBER JONES: Understood. The  
24 interesting thing, though, is that Cadey told you that  
25 they had always intended on going back up there and doing

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1 the benchfills.

2 MR. KINNINGER: No, he didn't say  
3 benchfills, he said put more trash because they -- and I'm  
4 seeing this differently, Mr. Jones.

5 BOARD MEMBER JONES: Well, I mean --

6 MR. KINNINGER: The road is still going to  
7 be here. They were going to have a lot more space to work  
8 on and they were going to build their way up. This is not  
9 what's happening now. They're going to be operating on a  
10 narrow bench, and if you took over the road, you would  
11 have a wide base to work on, hundreds of feet. So it  
12 really is a significant difference.

13 I'd like to end by just reading one last  
14 thing. This is LEA-57, guidance for writing a Solid Waste  
15 Facility Permit. To all local enforcement agencies, this  
16 advisory has been developed in coordination with Local  
17 Enforcement Agencies, LEA, and the California Integrated  
18 Waste Management Board staff to provide guidance on how to  
19 write a Solid Waste Facility Permit that is consistent  
20 with California Code of Regulations Title 27 and the  
21 Public Resources Code.

22 It quotes in bold two thirds of the way  
23 down the page, "The goals and the functions of the Solid  
24 Waste Facility Permit. The primary goal purpose of  
25 issuing or revising a Solid Waste Facility Permit is to

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1 ensure protection of the public health and safety and  
2 prevention of environmental damage. The long-term  
3 protection of the environment shall be the guiding  
4 principal." I submit to you that benchfilling proposes a  
5 tremendous threat to my community, to the ocean, and to  
6 the environment, and I ask you to use LEA-57 as your  
7 reasoning to not allow benchfilling.

8                   If there are any questions, I would be  
9 happy to answer them.

10                   CHAIRMAN EATON: Any questions of  
11 Mr. Kinninger? Thank you.

12                   I have two speakers left, at least with  
13 regard to opposition, Mr. Jeff Young, and Mr. Smith, I  
14 guess you're going to wrap it up, and if you could try to  
15 not be redundant or repetitive on any other issues that  
16 were raised.

17                   MR. YOUNG: Good afternoon, Mr. Chairman  
18 and Members of the Board. I will be as brief as I can.

19                   I am the other co-founder and co-director  
20 of Heal the Ocean. I'm a practicing attorney in Santa  
21 Barbara. I represent a lot of fish and shell fish farmers  
22 in the state. The issues that are really, I think,  
23 significant here have to do with the CEQA compliance, and  
24 in looking at the '88 document, I think what strikes me is  
25 that even though many issues or factors are not going to

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1 be changed with what they're proposing to do with  
2 benchfilling, I think what's significant though is the  
3 concept of benchfilling at that point in time was not  
4 addressed and analyzed in terms of any potential  
5 environmental impacts. And I think that it's important to  
6 put that issue through CEQA analysis so that we have  
7 public involvement in looking at those potential impacts  
8 and their mitigation.

9                   Another issue that I feel strongly about is  
10 the real conflict we have with the LEA and the operator of  
11 the facility. It's quite obvious that the County has a  
12 timing issue here. The landfill is going to be filled up.  
13 Money is driving this whole thing like it does many  
14 things. The County doesn't want to let go of the purse  
15 strings on this stream of funds into the County.

16                   The LEA is a County agency along with the  
17 operator. I think Supervisor Marshall's presence here  
18 today alone only underscores how significant these issues  
19 are to the County itself. Here we have the LEA sitting in  
20 the role of stamping or reviewing what the operator is  
21 doing. That concerns me greatly.

22                   We do have alternatives that are available  
23 right now, that have been -- Mr. Smith gave the Board in  
24 terms of an independent analysis of costs and alternatives  
25 that can be done, and we had come to the County a long

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1 time ago asking them for such an independent review of  
2 what it would cost to do alternative measures, and we had  
3 always been told we're not going to release anything  
4 piecemeal. It's going to be in the EIR document at the  
5 end of the year, and we've never been able to get all the  
6 information we want. Very lately things have seemed to be  
7 provided at the last hour and put into the record, and it  
8 really subverts the public input process in being involved  
9 in a project of this nature.

10                   Lastly, I would like to say in closing that  
11 obviously we oppose the permit revision that's before you.  
12 We would like to you oppose it and deny it. We want to  
13 see the benchfilling aspect put through a formal CEQA  
14 review process for the reasons that the public needs to  
15 have faith in government, needs to be involved in these  
16 review processes. That's what CEQA is all about. I feel  
17 it's being subverted by this last-minute effort to  
18 piecemeal expand the landfill, and the CEQA process also  
19 allows for competing and minority concerns to help shape  
20 the final product and we're not getting that at this point  
21 in time.

22                   Thank you for your time.

23                   CHAIRMAN EATON: Thank you, Mr. Young.

24                   Okay. Mr. Smith.

25                   MR. SMITH: Thank you, Mr. Chairman and

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1 Board Members, for your patience, and I'll touch on some  
2 specifics hopefully that, as you said, can frame the  
3 discussion.

4 CHAIRMAN EATON: Because your skill and  
5 training as a lawyer requires you to have such advocacy  
6 skills and public speaking skills, that audio visual aids  
7 are secondary to the waste argument.

8 MR. SMITH: That's it. Thank you.

9 (Laughter)

10 BOARD MEMBER JONES: Do we have somebody on  
11 our staff that knows how to do this thing?

12 CHAIRMAN EATON: We do have staff training  
13 from time to time.

14 I'll tell you what, Mr. Smith. As much I  
15 hate to do this, I'm going to take a break because I know  
16 the court reporter has been going nearly almost two hours.

17 MR. SMITH: I would really appreciate  
18 that.

19 CHAIRMAN EATON: -- and we'll try and get  
20 going and wrap it up. We're back at 4:15. Thank you.

21 (Brief recess taken)

22 CHAIRMAN EATON: All right. Mr. Smith.  
23 Inspector Gadget, are you ready?

24 (Laughter)

25 MR. SMITH: Probably not. Thank you,

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1 Mr. Chairman.

2 I'll try to get to specifics here so we can  
3 frame the issue. The overall problem that we have here  
4 ties back to CEQA, but it is related to the failure of the  
5 process to address changes in the project, significant  
6 impacts that have arisen since the '88 EIR, and  
7 increasingly significant impacts that you've seen in water  
8 and so forth.

9 I want to start with a more fundamental  
10 problem with the environmental document and the process  
11 here, one that I think I would characterize indicates that  
12 this is really an end-run by the County, using this board  
13 as dupes so they don't have to go in front of the Coastal  
14 Commission, and I think you'll see why after we explain a  
15 problem with the project description for this EIR.

16 They're already at 12 million cubic yards.  
17 I think everybody has recognized that. This is from the  
18 '88 EIR. What it says is the Santa Barbara Public Works  
19 Department has estimated that the existing Tajiguas  
20 Landfill has approximately 11.27 million cubic yards of  
21 disposal capacity. It's in black and white. It's in the  
22 project needs and objectives section, and it is very  
23 clearly stated.

24 They need to begin planning at least on  
25 something else for a new site. It's also in the project

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1 description, if I can get this so that you can read it.  
2 Maybe I can save you the trouble. This expansion would  
3 continue the operation of the landfill for approximately  
4 nine years, it says, in the proposed project description.  
5 That's right there.

6                   The County refers to a table in the EIR as  
7 its basis for contending that there's a 17 million ton  
8 capacity evaluated in that EIR. This is the table. I  
9 have to zoom out a little bit, but what you're looking at  
10 is projection of Tajiguas Landfill refuse disposal rate.  
11 It's the rate of fill. It's a table reflecting the rate  
12 of fill over the years, and what you probably can't see, I  
13 think it's in the year 1996 they're maxed out after 12  
14 million.

15                   So there's the basic problem here that this  
16 project is not described in the broadest and most relevant  
17 terms in the '88 EIR. We could go on and on about how a  
18 benchfill project is never mentioned. There's no  
19 benchfill project for 40 feet or how wide the benches are  
20 going to be or where it's going to be. They built a  
21 landfill and they're now talking about modifying the  
22 design to do this project, a new project, a project that  
23 the LEA found represents a significant change, otherwise  
24 it wouldn't be here. It's a significant change that  
25 brings a landfill project before your Board. That's why

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1 it requires a permit revision.

2 That you probably can't see either, but  
3 trust me. It says this.

4 (Laughter)

5 MR. SMITH: The increasing capacity is  
6 considered a significant change in design and requires a  
7 permit revision. That's conclusions reading permit status  
8 in the five-year review, which they're saying constitutes  
9 their finding of adequacy of the 1988 EIR for this  
10 project, and that's the description that they're saying  
11 qualifies that EIR.

12 What happened is they were permitted up to  
13 500 feet, even in the existing coastal zone. Obviously if  
14 they try to go back to the Coastal Commission and go up to  
15 500 feet, it's not going to happen. That's why they're  
16 here because they're swamping that air space and they're  
17 claiming they have that capacity somewhere, charging it in  
18 this document, which has failed to look at a benchfill  
19 project.

20 So there are some other housekeeping  
21 problems and defects with this permit which point to the  
22 need for to you reject the permit and send it back to the  
23 LEA, but first we're going to come back to some more which  
24 is the failure to provide CEQA review. The package  
25 approved by the LEA that came to you was absent probably

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1 the majority of the information that you have in front of  
2 you, including revisions or supplemental information as  
3 late as yesterday, significant information that was not  
4 evaluated when they concluded this package was adequate,  
5 including findings by various agencies and so forth.

6 The siting element does not describe this  
7 project. Let me see if I can get that so it's legible. I  
8 have it here.

9 BOARD MEMBER MOULTON-PATTERSON: Mr. Chair.

10 CHAIRMAN EATON: Ms. Moulton-Patterson.

11 BOARD MEMBER MOULTON-PATTERSON: You said  
12 citings by other agencies?

13 MR. SMITH: Findings by other agencies, the  
14 information from the Water Board, finding that they're not  
15 in violation and they're in compliance with everything,  
16 much of that came yesterday or you've heard it for the  
17 first time here today. The -- well, we just got the  
18 fairly sizeable submission to you folks dated yesterday,  
19 which included alot of findings by their experts and so  
20 forth, and the LEA didn't have the benefit of that.

21 There was another report in addition to the  
22 RDSI information that was called for by your Board which  
23 was significant, a significant addition to the information  
24 that was considered in your evaluation, and was not before  
25 the LEA at that time.

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1 BOARD MEMBER ROBERTI: Mr. Chairman.

2 CHAIRMAN EATON: Senator Roberti.

3 BOARD MEMBER ROBERTI: I would like to have  
4 some elaboration on another point which was made, and that  
5 is that the siting element was not properly described in  
6 the EIR. Can our staff help us with that?

7 MS. NAUMAN: Mr. Roberti, there doesn't  
8 seem to be any staff here from the Office of Local  
9 Assistance so we're retrieving the letter from them, the  
10 memo that is their findings. I believe we made this  
11 available to Board Members during our briefing. It's  
12 dated October 4th from Nikki Mizwinski, and I'll read the  
13 important part, findings of conformance. The landfill is  
14 identified and described in the County's Siting Element.  
15 Expansion options pertaining to the landfill, including  
16 the 2:1 slope, are discussed in the Element. OLA staff  
17 find that the facility description in the proposed permit  
18 revision is consistent with the description in the  
19 County's Siting Element and, therefore, the proposed  
20 permit revision for the landfill is in conformance with  
21 the County's Siting Element.

22 So those are the findings of our own staff.

23 BOARD MEMBER ROBERTI: Thank you, and to  
24 the speaker.

25 Under normal circumstances, including these

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1 circumstances, I would be extremely reticent to ever want  
2 to put a landfill in the vicinity of the coast. The  
3 problem that we're faced with here is that we have an  
4 existing landfill, testimony I'm sure you've heard more  
5 than I have.

6                   We have an existing landfill in which there  
7 is a prior EIR which appears to be valid on all  
8 substantial points and covering the request of the County  
9 of Santa Barbara wants, although we think it would be  
10 happier if it was not ten years old, but seems to cover  
11 the bases that amounts to a negative finding of any  
12 environmental damage. That, plus the fact you have an  
13 existing landfill in an area that's, you know, no one --  
14 I'm sure if it were being rebutted upon at this date, no  
15 one would ever dream of siting, tilts me without any  
16 further evidence in the direction of the County very, very  
17 reluctantly.

18                   But the reality, it's been established --  
19 probably established I assume before any of the current  
20 Members of the Board of Supervisors were there. Maybe I'm  
21 wrong -- and an EIR, that plus the County's own decision,  
22 it would take a major transgression for me to want to vote  
23 to overcome that.

24                   Can you address that? Is there anything in  
25 the EIR, is there anything that really the County did not

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1 take into consideration, or is there anything other than  
2 the siting element that you know of that is lacking in the  
3 EIR which would give me something to hang my hat on to do  
4 something which I probably would prefer to do, and that is  
5 not to expand a landfill in a coastal area? But right now  
6 I don't feel the opponents have walked that extra step for  
7 me to countervene in my own vote the wishes of the local  
8 authorities.

9                   MR. SMITH: I understand. There are  
10 several things, and I would like to go through some more  
11 of them, and hopefully we will raise those, and I  
12 understand that's the issue, Senator. It's really whether  
13 there's new or increasingly significant impacts that have  
14 resulted since the 1988 EIR and what those would be. I  
15 think without laying a bunch of paperwork on you because  
16 you've got some already with -- we've stated that,  
17 there's -- the fact that we're approving a landfill here  
18 that's a piecemealing of a larger project, that's going to  
19 be using the same infrastructure for an expansion that  
20 hasn't been evaluated, and we think it is a piecemealing.  
21 We think it's improper because there's a lot of other  
22 evaluations that should have done.

23                   And the first is they're not in full  
24 compliance with -- there's a careful parsing of the words  
25 here, but they're not really in full compliance with

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1 taking care of all the problems there. They've yet to  
2 build a collection pond at the bottom and collect the  
3 runoff water and supposedly treat that and manage that for  
4 the entire landfill. The new surface area, which is going  
5 to be steeper and run off faster, and the expansion  
6 they're talking about, those are really linked. That  
7 infrastructure are the key impact, probably the prevailing  
8 impact of this site, that's going to flow into the ocean  
9 as you've seen, has not been addressed and it's not going  
10 to be.

11                   And that's a new and increasingly  
12 significant impact that's evident in the runoff that  
13 they've got and is evident by the Regional Water Board's  
14 statement that it hasn't been addressed. It's going to  
15 need a basin at the bottom. It's as simple as that. And  
16 it's going to be a long time in order to get it because  
17 it's in the coastal zone. The permits are going to  
18 prevent that happening, and you're being asked today to  
19 approve a benchfill with just rationally logical impacts,  
20 just by slope and so forth, to how that whole system will  
21 function to control the sediment, the erosion and  
22 collection of water and so forth.

23                   There are other things that haven't been  
24 evaluated that come from the claim that the changes in the  
25 regulatory structure and so forth don't -- haven't been

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1 characterized sufficiently to identify how that indicates  
2 that there's more stringent standards in effect, but in  
3 fact what's happened since they started trying to collect  
4 the water at the top of the landfill is they've created a  
5 natural water body and Fish and Game has all kinds of  
6 problems with that. There we read wetlands and endangered  
7 species.

8 CHAIRMAN EATON: Let me ask you this. Do  
9 you disagree with Mr. Manley's position that the 3:1 slope  
10 was not addressed in the previous environmental document?

11 MR. SMITH: Not this project addressed.  
12 There may be reference.

13 CHAIRMAN EATON: Significant -- if you  
14 talked about -- my understanding is that there was a  
15 reference to the fact that it was sort of contemplated or  
16 at least put in that document as a 3:1.

17 MR. SMITH: I think you find it referenced  
18 here or there, 2:1 or 3:1 or so forth.

19 CHAIRMAN EATON: That is one of the issues  
20 that the Senator was looking at, is that that document and  
21 CEQA, if you're attacking the CEQA position, if it was  
22 referenced in that document, then it was --

23 MR. SMITH: -- this project.

24 CHAIRMAN EATON: It was contemplated.

25 MR. SMITH: You can say building a landfill

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1 there, anything goes. If you go too far -- we would say  
2 that that does not contemplate the project and does not  
3 describe the project adequately to do the kind of review  
4 that's required --

5 CHAIRMAN EATON: But it would certainly  
6 have what environmental impacts.

7 MR. SMITH: If they've assessed those  
8 environmental impacts.

9 CHAIRMAN EATON: Based on that 3:1 slope or  
10 2:1 slope.

11 MR. SMITH: We're getting into a number of  
12 questions that we've raised that are somewhat technical  
13 and there's information back and forth, but they were  
14 based on those -- that analysis was based on, for example,  
15 old earthquake standards before the revisions by the  
16 Division of Mining and Geology after the Northridge  
17 earthquake. They don't include -- I think they may have  
18 included early water quality monitoring under Hortese, but  
19 much of those results came in after the '88 EIR, for  
20 example. So there's no way to evaluate that in that EIR.

21 Those are two big impacts that were not  
22 evaluated in that EIR, and I don't think -- I think the  
23 basic question, Mr. Chairman, is just because they say  
24 2:1, does that mean that EIR has addressed all the  
25 potential impacts of this project? And we contend that it

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1 doesn't.

2                   CHAIRMAN EATON: I don't think CEQA  
3 requires that; does it? We're talking about significant  
4 impacts.

5                   MR. SMITH: I'm not saying all. I'm saying  
6 significant.

7                   CHAIRMAN EATON: It doesn't require all.  
8 You did say all.

9                   MR. SMITH: Significant -- new or  
10 increasingly significant impacts that have occurred since  
11 1988. I think the simple ones that we have given so far  
12 are examples of that sufficient enough to require them,  
13 with the burden on them, to show that that EIR is  
14 sufficient, to require that they do.

15                   I don't know if that gets to the threshold  
16 you're talking about, Senator, but there might be some  
17 more things that we can get to. This is one.

18                   We think that Mr. Cadey's declaration  
19 constitutes substantial new evidence. He's basically  
20 saying not only does a river run through this channel, but  
21 there's a couple fake ones running through it that he's  
22 told the County about that the County has refused to  
23 analyze, and we would argue that that simply creates a  
24 potential significant -- new information of a potential  
25 significant impact that has not been addressed.

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1                   That channel, just to remind you, is 12  
2 feet across, five feet deep. It was filled with inert  
3 material. He observed springs, natural springs popping  
4 from this allegedly impermeable surface at the bottom of  
5 the landfill into that -- into that structure made with  
6 the original landfill. That was not addressed in the '88  
7 EIR, either. That's because the '88 EIR really didn't  
8 address the existing landfill mass that was there. It  
9 addressed the expansion to the increased height.

10                   We have real problems with the process and  
11 I'll spell them out real fast. You probably don't care  
12 too much, but we still contend the LEA made no specific  
13 finding. The LEA deferred to the Planning Director's  
14 finding that the '88 EIR was sufficient, and the County  
15 contends that by their procedures, their CEQA procedures,  
16 that's called for. We're going to be reviewing that. We  
17 just got that claim by them today. The LEA then did make  
18 that finding.

19                   Use of the '88 EIR was never adopted by the  
20 legislative body itself, yet you have one Supervisor here  
21 today. It takes three at least to make a majority.  
22 Amendments that are then referred to were not formally  
23 adopted, or at least we haven't seen anything that shows  
24 they were formally adopted, and they have been used as the  
25 basis for qualifying this EIR.

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1                   Other new and increased significant impacts  
2 are the surface water runoff for the Water Quality Board,  
3 the more stringent state earthquake standards, the  
4 improper project description I've dwelled on. We feel  
5 it's piecemeal because it is tied inextricably to phase  
6 two, which is just a classic definition of a piecemeal  
7 project. They're trying to buy time for a larger project  
8 with this one and calling those impacts of this project  
9 not sufficient to require an EIR. And really, shouldn't  
10 it all be rolled into this expansion?

11                   The new information of water infiltration,  
12 as I said. And the increased erosion impacts we would  
13 maintain have not been sufficiently addressed and  
14 responded to. This is the problem with the water  
15 infiltration as we see it in the EIR and in the  
16 information in front of you.

17                   Bob Cadey stresses that he's told the  
18 County numerous times. They have known of this  
19 information and have not disclosed it in any documents,  
20 and we think that impact could be significant and because  
21 potentially the vertical weight on unstable mass that is  
22 water saturated could actually create a health and safety  
23 risk.

24                   Tajiguas is located five miles from an  
25 active earthquake fault. The earthquake standards were

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1 revised since the EIR. No design recognition of this  
2 water infiltration that we're seeing and its intersection  
3 with the earthquake threat has been provided, at least  
4 sufficient explanation of it.

5                   There are disposal options. We just want  
6 to clarify this does not create an emergency. I think as  
7 one County official said, turn left instead of right on  
8 the freeway and they would be fine. Those alternatives in  
9 fact may be cheaper and something that the County seems to  
10 be struggling to not make its ratepayers aware of.

11                   Therefore we're recommending that you  
12 reject the permit with directions to the LEA to hold  
13 hearings on the environmental impacts, which we've  
14 requested, CEQA compliance and the design adequacy. We've  
15 requested that the LEA do that, and if you were to send it  
16 back, those hearings would be held by the LEA and address  
17 some of these questions which should have been addressed  
18 the first time.

19                   CHAIRMAN EATON: All right. Any questions  
20 of Mr. Smith?

21                   BOARD MEMBER JONES: Mr. Chairman.

22                   CHAIRMAN EATON: Mr. Jones.

23                   BOARD MEMBER JONES: Just a couple.

24                   The first one is you say that the only  
25 reason this permit is in front of this Board is because it

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1 says "significant change." You need to understand this is  
2 in front of this Board because we made a commitment to the  
3 people of Santa Barbara County at a Board meeting held  
4 there that as things went on, we would stay involved. We  
5 came down, we met with the County and all the effected  
6 stakeholders. It's here because we asked that it be here,  
7 I think.

8                   Personally, and I'm always speaking for  
9 myself, but as a landfill operator, somebody that's done  
10 that, my first reaction to this when they said they wanted  
11 to do a benchfill, was it was already in the EIR and  
12 designed to build it to 2:1. I've had LEAs come in and  
13 say the slopes aren't steep enough. You've got to fill  
14 that up. But I think it's critical to understand the  
15 significant change is really because this Board wanted to  
16 give all of these folks the opportunity to look at this  
17 issue. Okay. And I think that's really important, that  
18 people understand.

19                   The other thing is when you talk about  
20 alternatives, going other places, there's a lot of pieces  
21 that go into a rate, you know, the rate that gets  
22 delivered to the person. And I found it pretty  
23 interesting that you called -- whoever calls around to  
24 other people and says what will you take this for, but the  
25 day we were there and he made his presentation on

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1 Tajiguas, there was somebody else there that made a  
2 presentation that didn't want a transfer station. So you  
3 had two effected groups. One said, "I want a landfill  
4 expansion," and the other one said, "I want a transfer  
5 station."

6                   So you have to get garbage there some way,  
7 but I'm just wondering if, you know, you called up those  
8 landfill operators. Did you call the people along the  
9 road that those transfer trucks were going to be driving  
10 through along the highway to see how they felt about Santa  
11 Barbara's trash? Because it's germane.

12                   MR. SMITH: No, I understand.

13                   BOARD MEMBER JONES: Everything isn't just  
14 clear cut, and I can understand exactly the things you're  
15 saying, but we have to hold the LEA, they have to hold the  
16 County of Public Works Department to operate that landfill  
17 to state standards.

18                   MR. SMITH: Right.

19                   BOARD MEMBER JONES: And I'll tell you,  
20 they need to do that. They have to do that. If they  
21 don't do that, we can -- we have actions we can take to  
22 make sure that that doesn't happen, but I think it's  
23 important.

24                   MR. SMITH: Well, you touched on something,  
25 though, that I think is relevant in a different way of

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1 bringing it up, which is one of the things that changed  
2 since 1988 is the advent of Subtitle D and its adoption in  
3 1993 here and the impacts that that's had on how we manage  
4 waste and the general trend toward transfer to regionally  
5 sited, newer, better generation of landfills.

6                   And that's -- I'd like to state that for  
7 the record because that's the significant change, one that  
8 you guys are to be implementing here in effect, your  
9 regulations are supposed to conform with that.

10                   But that aside, on a practical level for  
11 the County, there's nothing to say though that they  
12 couldn't find -- and this is all we're trying to say, is  
13 there's no emergency here. There's no great desperation  
14 here, we're out of room and you've got to approve it today  
15 or there's garbage in the streets. I think you're savvier  
16 enough than to buy that scenario.

17                   There's nothing to stop this permit from  
18 being sent back to the LEA and having it roll into what's  
19 really going on here which is to expand a larger expansion  
20 at that landfill and a full review and a proper public  
21 input into that process, and you never know what will  
22 happen. The County may -- it sometimes happens -- be made  
23 aware of facts that they may wish to change their mind on  
24 and may come up with other alternatives and solutions to  
25 their problem. So that's all we were trying to show

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1 really, was the lack of that emergency.

2 BOARD MEMBER JONES: I understand. It's  
3 only an emergency when you need to buy a truck and the  
4 back order at the factory is a year and a half delivery  
5 time when you have eight months of capacity. Then it  
6 becomes an emergency. Believe me.

7 MR. SMITH: Anything else?

8 CHAIRMAN EATON: Thank you, Mr. Smith. I  
9 have one other opposition speaker, Don Landry. I assume  
10 that is correct, or is that support? Is he here? Okay.

11 We've got a few more speakers. These are  
12 support speakers. If you could just kind of be conscious  
13 of a long agenda.

14 Patrick DeRueda. I think I pronounced that  
15 fairly close.

16 MR. DE RUEDA: Fairly close. Patrick  
17 DeRueda, General Manager for BFI Waste Systems in Santa  
18 Barbara. We are the franchise hauler for the City of  
19 Santa Barbara and a zone in then incorporated area of the  
20 County. We send a majority of the trash to Tajiguas  
21 Landfill. BFI's position is to join the LEA and your  
22 staff to support the benchfilling project at Tajiguas to  
23 address the short-term need for disposal capacity for the  
24 south coast of Santa Barbara County.

25 I represent an industry that attempts to

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1 internalize its disposal as much as possible, yet in Santa  
2 Barbara, BFI supports maintaining our current disposal  
3 infrastructure to allow the current EIR process to be  
4 completed and ultimately enable our elected officials to  
5 make an informed decision for future disposal options.

6                   Coincidentally, I'm here on behalf of Santa  
7 Barbara Region Chamber of Commerce as well. I am the  
8 President-elect. Our Government Relations Council has  
9 kept this issue in front of us. We've had two forums on  
10 Tajiguas in the last 12 months, and as a result of that,  
11 we have formed a position paper that I would like to read  
12 to you today and submit it as part of the record.

13                   Again real briefly, "The Santa Barbara  
14 Region Chamber of Commerce is in support of the County of  
15 Santa Barbara's request for approval of the Tajiguas  
16 Landfill disposal design capacity change and bench plan  
17 from the California Integrated Waste Management Board.  
18 This change in plan will allow the County to extend the  
19 life of the landfill by five years, keeping it open until  
20 2006. By approving the proposed bench plan, the CIWMB  
21 will allow the County to maintain local control of its  
22 waste management, keep consumer costs down, minimize  
23 environmental impacts, and continue to provide the funding  
24 for resource recovery programs.

25                   "The County is currently conducting an EIR

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1 that examines expansion of the Tajiguas Landfill. That  
2 EIR is expected to be completed in the year 2000. In the  
3 interim, implementation of the minor modifications  
4 proposed by the bench plan which calls for bench and fill  
5 at the existing site allows the County to continue to  
6 dispose of its solid waste at Tajiguas while planning for  
7 long-term solid waste disposal. If the bench plan is not  
8 approved and the County is unable to continue to use  
9 Tajiguas, there will be several major impacts to the  
10 community.

11 "Alternate disposal sites would create a  
12 loss of control over how waste is managed and its cost.  
13 If the County cannot increase landfill at Tajiguas, even  
14 though it's in the permit as set forth in the approved  
15 EIR, the solid waste will have to be hauled out of the  
16 County. Increased transit distance will increase costs to  
17 consumers by an estimated minimum of 22 percent. Truck  
18 traffic will increase if the County solid waste must be  
19 hauled out of county. More trucks means more traffic,  
20 noise, air pollution and safety impacts on our community.

21 Recycling programs are currently funded  
22 through the tipping fee, through an integrated tip fee at  
23 the county facility. If these facilities are no longer  
24 operational, the County will have to identify an  
25 alternative means of funding the programs or eliminate

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1 programs.

2                   Santa Barbara Region Chamber of Commerce  
3 believes that the County has an obligation to be  
4 responsible for its own solid waste disposal rather than  
5 hauling it to another region. The bench plan will allow  
6 the County to fulfill this responsibility by retaining  
7 local control of its waste management.

8                   The Chamber urges the CIWMB to approve the  
9 Tajiguas Landfill bench plan proposal of November 16th,  
10 1999.

11                   Thank you for your time.

12                   CHAIRMAN EATON: Thank you. Any questions?

13                   David Johnson.

14                   MR. JOHNSON: Thank you, Mr. Chairman and  
15 Members of the Board.

16                   I'm the Public Works Director of the City  
17 of Santa Barbara and I'm here -- I'll read a letter to you  
18 that I've prepared that basically summarizes mine and the  
19 City's position on this particular issue we're in support  
20 of.

21                   The City of Santa Barbara has a vested  
22 interest in the operation of the Tajiguas Landfill since  
23 more than 50 percent of the solid waste sent to the  
24 landfill is generated from within our city. As such, the  
25 City has been cooperating with the County in managing

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1 solid waste on the south coast since the landfill opened  
2 in 1967.

3                   The City manages a collection of solid  
4 waste within the city and with an exclusive franchise with  
5 Browning Ferris Industries who directs the waste to the  
6 Tajiguas Landfill. To assist the City in meeting its AB  
7 939 goals, the County of Santa Barbara has prepared the  
8 City Source Reduction and Recycling Element required under  
9 AB 939 designed to achieve 50 percent reduction standard.  
10 This landfill and the transfer station operated by the  
11 County are critical in managing solid waste generated in  
12 the city.

13                   Further, in 1994, the City and the County  
14 entered into a cooperative agreement designed to encourage  
15 joint planning for disposal of solid waste on the south  
16 coast, and to that end, I have met with and discussed with  
17 the County Public Works Director many options for managing  
18 and reducing solid waste. We have been particularly  
19 interested in jointly developing a material recovery  
20 facility on the south coast. We have also coordinated the  
21 development of outside recycling programs for our  
22 residents and commercial customers. Both the City and  
23 County are well underway to meeting AB 939 goals.

24                   Recently the City participated with the  
25 County in developing alternatives to be studied in the EIR

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1 being prepared for potential expansion of Tajiguas  
2 Landfill. Our City Council has been briefed in open  
3 session on three occasions on the expansion project,  
4 including the benchfill application which is before you  
5 today, and finally the City expects to play a significant  
6 role in commenting on the draft impact report when it is  
7 completed for potential expansion project.

8 I give you this background to assure you  
9 that the City of Santa Barbara has been working closely  
10 with the County for a number of years and relies fully on  
11 the expertise of the County in managing Tajiguas Landfill  
12 and in developing a full range of alternatives for  
13 disposing of solid waste. This planning and environmental  
14 process will take a number of years, and it is essential  
15 that the landfill remain open during this process.

16 I have complete confidence that the  
17 benchfill plan is well thought out, well designed, and  
18 will provide a very safe method for solid waste disposal  
19 for the City that is close and economical. I urge you to  
20 approve the application for benchfill and avoid placing  
21 the City in a position of taking the unnecessary action of  
22 directing its franchisee, BFI to directly haul city solid  
23 waste out of the County.

24 Thank you.

25 CHAIRMAN EATON: Thank you, Mr. Johnson.

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1 Any questions of Mr. Johnson?

2 Mr. Kelly Astor.

3 MR. ASTOR: Thank you, Mr. Chairman and  
4 Members. My name is Kelly Astor. I'm appearing before  
5 you this evening on behalf of Marborg Industries. Marborg  
6 Industries is the last independent hauler of any  
7 significant operating in Santa Barbara County and prides  
8 itself on being the largest solid waste recycler in both  
9 the County of Santa Barbara and the City of Santa Barbara.  
10 We are here to offer our support as well for the staff  
11 recommendation on benchfill.

12 A couple of things that I haven't heard  
13 with all the testimony that's been presented to you today.  
14 First of all, it may interest you to know that the  
15 facility in question operates under an integrated tip fee.  
16 Tipping fee supports activities beyond those just  
17 associated with the landfill itself like recycling, and  
18 should this option of going somewhere else to dispose of  
19 the material be given serious consideration at this  
20 juncture, it's the wrong step because of the rush it  
21 places the County in, number one; and number two, that  
22 could have a very significant negative impact on the  
23 existing recycling activities which are benefiting both  
24 the City and County of San Francisco. I would also add  
25 that I have been present at several hearings --

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1 BOARD MEMBER JONES: It's Santa Barbara,  
2 Kelly.

3 MR. ASTOR: Which County did I say? San  
4 Francisco?

5 (Laughter)

6 BOARD MEMBER JONES: You don't represent  
7 anybody in San Francisco.

8 MR. ASTOR: I look at you and I see San  
9 Francisco.

10 (Laughter)

11 MR. ASTOR: Forgive me. Santa Barbara.

12 BOARD MEMBER JONES: I used to, too, before  
13 I got fired.

14 MR. ASTOR: Probably have your job back if  
15 you want it.

16 (Laughter)

17 MR. ASTOR: Aside from the tipping fee  
18 integration issue, I should also add that in this  
19 particular county, there's been an extensive public  
20 hearing process. I was there, and the idea that the  
21 public policy process has been subverted is offensive to  
22 me. Unless I dreamt it, there were several hearings. I  
23 attended them. We testified in support of this very  
24 project.

25 I think what you have is people who are

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1 anxious not to have this landfill operating, wish it  
2 weren't there, and we understand that there might be other  
3 options of choice, but the step before you tonight will  
4 allow the County and the City the six years more or less  
5 window that they require so they can make an informed  
6 decision about the exercise of other options. I can say  
7 that if we turn left rather than right in terms of where  
8 we head to the landfill, as one witness suggested, you're  
9 headed south to Ventura County. And guess what? They  
10 don't want the trash. This County deserves the  
11 opportunity. The Water Board has blessed it. If the  
12 Waste Board is about to bless it, if minimum standards are  
13 being met, they deserve the opportunity to take a  
14 dispassionate reason and calculated look at what their  
15 options are. I may well be testifying in support of the  
16 expansion later on or for the site in the County, but we  
17 don't today whether those options are the best options of  
18 choice, and this gives everybody, buys us the time that we  
19 need.

20                   On behalf of Marborg Industries, we  
21 strongly urge your support of the staff recommendation.

22                   CHAIRMAN EATON: Any questions of  
23 Mr. Astor?

24                   Our final public comment speaker is Mario  
25 Borgatello. Mr. Borgatello, welcome.

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1                   MR. BORGATELLO: Chairman Eaton, Members of  
2 the Board, my name is Mario Borgatello. I'm the President  
3 of Marborg Industries. Our family has been in the solid  
4 waste business since 1934, three generations, and I'm here  
5 to say that I -- a previous speaker made mention about  
6 this thing being all about money. I respectfully  
7 disagree. This thing is not all about money. Marborg  
8 does more recycling in the City and in the County than all  
9 of any other hauler. And as you well know, there's not a  
10 lot of money in recycling.

11                   I would also like to state that the issue  
12 of local control is very important to an independent  
13 hauler. We are the only independent hauler left in the  
14 Santa Barbara County. Everybody else is gone. They've  
15 all sold out for the big bucks, so to speak. We're still  
16 there, we enjoy what we're doing, and I hope our presence  
17 will be felt for many years to come.

18                   I would appreciate and I urge you to vote  
19 for the benchfill project before you today.

20                   Thank you very much.

21                   CHAIRMAN EATON: Thank you. Any questions  
22 of Mr. Borgatello?

23                   BOARD MEMBER JONES: No, but  
24 Mr. Chairman --

25                   CHAIRMAN EATON: Mr. Jones.

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1 BOARD MEMBER JONES: Just briefly. I did a  
2 meet-and-greet with Mario Borgatello on the break, just to  
3 disclose that just so I don't get in trouble.

4 CHAIRMAN EATON: Thank you. All right.  
5 Any questions of any of the speakers or staff?

6 BOARD MEMBER PENNINGTON: Mr. Chairman.

7 CHAIRMAN EATON: Mr. Pennington.

8 BOARD MEMBER PENNINGTON: Are you ready?

9 CHAIRMAN EATON: Yes, sir.

10 BOARD MEMBER PENNINGTON: I'll move the  
11 adoption of Resolution 1999-586 with the appropriate  
12 findings to indicate that the Board has found the proposed  
13 permit to be consistent with CEQA, in conformance with the  
14 intent of the County Integrated Waste Management Plan,  
15 meets all local and state permitting requirements, and is  
16 consistent with state minimum standards and, therefore,  
17 concur in the proposed permit.

18 BOARD MEMBER JONES: Second it.

19 CHAIRMAN EATON: All right. Mr. Pennington  
20 moves and Mr. Jones seconds that we adopt Resolution  
21 1999-586 which would concur in the issuance of Solid Waste  
22 Facility Permit 42-AA-0052. It's getting late.

23 Madam Secretary, please call the roll.

24 BOARD SECRETARY: Board Members Jones.

25 BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY: Moulton-Patterson.

2 BOARD MEMBER MOULTON-PATTERSON: Aye.

3 BOARD SECRETARY: Pennington.

4 BOARD MEMBER PENNINGTON: Aye.

5 BOARD SECRETARY: Roberti.

6 BOARD MEMBER ROBERTI: Aye.

7 BOARD SECRETARY: Chairman Eaton.

8 CHAIRMAN EATON: Aye.

9 Okay. Next on the agenda we have four  
10 public hearings, the enforcement of recycled content  
11 newsprint law. Those items are Items Number 20, 21, 22,  
12 and 23.

13 Before I begin, some ground rules -- we  
14 still have some business, so those of you who could clear  
15 the room, we have a couple of other large agenda items to  
16 be taken. Appreciate it.

17 As I was mentioning, we have four public  
18 hearings that were scheduled for today. Those are Agenda  
19 Items 20, 21, 22 and 23. Before we begin, I would like to  
20 go over a brief structure of the hearings and the  
21 procedures that were adopted by the Board at the October  
22 1997 meeting with regard to these items.

23 First, the court reporter will swear in any  
24 witnesses who will be testifying at these hearings, and  
25 all witnesses will be sworn in at once prior to any

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1 hearings for efficiency purposes. Second, we'll have  
2 legal counsel present the legal authority for the hearings  
3 and the Board's policy for assessing any penalties against  
4 late and non-filers.

5                   In the interest of streamlining the  
6 proceedings, we will make this statement only once to  
7 cover all these hearings. Next, the staff will state the  
8 company-specific compliance issue, the evidence thereto,  
9 and testimony regarding the noncompliance and review of  
10 the penalty criteria and recommendation of any assessment  
11 of penalties.

12                   Following that, the company or its  
13 representative will present its case and relevant  
14 information or evidence to the contrary and at that point  
15 provide also any additional relevant testimony, and we  
16 will make our decision. So at this point, I think, swear  
17 in the witnesses.

18                   Will all the witnesses who are going to --

19                   (All witnesses sworn in by the reporter)

20                   CHAIRMAN EATON: Before we begin, let me  
21 just ask if there's any representatives from Consumer  
22 Pizzazz Printing, Napa Valley Register, the Quebecor  
23 Printing San Jose, Inc., from Consumers Publishing  
24 Printing Service? Okay. You may begin.

25                   MS. BORZELLERI: For the record, I'm

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1 Deborah Borzelleri, legal counsel to the Board. I'll be  
2 describing the legal framework for the recycled content  
3 newsprint law and the established Board policy for  
4 assessing civil penalties.

5                   First, the legal framework. The recycled  
6 content newsprint law found in Public Resources Code  
7 Section 42750 through 42791 applies to consumers of  
8 newsprint in California. A consumer of newsprint is any  
9 person who uses newsprint in a commercial printing or  
10 publishing operation. The law requires that every  
11 consumer of newsprint within the state certify to the  
12 Board by March 1st of each year the number of tons of  
13 newsprint used and recycled content newsprint used, and  
14 thus a calculation can be made about the percentage of  
15 recycled content newsprint.

16                   Recycled content newsprint means newsprint  
17 in which not less than 40 percent of the fiber consists of  
18 post-consumer waste paper. The program is set up so that  
19 the percentage requirement increases every two years. The  
20 percentage requirement for compliance year 1998, which is  
21 the applicable year for these hearings, is 40 percent.

22                   Public Resources Code Section 42791 allows  
23 the Board to assess administrative civil penalties not to  
24 exceed \$1,000 for each violation of the statute subject to  
25 notice and hearing.

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1                   As far as the Board policy for assessing  
2 civil penalties, at its October 1997 meeting, the Board  
3 adopted hearing procedures and criteria for assessing  
4 civil penalties under the newsprint law. At its February  
5 1999 meeting, the Board modified the criteria for  
6 assessing civil penalties. These criteria can be found  
7 behind the second tab in your blue folder.

8                   Just for the record I'm going to read the  
9 criteria. We'll only have to do this once. Based on the  
10 Board's previous action, the Board may assess civil  
11 penalties using the following criteria: Lateness of  
12 certification, good faith efforts to comply, degree of  
13 willingness to comply, history of compliance, impact on  
14 the recycled content newsprint market, size of the  
15 consumer's operation, any other unique circumstances the  
16 Board finds are important under the circumstances.

17                   Regulations establishing a penalty  
18 structure for the late and non-filers of newsprint  
19 certifications are expected to be in place for the next  
20 cycle of certifications so we won't need to do these  
21 hearings in the future, and that is compliance year 1999.  
22 Under this structure, the Executive Director would assess  
23 a predetermined penalty based on lateness of the  
24 certification with an appeal process to the Board if the  
25 penalty is contested.

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1                   The predetermined penalty would be \$500 for  
2 any certification received 45 to 90 days late, and \$1,000  
3 for any certification received 90 or more days late or not  
4 at all. Until these regulations are in place, the Board  
5 must hear each individual case in order to determine the  
6 penalties to be assessed. The Board has discretion at  
7 this time to assess a penalty at these hearings that  
8 differs from the proposed regulations within the  
9 parameters of the penalty criteria that's been adopted.

10                   Thank you.

11                   MS. MARSH: This is a public hearing for  
12 Pizzazz Printing for submitting its certification for 1998  
13 45 or more days late. Pizzazz Printing filed its  
14 newsprint consumer certification on April 15th, 1999,  
15 which was exactly 45 days late.

16                   Pizzazz Printing is a commercial printing  
17 and publication operation located in San Jose, California,  
18 and according to their web site, is a \$15 million business  
19 and has 110 employees. The company has submitted its  
20 newsprint consumer certification form every year since  
21 1991. The company has filed its newsprint certification  
22 late for compliance years 1993, '94, '95 and 1998.

23                   Pizzazz Printing achieved or surpassed its  
24 annual recycled content newsprint use goal only once in  
25 1991. Every area since 1991, Pizzazz Printing has

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1 requested exemptions. The company achieved a 39 percent  
2 recycled content newsprint use rate for the 1998  
3 compliance year, only one percent shy of the 40-percent  
4 mandate.

5 Board staff mailed the following items to  
6 Pizzazz Printing: The 1998 annual certification package  
7 in early January 1999; a reminder notice on February 25th,  
8 1999; a certified reminder on March 26th, 1999; and a  
9 notice of public hearing on October 15th, 1999. The  
10 letters and public notice supporting staff's presentation  
11 regarding the 1998 compliance history are included in the  
12 agenda item as the attachments and are already part of the  
13 record.

14 I would like to enter into the record a  
15 copy of the 1998 newsprint consumer certification form as  
16 Exhibit 20-1; the signed certified return receipt for the  
17 March 26th, 1999 letter as Exhibit 20-2; a letter from  
18 Pizzazz Printing explaining why their 1998 newsprint  
19 consumer certification was late as Exhibit 20-3; and a  
20 signed certified receipt for the notice of public hearing  
21 that was sent on October 15th, 1999 as exhibit 20-4.

22 (Exhibits entered into the record)

23 MS. MARSH: Staff has reviewed the  
24 information obtained on Pizzazz Printing, and in light of  
25 the criteria for assessing penalties, staff is basing its

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1 recommendation on the following: The certification was  
2 received from Pizzazz Printing exactly 45 days late. A  
3 letter received by Mr. John Kenneth, Controller of Pizzazz  
4 Printing, revealed that the company did not receive needed  
5 documentation by its suppliers before the March deadline.  
6 Subsequent telephone calls or discussions with Mr. Kenneth  
7 indicating a willingness to file Pizzazz Printing's future  
8 certifications in a timely manner.

9 Pizzazz Printing achieved a 39-percent  
10 usage of recycled content newsprint, only one percent shy  
11 of the 1998 goal of 40 percent. Even though Pizzazz  
12 Printing did not file its certification in a timely  
13 fashion the first few years of the program, it did show an  
14 improvement for timely filings for compliance years 1996  
15 and 1997. Pizzazz Printing used 5,107 metric tons of  
16 newsprint which indicates it is an average-sized printer  
17 in California. For comparison purposes, the least amount  
18 reported by printers for 1998 is two and a half metric  
19 tons and the most is 123,636 metric tons.

20 Based on the fact that Pizzazz Printing  
21 submitted their certification only 45 days late, and  
22 because the company is showing a trend in submitting  
23 timely certifications beyond this 1998 year, staff  
24 recommends that the company be assessed a civil penalty of  
25 \$250 and ask the Board to adopt Resolution 1999-399, which

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1 assesses the said penalty against Pizzazz Printing for  
2 violating PRC Section 42770 which occurred during the 1998  
3 compliance year.

4 CHAIRMAN EATON: All right. Is there  
5 anyone here from Pizzazz Printing that may have entered in  
6 late? Okay.

7 Members, what is your pleasure?

8 BOARD MEMBER PENNINGTON: I'll move  
9 adoption of Resolution 1999-399, confirming that Pizzazz  
10 Printing is in violation of Public Resources Code Section  
11 42770 for 1998 due to the late filing of their newsprint  
12 certification form, and is assessing a penalty of \$250  
13 based on past and current efforts to comply with newsprint  
14 consumer certification requirements.

15 BOARD MEMBER JONES: I'll second.

16 CHAIRMAN EATON: Mr. Pennington moves and  
17 Mr. Jones seconds that we adopt Resolution 1999-399.

18 Madam Secretary, please call the roll for  
19 the public hearing.

20 BOARD SECRETARY: Board Members Jones.

21 BOARD MEMBER JONES: Aye.

22 BOARD SECRETARY: Moulton-Patterson.

23 BOARD MEMBER MOULTON-PATTERSON: Aye.

24 BOARD SECRETARY: Pennington.

25 BOARD MEMBER PENNINGTON: Aye.

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1 BOARD SECRETARY: Roberti.

2 BOARD MEMBER ROBERTI: Aye.

3 BOARD SECRETARY: Chairman Eaton.

4 CHAIRMAN EATON: Aye.

5 Item Number 21. Is there anyone here from  
6 the Napa Valley Register that just may have arrived late?  
7 No one. And the same rules that were set forth by  
8 Ms. Borzelleri will apply in this proceeding as well.

9 MS. MARSH: This is a public hearing for  
10 Napa Valley Register for submitting its newsprint  
11 certification for 1998 45 or more days late. The Napa  
12 Valley Register filed its newsprint certification form on  
13 April 30th, 1999, which was 60 days late. The Napa Valley  
14 Register is a newspaper publication operation located in  
15 Napa, California. According to a business credit report  
16 received from InfoUSA.com, Napa Valley Register has 125  
17 employees with a \$10 to \$20 million income in sales and is  
18 a subsidiary of Pulitzer Publishing Incorporated.

19 The company has submitted its newsprint  
20 consumer certification form every year since 1991 with the  
21 exception of 1994 and '95, which was then reported by  
22 Scripps League as a parent company at the time. In 1996,  
23 Napa Valley Register was sold to Pulitzer Publishing. The  
24 company filed its newsprint certification late only one  
25 other time, in the compliance year 1993.

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1                   In previous years the company has achieved  
2 over a 95 percent recycling content newsprint use, and in  
3 the 1998 compliance year, the company achieved a recycled  
4 content newsprint use rate of 98 percent.

5                   Board staff mailed the following items to  
6 Napa Valley Register: The 1998 annual recertification  
7 package in early January 1999; a reminder notice on  
8 February 25th, 1999; a certified reminder on March 26th,  
9 1999; and a notice for public hearing on October 15th,  
10 1999. By phone, Board staff attempted to contact Napa  
11 Valley Register's Business Manager, Miss Brenda Westbury,  
12 on March 29th and on April 15th, 1999. The letters and  
13 public notice supporting the staff presentation regarding  
14 the 1998 compliance history are included in the agenda  
15 item as the attachments and are already part of the  
16 record.

17                   I would like to enter into the record a  
18 copy of the 1998 newsprint consumer certification form as  
19 Exhibit 21-1; the signed certified return receipt for the  
20 March 26th, 1999 letter as Exhibit 21-2; a letter from  
21 Napa Valley Register providing the name of the appropriate  
22 newsprint consumer certification contact as Exhibit 21-3;  
23 and a signed certified receipt for the notice of public  
24 hearing that was sent on October 15th, 1999 as Exhibit  
25 21-4.

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1 (Exhibits entered into the record)

2 MS. MARSH: Staff has reviewed the  
3 information obtained on Napa Valley Register, and in light  
4 of the criteria for assessing penalties, staff is basing  
5 recommendation on the following: The certification was  
6 received from Napa Valley Register 60 days late; during  
7 telephone conversations in October 1999 with Ms. Westbury,  
8 it was revealed that personnel changes resulted in failure  
9 to submit the certification in a timely fashion;  
10 Ms. Westbury indicated a willingness to submit future  
11 certifications in a timely fashion; the Napa Valley  
12 Register has filed its newsprint consumer certification  
13 late only one other time, in the 1993 compliance year; in  
14 previous years it has achieved over 95 percent recycled  
15 content newsprint use, and a 98 percent usage for 1998.

16 The metric tons of newsprint used by Napa  
17 Valley Register in 1998 was 1,526, which is an average  
18 amount of newsprint to be used by a small urban newspaper  
19 in California. For comparison, the least amount used by a  
20 publisher is two metric tons, and the most used is over  
21 369,000 metric tons.

22 Based on the facts of the company's  
23 excellent compliance history, including its timely filing  
24 of certifications in the past, staff recommends the Board  
25 not assess any penalties for the 1998 compliance year and

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1 asks the Board to adopt Resolution 1999-400, which does  
2 not assess any penalty against Napa Valley Register for  
3 violation of Public Resources Code Section 42770, which  
4 occurred during the 1998 compliance year.

5 BOARD MEMBER ROBERTI: Mr. Chairman.

6 CHAIRMAN EATON: Senator Roberti.

7 BOARD MEMBER ROBERTI: Before Mr. Owen  
8 gives me the answer, I want to know what is a metric ton.

9 MR. AUSTRHEIM-SMITH: My name is Steve  
10 Austrheim-Smith.

11 CHAIRMAN EATON: I'm not going to give you  
12 that answer because I'm going to play how do you become a  
13 millionaire with Regis Philbin.

14 (Laughter)

15 MR. AUSTRHEIM-SMITH: It's approximately  
16 2,240 pounds.

17 BOARD MEMBER PENNINGTON: Mr. Chairman.

18 CHAIRMAN EATON: Senator -- I mean  
19 Mr. Pennington.

20 BOARD MEMBER PENNINGTON: I'll move  
21 adoption of Resolution 1999-400, confirming that the Napa  
22 Valley Register is in violation of Public Resources Code  
23 Section 42770 for 1998 due to their late filing of their  
24 newsprint consumer certification form. However, the Board  
25 is not assessing the penalty based on past and current

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1 efforts to comply with the newsprint consumer  
2 certification requirements.

3 BOARD MEMBER MOULTON-PATTERSON: Second.

4 CHAIRMAN EATON: All right. Mr. Pennington  
5 moves and Ms. Moulton-Patterson seconds that we adopt  
6 Resolution 1999-400.

7 Madam Secretary, please call the roll.

8 BOARD SECRETARY: Board Members Jones.

9 BOARD MEMBER JONES: Aye.

10 BOARD SECRETARY: Moulton-Patterson.

11 BOARD MEMBER MOULTON-PATTERSON: Aye.

12 BOARD SECRETARY: Pennington.

13 BOARD MEMBER PENNINGTON: Aye.

14 BOARD SECRETARY: Roberti.

15 BOARD MEMBER ROBERTI: Aye.

16 BOARD SECRETARY: Chairman Eaton.

17 CHAIRMAN EATON: Aye.

18 And I should also announce that within 30  
19 days after passing our resolution, our Executive Director  
20 will issue an order with his signature with the Board's  
21 actions. And Senator Roberti, you'd like to send it to  
22 former Congressman Thompson?

23 BOARD MEMBER ROBERTI: Oh, yes. We may  
24 even hear from him.

25 CHAIRMAN EATON: Item Number 22.

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1 BOARD MEMBER PENNINGTON: Except he's not a  
2 former Congressman.

3 BOARD MEMBER ROBERTI: Probably for a long,  
4 long time.

5 BOARD MEMBER JONES: Don't include that in  
6 the note.

7 CHAIRMAN EATON: Item Number 22.

8 MS. MARSH: This is a public hearing for  
9 Quebecor Printing of San Jose for submitting its newsprint  
10 consumer certification for 1998 45 or more days late.  
11 Quebecor Printing of San Jose filed its newsprint consumer  
12 certification on May 28th, 1999, which was 88 days late.

13 Quebecor Printing of San Jose is a  
14 commercial printing operation located in San Jose,  
15 California. According to a business credit report  
16 received from InfoUSA.com, Quebecor Printing of San Jose  
17 has 200 employees with \$20 to \$50 million in annual sales  
18 and is a subsidiary of Quebecor Printing Corporation of  
19 Boston, Massachusetts.

20 The company has submitted its newsprint  
21 consumer certification form late for compliance years  
22 1994, '95, '96 and 1998. Quebecor Printing of San Jose  
23 has never used recycled content and has requested  
24 exemptions every year for the following reasons: The  
25 company could not find newsprint -- a newsprint grade at a

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1 comparable price; the grade was not up to standard; and  
2 the grade was not available in a reasonable time.

3                   Board staff mailed the following items to  
4 Quebecor Printing of San Jose: The 1998 annual  
5 certification in early January 1999; a reminder notice on  
6 February 25th, 1999; a certified reminder on March 26th,  
7 1999; and the notice for public hearing on October 15th,  
8 1999.

9                   Board staff spoke with Mr. John Billmont on  
10 March 29th, 1999, who had promised to send in the  
11 certification. However, Mr. Billmont was no longer  
12 working at Quebecor soon after the March 29th contact. On  
13 May 20th and May 24th, Board staff left messages for  
14 Mr. Bob Carger, an executive at Quebecor Printing of San  
15 Jose. On May 25th, Board staff spoke with Mr. Carger who  
16 stated that he did not have a copy of the newsprint  
17 consumer certification, and staff faxed a copy of it to  
18 him on that day and received the completed certification  
19 three days later.

20                   The letters and public notice supporting  
21 staff's presentation regarding the 1998 compliance history  
22 are included in the agenda item as the attachments and are  
23 part of the record.

24                   At this time, I would like to enter into  
25 the record a copy of the 1998 newsprint consumer form as

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1 Exhibit 22-1; the signed certified return receipt of the  
2 March 26th, 1999 letter as Exhibit 22-2; a letter from  
3 Quebecor explaining why their 1998 newsprint consumer  
4 certification was late as Exhibit 22-3; and a signed  
5 certified receipt for the notice of public hearing that  
6 was sent on October 15th, 1999 as Exhibit 22-4.

7 (Exhibits entered into the record)

8 MS. MARSH: Staff has reviewed the  
9 information obtained on Quebecor Printing of San Jose, and  
10 in light of the criteria for assessing penalties, staff is  
11 basing its recommendation on the following: The  
12 certification was received by Quebecor Printing of San  
13 Jose 88 days late; a letter from Mr. Bob Carter revealed  
14 that personnel changes resulted in failure to submit their  
15 certification in a timely fashion; due to personnel  
16 changes, Mr. Carter did not know of the requirements in  
17 the recycled content newsprint law, and staff has no  
18 evidence that they are either willing to comply or not  
19 willing to comply; Quebecor Printing of San Jose has filed  
20 two timely certifications, once in 1993 and once in 1997;  
21 all others have been late, and the company has not used  
22 any recycled content in all the years they have reported  
23 to the Board; Quebecor Printing is one of the larger  
24 printing operations within the state of California and  
25 used 47,091 metric tons of newsprint in 1998.

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1                   Based on the facts of the compliance  
2 history and that the certification was sent nearly 90 days  
3 late, staff recommends the Board assess a penalty of \$500  
4 and asks the Board to adopt Resolution 99-402, which  
5 assesses the penalty against Quebecor Printing of San Jose  
6 for violation of PRC Section 42770 which occurred during  
7 the 1998 compliance year.

8                   CHAIRMAN EATON: Is there anyone here from  
9 Quebecor? Let the record reflect that no one from  
10 Quebecor is here.

11                   Mr. Pennington.

12                   BOARD MEMBER PENNINGTON: In light that  
13 they are consistently late every year and they were 88  
14 days late this time, and they do not use any recycled  
15 material, with that in mind, I'm going to ask that we  
16 assess a \$1,000 fine and so, therefore, I'm going to move  
17 adoption of Resolution 1999-402 confirming that Quebecor  
18 printing in San Jose, Inc. is in violation of Public  
19 Resources Code Section 42770 for 1998 due to their late  
20 filing of their newsprint consumer certification form and  
21 is assessing a penalty of \$1,000 based on past and current  
22 efforts.

23                   CHAIRMAN EATON: Mr. Pennington, we may  
24 have a very large legal issue pending out there before we  
25 do your motion. My understanding is that if it's past 90

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1 days late, we can assess a \$1,000 fine. If it's not 90  
2 days, the regulation is \$500; is that correct?

3 MS. BORZELLERI: Actually, since the  
4 regulations are not in place, the Board can assess up to  
5 \$1,000 for whatever.

6 CHAIRMAN EATON: There you go. See. I'll  
7 take a second.

8 BOARD MEMBER ROBERTI: I don't understand.  
9 I'd much prefer to stay it two more days.

10 (Laughter)

11 CHAIRMAN EATON: All right. Senator, was  
12 that a second?

13 BOARD MEMBER ROBERTI: No. Let somebody  
14 else second, and I'll probably vote for it.

15 CHAIRMAN EATON: I'll second it.

16 Mr. Pennington moves and Mr. Eaton seconds  
17 that we adopt Resolution 1999-402, assessing the \$1,000  
18 fine to Quebecor Printing, San Jose, Inc.

19 Madam Secretary, please call the roll.

20 BOARD SECRETARY: Board Members Jones.

21 BOARD MEMBER JONES: Aye.

22 BOARD SECRETARY: Moulton-Patterson.

23 BOARD MEMBER MOULTON-PATTERSON: Aye.

24 BOARD SECRETARY: Pennington.

25 BOARD MEMBER PENNINGTON: Aye.

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1 BOARD SECRETARY: Roberti.

2 BOARD MEMBER ROBERTI: Aye.

3 BOARD SECRETARY: Chairman Eaton.

4 CHAIRMAN EATON: Aye.

5 All right. Last public hearing is Item  
6 Number 23. The same rules and legal framework that was  
7 set forth by Ms. Borzelleri will be applicable here as  
8 well.

9 MS. MARSH: This is a public hearing for  
10 Publishers' Printing Incorporated doing business as Day  
11 and Night for not submitting its newsprint consumer  
12 certification for 1998.

13 Publishers' Printing Service is a  
14 commercial operation located in Ventura, California. It  
15 has not submitted its newsprint consumer certification  
16 form since 1993.

17 Board staff mailed the following items to  
18 Publishers' Printing Services Incorporated: The 1998  
19 annual certification back in early January 1999; a  
20 remainder notice on February 25th, 1999; a certified  
21 reminder on March 26th, 1999; and a notice for public  
22 hearing on October 15th, 1999. The letters and public  
23 notice supporting staff's presentation regarding the 1998  
24 compliance history are included in the agenda item as the  
25 attachments and are already part of the record.

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1                   At this time, I would like to enter into  
2 the record the signed certified receipt for the March  
3 26th, 1999 letter as Exhibit 23-1; a signed certified  
4 receipt for the notice of public hearing that was sent on  
5 October 15th, 1999 as Exhibit 23-2; and documentation of  
6 Publishers' Printing Services Incorporated corporate  
7 status in California from the Secretary of State's office  
8 as Exhibit 23-3.

9                   Based on Publishers' Printing Services  
10 Incorporated's failure to comply with the recycled content  
11 newsprint certification requirements for the 1998  
12 compliance year, staff is recommending the Board assess a  
13 \$1,000 civil penalty and ask the Board to adopt Resolution  
14 1999-403, which assesses the said penalty against  
15 Publishers' Printing Services doing business as Day and  
16 Night for violation of PRC Section 42770 which occurred  
17 during the 1998 compliance year.

18                   BOARD MEMBER JONES: Mr. Chairman.

19                   CHAIRMAN EATON: Is there anyone here from  
20 Day and Night? Okay.

21                   Mr. Jones.

22                   BOARD MEMBER JONES: Mr. Chairman, before  
23 we make the motion, I'm wondering. Our law is \$1,000.  
24 This is going to be the fifth time that these people have  
25 not done it, and it would seem to me we ought to say if

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1 you do it five times, we ought to be able to multiply  
2 these penalties by an increment of about 20.

3 BOARD MEMBER ROBERTI: At some point  
4 doesn't it become a double violation?

5 BOARD MEMBER JONES: I would think.

6 BOARD MEMBER ROBERTI: Maybe Counsel can  
7 help us. She seems to be nodding her head.

8 MS. BORZELLERI: Unfortunately the current  
9 law does not allow us to assess penalties for continuing  
10 violations. It's per violation, and you know, we have  
11 other laws that say assess per day per violation. We  
12 don't have anything --

13 BOARD MEMBER ROBERTI: In subsequent years,  
14 rather in previous years, we have --

15 MS. BORZELLERI: We have.

16 BOARD MEMBER ROBERTI: -- assessed this  
17 group.

18 MS. BORZELLERI: We have, yes, the full  
19 \$1,000. However, we do have a legislative concept in to  
20 increase the penalties and address some of these issues  
21 for people who seem to be ignoring the law.

22 MS. TOBIAS: Which would include --  
23 address any chronic problem and maybe even some other kind  
24 of remedy such as not being able to do business with the  
25 State or something like that. That really increases it.

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1 I will also point out we recently just took  
2 this particular group to court, to small claims court, to  
3 recover the \$1,000 for last year, and they didn't even  
4 show up there, so we did get a default judgment on that.

5 BOARD MEMBER JONES: Multiples.

6 BOARD MEMBER PENNINGTON: Mr. Chairman.

7 CHAIRMAN EATON: Mr. Pennington.

8 BOARD MEMBER PENNINGTON: I'll finish this  
9 up.

10 CHAIRMAN EATON: Thank you very much, sir.

11 BOARD MEMBER PENNINGTON: I'll move  
12 adoption of Resolution 1999-403, confirming that newsprint  
13 consumer Publishers' Printing Service, Inc. dba Day and  
14 Night is in violation of Public Resources Code Section  
15 42770 for 1998 as they did not file their newsprint  
16 consumer certification form and, therefore, is assessing a  
17 penalty of \$1,000.

18 BOARD MEMBER MOULTON-PATTERSON: Second.

19 CHAIRMAN EATON: All right. Mr. Pennington  
20 moves and Ms. Moulton-Patterson seconds that we adopt  
21 Resolution 1999-403.

22 Madam Secretary please call the roll.

23 MS. TOBIAS: Mr. Chair, may I add  
24 something? Ms. Borzelleri has just given me something.  
25 We have a memo, which really we just finished working on,

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1 which talks about some other remedies on unfair  
2 competition enforcement strategies. And I guess what I  
3 might suggest to the Board, that your motion include not  
4 only the assessment penalties, but based on their chronic  
5 inability to comply, that the Board direct the legal  
6 office to pursue any other legal remedies that we can  
7 find, and that way maybe take them up on this type of  
8 situation. Basically it involved saying that they're  
9 getting an unfair advantage by not complying with this on  
10 a regular basis where other entities are.

11                   So if you were open to that, you might want  
12 to add that into your motion.

13                   BOARD MEMBER PENNINGTON: I'll be happy to  
14 amend my motion to say that they're not -- they did not  
15 file their newsprint consumer certification form and,  
16 therefore, we have assessed a penalty of \$1,000 and  
17 instruct the legal staff to seek other remedies as  
18 available.

19                   CHAIRMAN EATON: All right. Mr. Pennington  
20 moves and Ms. Moulton-Patterson seconds that we adopt  
21 Resolution 1999-403 as amended.

22                   Madam Secretary, please call the final roll  
23 call on these public hearings.

24                   BOARD SECRETARY: Board Members Jones.

25                   BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY: Moulton-Patterson.

2 BOARD MEMBER MOULTON-PATTERSON: Aye.

3 BOARD SECRETARY: Pennington.

4 BOARD MEMBER PENNINGTON: Aye.

5 BOARD SECRETARY: Roberti.

6 BOARD MEMBER ROBERTI: Aye.

7 BOARD SECRETARY: Chairman Eaton.

8 CHAIRMAN EATON: Aye.

9 That completes the public hearings. Thank  
10 you, Ms. Marsh. I know that you're patient and hopefully  
11 it won't drive you back into the Board offices.

12 (Laughter)

13 CHAIRMAN EATON: All right. Item Number  
14 31, consideration of closure and winterization plans and  
15 allocation of waste tire management funds for the  
16 Oxford/Filbin tire pile in Westley, California.

17 Mr. Chandler.

18 MR. CHANDLER: Thank you, Mr. Chairman and  
19 Members. While staff come to the table and get prepared  
20 for their staff presentation, what I would like to do is  
21 just offer a few introductory remarks.

22 CHAIRMAN EATON: Before you begin, Senator  
23 Roberti was lucent enough to remind us as we were sort  
24 of -- during the break that there was ex parte  
25 communications to report with regard to this item.

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1                   Senator Roberti, Dominic DiMare.

2                   BOARD MEMBER ROBERTI: Dominic DiMare,  
3 Mr. DiMare from Assemblyman Cardoza's office.

4                   CHAIRMAN EATON: And I also was a  
5 participant in that conversation regarding the item,  
6 regarding the Filbin agenda item.

7                   I'm sorry. Mr. Chandler.

8                   MR. CHANDLER: Again, as staff come forward  
9 and begin their overview presentation, I'd like to just  
10 offer a brief chronology since we last were together as a  
11 Board and heard this item, and if you recall, that was in  
12 response to an appeal to a cleanup and abatement order  
13 that my office had issued back on September 8th and  
14 brought before the Board as an appeal. I believe it was  
15 on September 13th by Mr. Filbin's representatives at that  
16 time. Now,

17                   What I would like to do is just simply --  
18 there's been a number of events since that date when you  
19 ratified that order that are significant milestones.  
20 Again, as you will recall, we issued that order on  
21 September 8th. I have tried to prepare the relevant  
22 documents in a separate binder for all of you and let me  
23 briefly go through those.

24                   That cleanup and abatement order was issued  
25 and ratified by the Board, and that cleanup and abatement

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1 order asked the responsible party, Mr. Filbin, to respond  
2 with what we call an approvable closure plan with  
3 financial assurances by October 8th. The third item in  
4 your binder represents a submittal by Geo-Syntec dated  
5 October 8th to my offices. The next tab dated October  
6 14th is essentially my response to that order. I felt  
7 that order called for a complete closure plan, and what we  
8 got from Geo-Syntec on October 8th was clearly deficient.  
9 It was deficient in that it did not bring forward adequate  
10 financial demonstrations and additionally was not  
11 technically complete.

12 I indicated to Mr. Filbin's representative,  
13 Tom Trapp, that we would be following up with additional  
14 pertinent questions. That letter was issued on October  
15 19th by Mr. Fitzgerald to Mr. Trapp indicating the areas  
16 we needed to see an adequate response, and you'll find  
17 that behind tab number five in the binders.

18 I guess the next real significant milestone  
19 was a public hearing that Assembly Speaker Villairagosa  
20 was asked to chair in Patterson on the 29th of October.  
21 Board Chairman Eaton and myself participated in that  
22 hearing and testified on behalf of the Board.

23 The following weekend, the weekend of  
24 October 30th and 31st, apparently a verbal agreement was  
25 reached between MELP and Mr. Filbin to begin moving tires

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1 and bring the plant on-line. I found out about this after  
2 hours through a fax that came to my office on November  
3 1st. I indicated to the Modesto Energy Limited  
4 Partnership personnel on November 2nd that we wanted to  
5 see a complete closure plan before any movement of tires  
6 occurred, and negotiations then commenced that week and we  
7 had a meeting on November 3rd with all parties, Brian  
8 Houghton representing Mr. Filbin and John Benjamin  
9 representing the Modesto Energy Limited Partnership firm,  
10 where we laid forward our expectation as the State that we  
11 would begin commencing our own independent closure plan in  
12 the absence of an adequate response from Mr. Filbin. We  
13 used the services of Norcal Engineering Services along  
14 with Brian Sturrett and Associates, who did some design  
15 work, and moved forward with our own closure plan.

16 Today what you have will be a presentation  
17 of that closure plan, including the winterization work  
18 that is continued to be needed at the site for the  
19 preservation of the environment out there as it relates to  
20 the coming wet weather, and we consider that our first  
21 priority.

22 I know the hour is late, but I think this  
23 is an important issue that you focus on not only the  
24 presentation by staff, but all the additional input that  
25 you're going to have. It's been a complicated matter and

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1 I appreciate your patience on this. I certainly apologize  
2 for the lateness in getting the material, but we were  
3 receiving faxes as late as Friday at 8:15 commenting on  
4 Norcal's plan and changes to that plan.

5                   So we have worked over the weekend and  
6 prepared this final plan and are now prepared to present  
7 to you the details of that. With that, I'll turn it over  
8 to Mr. Fitzgerald.

9                   MR. FITZGERALD: Mr. Chairman, Members of  
10 the Board, Byron Fitzgerald, Special Waste Division.

11                   Since it is a late hour, I'll move through  
12 this fairly quickly. Before the fire September the 8th,  
13 the cleanup and abatement order, the site looked something  
14 like this. 6.9 million tires were at the location, but  
15 things changed on September the 22nd. And you can see  
16 from this picture, there's a lot of things that have been  
17 moved around. There's a lot of water being added to the  
18 tires and the tire fire. There's been a lot of foam put  
19 on it, a lot of earth moving equipment and contaminated a  
20 large part of the site.

21                   So what we've ended up with is a series of  
22 issues that we've tried to address, and this is one of the  
23 first steps. Covered in this particular report, we're  
24 going to talk about winterization and the site closure or  
25 the removal of the unburned tires. What is not covered in

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1 the report but which must be addressed in the future is  
2 the long-term remediation of the site and also what's  
3 going to be done with the contaminated water that still  
4 remains on the site.

5                   Going into the winterization, our primary  
6 concern is winterization. We want to make certain that we  
7 have erosion and drainage control and that corrupting  
8 materials do not get off the site. To do this, we've  
9 created two inlet basins in the south canyon. The basins  
10 have been depleted at this time and the pipe has been put  
11 in, the initial pipe has been put in at the basin. What  
12 still remains is to put in the pipe to carry the water  
13 from the retention basins past the burned out area.  
14 There's nearly 3,000 feet of distance that must be  
15 traversed by these pipes.

16                   The pipes are being placed on the ground.  
17 It's a quick installation because of the time that we have  
18 before the rains. This system is not designed for  
19 permanent installation. It's an emergency installation.  
20 It's designed to handle approximately one half of a  
21 ten-year rain storm. What will happen for the water that  
22 doesn't go down the pipe, it will go to retention basins  
23 located in the burn area.

24                   This is what one of the upper settling  
25 ponds looks like and the lower one. This is about ten

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1 acre feet and this will trap the water that's not carried  
2 off the site by the piping. The cost of the winterization  
3 you see here comes down to about half a million dollars,  
4 \$497,000. Prior allocation from the Board was \$161,000,  
5 so today we're asking for an additional \$335,685.

6                   Going into site closure, three locations on  
7 site --

8                   CHAIRMAN EATON: Mr. Fitzgerald, how many  
9 hours a day is that working?

10                  MR. FITZGERALD: That's an eight-hour day.

11                  CHAIRMAN EATON: Thank you. I'm sorry.

12                  MR. FITZGERALD: On the site closure area,  
13 there are three locations with unburned tires, and I'll  
14 show you map in just a moment of where they are located.  
15 These areas are mixture of passenger, oversize or OTR  
16 tires, and truck tires, and to handle these there are  
17 multiple alternatives. This plan focuses on two. One is  
18 to have the MELP facility burn those they're capable of  
19 burning, and those others that are insuitable for that to  
20 go to the landfill, either in disposal or as alternative  
21 daily cover.

22                   To do this and to do it rapidly, there will  
23 be multiple tasks being done simultaneously. From this  
24 diagram you can see where the three piles are located --  
25 one to the south of the facility, the MELP facility, and

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1 one to the east, the east pile. The red arrows show the  
2 flow of tires that have to be made in order to get them  
3 off the site. This causes quite a problem in terms of  
4 maneuvering the vehicles and handling the traffic  
5 associated with all these different projects going  
6 simultaneously.

7                   The blue line running through the center of  
8 the picture is where our pipeline will be on the surface.  
9 So as we're installing the pipeline, we have concern that  
10 the moving of the traffic as we're trying to move the  
11 tires off the site up to the landfill, Altamont Landfill,  
12 or to the MELP facility. It is a very complex operation  
13 and it limits in some degree the number of tires that can  
14 be moved.

15                   This is what the east slope looks like.  
16 You can see at the base of the slope there's some loose  
17 tires. This picture was taken about two weeks ago and  
18 they had started moving some of the tires off the slope,  
19 but the idea is the tires will be moved off the slope to  
20 the holding area at the base of the slope, and there's a  
21 finite area that can be used there so the entire amount  
22 cannot be moved down at one time. As a matter of fact,  
23 the plan -- it's been said that it's full right now and  
24 they can't move any more until tires are removed and MELP  
25 starts burning.

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1 BOARD MEMBER PENNINGTON: Fitz.

2 CHAIRMAN EATON: Who says?

3 MR. FITZGERALD: That came out of the  
4 Geo-Syntec report.

5 CHAIRMAN EATON: And that's from who?

6 MR. FITZGERALD: That's the responsible  
7 parties. I personally have not seen it, but they say that  
8 they --

9 CHAIRMAN EATON: When you say "they" say  
10 that, that's Mr. Filbin's.

11 MR. FITZGERALD: That's correct.

12 CHAIRMAN EATON: Okay. That's not --

13 MR. FITZGERALD: No.

14 CHAIRMAN EATON: -- who prepared the  
15 remediation report; is that correct?

16 MR. FITZGERALD: Yes.

17 CHAIRMAN EATON: I want to make sure.

18 MR. FITZGERALD: Yes. That's a good point.

19 BOARD MEMBER PENNINGTON: Can you go back  
20 to the last slide? That's a road going down there.  
21 That's not water; is it?

22 MR. FITZGERALD: That's a road. That's  
23 correct. The road was constructed. Mr. Filbin  
24 constructed the road in order to move the tires to an area  
25 where MELP could pick them up. The road has been

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1 constructed.

2 BOARD MEMBER PENNINGTON: Thank you.

3 MR. FITZGERALD: This is what the south  
4 pile looks like, two south piles. You can see it's a  
5 complete mixture and jumble of tires all sizes, all  
6 shapes, and these are the ones that are going to cause the  
7 most problems.

8 Going into the simultaneous operations,  
9 about 125 tons a day will be shredded and landfilled.  
10 Those are the two south sites. 60 tons a day of oversized  
11 tires will be sheared and landfilled.

12 BOARD MEMBER ROBERTI: Can I --

13 MR. FITZGERALD: This is an eight-hour  
14 working day.

15 CHAIRMAN EATON: Senator Roberti. I'm  
16 sorry.

17 BOARD MEMBER ROBERTI: On that point,  
18 number one, 125 tons per day will be shredded and  
19 landfilled, there's no distinction there as to whether  
20 they're oversized or not.

21 MR. FITZGERALD: Those are passenger and  
22 truck tires.

23 BOARD MEMBER ROBERTI: Okay. So that first  
24 group is --

25 MR. FITZGERALD: Is passenger and truck

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1 tires, the first group. The second --

2 BOARD MEMBER ROBERTI: It is passenger  
3 tires.

4 MR. FITZGERALD: And truck tires.

5 BOARD MEMBER ROBERTI: Why aren't the  
6 passenger tires being burned?

7 MR. FITZGERALD: The question is sorting  
8 them out, taking the time to sort them out and meeting the  
9 schedule. I'm going to refer this to Tony Bertran, if you  
10 don't mind, when he comes up. He may be able to answer  
11 that one.

12 CHAIRMAN EATON: Now, is this from the  
13 report that's before us or is this again Geo-Syntec?

14 MR. FITZGERALD: No. This is from the  
15 report before us.

16 CHAIRMAN EATON: Can any of those 125 tons  
17 be burned?

18 MR. BERTRAN: It's our understanding with  
19 the piles, as they're mixed now, there's oversized truck  
20 and passenger, and you really can't tell until you  
21 actually get in there and start moving the tires and  
22 segregating and finding out which ones are acceptable to  
23 be burned or not. As a contingency in the plan, we were  
24 conservative in putting costs together and saying until we  
25 get out there and start moving tires around to find out

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1 which ones are acceptable for the MELP, the tires would  
2 have to be --

3 BOARD MEMBER ROBERTI: I'm fearful -- maybe  
4 I'm mixing apples and oranges here, but I don't think I  
5 am. MELP indicates that they need --

6 MR. FITZGERALD: I think I'll get to your  
7 point in just a moment.

8 BOARD MEMBER ROBERTI: -- they need more  
9 tires, and even if it costs a marginal amount of more  
10 money, it seems like some of those -- more tires are  
11 on-site already. Okay. You probably knew my point.

12 MR. FITZGERALD: I added the final one.  
13 The final flow is off the east pile. This plan, which all  
14 the MELP pile is coming from the east pile, and from that  
15 working two shifts -- not the one shift but two shifts --  
16 estimate 120 tons or 12,000 tires could be brought to MELP  
17 each day from the east pile.

18 BOARD MEMBER ROBERTI: How many again?

19 MR. FITZGERALD: 120 tons or 12,000  
20 passenger tire equivalents.

21 MR. CHANDLER: Fitz, go back to your  
22 overhead map, the one that showed the three piles. Can  
23 you back that up? So we have one pile that we know which  
24 is referred to as the last bullet on here, and those are  
25 pretty good percentage of burnables, and that's what we

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1 call the east pile. We can run two shifts and get 120  
2 tons a day.

3                   The other two piles have a combination of a  
4 lot of oversized tires as well as truck tires and some  
5 percentage of passenger tires. The Norcal's plan calls  
6 for tackling both those piles as well simultaneously, but  
7 does not purport that we're going to have a smooth  
8 operation of moving all those tires into the MELP facility  
9 but instead proposes to rapidly get them off site by  
10 shearing them if they're large, large Caterpillar tires  
11 and getting them off site or shredding them for density  
12 reasons and getting them off site for ADC and disposal.  
13 So it's more a function of the characteristic of the tire  
14 piles itself, those south piles --

15                   BOARD MEMBER ROBERTI: Can -- all the tires  
16 obviously cannot be used for ADC.

17                   MR. CHANDLER: If that was the decision the  
18 Board wanted to make, we could shred all the tires.

19                   BOARD MEMBER ROBERTI: What I don't  
20 understand is it appears that Norcal is going to operate  
21 in a fashion to segregate the tires anyway -- some for  
22 ADC, some for burial. Let me finish my question. I may  
23 be off base. So if they're going to do that anyway and we  
24 need the tires in order to reach an agreement with MELP,  
25 why don't we use the tires that would go for ADC for MELP

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1 and get ourselves off the problem of the number of tires  
2 that have to be burned because they're on-site anyway and  
3 it appears they've got to be segregated anyway.

4 MR. BERTRAN: Anthony Bertran. I'll answer  
5 that question.

6 The focus of the work plan was to try to  
7 put together a cost to remediate the tires in a  
8 conservative fashion. In other words, we're not sure  
9 exactly how many passenger tires are mixed in on the south  
10 piles with the OTRs and truck tires. So the work plan  
11 assumes that as all the passenger tires come off of the  
12 east slope, and those are slated as burnable tires, in the  
13 meantime you have the process of pulling out the OTRs in  
14 the south pile, segregating the truck tires.

15 When that happens, if there are tires that  
16 are acceptable to burn that MELP can do, I don't think  
17 there's any reason why that can't be done, but for the  
18 purposes of the work plan --

19 BOARD MEMBER ROBERTI: If I can interrupt  
20 you, I think we have a more pressing issue, what appears  
21 to be our enormously pressing issue, and I'm not faulting  
22 because these pressing issues kind of happen on a  
23 day-by-day basis. What appears to be a more pressing  
24 issue is the number of tires we can get to MELP rather  
25 than the cost efficiency of is segregating these tires,

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1 and therefore we're going to need some sort of a best  
2 guesstimate as to how many tires -- is it the south pile  
3 we're talking about?

4 MR. FITZGERALD: The south pile.

5 BOARD MEMBER ROBERTI: The south pile.

6 MR. FITZGERALD: We have that.

7 BOARD MEMBER ROBERTI: We do have it? Can  
8 you kind of share the secret with me?

9 (Laughter)

10 MR. FITZGERALD: Here's what we're looking  
11 at as far as a tire count is concerned. It's about 2.2  
12 million tires and then a 15-percent contingency total,  
13 the tire equivalents, and it comes down a little bit over  
14 a million tires, actual tires.

15 BOARD MEMBER ROBERTI: So how --

16 MR. FITZGERALD: I'm going to get to that  
17 in the next slide.

18 BOARD MEMBER ROBERTI: Okay. You're  
19 anticipating my question.

20 MR. FITZGERALD: The conservative cost for  
21 working these tires comes out to 2.4 million tires.

22 (Laughter)

23 MR. FITZGERALD: Excuse me. A dollar a  
24 tire. Now, going to the issues, the issue -- one of the  
25 issues that the Senator was getting to was the transient

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1 tire issue obviously. Depending on what the requirement  
2 is for MELP, the number of tires we can get from the site  
3 minus what their requirement is will be transient tires.

4 BOARD MEMBER ROBERTI: Yes.

5 MR. FITZGERALD: So I will let MELP address  
6 what the number is --

7 BOARD MEMBER ROBERTI: But the issue is --  
8 yes, I think -- but the issue is the south pile has tires  
9 that can be used in lieu of transient tires. Does it not?

10 MR. CHANDLER: I think the question we're  
11 trying to focus in on, gentlemen, is do you feel that  
12 there is sufficient burnable tires in those south piles  
13 that are the mix of oversized and truck tires that would  
14 contribute in any significant percentage to the tires that  
15 we'll be bringing down the east slope, from the east  
16 slope. In other words, what percentage of burnable or  
17 passenger tires might be in those two south piles?

18 MR. FITZGERALD: If I might try, one of the  
19 issues is reliable supply for the plant. It could be in  
20 some days there would be enough, but it could be other  
21 days there wouldn't be enough. The plant doesn't have the  
22 option of working on some variable number of tires each  
23 day, so for that reason we took the conservative approach  
24 and didn't account for those tires because we didn't know  
25 how many we would actually --

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1                   BOARD MEMBER ROBERTI: Unfortunately, the  
2 conservative approach isn't conservative because we are  
3 facing an issue of MELP itself closing down because it  
4 does haven't enough tires, and the numbers on that are far  
5 more important right now than this efficiency business  
6 we're sort of discussing right now as to how many tires we  
7 can segregate. And being a complete and total layman on  
8 this, I don't understand why we can't estimate on a daily  
9 basis how many tires we can get from the south pile on a  
10 daily basis. Maybe we won't get it down to the tire, but  
11 I think we can get a pretty good rough estimate that could  
12 be of help to MELP and to give help to us as well.

13                   I think we need to know how many tires  
14 there are on the south pile that can be used in lieu of  
15 transient tires because I mean theoretically, it could  
16 solve our problem. Maybe not, but theoretically it seems  
17 to solve our problem and we shouldn't dismiss it.

18                   MR. FITZGERALD: One of the big problems  
19 that's always been, Senator, is to get an accurate count  
20 on tires. For example, when we started a couple of years  
21 ago, the estimate was there were 7.2 million tires at this  
22 facility. We burned 4 million tires and there were still  
23 7 million at this facility. I will get to the slide and  
24 show you the difference in estimates on the number of  
25 tires and the different types there are and show you what

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1 the problem is --

2 BOARD MEMBER ROBERTI: I would be  
3 interested to know what the low estimate is on passenger  
4 tires.

5 MR. FITZGERALD: I don't have the -- there  
6 is a chart here. You have it broken down; don't you,  
7 Anthony? I don't have it here.

8 CHAIRMAN EATON: The other issue is -- and  
9 I'll just piggyback -- if you have a problem estimating  
10 you may be too low on the east pile and that stock is  
11 already there. And they may not have to bring in any  
12 transient tires.

13 BOARD MEMBER ROBERTI: For sure.

14 MR. FITZGERALD: It's not the number of  
15 tires, it's the rate you can move the tires.

16 BOARD MEMBER ROBERTI: As well.

17 MR. FITZGERALD: It's 120 tons per day is  
18 the rate you can move it.

19 CHAIRMAN EATON: Correct. But if you were  
20 to build a secure public safety pad by which you could  
21 present enough to have enough stockpile down there so that  
22 when you brought the rate of 120 down per day, there would  
23 still be a residue that could make up the difference.

24 MR. FITZGERALD: And that's part of our  
25 problem, is that when we did the work here, the pad at the

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1 bottom was filled with debris, and there's a very limited  
2 area at the bottom that can be used to store these tires  
3 at the MELP facility.

4 CHAIRMAN EATON: I'm told that's been  
5 removed, in a letter today from MELP. I was told that pad  
6 was clean.

7 MR. CHANDLER: Elaborate on it.

8 MR. FUJII: I think you're probably  
9 correct, and it's my understanding that our direction,  
10 because we're trying to facilitate the direction and  
11 placement of our winterization work out there. It wasn't  
12 done to facilitate moving tires necessarily, it was done  
13 to make it easier for us to lay the pipe in and around the  
14 existing (inaudible) of the site. So it made our line a  
15 lot more efficient. First we took some of the bends out  
16 of it, so we did direct MELP to move that material but not  
17 to facilitate moving the tires. So I think you're correct  
18 when you say it is cleared, but not for the reason that it  
19 would make it easier for them to put tires in the  
20 transient tire area.

21 BOARD MEMBER ROBERTI: Mr. Chairman.

22 CHAIRMAN EATON: Senator Roberti.

23 BOARD MEMBER ROBERTI: If I could just sort  
24 of repeat my statement and just to make it absolutely  
25 clear, we need 18,000 tires a day that everybody would

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1 agree would keep MELP open. Okay. Now, whether we should  
2 do that or not do that, that's a different question.

3                   Now we have two concerns that have come out  
4 of this testimony. Number one is that we're estimating  
5 the entire pile low. Based on your earlier statement on a  
6 similar tire pile we almost estimated it only at half, and  
7 now we have a south tire pile which we're not even  
8 factoring in. So we're giving these very conservative  
9 estimates to MELP and usually it's right to say estimate  
10 conservatively, except when we have this potential  
11 disaster facing us in which case I want more realistic  
12 numbers than conservative numbers, whatever they happen to  
13 be.

14                   We're not even estimating the tires on the  
15 south pile. You're saying there's a very good chance  
16 we're underestimating the entire pile, and that's how we  
17 come up with the 12,000 figure. A 12,000 tire a day  
18 figure doesn't appear to mean anything, and if I had to  
19 guess, I think we're going low. Now, maybe I'm absolutely  
20 wrong, but that's what I fear, and we've got to make a  
21 major decision whether we go along with MELP and burn  
22 these tires and get rid of them that way or we bring in  
23 transient tires. Highly controversial, a great problem as  
24 far as health and safety no matter which way we go. We  
25 need the numbers, and I think -- I think you're estimating

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1 low, and how can I make an intelligent decision on these  
2 low, low numbers?

3 BOARD MEMBER PENNINGTON: Can we go back to  
4 that chart that has the number of tires on it?

5 MR. FITZGERALD: Bob, could you refer to  
6 the chart in your handout with the numbers in each pile?  
7 I know we have it in the report.

8 MR. CHANDLER: You do have a slide that  
9 shows the number of tires that are estimated --

10 MR. FITZGERALD: Oh, the number of  
11 tires.

12 MR. CHANDLER: -- and I think what is  
13 troubling first is the impression that we have not yet  
14 estimated the number of tires in these tire piles, and I  
15 think you ought to get to that part of the slide  
16 presentation.

17 MR. FITZGERALD: I don't have it in the  
18 slide presentation. That's why I said Bob, could you read  
19 it off the report because I know we have it in the report.  
20 We have estimated the number of tires.

21 MR. CHANDLER: You had it on the screen a  
22 minute ago.

23 BOARD MEMBER PENNINGTON: What was the  
24 slide you had up there a minute or two ago that showed the  
25 east pile and the south pile and had like 2 million in the

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1 east pile?

2 MR. FITZGERALD: That was a summary slide  
3 showing over the whole site how many tires there were. It  
4 was a summary slide. I can go back to it if you want.

5 BOARD MEMBER PENNINGTON: You are at this  
6 point estimating that there's 550,000 passenger tire  
7 equivalents in the east slope and 450,000 in the south  
8 stockpile.

9 MR. FITZGERALD: That's correct.

10 BOARD MEMBER PENNINGTON: And I assume that  
11 a big part of that million and four is --

12 MR. FITZGERALD: Is oversized. If you  
13 remember, the reason the south stockpile was formed,  
14 that's where they threw out the culls, if you will. When  
15 the tires would come in and the oversized tires would be  
16 there, they would pull the oversized ones out before they  
17 went up the ramp into MELP. So a very high percentage of  
18 those are going to be oversized tires.

19 BOARD MEMBER PENNINGTON: But you've got  
20 550,000 on the east slope.

21 MR. FITZGERALD: That's correct.

22 BOARD MEMBER PENNINGTON: And the next set  
23 of numbers down says passenger tires 1,045,000, so I would  
24 have to assume that another half a million are coming out  
25 of the south stockpile.

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1 MR. FITZGERALD: That's correct.

2 BOARD MEMBER PENNINGTON: Does that help  
3 the Senator?

4 BOARD MEMBER ROBERTI: Give me this again.  
5 I'm sorry.

6 BOARD MEMBER PENNINGTON: Well, he's saying  
7 that there's 550,000 passenger tire equivalents in the  
8 east slope, which is basically all passenger tires. Then  
9 you've got -- in the south slope you've got 1,450,000.

10 BOARD MEMBER ROBERTI: Tires in general.

11 BOARD MEMBER PENNINGTON: No. That's  
12 passenger tire equivalents.

13 BOARD MEMBER ROBERTI: Okay.

14 BOARD MEMBER PENNINGTON: Where the big  
15 tires may be four or five PTs as opposed to passenger  
16 tires. So that pile probably has another half a million  
17 passenger tires in it. We don't know how many of those  
18 are burnable though.

19 MR. FITZGERALD: That's correct.

20 BOARD MEMBER PENNINGTON: Right. Does that  
21 help?

22 BOARD MEMBER ROBERTI: It does a little  
23 bit, but I'm uneasy. Maybe that's the word. I'm uneasy  
24 as to what the real estimates are on --

25 BOARD MEMBER PENNINGTON: Well, I certainly

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1 concur with that. Over years we've had problems.

2 BOARD MEMBER ROBERTI: On the south slope.

3 BOARD MEMBER PENNINGTON: The first time I  
4 looked at the pile they told me there were 2 or 3 million  
5 tires. It was obvious there were 12 or 14 million.

6 BOARD MEMBER ROBERTI: With that 2.3  
7 million tires, how much would that -- assuming all those  
8 were available --

9 BOARD MEMBER PENNINGTON: You've got to  
10 remember that of the 2.3, those are passenger tire  
11 equivalents which means there's probably only maybe a  
12 million --

13 BOARD MEMBER JONES: It says 1,045,000.

14 MR. CHANDLER: It's right in the notes. It  
15 says the number of tires.

16 BOARD MEMBER PENNINGTON: Yeah. Okay.

17 BOARD MEMBER ROBERTI: Of those 2.3 million  
18 passenger tire equivalents, that would then -- what number  
19 a day would that give us available?

20 BOARD MEMBER PENNINGTON: You really have  
21 to look at the chart below that says passenger tires which  
22 is 1,045,000.

23 BOARD MEMBER JONES: If you did --

24 BOARD MEMBER PENNINGTON: So you divide

25 18,000 --

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1                   BOARD MEMBER ROBERTI: That I don't  
2 understand. I'll be brutally honest.

3                   MR. FITZGERALD: The flow is not based on  
4 the number of tires available. The flow is based on these  
5 three sets of operations going on simultaneously. That's  
6 where flow is based on. It's just a question of how many  
7 days it will take you to get to the end of the pile.

8                   BOARD MEMBER ROBERTI: Okay. If the flow  
9 is based on passenger tire equivalents, why do we have  
10 that figure? There must be a reason why we have that  
11 figure there.

12                  MR. FITZGERALD: So we can talk in common  
13 terms, because if you have an oversized tire, it may be 12  
14 and a half times in weight a regular passenger tire. So  
15 if you --

16                  BOARD MEMBER ROBERTI: Tire equivalents  
17 would include an oversized tire that's three times the  
18 size.

19                  MR. FITZGERALD: That's correct.

20                  BOARD MEMBER ROBERTI: So that -- for my  
21 purposes of keeping MELP open, it doesn't mean anything.

22                  MR. FITZGERALD: No.

23                  BOARD MEMBER ROBERTI: Now the number of  
24 tires we're talking about. Passenger tires is slightly  
25 over a million. What's OTR?

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1 MR. FITZGERALD: That's "off the road"  
2 tires. Those are the huge, oversized tires.

3 BOARD MEMBER ROBERTI: These passenger  
4 tires, that 1,045,000, is that from all slopes or is that  
5 just the east slope?

6 MR. FITZGERALD: All slopes.

7 BOARD MEMBER ROBERTI: All slopes.

8 MR. FITZGERALD: About half of those are on  
9 the east slope.

10 BOARD MEMBER ROBERTI: Okay. Now, how many  
11 tires a day does that give us? Your number of tires.

12 MR. FITZGERALD: The estimate was we could  
13 move 12,000 tires a day.

14 BOARD MEMBER ROBERTI: Whoa, whoa, whoa.  
15 You originally said that we weren't counting the south  
16 tires going to MELP because they were going to go for  
17 annual daily cover.

18 MR. FITZGERALD: That's correct.

19 BOARD MEMBER ROBERTI: Under that  
20 reasoning, it's not 12,000, it's less than 12,000.

21 BOARD MEMBER PENNINGTON: At this point  
22 they're really talking about the 550 PTE.

23 BOARD MEMBER ROBERTI: I'd like an answer  
24 here because --

25 MR. CHANDLER: We were assuming 12,000

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1 tires a day coming off the east slope, and you're correct.

2 BOARD MEMBER ROBERTI: The east slope.

3 MR. CHANDLER: Correct.

4 BOARD MEMBER ROBERTI: So the number of  
5 tires does not include anything on the south slope.

6 MR. CHANDLER: We assumed everything in the  
7 south piles was going to be either shredded or transported  
8 off site.

9 BOARD MEMBER ROBERTI: Okay. So that  
10 figure on tire count, number of tires, right now does not  
11 include anything on the south slope.

12 MR. CHANDLER: The number of tires you see  
13 up there includes the number of passenger tires from the  
14 site.

15 BOARD MEMBER ROBERTI: Well, yes, but  
16 Mr. Fitzgerald has told me that 1,167,000 only amounts to  
17 12,000 a day, and I thought that included the east slope  
18 only.

19 MR. CHANDLER: No. We're not making  
20 ourselves clear.

21 BOARD MEMBER ROBERTI: No. You're giving  
22 conflicting information.

23 MR. CHANDLER: Let's back up and try to  
24 give it again.

25 MR. FUJII: Let me try it again. The flow

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1 rate is not dictated by the number of tires. The flow  
2 rate is given to us by the plant. The plant gave us the  
3 maximum number of tons or tires they can receive on a  
4 daily basis, so it has nothing to do with how many tires  
5 are on the site. It is dictated by the number of tires  
6 they can physically send up there to MELP and burn in a  
7 day. So the number of tires that they burn in a day is  
8 approximately 120 tons per day.

9 BOARD MEMBER JONES: The man is shaking his  
10 head.

11 BOARD MEMBER ROBERTI: Why would they want  
12 180 tons a day if they can't burn that?

13 MR. FUJII: What was the question? I'm  
14 sorry.

15 MR. FITZGERALD: Bob, I -- the 120 tons a  
16 day is predicated on the ability to move tires through the  
17 area, not on the total number of tires.

18 BOARD MEMBER ROBERTI: Okay.

19 MR. FITZGERALD: And the assumption is that  
20 all those tires are going to come off the east slope.  
21 Now, if they pull tires off the south slope, if they do  
22 separate them, that number would increase, Senator. I  
23 cannot tell you how much it would increase.

24 BOARD MEMBER ROBERTI: That's what I --

25 MR. FITZGERALD: It would not be a reliable

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1 source for the plant.

2 BOARD MEMBER ROBERTI: It would not be a  
3 reliable source.

4 MR. FITZGERALD: No, because we would not  
5 know how many were going to be coming off each day. When  
6 you go to a pile of mixed tires, you're going to take what  
7 you pull off. It could be one day you pull off nothing  
8 but oversized tires. In that case, that day no passenger  
9 tires would be available from the south pile to go to --

10 BOARD MEMBER ROBERTI: Why would that be?  
11 We wouldn't have enough of a crew? Is it possible to have  
12 that big a crew?

13 MR. FITZGERALD: It could be that's the way  
14 the tires were placed in there.

15 BOARD MEMBER ROBERTI: I understand that.  
16 I understand that, but to segregate tires because we were  
17 planning to segregate tires for annual daily cover --  
18 alternative daily cover. San Francisco and Santa Barbara.

19 (Laughter)

20 CHAIRMAN EATON: That's why sometimes we  
21 use acronyms.

22 (Laughter)

23 BOARD MEMBER ROBERTI: Okay. So that  
24 presumes the ability to segregate. Now, maybe not on a  
25 daily basis, but I fear that a middle level management

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1 problem of counting on tires is proscribing us from coming  
2 up with a solution to deal with a megaproblem, and that is  
3 whether we're going to keep the plant open to get rid of  
4 our problem. Period.

5 MR. FITZGERALD: Understood.

6 BOARD MEMBER ROBERTI: And I want to be  
7 convinced that I'm not right in that assumption because if  
8 that's the case, it's terrible. We have some minor middle  
9 level management problem of trying to decide how many  
10 tires there are and, therefore, we can't use the available  
11 tires. I don't understand why we can't just put more  
12 people on for the cost involved and get rid of those tires  
13 so that there is a reliable source.

14 Now maybe I'm wrong, but I mean these are  
15 questions that we, as the policy makers, have to be able  
16 to decide upon and answer upon and with all due respect to  
17 staff, the information I'm being given is pretty sparse  
18 and pretty minimal, and it is not complete to the issue  
19 that I have to deal with at 6:00, having to make a  
20 decision that I understand MELP says they're going to  
21 close down tomorrow if they don't get what they want.

22 CHAIRMAN EATON: Well, perhaps at this  
23 time -- and I hate to do this, but the court reporter  
24 needs a break. She's been going for about two hours. If  
25 we could just take a short ten-minute break and we'll come

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1 back.

2 Thank you.

3 (Brief recess taken)

4 CHAIRMAN EATON: All right. Welcome back.

5 Thank you for your patience.

6 Any ex partes to report? I have one where  
7 we were having a discussion with Ed Tomeo from MELP, and I  
8 think for me and Senator Roberti.

9 Mr. Pennington, anything?

10 BOARD MEMBER PENNINGTON: Nope.

11 BOARD MEMBER JONES: Nope, just Mohajer,  
12 meet-and-greet outside.

13 CHAIRMAN EATON: Ms. Moulton-Patterson.

14 BOARD MEMBER MOULTON-PATTERSON: No.

15 CHAIRMAN EATON: All right. Back to the  
16 ranch.

17 MR. FITZGERALD: Mr. Chair, if I may make a  
18 suggestion. Senator, would it satisfy you if we would  
19 modify the plan to the maximum amount possible, use the  
20 burnable tires from the south side, separate them out and  
21 add them to the number of tires that are going to MELP?

22 BOARD MEMBER ROBERTI: Yeah, that would  
23 help. At least it would help me make a decision.

24 MR. FITZGERALD: I would propose we do  
25 that, we modify the plan to include the separation of the

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1 tires from the south piles, and those burnable ones would  
2 be sent to MELP rather than go to the landfill.

3 BOARD MEMBER ROBERTI: Yes. Now how many  
4 tires are we talking about?

5 BOARD MEMBER JONES: No idea. Somewhere  
6 around half a million it looks like.

7 MR. FITZGERALD: That's correct. About  
8 half a million.

9 BOARD MEMBER PENNINGTON: About half a  
10 million in the south pile according to the figures here.

11 MR. FITZGERALD: That's correct.

12 BOARD MEMBER JONES: Mr. Chairman, can I  
13 ask a question?

14 CHAIRMAN EATON: Mr. Jones.

15 BOARD MEMBER JONES: The 550,000 on the  
16 east slope, are those considered relatively easy to stage  
17 and push on to an area that can be used?

18 MR. FITZGERALD: As long as the ground is  
19 dry, yes. It's on a steep slope, so if it rains, it's  
20 going to be difficult, but if it's dry, they can be  
21 relatively easy to move down to a staging area to be  
22 brought over, yes.

23 BOARD MEMBER JONES: All right. How  
24 much -- if -- one of the things I think we're grappling  
25 with obviously is not knowing, and nobody expects you to

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1 know the answer to that, but is it reasonable to think  
2 that the 550,000 tires could be put in an area where they  
3 get fed to the belt in a relatively short period of time  
4 so that as the 1,450,000 tire equivalents in the south  
5 slope are being worked on by another crew and culled out,  
6 that those tires could get pushed in so that there is a  
7 feed stock on-site. So the days that you run into  
8 problems and you don't achieve 12,000 tire equivalents,  
9 get moved to a pile, there is a stockpile of tires already  
10 there that take up that short flow.

11                   That to me would be a way that you could  
12 manage both of these. If we were able to burn 18,000  
13 tires a day off of the pile, that's 57 days based on these  
14 numbers. So that -- I don't know if that's achievable. I  
15 don't even want to presume that that is achievable, but I  
16 want to know if it's something people thought about.

17                   If that pad is empty, that pad, as I  
18 remember, can hold 4,000 tires. So if you've got those  
19 tires there and they were feeding 18,000 a day and you're  
20 continually putting tires in, then you're at a level where  
21 you should be able to work that south pile, which I think  
22 is what all of us are worrying about, and at the same time  
23 cull out the big tires that have to be landfilled, cull  
24 out the ones that aren't burnable, and you can really  
25 concentrate your efforts if you can concentrate on that

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1 550,000 in a place where it's manageable.

2 CHAIRMAN EATON: And negate the need for  
3 any transient tires.

4 BOARD MEMBER JONES: Sure, for 57 days.

5 CHAIRMAN EATON: Right.

6 BOARD MEMBER JONES: Because then you --  
7 and then you know what --

8 CHAIRMAN EATON: And that's what --

9 BOARD MEMBER JONES: Then we're going to be  
10 able to get a real tire count because you know what it  
11 will be? Zero. Right?

12 (Laughter)

13 BOARD MEMBER JONES: At some point then you  
14 get to zero and that's a known, but I think it's all --  
15 and I don't know if it's even reasonable to assume we can  
16 get that 550,000 tires to that staging area in a  
17 relatively short period of time.

18 BOARD MEMBER PENNINGTON: That and the  
19 question is, is there enough room there, where the pad is.  
20 Is it pretty much what is the permitted area?

21 MR. TOMEO: Pretty much. I think we've  
22 lost about 10 or 20 percent.

23 MR. FUJII: Right. I was going to say what  
24 he just said. About what he said, 80 percent of the area  
25 is what we figure is available to us at this point.

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1 CHAIRMAN EATON: And that would hold how  
2 many?

3 MR. FUJII: About 80 percent of the  
4 400,000.

5 CHAIRMAN EATON: 320,000 --

6 MR. FUJII: Right.

7 CHAIRMAN EATON: -- or roughly almost three  
8 weeks' worth of fuel stock.

9 MR. FUJII: Sure.

10 BOARD MEMBER JONES: Because 400,000 was  
11 going to be their one month.

12 CHAIRMAN EATON: So you would have the  
13 issue, and surely within 21 days you can be culling out  
14 more to replenish.

15 MR. TOMEO: I think there's probably a  
16 clarification there.

17 CHAIRMAN EATON: Would you come up.

18 MR. TOMEO: Sure. Hi. I'm Ed Tomeo,  
19 President of Modesto Energy Limited Partnership.

20 Our tire delivery area is permitted for  
21 400,000 tires. However, unless we take some exceptional  
22 efforts to stack them up high, we have found that we  
23 really can't get to that level. So our permitted area is  
24 probably close to 300,000, 320,000, something like that.  
25 We've lost 20 percent of it due to debris remaining. We

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1 may be able to finish working that out with Albert before  
2 the pipe does get run.

3                   As Bob Fujii pointed out, we have removed  
4 the debris from the tire delivery area in order to give  
5 access to the gully in the back so that could be the  
6 right-of-way for the fresh water pipe running down from  
7 the hillside. We do still need to finish grading and  
8 surfacing the tire delivery area. It was pretty heavily  
9 damaged from the fire. That activity is ongoing right  
10 now and we anticipate it to be completed within the next  
11 day or two.

12                   Part of the tire delivery area is very much  
13 usable in its state. I'm sure we could hold a few days of  
14 fuel, 100,000 tires I think without too much trouble.

15                   BOARD MEMBER PENNINGTON: So then the next  
16 problem that we face is getting how many down the hill to  
17 the area and how many --

18                   MR. TOMEO: It's my understanding talking  
19 to Norcal during the break that their assumption for  
20 moving the tires was based on the loader basically coming  
21 across from the -- that's called the hillside staging area  
22 for the east hill, and moving the tires directly to  
23 process. And as a result, they ended up with a flow rate  
24 that was basically equal to our process flow. Hence,  
25 working two eight-hour shifts, which is two thirds of the

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1 day, they fed us two thirds of our tire needs. They had  
2 not been informed that the tire delivery area was  
3 available as a staging area. I think that actually it  
4 will work out as a staging area and it will reduce your  
5 cost of remediation because you're going to better utilize  
6 the loader and deliverer so he won't have idle time. He's  
7 going to be working continuously. He's going to put tires  
8 in the hopper, he's going to put tires on the pad --

9 BOARD MEMBER JONES: I think that's  
10 Mr. Filbin's cost of remediation.

11 MR. TOMEO: Right.

12 BOARD MEMBER JONES: Okay. Well, pretty  
13 important semantics.

14 (Laughter)

15 BOARD MEMBER JONES: At least as far as  
16 we're concerned.

17 MR. TOMEO: Considering we're accepting and  
18 consuming the tires for free, that's pretty important  
19 semantics for me. It's a half a million dollar  
20 contribution, too, but you're right, it's Filbin's  
21 dollars.

22 BOARD MEMBER PENNINGTON: So do I hear what  
23 you're saying -- do I understand what you're saying is  
24 that while you are finishing grading the permitting area,  
25 you could be also stockpiling some tires there so that

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1 when the grading and stuff is finished, you can start up  
2 again and we have a sufficient amount there to carry you  
3 while we work on the other too?

4 MR. TOMEO: Actually, no. That's very  
5 close, but I'll get much more specific. Coming with a  
6 positive vote today for a remediation program, we are  
7 prepared to begin moving tires tomorrow, to begin  
8 operation tomorrow, to be moving tires to the tire  
9 delivery area that will suit our fuel supply needs, give  
10 us some reserve while we finish the work on the tire  
11 delivery area, all working off of tire pile tires only  
12 without transient tires, as long as we can work with  
13 regard to the installation of his water pipe.

14 I do understand that in the next few days  
15 he is going to be crossing the road that has been built.  
16 We don't anticipate that that's going to be more than a  
17 day or day and a half idle time. If we can shuttle over a  
18 lot of tires before he gets there, that will not impact  
19 our operation. If not, we'll work something out.

20 BOARD MEMBER PENNINGTON: And during that  
21 time, also, you can have -- somebody can have some people  
22 starting to work on the south pile.

23 CHAIRMAN EATON: Correct.

24 MR. TOMEO: I do want to point out also  
25 that from our observation of the south pile, there are a

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1 lot of oversized tires. I mean the one closest to the  
2 hillside. I know, Dan, you've seen it. That was almost  
3 all oversized tires. It was just a small area just south  
4 of where the trailers used to be that have a mix, and I  
5 think that's a field judgement call.

6 BOARD MEMBER PENNINGTON: What I'm looking  
7 for here, and I think my colleagues are, is to cull out as  
8 many passenger tires out of there so you've get a  
9 stockpile so you don't run into a fuel shortage if it  
10 rains.

11 MR. TOMEO: That's what I was going to  
12 address. That one smaller section in the south pile, that  
13 does have passenger tires, still has a lot of oversized  
14 tires. I think it's going to be a field call kind of  
15 thing. If you can get to a decent concentration of usable  
16 tires, we -- by all means we would love to move them over  
17 to the tire delivery area and accept them. If you're  
18 running mostly oversized tires with a few, you don't want  
19 to spend the labor picking out a few passenger tires.  
20 Send them to the shredder and take care of them. There  
21 are enough tires on the east hill to fuel this facility as  
22 long as we're moving them quickly.

23 BOARD MEMBER PENNINGTON: And the other  
24 question that I have is while you're moving these down and  
25 starting to work, feeding your hopper, will they be able

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1 to carry off the oversized tires? Will you be able to get  
2 equipment in there to get oversized tires out of there  
3 too?

4 MR. TOMEO: From our discussions with  
5 Albert and talking about the expectations for equipment  
6 movement, we believe that will work out fine. They are  
7 going to utilize the driveway across the front of our tire  
8 delivery area, but the actual amount of time that our  
9 vehicle will be in that spot is only as it's driving  
10 across the road. So it would seem like coordination, from  
11 our understanding, could be taken care of.

12 I would suggest the Norcal person also  
13 weigh in on that because we haven't had an opportunity to  
14 talk this detail with them.

15 BOARD MEMBER PENNINGTON: It would seem  
16 like if you can put six (inaudible) on one tractor and  
17 move them, that you ought to be able to move two or three  
18 pieces of equipment.

19 MR. BERTRAN: Anthony Bertran with Norcal.

20 The answer to that question is yes, you can  
21 run another operation segregating the OTRs and truck  
22 tires, and we can get those off site simultaneously. I  
23 think the question that's been kind of missed is on the  
24 south stockpiles, and I think MELP can agree as well as  
25 us, that it appears there's not that many tires that are

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1 considered burnable for their facility. So those tires  
2 have to be segregated and the work plan shows that in lieu  
3 of using them at MELP since they can't, taking them off  
4 site and shredding them.

5                   So once they get tires off of the east  
6 slope, down to their staging area, which from discussions  
7 with Ed, you can get the tires off the hill relatively  
8 fast and they can consume them at 18,000 tons a day. Once  
9 those tires are gone, the assumption here is that they're  
10 not going to have enough tires in the south stockpile to  
11 meet their needs to run the facility.

12                   BOARD MEMBER PENNINGTON: Once that  
13 happens --

14                   MR. BERTRAN: Which would be 57 days.

15                   BOARD MEMBER PENNINGTON: That's what we  
16 figured up here.

17                   MR. BERTRAN: In the meantime, we could be  
18 taking OTRs off-site, we could be taking tires that were  
19 segregated out, shredded tires. The ones that aren't  
20 burnable, we can shred those and take them to Altamont.  
21 The ones that are burnable, we can take over to MELP's  
22 staging area and then they can use them for combustion at  
23 the facility.

24                   CHAIRMAN EATON: How long do you figure it  
25 would take to get the OTRs off of the site?

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1 MR. BERTRAN: 150 days, working days.

2 That's assuming about 60 tons a day of shearing and  
3 actually loading.

4 BOARD MEMBER ROBERTI: And that's including  
5 a survey inventory of whether the passenger tires are  
6 retrievable?

7 MR. BERTRAN: That's correct. At the same  
8 time we're segregating, we'll pull out the tires that are  
9 acceptable. We'll work with MELP. They can take whatever  
10 they can and the rest of them will be shredded and taken  
11 off site.

12 CHAIRMAN EATON: And those are all  
13 conservative estimates.

14 MR. BERTRAN: That's correct.

15 CHAIRMAN EATON: So what you could have  
16 is -- you could have actually more than 57 days from the  
17 east -- assuming you get very little retrievable from the  
18 OTRs, you could actually close the gap between taking  
19 tires off site and bringing them down for burning to be --  
20 right now it stands at about 80 or 90 days' difference.  
21 By the time you consumed everything on the hillside and  
22 taken everything off, that's about 90 days calculation,  
23 say 60 and 150, that's 90.

24 MR. BERTRAN: Correct.

25 CHAIRMAN EATON: So if the estimate on the

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1 east slope, as we've come to expect with this pile, is  
2 greater than anything we have ever come up against, you  
3 probably could narrow it down to where it's maybe only a  
4 difference of 60 days or two months, and therefore the  
5 citizens of West Stanislaus County would feel a lot safer  
6 that there weren't piles of tires out there that would be  
7 burning.

8 MR. BERTRAN: That's correct. And as the  
9 tires are being segregated on the south stockpiles, it  
10 will create an area that's big enough. So there's no  
11 saying that you can't bring in a separate crew to start  
12 shearing and run two operations, and you can speed it up  
13 from 60 tons a day to 120 tons a day. So as the area  
14 clears out, you can get more room and you can do that so  
15 you can actually narrow that down.

16 CHAIRMAN EATON: That's what you were  
17 saying about throwing more resources at it.

18 BOARD MEMBER JONES: Mr. Chairman.

19 MR. TOMEO: I think there is an important  
20 clarification or two that I would like to offer as well  
21 please. We've been talking about the tires from the east  
22 pile representing the recoverable, reusable tires for  
23 MELP, and I do agree with that. We're also talking about  
24 it in the context of finishing them up and then some  
25 uncertainty about days of lack of tires. That's not going

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1 to work out very well for MELP because that means we're  
2 back down without operating. Also -- and in fact, we had  
3 submitted an October 29th plan to the Assemblyman  
4 Cardoza's hearing, and I believe it was sent to people on  
5 Integrated Waste Management Board staff as well, and hoped  
6 that was going to be recognized or incorporated into the  
7 Norcal work. It seems that they grabbed an earlier letter  
8 that we had sent to Stanislaus County with regard to  
9 remediation, so I think the later one is a better work.

10                   But I think the same fundamental component  
11 was addressed in both, which was that when we get down to  
12 about one month's fuel supply left in our vision, and  
13 actually we would be happy to work with Citizens'  
14 Committee and Integrated Waste Management Board in that  
15 assessment, we would like to begin bringing in transient  
16 tires at that time. It does take a while to attract  
17 18,000 tires per day, and we need a ramp-up period. And  
18 if you recall, that was the approach that we utilized when  
19 we consumed the 4 million tires for the Integrated Waste  
20 Management Board a number of years ago and it was managed  
21 exactly how we described it in the contract and it worked  
22 out very well.

23                   I have talked with some of the citizens in  
24 Patterson at meetings, and I believe they will want to  
25 address this Board tonight, too, but at least I was

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1 getting some preliminary assessment on their part that  
2 that seemed like a reasonable business matter, that we  
3 were still committing to burn the tires on the pile, it  
4 was just a matter of balancing flow so we don't pretend  
5 that we can turn on 18,000 tires per day.

6                   And also it's really important to remember  
7 that the tire delivery area holds -- it's still going to  
8 hold 250,000 tires, perhaps. That represents two weeks'  
9 worth of fuel for us. That's a reservoir that we need to  
10 utilize, and our desire actually would be that that  
11 reservoir starts to get fairly filled as we're going and  
12 it can be from tire pile tires, transient tires. Anybody  
13 can take their pick on that one, but going into the winter  
14 months, I think we've described to some of the Board  
15 Members before, it's a seasonal drought for waste tire  
16 generation. People don't buy tires for Christmas presents  
17 and therefore they just fall off. It's at that time that  
18 our facility needs the maximum inventory in order to go  
19 into the winter.

20                   So our preference would be to get as close  
21 to our permitted level as possible, 400,000. I don't know  
22 that we'll have that physical space available to us, but  
23 we would certainly like to do that and I think it  
24 integrates well with the program.

25                   CHAIRMAN EATON: How many are out front by

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1 the diner?

2 MR. TOMEO: I'm really not sure.

3 CHAIRMAN EATON: Well, that --

4 BOARD MEMBER ROBERTI: Mr. Chairman.

5 CHAIRMAN EATON: Wouldn't that be a logical  
6 progression then. You do what ever is right there on-site  
7 and then you look at what's out there in the -- that's  
8 being stored out there in those trailers? I'm sure you  
9 talked to the citizens of Patterson about those trailers.  
10 My understanding is there's quite a bit of tires in those  
11 trailers.

12 BOARD MEMBER PENNINGTON: The question is  
13 whose trailers are they.

14 MR. TOMEO: We have been approached by the  
15 property owner, Dorothy Arnot, with regard to whether or  
16 not we would be willing to remediate those tires. My  
17 understanding is -- although I don't have any tickets on  
18 them because they haven't been delivered to us on the  
19 manifest yet -- my understanding is that they are TTR's  
20 tires, and I believe that the landowner feels that perhaps  
21 they've been abandoned there.

22 We accept tires when they're delivered onto  
23 our tire delivery area so we cannot speak for them. If  
24 those tires are moved to us by a licensed hauler and they  
25 bring in the manifest and they're acceptable tires about

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1 our definition, 52 inches in diameter or less and all the  
2 other stuff we put in the specifications, we'll take the  
3 manifest, put them on the tire delivery area and be happy  
4 to consume them with the appropriate tip fee, which most  
5 tire dealers are happy to pay because we're one of the  
6 least expensive tire solutions in the state.

7 BOARD MEMBER ROBERTI: Mr. Chairman.

8 CHAIRMAN EATON: Senator Roberti.

9 BOARD MEMBER ROBERTI: Maybe staff can help  
10 me with this, but my own feeling is that we should really  
11 keep our eye on the eight ball with what we can do and  
12 can't do. We can't at this juncture alter the permit that  
13 we've granted to MELP. We have evidently no authority  
14 over whether they bring in transient tires or not.

15 What we can do is authorize the expenditure  
16 of funds for burning the tire pile down. My own  
17 inclination is that we make available whatever funds that  
18 we have or whatever processes that we have to burn down  
19 the tire pile at a rate of 18,000 a day, which I think is  
20 the 57-day schedule on a conservative figure.

21 When the tire pile is burned down -- and  
22 this is what we've made available. When the tire pile is  
23 burned down, whether you bring in transient tires to MELP  
24 or whatever other alternative solution is sought, is out  
25 of our jurisdiction. And this whole issue is complex and

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1 serious enough without our trying to overreach -- and I  
2 don't think that we're trying to do, but the discussion is  
3 inevitably everything else comes in, and we'll never reach  
4 a solution if we're trying to factor in things that are  
5 not part of our jurisdiction.

6 BOARD MEMBER PENNINGTON: Mr. Chairman.

7 BOARD MEMBER ROBERTI: Now maybe I'm  
8 totally wrong. I was going to say I'm the new boy, but  
9 I'm the new boy on the block.

10 CHAIRMAN EATON: I just --

11 MR. TOMEO: -- that interpretation --

12 BOARD MEMBER ROBERTI: I'm still the new  
13 boy.

14 CHAIRMAN EATON: But I heard slippage on  
15 the part of Mr. Tomeo to what we had originally agreed on  
16 with the three points. I heard slippage back as we  
17 started talking about winterization and downturn and  
18 gearing up and stuff, and I think that we are in a  
19 position, because if we approve the plan it is our plan  
20 for remediation.

21 So therefore, they're entitled to do what  
22 they have to and subject themselves to the public wrath  
23 that they want to if they want to do it with their permit.  
24 But if they want to be a good neighbor like they're on the  
25 record, if they want to be a good participant and help

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1 with the tire problem in California, then they have to  
2 decide to produce energy and help us with the tire  
3 problem. And that's the real issue, and if there's  
4 slippage on that part, I don't believe that that's  
5 appropriate.

6 MR. TOMEO: I'm not sure what the slippage  
7 is you're talking about, so I'd like to try and work with  
8 you.

9 BOARD MEMBER PENNINGTON: Let me go through  
10 what I think we're trying to get to. That is that we have  
11 an agreement that those tires in the east pile will be  
12 taken down as quickly as possible; that you will be able  
13 to stockpile some there so that you'll have a constant  
14 supply of fuel.

15 CHAIRMAN EATON: From the east pile.

16 BOARD MEMBER PENNINGTON: From the east  
17 pile. In the meantime, we will have the other south pile  
18 gone through where there have been deposits of passenger  
19 tires, pull those out, and others will go out the gate.  
20 And as we get closer to getting all the tires burnt down,  
21 there will be some transition period for to you start  
22 bringing transient tires in, and all of this is -- you are  
23 going to do without any cost to us, and that Mr. Filbin,  
24 the property owner, the responsible party, will reimburse  
25 you or whatever deal you've worked out with him.

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1                   Is that pretty much along the lines that  
2 you understand it?

3                   MR. TOMEO: Yes, with an important  
4 clarification. What you have just described is, from my  
5 understanding, the Filbin remediation plan?

6                   CHAIRMAN EATON: No.

7                   MR. TOMEO: And perhaps there's been an  
8 adaptation plan on the Norcal plan that I'm not aware of.

9                   CHAIRMAN EATON: Not at all.

10                  MR. TOMEO: Because we have not worked  
11 quite as closely with the Norcal plan. When I read their  
12 plan, it wasn't 100 percent clear to me who was fetching  
13 the tires from the staging area at the east hill to our  
14 tire delivery area. Under the Filbin plan, we're the  
15 fetcher under contract with him and he reimburses us for  
16 that service. If that's the same as the Norcal plan, then  
17 yes, that was correctly described.

18                  BOARD MEMBER PENNINGTON: It's the same as  
19 the Norcal plan but it's our plan.

20                  MR. TOMEO: Okay.

21                  BOARD MEMBER PENNINGTON: And he's  
22 responsible to work out the cost arrangement between you  
23 and he.

24                  CHAIRMAN EATON: There's no financial  
25 assurances by Mr. Filbin, Mr. Tomeo. That's the

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1 difference.

2 MR. TOMEO: I believe that the State of  
3 California is a credit worthy organization, and I'm glad  
4 that you're stepping up to take care of the clean up of  
5 the pile, and I'm not aware of Mr. Filbin's financial  
6 assurances or lack there of, so I can't speak to that.

7 CHAIRMAN EATON: I think we go through and  
8 just do our plan as we just talked about.

9 MR. TOMEO: I do think there's one other  
10 important clarification, and I want to bring it out so  
11 Mr. Eaton doesn't think we're -- whatever that term was,  
12 back stabbing or something.

13 CHAIRMAN EATON: Slippage.

14 MR. TOMEO: Slippage.

15 CHAIRMAN EATON: I'll say it right on the  
16 record because you're on record, as you well know, with  
17 regard to -- at the public hearing down in Patterson with  
18 regard to burnable tires, what you told people --

19 MR. TOMEO: Absolutely.

20 CHAIRMAN EATON: -- and legislative --

21 MR. TOMEO: What we're offering here is the  
22 exact thing that I handed out the evening of October 29th,  
23 and I'm just bringing to your attention to another  
24 important consideration there in case it hasn't been  
25 carefully looked at.

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1                   CHAIRMAN EATON: You said every burnable  
2 tire. So when we go into the spring and we start  
3 remediating, does it include those tires?

4                   MR. TOMEO: No, sir, it does not.

5                   CHAIRMAN EATON: Well, that's what you said  
6 to the people in Patterson.

7                   MR. TOMEO: I did not.

8                   CHAIRMAN EATON: And so that's slippage.

9                   MR. TOMEO: I believe we were --

10                  CHAIRMAN EATON: I have the record.

11                  MR. TOMEO: So do I. I think we were  
12 rather clear in what the definition of an acceptable tire  
13 is and we defined what an acceptable tire --

14                  CHAIRMAN EATON: Come on, Ed.

15                  MR. TOMEO: -- as a tire that was not  
16 involved in the fire. So those tires that have been  
17 recovered out of the fire are not defined by us, in fact  
18 by a number of parties, as acceptable tires. They are  
19 described as debris right now, and in the Norcal plan they  
20 are being proposed to be burned.

21                  BOARD MEMBER PENNINGTON: Those that have  
22 been burned or destroyed by the fire.

23                  MR. TOMEO: Or fire involved. Those that  
24 are positive with ash, mud, foam, wire, yes.

25                  BOARD MEMBER PENNINGTON: Right.

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1                   MR. TOMEO: But our October 29th plan did  
2 just talk about one important safety consideration, that  
3 this work get accomplished prior to the rain. That's why  
4 we began operation on November 1st to clear the tires out  
5 of the way from where they had been pushed down by  
6 Mr. Filbin so that he could continue pushing them down  
7 with his contractor.

8                   Mr. Filbin's moving the tires from the  
9 hillside to the staging area has been stopped as a result  
10 of our not moving those tires. We have lost two weeks  
11 waiting for this meeting, which we said we would do, in  
12 anticipation of a complete and well orchestrated  
13 remediation plan being accomplished. I think that's what  
14 we're hearing at this hearing tonight, that you have a  
15 solution.

16                   However, we do have the rain, and if the  
17 machines can be operated safely on the hillside, those  
18 tires will come off that hill. If they cannot and if the  
19 rains don't stop long enough to get them out there, we may  
20 be confronted with a situation where they will not be  
21 recoverable until spring. We will still stand committed  
22 to perform under this offer to consume these tires for  
23 free. We may have to wait until spring to accomplish  
24 that, with the Integrated Waste Management Board  
25 recognizing that it's their contract that's going to

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1 accomplish it. I'm confident that you will show up in the  
2 spring to finish this job and in the meantime, we will  
3 operate on transient tires until we get there.

4 CHAIRMAN EATON: I apologize for my  
5 colleagues before I sta BOARD MEMBER ROBERTI: With that 2.3  
7 million tires, how much would that -- assuming all those  
8 were available --

9 BOARD MEMBER PENNINGTON: You've got to  
10 remember that of the 2.3, those are passenger tire  
11 equivalents which means there's probably only maybe a  
12 million --

13 BOARD MEMBER JONES: It says 1,045,000.

14 MR. CHANDLER: It's right in the notes. It  
15 says the number of tires.

16 BOARD MEMBER PENNINGTON: Yeah. Okay.

17 BOARD MEMBER ROBERTI: Of those 2.3 million  
18 passenger tire equivalents, that would then -- what number  
19 a day would that give us available?

20 BOARD MEMBER PENNINGTON: You really have  
21 to look at the chart below that says passenger tires which  
22 is 1,045,000.

23 BOARD MEMBER JONES: If you did --

24 BOARD MEMBER PENNINGTON: So you divide  
25 18,000 --

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1                   BOARD MEMBER ROBERTI: That I don't  
2 understand. I'll be brutally honest.

3                   MR. FITZGERALD: The flow is not based on  
4 the number of tires available. The flow is based on these  
5 three sets of operations going on simultaneously. That's  
6 where flow is based on. It's just a question of how many  
7 days it will take you to get to the end of the pile.

8                   BOARD MEMBER ROBERTI: Okay. If the flow  
9 is based on passenger tire equivalents, why do we have  
10 that figure? There must be a reason why we have that  
11 figure there.

12                  MR. FITZGERALD: So we can talk in common  
13 terms, because if you have an oversized tire, it may be 12  
14 and a half times in weight a regular passenger tire. So  
15 if you --

16                  BOARD MEMBER ROBERTI: Tire equivalents  
17 would include an oversized tire that's three times the  
18 size.

19                  MR. FITZGERALD: That's correct.

20                  BOARD MEMBER ROBERTI: So that -- for my  
21 purposes of keeping MELP open, it doesn't mean anything.

22                  MR. FITZGERALD: No.

23                  BOARD MEMBER ROBERTI: Now the number of  
24 tires we're talking about. Passenger tires is slightly  
25 over a million. What's OTR?

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1 MR. FITZGERALD: That's "off the road"  
2 tires. Those are the huge, oversized tires.

3 BOARD MEMBER ROBERTI: These passenger  
4 tires, that 1,045,000, is that from all slopes or is that  
5 just the east slope?

6 MR. FITZGERALD: All slopes.

7 BOARD MEMBER ROBERTI: All slopes.

8 MR. FITZGERALD: About half of those are on  
9 the east slope.

10 BOARD MEMBER ROBERTI: Okay. Now, how many  
11 tires a day does that give us? Your number of tires.

12 MR. FITZGERALD: The estimate was we could  
13 move 12,000 tires a day.

14 BOARD MEMBER ROBERTI: Whoa, whoa, whoa.  
15 You originally said that we weren't counting the south  
16 tires going to MELP because they were going to go for  
17 annual daily cover.

18 MR. FITZGERALD: That's correct.

19 BOARD MEMBER ROBERTI: Under that  
20 reasoning, it's not 12,000, it's less than 12,000.

21 BOARD MEMBER PENNINGTON: At this point  
22 they're really talking about the 550 PTE.

23 BOARD MEMBER ROBERTI: I'd like an answer  
24 here because --

25 MR. CHANDLER: We were assuming 12,000

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1 tires a day coming off the east slope, and you're correct.

2 BOARD MEMBER ROBERTI: The east slope.

3 MR. CHANDLER: Correct.

4 BOARD MEMBER ROBERTI: So the number of  
5 tires does not include anything on the south slope.

6 MR. CHANDLER: We assumed everything in the  
7 south piles was going to be either shredded or transported  
8 off site.

9 BOARD MEMBER ROBERTI: Okay. So that  
10 figure on tire count, number of tires, right now does not  
11 include anything on the south slope.

12 MR. CHANDLER: The number of tires you see  
13 up there includes the number of passenger tires from the  
14 site.

15 BOARD MEMBER ROBERTI: Well, yes, but  
16 Mr. Fitzgerald has told me that 1,167,000 only amounts to  
17 12,000 a day, and I thought that included the east slope  
18 only.

19 MR. CHANDLER: No. We're not making  
20 ourselves clear.

21 BOARD MEMBER ROBERTI: No. You're giving  
22 conflicting information.

23 MR. CHANDLER: Let's back up and try to  
24 give it again.

25 MR. FUJII: Let me try it again. The flow

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1 rate is not dictated by the number of tires. The flow  
2 rate is given to us by the plant. The plant gave us the  
3 maximum number of tons or tires they can receive on a  
4 daily basis, so it has nothing to do with how many tires  
5 are on the site. It is dictated by the number of tires  
6 they can physically send up there to MELP and burn in a  
7 day. So the number of tires that they burn in a day is  
8 approximately 120 tons per day.

9 BOARD MEMBER JONES: The man is shaking his  
10 head.

11 BOARD MEMBER ROBERTI: Why would they want  
12 180 tons a day if they can't burn that?

13 MR. FUJII: What was the question? I'm  
14 sorry.

15 MR. FITZGERALD: Bob, I -- the 120 tons a  
16 day is predicated on the ability to move tires through the  
17 area, not on the total number of tires.

18 BOARD MEMBER ROBERTI: Okay.

19 MR. FITZGERALD: And the assumption is that  
20 all those tires are going to come off the east slope.  
21 Now, if they pull tires off the south slope, if they do  
22 separate them, that number would increase, Senator. I  
23 cannot tell you how much it would increase.

24 BOARD MEMBER ROBERTI: That's what I --

25 MR. FITZGERALD: It would not be a reliable

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1 source for the plant.

2 BOARD MEMBER ROBERTI: It would not be a  
3 reliable source.

4 MR. FITZGERALD: No, because we would not  
5 know how many were going to be coming off each day. When  
6 you go to a pile of mixed tires, you're going to take what  
7 you pull off. It could be one day you pull off nothing  
8 but oversized tires. In that case, that day no passenger  
9 tires would be available from the south pile to go to --

10 BOARD MEMBER ROBERTI: Why would that be?

11 We wouldn't have enough of a crew? Is it possible to have  
6 Filbin is paying for moving them; right?

7 BOARD MEMBER JONES: Filbin is ultimately  
8 going to pay to move them. I'm afraid that we're going to  
9 have to pay to move --

10 MR. TOMEO: Okay.

11 BOARD MEMBER JONES: -- some of those in  
12 the south --

13 MR. TOMEO: I just wanted to clarify that.  
14 I was just a little bit confused with that component of  
15 it.

16 MR. CHANDLER: I think we need to hear  
17 from Mr. Filbin's representatives at some point as to what  
18 they propose in the plan to step up and propose financial  
19 assurances. Obviously if they're willing to take on an  
20 aspect of that with our oversight and supervision, i.e.  
21 pay MELP to move the tires, then I think we would look at

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22 that. But if they fail to do so and you want these tires  
23 remediated, we're going to have to step up and do that and  
24 go after cost recovery.

25 BOARD MEMBER JONES: All right. One other

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1 thing, the idea of stockpiling and staging a lot of these  
2 tires from the south side wasn't part of the original plan  
3 because of the needing to do that, and I for one learned a  
4 very hard lesson at one time as Vice President of  
5 Operations for a large company. We bought a specialized  
6 hazardous waste company, and the President and I went in  
7 there to look to see how we could help them cut costs.  
8 Clearly it was not an appropriate place for us to be  
9 because we didn't have the experience and that's why we  
10 bought that company.

11                   So I think you need to think about this  
12 idea of stockpiling from the south side and is it  
13 reasonable, because I don't want to presume that -- I'll  
14 speak for myself, that I have the ability to do what  
15 Mr. Fujii does and figure out the engineering of that. So  
16 it's an idea that as an operations guy, it seems to make  
17 sense, but I don't know the engineering downfalls that may  
18 be in that plan, and it would make me comfortable if you  
19 guys had a comfort level with that because it seems to me  
20 that it's a way to accommodate this Board, the issues with  
21 the people in Stanislaus County as well as MELP. If it  
22 isn't, then we need to know that.

23                   MR. TOMEO: Mr. Jones, as far as the  
24 contract that we had established with Mr. Filbin, which  
25 might be the vehicle for this cleanup, we did address

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1 that; and if the tires utilizing the loader picking them  
2 up and retrieving them and bringing them back did not  
3 represent a high enough rate, then the contract is open to  
4 utilizing additional equipment and method, which might be  
5 utilizing dump trucks, which you would go with a few and  
6 get a higher movement. And the contract between us  
7 recognizes that would be additional cost. Mr. Filbin has  
8 accepted that he would bear that additional cost.

9                   So I believe we can comfortably get the  
10 tires to the tire delivery area that we need to be able to  
11 operate on waste tire piled tires, or whatever term we  
12 wish to use.

13                   CHAIRMAN EATON: What were contract terms  
14 with regard to the contract that you talk about with  
15 Mr. Filbin with regard to if you rejected the tires? Do  
16 they go into the extra pile?

17                   MR. TOMEO: Yes. They would go into the  
18 pile --

19                   CHAIRMAN EATON: So they're not  
20 shredding --

21                   MR. TOMEO: No, shredded and taken away to  
22 landfill or whatever other solution is results there. Our  
23 focus is on acceptable tires. We're not the tire  
24 remediator. We're the contractor taking acceptable tires.

25                   CHAIRMAN EATON: And you would be then

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1 taking tires and creating a bigger pile.

2 MR. TOMEO: I'm not sure how we would  
3 consume half a million to a million tires and make a  
4 bigger pile.

5 CHAIRMAN EATON: Well, if you're rejecting  
6 the tires, you're putting them in a different pile which  
7 we're trying to get out.

8 MR. TOMEO: I believe the rejection of the  
9 tire would be the same thing as not picking it up in the  
10 first place. It will be dealt with with whatever  
11 methodology the Board chooses to deal with it.

12 BOARD MEMBER PENNINGTON: It will be sent  
13 over to be shredded and out.

14 MR. TOMEO: That would be my understanding  
15 subject to other guidance by Integrated Waste Management  
16 Board or --

17 CHAIRMAN EATON: I'm talking about the  
18 contract they had with Filbin, not ours, and that's what  
19 you haven't answered.

20 MR. TOMEO: Okay.

21 CHAIRMAN EATON: You claim to have a  
22 contract.

23 MR. TOMEO: Right.

24 CHAIRMAN EATON: So what are the terms of  
25 the contract as it relates to the other pile? If you

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1 reject it --

2 MR. TOMEIO: Nothing. We have nothing to do  
3 with the oversized, unacceptable tires. Our contract is  
4 rather straightforward and simple. We will take  
5 acceptable tires --

6 CHAIRMAN EATON: You agree that's a  
7 deficiency within the Filbin plan.

8 MR. TOMEIO: Looking at it --

9 CHAIRMAN EATON: Our plan --

10 MR. TOMEIO: -- from a global perspective  
11 and your perspective, yeah, I guess that would be  
12 considered a deficiency, but I -- you know, the Filbin  
13 persons haven't come up to describe their plan yet, so  
14 you're asking me to opine on something that's not my area  
15 of responsibility.

16 CHAIRMAN EATON: If you entered into a  
17 contract with them, I would think you would want to know  
18 that.

19 MR. TOMEIO: I have entered into a contract  
20 to accept whole tires and consume them, so I don't know  
21 what else to tell you.

22 CHAIRMAN EATON: Thank you, Mr. Tomeio.

23 MR. TOMEIO: You're very welcome.

24 CHAIRMAN EATON: All right. We have a  
25 number of public speakers, Mr. John Benjamin, the group of

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1 Lamgreen and Moret for MELP. He's said what you want?

2 MR. BENJAMIN: I'll reserve until later if  
3 there's any clarifications that need to be made. Thank  
4 you.

5 CHAIRMAN EATON: Don Wilson from the  
6 Process Technology and Development.

7 MR. WILSON: Good evening, Chairman and  
8 Board Members. Don Wilson, Consulting Engineer. I deal  
9 with resolving catastrophic situations in industry. I  
10 also happen to be a resident of Patterson, 8.1 miles from  
11 ground zero.

12 My concern here, because I'm chalking an  
13 objection, is that this is not complete. We've been here  
14 talking really about the tires that are burnable, and that  
15 may be good for MELP, it may be good for all of us, but  
16 what I'm really concerned now is about the other tires.  
17 There's no mention what the plan is here. I've seen one  
18 reference in a plan saying that you're going to get around  
19 to them in five years. I hope that's a typo.

20 BOARD MEMBER PENNINGTON: Mr. Chairman.

21 CHAIRMAN EATON: Mr. Pennington.

22 BOARD MEMBER PENNINGTON: I thought we just  
23 went through that and said that those tires in the south  
24 pile that are oversized tires are going to be shredded and  
25 taken off to a landfill. The objective here is to get all

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1 the tires out of there except an acceptable load for that  
2 plan.

3 MR. WILSON: I'm talking about the burned  
4 tires, the contaminated tires. That's the same plan for  
5 that because that does not appear --

6 BOARD MEMBER PENNINGTON: That's a  
7 different plan, but we are attempting to remediate that,  
8 too.

9 MR. CHANDLER: The area that's been  
10 affected by the fire. The area that's been affected by  
11 the fire. Are you with me?

12 MR. WILSON: There you are. Okay. I  
13 didn't know where the voice was coming from.

14 (Laughter)

15 MR. CHANDLER: The area that's been  
16 affected by the fire has yet to go through a site  
17 characterization that will determine whether or not and at  
18 what levels it's hazardous. If it's determined to be  
19 hazardous, it's very likely that that pile will come under  
20 the jurisdiction of the Department of Toxic Substance  
21 Control, potentially the USEPA and the Water Resources  
22 Control Board, and they will address, in conjunction with  
23 this Board, what is an appropriate remediation strategy  
24 for the areas affected by the fire. So as was outlined by  
25 staff, tonight's presentation primarily deals with the

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1 winterization efforts and the areas that were not affected  
2 by the fire, i.e. the unburned tires.

3 MR. WILSON: That statement that you just  
4 made is something that the citizens of Patterson and the  
5 west side could see would be appreciated.

6 MR. CHANDLER: We felt it was addressed by  
7 the plan when we talked about what the plan, closure plan  
8 does in fact cover as its scope, and I apologize if we  
9 weren't more clear.

10 MR. WILSON: It is not clear.

11 Thank you.

12 CHAIRMAN EATON: Thank you.

13 Karen Cox. Is she still here?

14 MS. COX: Good evening. My name is Karen  
15 Cox. I'm a citizen of Westley. Our home is two miles  
16 from the fire.

17 I am also the chair person of the Community  
18 Awareness Action Committee that was spawned because of  
19 this fire. We've been very active. We were told this was  
20 the fire that would never happen 13 years ago. It did,  
21 and I come to you today as the voice of that community.  
22 As chair person of the committee, and the committee  
23 represents the concerned citizens living in the area who  
24 felt that this was necessary to put this into wording,  
25 what we feel. This committee has been intimately involved

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1 in the handling of the tire fire and is in large part  
2 responsible for its extinguishment due to the public,  
3 private and political pressure it has brought to bear in  
4 this situation. We will continue to be involved in all  
5 the matters relating to the fire, the remaining tire  
6 piles, and the tire burning operation and the cleanup.

7                   We, speaking not only of ourselves but of  
8 the general public, know that our health is at risk. We  
9 also understand that our tax dollars are at work and at  
10 risk, and we wanted you to know that our trust and  
11 confidence in the political process concerning this  
12 disaster, while weak at best since the very beginning, has  
13 literally gone up in smoke since the fire began. We are  
14 therefore committed to maintaining a presence and pressure  
15 by all means necessary to ensure the satisfactory  
16 resolution of this situation for the public good now and  
17 into the future.

18                   Therefore, we are respectfully but firmly  
19 submitting the following terms and conditions to be  
20 attached to and binding upon any permits, cleanup orders,  
21 and other such guiding or regulatory documents for which  
22 your Board bears authority and responsibility.

23                   We thank you for your cooperation with and  
24 attention to our submittals. We appreciate and support  
25 your commitment to resolving this matter for the public's

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1 health and safety are ready and willing to work with you.  
2 For the public health and safety. We are ready and  
3 willing to work with you to achieve this goal. As such,  
4 we remain ever vigilant and look forward to thoughtful and  
5 thorough action without delays.

6                   This is our policy statement. As concerned  
7 citizens of the Westley and Patterson community and the  
8 greater surrounding communities in Stanislaus and nearby  
9 counties, we request the California Integrated Waste  
10 Management Board to implement the following conditions and  
11 requirements where applicable.

12                   The Westley tire fire -- considering this  
13 incident, the CIWMB should adopt the premise that tire  
14 fires can be put out and the norm is no longer just let it  
15 burn. This information should be disseminated and updated  
16 in such a way that it is available to all agencies dealing  
17 with tire piles that are currently burning and all future  
18 fires.

19                   The Filbin legacy tire pile -- all tires  
20 from the legacy tire pile and all hazardous and  
21 non-hazardous waste generated by the tire fire must be  
22 eventually be removed from the site and as soon as  
23 possible. Time is of the essence. Our committee will not  
24 be satisfied by anything less than for the cleanup to  
25 proceed at once. Our committee objects to the importation

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1 of any new tires to the site until all usable tires from  
2 the Filbin legacy tire pile are removed or burned and the  
3 plan for the complete cleanup of the legacy site is  
4 approved and being implemented. Only after all the usable  
5 tires have been removed or burned by the MELP plant and  
6 the plans for the complete cleanup of the entire site have  
7 been reviewed by our committee and those plans are fully  
8 in progress, will the importation of waste tires be  
9 considered.

10                   At that point the plant may be allowed to  
11 accept tires for processing and maintain a contingency  
12 supply of tires not to exceed the permitted 400,000 tires  
13 at any given time. Storage of these tires must be in  
14 accordance with all applicable current state regulations.

15                   The toxic waste cleanup -- all toxic waste  
16 is to be removed from the site with nothing buried or  
17 covered up. Under no circumstances is this site to be  
18 allowed to become a toxic waste dump. All pyrolytic oil,  
19 ash, and contaminated water resulting from the fire  
20 suppression effort must be removed. Cleanup should take  
21 place on a 24-hour basis because after all, the public is  
22 required to breathe and smell the fumes that are still  
23 coming off that pile and from the oil in the ponds, and we  
24 breathe that on a round-the-clock basis. This would  
25 enable -- if you worked a 24-hour basis, this would enable

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1 a much more timely cleanup.

2                   Pumping of the oil that has pooled under  
3 the burned tires is something for consideration. We are  
4 concern about seepage into the ground water. Every step  
5 possible should be taken to prevent ground water  
6 contamination and the pollution of farming ground. The  
7 site should be restored to the natural environment except  
8 for the plant and its tire staging area. This committee  
9 must be provided with all details of who will be involved  
10 in the cleanup, who is responsible for what actions and  
11 what roles Stanislaus County will serve in the cleanup and  
12 monitoring of this site.

13                   The Westley tire plant -- there are to be  
14 no other tires stored on this site for any reason other  
15 than to supply the plant and meet its requirement for  
16 burning. Those tires must be stored only in the staging  
17 area as legally defined and controlled by the plant. The  
18 stored tires supplied must conform to all state  
19 regulations, and in addition to those requirements and  
20 perhaps in agreement with those requirements, the  
21 following must also be provided. Tire pile fire breaks  
22 are to be a minimum of 150 feet in width. The 50 feet  
23 didn't do it. One hydrant per tire pile fully charged  
24 with water and foam at all times. The foam must be within  
25 its expiration date of the latest technology and of the

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1 highest effectiveness. This foam should be in quantities  
2 sufficient to contain and put out a tire fire at the site.

3 Personnel who are trained in firefighting  
4 techniques and use of the fire suppression equipment must  
5 be on-site at all times. Emergency contacts including all  
6 phone, fax, cell and E-mail information must be available  
7 at the site. That information shall also be available to  
8 our committee and to the public for reporting infractions.  
9 An emergency contingency plan to be reviewed by our  
10 committee shall be published in both the Patterson  
11 Irrigator and the Modesto Bee. They shall also be made  
12 available to the public in all such places where public  
13 documents are on record and normally available.

14 This plan should address at minimum the  
15 following: The possibility of another fire at the site,  
16 an ammonia tank break or leak, any other potential hazards  
17 at the site that could affect nearby residents and  
18 businesses, emergency equipment and personnel available  
19 for containment, and quick response notification and  
20 health alerts to the residents of this area. That last  
21 point you will probably know was not done.

22 Until the site is cleaned up to the  
23 satisfaction of the Community Awareness Action Committee,  
24 the entry to the site where the gate and guardhouse are  
25 located shall be manned by an independent observer

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1 employee at all times. Documented reports of all traffic  
2 and activity through this entry point shall be made  
3 available to this committee, hopefully on a weekly basis.  
4 To ensure that only tires acceptable for processing at the  
5 plant are being brought onto the site, copies of all  
6 manifests of tire deliveries for the current month are to  
7 be sent to the Community Awareness Action Committee at the  
8 above address, which is a Post Office Box in Westley, and  
9 to the Stanislaus County Board of Supervisors by the last  
10 day of each month.

11 Our committee maintains the right to  
12 monitor the site at random at least once a month to  
13 determine that requirements mandated by the State and the  
14 requirements of this committee are in compliance. Our  
15 committee will be vigilant watchdogs. We will be  
16 continuing communication with Stanislaus County Board of  
17 Supervisors, Congressman Connick, Assemblyman Cardoza,  
18 your Board, the State EPA, and other interested and  
19 responsible parties.

20 Failure to comply with the conditions  
21 stated here will cause the Community Action Awareness  
22 Committee to demand that the Integrated Waste Management  
23 Board revoke the MELP tire storage permit.

24 Thank you for your time.

25 CHAIRMAN EATON: Any questions of Ms. Cox?

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1 Okay. Thank you.

2 Russ Richards, Stanislaus County.

3 MR. RICHARDS: Mr. Chairman and Members of  
4 the Board, good evening. Due to the lateness of the hour,  
5 my comments will be very short. Also, I wanted to bring  
6 to you the position of Stanislaus County as related to the  
7 plan that you have put in effect or are putting in effect.  
8 We think your activities in coming into this planning  
9 process, as complex as it is, is very commendable.

10 Our position to you really would be that  
11 whatever you do come up with, time is of the essence here,  
12 and we think there is a sense of urgency, not because of  
13 the winterization only -- we're having our second winter  
14 storm tonight -- but particularly because of the issues  
15 brought up by Mr. Fitzgerald of dealing with the tire pile  
16 on the slope.

17 We all know that the winter conditions will  
18 just exacerbate dealing with those, whether they're on  
19 fire or whether they're not on fire. So once again,  
20 moving right ahead on this plan we think is very, very  
21 important. A more direct concern is of course a fire  
22 protection and fire prevention plan for the site. Whether  
23 you're burning tires or not, whether you're moving tires  
24 or not, whether you're laying pipeline or not, we still  
25 have tires on that site. Therefore, we still need an

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1 active and effective fire protection and prevention plan.  
2 I wanted to assure you that Stanislaus  
3 County, and more importantly -- I think I'm touching some  
4 buttons here that I shouldn't be -- more importantly, the  
5 local fire authority for that area will work with all the  
6 partner agencies that may come out of this agreement. We  
7 have worked with MELP in the past on fire protection and  
8 prevention agreement and have found them very cooperative  
9 in this area and we will look forward to designing a  
10 program that will of course meet all state and local  
11 requirements, as well as being effective and practical for  
12 the site.

13 Once again, the bottom line is, believe it  
14 or not, in the seven weeks since this fire has occurred,  
15 we're already seeing more tires on the side of the road in  
16 the rural area. I've traveled that from my office in  
17 Modesto to that tire site almost every day, and in the  
18 last two or three weeks we're starting to see what we did  
19 years ago -- large groups of tires, not one or two, but  
20 large masses of tires, tens and twenties along the rural  
21 road that we have to assume are a result of this.

22 Stanislaus County is committed to working  
23 with whoever comes out of this agreement, and again we  
24 just urge that time is very, very important here given the  
25 time of the year, and we will do whatever we can, offer

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1 whatever services Stanislaus County as a government may  
2 put forth to help in this effort.

3 CHAIRMAN EATON: Mr. Richards, have you  
4 reported those tires to anyone?

5 MR. RICHARDS: I'm sorry?

6 CHAIRMAN EATON: Have you reported the  
7 sighting of those tires to anyone?

8 MR. RICHARDS: Yes, sir. We report those  
9 to our Public Works Department.

10 CHAIRMAN EATON: Okay. And have they  
11 contacted anyone?

12 MR. RICHARDS: I couldn't answer that. Our  
13 Public Works Director was here but had to return for a --

14 CHAIRMAN EATON: Have they notified the  
15 Sheriff's Department or any local law enforcement? Since  
16 you seem to indicate that there's an accumulation on a  
17 pretty fairly regular basis, I would think that calls for  
18 an increased patrol. So I was wondering if there were any  
19 kind of communications with regard to the local law  
20 enforcement agency.

21 MR. RICHARDS: Mr. Chairman, I can't answer  
22 that, but I'll certainly follow up on that and make sure.

23 CHAIRMAN EATON: That would be helpful  
24 because that's important, if that's happening.

25 MR. RICHARDS: Yes.

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1                   CHAIRMAN EATON: Okay.

2                   Mr. Jim Simpson.

3                   MR. SIMPSON: Mr. Chairman, Board Members,  
4 Jim Simpson, Program Manager, Stanislaus County  
5 Environmental of Resources Department.

6                   I also will be brief. I think Russ took  
7 most of my presentation here, but I also want to express  
8 when the plan hopefully is approved and/or the amendments  
9 that take place, that if indeed because of the urgency the  
10 County feels importance of this thing, that if there's any  
11 problems that occur, any holdups, the County is willing to  
12 offer, if approved by all the public state agencies, we  
13 have a Class II landfill that takes ash from our waste  
14 energy plant, and if any of the material is considered  
15 contaminated that needs to be disposed of quickly, again  
16 with state agency approval, we're willing to offer access  
17 to that landfill.

18                   The same thing if there's problems with the  
19 MELP landfill taking shredded material for land cover, our  
20 Class III landfill will be available also. To make sure  
21 that you understand, and with approval of all of the  
22 appropriate state agencies.

23                   Again, we want to express our gratitude for  
24 the Board and all of the staff members during this fire  
25 problem we had. They've been a tremendous help and

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1 continue to be a tremendous help and just want to again  
2 express our gratitude from the Board of Supervisors and  
3 Rena Wilson, our CEO.

4 Thank you.

5 CHAIRMAN EATON: Thank you.

6 I apologize. I cannot read the  
7 handwriting, and it's -- all I can read is that it's from  
8 116 Colossus Way in Roseville. It looks like Keral --

9 MR. SINGH: You'll have trouble with that.

10 CHAIRMAN EATON: Okay.

11 MR. SINGH: Mr. Chairman, Members of the  
12 Board, Kerpai Singh. It's close. I'm from Roseville,  
13 California. I am what quite often what people say a  
14 retired rocket scientist. I'm not going to apologize for  
15 being in the rocket business.

16 I'm not here to complain. I was directed  
17 here by Assemblyman Cardoza's office. I have a new  
18 product that will help you starting almost immediately to  
19 winterize and remediate a problem that you have not  
20 addressed at all. Give it whatever name you want, it's a  
21 combination of dirt, oil, petroleum products, whatever  
22 else that got mixed into it during the fire.

23 This product was developed by Department of  
24 Agriculture. If you notice on the bottom left-hand corner  
25 of the handout, AARC. It's a wholly-owned corporation of

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1 the Department of Agriculture and they are blessing it.  
2 It is being used by Caltrans, a number of hazardous  
3 materials people in California and a lot of other  
4 companies in other parts of the country. I offered to  
5 supply this. It will immediately absorb, immediately  
6 start bioremediating the petroleum products in there.

7                   And beyond that, the decision is up to the  
8 Board to pass the information on to the appropriate  
9 authorities. I'll work with anybody who wants to work  
10 with it. Any questions, I'll answer them. Incidentally,  
11 if you start working, it will take 90 to 120 days, and  
12 after 120 days you can plant alfalfa. For all I care you  
13 can put marijuana out there. If I know Mr. Filbin, he  
14 might do that.

15                   (Laughter)

16                   MR. SINGH: He has to fight everybody else  
17 so far, what the hell is DEA? The product is from  
18 Mississippi cotton fields. When it's through, it's a top  
19 soil from Mississippi.

20                   CHAIRMAN EATON: We'll make sure it gets to  
21 the appropriate individuals on our staff.

22                   MR. SINGH: Thank you.

23                   CHAIRMAN EATON: Thank you.

24                   I have one final speaker, I think it's  
25 Solan Gonsalvez Altman. If I remember the middle --

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1 MS. ALTMAN: Like this gentleman, I have a  
2 name no one can pronounce either. It's Portuguese.

3 CHAIRMAN EATON: I'm not good at  
4 names.

5 MS. ALTMAN: Solan Gonsalvez Altman, and  
6 most of the time I don't even use Gonsalvez anymore.

7 I'm here as a concerned citizen, also. I'm  
8 part of that committee, and 1987 I was one of the  
9 attorneys who represented the private plaintiffs in the  
10 lawsuit that was consolidated with the Attorney General's  
11 that resulted in the first order controlling the pile that  
12 you all are aware of.

13 I would just like to say that I'm here to  
14 support the weatherization plan as it's been presented to  
15 you, and I hope you will vote on that. With respect to  
16 the other matters, Senator Roberti brought up several  
17 questions that I was going to raise about the closure  
18 plan, and I would just like to say that I would hope that  
19 you would amend the proposal before you on the closure  
20 plan to allow MELP to go ahead and take tires from the  
21 east and south piles to reduce those as soon as possible.  
22 As unattractive as the option of burning was to me and as  
23 difficult as it is for me to say as an environmentalist, I  
24 think that's more preferable than having them go to a  
25 landfill.

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1                   I would ask that you set another meeting  
2 within 30 days to ask for a status report, to determine  
3 how much they have left given that you question the  
4 estimates of the number of tires in that site. I can tell  
5 you this. Having followed this for a number of years now,  
6 we've been fed so many different figures about the numbers  
7 of tires on that site, and one thing, the community needs  
8 assurance that there will be nothing else that will be  
9 imported to that site until everything that is burnable  
10 there is gone. I think only then, when you can truthfully  
11 tell the community that it's all gone, will we accept the  
12 additional importation of new tires. So we have to have  
13 assurance.

14                   And I'd like to bring up one more thing.  
15 Karen Cox, who testified before, she has a son who went  
16 out to that site, and there are a hundred trailers sitting  
17 out there, waiting to go onto the property and those are  
18 filled with tires right now. So there's a supply there  
19 of -- and someone else is better at math than I am, in  
20 terms of there's probably another two-week supply of tires  
21 in those if they're the correct size. So in terms of the  
22 lack of people to -- Russ Richards were saying there's  
23 tires dumped everywhere. So somehow I find it rather  
24 incredulous that they're not going to find people to  
25 supply them with tires.

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1                   I just -- there have been a series of  
2 different corporations that have had ownership and run  
3 this operation for years. It's not -- Mr. Tomeo wasn't  
4 involved with all that, but over this period of time, the  
5 whole purpose of this plant was built for was to get rid  
6 of the pile that was there and it's -- all sorts of deals  
7 have been made to allow them to get out of that, and it's  
8 time to just say no. We've got two more months to go.  
9 Now you're going to get rid of what's there before  
10 anything else comes on.

11                   You alluded to the next phase of cleanup  
12 and that's a serious concern for us. We've already been  
13 exposed to putrid toxic air. We don't want to have to be  
14 exposed to putrid toxic water in the future. We're  
15 greatly concerned about that toxic ash that's sitting  
16 under there and the oil that may have seeped into the  
17 soil, and we're concerned about possible crevices that may  
18 be underneath that canyon and the possibility that some of  
19 that oil may have gotten into the aquifer below. We urge  
20 you to do what you're doing now, which is to forge ahead  
21 and take quick, deliberate action to move on to the next  
22 phase to get that site cleaned up.

23                   I don't know when that next phase is to  
24 start, but again, like the other people that have come  
25 before me, I would urge to you address those things as

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1 soon as possible.

2 I'm going to make one last pitch because  
3 I've been doing this every time I talk. When the  
4 environmental group that opposed the tire incinerator,  
5 opposed it in 1987, we did so because we believed that  
6 there were better alternatives to tire disposal than  
7 incinerating them. I still stand before you believing  
8 that. 12 years ago, the legislature did a study in which  
9 it documented what other states were doing and better,  
10 cheaper alternatives to dealing with tires. 12 years  
11 later, we're standing here and we still have the same  
12 problems, and none of those things have been done.

13 One of the companies that we held up to the  
14 Board of Supervisors in 1987 was this company in Babbitt,  
15 Minnesota. It was called -- Tire Cycle was the name of  
16 the company. With a \$4 million investment, some of which  
17 came from the State, some of which was raised from private  
18 industry and private investors, they were able to  
19 establish a company that recycles tires into products.

20 That company is still in business. It's  
21 still called Tire Cycle. There have not been a series of  
22 bankruptcies. There has not been a loss of taxpayer money  
23 like there was here in this situation where \$30 million in  
24 bonds, California Alternative Energy Bonds, were used for  
25 this project. As far as I can tell, \$20 million of that

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1 went somewhere and nobody is able to tell us really. They  
2 were written off. I don't know who ended up picking up  
3 the tab for this plant.

4                   With that minimal investment, there is a  
5 company that's in operation, that's dealing with these  
6 issues, that's a small amount of money. And I don't know  
7 if you have the power to do this, but someone needs to  
8 create the funding to get more organizations like that  
9 one, more corporations like that one, up and running to  
10 deal with this huge problem so there isn't another Westley  
11 tire pile.

12                   Thank you.

13                   BOARD MEMBER JONES: Mr. Chairman.

14                   CHAIRMAN EATON: Any questions?

15                   BOARD MEMBER JONES: Just a couple. One,  
16 just so you know, half of the money that we spend every  
17 year is on market development.

18                   MS. ALTMAN: Okay.

19                   BOARD MEMBER JONES: We have had a history  
20 at this Board of trying to fund civil engineering,  
21 rubberized asphalt, a lot of things. We generate 30  
22 million tires a year in this state, and unfortunately  
23 we've only got end uses for 18 million of them right now.  
24 It creates a problem. When you talk --

25                   MS. ALTMAN: But you don't have enough

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1 money, and maybe people like us, who are part of the  
2 citizens group, need to be going to the legislature to ask  
3 for more money to fund those kinds of programs.

4 BOARD MEMBER JONES: Absolutely.

5 MS. ALTMAN: I've worked on this long  
6 enough, and I'll tell you, I felt rather guilty about  
7 stepping back and not being vigilant enough during  
8 those -- after 1991, we were pretty burnt out. We had  
9 taken a beating. I had a couple of kids. I started my  
10 own business, and I went on to other things. I felt  
11 rather guilty about not having monitored and followed this  
12 more closely along with the environmental group, but I can  
13 tell you I'm back, I'm reenergized, and we are not going  
14 to stop here.

15 BOARD MEMBER JONES: We haven't either.

16 MS. ALTMAN: We're going to keep  
17 going.

18 BOARD MEMBER JONES: We've stayed on top of  
19 this thing, too, but my question is those hundred trailers  
20 or however many trailers there are that need to be  
21 remediated, I understand everybody's issue about bringing  
22 in tires. That's why we're working on a way to try to  
23 stockpile as many as possible to deal with that need. If  
24 they need "X" amount of tires to operate every day and we  
25 can't furnish that whole number, does it make sense then

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1 to go after those hundred trailers, to bring those in and  
2 help -- that's what I sense that you were saying, and I  
3 just want to get an idea if that --

4 MS. ALTMAN: Well, obviously if they're  
5 going to continue in operation and if you want them to  
6 continue in operation, they're going to have to get tires  
7 from somewhere, but here's where I think there are  
8 different entities doing different things. My  
9 understanding is that Stanislaus County is about to issue  
10 cease and desist orders to prevent or to get rid of those  
11 trailers that are there now. So this is where there needs  
12 to be better coordination between the various agencies  
13 involved in this about what the plan of action is going to  
14 be. I think they were going to try to get them out of  
15 there because they're not supposed to be there. They're  
16 not permitted to be there.

17 BOARD MEMBER JONES: Sure.

18 MS. ALTMAN: If you will hold another  
19 status meeting report in another 30 days, you might be in  
20 a better position, everyone might be in a better position  
21 to know how many are left from the pile itself and whether  
22 they can go ahead and use those or not.

23 BOARD MEMBER JONES: That's fair. That  
24 gives me a little bit of an idea.

25 Thank you.

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1 BOARD MEMBER PENNINGTON: Mr. Chairman.

2 CHAIRMAN EATON: Mr. Pennington.

3 BOARD MEMBER PENNINGTON: The only person  
4 we haven't heard from here is Mr. Filbin, and I think  
5 there's people to represent him and I think they should  
6 come forward and give us some idea of what Mr. Filbin has  
7 in mind.

8 CHAIRMAN EATON: That's an appropriate  
9 question. Maybe we can ask questions of the  
10 representative.

11 MR. TRAPP: Mr. Chairman, Members of the  
12 Board, my name is Tom Trapp. I represent the Filbin  
13 entities in the cleanup and abatement order.

14 The Filbin entities' ideas about what needs  
15 to be done are articulated in the October 8th plan and the  
16 supplement that was submitted on Friday, as well as the  
17 comments that were submitted on Friday on the Norcal plan.

18 We have been working through our technical  
19 consultants, Geo-Syntec, and Terri Gray with your staff  
20 and consultants to try to come up with a consensus  
21 technical approach as to what needs to be done here.

22 And I think we have essentially achieved  
23 that, and that is that as to the unburned tires that  
24 remain on the site, the concept is that as many of those  
25 that can be burned by the MELP facility should be burned

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1 as quickly as possible in the MELP facility.

2                   There are some differences between  
3 Geo-Syntec's estimates and Norcal's estimates as to the  
4 number of tires and the number of oversized tires, but the  
5 basic concept that I think we agree on. As to the  
6 oversized tires, our concept has two alternatives, one of  
7 which is the same as the Norcal and that is that they  
8 should be shredded and taken off site for appropriate  
9 disposal.

10                   There is another alternative that we would  
11 like to have considered at least, and that is that while  
12 the site characterization work is going on that  
13 Mr. Chandler mentioned, we would like to keep those  
14 on-site. There is the possibility that this site -- and I  
15 realize that the community does not favor this -- but at  
16 all of other tires sites, the USEPA has approved the  
17 burial of the fire residue on-site if the site  
18 characterization shows that it's environmentally sound to  
19 do so. And while those studies are going on, one option  
20 would be to keep the oversized on-site.

21                   As to the winterization work that is going  
22 on, I don't think we have any quarrel with the  
23 winterization work. I think, as you know, we are also now  
24 under order from the Regional Water Quality Control Board  
25 and under orders or letters of interest under the Federal

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1 Superfund Law and Oil Pollution Act from USEPA, which  
2 require us as well to look at winterization and water  
3 quality issues. There are more than the Filbin entities  
4 involved in those orders, and there is a group of  
5 responsive PRTs that are responding to those efforts as  
6 well.

7                   That plan is due to EPA in two days.  
8 Additionally, we are thinking of adding to the  
9 winterization work being done at the site. There is a  
10 third canyon that is a candidate for also adding an inlet  
11 and a pipe. It may also be appropriate this winter to  
12 berm and plastic tarp the fire residue area, and we  
13 propose hydroseeding the area -- what you call the east  
14 pile we call pile one. I noticed that in the revised  
15 Norcal plan that we received just last night that that's  
16 an element. So I think there's essentially a technical  
17 consensus as to what is going on.

18                   As to the contract between MELP and the  
19 Filbin entities, you have a copy of that contract in  
20 submission. It speaks for itself. Mr. Filbin has already  
21 been pushing tires down the hill. It calls for Mr. Filbin  
22 to do the locating of the tires at his expense down the  
23 hill and calls for reimbursing MELP to get the tires from  
24 that staging area as well as from the other piles. So  
25 that's what Mr. Filbin's views on the world are at this

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1 point.

2                   As to financial assurances, we realize that  
3 the October 8th plan had some misinformation. It was  
4 missing costs because the costs were not estimable at that  
5 time because the fire was going on. The supplemental that  
6 we have submitted has those costs. Mr. Filbin has been in  
7 touch with Cal-Neva's bank, Sanwa Bank, and has been told  
8 orally that we would qualify for a letter of credit. I  
9 was hoping to be able to deliver today the letter  
10 mentioned in this supplement from the bank, but at least  
11 when I left this morning it had not come from the bank  
12 yet, but we will submit that as soon as possible.

13                   We are operating on the understanding that  
14 the cleanup and abatement order, that financial assurances  
15 are in fact not due until 30 days after the cost estimates  
16 are approved. So that's where we stand on financial  
17 assurances and I've spoken to your staff person here  
18 tonight, Ralph, about financial assurances.

19                   CHAIRMAN EATON: Mr. Chandler.

20                   MR. CHANDLER: Let me bring to the Board's  
21 attention a condition that I think Mr. Trapp is familiar  
22 with and is somewhat referenced. That is the condition of  
23 the cleanup and abatement order that we ratified. It's  
24 page 6. Line 6 says if the Filbins have not submitted a  
25 remediation plan within the time period prescribed by

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1 condition one above -- which is essentially by October  
2 8th -- that is acceptable to the Board, then the Filbins  
3 shall submit a financial assurance demonstration in the  
4 form of a bond, letter of credit or other security  
5 acceptable to the Board within 30 days of receipt of a  
6 written remediation plan developed by the CIWMB.

7                   So I guess the question I have for you,  
8 Mr. Trapp, is if tonight the Board adopts the Norcal plan,  
9 and we're hearing that may involve some amendments to  
10 involve more segregation of the oversized tires to secure  
11 all passenger tires that can be burnable, a provision that  
12 might increase the expense a little bit beyond what we had  
13 estimated before today's date, are you prepared to submit  
14 a financial assurance package to that plan within 30 days?

15                   MR. TRAPP: On what cost?

16                   MR. CHANDLER: On the costs that are  
17 identified in the plan.

18                   MR. TRAPP: We are not prepared to submit  
19 financial assurance on the Norcal cost of \$2.9 million.  
20 We are prepared to submit financial insurance on the costs  
21 that we have submitted. That's what we're talking about.

22                   MR. CHANDLER: Right. I'm pointing out  
23 that this order requires that when the Board approves a  
24 plan acceptable to the Board, if there hasn't been a plan  
25 submitted by Mr. Filbin that they find acceptable, that it

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1 has called that financial assurances shall be posted  
2 within 30 days of written receipt of a plan developed by  
3 the Board.

4 MR. TRAPP: My answer is we'll do our best.  
5 I can't say if it's going to be \$3 million. That is not a  
6 number that had been contemplated previously.

7 MR. CHANDLER: What is the cost estimate of  
8 your plan?

9 MR. TRAPP: It's less than \$300,000.

10 BOARD MEMBER JONES: \$300,000 to clean up  
11 the tire pile?

12 MR. CHANDLER: So we have Mr. Filbin's --

13 MR. TRAPP: That is the cost to move the  
14 tires down the hill and have them moved by MELP for  
15 incineration and off-site shearing. We have a bid in our  
16 package from Golden Byproducts for \$261,000 for handling  
17 all of the estimated shredding and shearing of the  
18 off-site tires as necessary.

19 BOARD MEMBER JONES: \$40,000 to move the  
20 tires and the rest to shear them up. That includes  
21 leaving everything else, burying everything else on-site.  
22 On-site.

23 MR. TRAPP: Those costs cover only the  
24 unburned tires. They don't cover winterization. They  
25 don't cover what happens with the fire residue and things

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1 like that.

2 BOARD MEMBER JONES: So our plan, which  
3 requires financial assurances, obviously our plan needs to  
4 be -- I mean --

5 MR. CHANDLER: I think the point I'm just  
6 trying to bring to the Board's attention was that the plan  
7 we brought forward was an appropriate engineered solution.  
8 We heard some ideas in this discussion how we can improve  
9 that plan, but it requires the responsible party to post  
10 financial assurances if you approve that plan. If you  
11 don't, then we'll continue to work with Mr. Filbin's plan  
12 and we will continue to work with their financial  
13 assurance schedule. But it is not my recommendation that  
14 you consider that plan given what we've seen to date, the  
15 past performance.

16 The response that we're referring to is the  
17 response that we got at 8:15 on Friday night. It is still  
18 incomplete. It does not address many of the technical  
19 questions, and at this point simply having these oversized  
20 tires pushed into the ash and buried is not acceptable.

21 We needed to develop a plan. We feel we've  
22 done so. We need to get that plan adopted with the  
23 appropriate modifications and we need to move on. We need  
24 to hold to this order which calls for Mr. Filbin to post  
25 financial assurances, and if he doesn't, then we'll seek

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1 some court action to get those assurances posted.

2 BOARD MEMBER JONES: We're only \$2,670,000  
3 apart.

4 MR. BERTRAN: Excuse me. I would like to  
5 add one thing to the cost. We did review the work plan  
6 submitted by Geo-Syntec, and if you take a look at the  
7 work plan and estimated number of tires, which was a huge  
8 concern earlier that we were underestimating the number of  
9 tires, our plan assumes that there's 23,000 tons of tires  
10 there. Their plan assumes there is about 2,400 tons of  
11 tires. If you take their cost and you divide it by the  
12 tonnage they think is there, their unit price per ton is  
13 actually more than what we're showing in our work plan  
14 with the 20 percent contingency.

15 So what can happen is if the tonnage is up  
16 to 20,000, you take their unit cost times 20,000 tons and  
17 it's going to be right around the number that we came up  
18 with, \$2.4, \$2.5 million. But I think the problem here is  
19 the amount of tires estimated is drastically  
20 underestimated in that pile.

21 BOARD MEMBER PENNINGTON: Which has  
22 absolutely nothing to do with dealing with that pile. I  
23 still tell you that the first time I saw it, they told me  
24 it was two and a half, 3 million tires there, and I'm sure  
25 it was 12 to 14 million tires there. They've got a great

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1 history of estimating the number of tires. Well, --

2 CHAIRMAN EATON: I think there will be a  
3 motion before us.

4 BOARD MEMBER JONES: Mr. Chairman.

5 CHAIRMAN EATON: But one point of  
6 clarification, that if the plan is approved by the Board,  
7 then the Filbins still have to post financial assurances  
8 under the cleanup and abatement order; is that correct?

9 MR. CHANDLER: That's correct. And what I  
10 would probably ask for your direction is that as I begin  
11 to sit down with the responsibility party and with MELP  
12 and begin to negotiate the terms of the plan because  
13 obviously our plan calls for us to retrieve those tires  
14 and take them to MELP and get them burned at zero cost.

15 If Mr. Filbin wants to step up and take  
16 responsibility for having MELP to retrieve those tires and  
17 take them to their delivery belt, then I would be willing  
18 to sit down and enter into those discussions. But right  
19 now, you're correct, Mr. Chairman. It does call for  
20 financial insurances.

21 CHAIRMAN EATON: Mr. Jones, I'm sorry. I  
22 may have cut you off.

23 BOARD MEMBER JONES: No problem,  
24 Mr. Chairman.

25 I'm going to move the adoption of

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1 Resolution 1999-99, for the consideration of closure and  
2 winterization plans and allocation of waste tire  
3 management funds to the Filbin tire site in Westley,  
4 California. I would like at least you to look at that  
5 idea of rapidly stockpiling those tires in the service  
6 area.

7 CHAIRMAN EATON: Your direction to  
8 Mr. Chandler, if you want him to negotiate that --

9 MR. FITZGERALD: Mr. Jones, there's an  
10 error in the number of that resolution. It should be  
11 number 619.

12 BOARD MEMBER JONES: 619?

13 MR. FITZGERALD: That's correct.

14 BOARD MEMBER JONES: Mr. Chairman, I would  
15 like to move adoption of Resolution 1999-619,  
16 consideration of closure and winterization plan and  
17 allocation of waste tire management funds for the Filbin  
18 tire site in Westley, California.

19 BOARD MEMBER PENNINGTON: I'll second that.  
20 I wonder if we also want to add to the motion, though,  
21 that we ask the Executive Director to negotiate with  
22 Filbin and whoever, as he suggested.

23 CHAIRMAN EATON: Senator Roberti.

24 BOARD MEMBER ROBERTI: Does this direct the  
25 Executive Director to seek the maximum disposal rate of

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1 tires on a daily basis as possible?

2 BOARD MEMBER JONES: From on-site?

3 BOARD MEMBER ROBERTI: Yes.

4 BOARD MEMBER JONES: That was what I had  
5 asked him to do.

6 BOARD MEMBER ROBERTI: It's not in the  
7 resolution.

8 BOARD MEMBER JONES: No, but I added it.

9 BOARD MEMBER ROBERTI: Oh, you did? Okay.

10 BOARD MEMBER JONES: I had amended this  
11 resolution to include looking at stockpiling those tires  
12 on-site. I don't want to say to do it until they look at  
13 it because they're engineers, but as part of the  
14 resolution they're going to have to figure out a way to  
15 see if it can work. Is that --

16 BOARD MEMBER ROBERTI: Yeah. I'm concerned  
17 about mitigating the tire and any squabble with which the  
18 Board may, or some Members of the Board may, have with  
19 MELP being reserved for another day. I don't want to  
20 reduce the number of tires that we may be agreeing to  
21 simply because we're trying to leverage MELP to accept  
22 fewer tires. I want to maximize the number of tires in  
23 the tire pile on a daily basis. That doesn't mean I'm in  
24 sympathy with MELP or not. It's just not the issue right  
25 now, and some of the witnesses said the big issue right

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1 now is to reduce the tire pile as soon as possible, and  
2 MELP is part of the solution, whether -- do you see my  
3 point?

4 BOARD MEMBER JONES: I see it exactly. I'm  
5 thinking that --

6 BOARD MEMBER ROBERTI: I'm trying to think  
7 how we phrase that.

8 CHAIRMAN EATON: I don't think I know what  
9 you mean in terms of some of the Members of the Board with  
10 MELP's solution. I may have a problem with the way MELP  
11 has done business, but I think you and I are in agreement  
12 about the three -- what I look at are boxes of potential  
13 supply.

14 BOARD MEMBER ROBERTI: I'm not being  
15 critical of anybody who has a position, because God knows  
16 this issue lends itself to a multiplicity of positions.

17 My point, however, Mr. Chairman, is that  
18 the one thing that I am concerned about is reducing the  
19 number of tires on a daily basis as quickly as possible,  
20 and because of some of the staff information I'm given --  
21 and I can only say it this way. I don't want staff  
22 presuppositions on the amount of tires that we can reduce  
23 to be written into the resolution, even though they're not  
24 written into the resolution. I don't know. Please  
25 understand I wasn't being critical of anybody that has a

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1 quarrel with MELP.

2 CHAIRMAN EATON: I think and you I are in  
3 agreement that we want not the conservative estimate --

4 BOARD MEMBER ROBERTI: Absolutely.

5 CHAIRMAN EATON: -- but rather that we do  
6 not impose --

7 BOARD MEMBER ROBERTI: Absolutely.

8 CHAIRMAN EATON: -- any, for purposes of  
9 efficiency or maximizing efficiency --

10 BOARD MEMBER ROBERTI: Absolutely.

11 CHAIRMAN EATON: -- the numbers. So if you  
12 look at the three boxes that we would be looking at as  
13 fuel stock for this particular project, we would be  
14 looking at what is the east side to a large degree,  
15 whatever we can get down there quickly, the stockpiling  
16 option, which I presented as well as the south pile. I  
17 think that's what we're looking at is not only  
18 maximizing --

19 BOARD MEMBER ROBERTI: I would like  
20 reference to be made to all geographic locations where the  
21 tires may be located.

22 BOARD MEMBER PENNINGTON: Mr. Chairman, I  
23 thought that's what the motion was, that he added saying  
24 maximize the number of tires, but perhaps the Senator --

25 BOARD MEMBER ROBERTI: Makes reference to

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1 stockpiling and stockpiling, which is fine, but  
2 stockpiling can be read not including the geographic --

3 BOARD MEMBER JONES: Let me amend my  
4 motion.

5 BOARD MEMBER ROBERTI: -- source.

6 BOARD MEMBER PENNINGTON: Do you want --

7 BOARD MEMBER ROBERTI: Maybe I'm being  
8 hyper-technical, but I don't think so.

9 BOARD MEMBER PENNINGTON: Do you want a  
10 number in there?

11 BOARD MEMBER ROBERTI: No, just from all  
12 geographic sources. If you just add that, if you add that  
13 line so that clearly we're talking about the south pile as  
14 well as the east pile and anything else that's on the lot.

15 BOARD MEMBER JONES: Okay. Mr. Chairman.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: I want to try to  
18 restate this motion. I would move adoption of Resolution  
19 1999-619 in consideration of a closure and winterization  
20 plan and allocation of waste tire management funds for the  
21 Filbin Westley site to include the discussions that we  
22 have had on trying to -- from the geographic areas  
23 on-site, and you get as many tires on-site so we take care  
24 of the flow of tires with on-site tires, to take care of  
25 MELP's needs working concurrently, and that we authorize

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1 the Executive Director to negotiate with Filbin and MELP  
2 on the details of those agreements.

3 BOARD MEMBER PENNINGTON: I'll second that.  
4 If that's the second time around, is that a fourth?

5 (Laughter)

6 BOARD MEMBER ROBERTI: Sounds pretty good.  
7 If I had more magic words, I would have offered them, but  
8 I don't. So it sounds pretty good.

9 CHAIRMAN EATON: Ms. Moulton-Patterson.

10 BOARD MEMBER MOULTON-PATTERSON: I have a  
11 question. Voting for this motion does not mean that any  
12 new tires -- we're not authorizing new tires to be brought  
13 in there; is that correct?

14 BOARD MEMBER ROBERTI: I don't think we  
15 have the authority.

16 BOARD MEMBER MOULTON-PATTERSON: Okay. But  
17 we as a Board are not --

18 MR. CHANDLER: Right now the motion is  
19 silent on that point. Where it's very strong is that we  
20 and I am to negotiate the maximum amount of tires from  
21 that site that can be brought to the plant from all  
22 geographic sources, and your motion to date is silent on  
23 the issue of MELP's ancillary business needs. So  
24 that's -- I just want to make sure that's how I am  
25 interpreting the motion.

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1                   BOARD MEMBER ROBERTI: I wouldn't have an  
2 objection to using the words "to minimize importation"  
3 but that might imply importation.

4                   CHAIRMAN EATON: I think what Senator  
5 Roberti is trying to get at is the more you maximize what  
6 you can take off those piles, whether it's the east, the  
7 south or other geographical regions in there, it's implied  
8 that it is unnecessary to bring anything in and to burn  
9 down the piles that are present there. I think that's it,  
10 if I'm not mistaken.

11                   BOARD MEMBER JONES: Yes.

12                   BOARD MEMBER MOULTON-PATTERSON: Thank you.

13                   MR. CHANDLER: And I would also like to add  
14 that I come back to you in 30 days and give you a status  
15 report on how successful we've been to complete the terms  
16 of that agreement and reduction of the piles.

17                   BOARD MEMBER PENNINGTON: Okay.

18                   CHAIRMAN EATON: All right. Mr. Jones  
19 moves and --

20                   BOARD MEMBER PENNINGTON: I second.

21                   CHAIRMAN EATON: -- Mr. Pennington seconds  
22 that we adopt the motion set forth by Mr. Jones.

23                   Madam Secretary, please call the roll.

24                   BOARD SECRETARY: Board Members Jones.

25                   BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY: Moulton-Patterson.  
2 BOARD MEMBER MOULTON-PATTERSON: Aye.  
3 BOARD SECRETARY: Pennington.  
4 BOARD MEMBER PENNINGTON: Aye.  
5 BOARD SECRETARY: Roberti.  
6 BOARD MEMBER ROBERTI: Aye.  
7 BOARD SECRETARY: Chairman Eaton.  
8 CHAIRMAN EATON: Aye.  
9 Okay.  
10 Mr. Pennington.  
11 BOARD MEMBER PENNINGTON: We have a few  
12 more.  
13 CHAIRMAN EATON: Yes. We have a few more  
14 items that if we can just move through these very quickly,  
15 it would be greatly appreciated by all concerned. Those  
16 items remaining --  
17 MR. FITZGERALD: Item Number 32,  
18 Mr. Chairman.  
19 CHAIRMAN EATON: Item Number 32.  
20 BOARD MEMBER JONES: Just one thing, we've  
21 all been briefed on these items. I think they need to be  
22 delivered.  
23 CHAIRMAN EATON: All right.  
24 MR. FITZGERALD: Item Number 32 relates to  
25 approval of scope of work for northern California

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1 Rubberized Asphalt Concrete Technology Center and Nate  
2 Gauf will make the presentation.

3 BOARD MEMBER PENNINGTON: Mr. Chairman.

4 CHAIRMAN EATON: Mr. Pennington.

5 BOARD MEMBER PENNINGTON: Cut to the chase.

6 I'm going to move adoption of Resolution 1999-569 for the  
7 Tech Center.

8 BOARD MEMBER JONES: \$320,000 for the Tech  
9 Center.

10 BOARD MEMBER PENNINGTON: \$320,000. Thank  
11 you.

12 BOARD MEMBER JONES: Second.

13 CHAIRMAN EATON: Mr. Pennington moves and  
14 Mr. Jones seconds that we adopt Resolution 1999-569. Is  
15 that correct?

16 BOARD MEMBER JONES: Yes, sir.

17 CHAIRMAN EATON: All right.

18 Without objection, substitute the previous  
19 roll call. Hearing no objection, so shall be ordered.

20 Item Number 33.

21 BOARD MEMBER JONES: Mr. Chairman, on this  
22 last item -- just because we're going to be giving out  
23 rebates, if the jurisdiction works with those potential  
24 customers to see what they need, what those jurisdictions  
25 need to take this forward, it would be appreciated. It

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1 may not be rebates. It may be a blender mix, it may be  
2 something, but find out what they need to promote this and  
3 come back to us with that.

4 MR. FITZGERALD: Understood.

5 BOARD MEMBER JONES: Thank you.

6 MS. TOBIAS: Mr. Chair, I need something  
7 read into the record on this item before the Board votes.

8 CHAIRMAN EATON: On the upcoming item or  
9 the previous item?

10 MS. GILDART: On Item 32 with Sacramento  
11 County, it's merely that the item did not contain the  
12 justification to meet Section 19130 on the contracting and  
13 the justification for going outside of state service. We  
14 will include that in the contract language and for the  
15 record, but we needed to make that statement. It does not  
16 affect the content.

17 CHAIRMAN EATON: Is that sufficient?

18 MS. TOBIAS: Yes. I assume that doesn't  
19 change anyone's vote.

20 CHAIRMAN EATON: I don't hear it. Okay.  
21 Item Number 33.

22 BOARD MEMBER ROBERTI: Mr. Chairman, did we  
23 just vote on that?

24 CHAIRMAN EATON: Yes. We substituted the  
25 previous roll call.

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1                   BOARD MEMBER ROBERTI: That was very wise  
2 of you. However, I have to make a statement right now.

3                   CHAIRMAN EATON: Senator Roberti.

4                   BOARD MEMBER ROBERTI: Either before or  
5 after, but now that I've got the floor, I'll make it.

6                   Each year over 80 million gallons of  
7 architectural coatings are sold in the state of California  
8 including all coatings such as paints, stains and  
9 lacquers. In addition, over 5 million gallons of  
10 antifreeze are sold. In fiscal year 1997-'98, about one  
11 and a half million gallons of waste paint was collected  
12 through local household hazardous waste collection  
13 programs in California. This equals 42 percent of the  
14 household hazardous waste collected. Very little  
15 antifreeze is collected.

16                   The cost to collect and reprocess latex  
17 paint is approximately \$4 per gallon. The cost to local  
18 governments for paint recycling alone is over \$3 million  
19 per year, a significant fraction of local hazardous waste  
20 collection dollars. Antifreeze is poisonous to humans and  
21 animals. It is clear that there is a significant disposal  
22 of antifreeze and paint in the environment.

23                   Both these materials are easily recyclable,  
24 but the high cost of recycling is impairing the ability of  
25 local governments to increase their collection efforts for

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1 all household hazardous waste. Because of the  
2 inappropriate disposal of paints and antifreeze has a  
3 significant environmental impact and because of the cost  
4 of recycling these materials being so significant, I would  
5 like the Board to examine how it could address the paint  
6 and antifreeze management problems. I would like to ask  
7 staff to come back in February with a plan and time line  
8 for coming up with recommendations.

9 CHAIRMAN EATON: Okay. So if you would be  
10 kind of enough to then, at the end of this item, give that  
11 to Mr. Chandler's office or tomorrow morning with that  
12 kind of direction, we'll make sure we schedule something  
13 for February, if I'm not mistaken.

14 BOARD MEMBER ROBERTI: Very good. Thank  
15 you. February will be fine.

16 CHAIRMAN EATON: In February, we will also  
17 be hearing the other item as well which dealt with the  
18 issue of notice, if I'm not mistaken.

19 BOARD MEMBER ROBERTI: I counted 39 cans of  
20 unused paint in my garage.

21 (Laughter)

22 BOARD MEMBER ROBERTI: -- and those untold  
23 numbers, and I bet they're not too much different, maybe a  
24 little worse.

25 CHAIRMAN EATON: Haven't been working very

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1 hard; have you?

2 (Laughter)

3 CHAIRMAN EATON: All right.

4 BOARD MEMBER ROBERTI: That's fine. Thank  
5 you.

6 CHAIRMAN EATON: Item Number 33.

7 MR. BOUGHTON: Good evening, Mr. Chairman  
8 and Board Members. I can make this very brief if we just  
9 want to say in closing, staff recommends that the Board  
10 approve the contract concepts and allocations as proposed  
11 for the fiscal year '99-2000 and adopt Resolution Number  
12 1999-568.

13 BOARD MEMBER JONES: Mr. Chairman.

14 MR. BOUGHTON: I could answer any  
15 questions.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: Mr. Chairman, staff  
18 answered all my questions in briefings. I'm sure they did  
19 everybody else's. I'd like to adopt Resolution 1999-568.

20 BOARD MEMBER PENNINGTON: I'll second it.

21 CHAIRMAN EATON: All right. Mr. Jones  
22 moves and Mr. Pennington seconds that we adopt Resolution  
23 1999-568.

24 Do they have to come back for a scope of  
25 work on this?

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1 MR. BOUGHTON: Yes. Scopes of work need to  
2 be approved and award amounts by the Board.

3 CHAIRMAN EATON: I can substitute the  
4 previous roll call since we're not appropriating any  
5 money.

6 As I mentioned, Mr. Jones moves and  
7 Mr. Pennington seconds that we adopt Resolution 1999-568.

8 Without objection, substitute the previous  
9 roll call. Hearing no objection, so shall be ordered.

10 Next item.

11 MR. FITZGERALD: The next item is Item  
12 Number 35.

13 CHAIRMAN EATON: 35.

14 MR. FITZGERALD: It's renewal of a major  
15 tire waste facility permit for the Utilization and  
16 Marketing Office on the Marine Corps base in Barstow.

17 BOARD MEMBER PENNINGTON: Mr. Chairman, I  
18 don't believe in fighting with the Marines, so I'm going  
19 to move adoption of Resolution 1999-579.

20 BOARD MEMBER MOULTON-PATTERSON: Second.

21 CHAIRMAN EATON: All right. Mr. Pennington  
22 moves and Ms. Moulton-Patterson seconds that we adopt  
23 Resolution 1999-570.

24 Without objection -- well this is a permit.  
25 We'd better call roll call.

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1                   Madam Secretary, please call the roll.  
2                   BOARD SECRETARY: Board Members Jones.  
3                   BOARD MEMBER JONES: Aye.  
4                   BOARD SECRETARY: Moulton-Patterson.  
5                   BOARD MEMBER MOULTON-PATTERSON: Aye.  
6                   BOARD SECRETARY: Pennington.  
7                   BOARD MEMBER PENNINGTON: Aye.  
8                   BOARD SECRETARY: Roberti.  
9                   BOARD MEMBER ROBERTI: Aye.  
10                  BOARD SECRETARY: Chairman Eaton.  
11                  CHAIRMAN EATON: Aye.  
12                  Last and final item for tonight, and Item  
13 Number 37. Just -- if I just may take 30 seconds. This  
14 is -- Members, this is pursuant to the original agreement  
15 with the legislative analysts, both in the Assembly and  
16 the Senate, that we would allocate tire monies in a timely  
17 fashion. This represents the last allocation that we have  
18 to do to bring us up to speed. This is for the year --  
19                  MR. FITZGERALD: 2000-2001.  
20                  CHAIRMAN EATON: 2000-2001. And just so  
21 you know, this is all the money we have left. After this  
22 allocation, unless there's a renewal of the tire fee, this  
23 is all that's there. You hear that back in the back of  
24 the room? This is the last money we have.  
25                  (Laughter)

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1 CHAIRMAN EATON: Just want you to know.

2 BOARD MEMBER PENNINGTON: Did you hear  
3 that, Ed?

4 MR. FITZGERALD: This is the half-year  
5 funding is what it was.

6 CHAIRMAN EATON: It's the half-year funding  
7 that remains until AB 117 expires or unless we're able  
8 to --

9 MR. FITZGERALD: That's correct. January  
10 1st, 2001.

11 MS. GILDART: Martha Gildart with the  
12 Special Waste Division.

13 Just to be quick, I've put the table up  
14 there on the screen that shows the total amount allocated  
15 or appropriated was. We have \$3.1 million available to  
16 the Board. That is the amount estimated to be deposited  
17 into the fund over the six months that the fee will still  
18 be in operation. Out of that six months, we are proposing  
19 to fund a year's worth of staff expenses, salaries,  
20 operations, et cetera. That comes to about \$2.1 million.  
21 That leaves programs with \$978,000 to be divided among  
22 whatever projects the Board chooses.

23 Staff has proposed three projects. We've  
24 described them in briefings. If you have questions, I can  
25 answer.

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1 BOARD MEMBER ROBERTI: I'm prepared to make  
2 a motion.

3 CHAIRMAN EATON: Mr. Jones and then Senator  
4 Roberti.

5 BOARD MEMBER ROBERTI: Do you have a  
6 question?

7 BOARD MEMBER JONES: No, I have a motion.

8 BOARD MEMBER ROBERTI: If you're prepared  
9 to make a motion, I'll be glad to defer.

10 BOARD MEMBER JONES: Mr. Chairman, I want  
11 to move adoption of Resolution 1999-548 with these  
12 changes --

13 MS. GILDART: 584.

14 BOARD MEMBER JONES: 584. I'm sorry. It's  
15 getting late -- that \$350,000 be allocated to tire pile  
16 fire assessment, the environmental assessment, something  
17 we tried to do a couple years ago and weren't able to, and  
18 \$628,000 in tire cleanup.

19 BOARD MEMBER PENNINGTON: Second.

20 CHAIRMAN EATON: Okay.

21 Mr. Jones moves and Mr. Pennington seconds  
22 that we adopt Resolution --

23 BOARD MEMBER JONES: I'm sorry.  
24 584.

25 CHAIRMAN EATON: -- 1999-584 with the

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1 adjustment that \$350,000 go for tire pile fire  
2 environmental assessment and that \$628,000 go for tire  
3 cleanup.

4                   Without objection, substitute the previous  
5 roll call. Hearing no objection, so shall be ordered.

6                   Is there any public comment out there?  
7 Hearing none, we stand in recess until tomorrow morning at  
8 9:30 where we'll have the Disposal Reporting System, a  
9 noncontroversial matter.

10                   Thank you, everyone.

11   \* \* \*

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4 I, Terri L. Emery, CSR 11598, a Certified  
5 Shorthand Reporter in and for the State of California, do  
6 hereby certify:

7 That the foregoing proceedings were taken  
8 down by me in shorthand at the time and place named  
9 therein and was thereafter transcribed under my  
10 supervision; that this transcript contains a full, true  
11 and correct record of the proceedings which took place at  
12 the time and place set forth in the caption hereto.

13

14

15 I further certify that I have no interest  
16 in the event of the action.

17

18

19 EXECUTED this 23rd day of December, 1999.

20

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24

25

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Terri L. Emery

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