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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

TENAYA LODGE
1122 HIGHWAY 41
FISH CAMP, CALIFORNIA

TUESDAY, MAY 22, 2001

9:30 A.M.

JAMES F. PETERS, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Dan Eaton

Steven R. Jones

Jose Medina

Michael Paparian

David A. Roberti

STAFF

Bonnie Bruce, Interim Executive Director

Karin Fish, Chief Deputy Director

Kathryn Tobias, Chief Counsel

Julie Nauman, Deputy Director

Rubia Packard, Deputy Director

Pat Schiavo, Deputy Director

Eric Bissinger

Mark de Bie

Richard Castle

Terri Edwards

Cara Morgan

Steve SoRelle

Linda Williams, Staff Counsel

Deborah McKee, Executive Secretary

Yvonne Villa, Executive Secretary

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
3 the meeting to order.

4 I'd like to welcome everyone to our May meeting
5 in beautiful Mariposa County. Thank you for being here.

6 Would the secretary please call the roll.

7 SECRETARY VILLA: Eaton?

8 BOARD MEMBER EATON: Here.

9 SECRETARY VILLA: Jones?

10 BOARD MEMBER JONES: Here.

11 SECRETARY VILLA: Medina?

12 BOARD MEMBER MEDINA: Here.

13 SECRETARY VILLA: Papanian?

14 BOARD MEMBER PAPANIAN: Here.

15 SECRETARY VILLA: Roberti?

16 Moulton-Patterson?

17 CHAIRPERSON MOULTON-PATTERSON: Here.

18 We do have a quorum.

19 At this time, I'd like to ask you to please turn
20 off all cell phones and pagers, so that we don't disrupt
21 our meeting. And I've also asked that if it's possible to
22 have the lights dimmed a bit in this room, as I know you
23 are all doing your part to help the Governor and the State
24 Legislature deal with our Energy crisis.

25 I would also like to ask, and I haven't had a

1 chance to talk to Mr. Jones, but hopefully he would
2 consent to meet with me and possibly leaders of the waste
3 industry to see what the industry as a whole can do, in
4 that they deal every day with most -- they touch everyone
5 of the State's residents and what they can do in getting
6 out the energy message. And I would like to challenge
7 them to help us do this. And so if, Mr. Jones, if you
8 would help me put that together, I'd very much appreciate
9 it.

10 BOARD MEMBER JONES: Sure.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. Also given
12 our commitment to conserving energy and reduce waste,
13 we're providing a limited number of copies of the agenda.
14 And they are located outside in the hallway.

15 For those of you in the audience that would like
16 to speak to us, there's speakers request forms also on
17 that table. And if you wish to address us on any item at
18 our agenda, please fill out the slip and list the item
19 number you want to speak to us on, and give it to Ms.
20 Villa, who's right over here, or Ms. McKee and they will
21 see that we get your slip.

22 Lastly, if it's okay with my board colleagues, we
23 will be having a closed session, a short closed session,
24 today after lunch. And tomorrow we will have a joint
25 meeting with the Water Board starting at 9:30 a.m.

1 At this time, we will dispose of our ex partes.

2 Mr. Eaton?

3 BOARD MEMBER EATON: I was handed a letter from
4 Senator Liz Figueroa regarding the captive insurance
5 regulations prepared by Mr. Chuck White. And then a
6 packet that was handed to me by Larry Sweetser from the
7 Mariposa County Compost Facility Project. Those are the
8 only two and I'm up to date on everything else.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
10 Eaton.

11 Mr. Jones.

12 BOARD MEMBER JONES: Madam Chair, I have the same
13 two and I'm also up to date.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 Mr. Medina.

16 BOARD MEMBER MEDINA: Yes. I also have a copy
17 from Bob Prichard from the Mariposa County Composting
18 Facility and Chuck White.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.

20 Mr. Papanian.

21 BOARD MEMBER PAPANIAN: Yes. Similarly, I have
22 the information from Mariposa County, the letter from
23 Senator Figueroa, information from Chuck White and then on
24 the table here I have a letter from the Department of
25 Banking Insurance Securities and Health Care

1 Administration from the State of Vermont also regarding
2 captive insurance.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. Let the
4 record reflect Senator Roberti is here, please. And
5 Senator Roberti, do you have any ex partes?

6 BOARD MEMBER ROBERTI: Yes. Madam Chair, on May
7 21st, I had a conversation with Mr. Chuck White of Waste
8 Management regarding captive insurance and tire monofill
9 regulations as well.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you,
11 Senator Roberti.

12 Okay. At this time, I'd like to ask for any
13 reports from board remembers. I'll start with Mr. Eaton.

14 BOARD MEMBER EATON: Nothing right now. I'm
15 going to defer for the time being so we can get to hear
16 the Mariposa County officials.

17 Thank you.

18 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
19 Mr. Eaton.

20 Mr. Jones.

21 BOARD MEMBER JONES: Madam Chair, just a couple
22 of a quick ones. Before my vacation, I was down in
23 Monterey at our landfill operator training program. And I
24 have to congratulate Don Dier and the people that help put
25 that together, a mixture of LEAs, State Board staff, and

1 operators participated.

2 And I have to tell you, to see those three groups
3 view the same picture, it's amazing how close certain
4 aspects are and then there's always somebody that's got a
5 very distorted view of the world, so I would suggest that
6 we need to --

7 BOARD MEMBER EATON: Times up, Mr. Jones.

8 Laughter.

9 BOARD MEMBER JONES: I would suggest that -- I'm
10 going to talk to each of the Board Members and see if they
11 would spend a little bit of time, if we have one more of
12 these training sessions when board members and their staff
13 can participate, because I think it would help us as we
14 get into looking at LEA certifications and issues that
15 we're dealing with from an anecdotal standpoint. If you
16 saw how this is treated firsthand, I think it would be
17 very beneficial to the Board.

18 I also wanted to congratulate Fernando Berton and
19 Howard Levenson and everybody on the convergent
20 technologies. I'm not going to speak to it, because I
21 know other board members were there and actually
22 participated, but I did get a letter from John Trotti
23 who's the editor of MSW magazine, who was one of the
24 co-sponsors of the cocktail party that night and
25 participated.

1 He said that what made it an incredible event was
2 how involved our staff was, and thought that that was
3 probably 60 percent of the -- would make it that much
4 easier for us to keep promoting this technology. He's
5 going to write a report to John Skinner, the executive
6 director of SWANA to see if he can get SWANA to take this
7 on as one of their key projects on a national advocacy
8 basis. And if that's the case, this thing could move
9 forward similar to that landfill gas to energy issues that
10 SWANA has been championing.

11 And then finally, I want to thank all of my
12 fellow board members and staff for all their kind regards
13 for the last month, as I was kind of under the weather. I
14 appreciate it. I appreciate all the letters and all the
15 thoughts and glad to be back. I'm going to be here as
16 long as -- till you guys make my crazy, then I'll go put
17 ice on my head.

18 Thanks.

19 CHAIRPERSON MOULTON-PATTERSON: Before we move to
20 Mr. Medina, I just want to say, Mr. Jones, welcome back.
21 We truly missed you at the last meeting and throughout the
22 last month. And we're glad you're feeling better, and we
23 will certainly try and be easy on you.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

25 BOARD MEMBER MEDINA: Thank you, Madam Chair.

1 And Board Member Jones, I also would like to welcome you
2 back. I also attended the Convergent Technology Forum.
3 And I thought it was an outstanding forum. And I'd also
4 like to commend the staff for Fernando Berton, Judy
5 Friedman and Howard Levenson for bringing together such an
6 outstanding event.

7 Later in the -- shortly after I attended the
8 convergent technology forum, I had an opportunity to
9 attend a waste to energy conference back in Florida. And
10 a number of those persons had attended the convergent
11 technology forum that came up to me to tell me how
12 impressed they were with it and with the number of people
13 that had participated in the forum. I will be making a
14 presentation on the North American Waste to Energy
15 Conference probably at next month's meeting.

16 I also had an opportunity to visit a MURF in
17 Marin County that claims a 75 percent divergent rate. And
18 they credit their success just to their level of
19 commitment to divergent.

20 I had an opportunity to meet with -- actually to
21 do an on-site visit at Sunshine Canyon and to discuss the
22 issues with both sides in regards to Sunshine Canyon, and
23 that was a very informative visit.

24 And that concludes my report.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

1 Medina.

2 Mr. Paparian.

3 BOARD MEMBER PAPARIAN: Thank you. Yeah, I had A
4 couple of items. I also wanted to echo what's already
5 been said about the Convergent Technologies Forum. It was
6 a fabulous event. Again, Howard Levenson, Judy Friedman,
7 Fernando Berton, and the many other staff who participated
8 and helped in the event deserve a lot of credit and thanks
9 for putting together such a great event.

10 I'd also like to thank Bill or Tom Estes and
11 Jerry Hart for their assistance with our work on getting
12 State agencies to buy more green products, including
13 products with recycled content. This is something that's
14 been an interest of mine and I think very helpful in
15 recent weeks.

16 Another group of staff, actually quite a few
17 staff, deserve thanks for designing and staffing an
18 E-waste Education Booth at the Government and Technology
19 Conference last week. My understanding is the booth had
20 about a thousand people drop by during the conference and
21 that the range of people included vendors, office
22 technicians, technical experts, those responsible for
23 purchasing and many others.

24 I was very encouraged by what I heard about the
25 booth. I was sorry that I did not have time to drop by

1 and see it myself, but I think it's another indication of
2 the good work that staff does.

3 As you know, I do have my special interest in
4 electronics waste. And I wanted to mention that
5 Hewlett-Packard yesterday announced a national recycling
6 program. They will take back, for the cost of shipping,
7 basically any computer or peripheral product. And for
8 more information on that, there's a web site that they
9 have, www.hp.com/go/recycle.—I think that HP deserves
10 some credit for taking a leadership role in this area.
11 And it's something that you know that I'm going to be
12 pursuing with some of the other manufacturers as well.

13 I wanted to ask one thing of our staff. One
14 thing that I noticed that comes up quite a bit in these
15 board meetings is that there are requests from myself and
16 other board members for information or other action that
17 doesn't necessarily directly relate to an agenda item.
18 Sometimes we ask for additional clarifications or
19 information or whatever it might be. I'm wondering how
20 these kinds of requests are tracked between meetings, and
21 if there's some way for us to keep track of what's being
22 tracked?

23 INTERIM EXECUTIVE DIRECTOR BRUCE: If I can take
24 just a moment to answer that. Thank you, Mr. Papanian.
25 That's a good question. And it gives me a minute to

1 highlight what we are doing. This is a new process that
2 we've just instituted at the exec staff level. And what
3 we have designed is a report form in which we have someone
4 from our staff, Selma is here today, doing that for us.

5 And what we do is we try to capture what it is
6 that you as board members are requesting whether it's
7 related to an agenda item or if it's, as you're
8 suggesting, something that's coming up as you're thinking
9 about something that you'd like us to address.

10 We then review that in exec staff. And what I'm
11 thinking about as we're talking, is that perhaps as board
12 members you, too, would like to see what's being captured
13 and give you an opportunity to relate whether we've done a
14 good job of capturing what you're asking for.

15 So what I would be suggesting is that as we
16 finish this up and then maybe we can get this in a timely
17 manner, a one week turn around for you, we can then circle
18 that through the Board offices and you can just generally
19 tell us if we've captured your direction.

20 BOARD MEMBER PAPARIAN: You're way ahead of me.
21 I think that's great if it could be done.

22 Thank you.

23 The last thing I'll just mention a few of the
24 events that I participated in the last month. I attended
25 the Enforcement Advisory Committee meeting in Sacramento

1 that was held earlier this month. I went down to Oxnard
2 and had a chance to view their transfer station. And I
3 know that they've now asked us to come down for one of our
4 board meetings next year. I think we'll talk about that
5 separately. I also spoke at a CRRA conference on
6 electronics waste that was held at the same facility.

7 I attended a SWANA conference, the State Chapter
8 of SWANA in San Luis Obispo, where I spoke on a panel
9 about emerging issues facing the Board. And it was quite
10 an intriguing panel. We had a couple of former board
11 members, Paul Relis and Terry Tremble. It was quite a
12 lively discussion with members of SWANA about some of the
13 future directions of the Board.

14 And then finally I spoke at the Household
15 Hazardous Waste Conference last week in Lake Tahoe, which
16 also had an impressive level of participation from
17 household waste coordinators and others from around the
18 State.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
20 Papanian.

21 Senator Roberti.

22 BOARD MEMBER ROBERTI: Yes. Thank you, Madam
23 Chair. I've had a number of visits of issues of important
24 relevance to the Waste Board. Probably the most
25 interesting is the whole issue of the Bradley Landfill in

1 Los Angeles County pursuant to what appears to be an
2 action of the Department of the Health Services admitted
3 this, taking in low level radioactive waste.

4 This, I feel, is a very dangerous precedent.
5 These actions are taking place independent of any
6 authorization from the Waste Board. And they seem to
7 signify a certain lack of comity between the agencies and
8 State government. And certainly this board has a duty to
9 make sure that no level of radioactive waste finds its way
10 into California's solid waste landfills. And I hope this
11 is graduated to a top priority.

12 The people who operate the Bradley Landfill
13 unbeknownst to them, and my own personal investigations of
14 the situation indicate certainly, at this point, that
15 they're not culpable in the least bit for what is
16 happening, have taken in without notice to them
17 radioactive waste from facilities in the Santa Susana
18 Mountains.

19 This is a threat not only in Los Angeles County
20 but apparently it truly is a threat throughout the State,
21 because the same regulations control operations throughout
22 the State. And it certainly strikes at the heart of
23 everything this board should be doing.

24 In addition, I've had a number of visits to
25 various companies who are engaging in the process of waste

1 to energy. I've met with one company in Santa Monica and
2 another in Brentwood. And at the meeting of the Solid
3 Waste Task Force of the Los Angeles Association of
4 Governments a third company made a presentation.

5 I found it all very interesting. And clearly the
6 technology for waste to energy is present, but it very
7 definitely is controversial, but certainly it is something
8 that we, I think, have a duty to look to and look into,
9 first because of the energy crisis, and, secondly, because
10 of the proliferation of waste and the inability to find
11 too many more landfills especially in urban areas as to
12 what we are going to do with that waste.

13 And certainly all of us should put our minds
14 together so we can have both energy efficient and
15 environmentally sound. And this is a technology that we
16 should not dismiss out of hand, but rather should
17 investigate.

18 Along with other members of the Board, I attended
19 the Household Hazardous Waste Conference and granted it
20 was in Tahoe City, I found it terribly interesting, much
21 bigger than the prior year's conference, and I commend the
22 operators of the conference for putting together something
23 that's educational for all the people involved in the
24 solid waste management.

25 I visited a new recycling center in the City of

1 Glendale in Los Angeles County. And they are a very
2 progressive and are operating educational program that I
3 think would be a model for other cities as well.

4 And I visited the Los Angeles Zoo, and saw how
5 they recycled, what is the obvious that they should be
6 recycling. And they're doing a wonderful job. I
7 recommend to them, all other zoos, to see how they do it
8 and do it efficiently.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you,
10 Senator Roberti. I notice I did skip myself on ex partes
11 I just have the same, as several of the other board
12 members reported, a letter on the proposed change to waste
13 tire monofill regulations, Chuck White. And then also the
14 letter from the State of Vermont Department of Banking and
15 Insurance from a Mr. Derrick White regarding the proposed
16 prohibition of used captive insurance for financial
17 assurance.

18 As far as my report goes, on April 27th I visited
19 Cal Polly, Pomona's agriscape project which was indeed
20 impressive. I'm hoping that we might have a site visit in
21 October when we have our board meeting in Diamond Bar. I
22 think all of the Board Members would just be terribly
23 impressed with what they're doing at Cal Poly, Pomona.

24 I also attended the California Water Festival in
25 Irvine where 5,500 5th graders learned about water

1 education, water to waste education, and all sorts of
2 environmental boothes. And it was really, really exciting
3 to see these kids so involved.

4 Also, it was my pleasure to participate in an
5 environmental award to the top class at Disneyland. It
6 was a 5th grade class from what is that area, Ms. Bruce?

7 It's escapes me -- Ventura County. And they had
8 done their project completely on waste reduction and
9 prevention and I won't go into it because of time right
10 now, but it was indeed impressive and it was a real
11 pleasure to be able to participate.

12 And Roy Disney attended and participated in the
13 entire day as did Superintendent of Schools Delaine Easton
14 and Secretary of agriculture Bill Lions. And so these
15 children really gave us some great lessons and asked us
16 some great questions.

17 I also attended the convergent technology forum.
18 And I just want to echo, I know it's been said by every
19 board member, but that was a great forum. And we've heard
20 nothing but wonderful reviews on it and than you staff for
21 the great job that you did on that. It was really
22 tremendous.

23 I attended the Governor's listening session on
24 environmental education, the State plan. I also met with
25 LA County Supervisor Yvonne Burke and Don Knabe briefly,

1 LA County Supervisors. I had a site visit to Capital
2 Power Plant in Ione. I attended the RMDZ workshop and met
3 with our staff there. And got an update on what the RMDZ
4 staff are doing. And, again, just so proud of all of our
5 staff members. It's a great program.

6 And as Senator Roberti said and others said and
7 Mr. Paparian, I attended the Household Hazardous Waste
8 conference in Tahoe City and again congratulations to our
9 staff. It was outstanding.

10 On a personal note, I do apologize for being a
11 few minutes late. I had a 23-hour day yesterday and got
12 in here at 3:00 a.m. I attended my only niece's
13 graduation from Yale University. And it was a rare
14 privilege to be able to hear President Bush give a
15 light-hearted speech, and to hear Senator Hillary Clinton
16 give a very serious speech on the issues facing this
17 country.

18 But the real, real inspiring thing was to see
19 these students. And I just can't say enough when you see
20 these brilliant minds and the commitment they have to the
21 environment and to social causes, I'm not -- although it
22 seems that some of the problems we're facing are
23 overwhelming. Seeing what we've got coming up in the
24 future is just really, really inspiring.

25 And so I might be a little tired today. I told

1 Mr. Jones I needed sunglasses too, but it was really a
2 wonderful, wonderful experience.

3 And with that, I will turn it over to Ms. Bruce
4 our Interim Executive Director.

5 INTERIM EXECUTIVE DIRECTOR BRUCE: Thank you.
6 Just if I could bring you up to date on some things on the
7 agenda before I give my report.

8 Today we will be pulling Item number 15 and Item
9 number 28. We will be continuing Item number 3 and Item
10 number 31. And then proposed for consent are Items 5, 11,
11 20, 25, 27 and 29.

12 CHAIRPERSON MOULTON-PATTERSON: Would you repeat
13 the pulled and continued items?

14 INTERIM EXECUTIVE DIRECTOR BRUCE: Yes, I will.
15 Pulled are number 15 and number 28. Continued are number
16 3 and number 31.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 INTERIM EXECUTIVE DIRECTOR BRUCE: I would like
19 to bring you up to date on many of the things that have
20 been happening around the Board. And just for one item of
21 information, many of you probably maybe read in the news
22 about the concern for arsenic in wooden playground
23 equipment.

24 After the Board's meeting on May 14th, when you
25 approved the proposed distribution of funds applicant and

1 project eligibility in scoring criteria and evaluation
2 process for the 2001/2002 cart playground accessibility
3 and recycling grant program. As you'll notice, we have
4 that still listed on your agenda today, but in fact we had
5 a quorum and were able to move forward with it. We did
6 learn of an action by the San Francisco County Health
7 Department that we wanted to bring to your attention.

8 Apparently, the Health Department following up on
9 a story that ran on KGO TV regarding the potential of
10 arsenic to leach out of pressure treated wood playground
11 equipment went out and tested older playground equipment.

12 They reportedly found that arsenic had leached
13 out into the soil, sand and the wood chips that were
14 surrounding some of the equipment. We heard that the
15 county has fenced the playground equipment and is
16 developing a Removal plan, and we're contacting the county
17 to confirm that these findings and plans are what we had
18 heard.

19 The criteria you approved last week assigned 25
20 points on one quarter of the total possible points for
21 need. And one of the components of that criteria is a
22 demonstration of health and safety threats or
23 environmental concerns.

24 In the applicant's instructional document, where
25 we explain in detail how to fill out this criteria, we

1 will include specific mention of the arsenic leaching
2 problem as an example of the kind of health and safety
3 issues that the funds can be used to address. And I just
4 wanted to make sure that you all were aware of that.

5 In April, board members requested that staff
6 develop Aye. Detailed project plan with resource needs for
7 an analysis of board programs relative to environmental
8 justice. This analysis will be designed to identify
9 opportunities in board programs to address potential
10 environmental justice impacts or concerns. I just wanted
11 to report that staff is working a detailed plan and we
12 will report this to you at our June meeting.

13 We're also continuing to explore perhaps the
14 feasibility of using a contractor to assist us in scoping
15 the overall effort to draft an environmental justice
16 strategy and in collecting and displaying that data. And
17 I wanted to update you on that.

18 Many of you have mentioned and have given
19 appropriate kudos to the Convergent Technology Forum. And
20 I'd just like to highlight a few pieces of that forum.
21 The Board's Convergent Technologies for Municipal
22 Residuals Forum held earlier this month in Sacramento
23 truly was a resounding success.

24 And in thank you to the staff for their fast turn
25 around, you already know that you're going to be hearing

1 and talking about the results of that forum as part of
2 your agenda Item 26. I just want to share a few
3 observations before you hear that item.

4 We had tremendous participation from a wide range
5 of stakeholders, including many companies who are eager to
6 come to California, as well as local officials who are
7 eager to learn more about these types of technologies.
8 SWANA and SMW management graciously sponsored our evening
9 reception.

10 The opening day speakers led by Board Member
11 Papanian and followed later by Board Members Median and
12 Roberti were quite stimulating. They set the stage for our
13 working group discussions. Secretary Hickox and Chair
14 Moulton-Patterson continued this in their keynote address
15 the second day.

16 Our ambitious design included more than a dozen
17 working groups that were meeting simultaneously. And
18 because we had such a support -- and I have to tell you,
19 we sent out an E-mail thank you to our staff asking for
20 staff facilitators. I happened to be on the other end of
21 that E-mail where they were responding to me as well as to
22 the other people.

23 The response from our staff was just incredible
24 being willing to help facilitate that. They were willing
25 to be note takers. They were able to summarize the

1 results. And we were able to provide probably for one of
2 the first times within hours of what had happened, so that
3 on the second day the participants left the forum with a
4 written summary of all major recommendations discussed
5 that morning. And it's those recommendations that form
6 the agenda Item 26.

7 As you know, the forum was exciting because it
8 did address the many energy issues and involved innovative
9 technologies whose time may finally be on the horizon and
10 the Board should be complimented and it was. Many of the
11 participants, as you all have said, complimented you, but
12 for having the foresight to provide those funds and the
13 direction and this endeavor. And I, too, want to say
14 thank you to both you as the Board for giving us that
15 direction, but again to staff, many of whom are here
16 today, for the leadership that they took in that, and many
17 of those names have already been mentioned.

18 Real quickly, I'd like to then follow up on
19 something that you gave us direction on in February. You
20 asked us to begin enforcement action against companies
21 that were out of compliance with rigid plastic packaging
22 container laws in 1997, '98 and '99.

23 We sent compliance certification to 950
24 companies. And just quickly, to date, we have 177
25 companies or 19 percent that were out of compliance; 89

1 companies or nine percent were in compliance; 357
2 companies or 37 percent were determined not to be
3 regulated; and 65 companies or seven percent will be sent
4 certification forms in the next cycle.

5 Also, you directed staff to begin negotiating
6 compliance agreements with companies that were out of
7 compliance. And to date we have confirmation from 24
8 companies that you will be -- you are willing to enter
9 into compliance agreements. And we'll bring that forward
10 also at the June meeting. Ultimately, on the bottom line,
11 we expect as many as 250 compliance agreements, and we
12 think that's very good.

13 Just a highlight real quickly, we have a new food
14 scraps web site, food and left over food scraps should be
15 managed like any other commodity. And we do now have a
16 new web page dedicated to managing these food scraps.
17 It's available at www.ciwmb.ca.gov/foodwaste.

18 And just briefly featured topics include
19 prevention of food waste, donation of leftovers to food
20 banks and rescue program and composting information and
21 other resources and links.

22 Many of you have mentioned about the RMDZ
23 conference. Board staff and zone administrators from the
24 State's Recycling Market Development Zones will be in
25 Newport Beach on May 10th and 11th as part of our

1 continuing education program for administrators.

2 This particular workshop was this third in the
3 2000/2001 zone works workshop series being conducted by
4 the City of Long Beach under an inter-agency agreement
5 with the Board.

6 I would like to highlight very quickly our kid's
7 day that was held April 26th. Many of you saw children in
8 the building. We had 40 plus children. And our thanks to
9 Violet coming to Web 4 and the work that she did in
10 putting that together.

11 I'm going to start passing around a certificate
12 that was given to each of the children in participation
13 that were there. They did get a visit from recycle reps
14 from the Department of Conservation, Division of
15 Recycling. They had quite a day. Even Secretary Hickox
16 joined in on the fun, in that, they got to do paper making
17 and they had a lesson about E-waste. They had a recycled
18 CD Art project.

19 And the part that was so exciting was how many
20 other BDOs got to see what we were doing and suggested
21 that next year we could even do more joint efforts where
22 the children would get to go around and see various
23 booths and activities from each of the various BDOs. And
24 so we're really looking forward to moving forward on that.

25 If I just might make one mention about your item

1 today that was pulled, and that was Item 28. I do want
2 you to know that the first four elements of our strategic
3 plan the vision, the mission, the values and the goals
4 have been drafted. And the item was pulled to provide for
5 additional input from board members and stakeholder
6 review.

7 At the time that we get this review, we will be
8 seeking your directions on these elements at the June
9 meeting. So this will be coming forward again in June and
10 we'd like to have your direction so that we can look at
11 the elements, and then move on to the next level which
12 involves many of our strategies, our funding mechanisms
13 and we'd like to complete the schedule for the entire
14 strategic plan for later this summer.

15 And then the last item was that the Board, along
16 with the Department of Toxic Substances Control did host a
17 very successful Statewide Household Hazardous Waste and
18 Used Oil Conference last week in Tahoe City. There were
19 over 300 agencies and -- 300 attendees that participated
20 and as many of you have suggested, it was quite a
21 successful event. And thank you for the time to highlight
22 some of these.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
24 Bruce. And speaking of our future leaders, it's really a
25 privilege to have school children here with us today. And

1 I want to thank you for your patience in waiting for us.
2 And we're so glad you're here. And, at this time, I'd
3 like to turn it over to Belinda Green, Mariposa County
4 Waste Management Specialist. I believe we're going to
5 have a very brief vermiculture presentation. And these
6 are students of the Mariposa Elementary School. And
7 we're, in deed, just privileged to have them here. And
8 thank you very much.

9 MS. GREEN: Great. Thank you. They're excited
10 to be here. These students have worked really hard along
11 with their principal and their counselor. We started the
12 vermiculture with red worms in Mariposa for the entire
13 elementary school. So there rare close to 400 students
14 that are involved in making these worms grow and eat all
15 of their lunch scraps. And I would introduce our
16 principal, Susan Robinson and she'll take it over from
17 here.

18 Thank you.

19 (Applause.)

20 MS. ROBINSON: Thank you so much everyone for
21 inviting our children here to share something they're
22 quite proud of and so am I. Mariposa Elementary School,
23 as you heard, has 388 students. We are fortunate to be
24 located on a campus that includes the county head start
25 and the county high school. The acronym MES stands for

1 Mariposa Elementary School, but it also stands for kind of
2 our mission statement Making Education Special.

3 We are committed as a staff, parents and
4 community to having our students master the basics. That
5 is number one. But we want them to go the extra step,
6 take those basics and apply them in meaningful projects in
7 their community or their country.

8 So therefore, we did get involved, and the
9 students will tell you the story of that. The other thing
10 that is part of my charge is to make sure that the
11 student's actions are seen and that their voices are
12 heard. And so I will, with your permission, be standing
13 over here taking a picture of them doing their
14 presentation to share with the rest of the students so
15 that they know that a group, as prestigious and as action
16 conscious as yours, has actually listened to what they're
17 doing.

18 The second thing is we do have a web site for the
19 school. And under student activities on that web site,
20 you will see the project and you may actually see some of
21 the pictures from today as well as the stages in the
22 process.

23 I'd like to give you that web site, but I'll also
24 give it to Supervisor Pickard, so that he can share it
25 with you in case you don't hear it all. So it's

1 www.mes.mariposa.k12.ca.us.

2 So without further words from me, I would like to
3 introduce the spark plug behind the project, besides
4 Belinda Green and that is our counselor/assistant
5 principal/advisor to the student government Connie
6 Rothell.

7 (Applause.)

8 MS. ROTHELL: Thank you. I'd like to echo
9 Susan's sentiments and thank you for having us here today.
10 What a wonderful opportunity for our kids to see how
11 change is made. It's really great.

12 As a student council advisor, I think really one
13 of the best things we can offer our children is giving
14 back. And ideally it would be nice if projects could give
15 globally, nationally and locally.

16 And, of course, in the school year, it seems we
17 don't have time to address all of those areas. And this
18 year we decided to really focus on the local. Our parents
19 in our community for years have given so much to us,
20 whatever we have, a Math-athon or a heart-athon, that we
21 wanted to do something that would give back to the
22 community as well. And the students here will tell you a
23 little bit about it.

24 I'd like to introduce them to you. I have 5th
25 and 6th graders here today. And if you'll just stand when

1 I call your name, I'll tell a little bit about you.

2 Tabetha Hancock is a 5th grader. And she's a
3 student council member for Mariposa. She's one of those
4 kids who, no matter what you ask, she has her hand up.
5 She's ready to volunteer. She's willing to go. She's
6 quite an athlete. Many times I have had people who
7 haven't shown up to take care of their worms when they're
8 supposed to, and I have to get on the loud speaker and
9 Tabetha is one who I will usually call on and there she
10 is. So we're glad to have her here.

11 (Applause.)

12 MS. ROTHELL: James Burgess is another 5th
13 grader. He is also, what I call, the master shredder of
14 our school. When this project began, we bought ourselves
15 a little shredding machine and James just went crazy with
16 it. I don't think there was a piece of paper in our
17 entire campus that was safe, because James was always
18 there wanting to shred paper.

19 (Laughter.)

20 MS. ROTHELL: And I think we have enough shredded
21 paper to take care of every worm in the continental United
22 States thanks to James

23 (Laughter.)

24 MS. ROTHELL: But he has been a big help also.

25 Thanks, James.

1 (Applause.)

2 MS. ROTHELL: Katie Fiester is a 5th grader, from
3 MES. And she, like Tabetha, is one of those people who is
4 always there. She's very reliable. I can always count on
5 her to be there to help out with anything. And whatever
6 the worm bins are open and the little kids are out there,
7 she's usually over there, too, so I appreciate all of her
8 help.

9 Thanks.

10 (Applause.)

11 MS. ROTHELL: The last two I'm going to ask to
12 stand together, and I'll introduce Tenaya Bookout, and
13 where we're meeting today has been named after Tenaya, as
14 everyone knows. And Tenaya is our student council
15 president. And Lynsee Arebalo is our student council
16 vice-president.

17 And these two students have been very
18 instrumental in getting this project up and running. What
19 we have found is some students don't enjoy jumping right
20 into the worm bin as much as others. And Lindsey and
21 Tenaya will be the first to tell you that they just as
22 soon stand back, but they have done the paperwork, the
23 groundwork, the publications and everything that needs to
24 be done in order for a project to be successful. And they
25 have left quite a legacy for the 5th graders to follow-up

1 on next year once they've moved on to the middle school,
2 so thank you girls.

3 (Applause.)

4 MS. ROTHELL: We'll start with Tabetha.

5 CHAIRPERSON MOULTON-PATTERSON: Please come
6 forward. We want to be able to see you. Thank you.

7 MS. HANCOCK: The Redroom cafe began as a student
8 council project at Mariposa Elementary School. Mrs.
9 Robinson Mrs. Rothell talked about how much food we throw
10 away every day at lunch time. Mrs. Robinson said that we
11 could use the worms to help recycle that food.

12 The first thing we had to do was to see how much
13 food we threw away. For two weeks we collected and
14 weighed the fruits and vegetables from lunch that no one
15 ate. It averaged between 15 and 20 pounds a day. The
16 Mariposa County High School agriculture students built our
17 bins for us after we decided we could feed the worms in
18 three 4 by 8 bins.

19 MR. BURGESS: We bought a shredder and made a bed
20 of shredded paper for the worms to live in. Linda Green
21 brought us half of our worms and we put them all in one
22 bin. They were red worms. We would collect food and add
23 it to the bin every day in a row. Then we would cover it
24 up with down paper. We added another type of worm to the
25 next bin and then we put all of our food in it for a week.

1 We didn't have to worry about the worms in the
2 first been because it will take a while for them to eat
3 all of that food.

4 In a few months, the worm casting will be ready
5 to go. We will have to start breaking the worms from the
6 castings and any left over paper.

7 We will be able to give this out to local
8 gardeners or even sell it if we want to.

9 MS. FIESTER: Now, that we've been doing this for
10 a couple of months, we're starting to notice some things.
11 The worms have moved all over the bins and don't stay in
12 one area. Some must like certain kinds of food better
13 than others. Our red worms don't like carrots very much.
14 They still look the same every time they end with them.

15 Apples are popular, so are things like corn,
16 beans and peas. The red worms seem to stay in clumps
17 together more than the tiger worms do. In both boxes we
18 see little worms and Belinda has told us that that means
19 they like it there and that they're having baby worms.

20 The little kids in our school also seem to like
21 the worm project, but some of the older kids think it's
22 kind of gross. Some of the kids don't like it when the
23 lids are open and a bunch a nats fly out. Some kids are
24 more interested in some of the other bugs that have moved
25 in than they are in the worms.

1 The little kids act like it's a huge discovery
2 when they pull back the paper and see a whole bunch of
3 worms.

4 MS. BOOKOUT: A lot of the people have helped us
5 with this project. The Mariposa County Farm Group gave us
6 \$500. Motherlode Lumber sold us our supplies real cheap.
7 We were given money by the kids foundation for books.
8 Wayne Foresight and Scott Decker from the high school had
9 their students build our bin.

10 The pioneer market donated a huge scale for us to
11 weigh the waste in. Mary from the US Cooperative
12 Extension has talked to us about worms and we've been
13 visited by Marry Lou Ellis a master gardener and Donna
14 Wise from Mariposa 4H.

15 Belinda Green has gotten all of our worms for us,
16 and she comes by and visits us regularly and helps us.
17 Now, we're starting to help out others with what we have.
18 We helped out the high school biology teachers when the
19 worms she was using for an experiment at the high school
20 all died. She was kind of in a jam and she came over and
21 asked us if she could borrow some of our worms to finish
22 the project.

23 Some parents have been asking Ms. Rothell if they
24 can buy the worms we have. The moms seems to want all the
25 compost for their gardening and the Dads seem to want the

1 worms for fishing.

2 (Laughter.)

3 MS. AREBALO: We'd like to invite you to come and
4 visit our worm bins and see for yourself. We hope to
5 continue this project next year and add one more bin. Two
6 bins seem to be enough for right now, but as more kids
7 remember to put their waste in the worm buckets, instead
8 of the trash, we could use another bin.

9 Sometimes kids forget and they have to be
10 reminded to use the worm buckets. Since we started this
11 in March, we figured that we probably saved almost 700
12 pounds of food going into the landfill. Next year, we
13 should be able to keep almost one to two tons out of the
14 landfill. And if every school in Mariposa County did
15 that, it would really add up. Thank you for inviting us
16 to hear about our project. We hope we could help our
17 community.

18 (Applause.)

19 CHAIRPERSON MOULTON-PATTERSON: We would like to
20 just say thank you so much. We are so proud of you. And
21 I know the audience agrees that we are in good hands with
22 students like this. If you would come up and join us,
23 we'd love to have our picture taken with you, and we also
24 have a little gift from the Waste Board for each of you
25 and I think someone is getting it right now.

1 (Thereupon a pause in the proceedings)

2 CHAIRPERSON MOULTON-PATTERSON: I'd like to have
3 the whole Board and the students out. Maybe if they came
4 right here and the Board kind of gathered together.

5 Of course, Principal Robinson is also welcome.

6 (Thereupon pictures were taken.)

7 (Applause.)

8 CHAIRPERSON MOULTON-PATTERSON: Thank you so much
9 all of you. You've done a wonderful job. We appreciate
10 it. And I'd also appreciate very much the Chair of the
11 Mariposa County Board of Supervisors, Doug Balmain was
12 kind enough to want to let the students go first, and we
13 appreciate that. And we also have Supervisor Bob Pickard
14 in the audience. And would you come forward, I believe
15 the Chair is going to give the welcome and we're just so
16 happy to be in your beautiful county.

17 MARIPOSA COUNTY SUPERVISOR BALMAIN: Good morning
18 Madam Chair and Board Members. Welcome, to Mariposa
19 County. I've got to say wow, what an act to follow.

20 As you can see --

21 CHAIRPERSON MOULTON-PATTERSON: It's Supervisor
22 Doug Balmain?

23 MARIPOSA COUNTY SUPERVISOR BALMAIN: That's
24 right.

25 CHAIRPERSON MOULTON-PATTERSON: Am I pronouncing

1 that right, Chair of the Mariposa County Board of
2 Supervisors for the record.

3 Thanks, Mr. Peters.

4 MARIPOSA COUNTY SUPERVISOR BALMAIN: As you can
5 see as we try to impress you with our county, we put our
6 best foot forward.

7 I'm sure that you will enjoy your stay here. And
8 I'm sure Supervisor Pickard will have a presentation as
9 equal to or at least nearly equal.

10 And I will let him make his introduction, but I
11 would like to introduce the other board members that are
12 here today just so that your board will be aware that
13 we're here in the audience, so I will start with
14 Supervisor Patty Reilly who's in District 1.

15 (Applause.)

16 MARIPOSA COUNTY SUPERVISOR BALMAIN: And of
17 course I am Supervisor Doug Balmain District 2.

18 (Applause.)

19 MARIPOSA COUNTY SUPERVISOR BALMAIN: And
20 Supervisor Robert Stewart is District 3.

21 (Applause.)

22 MARIPOSA COUNTY SUPERVISOR BALMAIN: Supervisor
23 Garry Parker District 4.

24 (Applause.)

25 MARIPOSA COUNTY SUPERVISOR BALMAIN: And

1 Supervisor Bob Pickard District 5.

2 (Applause.)

3 MARIPOSA COUNTY SUPERVISOR BALMAIN: Well, you've
4 already seen our youngsters and I know you're looking
5 forward to seeing our natural wonders. You know, we have
6 many, many wonderful things to see here in the county.
7 Our historic value of our communities is another thing
8 we're very proud of.

9 Also, for the last 150 years these rural citizens
10 that live in Mariposa county demonstrated their ability to
11 solve problems and solve it in very good ways. As we're
12 pleased to be on your agenda today to describe to you how
13 we intend to solve our problem of solid waste reduction
14 through our landfill, we have a very unique and
15 unconditional plan in mind that Supervisor Bob Pickard
16 will explain to you that will not only meet requirements,
17 but go far beyond the requirements of diverting our solid
18 waste stream from the landfill.

19 The Mariposa County Board of Supervisors extends
20 its gratitude to your board for meeting here in Mariposa
21 county. And we wholeheartedly welcome you to Mariposa
22 County. Madam Chair, I know you're probably exhausted but
23 I'm looking forward to the evening in Yosemite.

24 CHAIRPERSON MOULTON-PATTERSON: I'm not going to
25 miss that.

1 (Laughter.)

2 MARIPOSA COUNTY SUPERVISOR BALMAIN: Thank you.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you so
4 much. And we are just honored that all of you would be
5 here to welcome us. It's really a pleasure. And it's one
6 of the best things that we can do is get out into the
7 different areas of California and see what you're doing.
8 Thank you very.

9 And Supervisor Pickard.

10 MARIPOSA COUNTY SUPERVISOR PICKARD: Good
11 morning, Madam Chair. As Supervisor Balmain said, it is
12 a tough act to follow. The kids really made quite an
13 impression on us when they gave the presentation to the
14 Board and really couldn't see where you wouldn't also get
15 the same benefit.

16 The kids are really working hard in a community
17 effort to try to solve solid waste in our counties. And
18 what better place to begin than with the kids educating us
19 parents how to do it.

20 With that, again, my name is Bob Pickard,
21 Supervisor in Mariposa County. And I'm very pleased to
22 present to you and your board the past and current efforts
23 in Mariposa county in identifying a technology for
24 achieving the 50 percent diversion mandate under the
25 Integrated Waste Management Act of 1989 other wise known

1 as AB 939.

2 Over the last several years, Mariposa County in
3 cooperation with Yosemite National Park and staff of the
4 California Integrated Waste Management Board has worked
5 collectively to find a solution for the mandated diversion
6 of solid waste from the landfill. The passage of AB 939
7 presented an extraordinary challenge for the county to
8 find a technology to process the unique waste stream
9 characteristics derived from the contribution of Yosemite
10 National Park and the rural nature of Mariposa County.

11 After waste characterization studies were
12 completed, it was determined that the organic waste made
13 up the largest fraction of our overall waste stream.
14 Mariposa County has investigated existing technologies in
15 solid waste management, and reported in source reduction
16 and recycling element prepared in 1993 demonstrating that
17 a maximum diversion of 54 percent could be obtained from
18 the construction and operation of a Materials Recovery
19 Facility.

20 However, this older technology would have adverse
21 effects on the remaining life of the county landfill. Due
22 to these and other challenges, Mariposa County and
23 Yosemite National Park determined that composting provides
24 the most economical and environmentally sound method to
25 achieve 50 percent diversion.

1 Mariposa County has undergone a very methodical
2 procurement and selection process before ultimately
3 selecting a company with proven results in biological
4 waste treatment.

5 Herhof, who is with us here today, a company
6 based in Germany was selected due to their proven
7 technology, liability and environmental benefits in large
8 scale operations in more than 45 facilities worldwide.
9 Confident of this technology, the proposed composting and
10 recycling plant will perform the intensive composting
11 process in two steps.

12 The key, however, to Herhof's biological waste
13 treatment is a closed vessel composting system with
14 computer controlled forced aeration. This system is used
15 in conjunction with different technologies selected in
16 order to meet the requirements defined by European and
17 German standards for the protection of the environment and
18 for public health. These standards are, in our
19 understanding, much more stringent than in California.

20 The two-step process involves separation of the
21 waste stream in compostable and non-compostable fractions,
22 which guarantees the most economic use of the capacity
23 that the composting system and offers recovery of
24 recyclable materials. Additional screening and separation
25 is done to remove plastics, foil, glass and other

1 household wastes from the compostable waste stream.

2 The closed vessel system unique to this
3 composting technology not only allows for quicker time for
4 biological part of the treatment, but also mitigates
5 environmental impacts like sewage waters, smell, noise,
6 dust, as well as minimizing the health risks for
7 employees. The final step of the process of compost is
8 cured on windrows and it's periodically shifted with a
9 loader.

10 The basic construction component of the proposed
11 compost facility is expected to cost \$5.3 million. The
12 federal government has appropriated \$1.7 million to the
13 project for capital expenditures along with an additional
14 \$200,000 in support funds.

15 The county is currently evaluating several
16 funding options of our own. In an unprecedented effort,
17 two-thirds of the project funded, Mariposa County is
18 sponsoring legislation in Assembly Bill 1400 (Cogdill)
19 which is seeking an appropriation of \$1.8 million, roughly
20 a third as well as the State becoming a partner in
21 showcasing this technology as a pilot project.

22 With as much as 40 percent of the State unable to
23 achieve the mandatory 50 percent diversion requirement, we
24 believe this technology is a proven solution.

25 El Dorado County is one such jurisdiction also in

1 the process of looking at this technology. As with many
2 other jurisdictions, the organic fraction of the waste
3 stream presents the greatest challenge for diversion from
4 the landfill.

5 Closed vessel composting has been demonstrated
6 for several years as a feasible reliable system, developed
7 a process to organically fraction the waste stream. And
8 as a pilot project, this technology was served as a
9 showcase for future implication and other jurisdictions as
10 well as place California in front of the nation as a
11 leader in an environmentally sound, economically feasible
12 solution in waste management.

13 In conclusion, Mariposa County and Yosemite
14 National Park have become very knowledgeable regarding
15 what it takes to build and effective solid waste system.
16 Additionally, we have proceeded with respect to company
17 claims of their system's ability to process mixed solid
18 wastes. Mariposa County had to be sure that technology
19 could provide compliance with the 50 percent State mandate
20 diversion of solid waste, also provide cost effective
21 integrated waste management, enhance environmental issues
22 of solid waste management throughout the county, as well
23 as Yosemite National Park and improve environmental
24 technology in California.

25 The proposed compost facility in Mariposa County

1 will achieve these goals and provide extended life of the
2 landfill, as well as numerous other environmental issues.

3 And, again, I'd like to thank you for this
4 opportunity to present our report brief. You were given a
5 report that has more of the detail in it for your review.
6 And real quick I'd like to introduce a couple guests and
7 partners in our composting and soiled waste management
8 discussions. And that is two representatives from the
9 National Parks Service that are herewith us today, John
10 Kilpatrick, if you could stand. He's our acting chief of
11 the facility management. Glad to have you here.

12 And his partner colleague is Jeff Hersha who's a
13 project manager for the National Park Service on part of
14 this project. I'd like to thank you for being here.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 MARIPOSA COUNTY SUPERVISOR PICKARD: And also I
17 have for you if we questions, we actually have two of the
18 represents from the Herhof Company. And please forgive me
19 but my German is unfortunately not that good, so I can
20 pronounce safely their first names, and that's Dr.
21 Everhart and Andreas from the Herhof company and they're
22 with us today as well.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you for
24 being here.

25 Thank you so much and would you be willing to

1 take questions if the Board members have any questions?

2 MARIPOSA COUNTY SUPERVISOR PICKARD: Please.

3 CHAIRPERSON MOULTON-PATTERSON: Any board members
4 have questions at this time?

5 We will certainly be looking this over, and we
6 appreciate very much the presentation.

7 MARIPOSA COUNTY SUPERVISOR PICKARD: I look
8 forward to the opportunity to discuss and show you the
9 model, out in the lobby, of the facility and to hopefully
10 have some further discussion. I'm looking forward to our
11 reception this evening.

12 Thank you again.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you very
14 much for your hospitality.

15 Mr. Jones:

16 BOARD MEMBER JONES: Just one quick question.
17 Since you've got the folks here from Yosemite, are they
18 going to partner with you to be the end user of that good
19 composting product when it's done.

20 MARIPOSA COUNTY SUPERVISOR PICKARD: Absolutely.

21 BOARD MEMBER JONES: Get it back in the park.

22 MARIPOSA COUNTY SUPERVISOR PICKARD: Well,
23 they're absolutely a partner in this process. And because
24 of that large waste stream that's collected in Yosemite,
25 this is definitely tailored to do that.

1 BOARD MEMBER JONES: This is material to go back
2 in the park. It makes it a heck of a story.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
4 Pickard. Thank you again for your presentation. And,
5 again, thank you to all of the Board Supervisor Members
6 for being here.

7 We're going to go on to our consent calendar now.
8 Thank you.

9 Just, again, Items 3 and 31 have been continued
10 and items 15 and 28 have been pulled. Items number 5, 11,
11 20, 25, 27 and 29 have been placed on consent calendar.
12 Would any Board Member wish to pull any of these items
13 from consent?

14 Hearing none, Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Madam Chair, I'll make
16 the motion that we pass the consent calendar, as you said,
17 Items 5, 11, 20, 25, 27 and 29.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you.
19 Motion by Mr. Paparian.

20 BOARD MEMBER MEDINA: Second.

21 CHAIRPERSON MOULTON-PATTERSON: Seconded by Mr.
22 Medina to approve the consent calendar. Would the
23 secretary please call the roll.

24 SECRETARY VILLA: Eaton?

25 BOARD MEMBER EATON: Aye.

1 SECRETARY VILLA: Jones?

2 CHAIRPERSON MOULTON-PATTERSON: We'll leave that
3 open.

4 SECRETARY VILLA: Medina?

5 BOARD MEMBER MEDINA: Aye.

6 SECRETARY VILLA: Papanian?

7 BOARD MEMBER PAPANIAN: Aye.

8 SECRETARY VILLA: Roberti?

9 BOARD MEMBER ROBERTI: Aye.

10 SECRETARY VILLA: Moulton-Patterson

11 CHAIRPERSON MOULTON-PATTERSON: Aye.

12 Okay, thank you. At this time, we'll go into our
13 continued business agenda items.

14 BOARD MEMBER EATON: Madam Chair, while we're
15 waiting for the staff to make their presentation, I also
16 received A letter from Vermont, I will do a couple of ex
17 partes, and I have a letter, which I didn't see, which was
18 from Waste Management, Chuck White, on the proposed
19 changes to the monofill regulations, as well as a recent
20 letter from the Department of Toxic Substances Control on
21 another item which will be coming up a later on today.

22 Thank you.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
24 Eaton.

25 CHAIRPERSON MOULTON-PATTERSON: We've got that

1 noted for all board members.

2 Thank you very much. And I'll turn it over to
3 Ms. Nauman. Item number 1.

4 DEPUTY DIRECTOR NAUMAN: Good Morning, Board
5 Members, Julie Nauman, Permitting and Enforcement
6 Division. Item number one is Consideration of Approval to
7 Formally Notice Proposed Regulations for Waste Tire
8 Monofill Regulations.

9 Before I turn the item over to Mark de Bie for
10 the staff presentation, just let me indicate to the
11 members and the audience that outside are copies of the
12 document that was available to the Board members
13 yesterday, and also made available to stakeholders on our
14 stakeholder list and was, of course, posted on our web
15 page.

16 The document is entitled Proposed Modifications
17 to the Draft Tire Monofill Regulations, 5301 version.

18 CHAIRPERSON MOULTON-PATTERSON: And that's
19 outside?

20 DEPUTY DIRECTOR NAUMAN: That is outside on the
21 tables.

22 CHAIRPERSON MOULTON-PATTERSON: I would like to,
23 just before we get behind, Mr. Jones, could we have your
24 vote on the consent calendar?

25 BOARD MEMBER JONES: Aye.

1 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

2 Sorry, Ms. Nauman.

3 DEPUTY DIRECTOR NAUMAN: That's okay.

4 What this document addresses are some proposed
5 modifications to the draft regulations that staff would
6 suggest the Board make prior to directing us to begin the
7 45-day comment period. These proposed modifications
8 result from continued discussions that we have been having
9 with the stakeholders in preparation for bringing this
10 item forward to you today.

11 So, at this point, I'll turn it over to Mark de
12 Bie to provide the background on the item and to brief you
13 on these proposed modifications.

14 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
15 Thank you, Julie.

16 Good morning, Madam Chair and Board Members, this
17 is Mark de Bie with the Permitting and Inspection Branch.
18 And I'm presenting this item today, but I want to note the
19 coordinator of these regulations is Brenda Saldana, and
20 her team with that includes special waste staff members as
21 well as other P&I staff.

22 The regulation package as you have in front of
23 you has gone through a fairly lengthy history that's
24 outlined in the agenda item. And most recently the
25 package has gone through, in which the technical standards

1 for tire monofills that have been out and about for a long
2 time, have been combined with solid waste facilities
3 requirements. And this is done by, based on the direction
4 of the Board, to combine these technical standards with
5 solid waste facility permitting design and operational
6 requirements.

7 The version that combines the two requirements
8 has gone through an informal process that included two
9 workshops. One was held in Copperopolis. And my thanks
10 to the community in Copperopolis for hosting that
11 workshop. We appreciate their assistance in doing that.

12 There was a second workshop that was held in
13 Sacramento. And there has also been several meetings with
14 interested parties, stakeholders, as well as the State
15 Water Resources Control Board.

16 Based on the results of those workshops and
17 meetings, the regulations have gone through a series of
18 drafts in the informal process. And as Julie indicated,
19 staff would also like you to consider some additional
20 changes to the version that's in the agenda package prior
21 to this going out for the 45-day comment period and thus
22 starting the formal process.

23 BOARD MEMBER MEDINA: Excuse me, is there any
24 record of those public comments of the discussions that
25 took place in those sessions?

1 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
2 Not per se. At the briefing, Board Member Papanian asked
3 for a summary of any issues that staff had identified.
4 And staff did put together a memo that was passed on
5 through Julie Nauman to, I believe, all the Board members.
6 So, in effect, that does document the issues that were
7 discussed and addressed.

8 There are also several letters that have been
9 written and sent to staff as well as the Board Members
10 that document issues that various stakeholders have had,
11 but there isn't a record, per se, of the results of those
12 workshops.

13 BOARD MEMBER MEDINA: So are any of the public
14 concerns reflected in any of the documents that we're
15 looking at?

16 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
17 As indicated in my presentation, through the series of
18 these workshops and meetings, the regulations have gone
19 through a series of drafts. And the version that's in your
20 agenda package does reflect input that staff received
21 during those workshops, and then the supplement that Ms.
22 Nauman indicated also reflects input that we received from
23 stakeholders.

24 To answer your question, I believe the form that
25 staff's response to any issues, concerns discussed in

1 workshops or meetings takes place in redrafts of the
2 regulations.

3 Just to summarize quickly, the proposed changes
4 are that staff would like the Board to consider prior to
5 these regs going out. There are two main areas. One is
6 dealing with the definition. Based on input received,
7 staff felt that it would be better to utilize the
8 definition of altered waste tire as opposed to the terms
9 tire shred, since altered waste tires is more inclusive
10 and does include tire shred.

11 And so the first change is to substitute the
12 definition of altered waste tire for that of tire shred.
13 So remove the tire shred definition and replace it with
14 altered waste tire. Do that in the definition section and
15 also throughout the regulations where that change had not
16 been made previously.

17 The other major area is focusing on Section
18 17346.3. And that is to bring clarity to the requirement
19 relative to these prescriptive standards that are included
20 in that section to better indicate that the requirement
21 relative to those prescriptive standards are when the
22 altered waste tires are placed in the monofill for
23 disposal.

24 There was some confusion relative to those
25 prescriptive standards whether they might be applicable to

1 loads received at the facility. Some stakeholders are
2 reading these requirements as saying, you know, if I get a
3 truckload of altered waste tires, does that truckload need
4 to meet that 25 percent or size requirements or is it when
5 the material is actually disposed that then I need to make
6 that requirement.

7 And the intent of staff in writing these
8 regulations was to have the fill, the material, in the
9 disposal site meet these requirements and not be
10 individual loads. So the changes that staff are
11 recommending are to clarify that issue.

12 Staff is also aware that there are additional
13 issues that are still needing to be worked out in applying
14 resolution. And these are in the areas of containment
15 structures, and leachate systems that are in the current
16 proposal as well as alternatives to meeting some of the
17 standards included in the regulations, and in the area of
18 higher protection.

19 But staff will continue working with
20 stakeholders. We, in fact, have a meeting late Friday
21 afternoon with the State Water Resources Control Board
22 staff relative to the containment issue. And so staff is
23 confident that we can continue working with stakeholders
24 in finding resolution to these questions and issues during
25 the formal process.

1 And so with that, staff would recommend that the
2 Board direct staff to begin the formal 45-day comment
3 period with the suggested changes.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 BOARD MEMBER JONES: Madam Chair?

6 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: Just a question. Mark, when
8 you were talking about like the four inch and those
9 prescriptive standards, that includes that two-inch piece
10 of metal? You know, they want you to cut the bead pretty
11 good sometimes, a processing unit that needs blades to be
12 fixed may end up leaving a two-inch piece of metal, are we
13 talking about -- that would be combined and 95 percent
14 would be over that entire fill area?

15 I guess what I'm getting at is on alternative
16 daily cover regs for tire shreds, we think you are no more
17 than 13 inches. We've seen an LEA that's gone unmeasured
18 and found some that were 13-inches and wrote up a
19 violation.

20 Are these guys going to be looking through to see
21 if there's two-inch metal shred, because it's --

22 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

23 The way the requirements are set out is there are
24 percentages and those are percentages that are based on
25 all of the material in the fill, not the individual loads

1 coming in.

2 There is a requirement to sample periodically to
3 see if you're meeting those requirements.

4 BOARD MEMBER JONES: Right.

5 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

6 But, you know, the intent is staff, that the mixture that
7 goes into the fill, as a whole, makes those requirements.

8 BOARD MEMBER JONES: Okay, and then I think the
9 one thing that, I've got to read these again, and I think
10 that these changes may be it starts getting there, is that
11 these are statewide regulations. I think the idea of
12 including a solid waste landfill permit lets us address
13 the local issues in the permit instead of in the
14 regulations or in the standards, because you can't put
15 these regs together based on Copperopolis. You've got to
16 put them based on the entire State and let the permit deal
17 with the specific issues of the specific area, because all
18 those areas are going to change.

19 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

20 And that's the approach that staff took is that we set out
21 to write minimum requirements knowing that site specific
22 issues would be dealt through the CEQA and permit process.

23 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

24 BOARD MEMBER PAPANIAN: Thank you. I wanted to
25 ask a few questions for clarification. We heard earlier

1 about this item and the issue of future possible
2 excavation of tires that was not a realistic option. I
3 seem to remember that, in, you know, prior presentations;
4 is that right?

5 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
6 Yes. And the way that evolved, my recollection, is that I
7 believe, at one time, the Board directed staff to hold a
8 series of workshops when they were trying to determine how
9 best to approach tire monofill regulations, whether it
10 should be in the solid waste facility or in a higher
11 permit area.

12 And our colleagues in special waste conducted
13 those workshops. And one of the questions that was
14 debated during that was what is the feasibility of coming
15 in and manning these tire monitoring facilities into the
16 future?

17 And my recollection is the consensus of those at
18 those works shops was that currently it's not economically
19 not affordable to some extent technically feasible to go
20 back and reclaim those tires once they're in the monofill.
21 So staff has been approaching these regulations with the
22 idea that this is the disposal of long term and not
23 storage, so a lot of the departments focused on that
24 aspect.

25 BOARD MEMBER PAPARIAN: There are some references

1 still in the draft regulations to excavation or recovery
2 of tires. And I know you may turn out to be fine, but you
3 may want to look at those, page 1-11.11, any minor
4 excavation of waste tires blah, blah, blah.

5 And we don't have to go into the detail, but
6 there are a few references to excavation. And I think to
7 the extent that we allow a little wiggle room if we find
8 it in the future that excavation is possible, you know, it
9 might be a good thing.

10 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
11 And certainly the regulations don't prevent that
12 possibility. And certainly staff will look at that aspect
13 to see if there is enough flexibility in that.

14 BOARD MEMBER PAPARIAN: From the materials that
15 you've provided us about the issues raised at the
16 workshops, the major issue from the residents of
17 Copperopolis, and I guess we may hear from them later
18 today, the major issue relating to this concerns about
19 fire, a variety of fire related items, training of local
20 fire fighters, the equipment and the ability to respond
21 and so forth, do you see much potential to address those
22 concerns as these regulations go forward? You know, would
23 it be possible to provide, for example, for additional
24 training of volunteer and staff firefighters in the local
25 communities?

1 I don't know what direction it might take, but do
2 you see ways to address the concerns about fire that have
3 been raised by the local residents?

4 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
5 Certainly, that's one of the issues that staff have
6 identified that we can continue working on. At the
7 prompting of the residents from Copperopolis, we've had a
8 series of discussions with the State Fire Marshal about
9 their potential role and technical support, approval,
10 training, those sorts of things.

11 And the response that we get back that have been
12 documented in a memo or two that we've received, is that
13 they -- at least that entity doesn't have a responsibility
14 or authority to involve themselves in those areas.

15 I guess the Waste Management Board could see if
16 we have resources and expertise that we have in-house or
17 could develop to address those issues, but outside of
18 that, staff is still grappling with how to address those
19 concerns. It takes a certain amount of resources, fiscal
20 resources, technical resources to accomplish that sort of
21 thing.

22 So, you know, staff will continue working with
23 the residents to see if we can develop something that can
24 address those concerns. But right now staff is grappling
25 with it. We look to the Fire Marshal, the State Fire

1 Marshal for a solution and there was none forthcoming.

2 BOARD MEMBER PAPARIAN: Maybe, some of the people
3 who testify may want to, you know, see if they have any
4 additional ideas.

5 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
6 We'll look for any ideas on how we can address that.

7 BOARD MEMBER PAPARIAN: You mentioned, I think in
8 the context of the Water Board, related discussions, I
9 think you said the Water Board had a concern about
10 leachate.

11 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
12 The current version of the regulations is a requirement to
13 have a liner system and it references the liner
14 requirement in Title 27. And in that same area, we
15 indicate a requirement to address leachate collection.

16 We, as I indicated, had a discussion just last
17 Friday afternoon with the State Water Board on how to
18 address concerns they had about the fact that these
19 regulations were requiring a liner system that is typical
20 of a solid waste landfill for what they define as a nerve
21 waste.

22 And felt that, in doing so, we were basically
23 reclassifying tires as something other than inert. So
24 during that meeting we discussed an alternative way of
25 addressing concerns that staff have relative to liner or

1 containment systems. Specifically staff is concerned
2 about potential infiltration of water and/or air into the
3 fill, that may lead to a situation where the probability
4 of tires would increase, as well, as some sort of
5 emergency containment for the event of a fire producing
6 liquids, and he wanted to see some containment structure
7 for those liquids that might be produced from the fire.

8 Those, in staff's opinion, aren't necessarily
9 directly related to water quality, which the Title 27
10 requirements are designed to address. So once the Water
11 Board staff sort of realized sort of what our rationale
12 was for containment they were willing to begin working
13 with us on crafting some kind of containment language,
14 reflective performance standards that we would like to see
15 in place.

16 Relative to leachate, our concern is basically
17 that if any water that does infiltrate the fill is not
18 allowed to collect and remain within the fill, that there
19 be some system to remove any water that may enter into the
20 building. So staff is looking at other ways of addressing
21 that, cover requirements, maybe even operating
22 requirements if there is potential for rain those sorts of
23 things that may give us the protection that we're looking
24 for relative to water going into the fill.

25 So as staff had indicated, that is an issue that

1 we're still working out, but we're confident that we have
2 a path towards resolution to that.

3 BOARD MEMBER PAPARIAN: Okay. This is going back
4 to the minor part for a second it said the Water Board, it
5 sounded like, doesn't necessarily need to see the need for
6 the liner underneath in the traditional --

7 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
8 Right, A point of view that it would be for protection of
9 ground or surface water, which a traditional liner is, but
10 when we talked with him about these additional concerns,
11 they saw that there was some credibility to that and were
12 willing to work with us on language that could address
13 that, but not enter into the area of water quality issues
14 that are specifically within their area.

15 They wish to be able to address specific water
16 quality issues through any WERs that would be required for
17 the site and not have them in the regulations. So they're
18 not saying there aren't any water quality issues
19 necessarily with a tire monofill, but they feel that they
20 should -- that we shouldn't include this requirement in
21 our regulations, that it be dealt with through their
22 permitting process.

23 BOARD MEMBER PAPARIAN: So, at this point, what
24 would you foresee happening with the requirements in terms
25 of either being there or not being there in their proposed

1 regulations.

2 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

3 Staff is coming from the point of view that there be some
4 containment requirement in the regulations. And so what
5 we would like to do is work -- that issue during the
6 formal process.

7 BOARD MEMBER PAPARIAN: So the containment could
8 be a liner or something equivalent

9 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

10 A couple of directions that we're exploring is setting up
11 performance standards and allowing a potential applicant
12 to, you know, present a project that can meet those
13 performance standards. And there would be some review of
14 the suspect period during the permit process to see if
15 they do have that.

16 Another approach is to set out specific
17 prescriptive standards. There's been some discussion of
18 requiring a minimum, some sort of liner that meets the ten
19 to the minus six. And then there's a third path that
20 would potentially combine the two, performance criteria
21 and some minimum requirement. So those are sort of the
22 theme of the discussions that we've had with the State
23 Water Board.

24 One thing that they wanted to ensure is that an
25 aspect of this containment, especially with the fire issue

1 and any liquids that might result from the fire, is the
2 focus is on containment for that emergency kind of
3 situation.

4 The concept isn't to have a liner that's there
5 too, as a traditional landfill liner, is to prevent any
6 liquids from escaping for years and years and years. It's
7 sort of the line -- the second line of defense being
8 first. Line of defense being the cover and operational
9 requirements of filling in the monofill to prevent fire.
10 The second line of defense being this containment
11 structure.

12 BOARD MEMBER PAPARIAN: Thank you.

13 CHAIRPERSON MOULTON-PATTERSON: At this time, I
14 know Senator Roberti has questions, I have some questions
15 comments, other board members might, and we do have a
16 speaker, I'm going to call a ten minute break.

17 (Thereupon a brief recess was taken.)

18 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
19 the meeting back to order, please.

20 Thank you very much. We'll be doing our ex
21 partes in just a moment. It is my plan now to finish this
22 item, then we will clear the room and have our closed
23 session before lunch, and then we'll break for lunch. And
24 as we get further along we'll try to give you an idea when
25 we will be back.

1 I think Senator Roberti's questions were -- were
2 they answered, Senator Roberti?

3 BOARD MEMBER ROBERTI: I have one question.

4 CHAIRPERSON MOULTON-PATTERSON: Okay, but we'll
5 do our ex partes first.

6 Mr. Eaton?

7 BOARD MEMBER EATON: Nothing to report, thank
8 you.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

10 BOARD MEMBER JONES: None to report.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

12 BOARD MEMBER MEDINA: None to report.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian?

14 BOARD MEMBER PAPANIAN: Yes, I had a conversation
15 with George Larson regarding the entire monofill issue and
16 its impacts on waste management and the Lincoln fire. And
17 also placed at my spot a letter from the Department of
18 Toxic Substances Control dated May 21st, I believe, on the
19 subject of insurance requirements.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 Senator Roberti, ex partes?

22 BOARD MEMBER ROBERTI: No ex partes.

23 CHAIRPERSON MOULTON-PATTERSON: As far as myself,
24 I had a conversation with Assemblyman Simitian. It was on
25 a personal matter, but I felt I should report it, that I

1 did speak with him. It had nothing to do with the Waste
2 Board.

3 Senator Roberti, we're back on.

4 BOARD MEMBER ROBERTI: Yes, I just have a
5 question, Madam Chair, of staff. And that is has
6 consideration been given of putting regulations together
7 of having the operator responsible, especially in rural
8 areas for training the fire personnel when you don't have
9 the professional firefighters, you have the volunteer
10 firefighters?

11 DEPUTY DIRECTOR NAUMAN: Senator, let me respond
12 to your question with this additional information that I
13 talked with Mark Leary during the break, as part of your
14 five year plan on tires. At the time you adopted the
15 five year plan to implement the tire bill, you did set
16 aside resources for the State Fire Marshal to be able to
17 develop materials related to fire suppression for tire
18 fires.

19 Within the context of that concept in the plan is
20 also the concept of the State Fire Marshal perhaps
21 developing some training courses that could be made
22 available to locals, so that they could be better prepared
23 in the event that there was a tire fire incident.

24 So that, I think, it provides an opportunity and
25 A great commitment of resources to be able to address what

1 is initially a local response in the event of an emergency
2 situation within the tire monofill. We don't have a plan
3 in front of us. I can't quote you a dollar amount, but at
4 least there was the thought that that would be available.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. I would
6 just like to say I also have -- you know, after the 45-day
7 period, before we adopt these formally, I'd certainly like
8 to know what type of monitors used to measure sub-surface
9 temperatures and how frequently will the readings be made.
10 And as much as possible as we can know on fire prevention.

11 Also, I think it would be appropriate if at the
12 time these regs come back to the Board that we have Dr.
13 Dana Humphries, the outside expert available, at that
14 board meeting to answer questions for the Board and also
15 for the public, if that's possible.

16 DEPUTY DIRECTOR NAUMAN: We'll certainly try to
17 make those arrangements.

18 CHAIRPERSON MOULTON-PATTERSON: And with that,
19 I'm going to go to our public speakers, start with George
20 Larson, Waste Management Inc.

21 Mr. Larson.

22 MR. LARSON: Thank you, Madam. Madam Chair,
23 Members, George Larson, yes, I'm here representing Waste
24 Management. I, however, would like to say, for the
25 record, too, I'd like to make a comment on behalf of Laken

1 Tire during the course of my presentation, too.

2 Waste Management, of course, operates Azusa
3 Landfill, which is the largest waste tire monofill in the
4 State of California and accepts over ten million tires a
5 year. And hopefully some day we'll be able to operate the
6 California Asbestos Monofill, as a tire monofill. And I
7 think that in some part is underlying the whole issue of
8 this discussion of monofills and I'd like to address that
9 too.

10 The long history, as Mark de Bie referred to in
11 his presentation, I won't go through it, because we've
12 been there and done that. We do appreciate the Board
13 having put over these regulations at their last meeting,
14 because at the time -- the intervening time was really
15 well spent. Your board staff held an additional, there
16 were two, but they held a second public workshop, which
17 was very well attended, and they allowed the Waste
18 Management representatives to come in and meet with them
19 on two separate occasions. And they were very receptive.
20 And, in fact, there was some very specific changes that
21 were made into the regulations that we feel improve them
22 as a result of the work that staff has done.

23 The removal of tire shreds is a key issue. I
24 think that eliminates -- the definition of the tire shreds
25 eliminates some duplication having to replace that with

1 the term altered tires, which already has a definition in
2 law.

3 The clarification that these regulations apply to
4 waste tires when they're in a monofill setting a very
5 important distinction, because in the processing of tires
6 before they are placed in the monofill, the criteria that
7 are being developed would be very difficult to meet in 100
8 percent of the cases.

9 And as the 100 percent threshold always trips
10 many people up, I'll note that the staff recommended some
11 flexibility by removing the absolutely prescriptive
12 standard of 100 percent and putting in some flexibility
13 like 95 percent of certain specifications of tires must
14 meet a certain requirement. So the process has been
15 positive, and we appreciate that and certainly continue to
16 want to pursue that route.

17 However, as we all know, this is the first step
18 in moving to the formal rule making process. And so I'd
19 like to make a couple of specific comments today, but a
20 couple general comments before the specifics is I'd like
21 to reiterate Mr. Jones' comment that we're very concerned
22 about this being a set of monofill regulations versus a
23 set of statewide regulations that will allow reasonable
24 governance and direction for operators of tire monofills
25 throughout the State.

1 Secondly, we feel that although there have been
2 some flexibility incorporated, there's a need for more
3 site specific flexibility. In other words, it would be, I
4 think, much more practical and workable set of regulations
5 if they were general in nature, and then directed local
6 governments to exercise their authority, which you
7 delegate to the LEA system, to develop the site specific
8 requirements for the operations of facilities at the local
9 level, taking in the differences of climate and geology,
10 et cetera around the State.

11 With that, I did leave, and I hope each of you
12 and staff and legal staff have, a set of recommendations
13 of four of them. I'd like to go through them very
14 quickly. And there are recommendations one through four
15 also indicate to us, and it's in order of priority, so
16 Recommendation 1 we feel is the most significant issue
17 still outstanding in the waste tire monofill regs.

18 And that is the requirement for liner systems and
19 low permeability liner systems and leachate collection
20 systems. As was noted, again, by Mr. de Bie, it's
21 supported in both law and regulation here in California
22 that tires are classified as an inert material. And, in
23 fact, through your waste tire grants program, you support
24 the development of engineered alternatives, which include
25 the development of aggregate material made out of waste

1 tires that acts as a leachate of field material that
2 allows liquids to flow through it freely without any
3 concern about any pollution that may be so generated.

4 There doesn't seem to be nor at least have not
5 seen any justification for the requirement for the liner
6 and leachate collection system, but it seems to be driven,
7 in part, from my observations by the concern for fire.

8 Well, one of the concerns for fire is the control of the
9 supply of oxygen to a cell or a monofill.

10 The leachate collection system, when not
11 performing in the collection of leachate, is certainly a
12 wonderful conduit to provide oxygen in the case that the
13 fire did start. And I don't know that the liner design
14 requirements that are placed on Class 3 landfills were
15 designed for the purposes of controlling fire.

16 I know fire is the prevailing environmental
17 public health and safety concern, and certainly needs to
18 be addressed, but we just feel that the liner system and
19 the leachate system doesn't get there.

20 The second issue, and this is, I should note, in
21 the regulations if you care to refer, it's on page 111 of
22 your packet, has to do with State minimum standards, and
23 it's Section 17346.3(b) (2) (10), which look for the ten in
24 the bottom of the page and I think it will be easy to
25 find.

1 Basically, this provides the Local Enforcement
2 Agency and the Board the authority to develop alternative
3 criteria for the operation of monofills as opposed to or
4 to supplant the way we interpret the regulations are the
5 two through nine, which precede that ten, which have very
6 specific operational standards set forth.

7 Number ten says basically based upon site
8 specific considerations, the LEA and the Board can agree
9 to develop alternative criteria. What I'm requesting and
10 Waste Management is requesting that these -- it be clearly
11 stated in the regulations as is underlined at the bottom
12 of the revised proposed section, that approved criteria
13 shall become the standard through which facility
14 compliance is determined.

15 It seems rational and reasonable that if you come
16 up with a set of alternatives that they're meant to
17 replace something. And we'd like it to be clearly stated
18 that they do replace what are some of the other
19 prescriptive standards.

20 The next item is recommendation number 3, next
21 page, which is in page 1-10 of your packet which has to do
22 with representative sampling. And we certainly concur
23 with the requirement for sampling as board staff have
24 given us some flexibility in terms of how things will be
25 evaluated, so they need to be measured.

1 However, this comes back to the point at where is
2 the point of measurement. Is it at the point of the
3 output of the shredder when the shred tires that are going
4 into the monofill or when a 40-yard roll of a bin of
5 shreds are deposited before disposal in a monofill or is
6 the critical point at the phase or where the shreds or
7 waste tires are actually put in the monofill.

8 And, if I can use my example, if we have a load
9 of shreds that come in that exceed the specification for
10 more than 25 percent of the load being four inch or minus,
11 if that load were inspected by an inspector, obviously it
12 would be out of compliance because it exceeds the 25
13 percent limit.

14 If operators are given the flexibility to
15 commingle or mix a load such as that with other materials,
16 other shreds to put in the monofill so that they can be in
17 compliance, then that's what we're requesting here in
18 Subsection D that we're able to commingle altered tires to
19 achieve compliance. And we feel that's fairly reasonable.

20 And the last item, specific item, and then I'll
21 just have brief closing comments, has to do with, it's
22 also on page 1-10 of your packet, Section
23 17346.3(b) (2) (h), which has to do with the final top 12
24 inch layer.

25 We questioned whether it's necessary that at

1 least one side of the wall be severed from the tread of
2 each tire in that top 12-inch layer. We certainly agree
3 that the 12-inch maximum is of a good threshold. And, in
4 fact, in another Section, 17346.3(b)(4), it's already in
5 the regulations that require that the last lift of the
6 tire monofill be compacted to provide a flattened stable
7 surface.

8 I think it's pretty clear direction on what has
9 to happen. The problem is if one side wall of a tire has
10 to be removed, there is not a mechanical shredder out
11 there in existence today that has the capability to ensure
12 as it threads that one side wall of the tire, basically,
13 the side wall adjoining the thread is removed, which means
14 we'd have to physically examine and remove a sidewall
15 tread.

16 We just don't see that there is any benefit to be
17 derived from that as the compaction rates are clearly
18 spelled out in another section.

19 Finally, just in areas of continued concern,
20 we're concerned about the degree of control that local
21 operators can exercise over incoming loads. For example,
22 at Azusa, 25 percent of the tire shreds that are disposed
23 at Azusa are shredded on site, 75 percent come in from
24 outside sources.

25 We obviously feel, and I know the regulations

1 will give us the responsibility to inform everyone who
2 comes to our facilities what the requirements of the law
3 are. We're just not too sure what ultimately we're going
4 to have to do or what will happen if loads are rejected
5 where are they going to go.

6 It's an issue we just want to continue to talk
7 about. We feel that a couple other provisions, although
8 progress that has been made are overly restricted and
9 specifically that's the liners and the leachate systems
10 that are required.

11 I am getting to the final. We'd like to promote
12 the development of alternatives to the current practices
13 of management of tires, which is basically above-ground
14 storage. And nobody ever questions the fact that that's A
15 source of feed stock in fires for vectors, for disease.

16 We feel that if we can get these monofill
17 regulations in place that it will take the pressure off
18 you and operators out there in the state to have them --
19 to manage their waste tires by putting them in piles as
20 monofills will provide another alternative that really is
21 an integrated solution that is consistent with your
22 overall mandate.

23 I appreciate your patience in letting me be
24 thorough in that. And I'd be glad to answer any
25 questions.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
2 Larson.

3 Terry Clapham of Blackjack Bluff Owners
4 Association.

5 MR. CLAPHAM: Madam Chair, Members of the Board,
6 I appreciate the opportunity to address this issue. As
7 was said, my name is Terry Clapham. I represent both the
8 Concerned Citizens of Copperopolis and the Blackjack Bluff
9 Owners Association.

10 And we had planned to bring a larger contingent
11 down here, but we thought, in reflection, that it would be
12 better if perhaps just a few of us came and made brief
13 comments to the point and not take up a lot of the Board's
14 time there, but we do have solid community backup from our
15 points of view.

16 We have been following the development of these
17 regulations actually for a number of years, and most
18 recently with the drafts that Mark and Brenda and the
19 staff have provided. And we have had some meetings where
20 we have had a chance to voice our concerns and try to get
21 input into the regulations.

22 Our major concern has been stated before
23 basically by George is the health and safety. We live in
24 that community and the health and safety is our major
25 concern. We are a little disappointed that none of the

1 major points that we had made during these meetings ended
2 up in the regulations.

3 Basically, we understand, as Mr. Larson stated,
4 as members of the Board have stated, these are statewide
5 regulations that are being addressed today. From a
6 community standpoint, clearly our concern is the proposed
7 monofill. However, we do recognize this is a statewide
8 document.

9 And what we had in this particular case, we do
10 have a situation where we have a proposed facility that's
11 on an earthquake fault, within 1,500 feet of our public
12 drinking water reservoir and an old asbestos mine. Every
13 site that is going to be proposed for approval as a
14 monofill is going to have its own special requirements.

15 What we are asking for in the general regulations
16 is to have provisions where the regulations require
17 various State agencies, such as Air and Water and the Fire
18 Marshal be involved in the approval. And we've been told
19 several times that the Waste Board does not have the
20 ability to dictate to other State agencies what they will
21 or will not do. And as much as we'd like to have that in
22 there, we understand the Waste Board positions on that.

23 We have addressed the Board through a letter that
24 was sent to the Board on April 17th, which, at this point,
25 I believe we have not received a response to it.

1 Basically, it's asking for an alternative approach to
2 that. And that is having the general State requirements
3 require that independent expert authorities in air, water,
4 fire prevention and fire suppression review each site
5 specific application in regard to those areas because
6 that's our main concern in terms of health and safety.

7 So, again, we would like very much to make sure
8 our comfort level goes up considerably, if we can be
9 assured that independent experts in those areas are going
10 to be addressing the site-specific plans as they come
11 before the State Board.

12 And basically, that concludes my comments. I
13 know Bob Miller is scheduled to talk to the group this
14 morning. And, again, in terms of representing the
15 community, Bob, yesterday just did receive an award from
16 Calaveras County for his work in community activities.

17 So thank you very much.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
19 Clapham.

20 Bob Miller.

21 Congratulations Mr. Miller on your award. You're
22 more than welcome to sit here if you'd like.

23 MR MILLER: I'd like to take issue with the
24 document that just came out regarding changing the
25 provisions as outlined on tires, waste tires, shredded

1 tires, soft tires and split tires.

2 I'd like to reference just for 30 seconds a
3 banana split. A banana split has strawberries in it, it's
4 got chocolate in it, it's got vanilla, it's got bananas
5 and it's got marshmallow, cherries on the top. And if I
6 wanted to buy chocolate only, I couldn't do it.

7 BOARD MEMBER JONES: Mark, is that on?

8 MR. MILLER: Well, what I'm saying is the
9 document that's not on the table --

10 CHAIRPERSON MOULTON-PATTERSON: Just a moment,
11 Mr. Miller. We're having technical difficulty. You're
12 mike isn't on. Just a moment. Maybe we can pass that one
13 over.

14 MR. MILLER: Well, what I'm saying is our
15 documents all the way through wanted to reference shredded
16 tires. They did not want to register altered tires,
17 bailed tires, things of that nature.

18 And if we go back to Terry LeVeille's news
19 letter, a 12-inch tire shred for the Santa Clarita,
20 12-inch minimum shreds with minimum steel, and another
21 process here is shredded tires.

22 Twice a year we do not have a level playing
23 field. Why can they have the requirement for shredded
24 tires, minimum steel, and we turn around and have altered
25 tires, bailed tires, maximum steel. Something isn't

1 right. The playing field is not level.

2 Now, regarding fire authority, Fire Marshal. Our
3 local gets approximately \$400 in tax money from this
4 facility to maintain their fire department. Four hundred
5 dollars is zilch. I feel that there needs to be an
6 overriding factor. The Fire Chief is very well qualified
7 for land and home fires, but in the Westley Tire site,
8 they brought in outside people from Texas. They needed
9 lots of water. This facility does not have lots of water.
10 If there was a fire, that Fire Chief at best would have
11 one hour of fire prevention.

12 The next thing I wanted to address is in the part
13 of the document that references shredded tires. It does
14 not reference bailed, things of this nature, and it's
15 three years old. It does not reference tire fires.

16 We can fill up a tire and after that it drops
17 dead. We, as the residents, need some protection that
18 there will never be a fire, there never will be
19 contamination in our water supply, that feeds the water to
20 Linkville, Copperopolis and now the City of Stockton.

21 There's got to be something in there. We do not
22 have any provisions in the document regarding toxic
23 chemicals flowing over the Sierra Conservation Center,
24 which has 4,000 inmates. Are we going to leave those
25 people locked up and let them breathe contaminated air, or

1 are we going to give them a key and unlock them and let
2 them go. It also goes over the little town of Jamestown.

3 We asked for a stand-alone document, something
4 that could be read by the average person. We do not have
5 a document out there that could be easily read, that
6 references back to different provisions. We sent in
7 before this April meeting was the May letter, we've not
8 had any response to that.

9 Then under State Water Resources Control Board,
10 general criteria for containment structures. "The
11 materials shall be fine grain soils with significant clay
12 contact without organic matter." Initially, we had
13 representative in there. Waste Management came in and
14 convinced somebody that five percent was better. Whose
15 rules are we going to play by? Are we going to play by
16 your rules or are we going to play by solid waste
17 management, or Water Resources Control Board? We've got
18 to have a level playing field out there.

19 We have an earthquake underneath this, but again
20 that falls under Regional Water Quality Control Board.
21 We're not a merry-go-round down there. We open the door
22 and everybody points a finger to another agency. Somebody
23 has to shoulder the full responsibility.

24 In the February agenda, 23 says, "The Board shall
25 adopt emergency regulations to set forth procedures for

1 authorization of at least one planned landfill in a region
2 of the State to accept shredded tires." Not bail tires,
3 not altered tires, shredded tires, and that's what we want
4 to see in that.

5 Monofill design standards are necessary to
6 minimize the potential for eating the shredded tires that
7 may lead to combustion. This brought up technical
8 considerations by Geosantech. That's three years old.
9 There should be newer documents than that.

10 There's a section in here regarding expecting
11 financial impact. You expect to see approximately a
12 \$70,000 increase in revenue each year, but there is also
13 where it says, "For the purpose of this section, we've
14 determined that the fee shall be imposed on inert waste
15 removed from the waste stream and not disposed. The solid
16 waste facilities are exempt from putting money into the
17 State Board of Equalization." This is for your
18 information.

19 Somebody provided the County of Calaveras with
20 docking them \$50,000 for getting to the requirement for a
21 Solid Waste Disposal Site and it does not have any mention
22 for an EIR. That site up there is registered as an
23 asbestos mine, and so is designated as an asbestos
24 containing management.

25 In 1997, Waste Management were required to get a

1 solid waste permit. To my knowledge, they have not done
2 that.

3 There is one document in here that says for them
4 to get a full solid waste facility. Does that mean they
5 can bury garbage, trash and everything else up there? We
6 don't think it should be getting into there.

7 The site that has been proposed up there is a
8 mine site. And the classification is unclassified
9 landfill. They're trying to get that site to be
10 classified as a solid waste disposal site per your
11 instructions.

12 Somebody from this office provided Calaveras
13 County with the document 50,000, zero, zero, zero for
14 transferring it to a solid waste facility. We feel that
15 document should be 25199, which references a hazardous
16 material situation and any changes in there should be done
17 per that document. That gives the local community a
18 chance to be involved with any changes. We feel that
19 where you're going now is in the wrong direction.

20 They called for a meeting and conference to
21 resolve questions, mediate disputes arising from the
22 application for hazardous waste. That gives us a chance
23 to get all this that we have been fighting up to this
24 point. This gets the local community involved and gives
25 us a chance to be heard.

1 Also, the local assessment committee has as its
2 primary function, that is largely the point of legislation
3 that would affect the local agency of terms and conditions
4 which the proposed landfill facility may be acceptable to
5 the community. That's where we really need to be.

6 Now, under the State Fire Marshal. Section
7 13105, "The State Fire Marshal shall encourage the
8 adoption of fire prevention measures by means of
9 education, engineering, and enforcement and shall repair
10 or cause to be prepared dissemination of information
11 relative to the subject of fire prevention to extinguish
12 it."

13 That's a must, whether it's in our facility,
14 whether it's the Westley facility, wherever it might be.
15 We've got to get those people in and take the pressure off
16 the local fire chief.

17 And then I don't want to scare you, but there is
18 a memorandum from CalEPA that says that, "Provide that
19 criminal liability will be imposed on persons who
20 reasonably should have known they were unlawfully
21 disposing and transporting or causing the disposal of
22 transportation of such waste."

23 If you have authorized asbestos waste to go there
24 to a site that is not designated as a disposal site, I
25 think you're wrong. If you allow tires to be sent up to

1 that site, again, I think it's wrong because it's never
2 been designated as a disposal site.

3 Now, under silent consultants. They reference
4 shredded tires. Again, it's been three years old. But I
5 appreciate the Board asking the staff to come to the
6 little town of Copperopolis. It's a far cry this building
7 compared to this one, but we'd appreciate it.

8 But we were not privileged to have any of the
9 minutes that have been taken and forwarded to you people.
10 We feel that if this man is meeting the Water Quality
11 Control Board, we should be able to be involved and listen
12 to those concerns.

13 I thank you for your time.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Miller, thank
15 you very much for bringing up these concerns. And we're
16 very concerned about everything you've raised. As you
17 could hear from the comments of the Board Members, we're
18 very concerned about the fire ramifications and water
19 quality issues. If we do direct staff today to formally
20 open the 45-day period, we'll be working closely with your
21 community both at the Board office levels and our staff
22 level. So thank you very much.

23 And also, in addition to asking Dr. Humphries to
24 be at the meeting, perhaps we could ask the State Fire
25 Marshal to attend and present information about training

1 and working with the locals, because this is a huge
2 responsibility. And I thank you, Mr. Miller, for coming
3 today.

4 Board Members any questions?

5 Mr. Jones.

6 BOARD MEMBER JONES: Madam Chair, just a couple
7 of things. I think that there is a big difference between
8 the Westley Tire site and the Royster Tire site, and what
9 is proposed in these regulations. And the difference is
10 those sites allowed the storing of tires above ground.
11 The reason we're developing these monofill regs, and one
12 of the issues I'm going to get to, because I don't agree
13 with the requirement for a leachate containment system is
14 this came to us three years ago. And we said go out and
15 get professionals and make sure.

16 There were two reasons. It didn't have anything
17 to do with the Westley tire fire. It didn't have anything
18 to do with the Royster tire fire. It had to deal with the
19 depth of tires that were used in civil engineering
20 projects that had created heat and ignited. We wanted to
21 make sure that we had a set of regulations in place that
22 said what the density should be, how deep it should be
23 before there was cover material to minimize those issues.

24 So I think that what we have to do when we look
25 at these regulations is make sure that we've got in place

1 the idea that so much material is going to go in place.
2 And I'm not going to get into a debate about shreds or
3 altered tires, but I think the terminology shreds was used
4 quite a bit when Willie Brown made his legislation that
5 said you can't do whole tires anymore.

6 They never got into a definition of that, but all
7 of these engineered projects that have had problems with
8 heat have been when there has been specific sizing issues.
9 And the small pieces that they require for the civil
10 engineering project actually were the ones that helped
11 ignite it.

12 So I disagree and think altered tires make more
13 sense, because you're not exposing as much material that
14 you may otherwise do when you cut them into smaller pieces
15 of the metals with the organic fractions that people worry
16 about.

17 But I also want us to get back to thinking about
18 the fact that these regulations, because we are saying put
19 in lifts of X amount of height and then put in dirt and
20 then put in, you know, another lift and then put in dirt,
21 are going to minimize the issue of fires.

22 And if they're not going to minimize the issue of
23 fires, then start over again, because to say you want a
24 leachate containment system on an inert material that we
25 use now in leachate collection systems, as a conduit to

1 say that we want this leachate system, so that when this
2 thing catches on fire we have somewhere to contain the
3 material, then we're going down the wrong road. That's
4 insanity.

5 So if we don't have the right standards for
6 operating to minimize the fact that there's going to be
7 fires -- I mean, to set a standard to put in a leachate
8 collection system in an inert fill is a stretch.

9 MR. MILLER: Sir, what about a lightning strike
10 because of the large quantities of steel that's down in
11 the hole?

12 BOARD MEMBER JONES: Right, but if it's covered
13 by dirt, okay, then what -- if it ignites, it needs to
14 have oxygen and it needs to have material to be able to
15 continue to grow.

16 MR. MILLER: Could it not be above flash point
17 and not have oxygen?

18 BOARD MEMBER JONES: Say it again?

19 MR. MILLER: Flashpoint of the liquid rubber
20 could be above flash point and not have oxygen to it.

21 BOARD MEMBER JONES: Sure, it could, but so could
22 the ones on your -- I mean, to say that lightning is going
23 to strike if -- that can happen. And if that happens, you
24 know one of the things that our board paid for an awful
25 lot of years ago, I think this is right, Martha, you would

1 know better than me, but it seemed to me that our tire
2 fund paid the Fire Marshall to put together a video that
3 was distributed to every fire agency in the State of
4 California that talked about -- and there's a four-year
5 old video, that I'm surprised that we're not aware of,
6 that talked about how to fight fires, how to deal with
7 tire piles, how to deal with the spacing of outdoor
8 storage, and how to deal with those internal tire fires.

9 So I think we have a relationship with the State
10 Fire Marshal that needs to -- and is part of our funding
11 that we put together, needs to continue to grow, because
12 we do have an obligation to fund the State Fire Marshall
13 to provide information, good information to your local
14 fire department in places like that, so that they
15 understand what those steps are as a means of continuing
16 education.

17 And I support that 100 percent. But to say the
18 State Fire Marshal has to approve every one of these
19 facilities. There are facilities that are waiting for
20 permits and some have waited for permits for six and eight
21 months, because they can't get a local Fire Marshall to
22 come out and make sure that they've got the right type of
23 fire suppression equipment and place things like that. So
24 I think we need to be careful that we don't put a
25 condition in these regs that actually are going to

1 preclude anybody from every getting a permit, because
2 nobody is ever going to come out to the site.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
4 Jones and thank you, Mr. Miller. It's my understanding
5 that we are to give -- we don't need a motion, but we can
6 give direction to the staff.

7 DEPUTY DIRECTOR NAUMAN: You don't need a motion
8 or resolution. You just need to provide direction.

9 CHAIRPERSON MOULTON-PATTERSON: To formally --

10 DEPUTY DIRECTOR NAUMAN: Commence the 45-day
11 review period.

12 CHAIRPERSON MOULTON-PATTERSON: Right. Well,
13 without any objection, we're going to go ahead and open
14 the 45-day period. We will continue to work with
15 stakeholders at all levels.

16 DEPUTY DIRECTOR NAUMAN: Thank you very much.
17 We'll be back to you at the end of that 45-day comment
18 period to conduct a public hearing to look at the
19 comments. And, at that time, the Board can determine
20 whether we need to go out for additional 15-day comments.

21 CHAIRPERSON MOULTON-PATTERSON: And we will try
22 and get Dr. Humphries here and work with the State Fire
23 Marshall.

24 DEPUTY DIRECTOR NAUMAN: Yes. And we will
25 continue to dialogue with all the stakeholders.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.
2 Continued Item number 2 was adopted on our briefing day.
3 And we will, as I said, we'll be going into our new
4 business after lunch. At this time, we would like to have
5 our closed session. If we could ask the Board Room be
6 cleared.

7 And, as far as time, I would say 2:00 or after,
8 no sooner than 2:00 o'clock would the Board commence
9 public meeting.

10 (Thereupon the Board recessed into a
11 closed session.)

12 (Thereupon a lunch recess was taken.)

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AFTERNOON SESSION

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CHAIRPERSON MOULTON-PATTERSON: I'd like to call
the meeting back to order, please.

5

6

We're now going to start our new business agenda
items, but we'll start first with ex partes with Mr.

7

Eaton.

8

9

BOARD MEMBER EATON: Just a quick hello to Steve
Johnson, meet and greet.

10

11

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Jones.

12

BOARD MEMBER JONES: No ex partes.

13

CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

14

BOARD MEMBER MEDINA: None to report.

15

CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian?

16

17

BOARD MEMBER PAPANIAN: Yeah, a quick meet and
greet with Mike Schmelling from Santa Barbara. And I had

18

a brief conversation with Chuck White.

19

Number 4. Good afternoon, Mr. Schiavo.

20

21

DEPUTY DIRECTOR SCHIAVO: Yes, Pat Schiavo,

Diversion, Planning and Local Assistance Division. And

22

Item number 4 is a discussion of the source reduction

23

Recycling Element Implementation and Potential Revisions

24

to the Countywide Integrated Waste Management Plan, or

25

CIWMP, enforcement of policy part 2.

1 The Board is required on a biennial basis to
2 evaluate jurisdiction's implementation of programs that
3 were originally indicated in their Source Reduction
4 Recycling Element or SRRE, and then also to determine
5 whether or not they've met the diversion requirements.

6 In 1995, the Board approved or adopted the CIWMP
7 enforcement policy to provide staff with guidance on how
8 to go about evaluating that -- or evaluate the
9 jurisdiction's progress.

10 Since the guidelines were initially adopted by
11 the Board, the statute in Public Resources Code 41850
12 referenced the CIWMP enforcement guideline and provided
13 the Board with the authority to make any kind of
14 modifications, if necessary.

15 While the guidelines have worked pretty well so
16 far, board staff in further review of the guidelines has
17 determined that there's one particular scenario that
18 appears needs addressing. And that is the scenario that
19 if the jurisdiction or jurisdictions are implementing very
20 few programs, but they're meeting the diversion
21 requirements, we need to further evaluate that scenario.

22 So to address this, board staff is soliciting the
23 Board's guidance in looking at four different scenarios
24 that may deal with this issue. And what we're looking at
25 is reorganizing or readdressing the four original

1 scenarios that were in the CIWMP guidelines.

2 And for Scenario 1, what we're proposing for or
3 recommending to the Board is that we look at implementing
4 all or most programs meeting diversion guidelines or
5 requirements as to the first scenario. And what that
6 would be doing is incorporating the original CIWMP
7 guidelines number one and two scenarios into just one
8 scenario.

9 The second scenario we're looking at is to
10 jurisdictions that implement some or all programs, but are
11 not meeting the diversion requirement. This is currently
12 scenario number three in the original guidelines. And
13 this provides us with the authority to determine whether
14 or not a jurisdiction is meeting its good faith effort or
15 whether or not they need to go forward with SB 1066
16 extension or should the jurisdiction be placed on
17 compliance.

18 Now, the new number scenario number 3 would be to
19 implement -- jurisdictions that are implementing a small
20 number of programs and meeting the diversion requirement.
21 And, again, this is the scenario that has not yet been
22 addressed. And this would also provide the Board with
23 authority to determine whether or not a jurisdiction is
24 meeting a good faith effort, whether or not the
25 jurisdiction should apply for an SB 1066 extension or

1 should the jurisdiction be issued a compliance order.

2 So we're looking, again, at adding an additional
3 scenario combining two scenarios. This is a discussion
4 item, so we're looking for the Board's guidance. We have
5 solicited input from representatives of the League of
6 California Cities. We've notified jurisdictions a couple
7 of weeks ago through our E-mail server to let them know
8 this item is being heard by the Board today.

9 And as recently as this morning, we did hear or
10 receive some comments regarding the potential -- well,
11 conflict that may be taking place with SB 2202 meetings to
12 look at alternatives. And that process is to be completed
13 by January 1st, 2002 or the report is due then.

14 However, we do have some working groups that will
15 be meeting in June that should come up with some
16 resolution to recommendations that will be brought forward
17 to the Board, so we can incorporate that into any language
18 if there are some potential suggestions or recommendations
19 to include in scenarios. And with that taking place in
20 June, we still have plenty of time to deal with that.
21 And, again this is a discussion item only. We're looking
22 for guidance.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you. Any
24 questions before -- we do have a speaker's slip.

25 BOARD MEMBER JONES: I just have one.

1 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

2 BOARD MEMBER JONES: Mr. Schiavo, under the law,
3 we're able to look at this policy as a as-needed type
4 basis?

5 DEPUTY DIRECTOR SCHIAVO: Right.

6 BOARD MEMBER JONES: So if we made the changes
7 now, and 2202 came up with other suggestions, we could
8 bring it back to the Board to see if we wanted to
9 incorporate those changes and still be within the law?

10 DEPUTY DIRECTOR SCHIAVO: Yes, we could.

11 BOARD MEMBER JONES: So we wouldn't have to wait?

12 DEPUTY DIRECTOR SCHIAVO: No, we could move
13 forward. The importance of trying to move forward is
14 because the jurisdictions will be submitting their
15 biennial reviews to us by August 1st and so that would
16 help in the process.

17 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.
18 Jim Hemminger. Did I get that right this time?

19 MR. HEMMINGER: Yes, you did.

20 CHAIRPERSON MOULTON-PATTERSON: I've been
21 practicing.

22 MR. HEMMINGER: Thank you. My name is Jim
23 Hemminger. I'm with the Rural County Environmental
24 Services, JPA. And as such am a representative of 21
25 rural counties throughout the State.

1 I chatted briefly with the Board about this at
2 the preliminary agenda meeting last week. Since then, I
3 did have chance to read the item a little more thoroughly.
4 And Pat was gracious enough to take some time out with me
5 to go over it, and I had a chance to talk to some other
6 counties.

7 To a large extent, it seems to me that what's
8 being put forth here really is more of a policy statement,
9 if you will, than any sort of detailed evaluation
10 criteria. And as such, there's, to the extent that the
11 proposed policy emphasizes programs over numbers, there's
12 certainly no exception to that and to moving forward with
13 the item.

14 In the staff report there is at the end an
15 indication that more detailed procedures and guidelines
16 and such implementing this criteria will be forthcoming,
17 and we look forward to that. And without in any way
18 deterring the process that Pat needs to move forward with,
19 at this point, look forward to -- hope there's opportunity
20 to review the details, because that's actually the
21 concern, the devil in the details, that the policy is
22 certainly something you could support, but to be sure that
23 the details are consistent with the policy.

24 Also, Pat indicated the ability to combine the
25 recommendations from the working group. And I would hope

1 that that can be done before the detailed policy
2 statements are developed. We would strongly support that.
3 I know I've been involved in the working groups. Dozens
4 of us have actually spent considerable times meeting and
5 reviewing things to be table to include the input that we
6 do get from working groups into any sort of detailed
7 compliance program, I think, would be very beneficial.

8 At this point, we don't know what we're going to
9 be coming up with, but to hopefully wait at least so the
10 synthesis group should be done by the third week of June.
11 And to at least be able to see what's coming out of these
12 groups before adopting any final detailed procedures.

13 One last request would be also in the Board memo
14 there is discussion about developing and updating the
15 process or, how the compliance reviews would be done. It
16 would be helpful to the jurisdictions and it may be
17 presumptuous to the Board itself, if we somehow could have
18 a consolidated document that combined compliance with
19 criteria, with process, would be very, very helpful.

20 And if there was some way of even just lumping
21 some disparate documents and integrating them into one
22 place would be very, very helpful to the counties as they
23 do their annual report to understand local criteria and
24 process all in one place.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you.

1 Any other comments or questions by the Board?

2 So can you put it back on in June as a discussion
3 item, then we could have some of the working group's
4 input?

5 DEPUTY DIRECTOR SCHIAVO: Sure.

6 CHAIRPERSON MOULTON-PATTERSON: Is that okay?

7 Mr. Jones.

8 BOARD MEMBER JONES: Just real quickly. I like
9 the idea that Mr. Hemminger had about trying to
10 consolidate it in just another document that says here's
11 all the pieces. Have you given any thought to what the
12 requirements are going to be under your division to go out
13 and make sure that -- I mean the issue with hitting a
14 number and not doing programs needs to be supported with
15 some kind of evidentiary look at those jurisdictions.

16 So I think one of the things that you're going to
17 have to be contemplating is how do you change some of the
18 focus of your group to actually getting into these
19 facilities and evaluating those programs. And I think
20 clearly that the fact that we've just gone through the
21 diversion study guide, which was prompted because of new
22 base years that were coming in at 60 and 70 percent, and
23 yet programs were being dropped, because of the numbers.

24 It would make a lot of sense that we drop that
25 from our evaluation. They just can't hit a number and say

1 I've complied, that it stays consistent with what this
2 board has been doing, saying one is an indicator of how
3 successful the programs are. But that next step has to be
4 what is your division going to be able to do to be able to
5 go into these jurisdictions to make those kinds of
6 valuations and come up with some kind of criteria that it
7 takes to implement or the infrastructure to make sure that
8 we understand what's going on in some of these suspect
9 jurisdictions.

10 I mean, I have a hard time if somebody gives us a
11 new base year and it gets up to 68 percent and yet they're
12 dropping their most fundamental programs. That doesn't
13 make much sense to me.

14 DEPUTY DIRECTOR SCHIAVO: Okay, great.

15 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

16 BOARD MEMBER PAPANIAN: I have a couple of
17 questions just out of curiosity. There's a pretty
18 detailed penalty structure on page 4-29 for failure to
19 implement a SRRE or HHWE, you know, a description of
20 serious failures, moderate failures, minor failures. Has
21 that ever been utilized? Have we actually fined people
22 under this structure under these categories?

23 DEPUTY DIRECTOR SCHIAVO: Yes, it was used for
24 jurisdictions that failed to submit their original SRREs
25 to the Board.

1 BOARD MEMBER PAPARIAN: Those four jurisdictions.
2 But in terms of like the moderate failures, it never had
3 to realize that?

4 DEPUTY DIRECTOR SCHIAVO: That was applied in
5 determining the amount of fines.

6 BOARD MEMBER PAPARIAN: Say that again.

7 DEPUTY DIRECTOR SCHIAVO: Using this criteria,
8 the fines were determined by this criteria. This
9 generalized what the fines should be, and then we applied
10 some other indicators on top of this.

11 BOARD MEMBER PAPARIAN: But that was for those
12 four jurisdictions?

13 DEPUTY DIRECTOR SCHIAVO: For those four, but not
14 since then.

15 BOARD MEMBER PAPARIAN: Thanks.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones has a
17 comment.

18 BOARD MEMBER JONES: Just because I was part of
19 that group, in fact, our host county, Mariposa County was
20 one of the four jurisdictions. This criterion, Mr.
21 Paparian, that our staff came up with was really the basis
22 for how we determined how we were going to structure the
23 penalties so that they stayed consistent for all four.

24 And we said that most of the fines that went out
25 were -- there was a penalty that was imposed that was

1 considered, I think, moderate because they had failed to
2 comply. And then they were all given time periods that
3 they wanted to get into compliance. And we considered the
4 failure of their ability to comply with that would be
5 serious. And so they acted as multipliers, so that if we
6 were going to fine, you know, a thousand dollars times
7 whatever the moderate one was, that multiplier. When it
8 went to serious it doubled and tripled.

9 So it lent more -- it put some teeth behind the
10 fact that we were giving these jurisdictions time to
11 ultimately comply, but if they failed, then it would cost
12 them. So it worked pretty well. It stayed consistent.

13 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

14 Number six.

15 DEPUTY DIRECTOR SCHIAVO: Item number 6 is
16 Consideration of Staff Recommendation on Completion of
17 Compliance Order IWMA BR99-80, and Consideration of the
18 1997/98 Biennial Review Findings for the Source Reduction
19 and Recycling Element and Household Hazardous Waste
20 Element for the City of Mammoth Lakes, Mono County.

21 And this item will be presented by Terri Edwards.

22 MS. EDWARDS: Good afternoon, Madam Chair and
23 Board Members. As Pat stated, my name is Terri Edwards
24 and I'm with the Office of Local Assistance.

25 This item is in response to a Compliance Order

1 placed on the city of Mammoth Lakes for the 1995/96
2 biennial review. The City determined that modification of
3 their disposal tonnage for 1995 and '96 would be the best
4 method to comply with the order.

5 Based on staff analysis of this modification, it
6 has been determined that their diversion rates would be 33
7 percent and 30 percent for 1995 and '96 respectively.

8 The town's diversion rate has been declining the
9 last few years. However, the City recently implemented
10 recycling programs and hired a recycling specialist at the
11 ski resort.

12 The town expects to see an increase in diversion
13 rates as the impact of these new programs takes effect.
14 Staff has also visited the jurisdiction and had the
15 opportunity to see the disposal facilities and diversion
16 programs in the area, and plans to continue working with
17 the jurisdictional program implementation.

18 Staff has also determined that the program
19 implementation for the 1997/98 biennial review is adequate
20 and therefore recommends the Board accept the 97/98
21 biennial review.

22 Finally, the City has successfully completed all
23 requirements identified in its compliance order.

24 Therefore, staff recommends that the Board find that the
25 City has completed their Compliance Order. Members from

1 the City are present to answer any questions. This

2 concludes my presentation.

3 Thank you.

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

5 Questions?

6 Mr. Jones.

7 BOARD MEMBER JONES: Madam Chair, the City of
8 Mammoth Lakes has a young boy that has been on TV
9 nationally as being in love with garbage and in love with
10 recycling. I think he was on Jay Leno about a year ago,
11 but anyway I just thought I'd throw that out.

12 (Laughter.)

13 BOARD MEMBER JONES: I'm going to move adoption
14 of Resolution 2001-151, Consideration of a Staff
15 Recommendation on The Completion of Compliance Order
16 BR99-80 and Consideration of the 97/98 Biennial Review
17 Findings for the Source Reduction and Recycling Element of
18 the Household Hazardous Waste Element for the City of
19 Mammoth Lakes, Mono County.

20 BOARD MEMBER PAPARIAN: I want to ask a couple of
21 questions.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. I'll go
23 ahead and second it and open it for discussion, because I
24 have a question or two and a comment.

25 BOARD MEMBER PAPARIAN: I just wanted to make

1 sure I'm understanding the numbers. As I read the
2 numbers, there was a decline from '95 and '96 through '98.
3 It got down to about 20 percent diversion. Then from '98
4 to '99 there was a jump of 60 percent up to 32 percent
5 diversion. But that jump sounds like it occurred before
6 the implementation of some of the programs that were
7 talked about.

8 So I wonder if you could just help elaborate on
9 what was going on there that accounts for such a big jump
10 in a short period of time.

11 DEPUTY DIRECTOR SCHIAVO: Could we have the City
12 go ahead and address that. They're in a better position
13 to talk about the details of the programs. They've
14 recently hired a new recycling coordinator and are in the
15 midst of implementing a number of programs.

16 MR. GROSSBLAT: Hi, Michael Grossblat from the
17 town of Mammoth Lakes. I would account that 60 percent
18 increase due to the regrinding of asphalt construction
19 going on in the town. There's really two firms that
20 account for about 90 percent of the work that goes on in
21 the community of Mammoth Lakes. And they started
22 implementing the regrinding of the old asphalt as using it
23 as base for a new projects. That really started in late
24 1998.

25 BOARD MEMBER PAPARIAN: Okay. And that accounts

1 for the bulk of the 12 percent -- or 60 percent increase

2 or the 12 percent --

3 MR. GROSSBLAT: A majority of it.

4 BOARD MEMBER PAPARIAN: Okay.

5 CHAIRPERSON MOULTON-PATTERSON: Were you

6 finished?

7 BOARD MEMBER PAPARIAN: I'm done.

8 CHAIRPERSON MOULTON-PATTERSON: I was just
9 wondering, have they taken advantage of our staff's
10 assistance for economic incentive program procurement,
11 school curriculum? Have we worked with them on that?

12 MS. MORGAN: Cara Morgan, Office of Local
13 Assistance. Yes, we recently went out on a site visit
14 with the jurisdiction. We're developing a needs
15 assessment program with them. And we're starting to
16 layout with the jurisdictions some areas that they're
17 going to focus on in the coming year. And we cleaned out
18 a variety of things, particularly their work, because this
19 is an area that has a high tourism impact. Their focus on
20 the resort is going to be of particular importance to this
21 area.

22 CHAIRPERSON MOULTON-PATTERSON: What school
23 district is it?

24 MR. GROSSBLAT: The Eastern Sierra Unified School
25 District.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you. And,
2 you know, I'm going to be voting for it but I sure hope we
3 can see an increase in the numbers.

4 BOARD MEMBER EATON: That brings me, if I could
5 ask staff, why would we -- they have steadily declined, is
6 that correct, right, they've continually gone down?

7 DEPUTY DIRECTOR SCHIAVO: Yes.

8 BOARD MEMBER EATON: And then recently, they have
9 met the letter of the compliance agreement. But we have
10 not had any performance on that agreement; is that
11 correct? We've not seen any performance from whatever --
12 because if we have seen performance from it, we've seen a
13 declining performance, is that the case?

14 DEPUTY DIRECTOR SCHIAVO: There was a declining
15 performance up until 1999.

16 BOARD MEMBER EATON: What's happened since '99?

17 DEPUTY DIRECTOR SCHIAVO: Since '99, there was
18 the one program as you mentioned.

19 BOARD MEMBER EATON: So it was the grinding. So
20 then why would we, from a policy perspective, as a staff
21 perspective, not ask to have the compliance order extended
22 for another six months or eight months to see whether or
23 not they can still be within the confines of our reach as
24 we provide, as the Chair said, some additional help in
25 some of those areas where they may have not been as savvy,

1 be it resort type activities, such as what's taking place
2 here in Yosemite or other resort types. So what is the
3 underlying policy from a staff perspective?

4 DEPUTY DIRECTOR SCHIAVO: The Compliance Order
5 actually focused on them correcting the reporting year
6 disposal amounts. That was what was -- initially that was
7 the focus, because the numbers were extremely high, and
8 there was a program implementation taking place at the
9 time of the Compliance Order.

10 Since that time, the numbers diminished once the
11 corrected disposal reporting number was resolved through
12 BOE, Board of Equalization, Audits. That's when we saw it
13 decline down to 20 percent. Then new programs have come
14 on line since 1999, but the focus was initially for the
15 Compliance Order thank you not on program implementation.

16 BOARD MEMBER EATON: So this is just on numbers?

17 DEPUTY DIRECTOR SCHIAVO: Just numbers.

18 BOARD MEMBER EATON: Thank you.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

20 Eaton. We have a motion on the floor to approve
21 Resolution 2001-151, motion by Mr. Jones, seconded by
22 Moulton-Patterson.

23 Please call the roll.

24 SECRETARY VILLA: Eaton?

25 BOARD MEMBER EATON: Abstain.

1 SECRETARY VILLA: Jones?

2 BOARD MEMBER JONES: Aye.

3 SECRETARY VILLA: Medina.

4 BOARD MEMBER MEDINA: Aye.

5 SECRETARY VILLA: Papanian?

6 BOARD MEMBER PAPANIAN: Aye.

7 SECRETARY VILLA: Roberti?

8 Moulton-Patterson?

9 CHAIRPERSON MOULTON-PATTERSON: Aye.

10 Thank you, Ms. Edwards.

11 Number 7.

12 DEPUTY DIRECTOR SCHIAVO: Number 7 is

13 Consideration of Staff Recommendation to Change the Base
14 Year to 1999 for the Previously Approved Source Reduction
15 Recycling Element for the City of Colton, San Bernardino
16 County. And Terri Edwards will also be making this
17 presentation.

18 MS. EDWARDS: This item includes a request from
19 the City of Colton to change their base year to 1999.
20 Based on staff's analysis of the generation study, it has
21 been determined that their diversion rate for 1999 is 54
22 percent. The diversion study contains no statistical
23 extrapolations. Staff in their analysis did deduct
24 approximately 300 tons of source reduction diversion from
25 the study.

1 In addition, the City originally claimed multiple
2 deductions to its 1999 to disposal reporting system
3 disposal tonnage. These deductions include misallocation
4 of tire disposal, unauthorized hauler tonnage, and medical
5 waste treatment facility tonnage.

6 Staff did not accept all of the adductions. And
7 at this time, the City is only being granted a deduction
8 for its medical waste treatment facility tonnage.
9 Indicators, such as pounds per person per day, appear to
10 be reasonable.

11 In addition, staff has also visited the
12 jurisdiction and had the opportunity to see the diversion
13 programs. Therefore, staff is recommending the Board
14 approve the proposed new base year.

15 And members from the City are present to answer
16 any questions. And this concludes my presentation.

17 Thank you.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
19 Edwards.

20 Questions?

21 Mr. Eaton.

22 BOARD MEMBER EATON: Rather than try to go
23 through each of the three and take up time, I just want to
24 point out that this is another one of those jurisdictions
25 wherein we have a problem with numbers. And they couldn't

1 figure out what the numbers were or where the waste was
2 coming from. And then while I wouldn't say it's
3 impossible, it's highly improbably that these
4 jurisdictions all of a sudden go from nothing being able
5 to figure out anything to well over 50 or 54 percent.

6 And each of these jurisdictions that are coming
7 forward are in the same or similar situation. And I just
8 think that it's just reprehensible to me, at least as an
9 individual board, and unfair to other jurisdictions that
10 you use the same kinds of programs, and can't come up with
11 the same kinds of numbers that these jurisdictions do.

12 So I will be abstaining from these votes, but I
13 will not stop inquiring or in some outrageous case as to
14 voting no on some of these issues. I just don't
15 understand how a jurisdiction can't figure out any other
16 ways and miraculously in one year can go from unscrambled
17 numbers to well over 54 percent. And if it happened in
18 one or two jurisdictions, you might say, yes, but it
19 happens on a regular basis.

20 And I just don't understand it, Pat. You know
21 that I've had that argument from before. But it's just
22 miraculous, and I guess that miracles do happen, but it's
23 just something that I think that the public ought to be
24 aware of, that when you go from numbers that have no
25 program or programs that are only a year or a year and a

1 half old, they can't generate that kind of diversion.

2 I mean have we gotten our case studies yet from
3 Gary Liss and Associates on some of the issues that affect
4 the City of Colton? Are those out yet? Those were over
5 two years ago. When were those due?

6 DEPUTY DIRECTOR SCHIAVO: They're being edited to
7 put on the web site.

8 BOARD MEMBER EATON: And what were their results
9 showing for some of the programs? Because some of the
10 numbers that they're claiming for diversion both in their
11 parks and their grass cycling are very high. And the
12 other thing is it's a formula. Everyone accuses the Board
13 of just being numbers oriented. Yet, those same
14 jurisdictions are using nothing but formulas and
15 multiplying their weights and some of the other kinds of
16 things to come up with numbers that are greater than 50
17 percent.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
19 Eaton.

20 I'm going to call on Mr. Papanian, but perhaps
21 someone from the City can come up and tell us a little bit
22 how this came about that they made such a jump.

23 BOARD MEMBER PAPANIAN: Let them do that first.
24 It would be helpful.

25 MR. HOLLAD: I'm Al Holland, and I'm the Finance

1 Director for the City. I've been here for about two
2 years.

3 I think our most forthright explanation is up
4 until 1997 the city went through literally ten City
5 Managers in seven years. And it's fair to say that the
6 management structure of the City, which carried on down to
7 the staff level, frankly, did not put the effort into the
8 analysis that was really required. And that extends to
9 consultants that were used. You have to be cooperative
10 with consultants to get good numbers. And that just
11 wasn't present in the city.

12 They had no programs until 1996. It was a
13 municipal solid waste operation until '96 and then we went
14 with the private contractor, which brought a level of
15 professionalism to it. Plus, we had a management change
16 in '97. And the management has been stable for the last
17 three or four years.

18 So what I'm saying is, I think the competency
19 level of staff is very good, and they're doing good
20 analysis, and there are programs in place. Anything that
21 happened prior to '96 you really couldn't put much
22 reliance on. And I'm confident that the numbers that
23 they've come up with are reasonably accurate and we do
24 have a consultant that can address that more, John.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you. Mr.

1 Paparian, did you have specific questions? Would you like
2 to come up before Mr. Paparian.

3 MR. HOLLAND: I'll be available if you have more
4 questions.

5 BOARD MEMBER PAPARIAN: My concern was not so
6 much for the City itself, but in the plan, but for
7 something in the plan that I think illustrates a concern
8 that I've had about some of these that have been coming.
9 And in this case the grass cycling numbers, which I don't
10 fault the City, because they're using the best information
11 that we've provided in terms of the types of calculations
12 that they should do.

13 But as I understand it, the calculation is based
14 on a single number statewide.

15 DEPUTY DIRECTOR SCHIAVO: Statewide average.

16 BOARD MEMBER PAPARIAN: Right, statewide average.
17 And I continue to be concerned about that. I visited
18 Colton and I visited other areas. And it's just my gut
19 sense is stuff doesn't grow in the city and every area of
20 the State. You know, I'm reminded of the, I think, we've
21 all seen the Sunset Garden guide, I'll actually brought a
22 copy here of something here. They have 24 climate zones
23 for the State.

24 And things grow differently in each of those
25 climate zones. And I've got to believe that the grass in

1 one area of the State is growing differently than grass in
2 another area of the State. I think it is something, given
3 the significance of grass cycling to the numbers that
4 we're seeing, I think, it's going to be important for us
5 to get a handle on what the real numbers are in each
6 region of the State. So it's something I'm going to want
7 to pursue with the staff in the future. And, you know,
8 perhaps one guide might be that 24 climate zones perhaps
9 would be some other way to approach this. You know, we
10 need to consult some of the academics who know about this
11 kind of stuff, but I think that given how grass cycling is
12 being used in a lot of these plans, we need to have a
13 higher level of confidence that the numbers are right.

14 DEPUTY DIRECTOR SCHIAVO: I don't disagree with
15 the variability. It's even much more pronounced than just
16 the 24 climate zones. You have the different types of
17 grasses. You have the different watering patterns. You
18 have the different mowing patterns. All those affect the
19 growth. And that's why we came up with the statewide
20 average, because we only have so much in the way of
21 resources for trying to come up with averages and
22 estimates on enforcement of these material types.

23 BOARD MEMBER PAPARIAN: It wouldn't bother me if
24 it was a small percentage of the numbers that we're
25 seeing, and I'm sorry to single you out. I'm not faulting

1 you for doing it. I think in some of these plans we're
2 seeing them amount to a significant portion of diversion.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you for
4 bringing that up, Mr. Papanian.

5 Mr. Jones.

6 BOARD MEMBER JONES: Madam Chair, I'm going to
7 move the adoption of this resolution. I do want to say
8 that Taramina Industries got into Colton, I don't know how
9 many years ago, four or five years ago. We had the City
10 Manager of Colton in front of us, I think, didn't we, for
11 a compliance order, where he was the ninth or tenth City
12 Manager in a nine year period.

13 And, you know, we ask them to go back and look at
14 the stuff and figure it. And they've done that. And I
15 know the programs are in place. I know there's less than
16 a big commitment from Taramina as well as the City. And
17 so I'm, you know, I'm pleased. And I, you know, I mean
18 the grass cycling number is a number, but it's better than
19 concrete on the ground.

20 You know, I mean it's better than them putting it
21 in bags and throwing it to landfills which is what they
22 used to do. And, you know, if an area has got two or
23 three golf courses and some parks and some cement -- I
24 mean, some cemeteries, they're going to generate grass.
25 And if they're managing it the right way, that promotes

1 our mandate. Then to me that makes sense, and it's part
2 of a number.

3 Some jurisdictions aren't fortunate enough to
4 have any grass in their city. Look at the City of San
5 Francisco has very little other than the park. So I mean
6 it's different all over the place. And I think some
7 people benefit and others don't, but as long as we try to
8 keep the playing field reasonable, I think it makes sense.

9 I want to move adoption of Resolution 2001-152
10 Consideration of Staff Recommendation to Change the Base
11 Year to 1999 for the Previously Approved Source Reduction
12 and Recycling Element for the City of Colton in San
13 Bernardino County.

14 CHAIRPERSON MOULTON-PATTERSON: Okay.

15 BOARD MEMBER MEDINA: Second.

16 CHAIRPERSON MOULTON-PATTERSON: We have a motion
17 by Mr. Jones seconded by Mr. Medina to approve resolution
18 2001-152.

19 Please call the roll.

20 SECRETARY VILLA: Eaton?

21 BOARD MEMBER EATON: Abstain.

22 SECRETARY VILLA: Jones?

23 BOARD MEMBER JONES: Aye.

24 SECRETARY VILLA: Medina?

25 BOARD MEMBER MEDINA: Aye.

1 SECRETARY VILLA: Papanian?

2 BOARD MEMBER PAPANIAN: Aye.

3 SECRETARY VILLA: Roberti?

4 Moulton-Patterson?

5 CHAIRPERSON MOULTON-PATTERSON: Aye.

6 Number 8.

7 DEPUTY DIRECTOR SCHIAVO: Approval of Staff
8 Recommendation to Change the Base Year to 1999 for the
9 Previously Approved Source Reduction And Recycling
10 Element; Consideration of the 1997/1998 Biennial Review
11 Findings for the Source Reduction And Recycling Element
12 And Household Hazardous Waste Element; And Consideration
13 of Staff Recommendation on the Completion of Compliance
14 Order IWMA BR99-574, For the City of Antioch, Contra Costa
15 County.

16 And Eric Bissinger will make this presentation.

17 MR. BISSINGER: Good morning, Madam Chair and
18 Board Members. This item is in response to a Compliance
19 Order that was placed on the City of Antioch for the 95/96
20 Biennial Review.

21 The City determined that developing a new
22 generation waste diversion study based on 1999 data with
23 the intent of establishing a new more accurate base year
24 would be the best method to comply with the order.

25 Based on staff's analysis of the generation

1 study, it has been determined that the diversion rate for
2 1999 is 37 percent. The diversion study contains no
3 statistical extrapolations. Staff, in their analysis, did
4 deduct approximately 2,000 tons of source reduction
5 diversion from the study. Indicators such as pounds per
6 day appear to be reasonable.

7 Therefore, staff is recommending the Board
8 approve the proposed new base year. Staff has also
9 visited the jurisdiction and had the opportunity to see
10 the diversion program, and has determined that the program
11 implementation is adequate and therefore recommends the
12 Board accept the 97/98 biennial review.

13 Finally, the City has successfully completed all
14 requirements identified in the Compliance Order.
15 Therefore, staff recommends that the Board find the City
16 has completed the Compliance Order.

17 Members from the City are present to answer any
18 Questions. And this concludes my presentation.

19 Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
21 Bissinger.

22 Questions?

23 Mr. Jones.

24 BOARD MEMBER JONES: Madam Chair, I'll move
25 Adoption of Resolution 2001-153, Consideration of Staff

1 Recommendation to Change the Base Year to 1999 from the
2 Previously Approved Source Reduction and Recycling Element
3 and Consideration of 97/98 Biennial Review Findings for
4 SRRE and Household Hazardous Waste Element, and
5 Consideration of Staff Recommendation on the Completion of
6 Compliance Order IWMA BR 99-54, for the City of Antioch,
7 Contra Costa County.

8 BOARD MEMBER MEDINA: Second.

9 CHAIRPERSON MOULTON-PATTERSON: We have a motion
10 by Mr. Jones, seconded by Mr. Medina to approve resolution
11 2001-153.

12 Please call the roll.

13 SECRETARY VILLA: Eaton?

14 BOARD MEMBER EATON: Abstain.

15 SECRETARY VILLA: Jones?

16 BOARD MEMBER JONES: Aye.

17 SECRETARY VILLA: Medina?

18 BOARD MEMBER MEDINA: Aye.

19 SECRETARY VILLA: Papanian?

20 BOARD MEMBER PAPANIAN: Aye.

21 SECRETARY VILLA: Roberti?

22 Moulton-Patterson?

23 CHAIRPERSON MOULTON-PATTERSON: Aye.

24 Okay, number 9.

25 DEPUTY DIRECTOR SCHIAVO: Number 9 is

1 Consideration of Staff Recommendation to Change the Base
2 Year to 1999 for the Previously Approved Source Reduction
3 and Recycling Element; Consideration of the 1997/1998
4 Biennial Review Findings for the Source Reduction and
5 Recycling Element And Household Hazardous Waste Element;
6 And Consideration of Staff Recommendation on Completion of
7 Compliance Order IWMA BR 99-46 for the City of Greenfield,
8 in Monterey County.

9 And this will also be presented by Terri Edwards.

10 MS. EDWARDS: Good afternoon, Madam Chair and
11 Board Members. I'd first like to begin by noting that you
12 are receiving a revised agenda item. The table on 9-3 of
13 the revised item has been updated to reflect the deduction
14 of the restricted material diversion.

15 This item is in response to Compliance Order
16 placed on the City of Greenfield for the 1995/1996
17 biennial review.

18 The City determined that developing a new waste
19 generation study, based on 1999 data with the intent of
20 establishing a new more accurate base year would be the
21 best method to comply with the order. Based on staff's
22 analysis of the generation study, it has been determined
23 that their rate for 1999 is 49 percent.

24 The diversion study contains no statistical
25 extrapolations. Staff in their analysis did deduct

1 approximately 120 tons of claimed source reduction from
2 milk crate reuse and 66 tons of restricted waste from the
3 study.

4 Indicators such as pounds per person per day
5 appear to be reasonable. Therefore, staff is recommending
6 the Board approve the proposed new base year. Staff has
7 also visited the jurisdiction and had the opportunity to
8 see the diversion programs. Staff has determined that the
9 program implementation is adequate, and therefore
10 recommends the Board accept the 97/98 biennial review.

11 Finally, the City has successfully completed all
12 requirements identified in its Compliance Order.
13 Therefore, staff recommends the Board find that the City
14 has completed their Compliance Order.

15 And members of the City are present to answer any
16 questions. This concludes my presentation.

17 Thank you.

18 CHAIRPERSON MOULTON-PATTERSON: I do have a
19 speaker's slip. Do you prefer to ask questions before or
20 after?

21 BOARD MEMBER EATON: I just have a question of
22 staff. Could you please explain to me what you would be
23 reviewing for a reduction for the City's petition for a
24 reduction? Are they asking for another reduction?

25 You see, if you look at the history here, it's

1 sort of you go back through and they didn't have much of
2 their act together some three, three and a half years ago.
3 We gave them a two-year extension to meet the 1995
4 agreement, so that would have given them until 1999 to
5 meet the 1995 25 percent, correct, that's the history?

6 Then in August, of 97, shortly thereafter, you
7 gave them a reduction of 32.9. Was that based on a rural
8 jurisdiction petition or was that based on something else?

9 I mean it probably had to be rural.

10 Then we go and issue a Compliance Order two years
11 later based on 32.9, because obviously they hadn't showed
12 that they couldn't make the 32.9, because they were a
13 rural jurisdiction. And then they get another extension
14 and Compliance Order. Then they come up and they go from
15 11 percent to 49 percent, and they exceed what they said
16 they couldn't do in order to get the reduction. And then
17 it says staff will be reviewing the City's petition for a
18 reduction, so are they asking for another reduction?

19 MS. EDWARDS: No, it will be the reduction, the
20 current petition for reduction will be reviewing.

21 BOARD MEMBER EATON: But didn't we grant that
22 already?

23 MS. MORGAN: Right. Maybe Elliot can help me
24 out. Cara Morgan, Office of Local Assistance. As I
25 understand it, the way the statute is set up is that

1 during the biennial review, staff will be reviewing the
2 jurisdiction's petition for reduction for the year 2000
3 which was granted at 32.9 percent. The way the statute is
4 laid out is if a jurisdiction in their annual report who
5 has a petition for reduction must layout why the petition
6 for reduction is still needed.

7 In this case, it does not appear when the
8 jurisdiction submits their 2000 Annual Report that that
9 petition for reduction for the 2000 goal will still be
10 needed. So staff will be evaluating it during the
11 1999/2000 Biennial Review.

12 BOARD MEMBER EATON: But what would we be judging
13 the good faith effort on, the 32.9 or on the 49 whatever
14 they get?

15 STAFF COUNSEL BLOCK: Elliot Block with the legal
16 office. Cara did a nice job of explaining the statute.
17 The Board does have the authority with the rural petitions
18 to, essentially, either revise those or eliminate those if
19 on doing the biennial review it turns out that, in fact,
20 the jurisdiction was capable of achieving a higher
21 diversion percentage.

22 In terms of exactly how that would happen, I'm
23 not sure we've actually logistically worked that out, but
24 just off the top of my head, as you're asking that
25 question, it would seem to me we'd have to evaluate the

1 petition first to determine whether that makes sense and
2 then be looking at the good faith effort. In a sense,
3 it's probably all going to happen at the same time as a
4 practical matter, but --

5 BOARD MEMBER EATON: And will the Board get to
6 review those or is that --

7 STAFF COUNSEL BLOCK: Absolutely. The Board
8 would actually have the authority -- it will have to come
9 to the Board to revise or remove that petition.

10 BOARD MEMBER EATON: Thank you.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

12 BOARD MEMBER PAPANIAN: Yeah, a couple of
13 questions. I notice that garage sales amounted to, I
14 think, 2.6 percent of the diversion. How did they base
15 that calculation? What do they base that calculation on,
16 the number of garage sales times pounds per garage sale
17 benefiting or --

18 MS. EDWARDS: They used a conversion factor of 35
19 tons per each garage sale for a total of 259 tons. That
20 was based on the UCLA study done in LA County. And EPA
21 has attempted to validate the UCLA conversion factor by
22 conducting a study in northern California. And for their
23 study, they randomly selected advertised garage sales over
24 a twelve-month period and calculated the tonnage diverted
25 based on items listed for sale.

1 And what they came up with was a higher figure
2 for the tons that were calculated. And so they used the
3 more conservative .35 tons from the UCLA study which was a
4 more conservative number.

5 BOARD MEMBER PAPARIAN: They weren't using an
6 average.

7 Then the source reduction number, was, what
8 overall, 17 percent or so?

9 MS. MORGAN: Yes.

10 BOARD MEMBER PAPARIAN: Last month when we talked
11 about the diversion study guide, we talked about when the
12 source reduction numbers kick over about five percent,
13 that there was going to be some extra scrutiny. Did that
14 extra scrutiny happen in this case?

15 MS. EDWARDS: Oh, yes.

16 BOARD MEMBER PAPARIAN: Can you elaborate on what
17 extra scrutiny was there?

18 MS. MORGAN: Cara Morgan, Office of Local
19 Assistance. Basically, with this jurisdiction, we went
20 through each of their source reduction activities. We
21 went through the explanation of the quantification
22 methodologies. There were some diversion activities that
23 we agreed as the per source reduction grows that were
24 going to be deducted from the study.

25 In this case, milk crate reuse, which we felt was

1 a long time going type of diversion activity. The
2 jurisdiction really couldn't show a net reduction of waste
3 produced through that activity, so we did agree to deduct
4 that source reduction.

5 So we had a lot of dialogue, a lot of questions
6 about how it was quantified, what methodologies were used,
7 for example, the garage sale study. We want more
8 information as far as any conversion sources that they
9 used. That's, in general, what we did. So we spent a lot
10 of time talking about how they quantified it, what they
11 quantified and the reasonableness of those activities.

12 BOARD MEMBER PAPARIAN: Okay, thanks.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
14 Any other questions?

15 BOARD MEMBER JONES: Madam Chair.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: I'll move adoption of
18 resolution 2001-154 Consideration of Staff Recommendation
19 to Change the Base Year 1999 from the Previously Approved
20 SRRE, and Consideration of the 97/98 Biennial Review
21 Findings for the SRRE and HHWE, And Consideration of Staff
22 Recommendation on the Completion of Compliance Order IWMA
23 BR99-46 for the City of Greenfield, Monterey County.

24 BOARD MEMBER MEDINA: Second.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

1 Jones and Mr. Medina. The motion to approve resolution
2 2001-154 moved by Mr. Jones seconded by Mr. Medina.
3 Please call the roll?

4 SECRETARY VILLA: Eaton?

5 BOARD MEMBER EATON: Abstain.

6 CHAIRPERSON MOULTON-PATTERSON: Oh, excuse me,
7 excuse me, before we vote I had a speaker's slip. I
8 apologize. Steve Johnson, I'm very sorry.

9 MR. JOHNSON: You're forgiven.

10 (Laughter.)

11 MR. JOHNSON: Madam Chair and Members of the
12 Board, my name is Steve Johnson from Salinas Valley Solid
13 Waste Authority. And I assure you we have had additional
14 scrutiny on this issue. We worked very carefully with
15 staff down through last Friday afternoon. This is the
16 first of three of our member city base year adjustments
17 that you will see coming forward to you in the near
18 future.

19 The authority is assisting these cities. The
20 cities still have the responsibility for compliance in AB
21 939, but we've done all three of these studies in the same
22 manner, the same methodology. And I think most of your
23 questions have already been answered, but I'd be happy to
24 answer any further ones, either with myself or with Pate.

25 BOARD MEMBER EATON: I have one, Mr. Johnson,

1 thank you. On your palettes, you count backhaul of
2 palettes, do you not?

3 MR. JOHNSON: Ruth.

4 BOARD MEMBER EATON: Yes, or no?

5 MR. JOHNSON: We've debated this several ways.

6 CHAIRPERSON MOULTON-PATTERSON: Please identify.

7 MS. ABBE: Right. Ruth Abbe. I'm from Brown,
8 Vince and Sands. I worked on the study for the City. And
9 with regards to the palettes, we revised our palette
10 countings since the report was originally submitted last
11 year to reflect what's in the diversion study guide, so
12 each palette would be counted once as opposed to for every
13 use.

14 BOARD MEMBER EATON: Not my question. My
15 question is if this jurisdiction uses backhaul to count
16 the one?

17 MS. ABBE: There is a grocery store in the City.
18 The city is very small, but there is a grocery restore --

19 BOARD MEMBER EATON: Well, it's not too small.
20 It generated nearly 250 tons of garage sales.

21 MS. ABBE: It did do that it. It does have one
22 grocery store in town, and there are palettes that are
23 backhauled and we did count them as a diversion activity
24 one palette each.

25 BOARD MEMBER EATON: Then, for our staff, since

1 they're bringing three or four others, you can't backhaul
2 and have the other city claim credit for the same palettes
3 and that's what's going to happen and that's what has been
4 happening.

5 And I think that it's -- if for the additional
6 scrutiny that was one of the issues. Palettes are
7 contentious to begin with, but how can you have, you know,
8 back and forth between the two both claim credit for it.
9 It's only reused once. And palettes were originally and
10 have never ever been contemplated as that reuse.

11 And I know that's an old philosophical
12 disagreement we have based upon our work, but if staff
13 hasn't considered that, then we'd better consider it when
14 the next three or four come through.

15 MS. ABBE: We wouldn't intend to bring you any
16 tonnage from the distribution center for the grocery
17 store.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
19 Eaton.

20 Thank you, please call the roll. It's Resolution
21 2001-154.

22 SECRETARY VILLA: Eaton?

23 BOARD MEMBER EATON: Abstain.

24 SECRETARY VILLA: Jones?

25 BOARD MEMBER JONES: Aye.

1 SECRETARY VILLA: Medina?

2 BOARD MEMBER MEDINA: Aye.

3 SECRETARY VILLA: Papanian?

4 BOARD MEMBER PAPANIAN: Aye.

5 SECRETARY VILLA: Roberti?

6 Moulton-Patterson?

7 CHAIRPERSON MOULTON-PATTERSON: Aye.

8 We'll move on to Selection Criteria for Trash

9 Cutter Award Program, number 10.

10 DEPUTY DIRECTOR SCHIAVO: Number 10 is

11 Consideration of Approval of the Selection Criteria and

12 Award Categories for the Trash Cutters Award Program, and

13 the State Agency Recycling Awards Program.

14 And this will be presented by Cara Morgan.

15 MS. MORGAN: At the November 14th and 15th, 2000

16 Board Meeting, the Board addressed the need to discuss and

17 provide feedback on the scoring criteria and award

18 categories for the awards programs.

19 Also, at that meeting, it was recommended that a

20 green procurement policy become an eligibility requirement

21 for all applicants. Additionally, in preparing the

22 scoring criteria and award categories, staff reviewed the

23 Board's RAP Program to ensure consistency.

24 As directed by the Board at the November Board

25 Meeting, and also at the April 2001 Board Meeting, staff

1 incorporated into both the local government and State
2 agency awards program, a green procurement policy and also
3 incorporated a waste reduction and high volume size
4 category for mass public attendance places such as
5 convention centers, museums and parks as an award category
6 for both programs.

7 Also, submitting a State agency buy-recycled
8 campaign report is an eligibility requirement for the
9 State agency awards programs.

10 In an effort to increase the awareness of these
11 programs, board staff will promote the awards at regional
12 workshops and local task force meetings. Using E-mail, we
13 will place articles also in CSAC, League of California
14 Cities news letters, as well as working with our Board's
15 public affairs office.

16 To promote the local jurisdictions awards winner
17 successes, board staff will continue to develop case
18 studies for each award recipient and publish the case
19 studies on the Board's web site. Staff will also develop
20 a similar case study web site for each State agency
21 facility award recipient.

22 The proposed time line for this year's awards
23 program is September 1st, 2001 to distribute the brochure
24 and application by mail as well as on the web. For the
25 first time, applicant's will also be able to complete the

1 Application on line, if they so choose. Applications will
2 be due to the Board by November 1st, 2001.

3 Staff anticipates bringing the proposed award
4 winners and honorable recognition recipients to the Board
5 for approval in December, and the awards would be presented
6 at the January 2002 board meeting.

7 In addition to an awards programs, staff also
8 proposes that State agencies facilities receive an
9 outstanding award for meeting their 25 percent and 50
10 percent goal, as well as local governments for meeting
11 their 50 percent goal in the future.

12 Staff also proposes in the future to develop an
13 awards program to recognize school district diversion
14 efforts. This program would be presented to the Board as
15 a discussion item in the future. This concludes our
16 presentation. Are there any questions for staff?

17 CHAIRPERSON MOULTON-PATTERSON: I have just a
18 comment. And let me know if this would be a problem. But
19 for clarification, to achieve the green procurement
20 policy, if we could add two bullets to the eligibility
21 requirement for this agenda item.

22 Number one, state agency/facility must have
23 submitted their State agency buy-recycled campaign annual
24 report by September 1st, 2000. A State agency/facility
25 must have met their required State agency buy-recycled

1 campaign purchase percentages in the 11 product

2 categories.

3 Would that be a problem if we added those two

4 bullet points, so it's clearer?

5 MS. MORGAN: You know, I don't believe it would

6 be a problem. Bill Orr is not here, so I don't know --

7 CHAIRPERSON MOULTON-PATTERSON: He was the one

8 that suggested it.

9 MS. MORGAN: That sounds good to us because we're

10 coordinating with him.

11 CHAIRPERSON MOULTON-PATTERSON: I just wanted to

12 make sure that you didn't have a problem.

13 Mr. Paparian.

14 BOARD MEMBER PAPARIAN: No, that covers even more

15 eloquently what I was going to suggest.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you to Mr.

17 Orr. Mr. Eaton, did you have a question of this one?

18 BOARD MEMBER EATON: No.

19 BOARD MEMBER MEDINA: I had one.

20 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

21 BOARD MEMBER MEDINA: Currently, we have had the

22 trash cutters award for local, and this is a new program

23 to recognize State agencies?

24 MS. MORGAN: That's correct.

25 BOARD MEMBER MEDINA: And what would the award be

1 called in this case?

2 MS. MORGAN: We call it the STAAR for short.

3 This the State Agency Awards Program.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. So this is
5 STAAR?

6 MS. MORGAN: We call it STAAR. We need another
7 acronym. We came up with STAAR.

8 BOARD MEMBER MEDINA: It makes a difference.

9 I'd like to move this item.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
11 We have a motion.

12 BOARD MEMBER MEDINA: I move Resolution 2001-155.

13 BOARD MEMBER PAPARIAN: With the modifications.

14 BOARD MEMBER MEDINA: Yes, exactly.

15 CHAIRPERSON MOULTON-PATTERSON: Okay, and you'll
16 second that Mr. Paparian?

17 BOARD MEMBER PAPARIAN: Yes.

18 CHAIRPERSON MOULTON-PATTERSON: Okay. Motion to
19 approve Resolution 2001-155 by Mr. Medina seconded by Mr.
20 Paparian with the two modifications.

21 Please call the roll.

22 SECRETARY VILLA: Eaton?

23 BOARD MEMBER EATON: Aye.

24 SECRETARY VILLA: Jones?

25 Medina?

1 BOARD MEMBER MEDINA: Aye.

2 SECRETARY VILLA: Paparian?

3 BOARD MEMBER PAPARIAN: Aye.

4 SECRETARY VILLA: Roberti?

5 Moulton-Patterson?

6 CHAIRPERSON MOULTON-PATTERSON: Aye.

7 Let's keep the roll open for Mr. Jones and

8 Senator Roberti if he returns.

9 Okay. Let's see number 11 was consent.

10 Number 12, is this your last item?

11 DEPUTY DIRECTOR SCHIAVO: This is the last item.

12 Number 12 is Consideration of Approval of Contract Concept

13 and Scope of Work for Review of Sampling Methods in New

14 Base-Year Studies, Local Government Assistance Account,

15 IWMA. And Steve SoRelle will be making this presentation.

16 MR. SoRELLE: Well good afternoon, Madam Chair

17 and fellow board members. Again, my name is Steve SoRelle

18 with the Office of Local Assistance.

19 The item before you is for consideration of

20 approval of a contract concept and scope of work for

21 reviewing sampling methods used by jurisdiction in new

22 base year studies. We currently have in office 20

23 base-year studies, which include statistical sampling

24 methodologies and anticipate additional studies with this

25 feature in future study designs.

1 This Board has expressed significant concerns
2 about the use of sampling methodologies which, when done
3 improperly, can artificially inflate diversion rates.

4 The Board has discussed the concept of using a
5 third party review of these types of base year studies to
6 ensure the accuracy and reliability of diversion study
7 results.

8 The intent of this Item is to develop an
9 inter-agency agreement to review the 20 base-year studies
10 currently in-house. This review will determine the
11 validity of the survey and sampling methods used for the
12 nonresidential generator diversion data.

13 At the review of the individual's study data, the
14 reviewers will critique the specific methods employed by
15 the individual studies and provide feedback to
16 jurisdictions and staff from the Office of Local
17 Assistance.

18 After reviewing the nonresidential sampling
19 methodologies for all 20 studies, they will provide the
20 Board and staff with observations and recommendations for
21 improving survey and sampling methodologies used in
22 base-year generation studies.

23 These analyses will also provide guidance for
24 local assistance staff, as they receive studies in the
25 future.

1 Staff recommends approval of this item. This
2 concludes my presentation. If you have any questions, I
3 would be glad to answer them at this time.

4 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.
5 Questions?

6 Mr. Papanian.

7 BOARD MEMBER PAPANIAN: Thank you.

8 CHAIRPERSON MOULTON-PATTERSON: We have one
9 speaker also.

10 BOARD MEMBER PAPANIAN: Yeah. A couple of items.
11 First of all, where does the money come from for this?

12 MR. SORELLE: It's the Local Assistance -- I'm
13 sorry, Pat, what is the name?

14 DEPUTY DIRECTOR SCHIAVO: This is from the fines
15 and penalties that were paid in for underperforming
16 jurisdictions and it's to be used specifically for
17 jurisdictions.

18 BOARD MEMBER PAPANIAN: That money was segregated
19 for use. Do we have other pots of money like this? I was
20 unaware of this pot of money being separate. I'm sorry
21 this goes a little beyond the item itself. I guess this
22 might be to the Executive Staff.

23 INTERIM EXECUTIVE DIRECTOR ROSS: I'd like to ask
24 Ms. Jordan to come and explain this pot of money.

25 MS. JORDAN: Yes. There was an account

1 established specifically for these penalties for the
2 jurisdictions as Pat mentioned that failed to comply.

3 There were four awards that went or assessments
4 and penalties were paid that went into that particular
5 account. The only other account that exists that is
6 somewhat like that, which currently doesn't have any funds
7 in it, is for RPPC penalties.

8 BOARD MEMBER PAPARIAN: Are there any other
9 special noncalculated funds out there?

10 MS. JORDAN: Not that I'm aware of that I can
11 think of right now. I will certainly let you know if I'm
12 aware of any.

13 CHIEF DEPUTY DIRECTOR FISH: No, there are no
14 other pots of money other than these two that TJ
15 mentioned. The RPPC just recently came to our attention.
16 In anticipation of the Board assessing some fines, we
17 looked at the statute and realized that we needed to
18 establish an account in anticipation, not that any of the
19 RPPC's penalties will be assessed, but if there were any
20 assessments that we would have an account to accept them,
21 but there are no other accounts under our jurisdiction,
22 meaning the Integrated Waste Management Board, other than
23 those.

24 INTERIM EXECUTIVE DIRECTOR ROSS: I think it's
25 important to note that we're required under Public

1 Resources 4185035. It does specifically say that any
2 funds deposited in that account shall be used solely for
3 the purposes of assisting local governments in complying
4 with diversion requirements established under Section
5 41780.

6 BOARD MEMBER PAPARIAN: Right.

7 CHIEF DEPUTY DIRECTOR FISH: One other
8 clarification that we probably should make is relative to
9 the tire fund, the Board does assess and penalties are
10 assessed under tire violations. However, that money goes
11 directly into the tire fund itself. There is no
12 requirement to set that aside.

13 BOARD MEMBER PAPARIAN: That just goes back into
14 the tire fund?

15 CHIEF DEPUTY DIRECTOR FISH: Into the tire fund
16 and then it's allocated by the Board each year.

17 BOARD MEMBER PAPARIAN: And the plastics account
18 that you're setting up, does that need -- and, again, I'm
19 sorry I'm diverting from this item a little bit, does that
20 need to come to the Board for policy guidance as to how
21 that money should be utilized?

22 CHIEF DEPUTY DIRECTOR FISH: Well, actually
23 ultimately yes. That one, in fact, has to go to the
24 Legislature to become established. That one requires the
25 Legislature to appropriate that money. So what we would

1 propose is to bring forward a budget change proposal in
2 the event that penalties were assessed and ask the
3 Legislature for appropriation authority to spend it, after
4 which we would come to the Board and ask you to allocate.

5 MS. JORDAN: And I also understand that that
6 particular money from the penalties has statutory language
7 a lot like this one, that requires it to assist in the
8 local.

9 CHIEF DEPUTY DIRECTOR FISH: It's very
10 controlled.

11 BOARD MEMBER PAPARIAN: And then presumably after
12 the end of the fiscal year, we'll get a report of all the
13 various funds that have money that carried over from one
14 fiscal year to the next.

15 MS. JORDAN: Most definitely that will be
16 included.

17 BOARD MEMBER PAPARIAN: Okay. Back a little bit
18 to this item itself. I've expressed a couple of concerns
19 in the past and I wonder if they could be addressed
20 somehow in this item.

21 One is the potential impacts on the statistical
22 validity of the subjectivity of the survey and the person
23 conducting the survey. I'd like to hear back in the
24 context of this item some thoughts on that from the people
25 who conducted this for us.

1 MR. SoRELLE: Well, you know, that's part of the
2 contract concept is for them to study at that detailed
3 level. There supposed to get all the background
4 information on how the survey was conducted, if the survey
5 instrument is part of the base year certification form, so
6 they'll gather all the information and interact with our
7 staff in terms of the questions asked by whom, the
8 selection of the sample population and those kinds of
9 results, if that helps.

10 I mean, they're going to go down to the
11 instrument and buildup, as well as develop the statistical
12 significance of variability at the other end, if you will.

13 BOARD MEMBER PAPARIAN: Right, I understand that.
14 I'd like to hear back specifically though about whether my
15 concern about the subjectivity of the person filling out
16 the survey, you know, looking at bins and determining
17 whether they're 60 percent full or 75 percent full. You
18 know, asking questions about recycling rates in the
19 business and so forth, whether there's concern about that
20 impacting the statistical validity of these studies.

21 MR. SoRELLE: Definitely there is concern. And
22 again, without having -- you know, we haven't delved into
23 this situation. We're asking them to go to that level and
24 then give us feedback. And they could very well and we'll
25 direct them to look at that level of detail, because

1 they're going to go from the survey instrument up.

2 And then we, as staff, will query the author of
3 the study, if you will, about who conducted the surveys.
4 We'll have the survey instrument in front of us. We'll
5 know their conversion factors. We'll ask them about
6 estimating volumes and those kinds of things.

7 We're certainly a little vulnerable when it comes
8 to any survey methodology, wherein they may have X number
9 of people that are querying businesses in a city. But,
10 you know, we're going to try to build that whole scope
11 into this and build it up to the final conclusion on
12 statistical validity.

13 DEPUTY DIRECTOR SCHIAVO: The other thing we're
14 look at doing is compiling the statistics from these
15 incoming base years and starting to create averages, so
16 that we can start getting a feel for when people are
17 outside the bounds of the averages. So we'll have the
18 study going on, be looking at the averaging, but we have
19 to get some more volume. And so we'll look at the
20 averages of these surveys and then, again, getting some
21 more field experience ourselves in looking at these. So
22 it's three-pronged.

23 BOARD MEMBER PAPARIAN: Okay. The other issue
24 that I've expressed concern about in the past is the
25 potential impacts on the statistical validity of

1 nonparticipants in the survey, people who are asked in the
2 random sample to participate in the survey and who decline
3 to participate.

4 DEPUTY DIRECTOR SCHIAVO: Again, that issue we'll
5 revisit, but that issue is addressed in our fourth working
6 group meeting. And what was discussed is it's hard to
7 determine, you know, what the bias was and sort of why
8 they did not participate. You know, one could say they
9 didn't participate because they're not doing much, but,
10 again, that's an assumption that we're making and it may
11 not be a true assumption, so it could invalidate the
12 results of what we're trying to achieve. I'm just --

13 BOARD MEMBER PAPARIAN: Right, the presumption
14 that is currently being made is that the nonparticipant
15 comes in right at the average of the participant in the
16 survey.

17 DEPUTY DIRECTOR SCHIAVO: It's, yeah, more to a
18 certain extent and then the additional piece of
19 information we're asking for is how many nonparticipants
20 were there in the survey. If there's a large amount, then
21 we're going to really have some concerns. If it's a very
22 minor amount, then I don't think it's a major concern in
23 the survey.

24 BOARD MEMBER PAPARIAN: So in the context of what
25 we're thinking with this item, will you explore some of

1 these issues?

2 MS. MORGAN: Yes. That's one of the things that
3 we're working on.

4 BOARD MEMBER PAPARIAN: Okay. Thank you.

5 CHAIRPERSON MOULTON-PATTERSON: We do have a
6 speaker. I still have a lot of questions on this, and I
7 understand local government does also. Is there any
8 reason that we would have to vote on this today? I mean,
9 is there a timing reason?

10 DEPUTY DIRECTOR SCHIAVO: The timing reason from
11 our perspective is moving base years forward and trying to
12 get the information out sooner than later, because we're
13 starting to get scrunched with the biennial reviews coming
14 in August. And that would be the timing issue for us.

15 CHAIRPERSON MOULTON-PATTERSON: Okay.

16 BOARD MEMBER MEDINA: Once the 20,000 are
17 expended, what would be the balance in this account?

18 DEPUTY DIRECTOR SCHIAVO: Zero, or some change
19 maybe, but --

20 CHIEF DEPUTY DIRECTOR FISH: That's incorrect.
21 We have about \$44,000 in that account, remember, because
22 we originally assessed \$47,000 in fines. So this would
23 bring the balance in that account down to about \$22,000.

24 DEPUTY DIRECTOR SCHIAVO: Okay.

25 CHIEF DEPUTY DIRECTOR FISH: Okay. There will be

1 a little over \$20,000 left over from those fines and
2 penalties.

3 DEPUTY DIRECTOR SCHIAVO: Okay.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. Well,
5 let's go ahead.

6 Jim Hemminger.

7 MR. HEMMINGER: My name is Jim Hemminger with
8 Environmental Services JPA. I did want to raise a couple
9 of concerns. One about the pot of money and then two
10 perhaps the advocacy of the survey. And if it is to be
11 used for these purpose, is it the best bang for the buck.

12 The Statute that was cited you did say that this
13 pot of money is going to be discrete. But because of Mr.
14 Jones' forthrightness to our host county, Mariposa did
15 contribute to this pot of money. And the statute does say
16 that the money is to be used to help jurisdictions comply
17 with the diversion mandates. And the PRC goes on to say
18 expressly it's not to be used for administrative purposes.

19 So I would question if this proposed use of the
20 money is the best way to assist jurisdictions in complying
21 with the mandates.

22 I'm not smart enough to have another proposal for
23 an alternative use, but I do anticipate in the next coming
24 years that this fund will probably increase, and would be
25 concerned about the precedents for what these funds are

1 used for, and it may be your problem to come up with some
2 suggestions, some study on how these funds could be best
3 used to help jurisdictions meet the mandate.

4 Specifically, with the perspective of the
5 proposal, I apologize that I didn't really have an
6 opportunity to talk to Mr. SoRelle. I really question how
7 much value we'll be getting 20 base studies as to thousand
8 per base study -- base year study. I certainly won't
9 argue about the accuracy of numbers. And even today there
10 have been so many questions coming up with garage sales,
11 grass cycling, palettes, whatever that we're taking one
12 small piece of the base year picture and trying to fine
13 tune the accuracy of this extrapolation of one particular
14 nonresidential sector.

15 And while that may have some utility, it
16 certainly doesn't address all the other areas of concern,
17 question uncertainty that are associated with new base
18 year numbers needed to do the extrapolation for existing
19 base year numbers.

20 And another, I guess, comment and concern is I
21 did review, but I didn't study it as well as I should, but
22 the diversion study guide, I thought exactly had just
23 pages and pages of tables showing if I had this many
24 businesses, I needed to survey out of 1,620 whatever the
25 numbers were. So I'm not quite sure how this would relate

1 to the diversion study guide that we're finding. That
2 part of this study would be, I guess, to review or assess
3 the reasonableness of the statistical sampling in the
4 diversion study guide.

5 Thank you.

6 BOARD MEMBER EATON: First, Mr. Hemminger, the
7 study is just a study guide. You're not going to use the
8 statistics in there to base your examples on. I think
9 that this board and every member on this board has time
10 and again in any of their comments tried to relate to
11 local government, but this is just a guide.

12 If you rely on it and use it in a manner that is
13 set forth in the examples, that's not the purpose by which
14 the guide was developed. It's to give you a road map, but
15 it's not a basis by which to prove your case.

16 I don't know how many times we have to say it. I
17 think there's enough disclaimers in the front. If not,
18 I'd be happy to read it again.

19 MR. HEMMINGER: No, I appreciate that idea.

20 BOARD MEMBER EATON: And second and foremost, the
21 reason for this contract is for the very reason I asked
22 the questions, because we do not have the expertise by
23 which to go about contesting consultants who develop these
24 formulas and these weighting programs and what have you.
25 And so as a result of it, we're going to try and develop

1 some better understanding through the expertise of
2 statisticians or whomever this contract goes to.

3 And therefore, in the end, there will be a nexus
4 because it will assist those jurisdictions which have the
5 inability right now to be able to understand what a proper
6 sampling technique is, what nexus their needs to be, will
7 have been accomplished by having some of these done.

8 And there is an urgency to it, because we
9 shouldn't be approving base years, if we don't have the
10 expertise. And obviously we wouldn't be going out with a
11 contract if we had the expertise in-house, but it's a
12 pretty complicated formula with a number of variables
13 there.

14 There are individuals who deal with these in
15 academia and other areas, and hopefully that's where staff
16 will go out and look for that individual. So there is one
17 nexus to the fund, a very strong nexus, two, there is an
18 urgency, and, three, I don't think it's very proper for a
19 public body to be approving things when they don't have an
20 understanding of how those surveys were done or conducted
21 and whether or not they're statistically valid as Mr.
22 Paparian said or any of the issues that go into it.

23 So I'm prepared to move this resolution right
24 now. I move that we adopt Resolution 2001-159
25 Consideration of Approval of Contract Concept and Scope of

1 Work for Review of Sampling Methods in New Year Base
2 Studies.

3 BOARD MEMBER JONES: I'll second it.

4 Madam Chair, may I make a comment?

5 CHAIRPERSON MOULTON-PATTERSON: Yes.

6 BOARD MEMBER JONES: Thank you. I agree with
7 what Mr. Eaton is saying. Jim, I think the importance of
8 this is that we all struggle at different levels to figure
9 out some of these base years that come in. And we've been
10 pretty vocal. I mean, we've done different -- you know, I
11 remember two years ago we were saying wait a minute this
12 doesn't make sense, look at the pounds per person per day.
13 Wait a minute this doesn't make sense, how can we have
14 27,000 tons of palettes.

15 So we've worked through the diversion study guide
16 to try to make sure that we've made it as fair as
17 possible. I think this is critical and it really is a
18 good use of that money, because now it will give the
19 cities and counties at least some background as to what
20 makes sense and what doesn't. Because right now, they
21 don't have anyway of determining when a consultant, and
22 I'm not here to hammer the consultants, I do that enough.

23 But, you know, when a consultant comes in and
24 sells a city of bill of goods, which happened once in
25 1990, and we've redone about three-quarters of them now,

1 and now we're going through it again, that we've got to
2 have something that says this makes sense and this
3 doesn't.

4 So I think this is the next step behind the guide
5 to help validate what we suspect in certain cases and give
6 these local jurisdictions something in writing that says
7 if it falls in these parameters, it probably makes sense.
8 If it doesn't, it's probably pie in the sky. And then
9 they've got to deal with us when it doesn't make sense. I
10 mean, then they get all -- and that's when everybody's
11 concerns come forward.

12 So that's why I seconded it, because while I
13 think that there are still a lot of questions, and I think
14 that they need to be answered, I would hope that we can do
15 that as we're out looking for consultants that if members
16 have questions that you guys make yourselves available to
17 make sure that any of those questions get answered and get
18 taken into consideration as we do this thing.

19 CHAIRPERSON MOULTON-PATTERSON: Well, my senior
20 colleagues have convinced me, so please call the roll. We
21 have a motion by Mr. Eaton, seconded by Mr. Jones to
22 approve resolution 2001-159.

23 SECRETARY VILLA: Eaton?

24 BOARD MEMBER EATON: Aye.

25 SECRETARY VILLA: Jones?

1 BOARD MEMBER JONES: Aye.

2 SECRETARY VILLA: Medina?

3 BOARD MEMBER MEDINA: Aye.

4 SECRETARY VILLA: Papanian?

5 BOARD MEMBER PAPANIAN: Aye.

6 SECRETARY VILLA: Roberti?

7 Moulton-Patterson?

8 CHAIRPERSON MOULTON-PATTERSON: Aye.

9 And also I think if you'd like to get Mr. Jones'
10 vote on Item number 10.

11 SECRETARY VILLA: Item 10?

12 BOARD MEMBER JONES: Aye.

13 CHAIRPERSON MOULTON-PATTERSON: Let's take a
14 break while we're changing groups.

15 (Thereupon a brief recess was taken.)

16 CHAIRPERSON MOULTON-PATTERSON: I'd like to call
17 the meeting back to order.

18 Okay, before we do our ex partes, I did want to
19 make an announcement. Mariposa County is providing a
20 shuttle bus to the Awahnee reception that they're having
21 for the Waste Board. The bus will be in front of the
22 lobby and is scheduled to leave at 5:00 p.m. sharp. Well,
23 that means we've got a lot to do. The bus has room for
24 about 50 people, so it may be necessary for some overflow
25 guests to drive their own vehicles to the reception. If

1 you plan on driving to the reception, please sign the
2 clipboard located next to the composting model outside the
3 door. This will allow for free entry into the park and
4 will avoid the \$20 vehicle entry fee. You need to sign
5 the sheet prior to 3:00 p.m.

6 Can we adjust that, Jim?

7 MR. HEMMINGER: Yes, when would you like to
8 adjust it to?

9 CHAIRPERSON MOULTON-PATTERSON: Just in the next
10 few minutes or as soon as possible.

11 MR. HEMMINGER: 4:00 o'clock would be fine.

12 CHAIRPERSON MOULTON-PATTERSON: And I just want
13 to say thank you to you, Jim, for all of your work in
14 helping us coordinate this along with Deborah. You guys
15 have done a fantastic job and we really do appreciate it
16 very much.

17 MR. HEMMINGER: Especially Mariposa County who's
18 sponsoring this thing.

19 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.
20 Okay, ex partes.

21 Mr. Jones?

22 BOARD MEMBER JONES: No, none to report.

23 CHAIRPERSON MOULTON-PATTERSON: Ex partes, Mr.
24 Eaton?

25 BOARD MEMBER EATON: None.

1 CHAIRPERSON MOULTON-PATTERSON: Ex partes, Mr.

2 Medina?

3 BOARD MEMBER MEDINA: None to report.

4 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian?

5 BOARD MEMBER PAPANIAN: None.

6 And I have none. And okay, we're on to permits

7 Ms. Nauman, number 13.

8 DEPUTY DIRECTOR NAUMAN: Julie Nauman Permitting

9 and Enforcement Division.

10 Item 13 is consideration of a Revised Solid Waste

11 Facility Permit for the Guerneville Transfer Station in

12 Sonoma County, and Mark de Bie will make the presentation.

13 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

14 Mark de Bie with permitting and inspection. This revised

15 permit basically does two things. It updates the format

16 of the permit and incorporates changes that were made to

17 the RFI through previous amendments. I wanted to point

18 out that during the process of updating the format, the

19 LEA inadvertently included a term on page three. And,

20 Deborah, have we passed out the change.

21 MS. MCKEE: Yes.

22 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

23 You should have a new version of Attachment 2 page three

24 of the permit. And the only change is under design

25 capacity.

1 The previous version of the permit said "maximum
2 permitted design capacity." And the LEA has now changed
3 that to include just "maximum design capacity." So a
4 minor technical change that they caught later on.

5 Actually, the LEA was out of the country for a
6 number of weeks volunteering in some flood cleanup in
7 Central American and just returned late last Week and
8 caught this change.

9 Staff is now able to make all of the required
10 findings relative to this permit and recommend that the
11 Board adopt Resolution 2001-138 concurring in the issuance
12 of solid waste facility permit 49-AA-0139. That concludes
13 staff's presentation.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you very
15 much.

16 Questions, board members?

17 BOARD MEMBER JONES: Madam Chair?

18 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

19 BOARD MEMBER JONES: I'll move adoption of
20 resolution 2001-138, the Consideration of a Revised Solid
21 Waste Facility Permit for the Guerneville Transfer Station
22 in Sonoma County.

23 CHAIRPERSON MOULTON-PATTERSON: I'll second that.

24 We have a motion by Mr. Jones seconded by
25 Moulton-Patterson to approve Resolution 2001-138.

1 Please call the roll.

2 SECRETARY VILLA: Eaton?

3 BOARD MEMBER EATON: Aye.

4 SECRETARY VILLA: Jones?

5 BOARD MEMBER JONES: Aye.

6 SECRETARY VILLA: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 SECRETARY VILLA: Papanian?

9 BOARD MEMBER PAPANIAN: Aye.

10 SECRETARY VILLA: Roberti?

11 Moulton-Patterson?

12 CHAIRPERSON MOULTON-PATTERSON: Aye.

13 Number 14.

14 DEPUTY DIRECTOR NAUMAN: Item 14 is Consideration

15 of a Revised Solid Waste Facility Permit for Chemical

16 Waste Management Inc., Kettleman Hills Facility in Kings

17 County.

18 Mark de Bie.

19 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

20 This revised permit will basically affect two changes at

21 the facility. One is it will combine the existing tonnage

22 levels that the facility receives combining the tonnage

23 level of 800 tons per day, it's designated waste, with

24 that of the 600 tons per day of material that they can

25 receive to eventually use as ADC into one total of 1,400

1 tons per day with a limit of no more than 600 tons per day
2 of material to be used for ADC.

3 This will also have an effect on the estimated
4 closure date moving it from 2023 to an estimated closure
5 date of 2010. The revisions to the solid waste facility
6 permit only affect operations at the class 2, class 3
7 cell. They have no effect on the nonhazardous solid waste
8 operations at the class 1 cells.

9 Staff have been able to make all of the required
10 findings and are recommending adoption of Resolution
11 2001-137 concurring on the issuance of solid waste
12 facility permit 16-AA-0021.

13 Lee Johnson with Kings County LEA is in the
14 audience as well as representatives from the operator, if
15 you have any questions.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. de
17 Bie.

18 BOARD MEMBER JONES: Madam Chair.

19 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

20 BOARD MEMBER JONES: I do have a question. The
21 original permit said 800 tons of MSW, 600 tons of ADC.
22 Now, it's going to say 1,400 tons total to include ADC. I
23 mean, we're not talking 1,400 plus another 600 ADC?

24 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
25 No. It's a total no more than 1,400 tons per day. And of

1 that no more than 600 could be material for ADC. That's
2 just material received per day not used per day.

3 BOARD MEMBER JONES: Understood, understood. And
4 they will pay fees on the 800 tons?

5 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
6 They will pay fees on whatever is disposed of at the
7 facility.

8 BOARD MEMBER JONES: All right, Madam Chair.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: I'll move adoption of
11 Resolution 2001-137 Consideration of a Revised Solid Waste
12 Facility Permit for the Chem Waste Management Kettleman
13 City Facility in Kings County.

14 BOARD MEMBER MEDINA: Second.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you. We
16 have a motion by Mr. Jones, seconded by Mr. Medina to
17 approve Resolution 2001-137.

18 Please call the roll.

19 SECRETARY VILLA: Eaton?

20 BOARD MEMBER EATON: Aye.

21 SECRETARY VILLA: Jones?

22 BOARD MEMBER JONES: Aye.

23 SECRETARY VILLA: Medina?

24 BOARD MEMBER MEDINA: Aye.

25 SECRETARY VILLA: Papanian?

1 BOARD MEMBER PAPARIAN: Aye.

2 SECRETARY VILLA: Roberti?

3 Moulton-Patterson?

4 CHAIRPERSON MOULTON-PATTERSON: Aye.

5 I wanted to ex parte for all members, some have
6 already ex parted this, but I just got it from the
7 Department of Toxic Substances Control on the captive
8 insurance. Some of us have already ex parted it and
9 others haven't, but I just saw it and so I want to make
10 sure that's on the record for all members.

11 We are going to Item 16. It's my real hope that
12 we are going to adjourn for today's meeting at 4:30. And,
13 you know, perhaps we can get through your section.

14 DEPUTY DIRECTOR NAUMAN: We will try.

15 Okay. Item 16 is Consideration of Adoption of
16 Regulations Amending Standards for Acceptance of Insurance
17 as a Financial Assurance Demonstration. Before I turn
18 this over to Richard Castle to present, I just wanted to
19 indicate to the Board that while the title calls for
20 consideration of adopting these regulations, staff will
21 actually be requesting that the Board direct us to go out
22 for another 15 days on this package. And then pending the
23 results of that 15-day extended comment period,
24 we're planning to bring that back to you next month.

25 During the course of the 45-day review period and

1 since the time that the item was written, staff has
2 consulted with some of the stakeholders and has made some
3 very minor technical changes to one of the forms in the
4 rate package. In addition to that, to be very clear with
5 you, the comment period, 45-day comment period does not
6 officially end until close of business tomorrow. And I
7 don't want to risk the Board taking an action prematurely.

8 So I won't be asking you to actually adopt the
9 package today, but to allow us to go out for another
10 15-day comment period, that's in response to the technical
11 change that we made, and in the anticipation that there
12 may be some additional comments received before 5:00
13 o'clock tomorrow evening.

14 This however is the Notice of Public Hearing for
15 the item, so we wanted to go ahead with that public
16 hearing today and not pull this item. So we will take
17 public testimony, which is appropriate at the close of the
18 45-day comment period.

19 The Board Members have already ex parted, but I
20 did want to bring to your attention that I had mentioned
21 during the briefing that we were anticipating receiving a
22 letter from the Department of Toxic Substances Control
23 relative to captive insurance. And we did receive copies
24 of that letter dated May 21st addressed to Charles White,
25 wherein the Department specifically directs their comments

1 to the National Guarantee Policy and concludes those
2 policies are not signable and therefor are not in
3 compliance with Title 22.

4 And so DTSC is requesting, actually directing,
5 Waste Management to change out their financial assurance
6 mechanism. And I'm sure that we'll be talking about that
7 further.

8 So, at this point, I'll turn it over to Richard
9 Castle to begin the public hearing.

10 MR. CASTLE: Good afternoon, Madam Chair, board
11 Members. My name is Richard Castle. I work in the
12 Board's Financial Assurance Section. As Julie just
13 stated, we're here today not to adopt these regulations,
14 but to hold a formal public comment hearing, and to ask
15 your permission to send these regulations back out for an
16 additional 15-day public comment.

17 We have received comments on the regulations from
18 representatives of the commercial insurance industry and
19 from Waste Management Inc, as operator with a wholly owned
20 captive insured.

21 This morning we were also made aware of a letter
22 from Assemblywoman Figueroa's office requesting the Board
23 not act to adopt these regulations until further
24 discussions with their office. And at your direction we
25 or whoever you direct will meet with their office as

1 needed over the next month.

2 If I may, I'd like to begin with a very brief
3 summary of how the Board got to where we are today. In
4 '92 we had Senate Bill 610 that was sponsored by Waste
5 Management, the Board. That bill required that the Board
6 must accept all financial demonstrations set forth in the
7 federal regulations. Federal regulations are identified
8 in Part 258 of Title 40 of the Code of Federal
9 Regulations.

10 The closure, post-closer maintenance of insurance
11 was specifically identified by Waste Management as a
12 reason for sponsoring the change to our staff statute. In
13 1993 Waste Management first submitted insurance
14 certificates to the Board for closure and post-closure
15 maintenance of the facilities. That was from their
16 captive insure NGIC which was National Guaranty Insurance
17 Company.

18 These certificates were accepted based on the
19 federal standards as the Board did not have a standard in
20 regulations of their own to make these reviews.

21 In 1993, we also had Assembly Bill 1220 from
22 Assemblymember Eastman requiring the Water Board and Waste
23 Board to overhaul our regulations and joint rule-making to
24 eliminate overlap and duplication between the Boards.

25 The regulatory amendments set the standards for

1 acceptance of closure post-closure maintenance insurance,
2 which would comply with the SB 610 changes that were put
3 into this 1220 rule-making package. So that happened
4 beginning in 1993.

5 In July of 1997 the new Title 27 became effective
6 and that included our standard for insurance for close
7 post-closure maintenance. At that time, Waste Management
8 attempted to have NGIC meet the requirements of our
9 current regulations with the California Department of
10 Insurance, but they were unable to do so.

11 Ultimately, Waste Management replaced all the
12 financial demonstrations to the Board with other financial
13 assurance demonstrations, which are currently accepted by
14 the Board, and continue the process obviously to try to
15 get NGIC as an accepted mechanism. That process went to
16 1998 with Assemblymember Figueroa authorizing AB 715 which
17 specified that the Board may review and approve the
18 captive insurance companies of solid waste facility
19 operators as a financial assurance demonstration.

20 In September of 1999, the Board resolved to not
21 allow the use of NGIC as a financial assurance
22 demonstration to the Board. This action was taken after
23 hiring an outside contractor which was KPMG Pete Marwick
24 to review the possibilities of the Board reviewing these
25 captive insurers on their own which would be setting up an

1 entire rule-making process as how to review these captive
2 insurers. And it was after public testimony on why we
3 should accept NGIC.

4 First, in June of 2000 staff brought an item to
5 the Board requesting approval to formally accept the
6 regulations that are in front of you now, which excludes
7 the use of captive insurance in the financial assurance
8 demonstration. The Board directed staff to proceed with
9 this rule making and here we are.

10 We formally noticed the Regulation package on
11 March 30th. The minimum 45-day comment period has
12 expired. However, in the notice we allowed through the
13 end of this board meeting. The notice identifies today or
14 this boarding meeting as the public hearing.

15 The amendment to the regulations are actually
16 two-fold. We have the item for captive insurance. The
17 first amendment is a clarification to the regulations,
18 which specifies that captive insurance is not an
19 acceptable form of insurance.

20 The second amendment is a clarification to the
21 commercial insurance coverage and that's on our
22 certificate that's called see item AB 106. And it
23 clarifies how the Board can act to draw from the
24 certificate.

25 The amendments regarding captive insurance

1 demonstration identified that captive insurance is not an
2 acceptable form of insurance. We arrived at this after
3 evaluation of the coverage and I discussed that
4 previously.

5 Since June of last year, the federal office of
6 the Inspector General has made extensive review of the
7 RCRA Financial Assurance requirements for closure,
8 post-closure care. Their final report has been
9 distributed to your offices and copies have been made
10 available at the table out in front of the Board Room for
11 anybody that would like to look through the report.

12 The conclusion of the Inspector General's office
13 is that it is very specific to captive insurance. And
14 that it is, and this is a quote from the report, "Captive
15 insurers do not provide an adequate level of financial
16 assurances."

17 They continued with how they arrived at this
18 conclusion based on the similar path that the Board has
19 taken over the last number of years, specifically that
20 captive insurers are not dependant on the financial
21 ability to the parent company, which is also the insured
22 party. And the captive insurance coverage is not capable
23 of meeting the requirements that the coverage be
24 assignable to the future owner or operator of a facility.

25 In the OIG report in their review of these

1 captive insurance demonstrations, they discussed this
2 information with each of the State's program
3 representatives. It was not just within California, it
4 was the western US basically, and with the State
5 representatives from the State's license of captive
6 insurers.

7 In the comments that we had from the insurance
8 industry, basically their comment was requesting us to
9 amend the language allowing the Board to access the funds
10 to clarify that the action is only upon the operator
11 failing to perform, so as not to suggest that the policy
12 might be drawn on twice. I've had handed out to you that
13 amendment. It's highlighted on page 11 of the actual
14 regulations, and it's at the bottom of the form where we
15 we've inserted one short phrase.

16 The written comments that we got from Waste
17 Management are a little more lengthy, but I don't believe
18 there's anything that we have not discussed in the past,
19 but then I'm willing to go through those now.

20 CHAIRPERSON MOULTON-PATTERSON: While you're
21 doing that, I just want to make sure that all of -- my
22 staff says that this was distributed to the Board Members.
23 It's a letter from Senator Figueroa sent to me on May
24 18th. However, it was sent to an LA Street address, and
25 we didn't receive it until Monday. And I think that

1 we are respectfully asking that we take no action on the
2 proposed regulations until her special counsel Ed Howard
3 can be briefed on the Board's specific concerns.

4 If, in the additional 15 days, would we have time
5 to do that?

6 DEPUTY DIRECTOR NAUMAN: I believe we would.

7 CHAIRPERSON MOULTON-PATTERSON: And did the board
8 members see this, the May 21st, that was yesterday, right.
9 I just wanted to --

10 BOARD MEMBER MEDINA: I received a copy of that.

11 CHAIRPERSON MOULTON-PATTERSON: And we are not ex
12 parteing it at this time.

13 BOARD MEMBER JONES: Can I ask a follow-up
14 question?

15 CHAIRPERSON MOULTON-PATTERSON: Sure, Mr. Jones.

16 BOARD MEMBER JONES: Why 15 days? Why not 30
17 days or another 45 days?

18 DEPUTY DIRECTOR NAUMAN: It's typical when you
19 have comments of the nature that we have received that you
20 go out for an additional 15 days.

21 BOARD MEMBER JONES: Right, but is there anything
22 that precludes us from having another 45?

23 DEPUTY DIRECTOR NAUMAN: I don't think there are
24 legal requirements.

25 BOARD MEMBER JONES: The reason I ask is because

1 of Senator Figueroa's letter, NGIC I think -- or somebody
2 wants to come out and talk. DTSC is saying they -- I have
3 no problem with the action that we took, you know, in
4 saying we're not going to accept this now. What I missed
5 that day was we were going to have a debate, we didn't
6 really have a debate or a discussion. We just kind of cut
7 to the quick, because of the State of the company's
8 financial needs with the market.

9 And, you know, the assignability issue is a huge
10 issue. And one of the reasons that we said you know we've
11 got a problem with this, and now obviously it's one of the
12 problems that DTSC has. It would seem to me that that
13 thing has to at least be explained, because remember we're
14 not allowing it in California, which makes good sense.

15 But the action we take today is going to ripple
16 throughout the entire United States. And I think we need
17 to make sure that we completely understand all of those
18 different pieces. And I'm not convinced that we've even
19 heard all the different pieces. So I just throw that out
20 that maybe we need a little more than 15 days when there's
21 something that's this big at stake.

22 DEPUTY DIRECTOR NAUMAN: It's certainly the
23 Board's pleasure, you know, too, that the 15 days also
24 still allows us to continue discussion any time prior to
25 your June board meeting, so we're looking more at 30 days

1 rather than 15.

2 CHAIRPERSON MOULTON-PATTERSON: Well, after we
3 hear all the comments and everything maybe we can
4 determine that. I would like to at least be able to speak
5 with Senator Figueroa and let her know that I did receive
6 this and all of that.

7 DEPUTY DIRECTOR NAUMAN: Certainly.

8 CHAIRPERSON MOULTON-PATTERSON: I'm sorry to have
9 interrupted.

10 MR. CASTLE: That's all right. If I can go
11 briefly through the comments that were stated by Waste
12 Management and our responses to those to complete this
13 public hearing process.

14 The first is that the regulations as proposed
15 simply are not necessary. And the response to that is
16 that the regulations are necessary to clarify that captive
17 insurance is not an acceptable financial assurance
18 demonstration. Captive insurance does not satisfy current
19 state and federal requirements. And if we continue on
20 with the action that the Board has taken on a single case
21 by case basis, we are not -- and that was, in essence, the
22 Board's direction to continue with all captive insurance
23 to come forward, then we are required by our rules to
24 follow through with the regulations because that's what
25 we're going to do in all cases.

1 So assuming the Board wants to continue with
2 those captives, we don't want to deal with these on a case
3 by case. We need to do the regulations.

4 BOARD MEMBER JONES: But the case by case would
5 only be three companies?

6 MR. CASTLE: But I --

7 BOARD MEMBER JONES: I mean think about it
8 Richard, you have Waste Management, you've got Republic
9 that might or might not do it, and you've got Allied, they
10 may or may not do it, and Allied used to have captive
11 insurance.

12 MR. CASTLE: Yes.

13 BOARD MEMBER JONES: And, at this point -- but
14 that doesn't mean that they -- and I don't know that their
15 mechanism is supported solely the same way that Waste
16 Management's is, because we've never had that discussion
17 with them.

18 So, I guess, all I'm saying is these regulations
19 preclude anybody from ever being able to do it. And I'm
20 not a huge supporter of it. I had to compete against it.
21 Okay, so I'm not looking at it from any other standpoint
22 than there are people out there that haven't really even
23 been able to engage in the discussion.

24 These regulations make it a moot point. And they
25 send a message throughout the entire United State. And

1 that's, you know, I mean you just -- we need to understand
2 that as we're dealing with this issue.

3 MR. CASTLE: Okay. We can also amend the
4 regulations in the future if for some reason the Board
5 wanted to. But I agree with your point, we're only
6 talking about a couple of very large waste management
7 companies if they come forward.

8 This second comment was that there is no public
9 problem to the administrative requirement or other
10 condition or circumstance which the proposed prohibition
11 on captive insurance is intended to address.

12 The response to that would be that the
13 regulations are intended to address and clarify the
14 captive insurance in its current, not an acceptable, form
15 of insurance for demonstration to the Board.

16 The Board has the authority for all the
17 regulations and is required to go through the process
18 under the direction it's taken, which will be reviewed in
19 the future.

20 The next comment was that the regulations failed
21 to meet the necessity and consistent standards of the
22 Administrative Procedures Act.

23 And the response to that is that the Board has
24 the duty to adopt regulations identifying the clear
25 standards all operators are required to follow.

1 DEPUTY DIRECTOR NAUMAN: Mr. Paparian, did you
2 have a question of where these comments are coming from?

3 BOARD MEMBER PAPARIAN: No, I've got where
4 they're coming from, but I'm wondering we're going to do
5 this again when we hear this again, right?

6 I'm wondering if --

7 MR. CASTLE: If we resolve any concerns you have,
8 no we don't have to rehear this portion.

9 DEPUTY DIRECTOR NAUMAN: We only have to have one
10 public hearing.

11 BOARD MEMBER PAPARIAN: Okay.

12 DEPUTY DIRECTOR NAUMAN: And then the next time
13 we would come --

14 BOARD MEMBER PAPARIAN: I was trying to help move
15 it along. Go ahead.

16 MR. CASTLE: There's actually only a couple more
17 general comments on that.

18 The response is the Board has the duty to adopt
19 regulations identified in clear standards all operators
20 are required to adhere to.

21 The next comment was this PRC 46601 allows the
22 Board to amend financial demonstrations. It does not
23 allow for the exclusion of any mechanism. And staff's
24 response to that and is the same one that we continually
25 have on that comment, is if the Board is not excluding the

1 federally allowed demonstration.

2 The Board is amending the requirements for
3 acceptance of insurance by excluding a particular form of
4 insurance which happens to be captive insurance. The
5 federal requirements do not specifically identify captive
6 insurance as a distinct financial demonstration. And as
7 such, we are still adhering to PRC 43601. We are simply
8 modifying how the Board wants to see insurance presented.

9 The next comment would be that the Board should
10 consider the views and information of the financial
11 assurance industries. Board staff has met with the
12 industry. We've met with Waste Management over a number
13 of years we've met with them. I believe we are, as you
14 are, understanding and trying to collect all the views and
15 understand that information.

16 And finally, the commenter requested the Board
17 not adopt the regulations. That's your purview and
18 actually staff is not asking, at this point, for them to
19 be adopted. Just for another public comment period.

20 Commenters are also asked, which is outside the
21 rule making for the Board, to look at all financial
22 assurance demonstrations. And that's in an item within
23 the OMB report also, which is that all the financial
24 assurance demonstrations have some risk to append them and
25 staff does not argue that point.

1 We agree that each demonstration has some risk
2 and as to what level is the Board comfortable with
3 accepting it.

4 Not to belabor the point, I'll go ahead and close
5 at that point. I'm ready to respond to hopefully answer
6 any of your comments that you have further on this item.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.
8 Excuse me for the interruption.

9 Questions from the Board, before we have
10 speakers?

11 Okay. He'll let me know I'm sure.

12 Any finally comments Julie before we go to the
13 speakers.

14 DEPUTY DIRECTOR NAUMAN: Just to help with your
15 thinking on the timing of this. I've consulted with our
16 legal counsel, and we've been advised that you can pick
17 any period of time. You're not bound by 15 days or 30
18 days.

19 If you are interested in seeing this item back in
20 June, we would advise you that we probably can't have an
21 additional review period much beyond about 20 days. So if
22 you want more than 20 days, then we would be in a position
23 to bring it back in July.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Well,
25 we'll go ahead with the speakers and then we'll give you

1 direction on that.

2 Mr. Chuck White, and he's Waste Management.

3 MR. WHITE: Thank you, Madam Chair and members of
4 the Board. I really appreciate the opportunity to come to
5 the beautiful Yosemite area to once again trust the issue
6 of captive insurance, which seems to continue to come up
7 before this board.

8 As was stated by staff, we are principled -- in
9 fact, our sole objection is that the provisions on page
10 16-16 of your agenda packet, that's page seven would be
11 proposed regulations on page -- it's item B where it
12 basically says captive insurance is not an acceptable for
13 financial assurance demonstrations due to this board.

14 We would ask that that, respectively ask, that
15 the Board consider striking that section and continuing on
16 to work with us and other interested parties on trying to
17 find a way to which captive insurance might be acceptable
18 to the Board at some point in time in the future.

19 You have received our comment letter. There have
20 been a flurry of letters in the last several days. In
21 fact, I am somewhat hesitant, but I must add one more
22 flurry of letter, which is from our legal counsel in
23 Vermont. And if you can just pass those around. I'll
24 return to this letter before the end of my comments.

25 We recognize that the Board has concerns about

1 captive insurance. We're not using captive insurance in
2 California to this day. We have no plans of using captive
3 insurance for solid waste facilities until we can come
4 back and be approved by a majority of this board at some
5 point in the future. That may not ever happen, but we
6 would like to be able to continue the possibility of
7 having those discussions and working with this Board and
8 other interested parties to address those concerns you
9 have, with respect to this captive insurance mechanism.

10 We really don't believe it's necessary for this
11 board to adopt an outright prohibition. We're not using
12 it. No one is using it. Waste Management cannot come
13 before -- cannot start using it again at any of the solid
14 waste facilities until we seek specific approval from this
15 board. The same would be true in the Republic's, the same
16 might be true with Allied. The same would be true of not
17 any other solid waste company that would seek to use
18 captive insurance.

19 There is simply not a problem currently with
20 respect to solid waste facilities using this mechanism in
21 California at this time.

22 I do have to respectfully disagree with the
23 evaluation of the staff. We do believe that there is by
24 adopting an outright prohibition, there is a conflict with
25 the Public Resources Code Section 43601.

1 There's really two provisions of that. The first
2 of which was added by the Caulderon Legislation, that
3 basically says that the Board can condition the use of one
4 or more mechanisms, but shall not exclude the use of any
5 mechanism permitted under federal law.

6 Insurance is certainly one of the mechanisms, you
7 know at the federal law. The federal register is full of
8 references that the federal law, the regulations include
9 captive insurance as a form of insurance that is allowable
10 under the overall regulations for insurance.

11 So we believe that the language of the Public
12 Resources Code would suggest respectfully that you cannot
13 outright prohibit any mechanism that is allowed under the
14 federal, including captive insurance as a subset of
15 insurance, because it is specifically referenced in the
16 rule-making record, that captive insurance is a form that
17 is allowed.

18 You can regulate it. You can put conditions of
19 monitoring its use and managing its use, but you cannot
20 prohibit.

21 The other part of the Public Resources Code 43601
22 is the provisions that were enacted authored by then
23 Assemblywoman, but now Senator Figueroa back in 1998, give
24 it established specific criteria for this board that you
25 give permissive authority to approve captive insurance.

1 It doesn't -- say you have to, you have chosen not to, but
2 the Legislation gives you specific criteria against which
3 to judge the acceptability of a financial assurance
4 mechanism and specifically captive insurance.

5 By turning around and prohibiting, we believe
6 there is also a conflict with the statutory authority that
7 gives this Board permissive authority, because you're
8 basically writing a regulation that prevents from you
9 using a permissive authority to review and approve captive
10 insurance.

11 And, again, I would ask you to look at the
12 provisions that then assemblywoman now Senator Figueroa
13 put in AB 14 in 1998. These are the most stringent
14 requirements for captive insurance used for solid waste
15 facilities in the nation. Strict compliance with federal
16 regulations, it has to be a US domiciled carriers. It
17 can't outside the United States. It's got to be permitted
18 by one or more states.

19 You've got to maintain A minus Aye. Better
20 rating. Right now, for example, even if we wanted to use
21 our NGIC in California we could not, because right now
22 NGIC has a B plus plus rating. We hope to return NGIC at
23 some point in time in the very near future to an A minus
24 or even a rating.

25 Right now we don't so we could never even seek it

1 as a now stands. And this is a very stringent rating.
2 There are commercial insurance companies operating in
3 California to date that you can buy insurance from that
4 operate at a far less stringent rating than an A minus or
5 a B plus or a B even. And so we believe, this is again,
6 among one of the strongest provisions. And this is
7 exactly the kind of provisions that the federal office of
8 Inspector General Report, which was referenced and which
9 is available for you outside, kind of improvements in the
10 system that the OIG reports suggested.

11 Independent audits to make sure you're on top of
12 how this insurance is performing. The OIG report, which
13 is very critical of virtually every single financial
14 assurance mechanism that is used by this board.

15 Granted it reserves the greatest extent of its
16 criticism to captive insurance, but even in its criticism,
17 it doesn't come out in specific recommendations to
18 prohibit its use. The specific recommendations are that
19 it should be all federal regulatory requirements, that the
20 policies should be assignable, that there's a number of
21 complex insurance issues that need to be evaluated
22 explained and explored.

23 There needs to be environmental financial
24 assurance training materials prepared. And it recommends
25 that there needs to have an Internet bulletin board

1 established to create an opportunity to work at federal
2 and State agencies to communicate.

3 But there isn't an outright recommendation that
4 it be prohibited from use. With respect to the
5 assignability issue, we're -- I just -- ironically I
6 walked in here last night and received a copy of the
7 letter written to me by the Department of Toxics from one
8 of the Waste Board staff members, which I appreciate
9 getting a copy of, Aye. I certainly was not aware it was
10 in existence.

11 But be that as it may, we have haven't had a
12 chance to fully evaluate that letter. Our initial
13 evaluation is reflected in this letter I just handed out
14 to you from an Attorney in Vermont in Downs, Rockland and
15 Martin, plc. And that letter on the very next -- well
16 large, first major paragraph on the second page, basically
17 says that if you sell a facility to another operator, that
18 constitutes a contractual relationship, which meets the
19 meaning of controlled affiliated business at the time of
20 that sale.

21 So finally we had a chance to sit down with the
22 Department of Toxics to discuss this. We fully intend to.
23 We have, in the packet, the letter that I sent to you, the
24 very last attachment is a previous correspondence where we
25 actually have a letter to the director of captive

1 insurance of the State of Vermont, which he has stamped
2 approved, which we believe verified, that, in fact, this
3 captive insurance mechanism assign is a slam.

4 So we could ask you to consider this is a side
5 note issue. It's not yet finalized. We would like to
6 continue the discussion. We'd like to fully understand
7 our concerns.

8 In a sense, we find it relatively a small issue,
9 and we think it's one that can be relatively easily
10 addressed. There is continuing concerns primarily from
11 the standpoint that the assignability issue was never
12 going to come up. We never have sold a landfill for
13 example and suggested that our existing financial
14 assurance mechanisms through our captive insurance should
15 be used by that -- where they're always obligated to seek
16 their own financial assurance mechanism prior to the sail.

17 So we don't believe there's really a significant
18 problem with respect to this particular issue.

19 And in conclusion, and I do have one procedural
20 question I'd like to come back to you before I finish.
21 But we would be really pleased to work with this board and
22 the staff and the other agencies, DTSC hopefully in
23 communication with the Vermont Department of Captive
24 Regulators with the Vermont Captive Insurance Association
25 to seek what problems exist, can we come up with

1 mechanisms to address these concerns as well as some of
2 the concerns that were addressed in the OIG report for
3 other mechanisms, like letters of credit and other forms
4 of financial insurance that there may be concerns with.

5 Of all the mechanisms that this board allows
6 there is relatively few mechanisms for which there has
7 never been a real live documented problem. And that
8 includes captive insurance.

9 So I would have to conclude by saying we find it
10 somewhat ironic that this is the one mechanism that seems
11 to have raised to such a level that it requires a
12 prohibition. Yet, when the rubber hits the road, real
13 life world there's never been any documents problem with
14 Captive insurance, it's all speculative in nature.

15 And there isn't a problem with it right now,
16 given the fact that no one is using it and no one can use
17 it until it's approved by this board.

18 So we respectfully request that you not adopt the
19 prohibition captive insurance and you again work with us
20 and others to address any concerns you might have about
21 the viability of this mechanism. Before I sit down, I do
22 have one procedural question, and that has to do with this
23 15-day notice.

24 Normally, when you go out to a 15-day notice, the
25 only ability to give further comment is the items that you

1 are changing or have changed during that 15-day notice.
2 And then it will come back before this board at some point
3 in time in the future either in June or July. Would we be
4 then prohibited from commenting on the other relevant
5 provisions of this package like as I'm talking about
6 today, the prohibition on captive insurance or would the
7 record be kept open for us to provide additional comments,
8 on other things other than are being renoticed in the
9 specifically identified like in the 15-day period? And we
10 would request that that be the case, that this board gives
11 specific direction to allow the record to be open.

12 CHAIRPERSON MOULTON-PATTERSON: I'd like to ask
13 the staff to comment to see if they're in agreement.

14 CHIEF COUNSEL TOBIAS: Legally, we are not
15 required to respond to other comments, other than the ones
16 that are coming back, but the Board could leave it open,
17 and respond to those other ones. I don't think we would
18 be prohibited from doing that.

19 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

20 MR. WHITE: Thank you very much. I'd be happy to
21 answer any questions and respond to any inquiries you
22 might have.

23 Thank you.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you.

25 Lisa Vendris, Vermont Captive Insurance

1 Association.

2 MS. VENDRIS: Thank you, Madam Chair and members
3 of the Board. Thank you for your time this afternoon.

4 My name is Lisa Vendris. I'm President and Chief
5 Operating Officer of the Vermont Captive Insurance
6 Association. And I will try to respect your desire to
7 adjourn by 4:30. I promise I won't take as much time as
8 it took me to get out here yesterday, but I'll try to
9 focus my comments quickly.

10 I realize there has been a lot of discussion and
11 paperwork back and forth around this particular issue. My
12 intent today is to invite the Board to just step back a
13 little bit and listen to my remarks about some context and
14 background of the captive insurance industry, the
15 integrity of the industry, what the Vermont domicile is
16 like, what the regulatory environment is like, and what
17 the companies go through who create captive insurance
18 companies, what their ongoing obligations are to the
19 public, and how all of that is done in a very thorough and
20 credible way.

21 So let me simply begin then with a Captive 101
22 definition of a captive insurance company, which is, "An
23 organization or an entity that ensures the risk of its
24 owners and sometimes related or affiliated firms." The
25 captives are the insurers that are owned by the insured.

1 They are organized for the main purpose of funding the
2 owners risks, and they actively participate in decisions
3 influencing its underwriting operations and investments.

4 In Vermont, there are a variety of captive
5 insurance companies. In the case of waste management,
6 it's a single or a peer captive, but there are groups or
7 associations of corporations or entities that form to also
8 insure their own risks.

9 The industries that are represented in Vermont
10 are quite diverse. They range from Fortune 500 companies
11 to nonprofit or government sector entities. We have
12 health care institutions, housing authorities, religious
13 organizations. And our captives are also starting to
14 demonstrate the middle market sized companies that might
15 write less than a million dollars of insurance premiums,
16 are also setting up their own insurance companies. So it
17 is not a mega multi-national corporation that this
18 industry serves only.

19 If you look around the world, right, there are
20 4,300 captive insurance companies that are formed. That
21 number represents about 40 percent of the total insurance
22 marketplace. So while in the beginning it was considered
23 an alternative form of insurance, it has broadened over
24 the last couple of decades to be a significant strategy
25 for corporations to adopt as they try to remain in a

1 competitive posture in this very competitive world
2 marketplace.

3 There are a dozen domiciles, but Vermont is the
4 largest. We have about 75 percent of the market share of
5 all the captives that are licensed on US soil. Vermont
6 also has the distinction of being the third largest
7 captive domicile. And over the last 20 years, since it
8 set up its captive laws, the industry has matured and
9 developed, so that it is a very sophisticated regulatory
10 environment.

11 The regulators are considered to be among the
12 world's finest for quality of oversight. We have a
13 dedicated staff of 14 who do nothing but focus on this
14 particular industry, so they can become real experts in
15 this arena.

16 The service providers that are also located in
17 Vermont also have evolved over the last 20 years so that
18 they really know this industry and work very closely to
19 help start those companies out on a solid footing.

20 This particular type of insurance is not a
21 decision that companies undertake lightly. It's a very
22 strategic thought process that they go through and so that
23 thought process in the beginning usually takes a couple of
24 years for them to reach that particular point.

25 Part of the benefit, though, once they do set up,

1 are the significant benefits that they enjoy, though I do
2 want to point out to you.

3 It results in a reduction of costs of risk
4 management. It stabilizes their pricing. They frequently
5 are able to receive certain coverages that might otherwise
6 be unavailable through the commercial market. They have
7 access to the reinsurance market. They see also improved
8 cost flow benefits and the ability again to customize
9 their risk.

10 Particularly, in Vermont when we talk about the
11 regulation, it is almost a form of shared Regulation,
12 because the company works very closely with the regulator,
13 again, from the very beginning so that the programs that
14 are put in place and the structure of that facility is one
15 that meets the needs of the corporation and provides the
16 regulator with the appropriate level of risk, oversight
17 and comfort that they need.

18 I indicated Vermont started up its domicile in
19 1981. We will soon license our 500th captive probably
20 this month or next month. I've had significant
21 achievement with these. It's something that we're very
22 excited about and very proud of. And, again, our
23 credibility in this industry is something that we take
24 very seriously.

25 I talked to you about the infrastructure of the

1 industries that support captives. Part of that
2 infrastructure is my association and our responsibility is
3 to be the legislative and regulatory advocate to make sure
4 that our domicile stays supported for the captives, that
5 the laws that get enacted represent the real needs that
6 are not up within the marketplace. And we do work very
7 closely with regulators.

8 The laws that get signed into law are consensus
9 documents if you will. They have been developed with
10 regulators, legislators and industry representatives again
11 to meet the specific need.

12 Part of Vermont's unique quality as a domicile is
13 this concept of flexible regulation. Vermont's reputation
14 is one of being firm but fair. And the mystery around
15 captive insurance has always been that every captive
16 insurance company is different from the next one that
17 comes into the pipeline.

18 It reflects the unique needs of each corporation,
19 its risk programs, its industry type, the size of its
20 corporation. And so the statutes that Vermont has written
21 that continue to be modified each year reflect a desire to
22 be as flexible as possible, so that regulations are not
23 prescriptive. They do not anticipate every unique
24 circumstance that might arise, so it gives that regulator
25 and the captive insurance company the opportunity to come

1 in with its own unique program.

2 And that, again, is part of Vermont's unique
3 advantage in this particular industry that the regulators
4 are able to entertain those types of proposals.

5 The process for applying is very thorough. It is
6 very rigorous. Not only is the application process very
7 thorough and rigorous, but the licensing process itself is
8 very demanding.

9 Not only is the vitality and the integrity of the
10 corporation at stake, the vitality of the Vermont domicile
11 is also at stake. And the comment was made earlier, sir,
12 when you said that actions taken by this particular board,
13 if you do have a wholesale exclusion of captives for this
14 particular activity, that is of great concern to us
15 because captive insurance, again as I'm trying to convey
16 to you, is a very unique industry, one that is different
17 for each particular corporation.

18 And what we would do is that this Board would be
19 able to continue over the next period of time and speak
20 perhaps directly with the Vermont Captive Regulators, who
21 can entertain specific questions that you have about how
22 they might respond to future events.

23 That is, I think, an important piece of your
24 thought process that cannot be adequately addressed by
25 myself or other witnesses here today, but perhaps would be

1 of value to you, at some time, in the coming weeks.

2 Again, in respect to your time line, I think I'll
3 conclude my comments here, but I do wish to thank you for
4 your time. I do encourage you to speak directly, again,
5 if possible, to the Vermont Captive Insurance Regulators
6 who can help communicate to you the level of oversight
7 that they give to unique programs, that the programs and
8 the structures they put in place are there to guarantee
9 their particular comfort level with unique corporations.

10 Those business plans change over time and
11 regulators also continue ongoing conversations with
12 representatives of the captive to make sure that as their
13 industry conditions change, their captive insurance
14 company also is amending its business plan to help them
15 remain viable.

16 Thank you very much.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
18 Vendris. Vendris is that right?

19 MS. VENDRIS: Yes. Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you very
21 much for coming all the way from Vermont.

22 Any questions or comments by board members?

23 Senator Roberti.

24 BOARD MEMBER ROBERTI: Yes, does the Vermont, I
25 guess it's your Department of Banking, do you take into

1 consideration in trying to judge the health of a company
2 that wants to engage in a captive insurance stock price?

3 MS. VENDRIS: I'm sure that that is a part of
4 their information that they receive when they sit and
5 review those applications with the company. I'm looking
6 through, because I had a list of information that they --

7 BOARD MEMBER ROBERTI: Because normally, I mean,
8 it's not the kind of thing, I guess, it would necessarily
9 be evaluated if I were taking out a loan application,
10 they'd want to know how much money I had, et cetera, et
11 cetera. But what the underlying evaluation of this thing
12 calls equities, I'm fearful it maybe wouldn't be taking it
13 into consideration.

14 And that's not saying you're not doing your job,
15 because that really doesn't get liquidity in the company,
16 because it does get to their ability to have loans, have
17 the certain amount of confidence if a company had to
18 liquidate what the valuation of that company would be.

19 MS. VENDRIS: I'm not a regulator, but I'm sure
20 that that's a part of, again, all the significant amount
21 of information that they look at about the overall health
22 of the parent. Captive though is a stand alone entity.
23 It's capital is its own separately held capital.

24 BOARD MEMBER ROBERTI: Yeah, I understand that.
25 That's why I'm wondering that because I recognize they are

1 separate, as Mr. White knows that has been a concern of
2 mine.

3 Thank you.

4 MS. VENDRIS: All of us were watching the stock
5 market, we have our own concerns.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you very
7 much.

8 Mr. Jones.

9 BOARD MEMBER JONES: Madam Chair. I'd like to
10 just say a couple of things. I think that this board made
11 the right move when we said we're not going to use this
12 right now, because it didn't meet our criteria that we had
13 discussed.

14 I'd like to open this up for another 45 days.
15 That will put us into the July board meeting. I think
16 June is pretty loaded up. I think it needs to be open to
17 all comments. I think we need to talk with Senator
18 Figueroa's staff, which she had asked us to do. I think
19 we also need to talk to the Vermont Insurance Regulators,
20 because nothing -- by us not excluding -- I mean, you
21 know, what we're being asked to do is to develop a
22 regulation that says there's no way anybody can ever use
23 captive insurance in the State of California.

24 What we've effectively done already is said
25 you're the only one that's going to use it, we're not

1 going to allow you to use it anyway. We're just doing
2 that without regulation, because it didn't meet our
3 criteria. So it's not like the necessity to get these
4 regulations through means that somehow waste is going to
5 be able to surprise us with the captive insurance
6 certificate at one of their facilities. They're
7 prohibited from doing that.

8 But we never -- I just think that we need to go
9 45 days and then keep the discussion going. But this is
10 no way -- I don't want this to be misread by waste or
11 anybody else. I'm not saying that at the end of that 45
12 days this becomes a viable mechanism, because I see it as
13 two different things. We set up a criteria. If they're
14 not able to meet the criteria, we have determined that
15 they can't use it. That's one issue.

16 This issue with these regs says nobody can ever
17 use it. And that is a pretty big step that I think we
18 need to at least talk to Senator Figueroa about. So I
19 would hope that we would open this for another 45 days,
20 taking all comments, not limiting them to just changes.

21 BOARD MEMBER MEDINA: I support Board Member
22 Jones on that.

23 CHAIRPERSON MOULTON-PATTERSON: Hearing no
24 objection --

25 BOARD MEMBER ROBERTI: Thank you.

1 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti,
2 would you like us to vote on it?

3 BOARD MEMBER PAPARIAN: I just had a question. I
4 think I'm okay with this, but I'm not sure what we're
5 asking our staff to talk to the Vermont people about.
6 Perhaps, you know, we can provide the Vermont people our
7 proposals and ask for their comments on it, but I'm not
8 sure what we're asking them to do with their conversations
9 with Vermont.

10 BOARD MEMBER JONES: As I remember, part of the
11 discussion that we had was there was some issues about
12 just how stringent Vermont's regulatory structure is.
13 There were some other things that staff had brought up.
14 If those issues haven't been specifically answered or if
15 there is -- all I'm limiting it to, they brought up some
16 issues early on. I don't know if they've ever been
17 Answered.

18 And I think that waste has set, you know, talk to
19 these and understand completely what it is that's behind
20 this thing. And I don't know that we've done that either.
21 And if we have, that's fine, then you don't have to redo
22 it.

23 If we haven't, taken advantage of the 45 days
24 with them to see if we can have a better understanding. I
25 never -- I mean just real quickly, Madam Chair, I never

1 felt that this captive insurance should be used for
2 closure and post-closure. I told the people it makes
3 sense to look at it and have the debate about where it
4 makes sense. Do you use it for closure or do you use it
5 for post-closure.

6 We never got there. We never had that debate,
7 because we decided or there was a motion made not to allow
8 it. And that was fine, I supported that motion. But you
9 know I think this will give you time to just give us a
10 little more, because this is a big issue.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian, I
12 would like to have time to just speak with Senator
13 Roberti -- which I'd like to also, but Senator Figueroa,
14 since she has respectfully asked to. I don't know if we
15 need 30 days or if we need 45, but that's where I'm coming
16 from.

17 BOARD MEMBER PAPARIAN: Yeah. I'm fine with
18 that. I just wanted to clarify what it is we're doing in
19 our conversations with Vermont.

20 BOARD MEMBER JONES: Did that make sense what I
21 said?

22 BOARD MEMBER PAPARIAN: Yes.

23 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti.

24 BOARD MEMBER ROBERTI: How long have we been
25 discussing this?

1 BOARD MEMBER EATON: About four years.

2 BOARD MEMBER ROBERTI: It's been quite a long
3 time. I hate to be a dissenter at the garden party, but
4 Mr. White is an outstanding advocate, so I certainly give
5 him credit for being a tenacious flavor, something he
6 feels very strongly about but we've been digging at this
7 for quite awhile. And I do want to say close minded, but
8 I can't think of too many circumstances in which I could
9 conceivably vote for captive insurance in the light of the
10 gyrations of their stock, because that is what undergirds
11 their ability to pay the public.

12 It's not -- and I think we engage in the fiction
13 of a separate company when, in deed, we are relying upon
14 the substantial equity of a company involved, and I don't
15 want to pick on waste management, because I'm not
16 specifically saying this is a problem with Waste
17 Management, although you're the candidate right now that
18 wants to use it.

19 We've been discussing this for quite some time.
20 Sometime you have to have closure. And I think the time
21 myself may be just a one -- since the closure is now.
22 What underscores my feeling so very strongly is what
23 happens if you have a problem of migrating waste or
24 migrating poisons or whatever could conceivably take place
25 at a landfill in which the costs are not astronomical and

1 are far greater than the company's valuation.

2 I don't want that to happen on my clock. And if
3 it does happen on my clock, I want to have to say I voted
4 no. These kinds of impending disasters come all the time
5 and bite the people who are sitting on the Boards. And I
6 myself have had just too much experience with that
7 happening, and I don't want to point any finger of
8 castigation at Waste Management, but I think enough
9 already.

10 There has to be the public health of a much
11 larger entity, much more broadly based than the company
12 itself to protect the public. Waste has problems that we
13 just don't know about yet. And I don't think it lends
14 itself to the concept of captive insurance where some
15 other company, which might have a much more quantifiable
16 problem involved, not so open to speculation as what waste
17 is, and the kinds of things that can go into waste do not
18 have.

19 So my vote is no on the motion to extend my vote
20 is yes when the time comes. Where we put it in captive
21 insurance and that is not saying that waste management has
22 done anything wrong, it's just, I think, it's our only way
23 of protecting the public.

24 MR. WHITE: Just briefly, I certainly respect
25 your concerns, Senator. And, you know, Waste Management

1 has had some stock fluctuations. The stock is up now, but
2 apart from stock value waste management is a \$22 billion
3 dollar company. We have less than a billion dollars in
4 closure post-closure with financial assurance that the
5 value of company vastly exceeds --

6 BOARD MEMBER ROBERTI: I'll bet you're not as big
7 as Philip Morris. And Philip Morris is facing that kind
8 of problem right now based on decisions that they have
9 made maybe 20, 25 years ago they thought were perfectly
10 fine. I have doubts about that, but maybe they thought
11 were perfectly fine. And they're bigger than \$20 billion.

12 And I wouldn't want to fill up more to the
13 Captive insurer of all its problems. And I'm not willing
14 to extend that to Waste Management.

15 MR. WHITE: We would love to explore this further
16 with you and to be able to try and give you information
17 that the State of Vermont uses and criteria of these uses
18 to ensure that they have a comfort level, the captive
19 insurance established by waste management.

20 It would be there to be protective of the health
21 and the environment.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
23 White. I, too, don't want this to go on, Senator Roberti.
24 I think my very first meeting almost two years ago we were
25 talking about this. So, you know, I certainly would like

1 to have that time to at least give Senator Figueroa's
2 office a courtesy.

3 And so maybe if a compromise we did in 30 days
4 and leave the comment period open. And if we need a
5 motion on it, maybe we better take one.

6 BOARD MEMBER EATON: I'll wait till next time.

7 BOARD MEMBER JONES: All right. Madam Chair, I'm
8 going to move that we leave the comment period open for 30
9 days and it's open to all comments and, have staff or
10 Chairman talk with Senator Figueroa.

11 BOARD MEMBER MEDINA: Second.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
13 motion on the floor by Mr. Jones seconded by Mr. Medina.

14 Please call the roll.

15 SECRETARY VILLA: Eaton?

16 BOARD MEMBER EATON: Aye.

17 SECRETARY VILLA: Jones?

18 BOARD MEMBER JONES: Aye.

19 SECRETARY VILLA: Medina?

20 BOARD MEMBER MEDINA: Aye.

21 SECRETARY VILLA: Papanian?

22 BOARD MEMBER PAPANIAN: Aye.

23 SECRETARY VILLA: Roberti?

24 BOARD MEMBER ROBERTI: Aye.

25 SECRETARY VILLA: Moulton-Patterson?

1 CHAIRPERSON MOULTON-PATTERSON: Aye. And I

2 just --

3 BOARD MEMBER ROBERTI: No.

4 CHAIRPERSON MOULTON-PATTERSON: I'd just -- thank

5 you very much. I'd just like to remind everyone that we

6 will have a short joint board meeting with the Water Board

7 tomorrow morning right here in this room at 9:30. And

8 upon adjournment of that meeting we will go into finishing

9 the business that we haven't finished today.

10 Thank you very much.

11 (Thereupon the California Integrated

12 Management Waste Board was recessed until

13 Wednesday, May 23, 2001 at 11:00 a.m.)

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CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California Integrated Waste Management hearing was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of June, 2001.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063

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