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STATE OF CALIFORNIA

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

BOARD MEETING

JOE SERNA JR., CAL EPA BUILDING

CENTRAL VALLEY AUDITORIUM

1001 I STREET, SECOND FLOOR

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 21, 2001

9:40 A.M.

Doris M. Bailey, CSR, RPR, CRR
Certified Shorthand Reporter
License Number 8751

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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A P P E A R A N C E S

BOARD MEMBERS PRESENT:
LINDA MOULTON-PATTERSON, Chair
DAN EATON
STEVEN R. JONES
JOSE MEDINA
MICHAEL PAPARIAN
DAVID A. ROBERTI

STAFF PRESENT:
BONNIE BRUCE, Interim Executive Director
KARIN FISH, Chief Deputy Director
KATHRYN TOBIAS, Chief Counsel
ELLIOT BLACK, Legal Counsel
YVONNE VILLA, Board Secretary
DEBORAH MCKEE, Administrative Assistant

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1 P R O C E E D I N G S

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: I'd like to call

4 the meeting back to order and welcome everybody back

5 again. We're going to be -- first of all, let's have the

6 secretary call the roll.

7 BOARD SECRETARY VILLA: Eaton.

8 BOARD MEMBER EATON: Here.

9 BOARD SECRETARY VILLA: Jones.

10 BOARD MEMBER JONES: Here.

11 BOARD SECRETARY VILLA: Medina.

12 BOARD MEMBER MEDINA: Here.

13 BOARD SECRETARY VILLA: Paparian.

14 BOARD MEMBER PAPARIAN: Here.

15 BOARD SECRETARY VILLA: Roberti.

16 (NO RESPONSE.)

17 BOARD SECRETARY VILLA: Moulton-Patterson.

18 BOARD CHAIR MOULTON-PATTERSON: Here. Okay.

19 I'll start with ex partes since I want to ex parte a

20 couple on behalf of all the Board members.

21 There was a memo to me from Michael Kenny,

22 Executive Officer of the Air Board, on material emissions

23 testing and their support of items 17 and 19 on our Board

24 agenda. And I believe all of the Board members got a

25 copy of that. If you haven't, let me know. And I'd like

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1 to ex parte it on behalf of all of them.
2 Also, I'd like to ex parte a letter to me from
3 Congressman Gary Condit regarding his objections to the
4 restarting of MELP.
5 And with that I'll turn to Mr. Eaton for
6 ex-partes.
7 BOARD MEMBER EATON: Up to date.
8 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
9 Jones.
10 BOARD MEMBER JONES: Clarence Gieck with GLASMA
11 on the disposal reporting system, and Peter on health
12 services.
13 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
14 Medina.
15 BOARD MEMBER MEDINA: None to report.
16 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.
17 BOARD MEMBER PAPARIAN: None.
18 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
19 you. And we will start on item 11 today.
20 Before we start I did want to mention, I
21 neglected to mention it yesterday, you know we are in our
22 brand new room, also that the seating is recycled as well
23 as the carpeting. And we just wanted to point that out.
24 That I guess these are old theater seats that have been
25 recycled is my understanding.

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1 I would also like to ask that all cell phones
2 and pagers be turned off so they don't disrupt the
3 meeting. And also, I'd like to ask that you keep your
4 comments to less than five minutes. Yesterday we had a
5 very, very long day, and we're not even a fourth finished
6 of, on our agenda. So if you would try not to be
7 repetitive and to keep them between three and five
8 minutes, we'd really appreciate it.
9 And with that, I'll turn it over to Mr. Leary.
10 MR. LEARY: Good morning, Madam Chair, members
11 of the Board. I had such bad luck with the microphone
12 yesterday, I hope this works out fine.
13 Agenda item 11 is a discussion of the SB 876
14 Five-Year Plan. As the Board will recall as you all were
15 in attendance, we held a workshop back on January 16th of
16 this year to discuss our first draft of the five year
17 plan.
18 And as a result of that workshop we received, as
19 you know, a significant amount of testimony. In fact,
20 this document here represents the transcripts of that
21 testimony. And we found the testimony very useful, and
22 in fact, we learned a lot. And the discussion that was
23 generated resulted in many changes to the five year plan.
24 We are back before you with our second draft of
25 the five year plan. And I'd like to just briefly

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1 highlight a number of the changes that have occurred from
2 that first draft to the second draft.
3 We've attempted to, in the second draft to
4 incorporate some discussion of staff costs in each of the
5 elements included in that five year plan. Those staff
6 cost estimates are rough. We anticipate refining them
7 before the five year plan is final for your
8 consideration.
9 We've also made, in the second draft, a first
10 attempt at the goals and objectives. There was a strong
11 comment made by both Board members and stakeholders, and
12 it's required actually by the legislation that we include
13 a statement of our goals and objectives, what we're
14 hoping to accomplish through this five years.
15 We've also included a list of our short and
16 long-term remediation projects. We recognize we missed,
17 we were lacking that detail in the first draft. We've
18 tried to provide it here in the second draft. And we've
19 tried to make some modification to cleanup costs as part
20 of that list.
21 We've also included that over the next five
22 fiscal years, two million dollars in funding, and added
23 support for energy recovery from tires. Recognizing that
24 energy is an important issue for the Board and for the
25 State of California as a whole, this next draft represent

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1 an increase in $2 million devoted to that effort.
2 The interagency agreement with the California
3 Highway Patrol is expanded and is now included in program
4 elements one through five, both in the aerial
5 surveillance part of the enforcement element, as well as
6 the increased presence in relation to program element
7 number five having to do with haulers and manifests.
8 Funding is added in research in the following
9 areas:
10 We've added funding for the research of how to
11 recycle fiber and steel from waste tires.
12 We've added research monies for a side by side
13 comparison of rubberized asphalt manufacturing
14 methodology.
15 We've also included, in regards and in respect
16 to a large amount of testimony received in the workshop,
17 some additional funding for a study of, call it
18 subsidies, call it rebates, call it incentives, there was
19 a significant amount of testimony on January 16th
20 relating to the impact of external subsidies, those
21 offered by the provinces of British Columbia and Alberta
22 and other Canadian provinces, as well as some states like
23 Utah and Arizona, and the impact that has on the
24 California marketplace; and the suggestion, or certainly
25 the strong implication that California should consider

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1 the idea of subsidies, rebates, incentives as part of its
2 five year plan.
3 What we've included in the five year plan is a
4 study in the first year. We believe the whole issue of
5 subsidies, rebates, incentives is a complex one, one that
6 will drastically shape and affect the marketplace of
7 tires in the State of California in the years to come.
8 We are concerned about resolving that issue. We're
9 trying to recommend a certain direction one way or
10 another in time to complete the five year plan.
11 And what we ask or are requesting in this draft
12 is simply allowance for that to occur subsequent or at
13 least on a side track to the five year plan, and that we
14 do not hold up the five year plan in its development in
15 consideration or resolution of the whole idea of
16 subsidies, rebates, or incentives; just because we won't
17 make our legislative deadline potentially if we invest a
18 lot of staff time and effort in evaluating that subject
19 while at the same time trying to complete the five year
20 plan.
21 Finally, despite the, much discussion in the
22 media over the last couple weeks about the potential
23 restart or, of the MELP facility in Westley, it is not
24 our intention today as part of this item, or the
25 subsequent item, agenda item twelve, to discuss the

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1 viability of that possibility.
2 We are happy to respond to any comments, any
3 questions you might have, and explain what we know about
4 what's been suggested or proposed, and relate to you our
5 understanding; but it is not our intent certainly to
6 discuss, to make that part of our discussion here today
7 in this agenda item or the subsequent one on the energy
8 issue.
9 And with that, I will conclude my comments, and
10 I welcome your questions and answers, and I look forward
11 to the testimony I'm sure we are to receive from our
12 stakeholders.
13 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
14 I might mention that there are speaker slips in the back,
15 and if you would give them to Ms. Villa over there she'll
16 make sure that we get them and hear your comments.
17 Board questions? Comments? Mr. Eaton.
18 BOARD MEMBER EATON: Yes, Mr. Leary.
19 MR. LEARY: Yes, sir.
20 BOARD MEMBER EATON: Intrinsically missing was
21 the issue of cleanup, and we had extensive discussions on
22 cleanup and the specifics of that. And that continues to
23 be the primary focus of both the author and co-author of
24 the bill.
25 So while I think research and development are

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1 good things, as you well know going through the
2 legislation last year, it was one of the years where we
3 were criticized on because there had been in the past
4 much too much focus and too little action.
5 So what have we done in the report, in this
6 first draft, to get into more specifics on cleanup?
7 Specifically I'm looking for a number of sites,
8 timelines. Have we done any of that work?
9 MR. LEARY: Attachment one to the draft provides
10 our list of sites of both short-term and long-term, a
11 list of both short-term remediation projects as well as
12 long-term remediation projects that we are initially,
13 that are initially in our hopper for cleanup actions in
14 the coming years.
15 And as the program element describes, we have
16 significant money devoted to clean up, both through state
17 activities as well as local government activities in all
18 five fiscal years, ranging from about $11.1 million in
19 the second fiscal year to a low of 8.3 in the fourth
20 fiscal year.
21 In terms of --
22 BOARD MEMBER EATON: How much was that figure
23 again? I'm sorry? 11.1 you mentioned?
24 MR. LEERY: Yeah, 11.1, it's on page fifteen of
25 the five year plan. 11.1 in the second fiscal year and,

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1 as a high, and a low of 8.35 in the fourth fiscal year.
2 And the finding of the --
3 BOARD MEMBER EATON: You think that that will be
4 sufficient then to take care of the problem? And I ask
5 this in all, you know, sincerity because one of the
6 issues that's going to come up is the fact that once the
7 cleanup goes away, the fee drops.
8 MR. LEARY: That's right.
9 BOARD MEMBER EATON: So I want to be very clear
10 with what we do to clean up, that we have a very clear
11 action plan, and that we give ourselves adequate time and
12 resources to complete it because, as you well know, once
13 that's done that leaves probably less than, you know,
14 what we had originally as the fee as the quarter.
15 So I'm very much interested that while it's nice
16 to set up a mechanism, and I believe in the local grants,
17 but I also believe that it cannot be setting up a
18 mechanism by which it is a funding mechanism for ongoing
19 activity because at a certain point, at least by all
20 indications we had going through the bill, that money
21 will go away.
22 So I don't want to create, you know, local
23 governments believing this is going to continue, so what
24 is the timeframe and what is it we have to do and get on
25 with it. That's why I'm looking for the specifics

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1 because that will go away.
2 MR. LEARY: That's an excellent point and I
3 concur and sympathize with your sensitivity of that
4 issue. I think we can certainly make it clear. And
5 maybe it would be helpful to make it clear in this
6 document to identify which of these potential allocations
7 may be reduced after the fifth fiscal year pursuant to
8 the reduction in the fee.
9 Since the fee will be reduced by a quarter, we
10 may want to mention that although we've only projected
11 five years, we can also project beyond five years, and
12 that is the money that will be reduced and maybe greatly
13 reduce the local government cleanup grant or some other
14 fund.
15 BOARD MEMBER EATON: All I'm trying to do is
16 find out really, I mean I'm looking for the road map by
17 which we have identified the areas that need to be
18 cleaned up. We're doing flyovers. We've got some
19 land-based reconnaissance. We already know of some other
20 kinds of sites that we've identified. Those in and of
21 itself we ought to have a timeline as to when we can go
22 after them.
23 Some of those will be, you know, very loose
24 timelines, because some of those are maybe on private
25 property and they may require some outside legal action

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in order to gain access to the property. But I think it's important as we go forward as the Board and to present this, it's not just a spending plan, they're going to be looking for very, very specific information is my, the questions that I get when I talk with people in the legislature. And I just don't see that here yet. And I'm requesting to develop that.

Because, for instance, they asked me, civil engineering, all right, I talk about all the great work that the professor from the University of Maine did, the question is what do we have now? Is that a proven technology or do we need to have more research? And if so, if it is a proven technology like the Buckmans and things of that nature, then our next step ought to be funding those projects at CalTrans or funding those projects at the local level to use those materials.

Because let's face it, the local, I mean it's not just local cleanup, it's local projects as well. If we have the ability to go in and provide bridge abutments to the local public works, you know, then that's what we should do. And I think that's the kind of stuff we really need for market development.

So are we at that stage yet? Are we, we've obviously proven that rubberized asphalt works, and we're going to do that comparison, but the question is, you

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1 know, now what is the action plan?
2 MS. GILDART: Martha Gildart with the Special
3 Waste Division. We have one project that's to get
4 underway this spring in the Bay area, and you've heard
5 that discussion before, where we are providing the
6 funding to purchase the tire shreds to be used in a
7 highway on-ramp where the Bay muds are particularly
8 susceptible to settlement.
9 There is another project currently under
10 discussion for a light rail transit system where they're
11 interested in using tire shreds as a dampening mechanism
12 under the rail line.
13 And in the five year plan we have over five
14 million dollars set aside over the five years to support
15 civil engineering projects, where we could either
16 purchase the shreds if that's part of the problem, or
17 actually help with some of the design parameters and the
18 QA/QC, quality assurance, quality control.
19 BOARD MEMBER EATON: And where are we with the
20 levee project? What is the current status?
21 MS. GILDART: It's working fine. There are
22 monitors in place to determine whether or not there's any
23 seeping, leaking, cracking, creeping, that kind of stuff.
24 BOARD MEMBER EATON: And when might we get a
25 report on that? And the reason why I ask is because I

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1 understand that there are going to be some federal
2 dollars coming down to the state as well as some
3 additional dollars for flood control in the next couple
4 of years. And what I'm wondering is do we have our
5 background in research available that we can even do
6 matches or others to be able to get that going in to
7 protect flood control areas, whether it be levies, flood
8 control channels, or any other means.
9 MS. GILLAN: Part of the original agreement with
10 the University of Chico was to do such a follow-up study
11 after the levee had been in place a couple of years. And
12 that's definitely something you would need to work into a
13 contract in the coming fiscal year. It would be a very
14 minor funding amount, at the time we were estimating it
15 would be 20,000, 30,000 just to write that final report.
16 Because it was such a long-term project we couldn't fund
17 it all at once, the monies didn't last that long. But
18 that would be coming up probably the next fiscal year
19 funding, and a report available perhaps by next the
20 spring.
21 BOARD MEMBER EATON: That would be an important
22 aspect because some of those workers who may have been on
23 that project may come and go, and so those who work on
24 the project are kind of anxious to have it happen. So
25 perhaps maybe that ought to be part of your research and

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1 development project as a civil engineering project.
2 And that's the kind of dot connecting I'm
3 looking for to be able to show that it's not just money
4 that's being spent, and that it does have a dividend at
5 the end of it.
6 And I know we also have a couple of projects
7 with, what are they, the leach lines or something with
8 parks and rec. And those are the kinds of things that I
9 think if we can start doing those, then we have the
10 opportunity to basically connect those to state agencies
11 where we have some access and some ability to leverage.
12 MR. LEARY: Well that certainly is in our
13 intent. And let me explore with you a little bit of, I
14 think your request for recommendation for greater
15 specificity. I think that's a little bit of a struggle
16 for us.
17 I think what you see before us in this second
18 draft is really the state of our knowledge in terms of
19 what we think, the kind of money that needs to be
20 available, particularly in the cleanup areas.
21 As we all know, there's a great number of
22 uncertainties involved with getting some of these
23 cleanups, particularly the large ones. They approximate
24 state and federal superfund sites in their complexity
25 when you consider the tire fire sites and the potential

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for contamination of groundwater and potential expenditure of resources that would require, and what groundwater treatment is ultimately required to remediate the contamination resulting from those fires.

So I'm, I sympathize and concur with your suggestion that we provide as much specificity as we can because I think you're right, I think the legislature is going to demand it. But I also think that this is somewhat of a living document, the legislature requires us to revise it every two years. I'm envisioning maybe we move more frequently to keep the legislature involved and engaged in the implementation of the tire program by updating this quarterly or every six months to report back to the legislature, but maybe that's a little too frequent.

But the idea being that we want to provide them progress reports that although the state of our knowledge now is maybe in its infancy in terms of the large number of sites we have to deal with and the number of resources we have currently in-house, but we're going to be expanding the program; our sophistication in cleaning up sites is going to be greatly advanced in six months to a year; and will get a report back to the legislature and to the Board and the Governor's office with a great deal more specificity than maybe we currently have time to

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1 develop now in light of the fact that we've only been at
2 this a couple of months in preparing this plan.
3 BOARD MEMBER EATON: I understand that, and I do
4 sympathize with you, but we went to the legislature and
5 said we know there's X amount of tires out there that
6 need to be cleaned up. So I don't know what technology,
7 I don't know what specificity you need, we needed a
8 timeline; you know where they're located. So that's the
9 kind of situation. That's why it just doesn't float
10 well.
11 You know where the tires are. We know they're
12 in Sonoma County. We know how to go out there and get
13 'em. We're not talking about Royster or Westley which
14 are going to require an extensive amount of money to
15 clean up, I mean those are the types of issues I
16 understand. But I'm talking about the other ones.
17 We went there and said we have X amount of tires
18 to clean up, so we can't dodge that bullet, that bullet
19 has already been fired. And what I'm saying is you've
20 got the list right here, what is the timeline for going
21 about doing it?
22 You know, that's not technology, you know,
23 that's simply what machinery you are going to need, how
24 many contractors we're going to need, because we're going
25 to have to have several contractors, and you know, what

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are we going to do? Are we going to landfill those? Are we going to monitor those? Are those in this plan?

MR. LEARY: The ultimate disposition?

BOARD MEMBER EATON: Yeah.

MR. LEARY: No.

BOARD MEMBER EATON: I think that's something they're going to want to know. I mean --

MS. GILDART: There is an allocation of funds for those projects, but the specifics of how they will be remediated are not in the plan.

BOARD MEMBER EATON: I guess the point is and I'm not going to say anymore, I don't think we should shy away. I think we've done a good job, a great job as a matter of fact. I think we can show people that we deserve the money and, not only deserve it but you're probably going to need more once you get into it. But if we shy away and just try to play hide the ball and do the usual thing where we don't have enough, it's not going to float, it's just not going to float.

MR. LEARY: I appreciate that.

BOARD MEMBER EATON: Because if another one goes up, then we're really behind the eight ball.

MR. LEARY: What I'm envisioning, and I'll make this my final comment too, is maybe in response to your ideas that we do know of 176 sites that we haven't

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1 investigated yet pursuant to the CHP aerial surveillance.
2 And we can propose a timeline for both initial
3 enforcement and the subsequent cleanup over the five
4 years that ultimately result in all 176 of those being
5 addressed and cleaned up by the end of the five year
6 plan.
7 In fact, we list that as one of our program
8 goals and objectives is to basically eliminate all the
9 illegally stored tire piles in the state that we know
10 about by the conclusion of the five years. And we can
11 provide a plan, or at least a rough estimate of the time
12 schedule for addressing, not only the sites listed in
13 table one, but the other 176 that we have yet to
14 investigate and provide some of the detail in that
15 regard.
16 Thank you.
17 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
18 Eaton. I've got a general question. Week after next I'm
19 meeting with Secretary of Transportation Manetta. Are
20 there any federal incentives for projects that use
21 rubberized asphalt, do you know?
22 MS. GILDART: At one time there was an act
23 Intermodal Surface Transportation Efficiency Act, it was
24 called ISTEA for short, which had specified the use of
25 rubberized asphalt nationwide on federal highways, but

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1 that was overturned by Congress, the funding was cut out
2 of it before it really got implemented. So currently
3 there are no requirements.
4 BOARD CHAIR MOULTON-PATTERSON: Thank you very
5 much.
6 Mr. Jones.
7 BOARD MEMBER JONES: Thanks, Madam Chair. Just
8 a couple things to followup on what Mr. Eaton was saying.
9 I think that by having in the report that you've
10 identified 176 as a result of the contract with the
11 Highway Patrol, and that, at least if we can talk a
12 little bit about, in the report, about the investigation,
13 the process of trying to get, finding out first who's
14 responsible in the investigation, and the question are
15 they legal, what's the deal? And then what it's going to
16 take to get access onto that property.
17 And then -- so that there is a sense that, you
18 know, this isn't a quick process, but that they will be
19 updated, you know. That we're going to know that these
20 are going to be in some part of the process, whether it's
21 investigation, access issues, or remediation or whatever,
22 let the legislature and the Governor's office know that,
23 and then say it's an ongoing problem. I mean it's going
24 to take us a while but we will give you that update in
25 each subsequent report or however you want to report.

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1 And that may take care of that.
2 But I do think we've got to also work off of
3 what Mr. Eaton just said on the federal, potential for
4 federal money. Under the existing contracts that we've
5 done, the levee project, the leachate or leachate
6 collection, a lot of the civil engineering process; if we
7 can just, very similar to what you did in the cleanup
8 graph that you gave us that said in 1995 we had six
9 sites, we spent this much money, we cleaned up this many
10 tires.
11 If you can just add, just real quickly, some of
12 the highlighted projects that we have funded through this
13 process, and that there will be a followup monitoring,
14 because there's going to be at the leach field and at
15 the, at the rest stop there's going to be a, an
16 investigation as to how well that worked in another two
17 or three years, right? Two years? Something like that,
18 I think two years. And the same on the levee project.
19 And just include those couple projects and say
20 these are ones we had funded based on our information
21 that we get when we do testing, and compare it to what
22 have had existed, we'll then be able to go out with
23 documented results to try to promote those kinds of uses.
24 And I think that that is sort of the connecting
25 the dots where they can see that we just didn't throw a

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1 lot of money at something, you know, and that we don't
2 have a plan. I mean I know we have a plan, we just have
3 to make sure we kind of articulate that and show them
4 there's some light at the end of the rainbow.
5 MS. GILDART: Are you specifically interested in
6 civil engineering or should we include some of the other
7 projects such as the playground mats and --
8 BOARD MEMBER JONES: Sure, I mean they funded a
9 nice portion of some activity, I think they'd like to
10 know how positive it's been.
11 And then just real briefly. When I look at the,
12 when I look at the RAC study that we're doing on page 19,
13 proposal for the, entering into an interagency agreement
14 to fund a test section; CalTrans just bought a large, or
15 just contracted for British Columbian rubber to do a
16 project in the Sacramento region. I want to, you know,
17 this is a big issue. So the contractor is using Canadian
18 rubber instead of California rubber.
19 And I understand that we have an issue where
20 we're going to look at that. But I'm going to propose
21 that all of our, the, you know, use of fiber and steel be
22 from California tires.
23 The RAC study be with California tires coming
24 from California crumbers.
25 The civil engineering uses, local government

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1 civil engineering, it's on page 23, number one, that it
2 be California tires.
3 Playground cover material, grants should be
4 California only tires with California crumb.
5 The same with the track and recreational
6 surfacing.
7 The same with the product commercialization.
8 I, I've told this story a hundred times but I'll
9 never forget being in Louisville, Kentucky and having the
10 haulers in Utah come up to Ralph Chandler and I and thank
11 us for providing markets for him, you know.
12 The green building. If they're going to spend
13 money on figuring out the green building, make sure it's
14 California tires.
15 The rubberized asphalt concrete and technology
16 center, I have no problem with the Northern California
17 center. I'm not so sure I'm very pleased with the L.A.
18 center right now because we continually talk about the
19 wet process as being proven for fifteen years, and now
20 they're out talking about other processes that haven't
21 been proven.
22 And one of the reasons we're subsidizing looking
23 at the quality of the ground, the quality of
24 infrastructure that can support rubberized asphalt was to
25 make sure that they were successful, and yet we're using

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1 state money to, to look at some things that we've, that
2 this Board has never decided or been convinced of that
3 are equal. And the other process doesn't use as many
4 tires.
5 So, I mean I don't know how many times we have
6 to hit somebody over the head with a bat to make them
7 understand but, yeah, I mean, when that item comes
8 forward people are going to have to convince me. Because
9 we need to spend money to make sure that the rubberized
10 asphalt that we are promoting is the right kind of
11 process. And I don't care if there's three or four
12 processes, I don't care if there's ten processes. But we
13 know that the wet process has worked. We don't know that
14 these other ones have worked, but yet we're promoting 'em
15 through our set that we fund that don't use as many
16 tires.
17 It's inconceivable to me why we wouldn't do a
18 study to try to figure out which ones work. Let the
19 industry play with it, let the industry adapt the way
20 they do business based on the performance of the product,
21 not the performance of the advertiser.
22 I think that capital improvements for California
23 State Parks on page 25 need to be California only tires.
24 And I definitely think that the rebate study on
25 number ten has to be done.

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1 And other than that I, to tell you the truth,
2 I'm looking forward to the manifest system. I'm looking
3 forward to this. I think you guys have done a great job.
4 I think the stakeholders have done a great job in coming
5 forward and giving their ideas.
6 But we are faced with -- this Board, Mr. Eaton,
7 myself, Board members, staff went to the legislature,
8 went to the Governor, went to Cal EPA, went to the
9 Governor to do this bill to take care of a problem in
10 California with California tires. And we have got to
11 take care of California tires.
12 I don't care about British Columbia tires. I
13 don't care about Arizona tires. And I don't care about
14 Utah tires. And I especially don't care for somebody
15 thanking us for providing markets for them as they
16 displace California tires.
17 Thanks.
18 (APPLAUSE.)
19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
20 Jones. I couldn't agree with you more. I know that a
21 group came to visit me, and I was astounded about these
22 British Columbia tires. So thank you for bringing that
23 up.
24 I had one question on the CalMAX and WRAP
25 awards, $20,000. What percentage is that? I mean I can

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1 see the nexus for CalMAX. I, you know, the WRAP I don't
2 understand why we're funding that out of this money. And
3 I'm a big believer in the WRAP awards.
4 MS. GILDART: I don't know the funding for the
5 entire program so I can't tell you what percent.
6 BOARD CHAIR MOULTON-PATTERSON: No, I meant is
7 CalMAX, is it 10,000 for CalMAX and 10,000 for RAP?
8 MS. GILDART: Yes, that was the plan. We had
9 funded the CalMAX program in the past in the five to
10 $10,000 level, so we were planning to continue that. And
11 there was a proposal to add funding for RAP. I'm not
12 aware of any awards made yet in the WRAP program for tire
13 recycling.
14 BOARD CHAIR MOULTON-PATTERSON: So there is,
15 it's just if there's an award for something related to
16 tires, is that it?
17 MS. GILDART: I understand not. I believe that
18 the request was to fund the program from the start for
19 the new fiscal year.
20 BOARD CHAIR MOULTON-PATTERSON: Okay. Well I
21 don't agree too much with that part, but that's just my
22 opinion.
23 Any other Board members? Mr. Paparian.
24 BOARD MEMBER PAPARIAN: Yeah. Following up on
25 Mr. Jones' comments. And that's distressing that so many

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1 out of state tires are going to be used for a
2 transportation project.
3 I know that it's been asserted at times that
4 there are some limits about what the state can do in
5 terms of requiring California products in the contracts
6 that CalTrans has and so forth. I'm wondering if there's
7 anything that we need to do to figure out what we need to
8 do to push the limits of that so that we can make sure
9 that we're doing everything that we possibly can in
10 contracts and anyplace else to assure that it's the
11 California products that are being used.
12 BOARD MEMBER EATON: There's no restrictions.
13 In fact, we've had Buy California for a long time I, in
14 fact I think that we had Buy California steel only, and
15 some of the other things that the executive branch has
16 done for years, and our current administration issued an
17 executive order on those kinds of things. There's no
18 restriction.
19 The restriction is that you can't prohibit
20 certain tires from coming in to be dumped here in
21 interstate foreign commerce.
22 But we can require, we can say California only
23 in terms of what we have, and that's what other states
24 have done as a matter of fact. It's when you cross state
25 lines about trying to affect trade and commerce that,

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1 that the commerce clause comes into effect.
2 That's one of the reasons what we had with
3 regard to out of state tires from Utah where we wanted to
4 set a higher price and stuff like that, then it becomes
5 anti-competitive.
6 But in terms of California first, that's a
7 pretty common idea and pretty common to do.
8 BOARD MEMBER PAPARIAN: Have we talked to
9 CalTrans about putting such a requirement in their
10 contracts?
11 MS. GILDART: Not that. We have in the past
12 when we are funding projects, either through grants or
13 contracts, require California rubber in anything that
14 receives Board funding. That's something we can
15 certainly expand as Mr. Jones had proposed.
16 I suppose there's two ways to approach
17 CalTrans. One is the voluntary approach in asking them
18 to incorporate that into their specifications when they
19 bid a job. The other might need to be statutory or
20 mandatory.
21 BOARD MEMBER MEDINA: Madam Chair, if I may
22 address this?
23 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.
24 BOARD MEMBER MEDINA: First let me say that as
25 director at CalTrans I very much supported the use of

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1 rubberized asphalt, and in fact met with industry to make
2 certain that their standards and the standards that
3 CalTrans required, you know, were the same standards in
4 order to facilitate these rubberized asphalt.
5 Also encourages a greater use of crumb rubbers
6 for civil engineering projects.
7 We ran into a similar situation in regard to the
8 construction of bridges and the use of California steel.
9 And having gone through this drill before, I know that as
10 Board Member Eaton pointed out, there are a number of
11 commerce clause situations that you have to look at,
12 however the, in the cases involving the use of California
13 steel for the building.
14 For example, the new span on the San Francisco
15 Oakland Bay bridge, the Carquinez bridge, the Martinez
16 Benicia bridge, that one was a, an issue of supply. Did
17 we have adequate supply for steel? And truthfully,
18 because our steel industry had not kept up in California,
19 we did not have an adequate supply of steel. And
20 CalTrans had to go outside the state for an adequate
21 supply of steel, certain types of steel. Other types of
22 steel could be used in the bridge and, in fact, the
23 legislature did pass some language so that certain
24 preference for certain uses could be given to California
25 steel.

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1 In this case, in regards to the use of crumb
2 rubber, California has more than an adequate supply of
3 crumb rubber, so I'm certain that whether it's
4 statutorily, and certainly discussions can be held
5 directly with CalTrans, they're very sensitive on this
6 subject, a preference could be given for the use of
7 California crumb rubber. And that's something that, you
8 know, we as a Board should certainly have those
9 discussions with CalTrans. And we should certainly
10 promote that statutorily if that's what's required.
11 But I think that is, our objective here is,
12 number one, to promote and encourage greater use of crumb
13 rubber for civil engineering and other projects, and also
14 to give a preference to California tires.
15 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
16 Medina. Excuse me.
17 Mr. Paparian.
18 BOARD MEMBER PAPARIAN: Thank you. Yeah, and I
19 think there's enough of the sense of the Board here on
20 this item that hopefully the staff, the staff in
21 conjunction with some Board members can make the approach
22 to CalTrans and work with us to strategize on how to make
23 it happen over there.
24 MR. LEARY: I'd like to suggest maybe in
25 response to that, if we can make kind of front and center

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1 part of this five year plan, maybe in part of the program
2 goals and objectives, that we build in this whole idea of
3 a strong emphasis if not a requirement as part of the
4 expenditure of this money be placed on the use of
5 California tires and California crumb rubber.
6 And we'll work with that and look how we can
7 place that appropriately so that it gets immediate
8 attention in any reviewer of this document that that is
9 our priority, the Board's priority.
10 BOARD MEMBER PAPARIAN: Great. One other item I
11 wanted to mention. I've been having discussions with the
12 staff, and I also brought this up at the workshop we had
13 recently.
14 I would like to see us have some discussions
15 with the University of California to see if we can work
16 with them to develop some in-California expertise so that
17 we don't have to rely on the people in Maine and
18 elsewhere on some of the technical evaluations and
19 verifications and analysis and research that needs to be
20 done in this area.
21 I know that recently we met with some folks who
22 had a very interesting technology, which if it played out
23 sounded great, but I don't know how to analyze it. And
24 it all involves very technical chemical characteristics
25 and so forth, that I think if we had university expertise

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that we could rely on it would be helpful.

BOARD CHAIR MOULTON-PATTERSON: I agree, Mr. Paparian. Can we look into that? Thank you.

I think we'll go to the public comments now. Our first speaker is Terry Leveille.

MR. LEVEILLE: Madam Chair, Board members, Terry Leveille here representing the six established California crumb rubber processors.

Board members, I appreciate your comments on behalf of the crumb rubber processors. It seems that you all are pretty aware of the problem that's going on. The problem isn't markets, because the markets are there. CalTrans has increased its use of asphalt rubber significantly over the last few years, in part thanks to Board Member Medina and his efforts. In part because the Board has pushed the grant program for playground covers and running tracks and the like, and required in those grant programs California tire rubber. The markets are there and they are expanding. And your programs have been very helpful.

But, and this is a big but, we are hitting a new phase with out of state and out of country crumb rubber. Just simply put, looking at the tip fees in California, a California crumb rubber facility based in the heart of Los Angeles where the tires are, can expect to get 30 to

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1 $35 a ton for the tires delivered there.
2 In Arizona just across the border, the largest
3 company in the world, the largest crumb rubber
4 manufacturer in the world can get on the average of about
5 $81 a ton.
6 In Utah they can get $75 a ton.
7 And in British Columbia, of course, they can get
8 1.34 a ton, plus get paid for the steel that is the
9 by-product of the processing.
10 Now, given transportation costs, all three
11 states, all three providers from all three states can
12 provide product to California markets cheaper than
13 California producers can make it.
14 And Board Member Jones pointed to this most
15 recent occurrence of the 1.2 million pounds of British
16 Columbian crumb rubber coming down for a Sacramento, near
17 Sacramento project, CalTrans project that's going to be
18 run by Granite Construction, it's contracted out to
19 Granite Construction, 1.2 million pounds.
20 That was bid on by several of the California
21 based crumb rubber facilities and was undercut by Western
22 Rubber Processors or Western Rubber Products, which now
23 has a warehouse or will soon have a warehouse down in
24 Southern California to import Canadian crumb.
25 We propose a rebate program. And we are

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1 proposing a rebate program this year because we think
2 that the study is, as admirable as it is, looking into a
3 rebate program is just going to take too long to assist
4 the companies. We are six companies, and this time next
5 year there may not be six companies. These are marginal
6 companies. Some of 'em are making it, some of 'em are
7 just below making it. And we're very concerned that even
8 given your aggressive endorsement of preferences for
9 California crumb in the variety of projects, that it
10 still is not going to be enough.
11 And we proposed a rebate program totalling $5
12 million a year that we think we can adequately extract
13 from the tire fund budget. I produced a sample of some
14 ideas of where we think that there might be some fat in
15 this budget this coming year.
16 But there's also some other monies that are
17 available that we haven't talked about, and if there's
18 some concern on the part of those members that I may have
19 hoarded a couple of boxes when I proposed this or that
20 from various sectors of the tire fund budget, I'm more
21 than willing to talk about it.
22 But basically we really are hurting. We've got
23 a couple of members here that will be able to speak today
24 to you and can give you a firsthand look at what they're
25 facing.

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1 And we ask for your support. You've each
2 received a letter outlining the proposal. It's a very
3 simple proposal that would be based on a rebate program
4 per pound of crumb sold based on the percentage of
5 California process waste tires that they used.
6 If there's any questions I'd be certainly happy,
7 or comments I'd be certainly happy to take 'em. Or if
8 you'd like to hear from a couple of the members of the
9 crumb rubber facilities that we're dealing with, I'd be
10 more than happy to introduce 'em to you.
11 BOARD CHAIR MOULTON-PATTERSON: Thank you.
12 BOARD MEMBER EATON: I have a question, Mr.
13 Leveille. With regard to Arizona you mentioned 81 versus
14 35, correct?
15 MR. LEVEILLE: This is a ballpark figure.
16 BOARD MEMBER EATON: Ballpark. But let's just
17 say there's roughly a $50 differential for purposes of
18 argument.
19 How much of that is subsidy rebate versus the
20 fact that the State of Arizona has a policy as far as the
21 rubberized asphalt, and in fact that the market for us
22 actually make demand expensive? And I'm just asking from
23 a standpoint, or is it a combination?
24 MR. LEVEILLE: Well from what I understand, the
25 Arizona program, which requires upon purchase of a tire,

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1 two percent up to $2 per tire, they work a little bit
2 differently than ours, each county has their own
3 collection point for tires. Maricopa County has an
4 agreement with thirteen other counties and they collect.
5 And then there's a bidding process done for those tires.
6 The latest, and we've got somebody here from the
7 rubber pavements association that can give you a few more
8 details on this. But the last bid was, I believe it was
9 around $40 a ton for the tip fee, and about $41 for the
10 hauling from the facility to, from the collection point
11 to the rubber, crumb rubber processing facility.
12 BOARD MEMBER EATON: But you understand my
13 question? My question, what I'm trying to get at is what
14 is the mechanism that drives the price up? Is it
15 something that the government --
16 MR. LEVEILLE: Yes.
17 BOARD MEMBER EATON: -- does, or is it because
18 the government of Arizona increases the price and because
19 their state policy is that no highways within the state
20 shall be laid down without it being rubberized asphalt,
21 because that's a different kind of market for us there.
22 One is a straight subsidy --
23 MR. LEVEILLE: Right.
24 BOARD MEMBER EATON: -- and the other one is one
25 that says we have a state policy and we're going to make

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1 sure that we fund that until the state policy gets
2 implemented. That's what I'm trying to find out.
3 MR. LEVEILLE: I think it's a combination of
4 both. And there is a significant amount of crumb rubber
5 that makes it down, primarily into the San Diego area.
6 The regional directors in CalTrans have, from
7 what I understand have made, have contracted a number of
8 projects that use the Arizona crumb down in the San Diego
9 area.
10 BOARD CHAIR MOULTON-PATTERSON: Mr. Leveille, I
11 have a number of speaker slips. Was there someone from
12 your, that you -- I don't know who's with your
13 organization -- anyone in particular you want to speak?
14 Well let's see, Barry Takallou.
15 BOARD CHAIR MOULTON-PATTERSON: Yes, he's here,
16 we'll call him next.
17 MR. LEVEILLE: And is there a Brian Cardiff
18 listed?
19 BOARD CHAIR MOULTON-PATTERSON: No. I have a
20 Dr. Barry Takallou, is he here?
21 MR. LEVEILLE: Uh-huh. And Bob Winters who sort
22 of coordinated the group, he was not feeling well today
23 and he didn't make the flight out.
24 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
25 you. We'll take Dr. Takallou next.

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1 Senator Roberti, did you have any ex partes to
2 declare before we go on?
3 BOARD MEMBER ROBERTI: No, thank you.
4 BOARD CHAIR MOULTON-PATTERSON: Thank you.
5 MR. TAKALLOU: Thank you, Madam Chairman. As
6 Mr. Terry Leveille mentioned, and we met with each of you
7 a couple of weeks ago, the situation with crumb rubber
8 coming from out of the state and other countries is a
9 serious matter for us, and the situation is in front of
10 you.
11 There are six rubber producers that are asking
12 for help. Now this help could be in the form of rebates
13 or in the form of mandating California rubber, whatever,
14 we need that help.
15 So I'm not going to take up the Board time
16 anymore of that, you know the situation and, but I'm
17 going to mention in front of you for other items.
18 Page 19, item number four, use of fiber and the
19 steel from crumb rubber manufacturing. When we recycle
20 tires, the tires, we produce three items; crumb rubber,
21 steel, and fiber.
22 Thirty percent of every tire we recycle you're
23 going to have the steel and fiber. We recycle about
24 three million tires a year. That means still one million
25 of these tires is still going back to the landfill

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because we cannot find market for steel and fiber.

And I appreciate that the staff put some funds, some research funds to find markets for these two products, which is 30 percent of the tire recycling business. But I think that a hundred thousand dollars level of funding is not enough to look into this magnitude of the problem. Not only is it costing us as a rubber recycler to landfill this, it is actually going back to the landfill.

I would propose to separate the item for fiber and the steel research as two separate research, and I would recommend, propose at least $250,000 each item research funding to get down to something, we can really get something with it. $You know, 50,000 on each of these, when it is 30 percent of all the tire recycling business, is not enough in comparison to all of this enforcement money we putting in.

So my recommendation is, if you can, increase the funding for these two products which is 30 percent.

Any comments on that?

BOARD CHAIR MOULTON-PATTERSON: I see none.

MR. TAKALLOU: Since we are on the same page, item number six, RAC study. I have been involved with research in rubberized asphalt since 1989. As a matter of fact, I started with the federal highway division in

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1984 when I started doing my Ph.D., getting my Ph.D. in rubberized asphalt.

There has been quite a bit of research studies been done for different systems. I think it's a wonderful idea to look into, to compare these systems within different systems. But paying CalTrans just to construct a road that doesn't really, I don't think is a good way of expending the money for comparison of these roads.

CalTrans, for instance, they put 25,000 tons or 11 miles of road on Pacific Coast Highway near Seal Beach on the dry system. CalTrans, they also put on the same stretch 10 more. So the existing projects, and between there is a wet system.

My suggestion is instead of paying for constructing the road, to spend that money focusing on the research, that $600,000. Perhaps, as Mr. Paparian mentioned, universal California would be a good place to manage research like this. That's, you know, CalTrans right now has over a billion dollars of construction money and they cannot put it out because they don't even have the staff to put out their own project. So giving $600,000 for those sections is not a, you know, I think the money should be spent on just the research part of it.

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1 And there are other agencies like Orange County
2 that, right now as we're speaking, is, they are putting
3 different test sections out there themselves. So there
4 are test sections out there we can extract sections and
5 research funds.
6 Any comments on that item?
7 BOARD CHAIR MOULTON-PATTERSON: Thank you. Are
8 the tests in Orange County through the OCTA?
9 MR. TAKALLOU: Yes, Orange County. And it was
10 actually paved, last week we ordered the crumb rubber
11 supplies to all the three systems; to put in the wet
12 system, the dry system, and terminal blend on Santa
13 Canyon Road side by side. And these are huge projects,
14 so.
15 And the last comment I have on item number five,
16 recycle RAC. Prior to becoming a crumb rubber producer,
17 I used to be a researcher in rubberized asphalt area.
18 And we worked on a five year research program for
19 Ontario* of the environment in conjunction with the
20 Ontario Municipal Transport.
21 And this, the recyclability of rubberized
22 asphalt, they put $2 million into it, and it was, in the
23 details it was done already. And as a result they got
24 two foot of material.
25 I think it's a wonderful idea to put money in

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1 this research, but it's always good to go back and see
2 what work was done.
3 As the results of that research there was an
4 executive report that was submitted to the Congress of
5 the United States of America, and some of that research
6 it showed there is no problem to recycle asphalt rubber.
7 This is already done, the report is already presented in
8 Congress. And this report also five years ago gave a
9 hundred thousand dollars to grant to a company called
10 Cycling in conjunction with the City of Los Angeles to
11 look into this subject five years ago.
12 So these are, some of these were done, and I
13 like, if you are spending the money, to try to get the
14 results of these evaluations that was done in the past
15 and then go from now.
16 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
17 Jones has a question.
18 BOARD MEMBER JONES: Thanks, Madam Chair. So we
19 can get that information maybe from Ontario? I mean
20 that's available?
21 MR. TAKALLOU: I have it.
22 BOARD MEMBER JONES: You have it?
23 MR. TAKALLOU: I was the project manager for it,
24 and I offered it to L.A. County -- actually I offered to
25 come and take my library away from me, I have it, I have

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too many papers.

BOARD MEMBER JONES: Maybe there's something there. One other thing just for the Board members to know. The Rubberized Asphalt Paving Association, I think that's the right name? Is that it? Rubberized asphalt? Okay -- has two or three engineers I think that they've started paying to work on or they were going to work on looking at terminal blends, dry process, wet process, where it really makes sense so that they could have the science behind moving their businesses forward.

Maybe we ought to think about the idea of finding out exactly what that is and what they're trying to do and looking at the 600,000. I mean if they've laid down that much material down Seal Beach dry, there's plenty of wet, maybe we can get that comparison for a lot less money than six hundred grand, and maybe take some of this money and look at co-funding or looking at whatever their project is to see if we can get real scientific data on what makes sense.

Because in meeting with them they said if they have to change the way they do business then they would do that, but that the only thing that had been proven that they felt comfortable with was the wet process. The others had potential, but that they didn't have the longevity. So they wanted to deal with it from a

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1 scientific and an engineering background.
2 And I met with two of these people, and it was,
3 it pretty much sounded like, to me, that it was going to
4 be the cards are going to fall where they fall based on
5 science.
6 That may be good for us since we are the ones
7 that are always promoting rubberized asphalt and, and,
8 you know, I'm a firm believer in the wet process only
9 because it's the one that has the time behind it, that's
10 proven, and it uses more tires.
11 So I throw that out since Mr. or since Dr.
12 Takallou brought it up, and maybe there's some
13 opportunity there we can look at it different.
14 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
15 Jones, that sounds good.
16 MR. TAKALLOU: Madam Chair, I think the level of
17 funding for comparison of technologies, in my opinion as
18 a researcher, you should not lower the level of funding.
19 My comment was don't pay for construction, pay for
20 research of this.
21 BOARD MEMBER JONES: And that's what I was
22 saying.
23 MR. TAKALLOU: And just doing that, you know,
24 there is plenty of road out there. And CalTrans, maybe
25 they're excellent on so many other areas, but we have a

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1 wonderful university in the University of California,
2 it's a worldwide center for asphalt, anybody that would
3 want to do research they come to the University of
4 California. But we got the father of asphalt which is
5 Professor Carmanas sitting there. I mean we've got the
6 best facilities. And, you know, I'm not trying to market
7 for Universal California, just rubber producers, but I'm
8 saying this is, we have all these tools here, and let's
9 put the money in the hands of the researchers rather than
10 the agencies who say what am I going to do with the
11 money.
12 BOARD CHAIR MOULTON-PATTERSON: I think we have
13 agreement on the Board.
14 MR. TAKALLOU: Thank you.
15 MS. GILDART: Madam Chair, could I just comment
16 on that to clarify a point? The recycled study, the
17 study to recycle asphalt is to look at the emissions
18 generated. The normal process is that the old asphalt is
19 dug up, reground, reheated, reintroduced to the heated
20 asphalt plant to be laid again.
21 What happens there, and we've had many reports,
22 are that if the rubberized asphalt is heated at a higher
23 temperature than recommended, workers can become ill,
24 potential exposure to the residents in the neighborhood
25 can occur. We have seen some studies where they feel

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1 this is easily controlled.
2 Our thought was that we could reassure the
3 California public by having a study done in California
4 using our emissions testing techniques, and showing then
5 that it meets whatever limits have been set by the
6 California air district.
7 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
8 you for clarifying that.
9 Thank you, Dr. Takallou.
10 MR. TAKALLOU: I have a handout for the Board
11 members. This is an Arizona Department of Transportation
12 specifications which requires crumb rubber in Arizona
13 from the United States.
14 BOARD CHAIR MOULTON-PATTERSON: Thank you. If
15 you'd just give it to Ms. McKee then she'll make sure we
16 get it.
17 BOARD CHAIR MOULTON-PATTERSON: Okay. Michael
18 Harrington from Western Rubber Processors.
19 MR. HARRINGTON: Madam Chair, I'm Michael
20 Harrington with Western Rubber Processors.
21 There are two separate crumb rubber issues that
22 need to be clarified. The first is the impact on the
23 California tire recycling market presented with the
24 continuation of rubber produced in British Columbia
25 coming into California.

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1 The suggestion by the California crumb rubber
2 producers that the tire recyclers in British Columbia
3 have a massive subsidy program that leaves the California
4 producer not playing on a level playing field is in
5 error.
6 It is understandable that there have been some
7 incorrect assumptions made by those that do not have
8 knowledge of the British Columbia tire recycling program
9 works on a day to day basis. There are some very, very
10 important facts about the first program in British
11 Columbia that need to be understood.
12 Prior to the start of the reimbursement program
13 in British Columbia in 1991, the tipping fee charge for
14 waste tires was 1.60 Canadian, or a dollar per tire based
15 on U.S. funds. Today the tire recycling program collects
16 $3 Canadian per tire sold, of which the processor
17 recycler may receive a maximum of 1.50 Canadian, or $183
18 per metric ton, 2,205 U.S. pounds for recycling the whole
19 tire.
20 Currently no processor recycles the fabric
21 generated in the tire recycling process, so there is a
22 deduction from the $1.50 Canadian per tire for not
23 recycling the whole tire, and a cost of over $69
24 Canadian, per ton, incurred for sending this fiber to the
25 landfill.

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1 There is also a per ton, per kilometer
2 transportation charge reimbursement fee paid to the tire
3 hauler through the processor recycler for getting the
4 tires from the generator to the recycler.
5 The tipping fee, reimbursement fee, subsidy,
6 whatever name you want to attach to it, is only one
7 dollar per tire U.S. funds, or roughly equal to the
8 tipping fee charged for tire disposal in Northern
9 California.
10 When the Canadian program was started there was
11 a rush to cash in on the easy money afforded the
12 program. Nine different businesses have gone broke
13 cashing in on what they initially perceived to be this
14 high reimbursement tire recycling program.
15 British Columbia tire processors have supplied
16 rubber to California since 1990. Just one of the
17 California crumb rubber suppliers purchased over eight
18 million pounds from us last year. Another made inquiry
19 into becoming our partner in a joint venture agreement.
20 Currently two California tire recyclers are purchasing
21 rubber from Canada.
22 Canadian crumb rubber coming into California at
23 basically the same rate it has for years represents less
24 than five percent of the total market and does not
25 measure up to the scope of level playing field problem

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presented to the Board.

However, the crumb rubber producers in the State of California needed to create a definable systemic problem that can be addressed by throwing some of the tire program money at it. They're trying to alert you to a problem that they feel is putting their livelihoods in jeopardy. They need a level playing field is the cry of the tire recycling industry.

However, what they're really facing is a different economic problem than the one presented, and it is potentially a disaster waiting to happen in the wings.

Even the producer of crumb rubber that has been in business longer than probably all of us combined is concerned about the crumb rubber market, not because of the waste tires coming into California or tires not being recycled, but because they basically process tire buffings and tire peels from both in state and out of state sources; but they face the same crumb rubber price disparity that is happening to the California recycling industry.

To take a whole waste tire, chop it, shred it, granulate it, and then mill it into finished product gradations, while at the same time removing fabric and steel, is a Herculean challenge facing all tire recyclers.

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1 There are is no magic bullet tire recycling
2 equipment. Some equipment may be a little more efficient
3 at one stage of the process over another, but they all
4 are relatively comparable and share one common
5 requirement, large amounts of energy to run the
6 equipment.
7 I know of one recycling company that has seen
8 their utility bills go from an average of between twenty
9 to $25,000 per month to a level last month of almost
10 $80,000. That additional fifty to $60,000 per month is
11 at today's rates, and who knows what rates will be in the
12 future.
13 Profit margins that have been slim in the past
14 have been severely reduced or eliminated. This
15 additional cost is beyond the control of the recycler,
16 and its only option is to reduce operations and output or
17 shutting down.
18 Crumb rubber is a commodity product. There is
19 no difference between crumb rubber produced in South
20 Carolina and Southern California. As I stated, the same
21 basic equipment is used by all recyclers so their
22 operating costs are approximately the same. As a
23 commodity product, crumb rubber is extremely price
24 sensitive. A quarter cent increase in price is the
25 difference between supplying a project or not.

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1 The success of the Southern California crumb
2 rubber supplier has been at least partly due to the fact
3 that their end markets are close by. With operating
4 costs relatively the same, California's close proximity
5 to its markets, and therefore low transportation costs,
6 have kept the Oklahoma, Ohio, Illinois, or Pennsylvania
7 supplier out of California markets.
8 However, this equilibrium is threatened with the
9 recent skyrocketing engineering - energy costs. Costs
10 have increased by three to five cents a pound, and the
11 market will not absorb the increase. A three to five
12 cent a pound increase in price is needed by California
13 suppliers to maintain their solvency.
14 However, with that price increase, the national
15 supply of crumb rubber now can be competitively,
16 competitively transported to California markets. This is
17 the dilemma and the real potential for an uneven playing
18 field.
19 The California Integrated Waste Management Board
20 has a definite role to play in the current situation. As
21 I see it, you have four options:
22 First, you can form the committee, fund the
23 study, report back a year or two from now on the status
24 of the market, and hopefully one or two of the current
25 recyclers will still be around to hear the results.

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1 Second, you can try to employ protectionist
2 policies to try to keep crumb rubber from other sources
3 out of the state. However, as pointed out, this tends to
4 run afoul of the Interstate Commerce Commission
5 regulations and NAFTA. Free trade means just that, free
6 trade.
7 Canada selling crumb rubber into the United
8 States is no different than the United States selling
9 rubber products into Canada. British Columbia is a large
10 importer of California produced finished products. The
11 oversupply of trucking from California is why we can
12 afford to supply California, to supply crumb rubber into
13 California at lower back haul rates.
14 Picking and choosing which products and services
15 California wishes to include and exclude, flies in the
16 face of the goal of free trade.
17 Third, and this is the one most preferred by the
18 recycling industry, is to give the half a dozen tire
19 recyclers five cents a pound rebate on the first twenty
20 million pounds of crumb rubber produced, or a million
21 dollars this year and every year thereafter to retain
22 their competitive edge. With that I think you'll find
23 the number of recyclers will increase to probably a dozen
24 next year and maybe to sixty within five years.
25 The fourth option is for the Board to quickly

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1 become the Alan Greenspan of the recycling economy, not
2 by adjusting interest rates, but by using your regulatory
3 powers to affect the tipping fees charged for the
4 ecological disposal and recycling of waste tires.
5 Waste tires flow to the least costly means of
6 disposal. Prior to 18 -- prior to 1989, stockpiling of
7 waste tires was the most economical way to dispose of
8 waste tires. Landfills did not want whole waste tires
9 because they could not be compacted, and no one was
10 willing to pay the tipping fee required to quarter the
11 tires for disposal.
12 Once stockpiling was legislatively ended, the
13 next cheapest means of disposal was quartering and
14 landfilling. But now with stockpiling eliminated, a
15 tipping fee could be charged to recover the landfill's
16 additional costs.
17 All recyclers must compete with the cheapest
18 means of disposal, local landfills. In Southern
19 California the landfilling fee is between 35 and $40 per
20 ton, or 35 to 40 cents per tire. No one is going to pay
21 a premium to take the tire for disposal to a recycler, so
22 he must compete with the 35 to 40 cents per tire. If the
23 recycler is further away from the tire generator than the
24 landfill, the recycler must reduce his tipping fee to
25 compensate for the additional transportation costs.

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1 Tipping fees of ten and fifteen cents per PTE
2 are not uncommon. What the Board can do through its
3 regulatory process is to facilitate an increase in
4 tipping fees. This could be done by requiring that
5 landfills reduce incoming tires to a two inch chip prior
6 to disposal. This will create an additional cost for the
7 landfill which they will recover in higher tipping fees.
8 Hopefully the tipping fee will reach the dollar to $1.25
9 level. A dollar to $1.25 tipping fee is much more in
10 line with the national average for waste tire disposal.
11 It is a tipping fee that California tire recyclers need
12 and deserve, allowing the tire recycling industry to
13 offset the additional costs that it could not otherwise
14 recover.
15 Additionally, this would eliminate the flow of
16 out of state waste tires into California for disposal.
17 In conclusion, the crumb rubber industry --
18 BOARD CHAIR MOULTON-PATTERSON: Excuse me, Mr.
19 Harrington, could you conclude, please? I think before
20 you came in I asked that you keep your remarks to about
21 five minutes because we have a very, very long agenda and
22 many, many speakers, so could you conclude and then I'll
23 call on Senator Roberti.
24 MR. HARRINGTON: The crumb rubber industry in
25 the State of California is in trouble, not from lack of a

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level playing field from the supply of crumb rubber from Canada, where the recycling reimbursement is roughly the same as Northern California's tipping fee, but with the dramatically increased production costs over which they have no control.

If the Board does not take necessary steps to support the recycling industry, there is every possibility that it could fail.

Thank you.

BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr. Harrington. Senator Roberti.

BOARD MEMBER ROBERTI: Yes. Madam Chair, I agree with the speaker that we ought to increase the tipping fee because recyclers do have a problem competing with those who dispose. And unless the cost of disposing is comparable to the cost of recycling, it's going to be very hard to encourage any extended recycling.

However, my problem with the argument that was presented is not so much that I think we should necessarily adopt a Buy California position, because there can always be retaliation, and I don't think we're the people who make the final decision, whether the executive or the Governor's office, that that necessarily is going to be convincing with various other industries are going to say no, we were afraid of this because then

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1 British Columbia will do a Buy California on us.
2 But with crumb rubber there is a distinct
3 difference because crumb rubber in British Columbia as I
4 understand it is subsidized. And I do think Buy
5 California should have preference or precedence over any
6 jurisdictions of crumb rubber where there is a
7 subsidization. Because British Columbia wants to get rid
8 of its crumb rubber, for obvious reasons, is no reason
9 why we should buy it when they're subsidizing that sale
10 or that export.
11 So I do feel strongly that in view of the
12 subsidization there should be a Buy California
13 preference. If we were dealing with a jurisdiction that
14 didn't have subsidization, then I would say that probably
15 Buy California is not going to be very convincing to
16 opinionmakers when other industries involved might speak
17 up and say they don't want retaliation.
18 BOARD CHAIR MOULTON-PATTERSON: Thank you,
19 Senator.
20 MR. HARRINGTON: Madam Chair, could I respond
21 briefly?
22 The subsidy or reimbursement is no, in British
23 Columbia there is no tipping fee. Nobody pays to get rid
24 of their tires, they pay on the front end. And the
25 subsidy, if that's what it is, is no more than the

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1 current tipping fee in Northern California, it's the
2 same, one dollar per tire.
3 Thank you.
4 BOARD CHAIR MOULTON-PATTERSON: Thank you.
5 BOARD MEMBER JONES: Madam Chair, just real
6 quick.
7 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
8 BOARD MEMBER JONES: At our tire hearing you had
9 said the same thing, but your boss or your partner or
10 whoever from Canada said, in fact, that that number was
11 wrong, that it was higher than that. So that's the
12 second time that this Board has heard two different
13 numbers from the same company. Although your partner's
14 not here today or your boss or whoever, but he said, when
15 you said a dollar a tire, he came back up and told us, in
16 fact, it was quite a bit higher than that.
17 MR. HARRINGTON: I was the only one from my
18 company who was there so I'm not sure who --
19 BOARD MEMBER JONES: Who was the --
20 MR. HARRINGTON: The total reimbursement was --
21 BOARD MEMBER JONES: Who was the older guy that
22 was sitting over there and said that he was from British
23 Columbia, he was from that parent company, and that was
24 the tire number -- Martha, do you remember?
25 MS. GILDART: Is his name Ehrenhart?

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1 MR. HARRINGTON: He's from an entirely different
2 company and has absolutely nothing to do with this.
3 MS. GILDART: What's his whole name?
4 MR. HARRINGTON: He's from Southern California,
5 I'm not sure who it is even.
6 MR. GILDART: I remember his first name is
7 Ehrenfried.
8 BOARD MEMBER JONES: It seemed to me he came in
9 and said he was from Canada.
10 Anyway, there is a fifth option. Maybe we,
11 maybe since the energy prices are so high that this could
12 put 'em out, maybe we ought to look at the differences
13 and see if there's some way to subsidize the energy that
14 they need to make California tires instead of subsidizing
15 -- I don't know, I just throw it out there. Maybe that's
16 a way that we could --
17 MR. HARRINGTON: I agree, Mr. Jones, the
18 industry is in trouble, and it does need help in Southern
19 California, and it's a matter of, you know, which
20 mechanism you want to do to support it.
21 The five percent of market share that is coming
22 in from British Columbia is not going to make any
23 difference one way or another. All of the crumb rubber
24 manufacturers in Southern California expect to sell all
25 of their crumb rubber this year anyway. The problem is

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1 long term, what are they going to do with additional
2 costs over which they have no control?
3 BOARD MEMBER ROBERTI: If it didn't make a
4 difference, then why do you go all the way to British
5 Columbia to buy the crumb rubber?
6 MR. HARRINGTON: The crumb rubber is on a
7 competitive price difference, I think I --
8 BOARD MEMBER ROBERTI: In California right now
9 we pay, with the passage or recent legislation we pay on
10 the front end too.
11 MR. HARRINGTON: On the particular project
12 you're talking about that caused this, we won that by a
13 quarter cent on one of the, one of the components. I
14 mean we're --
15 BOARD MEMBER ROBERTI: Well of course that's a
16 lot of money, though, when you compound that by a lot of
17 tires.
18 MR. HARRINGTON: Well that's also just one
19 project. As Dr. Takallou just said, he just supplied
20 three of them locally in Orange County.
21 BOARD MEMBER ROBERTI: I appreciate where you're
22 coming from. Your concern has to be the bottom line of
23 your business, and I'm not faulting you for that. But we
24 have to get rid of waste tires and we try to do it on a
25 level playing field.

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1 We charge at the front end and we charge a
2 tipping fee for environmental purposes. British Columbia
3 does not. That puts our crumb rubber companies at a
4 disadvantage. So this is not protectionism or Buy
5 California, it's just saying level playing field.
6 MR. HARRINGTON: And I agree with you. We
7 have --
8 BOARD MEMBER ROBERTI: We have an objective that
9 you don't have to address it, and I'm not faulting you
10 for not addressing it, we have to get rid of waste tires
11 in California.
12 MR. HARRINGTON: Absolutely. And if Southern
13 California had the Northern California tipping fees, we
14 wouldn't be discussing this problem.
15 BOARD CHAIR MOULTON-PATTERSON: Mr., I'm not
16 sure if it was Mr. Denton Hoeh. Maybe I'm mispronouncing
17 the name. That's H-O-E-L-L.
18 MR. HOEH: Excuse me, that's H-O-E-H, and it's
19 pronounced "Hoy," but thank you.
20 And I'm from Stanislaus County, Department of
21 Environmental Resources.
22 And we just wanted to again express our
23 appreciation to staff and express our support of long
24 term remediation projects in making sure that there is
25 adequate funds for complete cleanup on projects such as

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1 the Westley tire fire and other related type projects.
2 So thank you.
3 BOARD CHAIR MOULTON-PATTERSON: Thank you.
4 George Larson.
5 MR. LARSON: Is Mr. Larson here?
6 BOARD MEMBER EATON: I think he has the
7 Christine Lahti excuse.
8 BOARD CHAIR MOULTON-PATTERSON: Okay.
9 BOARD MEMBER EATON: For those of you who know.
10 Or what was the other actress that just won in the Golden
11 Globes?
12 BOARD CHAIR MOULTON-PATTERSON: In the
13 restroom?
14 BOARD MEMBER EATON: Yeah.
15 BOARD CHAIR MOULTON-PATTERSON: Okay. Okay.
16 Well, sorry. We're going to be taking a restroom break
17 ourself here.
18 Any other Board comments? I'd hoped to finish
19 this up before we give our court reporter a break.
20 BOARD MEMBER MEDINA: Madam Chair, I have a few
21 comments.
22 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.
23 BOARD MEMBER MEDINA: Yes. These are addressed
24 to Mr. Leary. And at our last meeting on this subject
25 regarding the five year plan, I requested that you

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1 include language in the five year plan that included
2 mention of environmental justice, Native American lands,
3 and border issues.
4 On page fourteen under local government waste,
5 tire cleanup program, I'm pleased to see that special
6 consideration will be given to jurisdictions involved in
7 Native American site remediation, and also remediation of
8 sites involving the Mexican California border.
9 I would like to add additional language,
10 however, of the document on page one. On page one at the
11 end of the second paragraph I would like to insert the
12 following language, and that's the second paragraph,
13 last word, soil, after that new sentence. I'd like to
14 add the following language:
15 "Many of these tires are dumped in low
16 income and minority communities such as Native
17 American lands or lands along the border with
18 Mexico that otherwise may not have full access
19 to Board programs nor full protection from these
20 illegal dumping sites."
21 And I'll give you a copy of this language.
22 On page 11, last paragraph, first sentence
23 after, in the first sentence after the phrase, "local
24 partnerships," I'd like to insert, "And partnerships with
25 Native American reservations and rancherias."

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1 On page 27 I would like to add an additional
2 bullet under B, director recommendations from the AB 117
3 report, I'd like to add a last bullet that reads as
4 follows:
5 "The Board will assess Mexican waste tire
6 haulers to meet the legal requirements for
7 hauling tires in California by training them to
8 use the manifest system with securing bonding as
9 required for haulers in the State of
10 California."
11 And I'd also like to reserve additional comments
12 for inclusion at a later time, but I will get this
13 language to you.
14 Thank you.
15 BOARD CHAIR MOULTON-PATTERSON: Mr. Larson.
16 MR. LARSON: Thank you for indulging me, I
17 apologize for being out of the room, Madam Chair,
18 members.
19 George Larson, I'm here today representing Lakin
20 Tire West. Lakin Tire, as you know, is the largest waste
21 tire hauler in the State of California and with corporate
22 partners in the United States. Handling over eleven
23 million tires last year, and over ninety million tires in
24 the history of its company, and I never pass up the
25 opportunity to say with never having placed one of those

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1 tires on a pile.
2 I'm also here to represent a small upstart
3 nascent company called Smart Tech which is involved in
4 the conversion technology of waste tires through a
5 catalytic process, catalytic cracking process which I
6 want to emphasize is not pyrolysis.
7 I know the critical importance of getting this
8 plan together, and I think staff and the Board have done
9 an excellent job of moving this. There have been some
10 significant changes that I think are important. I want
11 to lend my support to the increase for product
12 commercialization from one million to $2 million per
13 year, and I think that's very important because it's new
14 technologies and new ideas that I think are going to
15 contribute, maybe not provide the total solution, but
16 will contribute to new answers and the diversion of more
17 tires to higher end use and new end products.
18 Also, I want to commend the Board on, and staff
19 on the position taken on the manifest system.
20 As I stated in the legislative process which I
21 admit I lost miserably in when I tried to get some
22 consideration for the cost that haulers will incur in
23 making the manifest system work, I did get the
24 acknowledgment from the Board, and I believe from the
25 author of the bill, that manifesting is the critical,

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1 absolute critical piece of information that the Board
2 needs to have before any of these discussions that you're
3 having about future use alternatives and enforcement
4 should be undertaken. We've never had that accurate
5 figure, and I think it's critical.
6 I see the Board is kind of jumpstarting its own
7 budget with a million dollars to help develop, I hope,
8 the software and maybe the hardware process, and there
9 will be funding in the amount of approximately $2 million
10 for the five years of the program.
11 I'm here to ardently advocate that for the funds
12 that are available for the hauling community out there,
13 that there be money available for the development and
14 purchase of hardware and software that's compatible with
15 the state's computer base. Lakin Tire plans to be
16 totally computer based over the course of the
17 implementation of this law.
18 On the civil engineering front, that is another
19 area that we strongly support. I'd like to see more, at
20 least the funding that's allocated go towards new
21 development for under market research, and under the
22 research, market development under research.
23 Energy production also I think is a viable
24 alternative that we also support as we find new homes for
25 our tires at Lakin Tire that do produce energy.

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1 I have a couple of overall priorities. Mr.
2 Jones says he likes the wet process for production of
3 rubberized asphalt concrete, and the reason he likes it
4 he says it uses more tires. I think there ought to be a
5 fundamental underlying principle here as you evaluate
6 various purposes and proposals for which you would grant
7 money, that there be a direct correlation between the
8 amount of money that's allocated to a specific purpose
9 and the number of tires that that project or purpose is
10 able to divert from existing end uses.
11 I would also like to encourage, and it's not
12 clear in the report today that funding be available on a
13 multi-year basis. What I mean by that is in order for,
14 under good business practices, let's call it, for new
15 companies or for existing companies to incorporate
16 positive changes that the Board wants to see occur, we
17 need time.
18 And rather than making a one year deal where you
19 have to run to the race line and then get in under the
20 deadline and then demonstrate you can, if you will, spend
21 all that money in a certain period of time or, if you
22 will, fail the project that we be able to make a business
23 plan.
24 It really does not impact the ability of the
25 Board to allocate monies over years, because instead of

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1 giving out 500,000 one year under a grant, a hundred
2 thousand over five years allows 400,000 in that initial
3 year to evaluate other projects. It also affords the
4 ability to measure the success of projects in achieving
5 milestones along the way. If they haven't reached
6 milestone X determined at year two or year three, then
7 it's indicative that the Board should not allocate the
8 balance of the money that was originally allocated, and
9 you can redirect that; rather than put the money all up
10 front and crossing your fingers that it works.
11 Last comment really isn't on the five year plan,
12 but I wanted to comment on interstate commerce and the
13 importation of tires. As you know well and our records
14 that we report to the Board indicate, Lakin Tire imports
15 about a million and a half tires into California from all
16 states outside California. The, all of the tires that
17 come from Utah, every single tire goes to the California
18 Portland cement plant. And in addition, out of the total
19 1.5 million that are imported, we export a total of 1.7
20 million out of California. So we are, in effect, are a
21 net exporter, not a net importer of tires.
22 BOARD MEMBER PAPARIAN: Our latest tire report
23 was that we were a net importer on the latest report.
24 MR. LARSON: I'm talking about Lakin Tire as a
25 company.

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1 BOARD MEMBER PAPARIAN: Oh, you're Lakin Tire,
2 okay.
3 MR. LARSON: Lakin Tire is a net importer.
4 BOARD MEMBER PAPARIAN: As I recall, I think
5 that California is an importer, as I recall, of about two
6 million tires.
7 MS. GILDART: That's the 1999 data. And you're
8 correct, there were more tires brought into the state
9 than left the state. There may have been a shift in this
10 year if Mr. Larson is referring to more recent data.
11 MR. LARSON: I just spoke with Mr. Randy Roth,
12 Vice President of Lakin Tire this morning just to confirm
13 numbers, and he said in the forms that he has just filled
14 out in forms that are being submitted to the Waste Board,
15 it will indicate the total number of tires imported as
16 1.5 million. And again, all of the ones from Utah go to
17 higher end use at the Portland cement kiln as alternative
18 fuel, and we have a net export of 1.7 million tires.
19 The point being, in addition to numbers as I
20 think the Board's concern on a policy level, and in
21 addition to California based --
22 BOARD MEMBER ROBERTI: Madam Chair.
23 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.
24 BOARD MEMBER ROBERTI: What makes the Utah tires
25 cheaper than the California tires.

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1 MR. LARSON: I think I know where you're going
2 with it, but I'm not sure what you mean by the word
3 cheaper.
4 BOARD MEMBER ROBERTI: Well you wouldn't import
5 the tire from Utah considering the transportation cost
6 unless, that considered, it's still cheaper to bring in a
7 tire from Utah.
8 MR. LARSON: There are two things --
9 BOARD MEMBER ROBERTI: I'm wondering why is it
10 cheaper?
11 MR. LARSON: Two reasons. One is, as we sell
12 reused tires, which is a major portion of our business,
13 we sell reused tires in Utah. As our trucks deliver
14 tires through commercial carriers to Utah, we bring an
15 empty truck back. It makes sense, and plugging into the
16 second reason is that the state of Utah has a program
17 that encourages, through the grant of bonus, to take a
18 tire to a higher end use, and they define recycling as
19 use in a waste, in a cement factory as an alternative
20 fuel, to take that tire back and utilize it.
21 That's economics. It's a decision that the
22 company would have to make if it has an empty truck
23 coming back and has an end use for --
24 BOARD MEMBER ROBERTI: So they, they defined the
25 use of the tire as a higher end use. What's an aspect of

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1 that redefinition, a subsidy of any sort?
2 MR. LARSON: Well I'm not an expert in Utah law,
3 but obviously if they create a financial incentive for us
4 to take it to a --
5 BOARD MEMBER ROBERTI: I understand, and I'm not
6 complaining, I'm not complaining about a company taking
7 advantage of financial incentives.
8 MR. LARSON: Uh-huh.
9 BOARD MEMBER ROBERTI: I am complaining about
10 our own, our own system which beautiful California is
11 taking in waste tires and not even getting anything for
12 it. Yeah, so --
13 MR. LARSON: I'll take --
14 MS. GILDART: Madam Chair. I have a little
15 information that might help the member. My understanding
16 is Utah has a hierarchy of reuse and pays accordingly. I
17 think it's $75 a ton or 75 cents a tire if it goes to a
18 recycling end use, and $65 a ton or 65 cents a tire if it
19 goes to energy recovery. And that would definitely
20 offset some of the transportation costs to bring it to
21 Southern California.
22 BOARD MEMBER ROBERTI: That then, Madam Chair,
23 gets to a point I was trying to make earlier, and that is
24 I don't necessarily support a straight out Buy
25 California, because we don't have any of the

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1 documentation, nor are we in a position to be able to
2 figure out what retaliatory moves are going to happen,
3 therefore, I don't know if our passing a resolution like
4 that would impress anybody.
5 But where we are saying that Buy California
6 should take precedence over a subsidy, those
7 jurisdictions that subsidize, I tend to think that might
8 catch the opinion, the decisionmakers attention, whether
9 it's in the legislature or in the Governor's office.
10 And so, you know, now we have two, we've got
11 British Columbia and we've got Utah, and I'm sure there
12 are others out there who are cleaning up their state and
13 their waste problem at our expense, and here we're
14 importing the stuff. I mean that is truly incredible.
15 And I'm not complaining about the businesses
16 that take advantage of whatever subsidies are around,
17 that's what you're supposed to do and that protects your
18 stockholders.
19 MR. LARSON: I think if I may, two final
20 comments. One is obviously we are taking advantage of
21 that. And I think I'm at little risk without having
22 conferred with my client that if California were to enact
23 a law to pay us 65 cents to take a tire here in
24 California we'll take it wherever you want us to take it.
25 The economics are just not that here. We have to do it

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at the lowest cost we can, and we do that quite successfully.

So we, again back to the subject at hand, 876 Five-Year Plan, we support the way it's going. Obviously we'd like to make comments along the line, but we know obviously you have to have this plan in place, and we're going to help you in any way we can to get it in final shape so that we can all move forward and make these programs work.

Thank you.

BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr. Larson.

Before our break I understand Mr. Leveille needed thirty more seconds, is that correct?

MR. LEVEILLE: Thank you, just thirty seconds. Taking the other half, on behalf of the tire dealers, they have two items, quick items; one that Madam Chair already brought up, the WRAP awards, $10,000. It's not a lot, but we're dealing with awards to businesses, we're not, this is an inappropriate use of the tire fund. They can probably find the money out of the integrated waste management account.

The second is the farm and ranch program. The word is already, or staff is already proposing beefing up the local government waste tire cleanup program to

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1 complement the farm and ranch program, and our feeling is
2 that having the tire fund fund one-third of the million
3 dollars in that farm and ranch program is inappropriate,
4 it should be funded solely by the integrated waste
5 management account and the used oil account.
6 And then the corollary beefing up the waste, the
7 local government waste tire grant program could actually
8 enhance that program by making it more desirable for
9 local governments to apply for these types of things.
10 Just an alternative.
11 Thank you.
12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
13 Leveille. We're going to take a ten minute break. I'm
14 sorry to interrupt the item, but we have more speakers.
15 (Thereupon there was a brief recess.)
16 BOARD CHAIR MOULTON-PATTERSON: I'd like to call
17 the meeting back to order and ask Mr. Eaton if he has any
18 ex-partes.
19 BOARD MEMBER EATON: None to report.
20 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
21 BOARD MEMBER JONES: Hellos to Denise Delmatier,
22 Larry Sweetser, and Mark Aprea.
23 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.
24 BOARD MEMBER MEDINA: None to report.
25 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

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1 BOARD MEMBER PAPARIAN: Terry Leveille following
2 up on the tire item.
3 BOARD CHAIR MOULTON-PATTERSON: And I have none
4 to report.
5 Senator Roberti, do you have any ex-partes?
6 BOARD MEMBER ROBERTI: One ex parte Barry
7 Takallou regarding NAFTA regulations on Buy California
8 proposals.
9 BOARD CHAIR MOULTON-PATTERSON: Thank you.
10 Okay. Rick Best is the next speaker, followed by Doug
11 Carlson.
12 MR. BEST: Thank you, Board Chair and Board
13 members. My name is Rick Best with Californians Against
14 Waste. And it's a pleasure to see you all here in this
15 new building. There we go, now you can hear me better.
16 I haven't been actively engaged in discussions
17 in terms of the work participation, so admittedly some of
18 my comments I certainly want to take a little bit more
19 time over the next couple of days to kind of review the
20 recommendations in the report.
21 But overall I think we're fairly supportive of
22 the recommendations. We're pleased to see that the Board
23 is expanding its range of looking at various alternative
24 uses for tires, certainly the items in the report that
25 call, for example, promoting the use of longer lasting

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1 tires, I think a lot of those things are new areas that
2 the Board hasn't really been actively engaged in, so
3 we're pleased the Board is taking a more comprehensive
4 look at the range of options.
5 But with regards to the specific
6 recommendations. I think, number one, I think recycled
7 asphalt concrete clearly needs to be a high priority of
8 this Board. And I think that, you know, I'm kind of
9 echoing some of the concerns that have been raised thus
10 far.
11 I think we don't want to see the Board simply
12 focus its energies specifically on just CalTrans, I think
13 the more the Board can do to help local agencies, the
14 local governments of this state in using recycled
15 asphalt, I think that's an important area.
16 We're pleased to see that the Board is going to
17 be funding a Northern California center. We think that's
18 a good step, but I think there's more that can be done,
19 and so we intend to try and develop some additional
20 recommendations on how to, how the Board can help provide
21 more support for recycled asphalt concrete.
22 With regards to, there are certainly a number of
23 items in here that call for research and development of
24 uses with regards to cement kilns and other tire burning
25 aspects. And we certainly would caution that the Board

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needs to make sure that it's adhering to the hierarchy.

And while we have not been as actively engaged on that issue, I can certainly assure you there are other environmental groups, the Sierra Club and others, that have been actively engaged in this and have raised a number of concerns to the Board in the past about that. So I think the Board needs to be very careful when it looks at funding these activities, research and energy recovery, that the Board is continuing to make sure that it's following hierarchy in promoting recycling alternatives first.

With regards to one area that I didn't really see a whole lot of discussion. I realize this report is more of a general overview, but I think there does need to be some greater emphasis in the Board's research efforts -- excuse me, public education efforts in providing funding support to local non-profit groups.

I think as you had raised with me in past plan meeting about how we can engage more local environmental groups in this effort, I think this is one area where I think public education is clearly an area that the local environmental folks are engaged in. I think the Board can help provide support and get those groups more engaged through the public education programs that are being discussed as part of those tire plans. So I would

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1 certainly encourage you to make that a priority as the
2 Board actually goes out and solicits proposals for doing
3 these education efforts to make sure that you include
4 local non-profit groups in that.
5 And the final thing that I want to raise is just
6 more of a, kind of a definitional issue. We've raised
7 this in previous letters to the Board on the tire
8 process. And that's just a concern of, the Board in its
9 language continually refers to tire recycling, but the
10 fact is, under the definitions of the statutes, you know,
11 tire recovery for energy, whether it's through cement
12 kilns or tire burning efforts, is not recycling, it's
13 transformation. And so we would ask the Board be very
14 careful and clear when it talks about recycling that that
15 does not include transformation. That if you are to use
16 a more all-encompassing term, we would urge that you use
17 the term recovery to include both tire recycling efforts
18 and tire transformation efforts.
19 And with that, those are our comments. Thank
20 you.
21 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
22 Best.
23 Doug Carlson from Rubber Pavements Association.
24 MR. CARLSON: Madam Chair and members of the
25 Board. Thank you for this time.

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1 I just want to introduce myself. I'm Doug
2 Carlson with the Rubber Pavements Association, we're a
3 non-profit trade association comprised of tire recycling
4 organizations and also asphalt paving contractors that
5 use recycled tire rubber as a modifier to asphalt.
6 And I just want to commend the Board on their
7 work and concern in developing markets for asphalt rubber
8 and rubberized asphalt concrete in particular. We think
9 the proposed items are very well thought out and are
10 worthy of funding.
11 I had just one additional comment. In regard to
12 the CalTrans signs, I would just ask that the Board
13 consider expanding that particular item to include local
14 agency, cities and counties public works departments, and
15 the such.
16 That is all. I'm just here available to the
17 Board. If you have any questions about asphalt rubber or
18 rubberized asphalt concrete, I'll be glad to answer
19 those.
20 BOARD CHAIR MOULTON-PATTERSON: Thank you.
21 Could we include that to local agencies? I know like
22 OCTA is very active.
23 Thank you for bringing that up. Okay. Any
24 final comments from Board members? Questions?
25 BOARD MEMBER JONES: Just a question of the

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1 Board. We went through a whole lot of issues when I,
2 when it was my turn, and a lot of people were nodding
3 their head that it made sense to include, especially when
4 it's our, especially when it's our funding that's going
5 to a project. I know that most of our funding already
6 says California tires, but I think that that's critical,
7 that when we're going to fund a grant program they're
8 going to use California tires.
9 I think that the other thing I wanted to get
10 some, maybe not discussion but just see how you feel, on
11 that RAC study that we had talked about on page 19 where
12 the original suggestion was maybe funding some more test
13 road, and we've already heard in testimony that there is
14 a huge section that's done with the dry process, and a
15 lot of sections with the wet; would Board members be
16 interested in at least exploring the idea of working
17 through Don Carlson and those folks, Mr. Carlson, and
18 looking at -- they've got two folks, I don't remember
19 their names, but they are, they are teachers of
20 engineering that wanted, you know, that basically said if
21 the dry process is the right way to go, or another way of
22 modifying is the right way to go, then we need to know
23 that scientifically, rather than always promoting the wet
24 process because we have 25 years of experience on that.
25 Could we write that section to maybe include

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1 either working with CalTrans or working with, you know, I
2 know that the UC centers are, they're pretty high on
3 their admin, I think 35 percent, but work it with
4 different agencies, you know, or this association to see
5 if there is the possibility of funding that kind of
6 research so that we can give the industry and folks some
7 answers that are concrete, that are --
8 BOARD MEMBER PAPARIAN: That are rubberized.
9 BOARD MEMBER JONES: -- that are in, that are
10 in, based on some scientific review instead of anecdotal?
11 BOARD CHAIR MOULTON-PATTERSON: I think you have
12 consensus from the Board unless I hear otherwise.
13 BOARD MEMBER PAPARIAN: I think the goal is to
14 get the answers.
15 BOARD MEMBER JONES: Right.
16 BOARD MEMBER PAPARIAN: And you may need to lay
17 down some test roads to, you know, in certain conditions
18 to get the answers that you need, but I think rewriting
19 it so that what we're doing is getting the answers, and
20 whether that means laying down some road with CalTrans or
21 working with some of the university professors or doing
22 something in between.
23 BOARD MEMBER JONES: That will work.
24 BOARD MEMBER PAPARIAN: That's the goal.
25 BOARD MEMBER JONES: Then I'd like to --

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1 BOARD MEMBER ROBERTI: Madam Chair.
2 BOARD CHAIR MOULTON-PATTERSON: Okay. Senator
3 Roberti.
4 BOARD MEMBER ROBERTI: I would hope that we
5 would write, the Board, the Board write a letter to
6 CalTrans expressing our concern and disappointment that
7 they completed the contract buying crumb rubber from
8 British Columbia and the subsidization aspect of the
9 purchase. And I mean it's kind of surprising to me in
10 view of the fact that CalTrans has been so reluctant to
11 use crumb rubber in their construction, and then when
12 they do it they decide to purchase the material from,
13 from British Columbia. And that we write the letter to
14 them and that we CC the Governor.
15 BOARD CHAIR MOULTON-PATTERSON: I would
16 certainly agree with you. Can you prepare a letter to
17 Mr. Morales for us on that?
18 MS. GILDART: Yes, certainly. Would it be just
19 on the importation issue or any --
20 BOARD MEMBER ROBERTI: Well, on the importation
21 of the, I would say also on the need for increased use of
22 RAC, that we're happy to see that they are doing that,
23 unhappy that it sort of defeats the purpose when they're
24 buying the rubber from, from out of state. And to remind
25 them that British Columbia subsidizes this so-called

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1 lower prices that they're getting. And maybe to just
2 sort of outline to them one more time the extent of the
3 problem in California.
4 It is really incomprehensible to me. So --
5 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
6 Paparian.
7 BOARD MEMBER PAPARIAN: I think that's a good
8 idea, laying out the issue, but I think we also need to
9 follow up with some direct contact with some of our
10 senior folks and with them. We need to have some face to
11 face contact and really engage in some discussions about
12 what it's going to take to assure that the California
13 folks have markets for their products.
14 BOARD MEMBER MEDINA: Madam Chair, just as a
15 point of clarification, and that's that CalTrans has
16 twelve district directors, and the direct directors have
17 a lot of discretion in terms of the contracts that they
18 issue; so this may be one particular district, but it may
19 not necessarily be a department-wide policy, so therefore
20 it's important to bring it to the attention of the
21 director of CalTrans, so that if this is not going to be
22 a continued practice then it can come down from the
23 department director.
24 BOARD CHAIR MOULTON-PATTERSON: So Mr. Morales
25 would be the correct person, is that right?

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BOARD MEMBER MEDINA: He would be the correct person, yeah.

BOARD CHAIR MOULTON-PATTERSON: Thank you.

BOARD MEMBER ROBERTI: And CC to the Governor.

BOARD CHAIR MOULTON-PATTERSON: Right. Okay. Anything else? Okay.

Now Mr. Leary, was it your thought that we do 11, 12, and 16 and then go back to your items or --

MR. LEARY: Yes, Madam Chair.

BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you. Oh, excuse me. Excuse me. I apologize. We did have one more late speaker slip. Mark Korte of Tri-C Manufacturing I believe.

MR. KORTE: Yes, it is Tri-C Manufacturing, and we are a tire processor here in Northern California, and I was quite happy to hear that I'd be getting a dollar to a $1.10 or a hundred to $110 a ton tipping fees in Northern California, it's just not the market right now.

And of course tipping fees are very important for the health of any processor in the area. I think the current fees, on average, are around $75 a ton, which is considerably below the dollar, $1.10 per tire equivalent.

Anytime that we move to, move tires to the least point of resistance, as you did point out, it will affect the tipping fee. And that would, of course, include a

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1 large power station, that sort of thing. So any, you
2 know, any movement tends to have an opposite reaction.
3 And by the way, I'm going to be in the next
4 couple of months, the seventh on the list of the crumb
5 rubber. After hearing some of the comments today I'm
6 wondering how wise that is, but we already have our
7 million and a half dollars into it, and employing a lot
8 of Northern California people, and we hope to make a good
9 show of it on all accounts.
10 BOARD CHAIR MOULTON-PATTERSON: Thank you very
11 much. Okay. That concludes item 11, and we'll go on to
12 item number 12.
13 MR. LEARY: Madam chair, members of the Board,
14 agenda item twelve is in response to a Board request to
15 brief the Board on the overall energy shortage,
16 electricity energy generation crisis and its relation to
17 the solid waste stream, and that which the Board
18 regulates and has authority over.
19 We're starting today to, and we believe this and
20 intend this to be a series of presentations over the next
21 couple of months, discussing the various waste streams
22 and their impact, and the Board's history in regards to
23 electricity generation and those waste streams.
24 We in the Special Waste Division are fortunate
25 to have Martha Gildart among our staff who has a long

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1 history on the Board, and a long history on this energy
2 issue, and very versed in its complexity. And so Martha
3 will be making this presentation.
4 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
5 Leary. And we very much appreciate all your efforts on
6 this important issue.
7 MS. GILDART: Thank you. You may also be aware
8 that the executive office directed that a working group
9 be formed, and it's called the Think Energy Team which
10 has members from across the board who have some
11 involvement, history, or interest in energy issues. Some
12 of them will probably be coming back to the Board in
13 subsequent months with more specific information on their
14 issues.
15 Today, as Mark said, I'm going to try and give
16 some of the background, briefly describe some of the
17 components in the waste stream that lend themselves to
18 energy recovery, and then give a little more detail on
19 tires, because we've just been discussing the five year
20 plan, and there might be some linkage there.
21 I also apologize for not having any visuals. I
22 would have done the little overheads with bullets, but
23 you'll just have to listen to me.
24 There's quite a long history to how we got into
25 the energy crisis today. Prior to the 1970s, electricity

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1 was provided by regulated monopolies which were
2 investor-owned companies that controlled the generation
3 and transmission of electric power to the consumer.
4 These utilities did not particularly care to purchase
5 power from small quantity generators.
6 Quite often you would find that many large
7 industrial complexes had historically, back, you know,
8 before World War II produced their own electricity. But
9 as the utility system grew, less of that was done on site
10 and it became a much more centralized system.
11 In California it was regulated by the Public
12 Utilities Commission which set rates in public meetings
13 and had authority over both the electrical and natural
14 gas utilities.
15 Many of us can remember the energy crisis of the
16 1970s, the long lines at gas stations and the concern
17 about dependence upon foreign oil. Part of that concern
18 led to legislation in 1978, the Public Utility Regulatory
19 Policy Act which required utilities to purchase power
20 from these small power producers. They became known as
21 qualified facilities, and they could negotiate thirty
22 year contracts with a ten year payment rate that was
23 developed by the Public Utilities Commission called
24 Standard Offer number four.
25 This was an offer based on the avoided cost of

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1 the utility to build and provide that last unit of
2 energy. And these rates were actually quite favorable
3 and had an automatic sort of ramping up. Most of 'em
4 started out in the early eighties in the six to eight
5 cents range, and worked their way up into the ten to
6 twelve cents a kilowatt hour range by the mid-eighties.
7 Response to these policies was very strong, and
8 over 10,000 megawatts of capacity was built by these
9 small power producers. It was roughly 60 percent natural
10 gas fired in co-generation facilities, twenty percent
11 wind, and twenty percent other sources.
12 By the late 1980s the California Energy
13 Commission predicted an oversupply of small power
14 producer electricity running into the nineties, and the
15 Public Utilities Commission suspended Standard Offer
16 number four because they were concerned that market rates
17 for utility produced power was much lower than the
18 Standard Offer four rate.
19 About that time, in the early nineties, the
20 state had 60 biomass plants, three waste energy
21 facilities, one whole tire to energy plant, and over 60
22 landfill gas powered facilities in operation; providing a
23 total of 1,100 megawatts of generation and capacity with
24 an average price of about ten cents a kilowatt hour.
25 I developed a table, and what I can do is

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1 provide my speaking notes to hand out later. It
2 describes some of the biomass plants. There were several
3 that used urban wood waste up to about 1.8 million tons;
4 forest mill residues at five and a half million tons;
5 agricultural residues at about 1.6 million tons. And
6 these biomass generated 860 megawatts.
7 The three solid waste plants burned a total of
8 about 900,000 tons. The Commerce plant generated 11
9 megawatts; the Stanislaus Waste Energy Plant, 18
10 megawatts; the Southeast Resource Recovery Facility, 20
11 megawatts.
12 We had the one tires to energy plant, MELP,
13 which burned six million tires a year, a combination from
14 the pile and from the newly generated waste flow, and
15 that generates about twelve and a half megawatts.
16 Of the 60 landfill gas systems, 48 of those
17 generated electricity for another 200 megawatts.
18 In 1994, in response to the concerns about the
19 higher prices generally in California, the Public Utility
20 Commission announced plans to restructure the electric
21 power industry and try to provide for an open market and
22 competition between the generators. The hope was that
23 direct access to generators by the consumer, and market
24 forces in general would drive down the costs.
25 The California legislature authorized this

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1 concept in Assembly Bill 1890, the statutes of 1996, and
2 in Senate Bill 90 in the statutes of 1997, which set a
3 plan for the utilities to sell off their generating
4 capacity facilities; open up the operation of their
5 transmission systems to these alternative energy
6 producers to these other generators so that power could
7 be wheeled freely across the state; and allow for direct
8 purchase by the consumer.
9 You would be able, in your electric bill, to
10 specify what facilities you wanted to pay for the
11 electricity that you used.
12 To assist the utilities and the generators to
13 make the transition to a free market, those bills also
14 included a transition period during which utilities could
15 recoup their expended costs. These were costs they
16 incurred in the construction of their generating plants
17 where the rates had been set to allow payback over a ten
18 or twenty year period. If they were to be cut free on
19 the market at that point, they may not recoup those
20 costs, so they tried to build that into the system.
21 They also created a four year transition period
22 where the alternative energy producers could qualify for
23 incentive payment. Coincidentally, with this
24 restructuring effort, many of the small power producers
25 were reaching the end of their ten year negotiated rate

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in their contracts with the utilities.

What this means is the facilities would be moving from a ten to twelve cent per kilowatt hour payment for their electricity down to the then market rate of three to four cents a kilowatt hour. And for many of them this drop was described as a ten year cliff that they were going to fall off and possibly face bankruptcy.

The transition period included this four year payment. There was a $540 million funding pool established from funds transferred from utilities and their ratepayers to then pay out to the renewable energy producers at a rate starting at 1.5 cents per kilowatt hour down to one cent per kilowatt hour by 2001.

The idea was that with the four cent market rate they might be able to operate around the five, five and a half cent level.

Assembly Bill 1194 in 2,000 extended that payment through 2012 with the funding coming from, $135 million coming also from the major utilities ratepayers.

To provide additional assistance, the Board was charged, under AB 1890, to conduct a study of the generating facilities using biomass type wastes, and to propose strategies for shifting the cost of these technologies from the electric ratepayer to other

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1 beneficiaries.
2 The concept was that the collection of use in
3 energy recovery plants of what would otherwise be
4 disposed or burned in open fields benefitted the public
5 at large.
6 The Board's assignment was to determine who
7 benefitted and who should be able to financially support
8 the continued operation of these facilities.
9 A report listing several options was prepared
10 and submitted to the legislature in April of 1997
11 entitled, "Cost Shifting Strategies for the Biomass Power
12 Industry."
13 Even with the incentive payments and possible
14 further support, several renewable energy producers were
15 forced to close due to the drastic decrease in their
16 revenues. Their fuel handling costs were high as they
17 are dependent upon low energy density fuels that often
18 require collection from greatly dispersed sources, and
19 for further processing before combustion.
20 These costs were not covered by the price for
21 electricity and the incentive payment. It is estimated
22 to cost anywhere between six to seven cents a kilowatt
23 hour to produce such power, compared to the five to five
24 and a half cents available.
25 Our current system, the electricity generators

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which now own individual plants or sometimes are owned by out of state corporations, sell power into a power pool managed by a non-profit corporation, the Independent System Operator. The ISO also purchases wholesale power on a daily basis as needed, and bills the utilities.

The utilities now own and operate their transmission lines and ship power to the consumer. The utilities bill the consumer, and passed revenues to the California Power Exchange, which matches the orders for power with generators, and passes funds onto them. They are the entity responsible to ensure that there's sufficient power coming into the grid at every minute of the day to keep the lights on.

The PUC has retained oversight over the operations of the utilities, and there is an entity called the Electric Oversight Board to oversee the ISO and power exchange.

So in some ways, the system that we have now created is far more complex than the system in the past where you had the utility monopolies overseen by the PUC.

Proponents of restructuring held that generators would sell power into the pool, consumers would specify to whom they wish their payments be made, and utilities would shift the requested power to the consumer.

What has happened is that the generators who

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1 bought up the utilities' generating plants are now
2 selling the power back to them at rates much higher than
3 anticipated.
4 As has been extensively reported in the news
5 media, the major utilities, PG&E, Southern California
6 Edison, San Diego Gas and Electric, are reporting losses
7 of over $12 billion.
8 To date, the Governor has authorized $2 billion
9 in state power purchases, and has proposed sale of a $10
10 billion bond to help the utilities avoid bankruptcy.
11 The possibility of the State of California
12 buying and running the transmission system is under
13 discussion, and California is in its second month of
14 stage three energy alerts and rolling blackouts.
15 So that leads us to our question of what kind of
16 energy might be recovered from waste, and how can it
17 help?
18 There are several components in the waste stream
19 that have sufficient energy content to perform well as
20 fuels. Materials with high carbon content, such as urban
21 wood wastes, forest slash and mill residues, agricultural
22 wastes and rubber have been used in many processes. Even
23 after materials have been deposited in landfills, energy
24 can be recovered from them.
25 The installation of gas collection systems

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allows the methane produced through the anaerobic digestion of organic wastes to be separated out and used to generate electricity on site are cleaned and introduced into a commercial gas pipeline.

Municipal solid waste is composed of 75 to 80 percent organic waste, such as food base, paper, cardboard, plastics, textiles, rubber, yard wastes, and woods. These materials have heat contents ranging from 2,000 to 14,000 British Thermal Units, and that's a unit of measurement of how much energy you can recover from a material.

On average, MSW has a heat content of 5,000 BTUs per pound when wet, and upwards of 6,000 BTUs per pound when dry.

In California we generate 35 million tons of MSW yearly, with 28 million tons of it having an appreciable energy content. These materials all require collection and processing before they are appropriate for use in energy recovery applications, and often require extensive environmental controls as well. These decrease the availability of some wastes for this application.

We currently have three mass burn waste to energy plants in the state consuming 900,000 tons of waste, and generating nearly fifty megawatts of electricity. These plants were built in the

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1 mid-eighties, and all three plants have air pollution
2 controls consisting of ammonium injection to control
3 oxides of nitrogen; dry scrubbers to reduce acid gases
4 and sulfur dioxide; and baghouses to control particulate
5 matter and metals.
6 Landfill gas, as I mentioned earlier, is
7 generated through the breakdown of organic materials by a
8 methanogenic bacteria, and is typically composed of
9 methane, carbon dioxide, hydrogen sulfide, nitrogen, and
10 trace gases. Typical landfill gas is fifty percent
11 methane, with an energy content of roughly five hundred
12 BTUs per cubic foot of gas. If the methane can be
13 isolated from the gas, the energy content rises to over a
14 thousand BTUs per cubic foot.
15 In many regions of the state, landfill gas is
16 connected as an air pollution control technique to
17 prevent its escape into the atmosphere, and sometimes
18 deflected gases are merely flared. Those facilities
19 could be examined by the Board for conversion to energy
20 generation technologies.
21 There are currently 56 landfill gas recovery
22 projects in the state capturing 154 million cubic feet a
23 day. The U.S. EPA has estimated that another 76 million
24 cubic feet per day could be developed easily.
25 The 230 million cubic feet of gas contains

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115,000 million BTUs of energy. If combusted for electrical generation under the normal efficiencies of electrical generating equipment, this could provide between five hundred and six hundred megawatts of energy.

In the biomass realm, as I mentioned earlier, there were at one time 60 plants providing 860 megawatts of electrical generating capacity. Today only 29 of those plants are in operation. Fourteen of them are idle. That means they're still there, just not being run.

Fourteen have been actually dismantled.

And five have been converted to natural gas. That was back when natural gas was still considered cheap.

These fourteen idle plants could be reopened and provide another 166 megawatts of capacity, but the fuel supply and economic issues would have to be closely studied, and may be the subject of a future Board item.

The last component in the waste stream I'm going to discuss is tires. Today tires are made largely from synthetic Butadiene rubber which is a petroleum derived product. A typical passenger tires weighs about twenty pounds, of which roughly fourteen pounds is rubber. Truck tires can weigh in at over a hundred pounds, with sixty to seventy pounds of rubber.

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1 Tires have an energy content of 14,000 BTUs per
2 pound, which is higher than coal ranging from 10,000 to
3 12,000 BTUs per pound. And we discard over 31 million
4 tires a year in California.
5 Tires can be used as a fuel supplement at plants
6 burning coal with only minor modifications to the fuel
7 handling system or air pollution controls. Cement kilns
8 were among the first to develop the use of tires as
9 fuel. Kilns are extremely energy intensive. They
10 require large amounts of energy to heat large quantities
11 of raw material, such as limestone, shale, clay and
12 diatomaceous earth, to temperatures over 2600 degrees
13 Farenheit. Tire can be fed in coal as a substitute for
14 ten to fifteen percent as a coal fuel, and the steel
15 belts further provide some of the iron ore needed in the
16 recipe to make cement. There is no ash residue produced
17 at these plants.
18 Three cement kilns are currently burning tires.
19 They are the Calaveras Cement Plant in Shasta, at 1.6
20 million tires a year; the California Portland Cement
21 Plant in Colton, at two to two and a half million tires
22 per year; and the Mitsubishi Cement Plant in Lucerne
23 Valley at about two million. We did hear earlier today
24 that not all of these are California tires.
25 Another three cement kilns have used tires but

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have stopped due to various reasons. These are the Southwest Portland Plant in Victorville, TSI Riverside Plant in Riverside County; and Cal-Portland Cement Plant in Mojave. Combined, they could burn another three million tires.

Now, while these plants do not create electricity, by using the tires rather than coal that would free up the coal for use in other energy generating technologies.

There are technologies to use tires directly to generate electricity. The Modesto Energy Limited Partnership Plant in Westley, California, consumes six million tires a year for the ten years of its operation. Its fuel supply was split between the existing stockpile at Westley and newly generated waste tires. The plant has the capacity to generate twelve and a half megawatts, and has recently approached the Board with interest in restarting.

Another two million tires have been consumed by the Air Products Facility in Stockton, which is a circulating bed fluidized coal combuster. This is a very modern, high efficiency technology that burns pulverized coal and requires tires to be shredded to a two inch minus chip, free of steel belts extending past the sides of the chip.

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1 As such that plant, rather than charging a tip
2 fee for taking the tires as the cement kilns do, actually
3 pays for its fuel. The general price is around $20 a
4 ton, which compares favorably to the price of coal at $30
5 a ton.
6 There is also a facility called Port of Stockton
7 District Energy Facility in Stockton, California
8 generating 49 megawatts of power, which has recently
9 completed its emissions testing and revised its air
10 permit to be allowed to burn tires, and is attempting to
11 nail down a tire supply.
12 There are three other facilities, the Rio Bravo
13 and Rio Jasmine plants in Kern County, and the Jackson
14 Valley Energy Partners in Jackson, which have explored
15 the use of burning tires. The two Kern County plants
16 have current permits but have not yet put in the effort
17 to add the fuel handling systems or to actually nail down
18 supply contracts.
19 The Jackson Valley Energy Partnership plant had
20 gone through a testing, and they could burn tires up to
21 25 percent, but they are closed at the moment. The plant
22 was associated with a wax production manufacturing plant,
23 and they burned lignite coal, and both of those have
24 closed down. So they are currently in Chapter 11
25 bankruptcy, but the plant is still in existence and might

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be able to be reopened.

In our five year plan there are two possible support mechanisms for assisting the use of tires as fuel. One is the $2 million proposed to be used over the first three years of the research program for energy recovery from tires.

Projects such as ash and emissions testing, fuel feed system development, and fuel production optimization are proposed. These could each help certain issues the plants face.

There are many biomass plants that have been looking for additional fuel sources, some of which might be appropriate to burn tires as a fuel supplement. The problem there being the tires greatly affect the characteristics of their ash. There perhaps could be research done to see if other ash handling, disposal, or treatment systems might come into play.

Another funding source is in the market development program and entails the product commercialization plants where about $2 million a year is proposed for a host of activities that could assist in the installation of fuel handling systems at plants or actual fuel production at the tire recycling processor.

There is also a requirement in the bill SB 876 for the Office of Environmental Health Hazard Assessment

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1 to conduct an emissions study on the combustion of tires,
2 and that report is due in December of this year.
3 At this point if there are any questions I'd be
4 happy to respond.
5 Mr. Paparian.
6 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
7 Gildart, for that very informative report. And Mr.
8 Paparian has a comment or question.
9 BOARD MEMBER PAPARIAN: Just a quick one on
10 MELP. I know that they have a, suggested a subsidy; are,
11 do they need anything permitting-wise from the Board in
12 order to restart?
13 MS. GILDART: If they do not change the location
14 of their tire storage stockpile nor increase the number
15 their existing permit is still good.
16 As I understand it, the air district permit
17 would be reactivated by the payment of a fee that the
18 equipment conditions and operations are not anticipated
19 to change so there is no need to revise the permit.
20 The water district may or may not require
21 alterations to the waste discharge requirements depending
22 upon what is done to restore the wastewater holding ponds
23 for the cooling tower blowdown and such. They were badly
24 contaminated during the fire; they were used, in fact, to
25 receive some of the waste waters and materials, and may

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need extensive reconstruction.

BOARD MEMBER PAPARIAN: Thanks.

BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

BOARD MEMBER ROBERTI: In 1993 legislation was passed to allow this Board to raise the tipping fee 1.34 to 1.40. And that I understand equates to roughly $2 million in eight years. And we haven't raised it, and I think the time is right for us to start discussing that.

And I'd like to, if staff could come back with a proposal for us so that we can discuss the issue, and that it would be used for energy development, market development, rural counties, small county, landfill closures, education programs, and local waste audits. And considering the tenor of the times, the emphasis should be on energy development.

BOARD CHAIR MOULTON-PATTERSON: And I agree. Thank you, Senator Roberti. Did we get that?

Thank you very much, and we do have some speakers.

Mr. Jones.

BOARD MEMBER JONES: I just wanted to ask Martha a question. The coal cogen plants that now can take tires as a source, was it three or four?

MS. GILDART: One is actually doing it --

BOARD MEMBER JONES: One is doing it.

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1 MS. GILDART: -- and there are four more that
2 could. They have received permits --
3 BOARD MEMBER JONES: They've gone through the
4 air testing, they've done all that. Are they, and I know
5 that the one is closed right now. Are they all in the
6 same range of two million tires per year?
7 MS. GILDART: A couple are a little bit lower,
8 one and a half to two million.
9 BOARD MEMBER JONES: So just those four plants
10 would be able to, without any subsidy from us, be able to
11 deal with eight million tires potentially? Eight million
12 that had not been currently?
13 MS. GILDART: I'll give a qualified yes. Part
14 of the problem that they're facing is reliable long term
15 supply of the right kind of chip that they need to burn,
16 and there might need to be some support to produce that
17 material as a fuel.
18 BOARD MEMBER JONES: So like in equipment,
19 shredders, second pass shredders, whatever, Debeaders,
20 those types of things. But that would be to the supplier
21 of that fuel source?
22 MS. GILDART: Uh-huh.
23 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
24 you. And we'll have our speakers on item twelve. It's
25 my hope that we can finish item sixteen also before

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1 lunch, since I know individuals are here for that item
2 too.
3 Mark Aprea on behalf of Capital Power.
4 MR. APREA: Good afternoon, Madam Chair, members
5 of the Board. Mark Aprea today representing Capital
6 Power.
7 First let me apologize to the members of the
8 Board and the staff for not having an opportunity to
9 visit with you prior to this afternoon. Capital Power
10 asked me to represent them before you today and, at about
11 11:00 o'clock this morning, so I apologize for not having
12 the opportunity to visit with you sooner.
13 On January 21 of this year, Capital Power
14 submitted a letter of intent to purchase the Jackson
15 Valley Energy Facility out of Chapter 11 bankruptcy.
16 This facility was permitted on December 8, 1998
17 as a co-generation facility. Capital Power plans to
18 expend approximately $9.3 million to acquire and retrofit
19 this co-generation facility, close the deal in April of
20 this year, and begin to generate a net 16.2 megawatts of
21 power by July 1.
22 BOARD CHAIR MOULTON-PATTERSON: How much was
23 that? Excuse me, how much was that?
24 MR. APREA: 16.2 megawatts.
25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

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1 MR. APREA: This facility has a capacity to burn
2 up to six million shredded tires per year. Capital Power
3 is one of the 29 respondents to the Governor's request
4 for long term power contracts. The last time this
5 facility generated any power was in July of 1999.
6 I'm here today to bring this company and this
7 facility to your attention. This again is an existing,
8 permitted co-generation facility that may generate
9 significant power by July 1, while at the same time
10 addressing the waste tire issue.
11 The resources of this Board can be used not only
12 to address the waste tire issue, but to address the more
13 recent and pressing problem of the energy crisis that is
14 before the state.
15 I'm looking forward to working with the Board,
16 with staff to see if there is, in fact, an opportunity
17 where Capital Power and the Waste Board can work together
18 to subsidize some of the generation of the power at this
19 facility, whereby they would be using tires along with
20 other materials.
21 If there are any questions I'd be happy to
22 address them now. And if I can't do so now, I'll of
23 course get back to you as quickly as I can.
24 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.
25 BOARD MEMBER PAPARIAN: Just quickly. Is this

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1 near the town of Jackson or --

2 MR. APREA: It's in Ione.

3 BOARD MEMBER PAPARIAN: Okay.

4 BOARD CHAIR MOULTON-PATTERSON: Thank you very

5 much, and we're very interested.

6 MR. APREA: Thank you, Madam Chair and members

7 of the committee.

8 BOARD CHAIR MOULTON-PATTERSON: Ed Tomeo of

9 Modesto Energy.

10 MR. TOMEO: Good morning, thank you, Madam Chair

11 and members of the Board for giving me the opportunity to

12 address you this morning.

13 I am representing Modesto Energy Limited

14 Partnership. As most of you know, the facility has been

15 shut down since January of 2000. We were in the final

16 throws of closure, permanent closure of the facility;

17 something on the order of about three weeks ago Martha

18 Gildart did correctly point out that that closure

19 activity had been going on, the ponds had been removed.

20 In response to the energy crisis we believed it was

21 worthy of exploration to see if the State of California

22 would desire to basically work on a public private

23 partnership and provide some economic support to this

24 facility.

25 This is a plant that could be back on line and

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1 producing enough electricity for 15,000 homes in very
2 short order. We believe we could be on line by May of
3 this year, and certainly by June. The Governor has
4 indicated, as all of us are aware, that every megawatt of
5 electricity counts at this point, that we are in a
6 crisis, and the fact that the electricity is not being
7 produced by this facility means it's being purchased out
8 of state at substantively higher prices.
9 We are responding to the call for assistance
10 with the electric crisis. In order to get the facility
11 back on line we would need to reinvest about three and a
12 half million dollars, and would need basically all the
13 time available to us between now and May 1st to
14 accomplish it.
15 This timing is critical, but as I mentioned
16 also, we, and actually have discussed this with the Board
17 prior to the tire pile fire at Westley, that this was a
18 marginally economic facility, I'm sorry to say, and that
19 without some form of incentive for the use of tires to
20 energy, that this facility would remain shut down.
21 So we are seeking basically your consideration
22 and timely response. We have formulated a draft proposal
23 which we are trying to finalize right now, and are
24 prepared to provide that to the Board in very short
25 order. And are seeking your guidance as to how we should

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1 work with the Board to further lay out the proposal and
2 talk about what might be accomplished to provide us the
3 support in bringing the unit back on line.
4 We would need an affirmative signal from the
5 Board basically at the next Board meeting in order to
6 accomplish it. At that time major expenditures would
7 have to be made for this facility to be revitalized and
8 brought back. And those expenditures just can't make
9 sense without some affirmation that this is a facility
10 that the State of California wishes to support.
11 I do understand that, you know, there have been
12 difficult circumstances with the Modesto facility, the
13 fire on the adjoining property have forced the facility
14 to be shut down. There has been tremendous progress made
15 by the Integrated Waste Management Board on the cleanup
16 of the property. We do know that there are parties
17 interested in seeing to a final cleanup of the property,
18 as have we been very vocal supporters of that as well,
19 and we believe that that may be also a necessary
20 ingredient to gain the final support necessary to
21 basically cross the goal line with this proposal.
22 So we ask the Board to work with us now to try
23 to transcend some of the external circumstances of the
24 property, and to recognize that this facility is prepared
25 to consume six million tires a year, which represents

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one-fifth of all of the waste tires generated in a year, and is ready to produce electricity in very short order in time for the summer peak.

Martha Gildart also correctly pointed out that the permits are in place. This is not a speculative opportunity, this is a facility that has a place to sell the electricity, a place to recycle its by-products, has the capital available to be reinvested in a facility, and we hope that you can find it in state policy to support the restart of the plant.

BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr. Tomeo. Do you have questions or comments?

BOARD MEMBER JONES: I have a question.

BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

BOARD MEMBER JONES: Mr. Tomeo, somebody, I don't know if it was what I heard on T.V. or what came across my desk or whatever, said that you needed fifty cents a tire from the Waste Board to make this thing work. Is that pretty accurate?

MR. TOMEO: Yes, that is correct.

BOARD MEMBER JONES: How many tires does it take to make a kilowatt of electricity, or megawatt of electricity? I mean how many tires are we going to have to burn at fifty cents apiece to get energy?

MR. TOMEO: Well, we consume six million tires a

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1 year.
2 BOARD MEMBER JONES: I understand what you
3 consume. I mean we've gone through this, there's a lot
4 of Board members who haven't been here quite as long as I
5 have, so I remember an awful lot of the pieces we've put
6 together to try to keep MELP operating, and some of the
7 other things that went along with that.
8 I need to know for a megawatt of electricity how
9 many tires you're burning?
10 MR. TOMEO: I just don't know that ratio right
11 now. I could work it out in the back of the room and
12 give it to you at the break.
13 BOARD MEMBER JONES: Well you --
14 MS. GILDART: About 500,000 tires per megawatt
15 at their rate. If they're burning six tires to make
16 twelve megawatts.
17 BOARD MEMBER JONES: So that's six a month, I
18 mean that's, you, you do 500,000 tires a month, or that
19 was the old?
20 MS. GILDART: Megawatt is the rate of production
21 of the power.
22 BOARD MEMBER JONES: All right.
23 MS. GILDART: The actual energy delivered is the
24 megawatt capacity times hours. So the energy that's
25 delivered to the house would be twelve times 24 hours in

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1 the day for a day's production.
2 BOARD MEMBER JONES: Okay. Help me out here,
3 I'm not an electrician or an energy person. I want to
4 know, we're looking at, people talked about that
5 electricity used to be twelve cents, okay. Then it went
6 down to four, five, or ten cents.
7 Now we're, this state is paying what? What?
8 I mean a huge amount of money. I don't know what those
9 terms are. I want to know how many tires we have to burn
10 and subsidize by this proposal of fifty cents, and what
11 that is in relationship to the power that would be bought
12 on the outside market at $30 or whatever that, the number
13 is.
14 MS. GILDART: Give me a minute.
15 MR. TOMEO: I apologize, I just don't know the
16 terminology.
17 BOARD MEMBER PAPARIAN: Let me try to help for a
18 second, I don't know if this will help.
19 Out of one tire, how many kilowatt hours do you
20 get?
21 MR. TOMEO: That I'm not sure. We burn 18,000
22 in one day. At twelve and a half megawatts times 24
23 hours, that would give you the number of megawatt hours
24 in a day if you did the division. I don't have my
25 calculator with me so I don't want to give you an

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1 incorrect number.
2 BOARD MEMBER JONES: But if you sold that for a
3 lot of years, I would imagine you have that number pretty
4 well.
5 What I'm trying to figure out, Mr. Tomeo, is at
6 the rate of 12,000 tires a day, that's 6,000 tires a
7 day -- $6,000 a day that you would need from this Board
8 to be able to run. And I'm assuming, is that in lieu of
9 tip fees, or is that with tip fees?
10 MR. TOMEO: That would probably be partially in
11 lieu of tip fees. We still may receive some tip fees.
12 BOARD MEMBER JONES: So at $6,000 a day in
13 subsidy from this Board, how much electricity goes out,
14 and what does that cost in comparison to other electric
15 sources?
16 I would like California to be able to solve
17 this, but I've seen the proposals for a dollar a tire,
18 I've seen the proposals for 25 cents a tire, I've seen
19 the proposals for fifty cents a tire; I want to try and
20 put it into a context that makes some kind of sense.
21 MR. TOMEO: I think I can answer your question,
22 I understand what you're getting at. We would be
23 receiving about five cents per kilowatt hour for the
24 electricity we generate for energy. We receive about two
25 cents a kilowatt hour for the energy, I'm sorry, for

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capacity payment, so that's seven cents.

We would anticipate that a subsidy from the state would represent about another two to two and a half cents a kilowatt hour, making the electricity about nine to nine and a half cents a kilowatt hour; or if you talk about it in the terms of megawatt hours, which is how wholesale markets transacting, it would be about $90 a megawatt hour for electricity, somewhere between ninety and a hundred dollars per megawatt hour.

The current power that we're buying out of the state is clearing the market now at more like four hundred to five hundred per megawatt hour; and one of the noteworthy transactions that just occurred between the state and the L.A. Municipal District was the $1,200 a megawatt hour just about three days ago.

So hopefully that at least gives you a sense of the pricing.

BOARD CHAIR MOULTON-PATTERSON: Excuse me, Senator Roberti was next. Are you finished Mr. Jones, yet?

BOARD MEMBER JONES: No, that's all right.

BOARD CHAIR MOULTON-PATTERSON: Go ahead, you have the floor right now, and then Senator Roberti and Mr. Eaton.

BOARD MEMBER JONES: Anyway, the tip fees at

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1 MELP prior to the cliff were around $18 a ton. After the
2 cliff they went up to some number around 21, $23 a ton,
3 whatever. At fifty cents a tire, that's $50 a ton,
4 right?
5 MR. TOMEO: Yes, that's correct.
6 BOARD MEMBER JONES: So we're talking about a
7 facility that operated at charging $18, and then operated
8 after the cliff at $23, but now we're looking at doubling
9 that just in our subsidy to fire this thing back up. Is
10 that math reasonable? You gotta help me through this.
11 MR. TOMEO: Yeah, sure. Actually right before
12 the shutdown our average tip fee was probably closer to
13 fifteen dollars a ton.
14 BOARD MEMBER JONES: Fifteen, so we're going
15 from fifteen to fifty in subsidy.
16 MR. TOMEO: That would be correct.
17 BOARD CHAIR MOULTON-PATTERSON: Okay. Senator
18 Roberti. Thank you.
19 BOARD MEMBER ROBERTI: Yeah, what I understood,
20 at least what was explained to me was that we provide a,
21 MELP provided electricity for between twelve and thirteen
22 thousand homes when it was in existence.
23 MR. TOMEO: That's about right, yes.
24 BOARD MEMBER ROBERTI: And you burned about six
25 million tires a year?

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1 MR. TOMEO: That's correct.
2 BOARD MEMBER ROBERTI: What we have to keep our
3 sights on is that yes, this is a part of an energy
4 proposal but also gets rid of the tires, and I just want
5 to keep that before us.
6 So computations as to, you know, what's the
7 cheaper use or what's the less expensive use are very
8 important; but taken into consideration that we are at a
9 loss on how to get rid of the proliferation of tires on
10 this state by the last agenda item, we find out we're
11 even bringing in tires into the state.
12 We could be here a million years and we're not
13 going to have any methodology right now of getting rid of
14 the proliferation of tires which, in my humble
15 estimation, are the worst blight aesthetically of all our
16 waste problems in the State of California.
17 So in my one year plus on this Board I haven't
18 heard anything better on how we're going to have a
19 comprehensive program to get rid of the tires that
20 accumulate in the state.
21 So it's both an energy solution and to get rid
22 of the tires solution. And that doesn't mean I don't do
23 other things that have priority before waste, before
24 tires to energy, because I do. And we, but there's only
25 so many playground mats we can provide, there's only so

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many, so much rack with reluctant bureaucracy that we can engage in and we still have tires.

The tires in and of themselves are a hazard. Their accumulation is a hazard. I think it's important to point out that MELP was destroying tires from a tire landfill that was illegal. And I don't want the inference to be given, although we've heard it over and over again that the MELP was bringing those tires in, those tires were there.

I don't know what else we've done. I don't know what other programs we have. If we have something that addresses the hierarchy better, I'll vote for it, but I don't see anything on the agenda. And in the meantime our beautiful state is drowning in tires.

There's an interesting letter I hear, and I totally appreciate Congressman Condit's concerns in this area, but he mentions Southern California which sort of tweaks my interest that we should, you know, accumulate these tires in Southern California.

It's like when I held office, you know, you always think your own area is the area that gets the brunt of the problems, but that's just not the case. Go to the Isuzu landfill and you'll see what Southern California takes in at the Isuzu monofill, 11 million tires a year.

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1 And while I don't want to give the inference
2 that I endorse this methodology, the cement kilns are in
3 Corona in Southern California, that's another way of
4 getting rid of tires. So there's plenty of discomfiture
5 in the environmental justice area that it's felt up and
6 down the state.
7 But burning the excess, I'm sorry to say, it's
8 not part of the, it's not the top of the hierarchy. But
9 the top of the hierarchy is simply in not meeting this
10 terrible problem that we have with the accumulation of
11 tires; in my mind the number one blight, aesthetically
12 ugly situation that we have, and I haven't heard anything
13 better, so I endorse reopening your facility.
14 I consider it a twofer; one, helping participate
15 in an energy solution. And two, doing something that
16 we've been at a loss to do and that is get rid of the
17 waste tires.
18 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
19 Eaton.
20 BOARD MEMBER EATON: I think just as a courtesy
21 we ought to make Mr. Condit's letter part of the official
22 record of his testimony, because I think that's only
23 fair.
24 BOARD CHAIR MOULTON-PATTERSON: Absolutely.
25 BOARD MEMBER EATON: But I've got a couple of

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1 questions. What is your current status of your contract
2 with PG&E right now?
3 MR. TOMEO: Basically the contract is still in
4 existence. We have not been performing under the
5 contract. PG&E has actually instigated or begun a
6 lawsuit against Modesto Energy for its, for what PG&E
7 anticipates is Modesto's Energy not starting back up
8 again.
9 They have indicated that if we do start up and
10 provide energy they will drop the lawsuit and happily
11 continue the power purchase arrangement.
12 BOARD MEMBER EATON: The other issue and, you
13 know, you and I have gone around and around on part of it
14 because I believe there's been a less than disingenuous
15 relating of the facts when we talk about the $1,200, that
16 was on the spot market which is a different kind of
17 situation than before, because your contract locks you
18 into a specific issue. You would not be able to sell
19 that for $1,200.
20 The $1,200 that was sent to WP was on a spot
21 market, dealt with a specific timeframe. So I don't
22 think that your range of you getting $1,200 is a fair
23 representation of what the market is and what we as a
24 state under the Governor's negotiating team is purchasing
25 from contracts. And I think you would agree with me on

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1 that.
2 MR. TOMEO: That's correct. I was just
3 indicating that --
4 BOARD MEMBER EATON: Let's just set the record
5 straight on that.
6 MR. TOMEO: The total amount of megawatts
7 represents incremental power. And when you're buying the
8 last increment of power, you are buying on the spot
9 market, so I was just trying to provide that comparison.
10 BOARD MEMBER EATON: I also happened to share
11 John, Senator John Burton's President Pro Tem's view that
12 for a dollar you get a hot dog.
13 So are you, is the MELP willing to, whatever
14 this Board would be willing to do to reduce the price of
15 delivery of that amount of energy and the price of that
16 energy by that subsidy? For instance --
17 MR. TOMEO: I'm not sure if I understand the
18 question.
19 BOARD MEMBER EATON: You're trying to get into
20 selling power back to the state.
21 MR. TOMEO: That's correct.
22 BOARD MEMBER EATON: And in another part of
23 state government they said you come back when you're able
24 to sell us power, that's what's going on here, correct,
25 because you can't sell power yet?

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1 MR. TOMEO: Well we cannot sell power because
2 the facility is not operating.
3 BOARD MEMBER EATON: Right.
4 MR. TOMEO: But if we were operating we would be
5 selling power to Pacific Gas & Electric.
6 BOARD MEMBER EATON: But you now need a subsidy,
7 in your own words, to become operative.
8 MR. TOMEO: That's correct.
9 BOARD MEMBER EATON: And so are you willing --
10 and that energy, no doubt, will be purchased then by the
11 state, or transmitted through, if the legislation goes
12 through, the transmission lines that are owned by the
13 state and purchased by the state under the authority of
14 the negotiated long term contract, correct?
15 MR. TOMEO: Well the electricity will be sold
16 by -- I'm sorry, purchased by Pacific Gas & Electric.
17 Should the state buy the transmitting facility, yes, I
18 guess the state would be moving the electricity.
19 BOARD MEMBER EATON: And I'm asking you, are you
20 willing to reduce the price by which you sell that energy
21 by whatever we as the state provide you with assistance?
22 Much like what Mr. Burton is talking about by providing
23 assistance to the utilities for the bailout, and then we
24 get something in return?
25 MR. TOMEO: Well I think what the proposition

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here, if that's what you're getting at is --

BOARD MEMBER EATON: It's s not a proposition, I'm just asking are you willing to do it?

MR. TOMEO: We are willing to invest three and a half million dollars to see to the restart of this facility, if we can sell the electricity and operate the facility in a manner that pays back that investment. And without the subsidy that would not be possible.

And no, so I mean if you're asking us would we, you know, give the subsidy back, I wouldn't ask for it if I didn't need it. And if I gave it back then I wouldn't have it.

BOARD MEMBER EATON: Well we're not talking about, we're talking about reducing the price of the electricity by which you sell.

MR. TOMEO: But still --

BOARD MEMBER EATON: You asked us, you started out your comments by a private and public partnership. So we need to get something back for what we get.

MR. TOMEO: Sure. What we're talking about providing is lower priced electricity, offsetting the high cost of marginal out of state purchases that are having to be made as a result of the electrical shortage.

BOARD MEMBER EATON: You also understand, Mr. Tomeo, there's a lot of legal issues which we can't

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1 discuss right now with regard to the complications that
2 arise, that we've been advised as well. So I, at least
3 from my particular standpoint as one Board member I don't
4 believe that next month is a realistic goal by which you
5 think this Board can take action.
6 MR. TOMEO: Well I don't know because I haven't
7 been involved in Board meetings on a regular basis. But
8 I do know that in order for us to be able to get the
9 facility back on line that we would need a very strong
10 positive signal from the Board by next month's Board
11 meeting.
12 And that's my request, basically hoping that we
13 can work diligently over the next month to work that
14 out. I mean our legislature is trying to solve the
15 entire electric crisis in less than a month, and I'm
16 hoping that we can work out a twelve and a half megawatt
17 sale.
18 BOARD MEMBER EATON: And what has been their
19 response to your proposal? Have they said we will buy
20 your power? As the state power authority that is
21 negotiating now have they said they will buy your power?
22 MR. TOMEO: Actually we have a power purchasing
23 agreement with PG&E, and they have clearly indicated they
24 will buy the power if we make it available. So I don't
25 need the state.

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1 BOARD MEMBER JONES: At what price?
2 MR. TOMEO: At the five cents per kilowatt
3 hour. The legislature is currently engaged in
4 negotiation with all the energy generators that have SO
5 four contracts to have them sell that electricity at a
6 very low price to the state for a five year period, at
7 just over five cents per kilowatt hour.
8 BOARD CHAIR MOULTON-PATTERSON: Ms. Gildart.
9 MS. GILDART: In the original transition period
10 provided for by AB 1890, I believe your facility
11 qualified for some incentive payments, is that still the
12 case?
13 MR. TOMEO: It was and I guess still would be,
14 however, Martha, if you remember, the AB 1890 payments
15 are capped that if they were ever, if the price of
16 electricity is over four and a half cents that there
17 would be no payment. And since the negotiation with the
18 legislature right now is talking about locking in all
19 renewables for five years at 5.3 cents, that program
20 would no longer be effective or available.
21 MS. GILDART: To incorporate Mr. Jones'
22 question, it's estimated about two and a half cents per
23 kilowatt power would be provided by the fifty cent per
24 tire fee. I think it actually comes to about three cents
25 per kilowatt hour.

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1 If you combine that with the five cent possible
2 contract, that would provide an eight cent per kilowatt
3 hour payment total which is, I would think, pretty
4 lucrative for a plant to operate.
5 In past years there had been discussions of
6 their needing, I think it was seven cents, was that about
7 two years ago?
8 MR. TOMEO: I think that's about right. And
9 that, if you recall, was the period of time when -- well,
10 if we really roll back, the facility was built in an age
11 where they anticipated the twelve to thirteen cents per
12 kilowatt hour basically indefinitely, and that was the
13 basis for the original investment.
14 When our company came in, and if you recall it
15 was at the request of the banks recognizing that they had
16 a distressed loan situation, at the cliff the banks wrote
17 off $19 million in debt because they never expected
18 additional money to be distributed from this facility.
19 Since that time we've engaged in a very open
20 dialogue with you, letting you know that this is a, I
21 have called it the break even proposition from this
22 podium before, and that's euphemistic for it's not losing
23 a whole lot of money.
24 We anticipated that perhaps something would come
25 about with the state, that they would recognize that the

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1 use of tires to produce energy is, as Mr., as Senator
2 Roberti pointed out, a twofer, and we hope that that may
3 come about, especially in light of the energy crisis.
4 I think that the most telling symbol of the
5 economic situation of this facility is that we were in
6 the process of final closure. And if we don't get the
7 support I suppose that that, well it's not I suppose,
8 that will be the direction that this facility will
9 ultimately go. And if we want to write off enough
10 electricity to supply 15,000 homes at a price that's
11 under ten cents a kilowatt hour, I think that that's a
12 mistake, but that's your opportunity.
13 BOARD MEMBER EATON: I don't think, I think
14 there's other issues, environmental issues that have yet
15 to be addressed, and that were a constant problem, as
16 related by the subsequent fire investigation with regard
17 to the activities that surrounded that site, by a number
18 of parties.
19 MR. TOMEO: I agree that there are a number of
20 parties that have still not participated in any
21 substantive way with the cleanup of that site or in good
22 faith negotiations with the state to deal with their
23 potential responsibilities.
24 I think you also know that we are the only party
25 that continuously acted to the benefit of the state in

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1 protecting the environment there. And we've also
2 contributed millions of dollars towards cleanup, and have
3 offered our insurance payments in a final settlement, and
4 the state has found the deal to be acceptable, and the
5 agreement has been signed, and it is now awaiting final
6 hearing for closure. So I think Modesto Energy --
7 BOARD MEMBER EATON: It's not as simple as that.
8 MR. TOMEO: I think Modesto Energy's performance
9 there has been admirable and I think you'll find plenty
10 of people that support that.
11 BOARD MEMBER EATON: I have tried really, you
12 know, to get along with you, but for some reason you just
13 continue to just go off on your way and refuse to
14 acknowledge things and try and work out.
15 Are you willing to put up your profit for what
16 we subsidize and return it back to the ratepayers? I
17 find it very hard for ratepayers to have to pay, and our
18 Governor even said so, have to pay a cost twice. And
19 what you're asking is to pay it on two ways, the
20 ratepayer, and you're unwilling to sort of give back to
21 help you.
22 BOARD MEMBER ROBERTI: Madam Chair.
23 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones was
24 next and then Senator Roberti.
25 Mr. Jones.

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1 BOARD MEMBER JONES: Thank you, Madam Chair.
2 Part of the testimony we're hearing today is
3 that this facility was going to close, I guess UAE, I
4 guess it's UAE was going to shut it down. But we have
5 heard through the grapevine and others that another group
6 was going to buy that. I don't know if you guys were
7 part of that deal. But there sure as heck was an awful
8 lot of talk that another consort -- another group,
9 consortium, whatever, was interested in buying that
10 facility.
11 So I don't know that, I don't know that, if
12 they're in the picture, if they're your partners, if
13 they're not your partners; if this is maybe the, I don't
14 even know who those people are, I don't even know if
15 that's a true statement, okay, I just, we hear different
16 things.
17 But it's interesting that if that was a viable
18 prospect of somebody buying your closed facility, if they
19 are still in the picture and, cause I hadn't heard of
20 them if, in fact, they needed a subsidy or not.
21 And I worry about -- because I think to
22 characterize this Board as not wanting to do a twofer is
23 disingenuous. This Board, when you were ready to fall
24 off the cliff, as Martha talked about, when you were
25 ready to lose that subsidy back in 1997, this Board

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1 funded the cleanup of four million tires from that tire
2 pile at a cost of $1.4 million, in anticipation of MELP
3 energy falling off the cliff. We wanted to take
4 advantage of your facility, help supply you with a tire
5 supply and a funding source.
6 I don't think this Board has ever done anything
7 that has tried to discourage or tried to diminish the
8 fact that MELP offered a, and offers a positive, you
9 know, a positive. But to link us in this conversation,
10 and I've seen it enough times since 1997, to say that if
11 somehow we don't want to take care of the tire problem if
12 we don't subsidize MELP, it's disingenuous and I think it
13 cuts to the heart of your comments.
14 And that's a good leveraging tactic, and it's
15 great in the newspapers, but it ain't going to work,
16 because it's got to be square up. I've voted too many
17 times here to subsidize and help MELP to sit up here and
18 hear that we've got to subsidize you to the tune of
19 $600,000 a day to be able to not only take care of
20 energy, but to take care of the tire problem.
21 So we've got to keep working on this and try to
22 figure out what makes sense for the citizens of the State
23 of California.
24 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.
25 BOARD MEMBER ROBERTI: Yeah, Madam Chair. I

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1 would just like to address the point that I, for one,
2 don't find it a problem that somebody is going to be
3 profiting or even have a lucrative deal by the use of
4 grant money that we give. If that's the case, then we
5 might as well cut, close down all our market development
6 programs, because that's what they're about.
7 We are right now in the business of trying to
8 encourage a nascent industry, people engaged in recycling
9 or beneficial use of waste materials. All of us know
10 that that's not easy to do. That's why we subsidize or
11 give loans. That's why we spend maybe over 60 percent of
12 our time on this Board trying to find how to get
13 businesses to find it profitable to reduce waste.
14 Now I hear the suggestion that one company, you
15 know, ought to give back the profit. I know that wasn't,
16 that was the tenor, I know that wasn't the total meaning,
17 but that's, I know that was the word that came out. And
18 I don't have a problem with somebody making a profit,
19 because that's what we're about, that's what we're trying
20 to encourage.
21 So for my vote I don't have a problem with even,
22 even with the adjective lucrative. I would like
23 justified, and I would like our staff to come back when
24 we do vote on this, and I agree with the witness that if
25 the legislature can work this out in one month and we can

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1 vote it up or down in one month too, to come back with
2 information as to what alternatives there would be
3 fiscally considered, because obviously we want to make
4 the best deal we can if we vote for this for the State of
5 California as well.
6 But the idea that something may be lucrative for
7 someone who seeks a grant or a loan from us, I mean
8 that's what we're about. Now why do we single MELP out
9 as saying hmmm, now maybe that's something we shouldn't
10 be doing. We're trying to get industries encouraged to
11 deal with recycling. And that's our bottom line. And
12 that should be what our goal is. And hopefully we'll
13 have a whole bunch of lucrative businesses doing this
14 because that's how we're going to reduce waste in
15 California.
16 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian had
17 a question for Mr. Tomeo.
18 BOARD MEMBER PAPARIAN: When you were operating
19 in the past, were you getting a different amount from
20 PG&E as what you described that you would get in the
21 future?
22 MR. TOMEO: We were prior to the cliff. The
23 energy component, the payment was around thirteen cents a
24 kilowatt hour. In October of 1997 that reduced to the
25 then current market rate which was, if I recall,

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1 something like two and a half or three cents a kilowatt
2 hour.
3 There was also, around that same time, a program
4 passed to help renewable energy plants. And Martha
5 Gildart referred to that earlier as AB 1890. So that
6 provided another penny and a half for its first couple of
7 years, and then reduced to one cent.
8 So, and that's the energy payments that we've
9 been receiving.
10 BOARD MEMBER PAPARIAN: So at the last point you
11 were operating you were getting four, four and a half
12 cents it sounds like?
13 MR. TOMEO: That's correct.
14 BOARD MEMBER PAPARIAN: So help me understand
15 the, sort of the difference in the economics. If you
16 were getting four, four and a half cents then, and you
17 would get five cents now under your contract with
18 PG&E --
19 MR. TOMEO: Uh-huh.
20 BOARD MEMBER PAPARIAN: -- yet you would need an
21 extra two and a half or three cents --
22 MR. TOMEO: Right.
23 BOARD MEMBER PAPARIAN: -- to make it economic?
24 MR. TOMEO: Sure.
25 BOARD MEMBER PAPARIAN: I mean I've heard Mr.

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1 Eaton's, you know, questions of economics, and now I'm
2 kind of wondering how this works.
3 MR. TOMEO: Sure. It's pretty straightforward.
4 As I mentioned, the facility had been operating at a loss
5 for the last few years, so there is no profit, there's
6 money going the wrong direction in that circumstance.
7 BOARD MEMBER PAPARIAN: Was the loss three cents
8 a kilowatt hour?
9 MR. TOMEO: Not quite of that magnitude, but
10 it's, it was substantive. We also have a investment of
11 three and a half million dollars that would need to be
12 recovered over a fairly short period of time, so you need
13 some money to cover that.
14 And our, what we see as a reliable tire supply,
15 is actually a tire supply that will not come with a
16 substantive tip fee. And so there's a change in the cost
17 equation there as well.
18 BOARD MEMBER PAPARIAN: Is there a willingness
19 on your part to have, if there were some, if we entered
20 into discussions of some sort of subsidy, is there
21 willingness on your part to have some sort of profit cap
22 in exchange, the dollar for a hot dog.
23 BOARD MEMBER EATON: First off, I didn't say
24 profit, I just said return of what our investment was
25 back to the ratepayer. And, you know, I wanted to be

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1 correct. I know Senator Roberti wasn't trying to
2 insinuate that I'm somehow anti-profit.
3 I think what I was basically saying is that when
4 if we're in this all together, then if we are willing to
5 put our money up to assist in getting you started, then
6 we ought to have a return, just as -- it's a bailout,
7 plain and simple. You said if you don't get this help
8 you don't go. That's much like utilities saying if we
9 don't get our rate of return we go bankrupt. It's the
10 same argument, different form.
11 And all I'm saying is that we ought to speak
12 with a unified voice. If you're interested in really
13 starting a business, in making some, you know, profit,
14 that's fine. If we're willing to invest in that, then we
15 ought to get something in return into those twelve or
16 15,000 homes, they're going to have to pay for that
17 money. That's --
18 BOARD MEMBER PAPARIAN: Well however you put it,
19 as a return or as a cap on your profits, is there a
20 willingness there to --
21 BOARD MEMBER EATON: Right.
22 MR. TOMEO: We'd be willing to explore some cap
23 mechanism or some unjust profits limit or whatever the
24 Board would think would be appropriate for a facility
25 receiving assistance, absolutely.

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1 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr. Jones
2 was next.
3 BOARD MEMBER JONES: I'm glad Mr. Eaton did that
4 because I know the Senator would never accuse me of
5 thinking profit was bad. I never did the stuff for the
6 experience.
7 BOARD MEMBER ROBERTI: And Mr. Eaton heard me
8 right, I was not insinuating that.
9 BOARD MEMBER EATON: I know this is, I mean this
10 is a good discussion.
11 BOARD MEMBER ROBERTI: Right. This is a debate.
12 BOARD MEMBER EATON: And this also has to do
13 with environmental issues, and we haven't yet got into
14 those yet.
15 MR. TOMEO: And I'm happy to talk about those
16 too, Mr. Eaton.
17 BOARD MEMBER EATON: Oh, please.
18 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
19 BOARD MEMBER EATON: I'm ready.
20 BOARD CHAIR MOULTON-PATTERSON: And then I'd
21 like to speak.
22 BOARD MEMBER JONES: The fifty cents a tire we
23 gotta look at. I mean, you know, on the item before this
24 we had the crumb rubber industry that came forward and
25 said that they were being squeezed out by Canadian and

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1 Arizona and Utah tires, and they were looking at five
2 cents. So, you know, if we're not afraid, if we're not
3 afraid to spread the money around for all these things, I
4 don't think we can do one out without doing the other,
5 because this is going to distort the marketplace. And,
6 you know, to give it to them without giving some to the
7 crumb rubber folks might, you know, might be something
8 you need to think about.
9 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
10 Jones.
11 Mr. Tomeo, my question is to Mr. Leary, thank
12 you, and we do have two other speakers.
13 MR. TOMEO: Thank you very much.
14 BOARD CHAIR MOULTON-PATTERSON: Thank you.
15 Mr. Leary, in Mr. Condit's letter he raised the
16 question of the removal of buried tires. What is the
17 status out there at Westley? How many buried tires do we
18 have?
19 MR. LEARY: If I knew that answer I'd probably
20 be a winner at the lottery also. That is really
21 uncertain, and it is the thrust of a large part of the
22 continuing investigation out there.
23 We have above ground, above surface debris piles
24 to be removed, that I think everyone is generally agreed
25 need to be removed.

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1 And then there's the whole issue of subsurface;
2 one, contamination; two, potential groundwater
3 contamination; and then three, the buried tires.
4 Some preliminary investigatory work has been
5 done on the amount of buried tires, but not to the extent
6 that we can be conclusive about what exactly is there.
7 And to the Congressman's credit, he's always
8 been clear that that is one of his goals in cleaning up
9 the facility there is to get every tire, above ground or
10 below ground, removed.
11 BOARD CHAIR MOULTON-PATTERSON: Thank you.
12 Denise Kennedy from Waste Recovery West.
13 MS. KENNEDY: Madam Chair and our Board, I'm
14 with Waste Recovery West, that's Denise Kennedy, and we
15 are the end use at Calavares Cement for about 1.6 million
16 tires; and we also have a second site in Livermore at
17 Republic Services at Basco Road Landfill.
18 I have a couple of points. Senator Roberti had
19 said, talked about, you know, everybody talks about the
20 number of tires that need a home. There is a big
21 difference between the tire problem in Southern
22 California going to landfills and in Northern California.
23 Currently there are about four companies that
24 are large, we're one of the large ones, that are handling
25 the tires in Northern California. And we are vying for

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1 tires. And now we have Tri C Machinery in there who's
2 come in there at a lower tipping fee than everybody else,
3 and they've now added a fifth company all looking for
4 tires.
5 So that's one issue when we talk about starting
6 MELP back up. The northern tire, those of us in Northern
7 California right now need the tires we have. We have
8 invested money in our companies, in our equipment, in the
9 people we have, and in the customers that we currently
10 have.
11 And so right now none of us are asking for, we
12 are not, our company, I can't speak for the other ones,
13 asking for a reimbursement, a subsidy for the tires.
14 And our tipping fees right now at Livermore are
15 about $50 a ton, forty to fifty, and in Redding at 35,
16 that's bringing the tires to our site, that's not picking
17 them up.
18 So at this point one of the concerns we would
19 have is if all of the sudden they're talking about giving
20 a subsidy to MELP, you do have all the other recyclers
21 that have already invested millions of dollars into
22 putting their programs together that are also going to
23 want the very same amount of money, because it will put
24 the rest of us out of business. We have already
25 developed those customers, or taken in what MELP used to

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1 service them, and now we do, Golden By-Products, Total
2 Tire does. And those tires for the most part are going
3 to alternative daily cover, civil engineering projects,
4 one coming up for the state, and for the cement plants.
5 So there is a use.
6 BOARD MEMBER ROBERTI: Madam Chair.
7 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti
8 has --
9 MS. KENNEDY: Yes.
10 BOARD MEMBER ROBERTI: I didn't quite hear, what
11 is your business?
12 MS. KENNEDY: We're Waste Recovery West with the
13 end use for 1.6 million tires at Calaveras Cement. We
14 collect them and people bring them to us --
15 BOARD MEMBER ROBERTI: So you're a cement --
16 MS. KENNEDY: And we are at Basco Road Landfill
17 in Livermore, and we do alternative daily cover, and are
18 going to be working with the state on a new road project
19 that's coming up, providing chips for that as well.
20 BOARD MEMBER ROBERTI: But what is the bulk of
21 your business however?
22 MS. KENNEDY: It's about fifty-fifty right now
23 between cement and alternative daily covering and civil
24 engineering.
25 BOARD MEMBER ROBERTI: I appreciate what, I

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1 appreciate what you're doing, but as you probably know,
2 both cement kilns, I guess that's the word, and
3 alternative daily cover are very, very controversial.
4 Actually, if I had to think of two things that
5 are maybe more controversial than tires to energy, you've
6 got two of 'em.
7 So that's not saying you're not, you're not
8 making an important point, but there are considerations
9 in voting on your business that may not be present in the
10 MELP situation.
11 MS. KENNEDY: It's not just us, Senator Roberti.
12 BOARD MEMBER ROBERTI: I understand.
13 MS. KENNEDY: It's the other end uses that are
14 also using all those times that were going into MELP are
15 all going to be, we're basically putting other companies,
16 it would be putting other companies out of business,
17 displacing the marketplace, putting it toward -- and I
18 know there's an energy problem, I'm not going to question
19 any of that, and I know it sounds good, but do we pay
20 somebody else to take the very tires that we are already
21 using in Northern California? Those tires are not going
22 to come from Southern California and go into Modesto
23 Energy, it isn't going to happen.
24 BOARD MEMBER ROBERTI: Well tires as alternative
25 daily cover -- I'm just speaking for myself not for Board

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1 policy or anything -- just, and if you can make money
2 doing that, fine, but it doesn't impress me. I mean
3 it's, the rubber is still out there visible and ugly.
4 MS. KENNEDY: Okay. What about civil
5 engineering projects for the State of California,
6 because that's going to be starting here real soon and
7 we're participating in that, is that important? I don't
8 mean to be quite of smart about this.
9 BOARD MEMBER ROBERTI: I don't want to make a
10 comment. I don't know --
11 MS. KENNEDY: Because that is also coming up
12 very soon.
13 BOARD MEMBER ROBERTI: You're making a, I
14 assume, a rhetorical point.
15 MS. KENNEDY: Okay. And I don't mean to be kind
16 of smart --
17 BOARD MEMBER ROBERTI: No. No.
18 MS. KENNEDY: But it's hard when you've, we've
19 invested a lot of money to all the sudden say we're not
20 important, we are not taking care of the problem, we have
21 no tire piles, we've never gotten in trouble for
22 anything, and then all of the sudden something else is a
23 little more important is a little difficult. And just so
24 you know, I'm just reacting to that.
25 And I do want to say, when it comes to the

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1 start-up of some of the plants, I do think Martha did an
2 excellent presentation today, is that we've participated
3 in some of the tests for some of those, and provided 'em
4 with product as well, you just don't start up cement
5 plants very easily or some of these other facilities very
6 well; some of 'em don't want to because they don't want
7 to pay the money, they don't have the economics.
8 So again, it comes down to a business plan, are
9 we going to subsidize these people to be in business, or
10 do we want to work with companies that are viable? So
11 that's just the point I want to make.
12 And when you start subsidizing, as one of the
13 people said earlier today, you will have twelve to sixty
14 companies coming out of the woodwork trying to go in and
15 do the same thing and want subsidies too. It's going to
16 change the whole marketplace, and you're going to have
17 the biggest mess in the world. And so I just wanted to
18 say that.
19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
20 Kennedy.
21 Our court reporter needs a break, it is 1:00
22 o'clock, after 1:00 o'clock and we haven't had lunch, we
23 have one more speaker. What is the Board's pleasure?
24 Would you like to do lunch and come back? Because we had
25 wanted to do 16 also. Mr. Eaton and Mr. Jones, you --

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BOARD MEMBER EATON: You say there's one speaker left on this issue?

BOARD CHAIR MOULTON-PATTERSON: Yes, uh-huh. But the court reporter needs a break, so I'm just wanting to know --

BOARD MEMBER ROBERTI: Since she needs a break then I think it's more efficient for us to break for lunch.

BOARD MEMBER EATON: Yes.

BOARD CHAIR MOULTON-PATTERSON: Okay. Is that okay with everybody?

BOARD MEMBER EATON: Food for thought, Senator.

BOARD CHAIR MOULTON-PATTERSON: We will be back at 2:30, and Mr. Larson, I apologize.

(Thereupon the luncheon recess was taken.)

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AFTERNOON SESSION

--oOo--

BOARD CHAIR MOULTON-PATTERSON: I'd like to call the meeting back to order. Thank you.

We were on our next speaker, that was George Larson.

Oh, ex-partes, thank you.

Mr. Eaton.

BOARD MEMBER EATON: I said a quick hello to Michael Byrnes on the way up. And just a few minutes ago I believe that Gary Takallou had handed to us all a copy of the legal opinion regarding proposed California regulation and the opinion on whether or not you could limit certain types of projects to California only.

So those are the only ones that I received.

BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you.

BOARD MEMBER JONES: Mr. Jones.

BOARD MEMBER JONES: Madam Chair, Doug Carlson, Ed Tomeo, Lee Hamilton, Michael Byrne, Barry Takallou, and that's it, other than a quick reminder to George Larson on the five minute rule.

BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

BOARD MEMBER PAPARIAN: Yeah, Gary Takallou and George Larson.

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1 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
2 you. Barry Takallou also.
3 Mr. Larson.
4 MR. LARSON: Madam Chair, members, thank you. I
5 actually think the break for lunch was beneficial to what
6 I'd like to say because it certainly gave me some time to
7 give some introspection of a few comments I want to make
8 under five minutes, and hopefully, you know, maybe
9 distance it a little bit from the tenor of the discussion
10 that we were having prior to the lunch break.
11 And let me explain. I don't think amongst the
12 Board members that there's any one of you who doesn't see
13 the value in the services that any facility or facility
14 like MELP that can handle six million tires has to be
15 viewed as an asset to California and to the management of
16 the waste tire issue.
17 I think where the rub is, if you will, is how
18 that might be structured and how, what the state role may
19 be. But I think there's kind of an, in my opinion, an
20 implicit acceptance of the fact that that facility is an
21 asset and we just maybe need to figure out how to, how to
22 make it work for everyone.
23 And having said that, I wanted to kind of see if
24 I can draw back the issue and differentiate between that
25 discussion on MELP and what I see the intent and, the

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spirit and intent of what this subject matter comes to address.

And not having really focused on this agenda item until the discussion started, I'm really of a mind that this may be the most important agenda item discussed at this Board meeting as it has implications for the future of where this Board may go in its future activities in creating and advancing policy for waste management which includes, if we're able to broaden our perspectives and horizons, includes energy production.

And I know it's a polite thing for speakers to do to compliment staff when they get up here, but after having worked probably more years than Martha Gildart wants to admit when I was here with this agency for about fifteen years, I'm still taken aback by the knowledge and wisdom that she brings to this issue.

And I hope, I hope you listened to what she had to say because she was giving you very good advice on where we've been and where we might go.

The issue of extracting energy from waste, as everyone knows, has always had a volatile and checkered history. But I think the efforts of this Board over the past ten or more years in successfully implementing AB 939 when it was not polite to bring the issue of anything above 132 degrees, the ideal temperature for composting

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1 centigrade, we can now move on to attacking, if you will,
2 other approaches. And I think this agenda item opens
3 that door.
4 There are some other things the Waste Board is
5 doing, and I'll draw reference to the conversion
6 technologies workshop that will be held on the third and
7 fourth of May where you'll be discussing, I believe,
8 staff and, has an agenda fairly well prepared by now, to
9 take components of the waste stream that have been
10 difficult up till now to process, and to convert to
11 higher end uses, and investigate whether we can convert
12 these materials into other forms such as fuel dissolates
13 or material, raw materials to make new products.
14 It's not a place this Board has ever been. And
15 when they did try to go here in the past, the lessons
16 they learned made it a very difficult task to go back.
17 But I think it's time, and I think this issue is very,
18 very germane to where we need to go. The energy crisis
19 just brings it, I think, into clearer focus. That's my
20 philosophizing for the day.
21 But I did want to talk about a couple of
22 specific issues that Mr. Jones brought up. First, to
23 make a comment that he made reservation about what he
24 knows about energy and that this is not an energy board.
25 I think this could be an energy board. I think there's

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1 opportunities here consistent with the goals and intents
2 of AB 939 to investigate these things, and you and the
3 people of California would be better off for it.
4 On the specifics of questions raised by Mr.
5 Jones on Rio Bravo Jasmine and Rio Bravo Hondo as to fuel
6 consumption capabilities, it is between one and two
7 million tires per facility. And on behalf of Lakin Tire,
8 I'd like to at least indicate that we, Lakin Tire are in
9 negotiations to provide those two inch nominal chips to
10 that facility.
11 And I think that is very consistent with this
12 overall theme I'm trying to push is that there are
13 beneficial end uses, and we should always push it to the
14 highest end use. And while burning and utilizing it for
15 fuel is not the highest end use, until something else is
16 demonstrated that's the way we need to go.
17 Specifically, we received a grant from this
18 Board and we're appreciative of that, Lakin, to process
19 tires into two inch nominal chip. We're in the testing
20 phases now. I will tell you now we've run into some
21 problems with the amount of steel that's protruding from
22 the two inch chips, tying back to the 876 on the
23 production, commercialization. We are planning to come
24 back. We need a shredder that better meets our needs.
25 Again, this reinforces, I think, the correct direction

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1 that the Board is going in.
2 Finally, on behalf of an upstart company, Smart
3 Tech, which uses this catalytic cracking, and I'm sorry
4 the Senator isn't here, because he was making comments
5 very consistent with what these kinds of companies can do
6 to break new ground and to contribute to this again
7 overall theme of being able to extract energy from the
8 waste stream.
9 With that, I appreciate the opportunity.
10 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
11 Larson.
12 Jose Arnaud.
13 MR. ARNAUD: Thank you, Madam Chairman and
14 members of the Board. I come here representing the
15 Patrick and Margaret Philbin Trust. And basically we
16 oppose the approval of the MELP restarting the plant.
17 Okay.
18 There are certain -- as you know, we have a
19 lawsuit pending, and there are several unanswered
20 questions regarding the firefighting issue and regarding
21 the indemnity. Okay.
22 We own the easements regarding the entrance to
23 the plant, and we need to address these cost issues and
24 bring them in a separate meeting.
25 And that's basically what I have come to request

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1 from you.
2 BOARD CHAIR MOULTON-PATTERSON: Thank you. That
3 concludes our speakers for item number twelve.
4 Mr. Leary, do you have enough direction? Ms.
5 Bruce, do you need more direction?
6 MR. LEARY: This item was brought before the
7 Board for information primarily, and the description of
8 the relationship between the waste stream and electricity
9 generation in California.
10 Although much discussion about the MELP plant
11 and its possible reopening and possible subsidies was
12 discussed, I don't believe we've received any firm
13 direction for any future activity, unless the Board would
14 like us to bring back some analysis of the MELP proposal.
15 And maybe I missed something, but if that's the
16 Board's direction, I'll need some further description of
17 what that would entail.
18 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.
19 BOARD MEMBER PAPARIAN: In fairness to Senator
20 Roberti, you might want to hold off on whatever we might
21 or might not suggest until he returns.
22 BOARD CHAIR MOULTON-PATTERSON: I think that's a
23 good suggestion.
24 Ms. Bruce.
25 INTERIM EXECUTIVE DIRECTOR BRUCE: I was just

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1 going to say at this point the direction I did hear is
2 that you would like us to come back with an item that
3 discusses the raising of the tipping fee, I heard that
4 expressed by the Senator.
5 I think you were still in discussion concerning
6 listening to the MELP, so I don't think we heard a
7 direction on that.
8 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
9 BOARD MEMBER JONES: No, I understood, I heard
10 the suggestion by the Senator to raise the fee on
11 landfilling from a buck thirty-four to a buck forty to
12 pay for waste energy and other things, but I, but that
13 may have been his direction. And it's up to the Board if
14 they want to go there, but I, I need a little more
15 information than that.
16 BOARD CHAIR MOULTON-PATTERSON: You meant just
17 bring it back for discussion?
18 INTERIM EXECUTIVE DIRECTOR BRUCE: Yes. I was
19 bringing, if you wanted the item to come forward I just
20 wanted to make sure that you as a Board decided to make
21 sure that's what you wanted to do.
22 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti
23 is not here and I know he said that definitely, but I
24 don't want to -- why don't we just hold on this one until
25 he returns? I want to be clear. And if we need to vote

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we will.

Okay. Item 16.

MR. LEARY: Agenda item 16 is consideration of the approval to formally notice revisions to the waste tire regulations for 45 day comment period.

Since Martha is on a roll, Martha will be doing this presentation.

MS. GILDART: Tom Micka will also be assisting if there's any questions on specific wording in the regulations.

No doubt, no doubt many of the Board members remember the rather lengthy process we've been through in trying to develop some regulations dealing with permitting enforcement and the hauler program.

About two and a half years ago we first brought forth the package, it was then split, it was then recombined, and it had the monofill regs pulled off. Many of the words you see here today in this reg package have been thoroughly reviewed, workshopped, and commented on by the public. Indeed, that package the Board approved a year ago in October was the basis for some of the language that got incorporated into SB 876.

What we've done here is taken that earlier workshop package of regulations and pulled out of it those pieces that were made redundant by the passage of

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1 SB 876, and have modified some portions of it to reflect
2 the changes in statute arising from SB 876.
3 This is not representing the full effort to
4 implement SB 876 and the regulations that we'll need to
5 interpret it; it's an attempt to move forward quickly on
6 the language that we believe is familiar to the regulated
7 public and get this one out of the way, if you will.
8 It will take another month to six weeks to put
9 together the various supporting documents, the fiscal
10 impact statement, statement of need, and submit it to OAL
11 where it will go to the 45 day public comment period and
12 then through the normal rulemaking process.
13 At a later date we will be coming before the
14 Board with what we see as the more complicated pieces of
15 regulation that we feel need additional public workshops
16 before we begin the formal process.
17 So in the package before you today, we feel the
18 changes that have been made, as I said, reflect either SB
19 876 or some other minor changes are listed here on page
20 16-3. The ones that we feel may have some significance
21 include proposed sections 18429 and 18478.4. These have
22 been dropped from the regulation package and may be
23 brought back in that second phase.
24 Proposed section 17225.717 had earlier proposed
25 a new way of treating tires still in the collection

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1 process, but we have changed some of the language, so the
2 regulated public will have seen this before, but there
3 are wording changes that they may wish to comment to. We
4 also redefined the term "store" in proposed section
5 17225.795.
6 In this case because our authority deals with
7 the storage of tires, we felt that the old definition was
8 circular, it used the same language in the statute that
9 said what store was, and we've come up with a new
10 definition, but one which I believe is non-
11 controversial.
12 And then finally the proposed section 17225.820
13 is an attempt to define clarity to the used tire dealer
14 definition and the need to use the 1,500 waste tire
15 limit.
16 So at this time what I would like to do is be
17 open to questions from the Board or the public.
18 BOARD CHAIR MOULTON-PATTERSON: I'm sorry, I
19 just didn't hear the last part of what you said.
20 MS. GILDART: At this point we can take
21 questions from Board members or from the public.
22 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
23 you. I have no speaker slips but would entertain
24 questions from the Board.
25 Mr. Eaton.

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1 BOARD MEMBER EATON: I just have a couple of
2 questions. With regard to the regulations beginning on
3 page three or 16-7 dealing with fire prevention measures,
4 do those apply to just facilities with five hundred tires
5 or more, or which do the fire prevention measures pertain
6 to? Go ahead. Let me try to -- all facilities? Those
7 with major tire --
8 MR. MICKA: I'm Tom Micka. These apply to both
9 minor and major waste tire facilities. They also apply
10 to the cement kilns that are exempted, they still have to
11 comply with these technical standards.
12 BOARD MEMBER EATON: And this is what we would
13 require?
14 MR. MICKA: Yes. There are some provisions in
15 here that allow local fire authority to set standards
16 that are different if they so choose.
17 BOARD MEMBER EATON: Yeah. You see what I'm
18 saying, for a major tire facility, one canister of dry
19 chemical would not seem to be sufficient, so I'm just
20 trying to say, are we dovetailing on local, you know,
21 fire regulations, or do we need to beef up ours?
22 MS. GILDART: These are the minimum standards.
23 A local fire control authority can require further
24 efforts. What they're intended to do is more prevent
25 other fires from reaching a tire pile.

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1 For instance, if there is a brush fire, a
2 wildfire, a structure fire, that this equipment could
3 prevent that fire from engaging the tire piles. It would
4 not be adequate to put out a fully engaged tire pile.
5 BOARD MEMBER EATON: So this isn't for the
6 actual extinguishing of a fire, it's to prevent
7 surrounding areas from perhaps getting to the source of
8 ignition.
9 MS. GILDART: One of our famous recent tire
10 fires might not have happened if only someone had --
11 BOARD MEMBER EATON: Right.
12 BOARD CHAIR MOULTON-PATTERSON: Any other
13 questions or comments on item 16?
14 BOARD MEMBER JONES: Madam Chair.
15 BOARD CHAIR MOULTON-PATTERSON: Yes.
16 BOARD MEMBER JONES: I think we just need to
17 move this to the 45 day comment period.
18 BOARD CHAIR MOULTON-PATTERSON: And we don't
19 need to have a resolution on that. Okay. Thank you.
20 We're going to go back to number twelve now
21 because we had some members missing.
22 But I did want to say to Ms. Gildart, I really
23 appreciated your report, it was very good, and I think if
24 you can get us your notes and we'll get 'em to all the
25 Board members, because it was very informative. And I

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1 don't know about the rest of 'em, but there was a lot to
2 digest and we're very interested.
3 As many of our speakers said, this is a huge
4 issue. And as we started the Board meeting with last,
5 yesterday, we're very concerned about the energy crisis,
6 and so this was very timely. And thank you very much for
7 the information.
8 Senator Roberti, we wanted to go back to item
9 twelve and --
10 BOARD MEMBER ROBERTI: Right, Madam Chair. I
11 would like for staff to prepare a MELP item for our
12 consideration --
13 BOARD CHAIR MOULTON-PATTERSON: Can you hear?
14 BOARD MEMBER ROBERTI: -- to prepare the MELP
15 item for our consideration, giving us various options as
16 far as to what the fiscal aspects of the proposal would
17 be to come up with suggestions as to possibilities on a
18 cap or something related to that as well, based on the
19 discussion Mr. Eaton had with the representatives of
20 MELP, for our consideration. I would hope for the
21 Glendale meeting. If we don't feel prepared to vote on
22 it at that point, that's fine, but it's certainly
23 something we should discuss.
24 BOARD CHAIR MOULTON-PATTERSON: Any other
25 comments? I would certainly like to, since I wasn't

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1 really prepared to discuss MELP specifically today, I
2 would like to, you know, have further time and see if in
3 March, and see what the downside and the upsides are. So
4 I for one would like to see it also.
5 Any other comments?
6 BOARD MEMBER ROBERTI: And I have another item
7 too.
8 BOARD MEMBER EATON: Would this be a
9 consideration item or just a discussion item?
10 BOARD MEMBER ROBERTI: Well I would like it to
11 be consideration, and if you don't want to vote for it, I
12 mean that's fine, but --
13 BOARD MEMBER EATON: Well my concern is always,
14 like yours, Senator, if we have it in March, we're going
15 to be in Southern California, I believe the people of
16 Stanislaus County ought to have the opportunity to be
17 noticed and be heard somewhere closer to home in
18 Sacramento if it's that way.
19 It's not a delaying tactic, but I do believe
20 that notice is something that you've always prided
21 yourself on, and I think it's only fair that if you're
22 going to have a consideration item, which first and
23 foremost I don't think we should have, I think it's far
24 too early because we haven't talked about --
25 BOARD MEMBER ROBERTI: Fair enough, for

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1 consideration, and maybe, maybe the advocates can get a
2 sense of what our, a sense of what the Board is at that
3 point.
4 MS. GILDART: Is that in April then?
5 BOARD MEMBER ROBERTI: No, I meant discussion,
6 discussion. I agree with you.
7 BOARD MEMBER JONES: Discussion.
8 BOARD MEMBER EATON: And so you want to do
9 that --
10 BOARD MEMBER ROBERTI: We can have it for
11 discussion ready for the March meeting. Consideration
12 comes the next month if the Board is --
13 BOARD MEMBER JONES: Based on the discussion.
14 BOARD MEMBER ROBERTI: Based on the discussion.
15 BOARD CHAIR MOULTON-PATTERSON: Okay. So we
16 have that clear. And then the other item that --
17 MR. LEARY: Excuse me, Senator, before we move
18 off of it, I just wanted to, you asked about including
19 the fiscal aspects of the proposal. Obviously staff's
20 ability to analyze the fiscal ramifications of the MELP
21 proposal are going to be difficult when we don't have any
22 authority to review or request MELP's financial records.
23 Is part of your suggestion to us or direction to
24 us is to the extent --
25 BOARD MEMBER ROBERTI: I was really thinking in

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terms of different levels of subsidy.

MR. LEARY: In reference to --

BOARD MEMBER ROBERTI: And the impact on our fire program as well, based on a number of points that were raised during the discussion. Including, I think it was Ms. Kennedy, the last speaker, the adverse impact on other aspects of the tire program, whether I agree with her or not, is something we should consider.

MR. LEARY: So there's not an expectation that we will somehow evaluate MELP's actual need for the subsidy, that we will all recognize, it is clear that the expectation is --

BOARD MEMBER ROBERTI: Well I hadn't heard that MELP was unwilling to make their books available to us.

MR. LEARY: So you would like to see that analysis --

BOARD MEMBER ROBERTI: Yes.

MR. LEARY: -- to the extent that those records are available to us?

BOARD MEMBER ROBERTI: To the extent the records are available, yes.

MR. LEARY: Thank you.

BOARD CHAIR MOULTON-PATTERSON: That's the direction on that.

BOARD MEMBER EATON: I don't understand. Can

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1 you repeat what the direction is, because I'm not sure
2 that that's something that necessarily, I mean we're even
3 capable of asking.
4 MR. LEARY: Well --
5 BOARD MEMBER EATON: I mean you'd have to be in
6 a position to be able to document, I mean, the ability to
7 understand what the economics are. Because we have no
8 records, and you have no ability to understand what the
9 market's going to be based upon the legislation in the
10 future, you can't make that analysis. You are going to
11 have another discussion.
12 BOARD MEMBER ROBERTI: Well that's right.
13 BOARD MEMBER EATON: We sat here today and Mr.
14 Tomeo couldn't even tell us what he was charging, and
15 he's been in the business for fifteen years.
16 BOARD MEMBER ROBERTI: Well I think in one
17 month's time he'll be able to tell us that.
18 BOARD CHAIR MOULTON-PATTERSON: Mr. Judd, is it?
19 Mr. Judd.
20 MR. JUDD: Yes.
21 BOARD CHAIR MOULTON-PATTERSON: Did you wish to
22 speak?
23 MR. JUDD: Just to confirm that if staff wants
24 to sit with management and discuss the economics and
25 current financial status of the business, I'm sure MELP

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1 would be amenable to do that in this time period between
2 this meeting and the next.
3 BOARD CHAIR MOULTON-PATTERSON: Thank you.
4 BOARD MEMBER EATON: I would also request that
5 the consumer groups of Stanislaus County and other
6 elected officials be part of those meetings since they
7 have a vested interest in that as well.
8 MR. JUDD: I'll discuss that with the client and
9 try to get a favorable response to them.
10 BOARD MEMBER EATON: Well without that, and I
11 don't think there's any ability to do that because that's
12 really the issue here. The issue is the environmental
13 concerns versus, you know, what the general need is. And
14 I think that there are sufficient questions and
15 sufficient litigation that's ongoing right now. So for
16 you --
17 MR. JUDD: I understand.
18 BOARD MEMBER EATON: If we're being asked to
19 provide you with sums of money, I think it's only fair
20 that those individuals who would be impacted by those
21 decisions have that same information. It's not
22 proprietary.
23 MR. JUDD: It is proprietary information, it is
24 a private corporation. I'm not suggesting that MELP does
25 not want to share it with anyone, but we would be more

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1 comfortable sharing it with staff and the Board first.
2 BOARD MEMBER ROBERTI: Madam Chair, I think for
3 the purpose of working on a proposal it is sufficient
4 that MELP works candidly with our staff. We certainly
5 are going to have a consumer group's representative both
6 at Glendale, and that's one reason why I agreed to put
7 off consideration of the item until we have a Sacramento
8 meeting so that we can have the free-for-all of all the
9 witnesses that want to come and haven't had, and
10 participate.
11 And I think, they're certainly going to know the
12 direction that may be in the offing by what they find out
13 from Glendale as well.
14 BOARD MEMBER EATON: But I think any discussion
15 or consideration, if you want to basically direct staff
16 to go along those lines then I would like to have a vote;
17 because I would like to see where the Board members are
18 with regard to whether or not this is even a prudent way
19 to proceed given the fact, and the advice that we had in
20 closed session yesterday, as to the particulars and the
21 sensitivity of proceeding with any kind of process by
22 which the restart of this facility, be it MELP or other,
23 should proceed, and we were advised of that. And that
24 makes me nervous.
25 I do not want to do anything that's in injurious

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1 to what our legal position is. And that's all I can
2 really say right at this moment.
3 BOARD CHAIR MOULTON-PATTERSON: We were
4 discussing that -- and that's something they can't
5 discuss it in Glendale?
6 BOARD MEMBER EATON: Not based on that
7 direction.
8 BOARD MEMBER ROBERTI: I didn't sense any
9 direction --
10 BOARD MEMBER EATON: If it's a Board direction
11 then make it a Board direction with the vote.
12 BOARD MEMBER ROBERTI: With what?
13 BOARD MEMBER EATON: With a vote. If you want
14 to make a motion to give that direction, then do so.
15 I'm not trying to get into an argument. I think
16 it's very, very -- you know, we all kind of know where we
17 are on the issue, but I think there's other concerns here
18 that transcend just this issue.
19 Because these are very sophisticated
20 organizations out here. This company, they've hired a PR
21 firm, if they get some direction, the next thing you know
22 it will be in the paper the next week that the Board is
23 going to go allow them, and that is they're going to sell
24 out there, they're going to sell that paper. I don't
25 think that's where I want to be.

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1 INTERIM EXECUTIVE DIRECTOR BRUCE: I'm wondering
2 if we might suggest that, in putting this all together we
3 might consider doing a special Board meeting after the
4 March meeting where that would give time to sort out some
5 of these issues.
6 BOARD CHAIR MOULTON-PATTERSON: Are there --
7 BOARD MEMBER ROBERTI: Could we ask counsel?
8 INTERIM EXECUTIVE DIRECTOR BRUCE: One of our,
9 one of the things we were discussing that we're up
10 against is our agenda packet in a turnaround is due up in
11 the next week here, and that puts us in a very tight time
12 crunch.
13 BOARD MEMBER ROBERTI: Ms. Bruce, I'll hold your
14 opinion in abeyance for a moment while I hear from
15 counsel what we're offering here.
16 I don't recall, well I guess executive session
17 is executive session, but I don't recall that it came up
18 that a discussion of the MELP, the discussion of the MELP
19 item would jeopardize our legal case to the extent that
20 we have a partisan legal case.
21 BOARD MEMBER JONES: I heard a different
22 question.
23 BOARD MEMBER ROBERTI: Well, I'm asking counsel.
24 BOARD MEMBER JONES: In closed session we
25 talked about this.

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1 LEGAL COUNSEL TOBIAS: I beg your pardon, Mr.
2 Jones, I didn't hear that.
3 BOARD MEMBER JONES: Well I'm wondering is the
4 issues we discussed in closed session, I would just as
5 soon go back into closed session --
6 LEGAL COUNSEL TOBIAS: That's what I would
7 suggest.
8 BOARD MEMBER JONES: -- to get that definitive
9 answer, because I tend to agree with Mr. Eaton that, and
10 you weren't here when the, we had testimony from a
11 gentleman in the area that asked us not to go down this
12 road because they're part of a lawsuit against the
13 entities. And you didn't have the opportunity to, you
14 didn't hear that. So I think we are, you know, I think
15 we're treading where we ought to go in closed session.
16 BOARD CHAIR MOULTON-PATTERSON: Let's call a
17 closed session right now. Excuse me, we'll be back.
18 (Thereupon the Board members met in closed
19 session.)
20 (Thereupon the public Board meeting was
21 continued.)
22 BOARD CHAIR MOULTON-PATTERSON: Senator
23 Roberti.
24 BOARD MEMBER ROBERTI: Yes, Madam Chair. Madam
25 Chair, I would like to propose that between the Glendale,

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1 between the time of the Glendale meeting and our April
2 meeting, that we schedule a meeting on tires to energy
3 and all subsidies related thereto, and that staff prepare
4 us information considering the fiscal aspects of
5 proposals presented to us as far as their effect on the
6 tire fund, and their necessity to make requesting parties
7 profitable. And that we have a scheduled meeting to that
8 effect, specifically on tires.
9 BOARD CHAIR MOULTON-PATTERSON: Thank you. Do
10 you have that? If you'll excuse me, we are going to need
11 to go back to item 16.
12 We, there were two people that had not turned in
13 speaker slips, and we're going to give them the courtesy
14 of speaking. And then it's my understanding from our
15 legal counsel that we will need a motion that Mr. Jones
16 tried to make.
17 And so at this time we have John Simpson from
18 American Tire Disposal speaking on agenda item number 16.
19 MR. SIMPSON: Thank you.
20 BOARD CHAIR MOULTON-PATTERSON: Followed by
21 Sydney Israel.
22 MR. SIMPSON: While you were out we've also
23 decided that we were going to meet with staff on this one
24 for the, before the 45 days, and I think we can clear it
25 up pretty much.

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1 BOARD CHAIR MOULTON-PATTERSON: Great, we like
2 that. Thank you.
3 MR. SIMPSON: Thanks.
4 BOARD CHAIR MOULTON-PATTERSON: Is it Israel?
5 MR. ISRAEL: Yes, thank you. Senator Roberti,
6 members of the Board, it's nice to see you again. I
7 represent the Philbin trust. And, you know, years ago I
8 worked for Elvin Younger and he used to say, and I
9 remember it very well, he said the difference between
10 common sense and horse sense, and I think you're showing
11 a lot of common sense by setting up a meeting and special
12 item; he said the difference between common sense and
13 horse is, you know, we want all that common sense, we
14 don't want horse sense, but the common sense is what
15 keeps horses from betting on people.
16 I think today, I'll just sum it up very quickly
17 since we're talking about horses, this is a trailer of
18 what we would say and what we would normally say at a
19 hearing like this.
20 I got my notice this morning at about 1:10, and
21 I was in the Modesto office, fortunately not in the
22 Walnut Creek office, but I think I did the Dennis Cardoza
23 land speed record to come up here to be here. And so the
24 first thing we're going to talk about will be notice.
25 And the second trailer here, and of course that's part of

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1 suspense. The second thing we're going to talk a little
2 about the lawsuit, and I want you to think about those
3 issues because I promised I'd keep this under three
4 minutes.
5 We have a lawsuit that if you went on the
6 Internet, I just received this case two months ago and I
7 feel like Harry Truman, you know, with a load of
8 something landing on his head. It is an incredible
9 lawsuit. I mean they're spending hundreds of thousands
10 of dollars in attorneys fees, which I honestly believe
11 could be better spent on remediation, and I speak as an
12 attorney. I think that maybe the engendering of the
13 lawsuit is engendering a feeding trough for many
14 attorneys who are making a windfall on a case like this;
15 when really a global settlement, when we need energy,
16 when we need things to happen is something we should be
17 thinking about.
18 And that's the third thing. A global
19 resolution, money, energy, that's the next issue to think
20 about.
21 The next issue is damage. I mean there's been
22 damage out there. I just, was, I participated in a
23 deposition of the fire, one of the fire officials. This
24 is a major, major catastrophe. If you look up on the
25 Internet Philbin Tire Fire, the word "American

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1 Chernobyl," and that's amazing.
2 I mean there were all kinds of proposals being
3 made. I mean I'm sure there's proposals to turn this
4 energy into money, but let's not make the mistake again.
5 Remember, we represent the landowner, some landowner that
6 came along, gave the people, as a matter of fact an
7 easement with indemnity agreements, and it's almost like
8 the teacher's pet is receiving the reward when the people
9 that are, when they are creating the problem.
10 We have to work together to redo this entire
11 program throughout the State of California. We can't
12 have just energy because it's, it's Friday. You know, a
13 lot of mistakes were made in times of hard times during
14 the Vietnam War, I can remember the free speech
15 movement. People made mistakes, I think Senator Roberti
16 would agree with me, because they rushed into things and
17 they don't think about what they're doing. Let's not
18 give up the future of our state here, ladies and
19 gentlemen.
20 Our clients own a piece of property that's a
21 beautiful piece of property, only it surrounds this
22 entire area. They gave an easement, an access
23 agreement. I'm an old dirt lawyer, as Harry Miller would
24 say, this is just an easement to go on someone's
25 property. If it was your own property, would you want

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1 something granted knowing that there's a lawsuit pending
2 with eight million dollars in damages that has not been
3 resolved, that has become a mound of pleadings that has
4 just been transferred to Alameda County?
5 So I think you're making a very wise decision to
6 put this over for a special hearing.
7 The good news, the good news is that if
8 everybody puts their head together and maybe keeps it out
9 of the pleadings courts and all these things that are
10 going on. And we sit and spend a lot of time up here in
11 Sacramento as necessary, this could become a model of
12 future energy programs. But you've got to look at all
13 the issues.
14 You've got to give notice to the landowners.
15 You've got to hear the people that are out there, the
16 class action people who have a right to be protected, who
17 are concerned about the cloud of smoke that came over
18 their territory.
19 I'm a native of Stanislaus County and I remember
20 hears ago, we've had these problems in the past, and
21 people have to address the fact that the Central Valley
22 is a place that we live in.
23 I have offices in Walnut Creek and Central
24 Valley, the whole area is growing, it's going to be the
25 future of our state and maybe even the nation.

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1 So what you do here today has critical
2 historical importance, mark my words. This has critical
3 historical importance. And I'll keep it to three minutes
4 because I promised that I would, and I'll answer any
5 questions from any of you.
6 BOARD CHAIR MOULTON-PATTERSON: Thank you.
7 BOARD MEMBER JONES: Just one quick one.
8 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
9 BOARD MEMBER JONES: You said this was the
10 Philbin Trust. The Ed and Mary Philbin or the sister?
11 MR. SIMPSON: Well this would be the, what we
12 call the P.H. and Margaret Philbin Trust.
13 BOARD MEMBER JONES: Okay. That's what I wanted
14 to know.
15 MR. SIMPSON: And we really appreciate your
16 giving us the opportunity to speak today. Any questions,
17 I'm just as new and have had to inundate myself a lot of
18 information the last sixty days. And I will share one
19 thing with you. There are a lot of people who are right.
20 The Attorney General is trying to do their job, you're
21 trying to do yours, there's a lot of constituency here,
22 folks.
23 BOARD CHAIR MOULTON-PATTERSON: Thank you.
24 MR. SIMPSON: And we thank you for the
25 opportunity to speak.

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LEGAL COUNSEL TOBIAS: Madam Chair, may I clarify for purposes of the record that I think the previous gentlemen was talking on agenda item 16, and I think that Mr. Israel is addressing item twelve. I just wanted to be clear for the record.

MR. SIMPSON: Thank you.

BOARD MEMBER JONES: Madam Chair.

BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

BOARD MEMBER JONES: Madam Chair, I would like to move the waste tire regulations for the 45 day comment period.

BOARD MEMBER MEDINA: Second.

BOARD CHAIR MOULTON-PATTERSON: We have a motion by Mr. Jones, seconded by Mr. Medina for the 45 day comment period.

Please call the roll.

COMMITTEE SECRETARY VILLA: Eaton.

BOARD MEMBER EATON: Aye.

BOARD SECRETARY VILLA: Jones.

BOARD MEMBER JONES: Aye.

BOARD SECRETARY VILLA: Medina.

BOARD MEMBER MEDINA: Aye.

BOARD SECRETARY VILLA: Paparian.

BOARD MEMBER PAPARIAN: Aye.

BOARD SECRETARY VILLA: Roberti.

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1 BOARD MEMBER ROBERTI: Aye.
2 BOARD SECRETARY VILLA: Moulton-Patterson.
3 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay. I'd
4 like some direction or just what you would like to do.
5 We have a couple of people from, that have flown up, I
6 believe, from L.A. to speak on the audit item. They
7 can't be here tomorrow, would you like to take that up
8 now? Or we can at least hear them before the day is
9 over.
10 (Thereupon occurred simultaneous discussion.)
11 BOARD CHAIR MOULTON-PATTERSON: Okay. We'll go
12 ahead and hear item 29 now, just the testimony since you
13 can't be here tomorrow. We have Wayne Hunter and Frank
14 -- and Frank Kortum, I believe.
15 MR. HUNTER: Thank you. My name is Wayne
16 Hunter, I am the president of the North Valley
17 Coalition. We appreciate you taking us out of order. I
18 had a number of people with me today that I just, you
19 know, would quickly like to recognize.
20 Miss Ann Ziliak, Miss Kim Thompson, Miss Nicole
21 Wilkin, Ralph Croy who is also prepared to testify.
22 We want you to know that we support the action
23 plan, and that we've been over to the Capitol and we are
24 supporting legislation, along with others, that will help
25 implement the recommendation of the audit report.

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1 And again, thank you for letting us speak. And
2 for the sake of brevity we'd just like Mr. Kortum to
3 address some of the issues that we have.
4 Thank you very much.
5 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
6 Kortum. Mr. Kortum?
7 MR. KORTUM: Yes.
8 BOARD CHAIR MOULTON-PATTERSON: It's your turn
9 to speak.
10 MR. KORTUM: Thank you. I appreciate your
11 taking this matter out of order. A group of us have come
12 up from Los Angeles because of our concern about this
13 issue.
14 We believe that the action plan of the
15 Integrated Waste Management Board represents a good start
16 to solving some of the problems that landfills are
17 causing here in California.
18 We know, we've reviewed the Joint Legislative
19 Audit Committee report, and it confirms what we know in
20 Los Angeles that our health and safety are not being
21 protected under existing law, and we hope that you'll
22 address those issues in the action plan, at least make a
23 start on those.
24 We're particularly concerned about a conflict of
25 interest in Los Angeles County involving the negotiations

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1 to farm the, between the City and County of Los Angeles
2 to form a so-called independent LEA created just for
3 Sunshine Canyon.
4 The problem is that the Sunshine Canyon Landfill
5 is going to be funding the operations of this LEA, and
6 that's going to create a conflict of interest. And we
7 hope that you will address that and act to ensure that
8 this conflict of interest is eliminated so that there is
9 adequate protection for our health and safety in Los
10 Angeles, and the public health risk caused by this
11 landfill.
12 Thank you.
13 BOARD CHAIR MOULTON-PATTERSON: Thank you. Did
14 any Board members have any questions or comments while
15 these speakers are here? Okay. Judy Waegell.
16 MS. WAEGELL: Waegell.
17 BOARD CHAIR MOULTON-PATTERSON: Waegell. Please
18 write these clearly. Come on up.
19 MS. WAEGELL: Thank you very much for letting us
20 speak. I represent the Coalition for Alternative --
21 BOARD CHAIR MOULTON-PATTERSON: A little closer.
22 MS. WAEGELL: I'm Judy Waegell and I represent
23 the Coalition for Alternatives to Kiefer Landfill. And
24 we also appreciate the opportunity to speak today on this
25 issue. And we also support the recommendations in the

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1 State Auditor's report.
2 Our experience with Kiefer Landfill illustrate
3 the problems referred to in this State Auditor's report,
4 because we're particularly concerned with excess capacity
5 here, and because so much has been permitted at Kiefer.
6 Sacramento County Waste Management is in the process of
7 positioning itself to draw in refuse from other
8 jurisdictions to fill this capacity.
9 They currently have a surcharge on out of area
10 refuse which is tied to the disposal cost in their local
11 jurisdiction. They are trying to get the surcharge
12 removed so presumably they can go out and get contracts
13 for this out of waste.
14 Once removed, this has a tendency to disrupt
15 what other jurisdictions have planned, and to seriously
16 undermine these planning effects.
17 Excess capacity on a large scale undermines
18 measures which attempt to reduce waste like recycling,
19 source reduction, and composting, and often ignoring
20 significant detrimental environmental effects.
21 So we really would appreciate your support for
22 the State Auditor's recommendations. Thank you.
23 BOARD CHAIR MOULTON-PATTERSON: Thank you. I
24 have four other slips, and it's my understanding you'd
25 just like these read into the record when we hear that

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1 item tomorrow, or you might speak briefly if you'd like
2 to. Nicole Wilkin? Kim Thompson? Ralph Croy? And
3 Ann --
4 MS. ZILIAK: Ziliak.
5 BOARD CHAIR MOULTON-PATTERSON: Ziliak. I will
6 be happy to read your comments into the record tomorrow,
7 or if you'd like to speak, you may. George Waegell.
8 MR. WAEGELL: Hello. My name is George Waegell,
9 and we farm across the street from Kiefer Landfill in
10 Sacramento County. And Kiefer sits in an outcrop
11 formation which is the aquifer in the whole county. It's
12 a direct, the black horse and acidic sands under Kiefer
13 come to the surface at Kiefer. Under the whole county it
14 comes to the surface at Kiefer, and it's a direct
15 pipeline into the aquifer.
16 And they've already bought a 550 acre ranch.
17 They're in the process of being sued by the Westerberg
18 Ranch, and they're going to keep buying land as the
19 pollution spreads.
20 And it's a serious problem, and I think it needs
21 to be addressed. And that's what I have to say about it.
22 BOARD CHAIR MOULTON-PATTERSON: Thank you very
23 much. And we will be discussing this lengthy item
24 tomorrow morning.
25 Okay. Excuse me, Mr. -- did he leave? I didn't

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1 realize that we still, it's been such a long day, that we
2 still had special waste items. Is Mr. Leary here? Does
3 he want to finish his items?
4 MS. GILDART: I think he just went to the
5 restroom.
6 BOARD MEMBER EATON: The Renee Zellwieger
7 excuse.
8 BOARD CHAIR MOULTON-PATTERSON: It's been a long
9 few days.
10 INTERIM EXECUTIVE DIRECTOR BRUCE: Madam Chair,
11 I think we can go ahead with the staff that is here on
12 that item.
13 BOARD CHAIR MOULTON-PATTERSON: Let's go ahead
14 and finish up special waste.
15 MR. LEARY: You're probably better off without
16 me anyway. Agenda item thirteen, consideration of
17 approval of the scoring criteria and evaluation process
18 for the Local Government Waste Tire Cleanup Grant Program
19 for the fiscal year 2001/2002.
20 As a brief introduction, agenda item thirteen
21 and fourteen are offered, as I said last week in the
22 briefing workshop, as a way to kickstart getting the
23 program going so that ultimately when July 1 rolls
24 around, and the budget act is signed by the Governor, we
25 have programs ready to go and in place to start

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1 implementation of Senate Bill 876.
2 Agenda item 13 will be presented by Diane
3 Nordstrom.
4 MS. NORDSTROM: Good afternoon, Madam Chair and
5 members of the Board. The item before you is the
6 consideration and approval of the --
7 BOARD CHAIR MOULTON-PATTERSON: We're having
8 difficulty hearing you.
9 MS. NORDSTROM: -- of the scoring criteria and
10 evaluation process for the local government Waste Tire
11 Cleanup Grant Program for fiscal year 2001/2002.
12 The local government Waste Tire Cleanup Program
13 provides grant funding to local jurisdictions to clean up
14 legally dumped tires. This will be the fourth year that
15 the Board has provided funding for this program.
16 In the first three years of this grant program
17 the Board allocated $1,350,000 and approved funding for
18 eighteen projects, for a total of $415,859.
19 For fiscal year 2001 and 2002, Board staff is
20 recommending that 700,000 be allocated to this program.
21 To increase the number of applicants for this
22 program, Board staff is proposing the following changes
23 to the program:
24 First, eliminating the 25 percent funding match
25 that is required of the local governments.

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1 Second, increase the maximum grant award to
2 $200,000 per jurisdiction.
3 And third, allow grant applicants to remediate
4 waste tire sites that contain less than five hundred
5 tires.
6 With these changes and increase in staff
7 outreach to LEAs, code enforcement agencies, public work
8 agencies, and Indian reservations, we are anticipating a
9 greater number of applicants for this program.
10 The proposed scoring criteria is the same as in
11 the previous grant cycles except the evidence of recycled
12 content policy section was moved to the general criteria
13 and will include rubberized asphalt concrete. Applicants
14 must score ninety points out of 130 available points to
15 qualify for funding.
16 All applications will be brought to the Board
17 quarterly on a first come, first served basis. If enough
18 applications are submitted to make it competitive, then
19 the highest ranking applications will be selected first.
20 Board concurrence on this item would also direct
21 staff to prepare the notice of funding availability and
22 would mail it to interested local governments.
23 Staff recommends adoption of Resolution 2001-45
24 and approve the proposed scoring criteria and evaluation
25 process for the local government Waste Tire Cleanup Grant

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1 Program for fiscal year 2001/2002.
2 This concludes my presentation.
3 BOARD CHAIR MOULTON-PATTERSON: Any questions
4 before we go to the public speaker?
5 Mr. Eaton.
6 BOARD MEMBER EATON: With respect to the
7 criteria, disposition, does that also include
8 landfilling?
9 MS. NORDSTROM: Yes.
10 BOARD MEMBER EATON: So in other words, you
11 would award, a person could get equal number of points
12 for landfilling as he could for reuse or recycling?
13 MS. NORDSTROM: In the preference criteria the,
14 they're given extra points for recycling or other
15 alternative -- you know.
16 BOARD MEMBER EATON: I'm just trying to figure
17 out because based on some of the testimony this morning
18 with 876, I'm just trying to find out whether or not we
19 can build in an incentive for the local grant, do you
20 have a beneficial use and whether or not disposition,
21 i.e., landfilling, you can get the same number of points,
22 which would kind of defeat what our hierarchy happens to
23 be.
24 MS. NORDSTROM: We can change it to give them
25 more points if they do recycle or alternative.

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BOARD MEMBER EATON: That would seem to be in keeping with our mission, but --

MR. LEARY: Absolutely.

BOARD MEMBER EATON: -- I just want kind of want to give some idea what that would be.

MR. LEARY: It was discussed briefly in the workshop last week, and what we ultimately didn't get resolved was how we would structure that preference for recycling or reuse.

If your direction back to us is to reshape these criteria to develop some sort of preference for a local jurisdiction coming in with their grant application and their identification of sites to be cleaned up to identify those that they believe have the potential to be recycled or recovered, we'd be happy to add that.

And I agree with you, it's truly consistent with the nature. But the difficulty is when it becomes financially not viable, do you then penalize a jurisdiction who has sites to be cleaned up yet is very distant from any recycling opportunity. We're a little bit concerned about that and wrestled with it at the staff level.

BOARD MEMBER EATON: Could you perhaps answer for me one other question?

MR. LEARY: I'll sure try.

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1 BOARD MEMBER EATON: You have on page fifteen of
2 our five year plan $750,000 only allocated for this year
3 2001 to 2002, and yet for this item we're talking about a
4 million. Which is it?
5 MR. LEARY: It is the million.
6 BOARD MEMBER EATON: Okay.
7 MR. LEARY: We need to reshape the five year
8 plan.
9 BOARD MEMBER EATON: So we need to go back and
10 change the other one for --
11 MR. LEARY: Absolutely. Good catch.
12 BOARD MEMBER EATON: Always.
13 BOARD MEMBER JONES: A follow-up question on
14 this because I believe we should have criteria for
15 recycling as opposed to a little more landfilling. But
16 you may want to have a picture of the tire pile as part
17 of your criteria, because some of those tires may be in a
18 state that they can't be recycled.
19 MR. LEARY: Exactly.
20 BOARD MEMBER JONES: And I know that's not where
21 Mr. Eaton is going so, but I think that shows balance
22 that by including that picture you see the state of the
23 tire, and that it has a viable end use.
24 Because what you don't want to do is have
25 somebody give you a proposal that gets more points

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because they say they will recycle 'em, but they know that the condition of the tires is so bad that no recycler will take them.

MR. LEARY: That's right.

BOARD MEMBER JONES: And they get a, that goes right into what you're saying and it promotes it, but it's got a check and balance. And that would make sense to me.

BOARD MEMBER EATON: Yeah, I just got one other question.

BOARD CHAIR MOULTON-PATTERSON: Go ahead.

BOARD MEMBER EATON: And you mentioned, and I'm just trying to be consistent here, Mr. Leary, on page fourteen that we're going to have special consideration given for farm and ranch programs, Native American remediation sites, and mediation sites involving the Mexican California border in your five year plan, and yet I don't see it in the criteria. Am I missing it?

MR. LEARY: Yes, you are. Well you're not missing it, it's not there. In other words, the agenda item that was prepared in this case was prior to the modification of the five year plan.

BOARD MEMBER EATON: You know, I'm just trying to get --

MR. LEARY: No, you're absolutely right. In

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fact, I had anticipated receiving that direction as we discussed this agenda item to add preference points for those same locations.

BOARD CHAIR MOULTON-PATTERSON: Thank you. Jim DeWiese of Butte County.

MR. SWEETSER: I'll step in for Jim, he couldn't make it, he had to head back for a meeting.

My name is Larry Sweetser, and Jim DeWiese was with the county and wanted to make some comments, but also on behalf of the Environmental Services Joint Powers Authority.

I think Mr. Eaton and Mr. Jones actually hit on what a lot of the concern was in that whole area. We're very supportive to this program, it's been very helpful to a lot of the counties cleaning up the tire piles, and we expect to take advantage of that in the future even more.

But we are caught in a quandary of trying to apply for grants and ask for additional funding because of distance and other issues that local counties and rural jurisdictions face to haul off a longer distance to a recycling center than you do to a local landfill. And that has been a big problem in the grants.

So we would like to see them not lose points for trying to promote a recycling option in a grant program

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as opposed to just local landfilling.

And the other aspect you didn't hit upon is that the quandary is even more complicated by the fact that, like in Butte County's case, 1,200 tons of tires from one cleanup program in the landfill is about one percent of their annual tonnage. So they're caught in the quandary of the cost of the disposal decreasing their tonnage and reducing their diversion versus trying to find additional funds to haul somewhere else for recycling.

So it would go a long way toward promoting the message for diversion if you were to give them more points for diversion efforts for recycling, and not have us lose points from it.

Thank you very much.

BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr. Jones.

BOARD MEMBER JONES: One quick question. Is this million dollars going to be enough? Do we have any idea what the demand is going to be? I mean since we're dealing, since we dealt with the five year plan we ought to deal with it today, if we know that the demand is greater.

MR. FUGII: Last August, the August before last, sorry, 1999 August, we allocated a million dollars for this program. We spent about a third of that during that

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1 year, and so we're asking for a million this year again,
2 we feel like we'll probably have enough, that will be
3 enough funds to cover, and if there's an increase, we,
4 you know, we can address that as well.
5 BOARD MEMBER JONES: And I thank Mr. Medina and
6 Mr. Eaton for bringing up the issue of those preference
7 points to those other areas may bring in a segment of the
8 community that we hadn't heard of before. And that's,
9 you know --
10 MR. FUGII: I am Bob Fugii with the Special
11 Waste Division, I'm sorry.
12 BOARD MEMBER MEDINA: And on that point I do
13 have some specific language to insert here, and I would
14 just like to read that under the general criteria need,
15 would read as follows:
16 "Demonstrates needs from communities that
17 heretofore have lacked access to the Board programs,
18 including border communities, reservations, and
19 rancherias." And I'll get that language to you for
20 inclusion.
21 MR. LEARY: I wholeheartedly endorse the
22 concept, I'm happy to add it. I think it works better in
23 reference to past Board policy to be in the program
24 criteria rather than the general criteria. The general
25 criteria are, I believe, adopted by the Board for

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1 incorporation in regard to all grants and applications,
2 that's my understanding of how the process works. So can
3 we build that into the program criteria which is created
4 for each and every different grant program?
5 BOARD MEMBER MEDINA: Is that more appropriate?
6 BOARD MEMBER JONES: Yeah.
7 BOARD MEMBER MEDINA: Yeah.
8 MR. LEARY: Thank you.
9 BOARD MEMBER JONES: Madam Chair.
10 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
11 BOARD MEMBER JONES: I want to move adoption.
12 INTERIM EXECUTIVE DIRECTOR BRUCE: While we are
13 waiting here for just a second, I want to just really
14 emphasize again thank you for the clarification point.
15 In my experience now in going through a couple of these
16 award programs is how important this criteria is at the
17 front, because after then the awards are made you can't
18 come back and tweak the criteria. So I think your points
19 are well made, and I just want to make sure our staff is
20 very clear on this because you can't come back at the
21 other end of it now, we've got to do this now.
22 BOARD MEMBER JONES: I was told by an attorney
23 at this Board that if you ever want to have any input
24 into this program, pal, you better do it right here.
25 INTERIM EXECUTIVE DIRECTOR BRUCE: Thank you.

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1 BOARD MEMBER JONES: And I think you will, you
2 guys could verify, and Mr. Leary, I know that you're a
3 square guy, that that language, that that's the
4 appropriate place, because that goes to everything,
5 right? Okay. Then that's, that's cool.
6 Madam Chair.
7 BOARD CHAIR MOULTON-PATTERSON: Yes.
8 BOARD MEMBER JONES: I would like to move
9 adoption of Resolution 2001-45 as revised to include the
10 comments that we heard here today and the direction.
11 BOARD CHAIR MOULTON-PATTERSON: Okay. So you're
12 moving the revised Resolution 2001-45. Did you want to
13 second that, Mr. Medina?
14 BOARD MEMBER MEDINA: Second.
15 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a
16 motion by Mr. Jones and a second by Mr. Medina. Please
17 call the roll.
18 BOARD SECRETARY VILLA: Eaton.
19 BOARD MEMBER EATON: Aye.
20 BOARD SECRETARY VILLA: Jones.
21 BOARD MEMBER JONES: Aye.
22 BOARD SECRETARY VILLA: Medina.
23 BOARD MEMBER MEDINA: Aye.
24 BOARD SECRETARY VILLA: Paparian.
25 BOARD MEMBER PAPARIAN: Aye.

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BOARD SECRETARY VILLA: Roberti.

(NOT PRESENT.)

BOARD SECRETARY VILLA: Moulton-Patterson.

BOARD CHAIR MOULTON-PATTERSON: Aye. Item fourteen.

MR. LEARY: Agenda item fourteen will be presented by Bob Fugii.

MR. FUGII: Good afternoon, Madam Chair and members of the Board. Bob Fugii with the Special Waste Division.

Item fourteen is consideration of approval of the scoring criteria and evaluation process for the Waste Tire Enforcement Grant Program for FY 2000/2001.

Before I begin, in our haste to put this item together we'd like to make some revisions to this item, and I'd like to bring them to your attention at this time.

The first is under the section entitled "Options for the Board." If you'd like to delete option number four.

BOARD CHAIR MOULTON-PATTERSON: We can't hear you, Bob.

MR. FUGII: Oh, I'm sorry, let me do it one more time.

The first of the revisions is under section, the

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1 section titled "Options for the Board." We'd like to
2 delete option number four. In putting this item
3 together, it's already part of the Resolution 2001-46.
4 And the second revision is on the last page of
5 attachment one. We'd like to add a line to that table
6 that reads, "Bonus points," and it would be inserted
7 between the "Total Possible Program Criteria Points" and
8 "Total Possible Score." We'd like to add the following:
9 "Bonus points if applicant is applying for Waste Tire
10 Enforcement Grant," and it would be a five point item,
11 making the total possible points 80 instead of 75.
12 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
13 you.
14 MR. FUGII: This item presents the proposed
15 criteria for the evaluation process, I guess I said the
16 2000/2001, I meant 2001/2002 waste tire enforcement
17 grants, which is a continuation of the grant program that
18 the Board has supported each of the four previous fiscal
19 years.
20 The intent of the Waste Tire Enforcement Grant
21 Program is to issue grants to local governments to
22 investigate waste tire facilities and survey tire dealers
23 and auto dismantlers to ensure compliance with applicable
24 laws and regulations.
25 In September, 1996, the Board approved

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1 standardized general review criteria for grant programs,
2 and the procedure for presenting the criteria in the
3 evaluation process to the Board.
4 This procedure calls for staff to develop a
5 proposal for assigning points, the general criteria, and
6 to establish program criteria if applicable.
7 Neither the proposed scoring criteria which is
8 contained in attachment one or the evaluation process has
9 changed significantly from the previous grant cycle, so
10 I'm not going to spend a lot of time going into detail.
11 But let me just say that the scoring criteria
12 does consist of both general and program criteria, and
13 all the proposals will be ranked according to the total
14 number of points received.
15 There are a maximum of 75 points, which include
16 both general review of program criteria, and proposals
17 must obtained a minimum of 52 points out of the possible
18 75 to be eligible for funding.
19 And then, of course, as I mentioned, the
20 applicants who are reapplying for Waste Tire Enforcement
21 grants will receive an additional five bonus points.
22 A couple of key issues associated with the grant
23 program I'd like to bring to the Board's attention. The
24 first is that the participation in the tire enforcement
25 grant program has been relatively low, with about only

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1 fifteen different local government agencies funded since
2 1997. We believe that this had occurred for a variety of
3 reasons.
4 The first being that applicants have felt that
5 the grants were not large enough; the tire problem was
6 not considered a high enough priority in their particular
7 jurisdiction; and maybe just lack of staff to implement
8 this particular program.
9 So in an effort to enhance participation by the
10 local government enforcement agencies, we would recommend
11 that the Board consider the following program
12 enhancements:
13 The first would be to offer preference points to
14 those jurisdictions who reapply for the waste tire
15 enforcement grants, and also to consider increasing the
16 grant amounts from a hundred thousand dollars to two
17 hundred thousand dollars per jurisdiction.
18 And let's see. I think that, with that I just
19 say, you know, staff recommends approval of Resolution
20 2001-46 approving the scoring criteria and evaluation
21 process for the Waste Tire Enforcement Grant Program for
22 FY 2001/2002.
23 Are there any questions?
24 BOARD MEMBER EATON: One of the things -- this
25 is, this comes under the LEA's program, correct?

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1 MR. FUGII: The LEAs are just one of the
2 agencies that would apply for the grants.
3 BOARD MEMBER EATON: Okay. My understanding is,
4 and maybe I was mistaken, is that eventually we want to
5 get to the point where we train the LEAs to be our eyes
6 and our ears as relates to that.
7 So is there any component of the 876 budget,
8 cause in some ways this is doing the same thing as your
9 two million dollars, and I know you haven't got that
10 approval yet to go out; but what I'm trying to figure out
11 is, are we going to have a component program wherein you
12 train the LEAs that we fund out of the tire fund, you
13 know what I mean? Just almost like a training program.
14 And then, in addition, have a grant program by
15 which jurisdictions that the LEA or others can then take
16 local conditions into consideration and seek additional
17 monies so they can clean up their local problem. Because
18 obviously that's the way that I thought we were going to
19 proceed.
20 So is there that connection here, or is it still
21 kind of disjointed?
22 MR. FUGII: I think --
23 BOARD MEMBER EATON: I'm supportive of it, I
24 just want to try and get to the LEAs. I mean it's just
25 like, you know, like continuing education, you know. Now

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1 you know how to look for, you know, you know, litter, you
2 know. Now we're going to teach them how to look for tire
3 violations and stuff like that. And then if they have a
4 way to look for these kinds of illegal --
5 MR. FUGII: Right. I believe in the 876 report,
6 in the five year plan there is a proposal to do just
7 that. This particular program has, it has been in place
8 prior to, you know, us doing any of that kind of training
9 so, you know, we would be proposing to do that kind of
10 training as well.
11 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
12 BOARD MEMBER JONES: Thanks, Madam Chair. The
13 200,000, okay, because this is going to support the LEA
14 or the enforcement activity, correct? So really it's not
15 going to clean up any tires --
16 MR. FUGII: No.
17 BOARD MEMBER JONES: -- or it will be people
18 doing surveillance or inspections or those kinds of
19 things, correct. So I have no problem with this
20 beginning, going to two million dollars, but I'm
21 wondering why we want to raise the limit to $200,000.
22 I mean do we have jurisdictions that have those
23 kinds of personnel funding needs? I mean to me that
24 would be three or four people, and maybe that works for
25 the City of L.A. or L.A. County, but it doesn't become, I

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1 mean I guess I get a little nervous, 200 grand is what
2 they can apply for, but I don't want to see ten
3 jurisdictions apply and eat up two million bucks because
4 we've got some guys in Butte County or wherever.
5 BOARD MEMBER EATON: Glenn County.
6 BOARD MEMBER JONES: Yeah, Glenn County will be
7 here. How is that going to work?
8 MR. LEARY: Well I mean, you've hit the nail
9 right on the head. Is the intent that we've raised the
10 limit in anticipation of getting involvement from the
11 largest populated counties in the state, and making it a
12 hundred thousand dollars or $50,000 or whatever the lower
13 threshold was wouldn't cover the kind of enforcement
14 presence we want to see start to be established in the
15 L.A. Counties, San Francisco City and County of San
16 Diego, Orange County where we know the problems are.
17 But that's not to say that is to say, that isn't
18 to say 200,000 we don't think would be an appropriate
19 application for the County of Glenn or Butte or Sutter or
20 Yuba from, it really is, we wanted to raise the limit so
21 we'll encourage the creation of that presence in the
22 bigger counties, and offer one of the broader resources
23 to do it.
24 BOARD MEMBER JONES: Okay. Madam Chair, I'll
25 move adoption of Resolution 2001-46. We didn't change

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anything, right? Or did I?

BOARD MEMBER EATON: Didn't change anything.

BOARD MEMBER JONES: We didn't change anything, okay. I'll move Resolution 2001-46, Consideration of Approval and Scoring Criteria and Evaluation Process for Waste Tire Enforcement Grant Programs.

BOARD MEMBER MEDINA: Second.

BOARD CHAIR MOULTON-PATTERSON: Motion by Mr. Jones, seconded by Mr. Medina. Please call the roll.

COMMITTEE SECRETARY VILLA: Eaton.

BOARD MEMBER EATON: Aye.

BOARD SECRETARY VILLA: Jones.

BOARD MEMBER JONES: Aye.

BOARD SECRETARY VILLA: Medina.

BOARD MEMBER MEDINA: Aye.

BOARD SECRETARY VILLA: Paparian.

BOARD MEMBER PAPARIAN: Aye.

BOARD SECRETARY VILLA: Roberti.

(NOT PRESENT.)

BOARD SECRETARY VILLA: Moulton-Patterson.

BOARD CHAIR MOULTON-PATTERSON: Aye.

BOARD MEMBER EATON: Madam Chair, if I could just say one thing. In the future when these grants come forward like this, this particular type, if and when environmental justice criteria, environmental justice

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1 parameters are established, this I think would be a
2 perfect area wherein we'd go into the local jurisdictions
3 and do this kind of work without running afoul of, you
4 know, is it in or what have you.
5 And hopefully we can look at a program like this
6 which is sort of tailor made for going into a particular
7 area, be it urban, be it rural, be it, you know, what
8 have you for that. And so if we can look at the next
9 time the criteria comes forward, hopefully we'll have
10 something, it might be a program where that easily fit as
11 compared to some of the others.
12 BOARD CHAIR MOULTON-PATTERSON: Thank you. Item
13 fifteen.
14 MR. LEARY: Agenda item fifteen concludes the
15 special waste portion of today's agenda. This is
16 consideration of Approval of Scoring Criteria and
17 Evaluation Process for Fiscal Year 2001/2002, Household
18 Hazardous Waste Grants, and will be presented by Mr.
19 Stephen Hernandez.
20 MR. HERNANDEZ: Good afternoon, Madam Chair and
21 Board members.
22 This agenda item presents the proposal, proposed
23 scoring criteria and process for evaluating grant
24 applications for the fiscal year 2001 --
25 UNIDENTIFIED SPEAKERS: We can't hear you.

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1 MR. HERNANDEZ: Is that better?
2 BOARD CHAIR MOULTON-PATTERSON: Yes, that's
3 fine. Thank you.
4 MR. HERNANDEZ: Good afternoon. This agenda
5 item presents the proposed scoring criteria and process
6 for evaluating grant applications for the fiscal year
7 2001/2002 grant program.
8 The focus of this grant cycle is on construction
9 of permanent household hazardous waste collection
10 facilities. Because this type of project is time
11 consuming, this agenda item is presented prior to the
12 beginning of the 2001/2002 fiscal year so that the grant
13 application process can start after the Board approval of
14 this item.
15 Award of the 2001/2002 grants would be
16 contingent upon and subject to the availability of funds
17 appropriated for the grant. This emphasis will focus the
18 Board funding toward activities that have a permanent and
19 lasting impact on the community, a need that was
20 identified by the Board's Paint Task Force. The grant
21 term is September 1, 2001 to March 31st, 2004.
22 All proposals will be ranked according to the
23 total number of points received. There are a maximum of
24 one hundred points which include both the general review
25 and program specific criteria points. Proposals must

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1 contain a minimum of seventy points or one hundred
2 possible points for funding. In the event there is
3 insufficient funding for all qualified applicants, the
4 highest ranked proposals will have funding priority.
5 Green criteria and rerefined oil criteria are
6 incorporated in the general scoring criteria. These
7 criteria represent ten points of the total seventy points
8 an applicant must score to be considered for grant
9 funding.
10 Staff recommends Board approval of option number
11 one and adoption of Resolution 2001-47; approve the
12 proposed scoring criteria, attachment one; and adopt
13 Resolution 2001-47 attachment two.
14 Are there any questions? I've messed up on the
15 attachment there, but --
16 BOARD CHAIR MOULTON-PATTERSON: I don't want you
17 to think we're being rude, we had just a little minor
18 accident up here.
19 Thank you.
20 BOARD MEMBER EATON: Your presentation knocked
21 us off our chairs.
22 MR. HERNANDEZ: I'm sure.
23 BOARD CHAIR MOULTON-PATTERSON: Recycled
24 chairs.
25 BOARD MEMBER MEDINA: I did wish to, under

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1 program criteria, right after underserved areas, I did
2 want to add the words, "Reservations and rancherias"
3 right after that. And right before, "And our small
4 cities."
5 MR. HERNANDEZ: All right.
6 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
7 Medina. Any questions?
8 Mr. Paparian is coming right back.
9 BOARD MEMBER EATON: Do we move?
10 BOARD CHAIR MOULTON-PATTERSON: Yeah, go ahead
11 and why don't we make a motion. Mr. Paparian is going to
12 come right back.
13 Do you mind?
14 BOARD MEMBER EATON: No, not at all. I just
15 didn't know. I move that we adopt Resolution 2001-47
16 regarding the approval of the scoring criteria and
17 evaluation process for Household Hazardous Waste Grants
18 for fiscal years, for fiscal year 2001/2002.
19 BOARD MEMBER MEDINA: Second.
20 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a
21 motion by Mr. Eaton, seconded by Mr. Medina to approve
22 Resolution 2001-47. Please call the roll.
23 COMMITTEE SECRETARY VILLA: Eaton.
24 BOARD MEMBER EATON: Aye.
25 BOARD SECRETARY VILLA: Jones.

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BOARD MEMBER JONES: Aye.

BOARD SECRETARY VILLA: Medina.

BOARD MEMBER MEDINA: Aye.

BOARD SECRETARY VILLA: Paparian.

BOARD MEMBER PAPARIAN: Aye.

BOARD SECRETARY VILLA: Roberti.

(NOT PRESENT.)

BOARD SECRETARY VILLA: Moulton-Patterson.

BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you very much, Mr. Leary.

MR. LEARY: Thank you.

BOARD CHAIR MOULTON-PATTERSON: I believe what we're going to do is try and do the quicker action items, so we'll be coming back to permits, what we left over from yesterday, we'll do that tomorrow morning, the burn dumps and that because there will be some discussion. We're going to be doing seventeen tomorrow per some requests, and number 29.

So if you wouldn't mind, Ms. Wohl, could you come up please and we'll do waste prevention and market development now? Number eighteen.

BOARD MEMBER EATON: Madam Chair, while we're doing this, can I ask, with regard to -- I did some other work with regard to the school garden, was that off calendar and to be taken up? Because we can move that

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1 quickly as well, I've satisfied my needs.
2 BOARD CHAIR MOULTON-PATTERSON: I thought we
3 approved it.
4 BOARD MEMBER EATON: Okay, fine, then I don't
5 have to take that up, okay.
6 BOARD CHAIR MOULTON-PATTERSON: Yeah.
7 INTERIM EXECUTIVE DIRECTOR BRUCE: Board member
8 Eaton, I think we; did; approve; it, I'm sure we did
9 approve that, and what we did is with the understanding
10 that we would discuss the administrative costs.
11 BOARD MEMBER EATON: I just didn't want it
12 hanging around if we were moving stuff.
13 Thank you for your patience.
14 MS. WOHL: We're waiting for one more staff
15 person. We didn't think you'd think our PPC was quick.
16 BOARD CHAIR MOULTON-PATTERSON: That's true. If
17 you're waiting for people, we can go straight to
18 diversion planning and local assistance. They're there,
19 and we do have one person that's here from -- you're
20 waiting on people?
21 MS. WOHL: Bill, Bill feels like he can do it,
22 so we'll go ahead.
23 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
24 you.
25 MS. WOHL: So agenda item 18, Consideration of

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1 Enforcement and Compliance Options Pertaining to the
2 Rigid Plastic Packaging Container Certification Process
3 for the 1997, 1998, and 1999 Compliance Years.
4 MR. ORR: Thank you, Madam Chair, good
5 afternoon, Board members. This item proposes the results
6 for the 1997 through 1998 PPC certification process.
7 At the Board briefing last week we actually went
8 through some of the background in terms of the process
9 that was, that was undertaken. And basically what we'll
10 be doing today is summarizing the results of the
11 certifications, be walking through options for the
12 Board's consideration, and we'll also be highlighting
13 some key issues that may also be beneficial for Board
14 direction.
15 In terms of the compliance options, what
16 basically we found was that there are four groups of
17 companies.
18 The first group of companies are the companies
19 that are in compliance with the RPPC certification
20 requirements.
21 The second group of companies, the second group
22 of companies are the companies that indicated that they
23 were out of compliance with the RPPC certification
24 process by their certifications.
25 And then the third group is where there is not

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1 enough information to yet determine what the status of
2 the certifications are.
3 To actually walk through those specific groups
4 of companies and the various options that the Board can
5 consider in its deliberations, I'm going to turn the
6 presentation over to Neal Johnson, and he'll actually
7 start off with the compliance options and then the key
8 issues.
9 MR. JOHNSON: Good afternoon. I'm trying to --
10 and we're going to pass out some materials so you can
11 sort of follow through with the discussion. So I'll wait
12 a couple minutes for that.
13 Thank you.
14 BOARD CHAIR MOULTON-PATTERSON: We all have them
15 now.
16 MR. JOHNSON: Okay. I'll start with actually
17 the fourth sheet which is, starts with the staff
18 recommendation. And the staff recommendation is looking
19 at a comprehensive strategy with multiple options which
20 are based upon the company groups that Bill was
21 enumerating.
22 For the group in compliance, the option we're
23 asking for is that the Board send them, send the
24 companies a letter thanking them for their compliance
25 with the law. And for those that, where applicable, the

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1 potential are applications for WRAP awards.
2 For the second group which is the out of
3 compliance group, we are looking at, well, the law gives
4 several compliance options, plus the Board has certain
5 discretion. We are recommending, as the primary
6 compliance option, having companies enter into compliance
7 agreements with the Board.
8 And then as a secondary option for those
9 companies that are unwilling to enter into compliance
10 agreements, we would conduct public, we are proposing to
11 conduct public hearings for the purposes of assessing
12 fines and penalties.
13 Also, that group could be referred to the
14 Attorney General for prosecution, or in certain cases
15 companies placed into a future certification site.
16 The compliance agreements we have, the Board did
17 before with the 1996 groups, there were seven compliance
18 agreements out of that group of five hundred companies;
19 and five of the seven have so far demonstrated or
20 achieved compliance, so we think it is a significant
21 option.
22 If the Board chooses to go the route of
23 conducting public hearings, and as we said, for those
24 unwilling to enter into compliance agreements and get the
25 penalties, we also view the public hearings fit into the

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1 group of companies that have not in fact made submittals,
2 but the staff views as regulated.
3 And again, from the 1996 group there was one
4 public hearing conducted for Chemlot Industries who were
5 find $20,000 for non-compliance with the law.
6 In the agenda item we talk about penalty
7 criteria, and there's, we list over the next few slides a
8 series of ones that deal with good faith, degree of
9 compliance, the history, progress towards compliance, and
10 etcetera. And there are a couple that I'd like to
11 particularly highlight on page ten because these become
12 very relevant issues.
13 One is size of the company. We have, out of
14 this thousand companies there are about 25 who have
15 stated that they're very small companies or they're
16 generators of very small quantities which in some cases
17 are apparently down to as few as twenty or so containers
18 in southern California. And also that sort of flows into
19 the impact on marketplace.
20 The, also in the penalty criteria, a couple of,
21 we have listed unique circumstances that the Board might
22 want to consider. Two specific areas we think the Board
23 needs to address is technological and feasibility of
24 using post consumer resin containers; and then the other
25 being submittals that are late.

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1 The, and with respect to the late submittals,
2 and that comes up a little later in the criteria, the
3 regulations give companies sixty to ninety days to
4 respond, and we quite often see responses that are much
5 later than that.
6 The third group of companies is those that don't
7 have rigid plastic packaging containers or don't sell
8 those containers in California. And that group basically
9 is not under the law, but there are some cases where
10 companies assert that they fit into that no container
11 group, and yet the Board staff, through market surveys or
12 other information, has a very different opinion and
13 conflicting data with that. And for those we recommend
14 that, as a primary one, is put 'em into a future
15 certification.
16 The largest group currently in number is the
17 fourth group which really, in a perfect world would not
18 exist, and these are those where compliance has not yet
19 been determined.
20 As of the end of January there were about 275
21 that had not submitted forms.
22 And another 200, roughly the name number that
23 had submitted incomplete forms.
24 Then there were about 25 that either do the
25 acquisitions, mergers during that '97 eight, nine period,

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1 changes in location, change in company names as doing
2 business, and it has been difficult or if not impossible
3 to locate, or the records are no longer in possession of
4 the company of which we ask certification for.
5 And for that group that, the not yet determined,
6 which as I said theoretically does not exist, we view
7 those would fall into, once they submit, firms would be
8 in compliance, and those that we again would handle as
9 other firms in compliance, and send 'em a thank you
10 letter.
11 The out of compliance group, again we would
12 recommend as the current out of compliance group
13 compliance agreements and/or public hearing.
14 For the group where there is no submittal or
15 they continue not to, or fail to complete, submit a
16 complete package upon request, we would ask those be
17 scheduled for public hearing.
18 And finally, for what we view as a fairly small
19 group in number, probably about twenty, where
20 determination of compliance is very difficult, either due
21 to some lack of records, companies of corporate averaged,
22 etcetera, and those we would feel should be put into
23 another certification cycle.
24 Going to the key issues, because this I think
25 really, some of these have to be addressed to really have

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1 a level playing field with respect to enforcement
2 activities; as I said, the four we have a small number of
3 companies to sell relatively small volumes of such
4 containers. There are a few companies this time, we saw
5 a greater group in 1997 that talked about the
6 technological and feasibility of using post consumer
7 resin.
8 There's, and then we have the late submittals
9 group mentioned confidential proprietary information.
10 Much of the number of the things that we are asking for
11 them to submit they feel is confidential and
12 proprietary. We have asked them to identify that in
13 their submittal, and the Public Resources Code provides a
14 process when people ask to see that and that protects
15 that. But it becomes very important if you schedule a
16 public hearing that some of the issues in the hearing
17 would be the confidential proprietary information. And
18 those portions of the hearing would probably have to be
19 closed to the general public.
20 Another big issue is the, is staff actually
21 finding who are the regulated companies.
22 And then finally, the Board and staff workload
23 through enforcement activities.
24 With respect to the small businesses, as I said,
25 we have small companies that are claiming very small, you

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1 know, a two person operation, sell a very small quantity
2 of containers; this law does not provide a small quantity
3 generator sanction, for example; but it does, in the
4 penalty criteria the Board must look at the size of the
5 business and impact of the marketplace. So there's a way
6 what is, how to handle 'em.
7 And with respect to the technological and
8 feasibility of using post consumer resin, there's certain
9 products and companies that have raised this issue. The,
10 in the Public Resources Code it, there is a waiver for
11 companies from the post consumer resin requirement that
12 the law says they must comply via some other method.
13 Lactite and Toro who are two of the
14 non-compliant companies out of the 1996 group have
15 compliance agreements that in, they were directed to do
16 some testing as, with the containers and their products,
17 and those will be, they will be reporting to the Board in
18 the next two or three months on that issue.
19 Late submittals, that is one thing that has
20 plagued, I guess, this program. The regulations give
21 companies sixty days from the time they receive service
22 of the certification request to why they are allowed to
23 apply for, and by and large been granted thirty day
24 extensions. That gives 'em ninety days which were mailed
25 in the middle of August, most companies were due under,

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1 between mid-October and mid-November, and yet from the
2 statistics we were at, by the end of January still had
3 not seen or heard from a great number of those.
4 Currently there's no penalty for late filing.
5 And in the newsprint program which originally had
6 somewhat of the same problem, there has been now
7 instituted a penalty procedure for late filings, and my
8 understanding is we no longer see firms filing late.
9 The confidential proprietary information, I
10 think I covered it. It becomes a problem, particularly
11 in the public hearings setting and the disclosure.
12 One of the things that's been very difficult is
13 finding who is the company regulator. Several of the big
14 issues that arise are companies that view themselves as
15 distributors and retailers and not manufacturers as the
16 term of art in the law is; and yet the law says anyone
17 who is selling the container is defined as a
18 manufacturer, whether they define themselves as some, an
19 importer or distributor, etcetera.
20 The staff conducts marketplace surveys and goes
21 out and looks at the containers on the shelf, and one of
22 the problems we see is, where, for example, in the 1997
23 to '99 group, we were doing those surveys in the year
24 2000.
25 So some of the containers we were seeing were

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1 containers that did not come out until the year 2000 or
2 the year 1999, or in some cases they were containers that
3 were on the shelf in 1994, '95, etcetera, and weren't in
4 sale during the 1997 to 1999 period. So those lead to
5 some disputes on who is, in fact regulated.
6 The general test used in looking at items on
7 the shelf is the company whose name is on the label.
8 There are several cases where we've seen multiple names
9 on container labels. One would be the company who made,
10 who on behalf of the product was made, and one might be
11 the name of the people who actually manufactured the
12 product that went into that container. And sometimes
13 it's extremely difficult to really tell who is the
14 relevant party. And then there are times when there
15 really is no name that you can identify a company to.
16 And then the final issue is what is, in fact, a
17 rigid plastic container.
18 At the eight ounce size, which is about 14.4
19 cubic inches, and that's pretty hard to necessarily
20 eyeball that and know that container fits in. The other
21 bigger problem has been the reclosable clam shell.
22 Moving to Board and staff workload because the,
23 as we go through the enforcement activities, this now is
24 going to start consuming time of the Board itself. Right
25 now we're looking at somewheres between eighty and one

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1 hundred compliance agreements, and those will require
2 each a separate Board agenda item, Board approval, and
3 then subsequent reporting to the Board.
4 If we choose to do public hearings, we're
5 looking at upwards of 150 right now, each public hearing
6 requires about one-half day of Board time just to hear
7 the case. So if you took 150 cases at half a day, we're
8 essentially doing two and a half months of nothing but
9 hearings. And I certainly don't think you, the Board
10 want to go down that route, and I don't think we the
11 staff are prepared to do that type of workload, or it
12 stretches over a year, a year's time.
13 BOARD MEMBER JONES: Is that 84 compliance
14 orders plus 150 hearings?
15 MR. JOHNSON: Well the numbers as they were put
16 is sort of one or the other, but that was based on 550
17 non-respondents at the time, so it, the number could
18 easily be --
19 BOARD MEMBER JONES: 550.
20 MR. JOHNSON: Yeah, right.
21 MS. WOHL: There's 575 basically that we're
22 still unsure of. We're guessing that a certain number
23 would come into, you know, submit and hopefully be in
24 compliance, but you still have the late issue. So it's a
25 matter of how you want to proceed.

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1 And that was sort of why that public hearing
2 idea was brought forward, or maybe having an ALJ do that
3 for you.
4 BOARD MEMBER JONES: If an ALJ did it, Deborah,
5 you're the only attorney that works on this stuff,
6 right?
7 MS. BORZELLERI: Yeah.
8 BOARD MEMBER JONES: So it wouldn't even help if
9 we ended up as a committee of three and a committee of
10 three trying to double this up, because there's only one
11 Deborah Borzelleri, and we all know that.
12 MS. WOHL: It's still a huge workload.
13 MR. JOHNSON: I second that.
14 (Thereupon occurred simultaneous discussion.)
15 BOARD MEMBER JONES: I'm sorry, I just want to
16 close that quickly.
17 MR. JOHNSON: That actually completes our
18 presentation. I thank you for your time.
19 Any questions?
20 BOARD MEMBER JONES: Any questions from the
21 Board?
22 BOARD MEMBER MEDINA: No questions. It's just
23 between options 2A and 2B for myself. Having sat through
24 these kind of hearings, I would favor public hearings
25 before an ALJ, and everything else coming to the Board,

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1 the decision for consideration, possible civil penalties,
2 fines by the Board.
3 But as far as the public hearings, I feel that
4 it would be more appropriate before the ALJ.
5 BOARD MEMBER JONES: Okay. We have one speaker
6 slip. Mr. Randy Powell. Mr. Rick Best is right here,
7 hold on, maybe we have two speaker slips. We actually
8 have three, we have George Larson too. Sorry about that.
9 MR. POLLACK: Thank you, members of the Board.
10 Randy Pollack from Livingston and Mattesich, on behalf of
11 many small companies who have received certification
12 forms. And I just wanted to add to something that Neal
13 Johnson said, that there are many companies out there who
14 are small in nature who almost have an incidental contact
15 with California. They may have thirty one-gallon
16 containers coming in. They might have a thousand, you
17 know, nine ounce containers coming into California. But
18 these are a two or three-person operation based on the
19 East Coast you sell through distributors.
20 So I would just ask that the Board give careful
21 consideration to these issues. That there's really a,
22 that this would be a dramatic impact on many small
23 businesses if they were going to be held to a public
24 hearing, invest time and resources in California, it's
25 something that they can't afford.

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1 Additionally, for them to switch their packaging
2 and manufacturer for such a small number, and since
3 they're a small business, is not really affordable.
4 I talked to one company who said that the
5 company that they've been doing business with for 25
6 years, they don't have the equipment to switch over to a
7 plastic packaging. And even if they did, the amount that
8 it would cost them would not be, it would be prohibitive
9 to them.
10 And so the question, the problem that they have
11 is they sell to distributors, for example, on the East
12 Coast, so they have no idea where their products are
13 going. They'd love to say don't come to California
14 because it's not worth those thousands, but it's very
15 hard for them to control that.
16 Additionally, let me just add on behalf of the
17 soap and detergent association, when we talk about how do
18 we remedy this situation. In looking through this whole
19 certification process we've noticed that many of the
20 forms have gone to, for example, the CEOs of companies,
21 and that has been one of the companies where there have
22 been some companies that have been sold. And so what
23 happens is you're having something sent to a home office
24 to a CEO which ends up, who knows where it ends up, and
25 it's then transferred to some other person, who then it's

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1 transferred over to some other company which is bought by
2 someone else, and so you could go through about three or
3 four different companies before it actually reaches the
4 proper person.
5 There was, one example of this is that I believe
6 the Waste Board was able to contact a company by calling
7 the customer service center at that company and saying I
8 need to talk to someone in the regulatory affairs to send
9 out some information, and that's how this one company
10 found out about the certification process, which I, you
11 know, I give credit to the Board in following up in that
12 fashion.
13 But many times when you're sending it to the
14 president of a major company, I think that is some of the
15 problems.
16 In addition to the sixty day, ninety day, you
17 must remember that these companies, before they submit
18 information, have to go through all their records. And
19 if you're looking through 1997, '98, '99, that is a lot
20 of paperwork for them to, first, get out of their
21 archives; have someone go through all the information;
22 and compile it.
23 And, you know, one person might say well, all
24 they have to do is sign the form for '97 or '98, my
25 response to that is no one who is going to sign this form

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1 under penalty of perjury is not going to do all the
2 research as they would for the 1999 report, getting all
3 that information together, to determine whether or not
4 they were in compliance. So I think the Board also has
5 to take that into consideration.
6 Additionally, I think that what we have to look
7 at, what is the purpose of this program? The purpose of
8 this program, how I see it, is to get companies into
9 compliance.
10 And I can tell you, for example, member
11 companies of the soap and detergent association are in
12 compliance with the law. Every one of them who have
13 received the certification form has returned it and
14 they've been in compliance.
15 But I think that there's also many other
16 companies out there who don't know about this law, who
17 would like to come into compliance. And so I would
18 support the objective of a compliance agreement.
19 I think what's very difficult is when you're
20 looking back in 1997, '98, '99, it's very difficult for
21 these companies to do anything about that.
22 Now, I know an item was brought before this
23 Board about a perspective rate. You look at that and
24 saying that by the year 2002 the overall recycling rate
25 is not going to be met, you companies better be in

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1 compliance or else, or there's a good possibility you're
2 going to be fined. I think that that is more of a, you
3 know, a proper way to go.
4 Because what I think you have to remember is
5 that many of the companies were hoping that the overall
6 recycling rate was going to be above 25 percent, and it
7 was for a certain amount of time. And so now I, and I
8 should say maybe some of them foolishly were banking on
9 that, that they would not have to meet these other
10 alternatives.
11 So I just ask the Board to consider those
12 options as we work through this program to figure out
13 how, the best way to address it.
14 And I commend the Board in taking the steps of
15 issuing a study on the plastics where we'll get all the
16 stakeholders together, look at this issue to determine
17 the best way that we should go in the future on this.
18 And I'm certain that out of the conference that
19 occurred last May, there were a lot of good ideas that
20 come out of this, and I think that future conferences
21 will build upon that, and that by next year we'll have a
22 good understanding of exactly how we should proceed.
23 Thank you.
24 BOARD CHAIR MOULTON-PATTERSON: Thank you.
25 BOARD MEMBER PAPARIAN: Can I ask a question?

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1 You brought this up last week at the briefing as well
2 about the small producers. What is it you're looking for
3 for the small producers, and how small is small in your
4 mind?
5 MR. POWELL: Well I guess that varies according.
6 I've had discussions with the Board on this, what is
7 small? Do you go by a container, you know, a certain
8 amount of containers? Is it a pound, a pound? Is it
9 like 5,000 pounds of plastic coming into California? I
10 mean, I'm not sure what that is.
11 I can tell you that I have companies who, one,
12 who sent twenty one-gallon containers into California
13 approximately. Another one who sent, I believe it was
14 260 items into California in a reclosable package.
15 BOARD MEMBER PAPARIAN: So you want an exemption
16 at some level, right?
17 MR. POWELL: Right. The problem is, is I think
18 it would be great as an exemption, unfortunately there's,
19 as we say under the law, there's nothing there.
20 I mean I think maybe there's an encouragement
21 with these companies in sending notices, letting them
22 know what California law is and trying to work with them
23 may be the best approach with these companies.
24 Which I think you have a big problem here, which
25 I also mentioned last week, is how about if you go to any

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1 of the county fairs or state fairs. People coming into
2 the state selling a lot of those items, you know, in the
3 big tents. And I tell you, there's a lot of clamshells
4 going on in there. And so they are deemed under the Act
5 also.
6 And so I think that the way the law was drafted,
7 you know, it's, I think there needs to be some sort of
8 remedy for those issues there. And I think this is
9 really the first time that it's really developed, you
10 know, looking at this and figuring out how do we handle
11 this.
12 And so I think, you know, if we came up with
13 some sort of cutoff, I would be agreeable to that, and I
14 think that's something to be worked on with the Board.
15 And the question is, you know, is that enforceable or is
16 that appropriate?
17 BOARD MEMBER PAPARIAN: Just so I understand,
18 that is what you're ultimately looking for is some level
19 of cutoff for these, for the very small folks?
20 MR. POWELL: Correct.
21 BOARD MEMBER PAPARIAN: But again, under the
22 existing law that's not really an option for us, right?
23 MS. BORZELLERI: No, that's correct. And the
24 issue is that the statute is very specific about what the
25 exemptions are, so to come up another one through policy

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1 would be an underground regulation. But if we did a
2 regulation it would conflict with statute.
3 BOARD MEMBER PAPARIAN: Right.
4 MS. BORZELLERI: So I think we're in a no win
5 situation on that one.
6 BOARD MEMBER PAPARIAN: Okay. Thanks.
7 LEGAL COUNSEL BLOCK: Just to add onto that --
8 Elliot Block with the legal office.
9 That's not to say the Board couldn't take that
10 into consideration on a case by case basis as these
11 companies came forward. In other words, you could look
12 at that. But setting up a fourth general exemption or a
13 level in advance is what you would not have the authority
14 to do at this point.
15 BOARD CHAIR MOULTON-PATTERSON: Thank you.
16 Thank you.
17 BOARD MEMBER JONES: Can I ask a follow-up
18 question? Not of Randy, of Deborah and/or whoever. If
19 those companies that were small generators were dealt
20 with through the compliance order, then that would give
21 you the opportunity to look at just what they're, the
22 volume is and what's the extent of the problem. I mean
23 is that, how would you propose to handle some of these?
24 Through compliance or what?
25 MS. BORZELLERI: I think it, part of it depends

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1 on how the company wants to proceed. I mean we've looked
2 at compliance agreements as a voluntary, they're willing
3 to come forward and work with us on coming into
4 compliance.
5 You know, there may be some who say it's just
6 not worth it for us to even do anything, in which case I
7 think the Board needs to talk to those companies. And,
8 you know, there could be a special compliance agreement
9 for them, or some sort of agreement of what they're going
10 to do, that could come forward that way. But if they're
11 just not willing to talk it might be more appropriate in
12 a public hearing setting.
13 BOARD MEMBER JONES: Right. But the person that
14 comes in and there was, their records showed 200
15 containers came to California, and they say, no, it was a
16 hundred percent merchant whatever. Then in that, in the
17 course of a compliance order, right, I mean is that what
18 we're talking about here, that we could look at that?
19 MS. BORZELLERI: Actually, you know Elliot may
20 want to help out on this, we don't really have specific
21 authority for a compliance quote order in our statute.
22 So we offer them a compliance agreement; we can come up
23 with a stipulated agreement between the parties, you
24 know; we can hold a public hearing and come up with an
25 order from that proceeding.

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1 Elliot, did you want to add anything with that?
2 LEGAL COUNSEL BLOCK: I agree with everything
3 that Deborah said. I think that, you know, in theory, if
4 you were really talking about, let's say a small company,
5 where we're really talking about twenty containers, and
6 there was some evidence that the Board considered
7 appropriate about really the infeasibility of even going
8 down a compliance order route, in other words, it didn't
9 make sense to spend whatever, $50,000 to retool when
10 you're talking about such a small amount of containers;
11 the statutory authority, the statutory language regarding
12 fines is phrased in terms of may, not shall. So the
13 Board has some flexibility to essentially make a
14 determination to, even to not do a compliance order for a
15 particular case and/or not impose a fine.
16 The issue here is logistical, if you will; which
17 is, how does that information get in front of the Board
18 so you can make that determination? And I think that's
19 why it would primarily be coming forward in at least the
20 form of a compliance agreement initially, and of course
21 the Board could use that forum to essentially make that
22 determination.
23 You may recall the fines for plans that were
24 submitted late, not submitted from a few years ago, and
25 the Board was able to, in one case, issue a fine and then

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1 essentially waive it due to factors. So I would see this
2 as being very similar to that.
3 MS. BORZELLERI: One additional point that Neal
4 just raised to me is that there are several very small
5 companies who have responded and are in compliance, so
6 something else to consider.
7 BOARD CHAIR MOULTON-PATTERSON: Thank you.
8 MR. POLLACK: I'd like to add just one thing,
9 just maybe picking up on what Elliot said, is that many
10 of the small businesses that I have been working with,
11 they have checked with their suppliers, I would say maybe
12 one thing is in compliance that they have checked with,
13 whether it's feasible for them to submit information to
14 the Board, but it's difficult for them to produce
15 containers in meeting the California law.
16 Thank you.
17 BOARD CHAIR MOULTON-PATTERSON: Thank you. Rick
18 Best.
19 MR. BEST: Thank you, Chairwoman and Board
20 members. My name is Rick Best with Californians Against
21 Waste. And I thank you for the opportunity to speak on
22 this issue.
23 We've had obviously a long history on this. I
24 think a couple of Board members here may not have much
25 history with the RPPC issue, and I want to provide a

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1 little bit of background. I realize the lateness of the
2 hour so I don't want to dwell on this issue. But we've
3 been very concerned, and it is raised once again with
4 this agenda item with regards to the Board's policy of
5 allowing for compliance agreements.
6 The statute is very explicit in terms of saying
7 that the Board has the authority to issue penalties for
8 companies which fail to comply with the law. And we
9 believe that the compliance agreements that have been
10 entered into, we don't really feel are an appropriate
11 mechanism, that they really do not reflect the intent of
12 the law in terms of having the Board move forward with
13 its enforcement responsibilities.
14 We certainly recognize that the, and while the
15 past year, 1996, the Board only had a handful of
16 companies, I think it was six or seven companies to deal
17 with, I think this latest iteration certainly raises a
18 concern in my mind of the potential that, I think there i
19 already something like 75 or 80 companies already
20 identified that are out of compliance; and the fact is,
21 you know, with the five hundred or so companies where the
22 Board still hasn't made a determination, that number is
23 likely to go much higher.
24 So we certainly recognize that there's a staff
25 concern in terms of the resources available and not

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1 wanting to spend two and a half months on these hearings.
2 But nevertheless, I think the Board does need to respect
3 the statute that's been established.
4 And I think if there is concern about the time
5 being allotted, I think the appropriate mechanism is
6 rather than continuing to implement these compliance
7 agreements, to really seek out a legislative
8 clarification, allow for some other mechanism for the
9 Board to go forward with its enforcement
10 responsibilities.
11 And as many are aware, probably aware, we intend
12 to carry legislation this year that will be introduced by
13 tomorrow to help deal with the, with the plastics, RPPC
14 program and ways to improve and enhance the impact and
15 the enforcement of the program.
16 Our concerns, though, with regards to the
17 compliance agreements that have been implemented thus far
18 is the fact that essentially these compliance agreements
19 are giving companies a four to five year extension to
20 comply with the law.
21 The fact is, these companies have known about
22 the law for a number of years, it's been on the books
23 since 1991. They failed to comply with the law in 1996,
24 and the compliance agreements, under these compliance
25 agreements they're really not achieving compliance until

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1 the year 2000 or 2001.
2 And we really feel it's inappropriate for the
3 Board to come forward and allow for this extension. It's
4 essentially giving companies a free ride to not comply
5 with the law when they're initially supposed to, and
6 instead wait until they get identified by a compliance
7 agreement before they really need to comply.
8 So we really feel that the Board needs to take a
9 good, hard look at its enforcement responsibilities and
10 review that.
11 And that's the conclusion of my comments. Thank
12 you.
13 BOARD CHAIR MOULTON-PATTERSON: We have one more
14 speaker. George Larson. And then we'll take a break
15 after this.
16 MR. LARSON: Thank you, Madam Chair, members.
17 George Larson speaking on behalf of Illinois Tool Works.
18 Five minutes? Okay. Just a couple of points.
19 I believe the Board, given the fact that they're
20 operating under a bad law to start with, has taken a very
21 appropriate step in establishing a compliance order
22 process, albeit you cannot come in compliance
23 retroactively and that's the fundamental flaw of the law
24 as we all know.
25 I want to make a couple of points that aren't

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1 clear in the agenda item as you proceed forward. We are
2 viewing the efforts of the Board to be efficient, if you
3 will, and consolidating 1997, 1998, 1999, which pretty
4 much bring us up to speed, if you will.
5 I believe that if you have the situation where
6 individual companies are out of compliance in years 1997
7 and/or 1998, and are found in compliance in 1999, that
8 the appropriate policy for the Board would be to find
9 that company in compliance.
10 The alternative would be to retroactively find a
11 company out of compliance, put them on a compliance
12 order, only to determine that the actions that would be
13 specified in a compliance order were achieved in a
14 subsequent year. So, de facto, you have brought them
15 into compliance by their having complied with the law
16 during the last year of this three year cycle.
17 I want to commend Mr. Miller, your legislative
18 director, for having waded into the murky waters of RPPCs
19 in bringing the interested parties together to try to see
20 if there was a way consensus could be found to correct
21 the inherent flaws in this law.
22 I'm sure Mr. Miller can speak for himself, but I
23 believe that the constituents in this situation have been
24 well entrenched in their position over ten years, and
25 there is, I'd say, little likelihood of coming to policy

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1 ways to resolve this. We need to fix the statute.
2 I haven't had an opportunity to see what
3 Californians Against Waste are submitting, but my
4 submittal to you would be that we restructure this law to
5 provide for the projection or the forward looking
6 requirements for companies; identify those companies in
7 the same manner as you do now; and then you have absolute
8 accountability, plus you give the opportunity for those
9 companies to bring themselves into compliance.
10 So really I think the most important things I'd
11 like to see included are the ability to be called in
12 compliance if you're in compliance in the year 1999. And
13 although Mr. Miller's efforts did not get to the Board
14 level, the industries that I represent would be very
15 supportive of changing this law to hold companies
16 accountable, but make them held accountable in future
17 years so that they'll have a reasonable opportunity to
18 respond.
19 Thanks.
20 BOARD CHAIR MOULTON-PATTERSON: Thank you.
21 Thank you, Mr. Larson.
22 BOARD MEMBER JONES: Madam Chair.
23 BOARD CHAIR MOULTON-PATTERSON: That concludes
24 our speakers.
25 Mr. Jones.

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1 BOARD MEMBER JONES: I just want to ask a
2 question of Mr. Medina.
3 Mr. Medina, you had preferred option 2B instead
4 of 2A?
5 BOARD MEMBER MEDINA: I did, yes.
6 BOARD MEMBER JONES: Okay. I'm going to move.
7 I want to move Resolution 2001-48 Revised where it's
8 option 2A, change that to option 2B; which means that
9 instead of a hearing in front of the Board, it would be a
10 hearing in front of the ALJ.
11 But I think that the resolution lays out staff's
12 recommendations on the different pieces of compliance.
13 So I'm going to move adoption of 2001-48 as
14 revised to read 2B instead of 2A.
15 BOARD MEMBER MEDINA: Second.
16 BOARD CHAIR MOULTON-PATTERSON: Okay. Please
17 call the roll.
18 COMMITTEE SECRETARY VILLA: Eaton.
19 BOARD MEMBER EATON: Aye.
20 BOARD SECRETARY VILLA: Jones.
21 BOARD MEMBER JONES: Aye.
22 BOARD SECRETARY VILLA: Medina.
23 BOARD MEMBER MEDINA: Aye.
24 BOARD SECRETARY VILLA: Paparian.
25 BOARD MEMBER PAPARIAN: Aye.

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1 BOARD SECRETARY VILLA: Roberti.
2 (NOT PRESENT.)
3 BOARD SECRETARY VILLA: Moulton-Patterson.
4 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank
5 you.
6 (Thereupon there was a discussion off the
7 record.)
8 BOARD CHAIR MOULTON-PATTERSON: Nineteen.
9 BOARD MEMBER JONES: Was the roll open on
10 fifteen, the hazardous waste, household hazardous waste?
11 BOARD CHAIR MOULTON-PATTERSON: I --
12 BOARD MEMBER JONES: Not that it matters.
13 But --
14 BOARD CHAIR MOULTON-PATTERSON: Okay.
15 MS. WOHL: Want to do number 19?
16 BOARD CHAIR MOULTON-PATTERSON: Yes.
17 MS. WOHL: Consideration of Approval of Fiscal
18 Year 2000/2001 Concepts for State Agency Buy Recycled
19 Activities Funded from Fiscal Year 1999/2000 BCP Finance
20 Letter number three. And just as a reminder, Finance
21 Letter number three stated,
22 "Multiple interagency contracts totalling
23 500,000, with state agencies needing the most
24 assistance in increasing their purchase of
25 recycled materials and waste diversion

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1 efforts."
2 And last month you approved the diversion side
3 of those grants, and there was $15,000 remaining, and
4 that's why this item is for $515,000. And Jerry Hart
5 will present.
6 MR. HART: Good evening, Madam Chair and Board
7 members. My name is Jerry Hart, and I would in the Buy
8 Recycled section.
9 Before you for consideration today with item 19
10 is five contract concepts totalling an amount of $515,000
11 to be used to promote Buy Recycled among state and local
12 government agencies and the private sector.
13 What we have primarily are four concepts which
14 will increase the tools available to us to promote Buy
15 Recycled as well as to provide actual recycled content
16 products.
17 The fifth interagency agreement is a, more of an
18 umbrella concept that will be used to provide recycled
19 content products directly to state agencies in building
20 and construction projects that they have currently
21 underway in exchange for promotional materials in the
22 form of case studies or videos or fact sheets, testimony
23 that can be used to again bring the Buy Recycled message
24 to other state and local government agencies.
25 The one point of clarification we might want to

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1 make is, the contract concept for the materials testing
2 wouldn't technically be a contract concept, but it's an
3 agreement, we've identified a entity through the Public
4 Health Institute through the Department of Health
5 Services to do this testing. So rather than a technical
6 contract concept, it will, it will be a contract, just it
7 won't be a typical interagency agreement.
8 BOARD CHAIR MOULTON-PATTERSON: Thank you very
9 much. And we did have Mr. Mahager did have to leave, but
10 he left me a note I'd like to read into the record, a
11 short note on this item.
12 "The task force is fully in support of using
13 IWMA funds to promote markets for the recycled
14 contract products and the outreach efforts;
15 however, we are concerned with the use of IWMA
16 money, and in parentheses (money from the cities
17 and counties) to subsidize state agencies for
18 purchase of recycled content products.
19 "The Waste Board should consider redirecting
20 a portion of the monies to small jurisdictions
21 to assist them in purchase of recycled content
22 product similar to, to those required from state
23 agencies.
24 "Concept five, a similar program, should be
25 offered to local government agencies."

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1 So I wanted to read that into the record since
2 he stayed all day.
3 Mr. Jones.
4 BOARD MEMBER JONES: Madam Chair. The, this, I,
5 I, this Mr. Mahager isn't here, but this was all RMDZ
6 funded, and local government actually got programs
7 through that RMDZ allocation, so we'll do that for the
8 record too.
9 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
10 you.
11 BOARD MEMBER JONES: I want to, only because we
12 were all, we all voted for those with his input.
13 I want to move adoption of Resolution 2001-49.
14 BOARD MEMBER PAPARIAN: Second.
15 BOARD MEMBER JONES: Okay. I didn't know if you
16 had a question. I'm sorry.
17 BOARD MEMBER PAPARIAN: No, I'm ready to jump in
18 and move it along.
19 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
20 you. Please call the roll.
21 COMMITTEE SECRETARY VILLA: Eaton.
22 BOARD MEMBER EATON: Aye.
23 BOARD SECRETARY VILLA: Jones.
24 BOARD MEMBER JONES: Aye.
25 BOARD SECRETARY VILLA: Medina.

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BOARD MEMBER MEDINA: Aye.

BOARD SECRETARY VILLA: Paparian.

BOARD MEMBER PAPARIAN: Aye.

BOARD SECRETARY VILLA: Roberti.

(NOT PRESENT.)

BOARD SECRETARY VILLA: Moulton-Patterson.

BOARD CHAIR MOULTON-PATTERSON: Aye. Item twenty.

MS. WOHL: Actually item twenty is the scope of work that's attached to the reallocation item, number seventeen.

BOARD CHAIR MOULTON-PATTERSON: Oh, okay.

MS. WOHL: So if you did not approve it you would not want to do this scope of work.

BOARD CHAIR MOULTON-PATTERSON: Right. Thank you for pointing that out. We'll quickly go to -- thank you very much.

We'll quickly go to diversion planning and local assistance. And we can do -- let's start with 25. We'll go back to that other later. Let's start with 25 for now.

MS. MORGAN: Good afternoon, Cara Morgan, Office of Local Assistance. Item number 25 --

BOARD MEMBER JONES: Is your mike on?

MS. MORGAN: It's not on. Karen Morgan, Office

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1 of Local Assistance.
2 Item number 25 is consideration of the request
3 for extending the compliance order due dates for the City
4 of Gardena, Los Angeles County, and for the Lassen
5 Regional Solid Waste Management Authority.
6 Jill Simmons will be presenting the item.
7 MS. SIMMONS: Good afternoon, Chair
8 Moulton-Patterson and members of the Board. My name is
9 Jill Simmons, and I'm with the Office of Local
10 Assistance.
11 And before I discuss the extension requests, I
12 would like to submit a revised agenda item and resolution
13 to reflect a change in the extension date requests for
14 the Lassen Regional Solid Waste Management Authority from
15 December 31st, 2000 to July 31st, 2001.
16 In discussions last week, the Lassen Authority
17 agreed to fulfill the requirements of the compliance
18 order for program development by the end of July.
19 On September 21st, 1999 the Lassen Authority was
20 issued a compliance order as a result of the 1995-'96
21 biennial review. The Lassen Authority is requesting an
22 extension due date from December 31st, 2000 to July 31st,
23 2001.
24 Staff believe that the extension requested, July
25 31st, 2001, should be sufficient time to complete the

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1 franchise agreement, and therefore all the programs
2 necessary to satisfy the compliance order.
3 On October 20th, 1999 the City of Gardena was
4 issued a compliance order as a result of the 1995-'96
5 biennial review. While the city has implemented the
6 majority of programs listed in their assistance plan, the
7 city is requesting an additional sixty days to March 2nd,
8 2001, to complete the remaining programs.
9 Staff believe that the extension requests to
10 March 2nd, 2001 is sufficient time to complete all of the
11 programs necessary to complete the compliance order.
12 Staff recommends approval of the extension request.
13 This completes my presentation. Are there any
14 questions?
15 BOARD CHAIR MOULTON-PATTERSON: I don't see any.
16 Do we have a motion? We have no speakers.
17 BOARD MEMBER JONES: Just one quick question.
18 Gardena is doing programs, they're not just doing a new
19 waste generation study?
20 MS. SIMMONS: No, correct.
21 BOARD MEMBER JONES: Okay. Madam Chair.
22 BOARD CHAIR MOULTON-PATTERSON: Yes.
23 BOARD MEMBER JONES: I'll move adoption of
24 Resolution 2001-39 Revised.
25 BOARD MEMBER MEDINA: Second.

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1 BOARD CHAIR MOULTON-PATTERSON: Okay. Please
2 call the roll. It was moved by Mr. Jones and seconded by
3 Mr. Medina for, you have the resolution, the resolution
4 number is 2001-39.
5 COMMITTEE SECRETARY VILLA: Eaton.
6 BOARD MEMBER EATON: Aye.
7 BOARD SECRETARY VILLA: Jones.
8 BOARD MEMBER JONES: Aye.
9 BOARD SECRETARY VILLA: Medina.
10 BOARD MEMBER MEDINA: Aye.
11 BOARD SECRETARY VILLA: Paparian.
12 BOARD MEMBER PAPARIAN: Aye.
13 BOARD SECRETARY VILLA: Roberti.
14 (NOT PRESENT.)
15 BOARD SECRETARY VILLA: Moulton-Patterson.
16 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.
17 Let's, I inadvertently skipped 22, so could we go back
18 and do 22?
19 MS. MORGAN: Item number 22 is Consideration of
20 Staff Recommendation to Change the Base Year to 1999 for
21 the Previously Approved Source Reduction and Recycling
22 Element; Consideration of Staff Recommendation Regarding
23 the Completion of Compliance Order IWMA BR99-33; and
24 Consideration of Staff Recommendation on the 1997/1998
25 Biennial Review Findings for the Source Reduction and

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Recycling Element and Household Hazardous Waste Element for the City of Martinez, Contra Costa County.

Eric Bissinger will be presenting the item.

MR. BISSINGER: Good afternoon, Madam Chair and Board members. My name is Eric Bissinger, and I'm with the Office of Local Assistance.

I would like to being by noting that the following pages of the agenda item were revised; pages 22-1 through 22-4, and 22-7 through 22-10.

This item is in response to a compliance order placed on the City of Martinez for their 1995-'96 biennial review. The city determined that developing a new waste generation study based on 1999 data, with the intent of establishing a new more accurate base year, would be the best method to comply with the order.

Based on the results of the generation study, the city has determined that their diversion rate for 1999 is 45 percent. The diversion study contains no statistical extrapolation, and source reduction is five percent of the total generation.

Acknowledging the Board's current concerns with quantifying source reduction, Board staff has determined that thrift stores account for 1,277 tons of diversion material, or 1.6 percent of the total generation.

Garage sales account for 182 tons or .2 percent

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of total generation.

Pallet reuse from four facilities accounted for 529 tons of diversion material, or .7 percent of total generation.

Grass cycling accounted for 1,040 tons of diversion material or 1.4 percent.

Wood chipping and mulching accounted for 444 tons of diverted material or .6 percent of the total generation.

And representatives from the city are present to answer any questions. And this concludes my presentation.

BOARD CHAIR MOULTON-PATTERSON: Thank you. Questions?

Mr. Eaton.

BOARD MEMBER EATON: No, I just have a thing that, I continue to wonder why we're bringing these base years forward when there's a moratorium based upon the transcripts I have in front of me? So I'd like that answered. Do you want me to read the transcript? Okay.

"That staff be instructed that they should notify any and all jurisdictions whether they are in compliance or not, there will be a moratorium on these types of adjustments based on source reduction using methods such as

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1 extrapolation and other -- and other non-proved
2 methods of calculation until such as time as the
3 Board decides to act on a formal policy with
4 regards to those types of methodologies."
5 Then it goes on to say if we'll give them an
6 extra bit of time, and we said yes.
7 So this is the third one now, so I just wondered
8 why we're bringing it forward when we have a Board policy
9 or a Board resolution. I'd just like to find that out.
10 LEGAL COUNSEL BLOCK: Okay. Let me go ahead and
11 wade into this. Elliot Block with the legal office.
12 BOARD MEMBER EATON: It's not that I have any
13 problem with it, you know --
14 LEGAL COUNSEL BLOCK: I understand.
15 BOARD MEMBER EATON: -- I'm getting hit, you
16 know, and at the same time trying to solve the problem
17 and come up with something. And other people are saying,
18 well mine's a little bit different, mine's a little bit
19 different. If there's a moratorium, there's a moratorium
20 for everyone, or there's nothing for no one.
21 LEGAL COUNSEL BLOCK: Well my understanding is
22 that the items that have come forward to you in the last
23 two months were those that did not involve extrapolation
24 or, and I believe there was another part of the
25 transcript that referenced source reduction below the

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1 national average which was 11 percent. And so the items
2 that have come forward have had that.
3 Now you did reference language in the transcript
4 about other unproven methods of calculation. Staff is
5 not aware that these items that they brought forward
6 involved those, but perhaps if you had further
7 information as to what that language meant that would
8 help give us some direction.
9 But our understanding was that that primarily
10 related to extrapolation or calculations that were
11 suspect because of the tonnages or the percentage that,
12 of diversion that was, came from a particular type of
13 item or the like was far out of whack with these, to use
14 a technical term, with these accepted standards. So
15 staff believe that these fit within, within that
16 language.
17 BOARD MEMBER EATON: Well if there's a
18 moratorium on bringing base years forward there's no
19 difference. It says right here, I was very clear, I
20 said, "Extrapolation or other non-proven methods that
21 haven't been approved by the Board." And we're in the
22 process now of dealing with all kinds of individuals with
23 this base year assessment. Where is the loophole is all
24 I'd like to find out --
25 LEGAL COUNSEL BLOCK: I --

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1 BOARD MEMBER EATON: -- that allows them to
2 bring forward these base years?
3 LEGAL COUNSEL BLOCK: All I can say is that it's
4 our understanding that the base years that you've seen,
5 which have been either two or three, I forget now, don't
6 involve extrapolation or unproven, unapproved methods of
7 calculations.
8 And if there's further direction from the Board,
9 if we have misunderstood that, then you know, obviously
10 there's no point in staff bringing this forward if that's
11 not what the Board wanted. But I think the understanding
12 was that this did fit within the exception, if you will,
13 to the moratorium.
14 BOARD MEMBER EATON: Well there was no
15 exception, a moratorium is a moratorium. If there were
16 going to be exceptions to the moratorium it would have
17 been in the resolution.
18 BOARD CHAIR MOULTON-PATTERSON: Ms. Morgan, was
19 this one that you felt the Board had given direction on
20 that could come forward?
21 MS. MORGAN: As we understood the direction from
22 the Board at that Board meeting and the subsequent letter
23 that was sent out from the Chair's office to
24 jurisdictions, we understood it to mean that there were
25 exceptions, that those base years that exceeded the 11

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1 percent national average of source reduction, or those
2 that contained extrapolation we would not be bringing
3 before the Board. And that was our understanding.
4 If the Board chooses for us not to bring forward
5 any base years, then certainly we'd go with that
6 direction. That was our understanding and based upon a
7 letter that was sent out.
8 BOARD CHAIR MOULTON-PATTERSON: Thank you.
9 Okay.
10 BOARD MEMBER JONES: Madam Chair.
11 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
12 BOARD MEMBER JONES: Just a couple of real quick
13 issues, okay. I mean staff obviously has to do what they
14 have to do. We're real close, Cara, you've been working
15 on this thing. This is the first cert form that is a
16 result of the diversion work group.
17 Last month we had, a item came forward that was
18 supposed to be not controversial, yet the consultant
19 couldn't answer where the heck the pallets, how they've
20 been dealt with, how any -- and all we're trying to do,
21 we're not trying to hurt the City of Martinez, we're not
22 trying to hurt the staff.
23 We've worked through a process where we're
24 trying to make sure that we have a level playing field.
25 And, you know, all of the, you know, bringing some

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1 forward and not bringing some forward, and actually I
2 mean I was in Southern California after the 2202 workshop
3 working on the diversion study guide, and I had somebody
4 tell me I had to take these things. You know, as a Board
5 member I had to take these base years.
6 And it was the interpretation of the letter and
7 the staff. And I said, you know, I don't read anything
8 in that letter that says we have to hear that. That's
9 not between me and the staff, that's between me and that,
10 those folks.
11 All we are trying to do is make this right. I
12 will give you an example right now. We have two, we have
13 an original and we have a revised. If you look on the
14 original, which would be 22-9 or eight of 11, I guess
15 might be another way of saying it; under the pallets you
16 did not, you did, you know, you said no, we're not going
17 to allow sixty pounds, we're going to allow forty pounds,
18 which is considered the average. And you change that to
19 529 pounds or tons, not a problem. But if you look at
20 the revised one, you have it at 772. So you're off by
21 another 200 tons.
22 All we're trying to do is get this stuff so that
23 they can all come floating forward, you know. I mean
24 it's that simple.
25 The issues that I used in the example of source

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1 reduction being, the national average being 11 percent,
2 was not a threshold that I thought had to be met, it was
3 an indicator that when we're seeing source reduction
4 coming into our, in front of us at forty and fifty
5 percent, seventy percent of a thirty, of a forty percent
6 rate as source reduction. And let me tell you why this
7 is really scary.
8 Two of our meetings of the diversion study group
9 have been totally derailed by a consultant that insists
10 that a pallet be given forty pounds of credit every time
11 it's used. Now that was also the same person that gave
12 us a new base year that showed 29,000 tons in pallets.
13 That when we did the math meant they would have had to
14 have invested about $18 million in pallets in those
15 couple of jurisdictions.
16 But it's that same consultant that wants to
17 argue about pallets. And I said this isn't the place,
18 it's got to go in front of the Board.
19 Now the working group has pretty much said you
20 get one to one. If you got a pallet, you get a one time
21 credit for it, not forty times credit, not twelve times
22 credit.
23 And so these ones here from Martinez look to me
24 to be a one time credit, okay? But it would be kind of
25 scary if it came forward and it wasn't, huh.

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1 You know, but I think that's the issue with
2 process. That's the issue for me, because we are working
3 awfully hard with your help, Cara, to make this thing
4 right.
5 And I took an awful lot of heat from a young
6 lady at the Diamond Bar 2202 meeting at the very end of
7 the day that resented that we had done this moratorium.
8 And I told her exactly why we did the moratorium.
9 We did the moratorium because we found holes in
10 this thing that you could drive an entire fleet of trucks
11 to the landfill to and still get 65 percent diversion
12 credit.
13 So you gotta bear with us a little bit because
14 we're the ones taking the heat. I know you're taking the
15 heat from cities and counties, but we're talking heat
16 from people saying why did you do this? Well, this is
17 exactly why we did it.
18 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones, so is
19 there a problem with the City of Martinez? I understand
20 the last time I talked to you that you said you thought a
21 lot of these things had been worked out, is this one that
22 hasn't?
23 BOARD MEMBER JONES: No, I think it has but it
24 shows, first I want to know from -- no, I'm going to, I'm
25 going to vote for this, okay, I will vote for this, but

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I'm telling you I'm furious when a consultant tells me I have to hear these items. You know, I am furious about that. And that consultant needs to know that.

BOARD CHAIR MOULTON-PATTERSON: Go ahead, I'm sorry.

BOARD MEMBER JONES: The City of Martinez, how did you feel about filling out this new cert form, did it work?

BOARD CHAIR MOULTON-PATTERSON: Would you come forward, please, and state your name. Thank you for waiting all day.

MS. FORTE: I'm Nicole Forte, City of Martinez. The new cert form is easier, it actually makes you focus on your items instead of just writing it out, you know, you're actually filling numbers in there and talking about it. It's actually a nice form to clarify things. So it's a good form, yeah.

BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian, did you have a question?

BOARD MEMBER PAPARIAN: Yeah, I had a question for you, it's something I also brought up in our briefing last week.

One thing I noticed is that the curbside is a very small percent, relative percentage of the overall diversion. And I'm wondering if you can provide some

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1 explanation about why the curbside numbers are so low?
2 MS. FORTE: I don't have a total clear picture
3 of why that is. One of the things that I was noticing is
4 that Martinez, I don't know how well you know Martinez,
5 but Martinez has about 10,000 single family homes and the
6 rest are multi-family. So about half the population, a
7 little more than half the population is in multi-family
8 units, and that is actually under commercial. So the
9 single family homes are the ones that are counted in the
10 residential curbside.
11 And I would, I'll be honest, we aren't at a
12 hundred percent participation in our curbside program.
13 We have a lot of elderly population in Martinez, I think
14 that might skew the numbers a little bit. But it's also,
15 we still have to educate people more to get a higher
16 percent.
17 BOARD MEMBER PAPARIAN: Do you have weekly
18 pickup?
19 MS. FORTE: We do. And we just added mixed
20 paper, so that wasn't in the numbers in 1999.
21 BOARD MEMBER PAPARIAN: Okay. Thanks.
22 BOARD CHAIR MOULTON-PATTERSON: Thank you.
23 BOARD MEMBER JONES: Can I ask one other real
24 quick question of the young lady from Martinez, Madam
25 Chair?

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BOARD CHAIR MOULTON-PATTERSON: Yes, huh.

BOARD MEMBER JONES: Under yard waste composting, and I just, I didn't have a chance to read the whole thing, but under yard waste composting, is that picked up as a part of a green waste collection system in town? I know you have dropoff, and I know you have the landscapers, but do you have green waste as a program?

MS. FORTE: Now we do.

BOARD MEMBER JONES: Does it go to a, to a permitted transfer station, or does it go to a recycling center?

MS. FORTE: You mean our new yard waste composing, you mean our new yard waste curbside program?

BOARD MEMBER JONES: Yeah.

MS. FORTE: We're not talking about 1999, we're talking about now?

BOARD MEMBER JONES: Yeah.

MS. FORTE: It actually is going to ADC.

BOARD MEMBER JONES: Oh, all right. So it doesn't go through a transfer station. All right.

BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you very much.

MS. FORTE: Thank you.

BOARD CHAIR MOULTON-PATTERSON: Do we have a motion for this?

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1 BOARD MEMBER EATON: I'd like to find out,
2 before we begin, are we in moratorium or aren't we? Are
3 you saying there's exceptions? If so, I'd like an
4 analysis of what that moratorium is. I have a transcript
5 here that says there's a moratorium. Are we going to be
6 bringing more forward?
7 INTERIM EXECUTIVE DIRECTOR BRUCE: I know we're
8 very close to a decision here also on what you've been
9 doing in the study group.
10 When we read the transcript in reference to the
11 letter that went out in October, we read the line that
12 said that there was,
13 "A moratorium on the types of adjustments
14 based on source reduction, using methods such as
15 extrapolation and other non-prudent methods of
16 calculations, until such time as the Board
17 decides to act."
18 We read that and probably was misinterpreting,
19 if I understand what you're saying from the Board level,
20 that those were the two types of areas where we couldn't
21 bring something forward. But if we, if the things that
22 were coming forward didn't fall into extrapolation or
23 other non-prudent methods of calculations, then they
24 could come forward on a case by case basis.
25 And I believe that's how staff, and I believe

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1 that's how legal had advised us. And so if we were
2 advised wrong or if we read the transcript wrong, then we
3 apologize and we will do what your pleasure is.
4 BOARD MEMBER EATON: I think you violated the
5 moratorium is what I think. And I'll be real honest with
6 you. I think it was just predetermined because it was, a
7 subsequent letter was sent out without any knowledge of
8 at least this Board member's office that Ms. Morgan just
9 referred to that was shoved in our face at the last
10 meeting, and she didn't attend that meeting, she was out
11 on vacation, and it was a meeting that they relied upon.
12 That was not authorized by this Board either. It went to
13 the cities.
14 So if that's the way we want to start playing in
15 this game, I'm happy to start playing it. But there's a
16 moratorium as far as this Board member is concerned, and
17 these are not subject to be reopened due to the fact that
18 there is a moratorium.
19 And I mentioned to the Department of Planning
20 last time, it was Mr. Schiavo, and you still continued to
21 bring it forward. If there was a question after the last
22 Board meeting, you should have come and talked to me.
23 But that's fine, we will, we will take up the transcript
24 in another way.
25 BOARD CHAIR MOULTON-PATTERSON: Okay. Do we

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have a motion on the City of Martinez?

BOARD MEMBER MEDINA: So moved, I'll move it.

BOARD CHAIR MOULTON-PATTERSON: Thank you, and I'll second it. We have a motion by Mr. Medina, second by Moulton-Patterson to change the base year for the City of Martinez. Please call the roll.

COMMITTEE SECRETARY VILLA: Eaton.

BOARD MEMBER EATON: (NO RESPONSE.)

BOARD SECRETARY VILLA: Jones.

BOARD MEMBER JONES: Aye.

BOARD SECRETARY VILLA: Medina.

BOARD MEMBER MEDINA: Aye.

BOARD SECRETARY VILLA: Paparian.

BOARD MEMBER PAPARIAN: Aye.

BOARD SECRETARY VILLA: Roberti.

(NOT PRESENT.)

BOARD SECRETARY VILLA: Moulton-Patterson.

Let's finish 28, because we'd already adopted the scope of work, and so we don't need much of a staff report.

MS. MORGAN: No, we don't. Item 28 is consideration of Consideration of the Approval of the California Department of Education as Contractor for the School Instructional Gardens Interagency Agreement.

Joanne Vorhies will present this short

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1 presentation.
2 MS. VORHIES: Joanne Vorhies from the Public
3 Education and Assistance Section.
4 This item requires, requests the Board's
5 approval of the California Department of Education as
6 contractor to work in conjunction with the Board to
7 administer grants and develop and present workshops for
8 the grantees in furtherance of the school instructional
9 garden program.
10 Staff recommends that the Board adopt option
11 number one to approve the California Department of
12 Education as contractor for the school instructional
13 gardens interagency agreement.
14 And this concludes my presentation. I'll be
15 happy to answer any questions.
16 BOARD CHAIR MOULTON-PATTERSON: Thank you. I
17 don't see any -- do you have any questions?
18 BOARD MEMBER PAPARIAN: Again, this is something
19 I brought up at the briefing --
20 BOARD CHAIR MOULTON-PATTERSON: That's right.
21 BOARD MEMBER PAPARIAN: -- unrelated to the
22 merits of this, I think the merits of this are fine; but
23 there's something a little bit fishy in the recycled
24 content product procurement reports of the Department of
25 Education. It looks like they may be underreporting the

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1 amount of material that they're purchasing, and I'd like
2 to somehow get to them and see if we can get some more
3 accurate numbers or a better explanation about what's
4 really happening in purchasing over at the Department of
5 Education.
6 BOARD CHAIR MOULTON-PATTERSON: Thank you for
7 that comment. Would you like to move the motion?
8 BOARD MEMBER PAPARIAN: Yeah, I'll move
9 Resolution 2001-41, Approval of the California Department
10 of Education as the Contractor for the School
11 Instructional Gardens Interagency Agreement.
12 BOARD CHAIR MOULTON-PATTERSON: Thank you, and
13 I'll second that. Motion by Mr. Paparian, seconded by
14 Moulton-Patterson to approve Resolution 2001-41.
15 Please call the roll.
16 COMMITTEE SECRETARY VILLA: Eaton.
17 BOARD MEMBER EATON: Aye.
18 BOARD SECRETARY VILLA: Jones.
19 BOARD MEMBER JONES: Aye.
20 BOARD SECRETARY VILLA: Medina.
21 BOARD MEMBER MEDINA: Aye.
22 BOARD SECRETARY VILLA: Paparian.
23 BOARD MEMBER PAPARIAN: Aye.
24 BOARD SECRETARY VILLA: Roberti.
25 (NOT PRESENT.)

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BOARD SECRETARY VILLA: Moulton-Patterson.

BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you.

We'll adjourn the meeting. And thank you very much for a very long day.

(Thereupon the foregoing was adjourned at 6:03 p.m.)

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1

2 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

3

4 I, DORIS M. BAILEY, a Certified Shorthand
5 Reporter and Registered Professional Reporter, in and for
6 the State of California, do hereby certify that I am a
7 disinterested person herein; that I reported the
8 foregoing proceedings in shorthand writing; and
9 thereafter caused my shorthand writing to be transcribed
10 by computer.
11 I further certify that I am not of counsel or
12 attorney for any of the parties to said proceedings, nor
13 in any way interested in the outcome of said proceedings.
14 IN WITNESS WHEREOF, I have hereunto set my hand
15 as a Certified Shorthand Reporter and Registered
16 Professional Reporter on the 5th day of March, 2001.
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20 Doris M. Bailey, CSR, RPR, CRR
Certified Shorthand Reporter
License Number 8751
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