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BOARD MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING  
CENTRAL VALLEY AUDITORIUM  
1001 I STREET  
2ND FLOOR  
SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 13, 2001  
9:30 A.M.

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

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Linda Moulton-Patterson, Chairperson

Dan Eaton

Steven R. Jones

Jose Medina

Michael Papanian

David Roberti

STAFF

Mark Leary, Executive Director

Kathryn Tobias, Chief Counsel

Terry Jordan, Deputy Director

Julie Nauman, Deputy Director

Rubia Packard, Assistant Director

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

Sara Avila

Elliot Block, Staff Counsel

Catherine Cardozo

Al Chaney

Jan Howard

Jeff Hunts

Howard Levenson

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iii

APPEARANCES CONTINUED

STAFF CONTINUED

Ron Lew

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Kyle Pogue

Zane Poulson

Jill Simmons

Steve SoRelle

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iv

INDEX		PAGE
I	Call to Order	1
	Pledge of Allegiance	1
II	Roll Call and Declaration of Quorum	1
III	Opening Remarks	1
IV	Reports and Presentations	3
V	Consent Agenda, Items 3,5,8,9,36	12
VI	Continued Business Agenda Items	111
	1. Consideration of Adoption of the Board's 2001 Strategic Plan	111
VII	New Business Agenda Items	23
	Waste Prevention and Market Development	
	2. Consideration of Approval to Formally Notice Proposed Permanent Regulations to Base Rigid Plastic Packaging Container Compliance Determinations Under Public Resources Code Sections 4231(b) and (c) on the Previous Year's Actual Recycling Rates	23
	4. Consideration of Approval of Pilot Project Partnerships for Obtaining External Grant Funds for Organics Market Development	
	Executive, Administrative and Policy	
	7. Consideration of Approval of Selected Grant Scoring Criteria, Evaluation Methods and Processes for all Competitive Grant Programs	31,

INDEX CONTINUED

PAGE

Diversion, Planning and Local Assistance

10.	Consideration of Staff Recommendation on the Completion of Compliance Order IWMA BR99-04; and Consideration of the 1997/1998 Biennial Review Findings for the Source Reduction and Recycling Element and Household Hazardous Waste Element for the Yuba/Sutter Regional Waste Management Authority	57
11.	Consideration of Staff Recommendation on the Amendment of the Yuba/Sutter Regional Waste Management Authority's Regional Agency Agreement	61
12.	Consideration of Staff Recommendation to Change the Base Year to 1999 for the Previously Approved Source Reduction and Recycling Element for the City of Rancho Palos Verdes, Los Angeles County	64
13.	Consideration of Staff Recommendation to Change the Base Year to 1999 for the Previously Approved Source Reduction and Recycling Element for the City of Madera, Madera County	67
14.	Consideration of Extending Compliance Order Due Dates for Jurisdictions that are Required to Complete New Base Year Studies: Baldwin Park, Clearlake, Compton, Gardena, La Canada Flintridge, La Puente, La Verne and Torrance	77
16.	Discussion of the Impact of State and Federal Construction and Demolition Projects on Jurisdictions' Diversion Rate Achievement	88
	Afternoon Session	111

Please note: These transcripts are not individually reviewed and approved for accuracy.

vi

INDEX CONTINUED

	PAGE
18. Consideration of Approval of the SB 2202 Draft Report to the Legislature Titled, A Comprehensive Analysis of the Integrated Waste Management Act Diversion Rate Measurement System	132
19. Consideration of Action on the Submittal of Integrated Waste Management Plans (IWMP) as Required by AB 75 that have been Deemed Incomplete for the Following State Agencies and Large State Facilities: California School for the Deaf, Fremont Rio Hondo Community College Sierra Joint Community College District and Campus	156
Public Comment	187
Adjournment	193
Reporter's Certificate	194

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: I'll call to  
3 order the November meeting of the California Integrated  
4 Waste Management Board. Would you please rise and join us  
5 in the Pledge of Allegiance to the Flag.

6 (Thereupon the Pledge of Allegiance was  
7 recited together.)

8 CHAIRPERSON MOULTON-PATTERSON: Thank you. Would  
9 the Secretary please call the roll.

10 SECRETARY VILLA: Eaton?

11 BOARD MEMBER EATON: Here.

12 SECRETARY VILLA: Jones?

13 BOARD MEMBER JONES: Here.

14 SECRETARY VILLA: Medina?

15 BOARD MEMBER MEDINA: Here.

16 SECRETARY VILLA: Papanian?

17 BOARD MEMBER PAPANIAN: Here.

18 SECRETARY VILLA: Roberti?

19 Moulton-Patterson?

20 CHAIRPERSON MOULTON-PATTERSON: Here.

21 Okay. I'd like to ask that you turn off your  
22 cell phones and pagers for the meeting. And also I'd like  
23 to remind everybody to keep conserving energy. And we at  
24 the Waste Board are doing our part and we're printing a  
25 limited number of agendas. They are in the back of the

1 room, and then the speaker slips are also. If you'd like  
2 to speak to an item, please put the item number and give  
3 it to Ms. Villa who's right over here to my right, Ms.  
4 Villa, and then we can hear what you have to say. And we  
5 also have a time certain number 15 on school diversion to  
6 be heard Wednesday at 11:00 o'clock.

7 Also, Mr. Leary, to avoid people waiting, do you  
8 want to make that one remark right now?

9 EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair,  
10 thank you very much. Agenda Item 1, the Board's  
11 consideration of the adoption of the strategic plan, due  
12 to a couple of glitches kind of beyond our control, I  
13 would ask that the Board defer this item till this  
14 afternoon. You and I talked about possibly time certain  
15 at say 2:00 o'clock.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. So we're  
17 really sorry for the inconvenience. This was something  
18 that we had no control over, but for those of you that are  
19 here to speak on Item number 1, the Strategic Plan, we  
20 will be hearing it after lunch at 2:00 o'clock.

21 Okay. Any members have any ex partes?

22 Mr. Eaton.

23 BOARD MEMBER EATON: I'm up to date, I believe,  
24 except I did get this from the San Gabriel Valley Council  
25 of Governments. And I'm not sure if that was just an

1 attachment or if anyone who dropped it up here if that's  
2 an additional letter. I think we all got copies.

3 CHAIRPERSON MOULTON-PATTERSON: Could you ex  
4 parte it for all us?

5 BOARD MEMBER EATON: So I would be happy to ex  
6 parte it. It's a letter dated November 8th, 2001  
7 addressed to you, Madam Chair, regarding the San Gabriel  
8 Valley Council of Governments regarding the strategic  
9 plan. And that I believe puts me up to date as well as  
10 hopefully all of you.

11 CHAIRPERSON MOULTON-PATTERSON: Okay.

12 Mr. Jones.

13 BOARD MEMBER JONES: I'm up to date, Madam Chair.

14 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

15 BOARD MEMBER MEDINA: I'm up to date as well.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

17 BOARD MEMBER PAPANIAN: Almost up to date. I'd  
18 forgotten to add one, which was last Thursday, November  
19 8th, I had a conversation with Supervisor Greg Cox of San  
20 Diego regarding cleanup monies for cleaning up litter and  
21 waste.

22 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.

23 I'm up to date.

24 Mr. Eaton, do you have a report or any comments  
25 you'd like to make?

1 BOARD MEMBER EATON: No, Madam Chair, since the  
2 last time, I took just a few days off.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: No.

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

6 BOARD MEMBER MEDINA: Madam Chair, at this time,  
7 I would like to present Amalia Fernandez who has been  
8 hired as the technical advisor to my office. Amalia comes  
9 from the Special Waste Division Tire Hauler Program, where  
10 she excelled in her work, and I'd like to welcome Amalia  
11 on board. So, Amalia.

12 (Applause.)

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

14 BOARD MEMBER PAPANIAN: Thank you, Madam Chair.  
15 I just wanted to thank a few staff for some good work in  
16 the last month or few months. I wanted to thank Shirley  
17 Willd-Wagner and Mitch Delmage for their work with my  
18 office and MGT to finalize the Ewaste Baseline Study  
19 Report which we'll be hearing more about in the next few  
20 weeks.

21 I also wanted to thank Rubia Packard for all her  
22 hard work on the strategic plan. I'm sure we'll get  
23 another chance to thank her again later today. And then  
24 finally Kristin Yee with the Used Oil Program for her  
25 assistance on the used oil allocation recommendations that

1 we worked on last week in the Budget Subcommittee.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
3 Paparian. And just very briefly, I had the pleasure of  
4 visiting Oceanside Glass Tile, and we were able to give  
5 them an RMDZ loan and see the great product they're  
6 making.

7 Also, on November 2nd, I attended in Malibu an  
8 event with Assemblywoman Pavley where we were able to give  
9 a 2136 Grant that we all approved to the Cities of Malibu  
10 and Santa Monica to help clean up the stormwater there.

11 And on November 7th we met with Assemblyman Wayne  
12 regarding burn dumps and also the Department of Toxics was  
13 there.

14 And also I'd like to note that this is California  
15 Recycles Week. And Thursday, November 15th is American  
16 Recycles Day. We'll be publicizing the WRAP of the year  
17 award winners during this week. And so I wanted to remind  
18 everyone to please participate in any events in your area.  
19 We have posted informational material about American  
20 Recycles Day on the Board's web site, which can help you  
21 to plan events or to attend one.

22 And, at this time, I'd like to turn it over to  
23 Mark Leary our Executive Director for his report.

24 EXECUTIVE DIRECTOR LEARY: Thank you, Madam Chair  
25 and Members of the board. A couple of fairly substantive

1 items I'd like to report on this morning.

2           Firstly, I'd like to report on some Emergency  
3 waivers that have been granted. Pursuant to our  
4 regulations in Title 14, Section 17,210.9(c), the  
5 Executive Director must report to the Board the granting  
6 of an emergency waiver by an LEA and all determinations  
7 made concerning that waiver.

8           This type of waiver is the one for declared  
9 emergencies only, not to be confused with the stipulated  
10 agreements allowed for unforeseeable circumstances. On  
11 October 5th, the Orange County LEA granted waivers of  
12 permit terms and conditions to four facilities. The Frank  
13 R. Bowerman Landfill, Olinda Alpha Landfill, Rainbow  
14 Disposal Company Inc, and the CVT Regional Material  
15 Recovery and Transfer Facility.

16           These waivers are in response to a declared  
17 emergency resulting from a large amount of waste  
18 accumulated during a recent week long waste hauler strike.  
19 The waiver period ended on October 14th and no problems  
20 have been identified relative to this action.

21           The emergency regulations for temporary waiver of  
22 terms, i.e. stipulated agreements of permits, adopted by  
23 the Board in August were approved by the Office of  
24 Administrative Law and became effective on November 1st.  
25 They will continue in effect till March 2002.

1                   Staff has initiated the full regulation  
2 development process to make these regulations are  
3 permanent. Prior to these regulations becoming effective,  
4 but consistent with Board policy, the San Luis Obispo LEA  
5 issued a stipulated agreement to the operator of the Cold  
6 Canyon Landfill on September 27th. This stipulated  
7 agreement allows the operator to compost green material on  
8 the landfill.

9                   The unforeseeable circumstance in this case was a  
10 delay relative to the review and approval of a revision to  
11 the permit for the adjacent compost facility.

12                   Considering the stipulated agreement was  
13 developed and issued prior to the regulations being fully  
14 approved, I have asked staff to work with the LEA to make  
15 necessary changes to the stipulated agreement to ensure  
16 that it's consistent with the new regulations.

17                   As the Chair mentioned, we have had a couple of  
18 activities related to burn dumps this month. On the  
19 Board's agenda this month are two items dealing with our  
20 closed illegal and abandoned site cleanup program. This  
21 program is instrumental in the mitigation of health,  
22 safety and environmental hazards opposed by dump sites  
23 including burn dump sites.

24                   I'd like to take a minute to update the Board  
25 about the interim hearing on burn dumps that was held last

1 Thursday, November 8th at the State Capitol.

2           This was a joint hearing and included the  
3 Assembly Natural Resources Committee, the Assembly  
4 Environmental Safety and Toxics Materials Committee and  
5 the Senate Environmental Quality Committee. It was held  
6 to provide the committees some background on the complex  
7 issues surrounding burn dumps in California.

8           As you know, San Diego has dealt with a number of  
9 burn dumps in the jurisdiction, and the Board has assisted  
10 with the cleanup at the 38th and Redwood site. The  
11 committees became aware of the San Diego situation and  
12 wanted more information on the status of burn dumps in the  
13 State. In attendance were Assemblymember Howard Wayne  
14 from San Diego who Chairs the Assembly Natural Resources  
15 Committee, as well as Assemblymember Tom Harman from  
16 Huntington Beach and Senator Tom McClintock from Thousand  
17 Oaks.

18           Representatives from the City of San Diego, the  
19 LEA community and the Sierra Club attended and presented  
20 information on their experiences with burn dumps.

21           Staff from CalEPA, Department of Toxic Substances  
22 Control and the Water Board also participated and  
23 discussed their roles in the process. Our role and  
24 background was presented by Deputy Director Julie Nauman.  
25 I'd like to compliment Julie on a great job she did in

1 presenting the information at the closed illegal and  
2 abandoned site cleanup program, and to all the staff that  
3 worked in support of Julie in making a great presentation.

4           Our information was well received as was the  
5 Board's action in burn dumps in the past, and was clearly  
6 appreciated by the members. While no specific intentions  
7 were given by Assemblymember Wayne or any other member  
8 regarding burn dump issues, Mr. Wayne did say in closing  
9 that this is an issue that needs to be addressed and that  
10 he will be taking the formation provided at the hearing  
11 and exploring options.

12           His bill, Assembly Bill 709, which was introduced  
13 this past year and is currently being held in Senate EQ,  
14 includes intent language regarding co-disposal sites and  
15 is one bill that could become a vehicle for burn dump  
16 legislation. Our staff will be working on this issue and  
17 will keep the Board updated.

18           Two economic studies were recently completed with  
19 financial assistance from the Board. Researchers at the  
20 University of California, Berkeley conducted one study  
21 called The Economic Impact of Waste Disposal and Diversion  
22 in California.

23           While the National Recycling Coalition in  
24 association with RW Beck prepared the other study, The  
25 California Recycling Economic Information study. Both

1 studies were needed because they examined different  
2 questions about diversion and pursued different goals.  
3 Despite differences in definitions, data sources and  
4 assumptions, their findings both clearly showed the  
5 economic benefits of diversion.

6           Diverting solid waste is a big business, is a  
7 positive, viable industry that is comparable with other  
8 large industries in California.

9           Second, in addition to being good for the  
10 environment, diversion creates jobs and benefits both  
11 local and statewide economies.

12           Third, diversion has a bigger economic impact per  
13 ton on the economy than disposal.

14           And fourthly, the total statewide economic  
15 impacts from diversion match or exceed the economic  
16 impacts from disposal, even though there is more waste  
17 disposed than there is diverted. Staff are reviewing both  
18 reports and are in communication with the authors to  
19 clarify some questions related to these findings.

20           Once this review is completed staff will be  
21 pleased to present a summary of our findings to present to  
22 you as an informational item.

23           I'd like to also report on the progress on the  
24 tire manifests. Staff from this Board's Special Waste  
25 Division and the Information Management Branch conducted

1 four workshops over the last months to present the draft  
2 waste tire manifest forms and the submittal process for  
3 stakeholders for review and comment.

4           The first two workshops were by invitation only,  
5 while the last two were open to the public. All were well  
6 attended and we received many suggestions on how to  
7 improve the forms. The submittal process, particularly  
8 the electronic option, and the database functions were  
9 discussed extensively. Initial testing of the new system  
10 is planned for the coming spring when staff will work with  
11 volunteer users from the industry.

12           And finally, on October 25th and 26th, the third  
13 Recycling Market Development Zone Administrator Training  
14 Conference for 2001 was held in Santa Rosa. Attendance of  
15 this successful event was over 40, including zone  
16 administrators and board staff. The training focused on  
17 economic gardening, a novel concept for economic  
18 development, and tailoring this concept to recycling  
19 manufacturers in the business's providing their feed  
20 stock.

21           With this concept, economic developers focused  
22 their resources on growing the local businesses within  
23 their community, instead of recruiting businesses from  
24 outside their jurisdictions. Research in this area has  
25 shown that real potential for job development comes from

1 small local businesses that offer potential for  
2 significant growth.

3 Economic gardening targets these businesses.  
4 Several guest speakers were featured including Chris  
5 Gibbons of Littleton Colorado where the concept originated  
6 and was first successfully implemented. The purpose of  
7 these training conferences is to provide zone  
8 administrators with the tools and practical knowledge to  
9 attract and retain businesses in their zones.

10 This was a fourth in a series of eight  
11 conferences funded by the Board in September of last year  
12 through a \$170,000 contract that extends through next  
13 June.

14 That concludes my report.

15 Thank you, Madam Chair.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
17 Leary. Okay, so getting back to our Agenda, Item 6 and 17  
18 have been pulled. Item 15 will be again heard tomorrow at  
19 11:00 a.m. Again number 1, the Board's Strategic Plan, in  
20 case anyone missed that, will be heard today at 2:00  
21 o'clock.

22 Items 3, 5, 8, 9, 20, 22 and 36 had been proposed  
23 for the consent agenda, with items 20 and 22 being removed  
24 per the briefing at Mr. Papanian's request. Would any  
25 Board Member wish to pull 3, 5, 8, 9 or 36 from consent?

1                   BOARD MEMBER EATON: Madam Chair, I have a couple  
2 of questions on Item number 3, but I think they can be  
3 dispensed with quickly, if you wanted to go to that item,  
4 then you can have a full consent calendar. I just have a  
5 few administrative questions.

6                   CHAIRPERSON MOULTON-PATTERSON: Certainly.  
7 Number 3.

8                   BOARD MEMBER EATON: My understanding is that  
9 this will not go out to bid; is that correct? Is this  
10 item going to go out to bid, \$54,000 contract?

11                  MR. HUNTS: Good morning, Board members. Jeff  
12 Hunts with the Waste Prevention and Market Development  
13 Division. Staff are still working on determining whether  
14 there is a CMAS or and MSA vendor that is qualified to  
15 undertake this project or whether we will do an RFP.

16                  There's a tight timeline. We're investigating  
17 the scheduling of an RFP in order to put the support in  
18 place before early spring when milestones in this project  
19 need to be accomplished. So I guess the short answer is  
20 we don't know yet.

21                  BOARD MEMBER EATON: So how would we be able to  
22 vote on something that we don't know what the process is  
23 going to be for awarding the contract, because there are  
24 other issues in awarding the contract with other  
25 contractors especially since this is a new area.

1           I believe from a personal position that we, as a  
2 board, should know whether it's going to go out in a  
3 contract form or out to bid, other wise we never see it  
4 after it leaves our hands and we have no opportunity, if  
5 for some reason or another, we have had an experience with  
6 a particular contractor or if it's an interagency  
7 agreement what to expect from that. I don't think that's  
8 the way we've ever done these things is we've always --  
9 maybe I'm mistaken, but I always believe that we, as a  
10 board, ought to be able to determine what it is we're  
11 handing out.

12           And what we're saying is you want the money. I  
13 understand the tight timeline, but we don't know if it's  
14 going to go out to bid or if it's going to go out. And if  
15 there's a problem later on, if it is a bid process, then  
16 it comes right back in our lap.

17           MR. HUNTS: The item before the Board right now  
18 is simply consideration of the scope of work for the  
19 project. The award would need to come back to the Board  
20 at a later date, regardless of the mechanism to secure a  
21 contractor.

22           BOARD MEMBER EATON: So will you be bringing it  
23 back with the contract? And if so, how will we know  
24 whether or not you determined whether or not you're going  
25 to go out to bid or if it's going to be under a CMAS or an

1 interagency agreement.

2 MR. HUNTS: I'm sorry. I guess I didn't  
3 understand the question.

4 CHAIRPERSON MOULTON-PATTERSON: I think Mr. Eaton  
5 is just saying we would like to know at the time that we  
6 approve it whether it is going to be going out to bid or  
7 if you're just going to be going, what is it, the CMAS or  
8 the master services agreement or whatever that is, is that  
9 right, Mr. Eaton?

10 BOARD MEMBER EATON: Yeah. I just want -- I mean  
11 I don't have a problem with the scope of work or whatever,  
12 but I do have an issue with regard to procedure as to how  
13 it's going to be awarded and under what circumstances,  
14 because I think that's where we have the greatest input  
15 from a policy perspective.

16 DEPUTY DIRECTOR JORDAN: Member Eaton and Madam  
17 Chair and the rest of the members, when the award does  
18 come back it clearly explains what process was used. It  
19 will discuss whether it was MSA, CMAS or whether it went  
20 out to bid.

21 BOARD MEMBER EATON: So do you think we ought to  
22 know what that's going to be before we vote on something?  
23 Isn't that proper, because if it's going to go out to a  
24 CMAS, then I want to be able to see who those contractors  
25 are, whether or not we've given them contracts in the

1 past, whether or not they've performed those contracts  
2 adequately in the past for either this particular agency  
3 and/or any other agency in state government or local  
4 government, how points are going to be, you know, awarded.  
5 I mean, I'd like to have some background.

6 DEPUTY DIRECTOR JORDAN: Typically, the different  
7 types of scenarios used, methodology isn't necessarily  
8 always discussed in the scope. The scope is what we need  
9 to have done. And obviously if it can be attained through  
10 services that the State can offer, whether it be through  
11 an interagency or CMAS or MSA where the State has actually  
12 gotten a contracted individual that can do that type of  
13 work, that's what we would see.

14 If that's not attainable, then obviously the bid  
15 process, whether it be through RFP or whatever would be  
16 the next steps. But the scope doesn't always delineate  
17 that.

18 CHAIRPERSON MOULTON-PATTERSON: Maybe a solution,  
19 and I'll certainly defer to Mr. Eaton, would be if we  
20 approve this then as soon as you know even before it comes  
21 back to us get back to us. Would that suffice?

22 BOARD MEMBER EATON: That's fine, that was all I  
23 was really trying to find out. I didn't have a problem  
24 with the scope. I, however, do not want us going out and  
25 awarding contracts and then bringing them back here

1 without having a determination whether or not it should go  
2 out to bid or not go to bid. And that's the only point I  
3 had.

4           The scope is not the issue and I understand why  
5 it's not there, but you're talking like you've already  
6 made a decision to go out, and I want to know that before,  
7 you know, we do that. There are other issues out there  
8 involving contractors right now as it relates to the state  
9 and the financial well-being of the State, and I want to  
10 make sure how those contracts are written, late payments  
11 all kinds of things.

12           CHAIRPERSON MOULTON-PATTERSON: Okay.

13           BOARD MEMBER PAPARIAN: Madam Chair.

14           CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

15           BOARD MEMBER PAPARIAN: I'm fine with that. My  
16 only concern would be that we just be consistent with  
17 whatever our procedure is, you know, across all the  
18 similar contracts.

19           BOARD MEMBER EATON: Well, what would be  
20 consistent is what we do normally is that we, as a board,  
21 look at the scope of work and award a contract and we make  
22 a determination whether or not we feel that based upon  
23 certain considerations, and they can change, sometimes we  
24 can go with it, with a CMAS due to timely considerations,  
25 sometimes we can go to a bid process, because it's much

1 more open, and we might be able to bring in some new  
2 people who may have a different perspective than in the  
3 past.

4           So I think there is no rhyme or reason. What we  
5 ought to be able to do is have that ability to make those  
6 determinations on a case-by-case basis. And I surely  
7 don't want to bring someone in from a particular field  
8 that doesn't have the experience or the skills necessary  
9 or the skill set to perform the function. And that's what  
10 happens sometimes under the CMAS, because there is a time  
11 constraint and we, as a board, I think have to act as a  
12 backstop sometimes and say wait a minute, we believe it  
13 should be X, Y or Z. I'm not saying that this is the  
14 case, but that is the normal proper procedure that's  
15 followed in contract awarding in State contracting.

16           And so with that, you know, I'll go back on  
17 consent, but I do want to see those items before a  
18 decision has been made.

19           CHAIRPERSON MOULTON-PATTERSON: I agree, Mr.  
20 Eaton. Mr. Leary, can you make sure we have that  
21 consistently.

22           EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair.

23           CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay.  
24 With that then, may I have a motion to approve 3, 5, 8, 9  
25 and 36 for consent.

1 BOARD MEMBER JONES: Madam Chair.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: I'll move adoption of the  
4 consent calendar items 3, 5, 8, 9 and 36.

5 BOARD MEMBER EATON: Second.

6 CHAIRPERSON MOULTON-PATTERSON: Please call the  
7 roll.

8 SECRETARY VILLA: Eaton?

9 BOARD MEMBER EATON: Aye.

10 SECRETARY VILLA: Jones?

11 BOARD MEMBER JONES: Aye.

12 SECRETARY VILLA: Medina?

13 BOARD MEMBER MEDINA: Aye.

14 SECRETARY VILLA: Papanian?

15 BOARD MEMBER PAPANIAN: Aye.

16 SECRETARY VILLA: Roberti?

17 Moulton-Patterson?

18 CHAIRPERSON MOULTON-PATTERSON: Aye. Okay.

19 EXECUTIVE DIRECTOR LEARY: Madam Chair, we have  
20 one last minute pull, Agenda Item 32, the Jolon Road  
21 Landfill is not ready for the Board's adoption or  
22 consideration.

23 CHAIRPERSON MOULTON-PATTERSON: It's being  
24 pulled?

25 EXECUTIVE DIRECTOR LEARY: It's being pulled.

1 CHAIRPERSON MOULTON-PATTERSON: Thirty-two?

2 Okay. Fine. And one of the things that I did  
3 neglect to mention is --

4 BOARD MEMBER EATON: Can I ask a question?

5 CHAIRPERSON MOULTON-PATTERSON: Yes.

6 BOARD MEMBER EATON: Mr. Leary, you said Item 32  
7 was being pulled?

8 EXECUTIVE DIRECTOR LEARY: Yes, sir.

9 BOARD MEMBER EATON: Do we have a 60-day time  
10 crunch on that?

11 EXECUTIVE DIRECTOR LEARY: The operator is  
12 waiving time.

13 BOARD MEMBER EATON: Do we have that on the  
14 record?

15 CHAIRPERSON MOULTON-PATTERSON: Yeah, that's a  
16 good idea.

17 BOARD MEMBER EATON: I mean, I just want to --  
18 you know, let's just put these things on the record. You  
19 know, we're not just pulling items, but if it's a time  
20 crunch, you know, let's not get loosey-goosey you know.  
21 Let's do things the way they are properly done.

22 DEPUTY DIRECTOR NAUMAN: That is consistent. The  
23 issue here was raised during the briefing that there's an  
24 outstanding issue on their nondisposal facility element  
25 that needs to be amended. And we briefed the Board last

1 week and told them that there was a possibility that this  
2 item might need to be pulled pending our resolution on  
3 this NDFE issue.

4           With further discussions with the operator, they  
5 realized that they have a time problem, in syncing the  
6 amendment to the NDFE with this permit. And so the NDFE  
7 has to precede the permit. That will happen in December,  
8 so they have agreed to waive time, and we have  
9 confirmation from them.

10           CHAIRPERSON MOULTON-PATTERSON: Okay, so Item  
11 Number 32 we have a waiver of time.

12           DEPUTY DIRECTOR NAUMAN: Right, and I apologize  
13 for bringing it so late, but I was waiting for that  
14 confirmation.

15           BOARD MEMBER EATON: But we will have it in  
16 writing?

17           DEPUTY DIRECTOR NAUMAN: Yes.

18           BOARD MEMBER EATON: And when will we have it?

19           DEPUTY DIRECTOR NAUMAN: I believe we already  
20 have it in an Email, and I'm expecting to have a letter of  
21 confirmation.

22           BOARD MEMBER EATON: You understand my point,  
23 because if we go away today and tomorrow and the time runs  
24 after 60 days, it's highly unlikely that they would do  
25 anything, but you never know that by operation of law that

1 does become a permit.

2 DEPUTY DIRECTOR NAUMAN: I understand and we have  
3 tried to be very consistent and not pull items until we  
4 have the confirmation in hand.

5 BOARD MEMBER EATON: Thank you.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
7 Eaton.

8 Thank you, Ms. Nauman.

9 Okay Item number 1, as I said, will be time  
10 certain at 2:00 o'clock. However, I'm going to make one  
11 exception, one individual has a plane out at 1:00 o'clock,  
12 and so I've agreed to let them make a very short public  
13 comment. And I was going to limit the public comments on  
14 this item to three minutes. So, Mr. Liss, if you would  
15 like to come up and speak to us for three minutes, we'll  
16 accommodate your schedule on Item number 1.

17 MR. LISS: Madam Chair and Members of the Board,  
18 thank you so much for allowing me this opportunity. I am  
19 flying to Los Angeles on another project this afternoon.  
20 Last week I spoke at length about concerns of the Global  
21 Recycling Council, a technical council of the California  
22 Resource Recovery Association regarding zero waste,  
23 producer responsibility, product stewardship,  
24 environmentally responsible purchasing and environmental  
25 justice.

1           I just wanted to come today to reiterate for the  
2 record our strong support for the strongest language on  
3 those points as possible. My details were provided last  
4 week, no need to reiterate them again.

5           And I do appreciate the leadership that the Board  
6 has been showing in these areas and needs to show in the  
7 future and look forward to strong language on those points  
8 being included in the final strategic plan.

9           Thank you for the time.

10          CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
11 Liss.

12          Okay that brings us to New Business, Item number  
13 2, Ms. Wohl, Waste Prevention and Market Development  
14 Section

15          DEPUTY DIRECTOR WOHL: Good morning, Madam Chair  
16 and Board Members. Patty Wohl, Waste Prevention and  
17 Market Development Division.

18          Agenda Item 2 is Consideration of Approval to  
19 Formally Notice Proposed Permanent Regulations to Base  
20 Rigid Plastic Packaging Container Compliance  
21 Determinations under Public Resources Code Section  
22 42310(b) and (c) on the Previous Year's Actual Recycling  
23 Rates.

24          And Jan Howard will present.

25          MS. HOWARD: Good morning, Madam Chair and Board

1 Members. I'm Jan Howard with the Plastics Recycling  
2 Technology Section.

3 Today's item is to get your approval to begin the  
4 process of making permanent existing rigid plastic  
5 packaging container emergency regulations. The emergency  
6 regulations became effective on September 17th, 2001. The  
7 regulations allow regulated companies to use the previous  
8 year's actual rigid plastic packaging container recycling  
9 rates to comply with the RPPC in the current year.

10 RPPC recycling rates are adopted by the Board in  
11 July of each year for the previous compliance year. In  
12 the past, companies did not know until six months after  
13 the end of the compliance year whether they could rely on  
14 the recycling regs for compliance purposes. The  
15 regulations allow the Board to provide some advanced  
16 notice to the regulated companies so they can better plan  
17 for their individual compliance with the RPPC law.

18 Staff proposes to notice a formal rule making by  
19 November 30th, 2001. This would begin a 45-day public  
20 comment and review period with the public hearing to be  
21 held at the January board meeting.

22 Staff recommends that the Board direct staff to  
23 begin the rule-making process by adopting Resolution  
24 number 2001-458.

25 This concludes my presentation and I'd be happy

1 to answer any questions.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
3 Howard.

4 Any questions?

5 Mr. Jones.

6 BOARD MEMBER JONES: Madam Chair, I'll move  
7 adoption of Resolution 2001-458, consideration of a  
8 approval of the formal notice of proposed permanent  
9 regulations to base rigid plastic packaging container  
10 compliance determinations under PRC Section 42310(b)&(c),  
11 previous year's actual recycling rates.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you.

13 BOARD MEMBER MEDINA: Second.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
15 motion by Mr. Jones seconded by Mr. Medina to approve  
16 Resolution 2001-458.

17 Please call the roll.

18 SECRETARY VILLA: Eaton?

19 BOARD MEMBER EATON: Aye.

20 SECRETARY VILLA: Jones?

21 BOARD MEMBER JONES: Aye.

22 SECRETARY VILLA: Medina?

23 BOARD MEMBER MEDINA: Aye.

24 SECRETARY VILLA: Papanian?

25 BOARD MEMBER PAPANIAN: Aye.

1 SECRETARY VILLA: Moulton-Patterson?

2 CHAIRPERSON MOULTON-PATTERSON: Aye.

3 Number 3 was approved on consent.

4 Number 4.

5 DEPUTY DIRECTOR WOHL: Agenda Item 4 is

6 Consideration of Approval of Pilot Project "Partnerships

7 For Obtaining External Grant Funds for Organics Market

8 Development"

9 And Howard Levenson and Ron Lew will present.

10 MR. LEVENSON: Good morning, Madam Chair and

11 Board Members. This item requests that the Board -- I'm

12 Howard Levenson with the Waste Prevention and Market

13 Development Division.

14 This item requests that the Board consider and

15 approve a pilot project entitled, "Partnerships For

16 Obtaining External Grant Funds For Organics Market

17 Development." This isn't a board grant program, but

18 rather it's a new idea to access external funding for our

19 partners.

20 Just a little bit of background. Over the past

21 decade, the Board has funded numerous compost and mulch

22 demonstration projects to develop and expand markets for

23 organic materials. Historically, these funds have come

24 from the Integrated Waste Management Act and transfers

25 from the RMDZ account. But these discretionary

1 contracting funds are more limited now, and, of course, we  
2 have more and more meritorious projects that are competing  
3 for those same dollars.

4           There are a number of state and federal fund  
5 grant programs and funding programs in existence that  
6 would fit our current priorities in the markets area for  
7 organic materials, but we haven't been able to frequently  
8 or consistently access those dollars for a variety of  
9 reasons. Sometimes we're unaware of the existence of a  
10 particular grant program. Sometimes we're unable to form  
11 or get a partner in time to get an application in. And in  
12 other cases we haven't been able to partner with an entity  
13 that is qualified enough or that's able to submit a good  
14 enough grant application to compete and win awards.

15           So this pilot program is an attempt to increase  
16 our chances of accessing these funds through a systematic  
17 process. And if it works, it could be considered by other  
18 branches and sections and divisions here at the Board.  
19 And we'll report back to the Board and tell you how well  
20 it works in about year or so.

21           Ron Lew is going to give you a little bit of the  
22 mechanics of the program and see if you have any  
23 questions.

24           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
25 Levenson.

1           Mr. Lew.

2           MR. LEW: Good morning, Madam Chair and Members  
3 of the Board. Ronald Lew with the Waste Prevention and  
4 Market Development Division.

5           I'd like to highlight briefly some of the  
6 features of the pilot along with some of the  
7 implementation mechanics we'll be implementing in the next  
8 year or so or actually several months to get this pilot  
9 under way.

10          First, one of the features of the pilot is that  
11 we are going to methodically or have already methodically  
12 identified long-term external funding sources, and we plan  
13 to do this in the future well in advance of application  
14 deadlines, approximately one to one and a half years prior  
15 to anticipated funding.

16          For this particular pilot, our section identified  
17 and chose four specific -- I'm sorry, five specific grant  
18 programs based on discussions with Grant Program Managers  
19 about the availability of funds, topical fit with Board  
20 priorities, and other criteria.

21          You have, as part of the agenda item, a list of  
22 the five grant programs that were chosen. They were  
23 chosen from a pool substantially larger than those five.

24          The next feature of the pilot is that we  
25 systematically select and solicit qualified partners with

1 project concepts appropriate for targeted funds. In  
2 addition, we help develop complete and thorough grant  
3 applications several months prior to deadline of those  
4 grant programs to allow time for refinements. And  
5 finally, we will help facilitate some of the grant writing  
6 aspects of potential projects.

7           Some of the mechanics of the pilot include  
8 issuing a public solicitation, which you have as  
9 Attachment 1 of the grant item, for a short three to five  
10 page concept idea using a template that we have attached  
11 as Attachment 2.

12           When these are received staff will evaluate the  
13 submitted proposal, and we will use specified evaluation  
14 criteria which you have as attachment 3. Once partners  
15 are chosen, individual staff members will work with  
16 partners to develop grant application and other  
17 assistance.

18           One of the key features of this program is that  
19 the funds would be awarded directly to the external grant  
20 program partner not to CIWMB.

21           As Howard Levenson alluded to, after one year,  
22 this pilot will be evaluated and we will decide whether to  
23 continue the pilot, refine it or cease the pilot.

24           We, staff, recommends that the Board approve  
25 Option number 1 and adopt Resolution 2001-457.

1 Thank you.

2 Are there any questions?

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
4 Lew.

5 Any questions?

6 Okay, may I have a motion?

7 Mr. Medina.

8 BOARD MEMBER MEDINA: Madam Chair, I'd like to  
9 move resolution 2001-457, consideration of approval of  
10 pilot project partnerships for obtaining external grant  
11 funds for the organics market development.

12 BOARD MEMBER JONES: Second.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
14 motion by Mr. Medina seconded by Mr. Jones to approve  
15 resolution 2001-457.

16 Please call the roll.

17 Before we call the roll, Senator Roberti, do you  
18 have any ex partes?

19 BOARD MEMBER EATON: I believe I'm up to date.

20 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you,  
21 Senator.

22 Please call the roll.

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 BOARD MEMBER ROBERTI: Aye.

8 SECRETARY VILLA: Moulton-Patterson?

9 CHAIRPERSON MOULTON-PATTERSON: Aye.

10 Okay. We approved Item number 5 on consent, and  
11 item 6 was deleted. That concludes our Waste Prevention  
12 and Market Development.

13 Thank you.

14 Now, we go to the Executive, Administrative and  
15 Policy part of our agenda, number 7, which was revised --  
16 I was looking for Ms. Packard. It's Ms. Jordan. Thank  
17 you.

18 DEPUTY DIRECTOR JORDAN: Thank you, Madam Chair.

19 Good morning, Madam Chair and Board Members. I'm Terry  
20 Jordan with the Administration and Finance Division.

21 Item number 7 is Consideration of Approval of  
22 Selected Grant Scoring Criteria, Evaluation Methods and  
23 Processes for All Competitive Grant Programs.

24 This consideration item addresses a number of  
25 policy issues for all competitive grants. These include

1 environmental justice requirements, a standard definition  
2 of indian tribes, green procurement criterion, geographic  
3 distribution of funds, and tied scores funding.

4           Each of these issues has been previously  
5 addressed by members in separate competitive grant award  
6 items over the course of the past year or more. As such,  
7 the Administration and Finance Division program and legal  
8 staff felt it was time to bring forward this policy item  
9 to the Board for direction so that uniformity could be  
10 provided for all the Board administered competitive  
11 grants.

12           The Administration and Finance Division staff and  
13 legal have worked collaboratively to develop this policy  
14 item.

15           However, there are still some differing opinions  
16 over the recommendations specifically on green procurement  
17 and geographic distribution that are to be presented  
18 today.

19           Program staff is present to speak to those  
20 concerns. This item will be presented by Sara Avila of  
21 the Grants Administration unit.

22           MS. AVILA: Good morning, Madam Chair and Board  
23 Members. My name is Sara Avila of the Grants  
24 Administration Unit. The Grant's Administration Unit was  
25 established to provide consistency and coordination among

1 the various grant programs at the Board.

2           One of our responsibilities is to ensure that the  
3 grant scoring criteria and the evaluation methods and  
4 processes for the grant programs are uniformly  
5 implemented.

6           In September of 1996 the Grants Administration  
7 Unit recommended and the Board approved standardization of  
8 general review criteria for all competitive grant  
9 programs, and a procedure for presenting the criteria and  
10 evaluation process to the Board.

11           The approved criteria were needs, methodology,  
12 objectives, evaluation, budget and completeness. Then in  
13 December of 1998, the Board approved the standardization  
14 process for all grant programs. This process included the  
15 implementation of a blind review to ensure scoring  
16 consistency, the requirement that the grantees return  
17 agreements in a timely manner, conditional award of grants  
18 to grantees without standing accounts receivable, the  
19 requirement that requests for time extensions be on a  
20 three-year term must be approved by the Board, and the  
21 implementation of a question and answer period during the  
22 grant application period.

23           We are before you today to get the Board's  
24 direction in several areas that have arisen since the last  
25 board adopted policy.

1           The first item is environmental justice. Prior  
2 to the October 2001 board meeting, the Board directed that  
3 environmental justice be considered in the grant process.  
4 Grant programs have been addressed in this issue in  
5 various ways shown on Attachment 1. Staff recommends that  
6 the Board formally direct that all competitive grant  
7 applications shall include an environmental justice  
8 certification, and there shall be an environmental justice  
9 provision in each grant agreement unless other wise  
10 directed by the Board.

11           The second item is indian tribes. The Board  
12 directed that Indian tribes be considered eligible for  
13 certain grant funding. At the September 2001 Board  
14 meeting, staff presented a discussion item on cooperative  
15 agreements between the Board and California indian tribes.  
16 Since that time the Administration and Finance Division  
17 has worked closely with legal and we are recommending a  
18 standardized definition of indian tribes. In recognition  
19 of the unique governmental structure of indian tribes and  
20 in an attempt to provide for full inclusion of indian  
21 tribes in board grants where appropriate, it is  
22 recommended that the Board approve two definitions.

23           Staff recommends the Board adopt for grant  
24 eligibility purposes the following standardized definition  
25 for grant -- for indian tribes. Indian tribes means an

1 indian tribe, band, nation or other organized group or  
2 community residing within the borders of California, which  
3 is recognized as eligible for special programs and  
4 services provided by the United States to indians because  
5 of their status as indians and which meets the criteria of  
6 the grant program.

7           The second definition for indian tribes means an  
8 indian tribe, band, nation or other organized group or  
9 community residing within the borders of California, which  
10 can establish that it is a governmental entity and which  
11 meets the criteria of the grant program.

12           The third item is green procurement. The Board  
13 approved the in-house waste reduction and recycled content  
14 pilot procurement policy Resolution 1999-157, which  
15 requires all contractors and grantees to report on the  
16 recycled content of their purchases. This issue has been  
17 addressed in the terms and conditions for the various  
18 grant programs.

19           Next month, the Waste Prevention and Market  
20 Development Division will be presenting the item on  
21 recycled product procurement policies for contracts,  
22 grants, and other Board funded purchasing.

23           At their December 1999 meeting, the Board  
24 discussed the concept that 50 percent of the general  
25 review criteria be allocated for evidence that applicant

1 has a current green procurement policy at the time of  
2 submittal of the application.

3           Since there was no formal action on this  
4 suggestion, the various grant programs have been  
5 inconsistent incorporating the green procurement scoring  
6 points into their criteria.

7           Currently, the green procurement scoring criteria  
8 points vary among grant programs anywhere from zero to 15  
9 points.

10           BOARD MEMBER ROBERTI: Madam Chair?

11           CHAIRPERSON MOULTON-PATTERSON: Senator.

12           BOARD MEMBER ROBERTI: I thought it was very  
13 clear two years ago that we set to have a green  
14 procurement policy. Now, you're saying some of the  
15 programs are at zero.

16           MS. AVILA: Yes.

17           BOARD MEMBER ROBERTI: That seems to be contrary  
18 to the Board direction.

19           DEPUTY DIRECTOR JORDAN: Senator, we have a green  
20 procurement policy. It's the points that were applied to  
21 the actual scoring criteria.

22           BOARD MEMBER ROBERTI: If you don't apply any  
23 points to the bids, then there's no policy, at least along  
24 the lines of what the Board had directed, and that was to  
25 apply points.

1                   CHAIRPERSON MOULTON-PATTERSON: I thought we had  
2 set 15 percent.

3                   BOARD MEMBER ROBERTI: That was two years ago.

4                   DEPUTY DIRECTOR JORDAN: Within the application  
5 scoring criteria, it has been inconsistent. Within the  
6 actual terms and conditions, they have required that they  
7 have a policy and they certify as such.

8                   BOARD MEMBER ROBERTI: I don't quite understand.

9                   DEPUTY DIRECTOR JORDAN: In the application  
10 process, the criteria requires certain things, and  
11 obviously one of the issues here is that there be  
12 incorporated a range or a certain percentage for the  
13 applicants to meet when they've applied.

14                   When they actually receive an award, there's a  
15 requirement in the terms and conditions of their grant  
16 that makes them comply with having a policy and certifying  
17 as such.

18                   BOARD MEMBER ROBERTI: And I'm going to  
19 paraphrase, and I don't want to seem sarcastic, but I'm  
20 trying to paraphrase. That means that in some cases there  
21 is no 15 percent or 15point markup, adjustment, whatever  
22 we want to call it, but they have to sign something to be  
23 good boys and girls afterwards?

24                   DEPUTY DIRECTOR JORDAN: That's correct.

25                   BOARD MEMBER ROBERTI: That's nothing. That's

1 nothing. And it is totally contrary to the Board  
2 directive of two years ago. And if there was a problem,  
3 staff should have come back to us and said, hey, there's a  
4 problem in implementing it. The problem is not only on  
5 green procurement, but it's on the whole staff  
6 relationship to the Board.

7 I mean it takes forever to do something, forever,  
8 even when the Board gives a directive. Now, I can  
9 understand sometimes we are straight jacketed into rules  
10 beyond our control, but in this case, two years ago, 23  
11 months. This is the November meeting of '01, that was the  
12 December meeting of '99. Any reasonable Board Member  
13 would have been left with the belief that somehow our  
14 directive was going to be implemented.

15 Now, we're told that some of the programs  
16 unbeknownst, I would say, to any Member of the Board,  
17 certainly unbeknownst to me, wasn't implemented. You know  
18 some were, some weren't based on findings that I don't  
19 know what they are as to what the problems that the staff  
20 had in implementing it.

21 That's 23 months ago. So it's two problems, the  
22 green procurement, and it's for us somehow to put some  
23 dynamite under our seats and get us moving.

24 Madam Chair, I was speaking about our terms. You  
25 know my term is up at the end of this next year, so who

1 knows what happens. I'm not complaining or lamenting  
2 about that. What I am saying is that wouldn't it be nice  
3 if in our life times something could be implemented even  
4 in those cases where you started early. And we're still  
5 waiting and waiting and waiting and not told by staff that  
6 there was a problem, if there was a problem, and I can't  
7 imagine what it was.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
9 Senator. And I do remember the 15 percent. I believe,  
10 Mr. Eaton -- would you like to speak to that, Mr. Eaton?

11 BOARD MEMBER EATON: No, I think Senator Roberti  
12 laid it out quite concisely.

13 CHAIRPERSON MOULTON-PATTERSON: So I hope in the  
14 future we'll have that, and I agree it's taken a long  
15 time.

16 BOARD MEMBER EATON: The one thing is, just so  
17 we're clear, so this green procurement policy you're  
18 proposing a range, because the direction that was  
19 originally given was the 15 points to begin with. I don't  
20 believe it was a range, and I think that is spelled out as  
21 well. So do you need clarification that it's 15 points  
22 and no range?

23 DEPUTY DIRECTOR JORDAN: Well, that's why we  
24 brought the item before you today. Actually, what was  
25 discussed in '99 was 15 percent. And because it does

1 vary, we chose to bring it forward in agreement with the  
2 program.

3           What was not in agreement was how it impacts the  
4 actual grant subscription or grant administration as far  
5 as the grantees, and that I believe that there are certain  
6 programs from the discussions because we've had several  
7 months worth of discussions that because of that impact we  
8 do prefer that there is a range instead of an automatic 15  
9 percent and simply just, sort of, take the first steps in  
10 making sure that it can be accomplished by some of the  
11 smaller grant programs.

12           BOARD MEMBER EATON: Give an example of some  
13 impacts, because those would have been things we would  
14 have liked to have known. I mean, saying that you didn't  
15 have enough applicants, but anytime you put a criteria,  
16 look at all the other criteria that you adhere to. You're  
17 going to have applicants that are out -- the whole idea of  
18 the policy that was put there is because there's two sides  
19 to this equation.

20           There's the waste side and disposal and  
21 diversion. There's also the side of procurement, which  
22 then encourages everyone, all of our stakeholders, all of  
23 our cities and counties, everyone else, environmental,  
24 business communities, purchase those goods, so there's a  
25 market. The markets have been the real problem. So that

1 was one of the sort of penal provisions put in there, so  
2 that people would have at least a little bite to get them  
3 moving and the carrot and a stick.

4 Now, we've just added more to it. And, yes, it  
5 is difficult getting money sometimes out the door, I grant  
6 you that. What the problem happens to be is that there  
7 are moneys available, and that those organizations just  
8 have to make a good faith effort to get a green  
9 procurement policy.

10 And who are they?

11 Sometimes the people who get the most dollars and  
12 cents are the worst abusers, regardless of size. And  
13 that's really what we should ferret out here when you put  
14 these kinds of hurdles in. You want the money, you want  
15 to do the right thing, this is the way you do it.

16 So I mean, I don't see that there has been a  
17 tremendous impact of money going out. I mean, we've  
18 always had a number of scoring criteria and I haven't seen  
19 any. The only one that's undersubscribed, I believe, has  
20 been one in the recent months that's come before us.

21 CHAIRPERSON MOULTON-PATTERSON: I know Mr. Medina  
22 and then Mr. Papanian want to speak, but I just wanted to  
23 say on that point, I think even if it means they don't get  
24 a grant, we need to send that strong message.

25 Mr. Medina.

1 BOARD MEMBER MEDINA: Thank you, Madam Chair.

2 And I thought that the Senator's point was well taken.

3 And I had a question in this follow-up to Mr. Eaton, and

4 that was whether what is being produced here was

5 consistent with previous board policy on green

6 procurement? And also could we get a written copy of what

7 the previous board policy on what green procurement was?

8 And then further, I'm confident that our new

9 director, Mr. Leary, will see to it that implemented board  
10 policy is executed posthaste.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

12 Medina.

13 Mr. Papanian and then Senator Roberti.

14 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

15 Looking at the resolution itself, I think I have a

16 suggestion that I hope will take us forward.

17 On the revised resolution on the back page of

18 that, Item C refers to green procurement and the

19 percentage value. My suggestion would be to revise that

20 and have it be not just 15 percent of the general review

21 scoring criteria, but 15 percent of the total points

22 available, including general review and program criteria.

23 I think that would actually evaluate more

24 appropriately and more consistently with what the Board

25 suggests. So that the C would read "The evaluation

1 criteria and evidence of a green procurement policy shall  
2 be valued at 15 percent of the total points available,  
3 including general review and program criteria. Any  
4 deviation of the 15 percent evaluation would require Board  
5 approval at the time of the general review scoring  
6 criteria and evaluation process agenda item is presented."

7 BOARD MEMBER EATON: But, at that point, you  
8 could still do what has been the past practice and not get  
9 anything in the application process as long as you had a  
10 green procurement policy after the fact, and you had 15  
11 percent of your total. That's exactly what they're  
12 proposing.

13 BOARD MEMBER PAPARIAN: I'm very open to fixing  
14 that.

15 BOARD MEMBER EATON: I hear you. I understand  
16 where you're trying to go, but the total points goes to  
17 using the hurdle, the application process plus what  
18 happens after the fact. The points that were raised this  
19 morning by the Senator and the Chair and myself and others  
20 is that it also has to be part of the hurdle to begin with  
21 to get into the gate.

22 And so I think you're on the right track, we just  
23 have to find the right language that puts it in place so  
24 that we don't get a situation wherein we put something in  
25 a resolution which you can meet that percentage, but still

1 not have to go through the hurdle of having the green  
2 procurement policy at the front end.

3           So I think you're going there. The total points,  
4 see there's an A and a B here if I understand the  
5 contract. The A part is the general use scoring criteria  
6 and then afterwards there's the actual award. With 15  
7 points, you could meet the actual award, but not have  
8 anything to do with the scoring criteria and still be  
9 eligible without -- with a green procurement policy.

10           So I know that that's not what you want to do,  
11 but that's how we've got to try and simplify it a little  
12 bit.

13           BOARD MEMBER PAPARIAN: So what I would suggest  
14 solves part of the problem. You're comfortable with  
15 what --

16           BOARD MEMBER EATON: Absolutely, it's there.  
17 There's not a question. We've got to solve the front-end  
18 of the equation and that's what the issues that have been  
19 raised are, and that would be the 15 percent.

20           SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:  
21 Madam Chair, may I make a comment here?

22           CHAIRPERSON MOULTON-PATTERSON: Yes.

23           SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:  
24 Martha Gildart with the Special Waste Division. In the  
25 grant items that we've brought forward for the Board

1 consideration with the criteria, the general criteria have  
2 always had points assigned program by program to be  
3 tailored to the needs of that program. I think Mr. Eaton  
4 referred to one of the grants that was brought forward  
5 this year that was undersubscribed, and that is a waste  
6 tire enforcement grant as well as the waste tire cleanup  
7 grants.

8           We find it difficult sometimes to bring in, you  
9 know, applicants, many of them expressed concerns over the  
10 difficulty of completing the applications.

11           We've also in past years, but not this year, had  
12 our playground accessibility grant, which was the exact  
13 opposite problem where there was a tremendously high  
14 subscription rate, but the applicants themselves were  
15 often members of like PTAs, parent associations,  
16 individuals who either don't have access to a governmental  
17 entity that can make a decision and vote on adopting a  
18 green procurement policy or the cleanup grants we've given  
19 to counties and entities to solve an immediate problem.

20           So the staff is assigning a variety of point  
21 levels to that criterion to help those applications, those  
22 grant programs fit better. I think we have some real  
23 concerns if we had a set, you know, 15 percent of the  
24 total point scores.

25           What that typically means, most of our grants

1 have a 70 percent pass/fail cutoff, that that would leave  
2 only another 15 percent of any errors in any of their  
3 need, their budget, their other, indian tribes, border  
4 organizations, they'd just have to lose 15 percent in  
5 those other categories to fail. And I think the idea of  
6 having a variety of points assigned to this criterion  
7 allows us to reflect the different needs of the different  
8 programs.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
10 Gildart.

11 Senator Roberti was next.

12 BOARD MEMBER ROBERTI: You know, not just to  
13 belabor a past point, because this current debate is very  
14 important. However, what we're currently discussing is  
15 the only legitimate bone of contention that could possibly  
16 have arisen as to any confusion as to what the Board's  
17 directive was.

18 And while I want to say that is simply because  
19 these points should have been therefore brought to us as  
20 soon as there was a distinction that had to be made as  
21 between, I guess, the general criterion and the extra  
22 points that are added on afterwards. And I don't  
23 understand why it took so long to get that point, which  
24 Ms. Gildart is now explaining to us, before the Board.

25 And I'm just raising it because in the future, I

1 mean, when a problem arises on the interpretation of how  
2 an award is going to be made, it should come to us a lot  
3 quicker. We've had two years of grants in which, you  
4 know, everybody blithely, I'm sure, believed that the  
5 award was being implemented, but obviously there was this  
6 small point that wasn't brought to the Board for directive  
7 intention.

8           And I understand the importance of it, but I just  
9 am confused why Ms. Gildart's point, which is important,  
10 wasn't brought to us 20 months ago rather than now. I'm  
11 so glad the discussion is taking place. I'm almost  
12 willing to vote for it in the general criteria or as an  
13 award just, I mean just to get the thing off on the road,  
14 but I think we should decide it today.

15           BOARD MEMBER JONES: Madam Chair.

16           CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

17           BOARD MEMBER JONES: Thanks, Madam Chair. I have  
18 no problem with this agenda item the way it's coming  
19 forward. I think one thing that we have to -- I think  
20 what Ms. Gildart brought up, every time we see a scope of  
21 work, I mean this has not been a mystery, every scope of  
22 work that has come forward at this Board since I've been  
23 here includes a scoring criteria.

24           And there were some discussions on some of these  
25 items. Remember we took it from five points up to ten

1 points or something on one, because it needed to have more  
2 of an impact. There were others that we left alone.  
3 There were some that because the total score could only be  
4 100 as opposed to 120, there was an issue with what the  
5 numbers should be.

6           So I think we've seen every criteria of every  
7 grant of every contract that's ever come out, and we've  
8 approved them. So clearly it was not a mystery.

9           But I'm what I'm worried about is to arbitrarily  
10 say 15 percent on some -- while a green procurement policy  
11 is important, and I've supported it all the way through,  
12 we've got to look at what these grants are. If you get  
13 someone that's going to haul tires from a cleanup spot,  
14 the fact that that person buys recycled paper is important  
15 to an overall issue. But what other stuff would that  
16 vendor buy that could be listed, with the exception of all  
17 of this equipment which is made out of metal, which is  
18 already recycled?

19           So do you give them credit for a tub grinder or a  
20 tire shredder that weighs 45,000 pounds as green  
21 procurement. It's all recycled steel.

22           And all I'm saying is I think we need to have the  
23 ability and staff needs to have the ability to make sure  
24 that -- I always liked our green procurement policy  
25 because it had a little variation.

1           If we need someone with good expertise to do a  
2 job and they don't have a green procurement policy and  
3 we're going to settle for the third or fourth person on  
4 the rung, because they've got a full-blown green  
5 procurement policy, because we've decided that everything  
6 has to be 15 percent, we need to look at that. I mean, 15  
7 percent of 100 is 15 points.

8           I'd rather make sure that there was some  
9 flexibility there, that we're getting qualified people, as  
10 opposed to those people that are just buying certain  
11 products or including metal, because it's clearly  
12 recycled.

13           BOARD MEMBER EATON: But Mr. Jones, that belays  
14 the fact that if that were the case, then you couldn't  
15 meet the second criteria by which our staff was applying  
16 it, that somehow they had a green procurement policy after  
17 the fact. So that wouldn't solve your concern. And it is  
18 valid in some of the programs.

19           But if you say that you can't, sort of, eliminate  
20 them at the front end, but you can approve them at the  
21 back end, if they don't have any policy at the back end,  
22 then they shouldn't get the contract in the first place  
23 because they were in violation of the grant, so you don't  
24 solve it.

25           BOARD MEMBER JONES: I don't have a problem with

1 you striking that they put in afterwards, but I want us to  
2 understand that not all grants are 100 points, some are  
3 70, some are 80, some are 90.

4 BOARD MEMBER EATON: And what I think is, at  
5 least from my preference, is that it's incumbent upon -- I  
6 mean where applicable the staff apply that criteria. And  
7 if not, then it ought to be brought to the Board's  
8 attention why it can't be done in a particular grant  
9 program.

10 But as a general rule, it should be applied, and  
11 if there is a problem, you know, there are certain of  
12 those grants that it can be, then it should be the Board  
13 who can at least come up with some sort of criteria or  
14 alternative.

15 For instance, if it's tires, then perhaps maybe  
16 we award more points for using it in a diversionary role  
17 and not burying the tires. But that is a form of somehow,  
18 you know, in keeping with our hierarchy. And that's the  
19 problem I think that we find with the green procurement  
20 and the others and it's so slow and we've got this going  
21 around.

22 So I think the general rule is green procurement.  
23 In the absence of that, they have to bring it forward and  
24 make a justification in the affirmative as to why it can't  
25 include it in the criteria. And that's at the front end.

1 That's what I'm trying to get at.

2 BOARD MEMBER JONES: I've got no problems with  
3 that.

4 CHAIRPERSON MOULTON-PATTERSON: I Agree.  
5 Mr. Papanian.

6 BOARD MEMBER PAPANIAN: Thank you, Madam Chair.  
7 Mr. Jones, I think, if you look at the language in C, I  
8 think it may address the concerns that you've raised and  
9 it also, at the same time, I think, may address what  
10 Senator Roberti has raised.

11 The second sentence here says, "Any deviation  
12 from the 15 percent variation would require Board approval  
13 at the time that the general review scoring criterion  
14 evaluation process agenda item is presented."

15 If there was a legitimate reason, it would  
16 require board action which takes care of Senator Roberti's  
17 concern that this sort of decision making should be made  
18 at the Board level. If there's a legitimate reason for  
19 the deviation or alteration, I think the Board could do  
20 that and I think that would address your concern.

21 BOARD MEMBER JONES: Madam Chair.

22 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

23 BOARD MEMBER JONES: I agree with you. I have no  
24 problem with giving the staff the direction that all these  
25 grants should include 15 percent, unless there is an

1 issue, and they bring it forward. All I'm saying is,  
2 while they may not have followed the 15 percent, every  
3 grant or contract that has gone out from this Board as  
4 long as I've been here, has had a scoring criteria  
5 attached to it. And those numbers have changed.

6           So I have no problem with setting that as a  
7 guideline, and just having them highlight when there needs  
8 to be a change, that doesn't bother me. And I have no  
9 problem with Mr. Eaton's issue of scratch the -- they've  
10 got to have a policy in place on the front end as opposed  
11 to after the contract has been let, is that basically --

12           BOARD MEMBER EATON: No. I mean that's after the  
13 fact. That's the problem we're trying to get at is after  
14 the fact. I'm just saying you said well, if you eliminate  
15 the front, we may not get the best contractor. Well, the  
16 policy has been is that after the fact we've awarded it,  
17 they still don't have a policy and that's in violation of  
18 our own grant criteria.

19           So now we're in a situation where we may have  
20 granted monies that are not in keeping with our own  
21 policy. I think perhaps maybe I can help suggest on this  
22 issue of green procurement and leave the other issues in  
23 other sections, is that maybe what we do is that the issue  
24 is that we can award 15 percent on the front end of the  
25 application process, and if there is a circumstance where

1 green procurement policy is not applicable, then there  
2 needs to be an explanation on that application. And then  
3 at the time that it is brought forward to the Board, we  
4 would have the opportunity to view that in that context.

5           And that's really what you are talking about,  
6 you're talking about context. And then afterwards, I  
7 think Mr. Paparian's point of 15 -- I think 15, was it,  
8 percent of the total points thereafter would then be  
9 applicable on that second phase in the award. And  
10 therefore we would have the screening process at the  
11 beginning, which has some flexibility in it as well as the  
12 subsequent Mr. Paparian talked about.

13           CHIEF COUNSEL TOBIAS: Madam Chair, may I ask a  
14 question on that. I didn't quite understand Mr. Eaton.  
15 Were you suggesting that those applications would come up  
16 to the Board to have the Board look at the individual  
17 applications as to why or why not they couldn't comply  
18 with the green procurement.

19           BOARD MEMBER EATON: First, they have to come to  
20 us in the beginning, do they not, before they're ever sent  
21 out with the scoring?

22           CHIEF COUNSEL TOBIAS: And the criteria, right.

23           BOARD MEMBER EATON: So that's what I'm saying.  
24 You can't do it subsequent to the fact, I understand that.  
25 But at the beginning when they come to us and they tell us

1 here's going to be the scoring criteria for this grant and  
2 this grant, and this grant, that as a general -- and the  
3 criteria for green procurement at 15 percent is  
4 applicable. Thereafter, the award that's suggested is 15  
5 points of the total allowable. But if for some reason  
6 that the grant cannot contain this or any other provision,  
7 don't forget we have other provisions as well.

8           We could have a rural grant program that may or  
9 may not be able to go to southern California, so that's  
10 another issue that you come in with flexibility that you  
11 just build into those programs.

12           But I think the point that the senator was  
13 raising, and I agree with him on this, is we, as a board,  
14 have to know that at the time it's happening, not six  
15 months, a year or a year and a half after that fact. That  
16 doesn't help us in the situation.

17           So this would be a way to bring to the Board's  
18 attention almost like we do when we seek cost recovery  
19 under our 2136 Program and staff has to come forward and  
20 justify why we're waiving that provision for cost  
21 recovery. And this would be a situation where the staff  
22 would have to say we don't believe green procurement is  
23 possible or obtainable in these circumstances because of  
24 the following reasons. And then the Board would decide  
25 and the grant could go forward. I think that's where

1 we're all trying to get to.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

3 BOARD MEMBER MEDINA: Madam Chair, as much as I  
4 would like to see this voted on this morning, I'd like to  
5 recommend that we defer it until the afternoon such that  
6 we can get a copy of the existing green procurement  
7 policy, and also so that we can work out some appropriate  
8 language on C under this resolution.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. So if it's  
10 agreeable with everyone, we'll trail 7 till this  
11 afternoon.

12 BOARD MEMBER EATON: Madam Chair, while we're  
13 doing that, we might as well get rid of the other couple  
14 remaining issues on 7 in case there's any of that.

15 The other issue I wanted to bring was tied  
16 scores. And I want to bring to the Board's attention,  
17 we've had those situations and I keep going back, but we  
18 had the Santa Cruz issue if you remember, where we had  
19 several awards. Now, those weren't ties.

20 I believe it's incumbent upon we, as board  
21 members and policymakers here, to make the determination  
22 if there's ties and see what we can do to get the monies,  
23 the two entities or three entities that are tied,  
24 irrespective of that. I mean, I think that's our role.

25 And further more, if we need to go back to the

1 budget subcommittee and say we feel these are strong, find  
2 the money, that's what we ought to be able to do, instead  
3 of having a random, sort of, selection. I mean, you  
4 know -- but that would be just a suggestion that we keep  
5 the policy that in case of a tie, it should come to the  
6 Board and the Board will seek to do what it can do to fund  
7 it.

8 CHAIRPERSON MOULTON-PATTERSON: And that can be  
9 in our language.

10 BOARD MEMBER EATON: Yeah, I think so. I mean,  
11 it was an alternative to determine tied scores receive an  
12 award or both. I mean that's kind of how we've always  
13 tried to find money to do those. I mean, they may be  
14 programs that are time limits.

15 CHAIRPERSON MOULTON-PATTERSON: Maybe you can  
16 work on some language on that.

17 I did want to say before we trail it, you know,  
18 the staff has really been good about letting us know. A  
19 good example of that is the CalPoly project. They  
20 originally were going to use green materials and staff let  
21 us know, alerted us to the fact that they weren't using  
22 it. So the subcommittee recommended that we say no to the  
23 grants. So we do appreciate that.

24 We will trail 7 until this afternoon. And thank  
25 you, Ms. Avila.

1                   BOARD MEMBER EATON: Just so there's no surprise,  
2 Madam Chair, the same thing if we could get flexibility  
3 into the geographic distribution in case some of those  
4 awards deal with rural our farm and ranch type programs,  
5 there may not be a geographic distribution that's  
6 appropriate, so that we can get them all around. And I  
7 think we can get that as a screening criteria that would  
8 not be injurious to what the intent is here, but rather  
9 one that, if it's applicable, sometimes a farm and ranch  
10 may or may not apply.

11                   CHAIRPERSON MOULTON-PATTERSON: Okay, if that's  
12 agreeable to everyone, we'll take this up later this  
13 afternoon and hopefully we can work this out.

14                   Okay, we're going to go on to Mr. Schiavo now,  
15 Diversion, Planning and Local Assistance. And 8 and 9  
16 we're on consent, so that takes us to number 10.

17                   Mr. Schiavo.

18                   DEPUTY DIRECTOR SCHIAVO: Pat Schiavo of the  
19 Diversion, Planning and Local Assistance Division. And  
20 Item number 10 is Consideration of Staff Recommendation on  
21 the Completion of Compliance Order IWM BR99-04, and  
22 Consideration of the 1997/98 Biennial Review Findings for  
23 the Source Reduction and Recycling Element and Household  
24 Hazardous Waste Element for the Yuba/Sutter Regional Waste  
25 Management Authority.

1           And this item will be presented by Kyle Pogue.

2           MR. POGUE: Good morning, Madam Chair and Board  
3 Members. I'm Kyle Pogue with the Office of Local  
4 Assistance.

5           In June of 1999, the Yuba/Sutter Regional Waste  
6 Management Authority was issued a compliance order to  
7 implement additional or expand existing source reduction  
8 and recycling programs.

9           Authority and Board staff then worked together  
10 and established a workplan identifying the following  
11 programs.

12           One, a weekly curbside yard waste program; two, a  
13 variable can rate structure; three, a construction and  
14 demolition sort line at the materials recovery facility or  
15 similar program; four, a second corrugated commercial  
16 cardboard collection route; five, waste audits at the five  
17 largest commercial generators; and six, a buy-recycled  
18 procurement policy.

19           The Authority successfully implemented all of  
20 those programs. Additionally, I would like to note that  
21 the authority also implemented a commingled curbside  
22 recycling program as well.

23           The transition to implementing these new source  
24 reduction recycling programs has been very complex and  
25 will provide an excellent model for other jurisdictions to

1 follow. I would like to thank the YSRWMA staff for their  
2 dedication to putting these programs in place.

3 Therefore, it is staff's recommendation that the  
4 Board remove the Yuba/Sutter Regional Waste Management  
5 Authority from compliance order IWMA BR99-04 and accept  
6 the 1997/1998 biennial review findings.

7 I am available to answer any questions you may  
8 have. And additionally, representatives from the YSRWMA  
9 are available as well.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

11 BOARD MEMBER PAPANIAN: Thank you, Madam Chair.  
12 I had the opportunity to go up and see some of their  
13 programs a few weeks ago. And as is noted in the item on  
14 page 10-3, it actually implemented weekly curbside  
15 commingled recycled program, which was not included in  
16 their original plan. And I think that that's something  
17 that we ought to note and really congratulate the locality  
18 on in going above and beyond what was expected of them in  
19 their original plan.

20 The other thing I noticed up there, which I was  
21 pleased to see was a good partnership between their hauler  
22 and the waste management authority, while at the same time  
23 an appropriate level of tension with the LEA, which I  
24 think is what we want to see in situations like this.

25 So if there's no other questions, I'd be happy to

1 move the item.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Any other  
3 questions?

4 Okay, would you make a motion, please.

5 BOARD MEMBER PAPARIAN: I'll move Resolution  
6 2001-443 regarding the Yuba/Sutter Regional Waste  
7 Management Authority.

8 BOARD MEMBER MEDINA: Second.

9 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
10 by Mr. Paparian, seconded by Mr. Medina to approve  
11 Resolution 2001-443.

12 Please call the roll.

13 SECRETARY VILLA: Eaton?

14 BOARD MEMBER EATON: Aye.

15 SECRETARY VILLA: Jones?

16 BOARD MEMBER JONES: Aye.

17 SECRETARY VILLA: Medina?

18 BOARD MEMBER MEDINA: Aye.

19 SECRETARY VILLA: Paparian?

20 BOARD MEMBER PAPARIAN: Aye.

21 SECRETARY VILLA: Roberti?

22 BOARD MEMBER ROBERTI: Aye.

23 SECRETARY VILLA: Moulton-Patterson?

24 CHAIRPERSON MOULTON-PATTERSON: Aye.

25 Motion approved.

1 Thank you Mr. Pogue.

2 Number 12.

3 DEPUTY DIRECTOR SCHIAVO: Item number 11 is  
4 consideration of --

5 CHAIRPERSON MOULTON-PATTERSON: Oh, 11, excuse  
6 me.

7 DEPUTY DIRECTOR SCHIAVO: -- is Consideration of  
8 Staff Recommendation on the Amendment of the Yuba/Sutter  
9 Regional Waste Management Authority's Regional Agency  
10 Agreement.

11 And this item will also be presented by Kyle  
12 Pogue.

13 MR. POGUE: Once again Kyle Pogue with the Office  
14 of Local Assistance.

15 In 1996, the Board approved the Regional Agency  
16 Formation Agreement for the Yuba/Sutter Regional Waste  
17 Management Authority.

18 This region included Yuba county, Sutter county,  
19 the cities of Live Oak, Marysville, Wheatland, Yuba City  
20 and also the City of Gridley located in Butte County.

21 Effective July 1, 2001 this Regional Agency  
22 Formation Agreement was amended to remove the City of  
23 Gridley from the regional agency.

24 The decision to move Gridley from the regional  
25 agency was done for programmatic and operational measures

1 that made better sense to all parties involved.

2           Recently, the City of Gridley elected to contract  
3 with a different waste hauler than the one utilized by the  
4 rest of the regional agency. Gridley's waste and  
5 recycling materials will also flow into Butte County and  
6 will no longer go to the Marysville Materials Recovery  
7 Facility for processing.

8           Staff recommends that the Board approve the  
9 amended Regional Agency Formation Agreement for the  
10 Yuba/Sutter Regional Waste Management Authority.

11           That concludes my presentation. I am available  
12 for questions and our representatives are still here.

13           CHAIRPERSON MOULTON-PATTERSON: Thank you.

14           Mr. Paparian, did you want to make that motion?

15           BOARD MEMBER PAPARIAN: Sure. Madam Chair, I'll  
16 move Resolution 2001-444 regarding an amendment of the  
17 Yuba/Sutter Regional Waste Management Authority's Regional  
18 Agency Agreement.

19           BOARD MEMBER JONES: Second.

20           CHAIRPERSON MOULTON-PATTERSON: Okay, we have a  
21 motion by Mr. Paparian, seconded by Mr. Jones to approve  
22 Resolution 2001-444.

23           Please call the roll.

24           SECRETARY VILLA: Eaton?

25           BOARD MEMBER EATON: Aye.

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 BOARD MEMBER ROBERTI: Aye.

9 SECRETARY VILLA: Moulton-Patterson?

10 CHAIRPERSON MOULTON-PATTERSON: Aye.

11 At this time, I'd like to take a ten-minute  
12 break, please.

13 (Thereupon a brief recess was taken.)

14 CHAIRPERSON MOULTON-PATTERSON: I'd like to go  
15 ahead and get started. Before we go to ex partes, I would  
16 like to introduce Bruce Reeves, Deputy Attorney General,  
17 welcome, filling in for Ms. Waltz and we appreciate you  
18 being here.

19 Thank you.

20 Mr. Eaton, do you have any ex partes?

21 BOARD MEMBER EATON: None to report, Madam Chair.

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

23 BOARD MEMBER JONES: No, ma'am.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

25 BOARD MEMBER MEDINA: None to report.

1 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian?

2 BOARD MEMBER PAPANIAN: A brief conversation with  
3 the Yuba/Sutter representatives following up on that  
4 agenda item.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.

6 Senator Roberti?

7 BOARD MEMBER ROBERTI: No ex partes.

8 CHAIRPERSON MOULTON-PATTERSON: I have none.

9 Okay. Did we leave -- we're on 12, yes, number  
10 12, back to Mr. Schiavo.

11 DEPUTY DIRECTOR SCHIAVO: Item number 12 is  
12 Consideration of Staff Recommendation to Change the Base  
13 Year to 1999 for the Previously Approved Source Reduction  
14 and recycling element for the City of Rancho Palos Verdes,  
15 Los Angeles county.

16 And this item will be presented by Primitivo  
17 Nunez who's from our southern California office.

18 MR. NUNEZ: Good morning, Madam Chair --

19 CHAIRPERSON MOULTON-PATTERSON: Good morning.

20 MR. NUNEZ: -- and Board Members. My name is  
21 Primitivo Nunez of the Los Angeles local assistance  
22 office.

23 The item is prepared in response to the City of  
24 Rancho Palos Verdes' request to change the base year from  
25 1990 to 1999.

1           To estimate waste generation in 1999, the City  
2 used data from the Board's disposal reporting system and  
3 collected diversion and information from the following  
4 activities: Residential curbside collection, business  
5 waste audit surveys, grass cycling, processing of  
6 commercial sector recycling, diversion of demolition  
7 materials, city road construction and public area  
8 landscaping diversion.

9           The city is primarily a residential community.  
10 However, remodeling and construction activities in the  
11 residential sector and construction in the commercial  
12 sector were reported by the commercial haulers, resulting  
13 in 52 percent residential and 48 percent commercial  
14 generation.

15           In the study, the City used DRS disposal data.  
16 The diversion study does not contain statistical  
17 extrapolation of diversion. Source reduction is included  
18 in the generation.

19           Staff has visited the City and contacted the top  
20 ten audited businesses to verify study information. The  
21 audit verifications resulted in a 1,207 ton deduction.  
22 Staff is recommending the Board approve the proposed new  
23 base year according to the staff recommended rate of 31  
24 percent.

25           Since 1999, the City has expanded its residential

1 curbside collection program, government source reduction  
2 program and commercial on-site pickup. The implementation  
3 of the programs has resulted in a decrease in disposal  
4 tonnage during the year 2000. The City will claim  
5 transformation credit in 2000 also. The result of these  
6 improvements will significantly improve the City's 2000  
7 diversion rate.

8 City representatives are present and available to  
9 answer any questions. This concludes my presentation.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you. Any  
11 questions?

12 Senator Roberti.

13 BOARD MEMBER ROBERTI: I'll make a motion. Madam  
14 Chair, I'd like to move adoption of Resolution 2001-445.

15 BOARD MEMBER JONES: Second.

16 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
17 by Senator Roberti seconded by Mr. Jones to approve  
18 resolution 2001-445.

19 Please call the roll.

20 SECRETARY VILLA: Eaton?

21 BOARD MEMBER EATON: Aye.

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 BOARD MEMBER ROBERTI: Aye.

5 SECRETARY VILLA: Moulton-Patterson?

6 CHAIRPERSON MOULTON-PATTERSON: Aye.

7 Thank you, Mr. Nunez.

8 Okay item number 13.

9 DEPUTY DIRECTOR SCHIAVO: Item number 13 is  
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 Madera, Madera  
13 County.

14 This item will be presented by Steve SoRelle.

15 MR. SORELLE: Good morning, Madam Chair and Board  
16 Members. My name is Steve SoRelle with the Office of  
17 Local Assistance. The City of Madera contracted with a  
18 consultant to measure their 1999 diversion rate because  
19 their original base year was not reflective of their  
20 program implementation efforts.

21 The City originally submitted a new base year  
22 change request with a diversion rate of 62 percent. As  
23 part of the base year study review, Board staff conducted  
24 a detailed site visit and carried out additional research  
25 into the diversion activities.

1           Of the over 57,000 tons of diversion claimed in  
2 the entire study, Board staff reviewed 52,000 tons of  
3 claimed diversion. The City has been cooperative in their  
4 efforts to work with board staff. However, late last week  
5 we had conversations with the consultant and continued to  
6 disagree on the deductions as presented in the agenda  
7 item.

8           Deductions that are recommended include pallet  
9 reuse tonnage was deductions -- excuse me deducted where  
10 pallets were not owned by the businesses, were not part of  
11 a specific effort to return and reuse pallets or were  
12 attributable to other businesses or jurisdictions.

13           Asphalt and concrete recycling totals were  
14 reduced when businesses reported smaller amounts to Board  
15 staff. Grass cycling totals were adjusted after staff  
16 conducted measurements at four schools, confirmed totals  
17 with golf courses and adjusted the conversion factor.

18           One facility's plastics scrap recycling was  
19 deducted when it was discovered that the business had  
20 never disposed of the plastic scrap. Thrift store, garage  
21 sale and flea market totals were also deducted.

22           In addition to these deductions, some other minor  
23 reductions were made. In a few cases tonnages were  
24 increased when Board staff discovered additional diversion  
25 activity or higher confirmed totals than reported.

1           Boar staff has determined that the information  
2 has been adequately documented. Based on this  
3 information, Board staff is requesting the Board approve a  
4 diversion rate of 50 percent.

5           Staff who conducted the on-site review are here,  
6 and representatives from the City are present to answer  
7 any questions.

8           This concludes my presentation.

9           Thank you.

10          CHAIRPERSON MOULTON-PATTERSON: Any questions  
11 before we go to speakers?

12          Ronald Frye, followed by Michael Brown.

13          MR. FRYE: Good morning. My name is Ron Frye. I  
14 am representing the City of Madera. The City recommends  
15 to your board that you adopt your staff's recommendation.  
16 We will be talking to your staff later on concerning a few  
17 minor things we think about.

18          Personally, I would like to thank Carolyn  
19 Sullivan, Steve SoRelle and Cara Morgan of your staff.  
20 They did so much hard work on the City of Madera. And I'm  
21 also a contractor in the City of Madera, and I know what  
22 they went through and I want to thank them very much.

23          Thank you.

24          CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
25 Frye.

1 Michael Brown.

2 MR. BROWN: Thank you, Madam Chair and Members of  
3 the Board. My name is Michael Brown and I am a  
4 representative of the consulting firm that did the work.

5 I think rather than make a presentation, at this  
6 time, I'd just like you to know that we are in general  
7 agreement with the work done by your staff. There are few  
8 things that we'd like to continue discussing with them,  
9 but at this time we're satisfied with staff's  
10 recommendation.

11 If there are any questions that the Board has  
12 about specific items where we're not quite in agreement,  
13 I'd be happy to answer those. I do have a Powerpoint  
14 presentation, I can go into as much detail as you want or  
15 don't want.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones has a  
17 question, Mr. Brown.

18 BOARD MEMBER JONES: Thank you. Mr. Brown and  
19 Mr. Frye or any other representatives from the City, it  
20 was my understanding that there are two or three items  
21 that are -- well, actually I got a call from Mr. Brown, I  
22 put it on my ex partes last week or two weeks ago whenever  
23 he called, that they were in general agreement but they  
24 wanted the caveat that there were some issues that still  
25 needed to be discovered or decided between the consultant

1 and our staff.

2           And at that time, I said well pull the item. I  
3 mean if you're not going to agree, pull the item. And I  
4 said that for a very specific reason. Our staff went out  
5 and did the audits and used the information that was  
6 available. There's 23,000 tons of material that was in  
7 question, and if we're going to, you know, talk about  
8 accepting this rate, then we need to either accept the  
9 staff's rate or deny the staff's rate.

10           I mean, I think to sit there and say go ahead and  
11 accept it, but we still think there are some mistakes, we  
12 ought to figure out what the mistakes are or where the  
13 differences are, because the relationship between  
14 consultants and this Board and the cities is critical to  
15 the ultimate delivery of information to this Board who by  
16 law has got to use the best available information -- or  
17 the best information available to make a determination  
18 that somebody is in compliance.

19           So I guess I would like to know that, I've heard  
20 from Mr. Fry and from you, that we're going to go ahead  
21 and accept the staff's recommendation, and there's still  
22 some issues. Are we going to accept the staff's  
23 recommendation or are we going to accept the staff's  
24 recommendation with a caveat?

25           MR. BROWN: We're requesting that the Board

1 accept the staff's recommendation as is, with no caveat.

2 BOARD MEMBER JONES: Thank you.

3 MR. BROWN: It is our understanding -- let's  
4 leave it at that.

5 BOARD MEMBER JONES: Well, and I don't want to  
6 say don't keep working with the staff. Believe me, this  
7 Board completely, and our staff, wants to work with the  
8 different jurisdictions. So the items that I was told  
9 that were still in question only came up to, I don't know,  
10 4,000 or 5,000 tons out of 23,000.

11 So I have no problem with making a motion to  
12 accept this, as long as there's no caveats, because I  
13 think it's a bad precedent to set. That doesn't mean that  
14 you don't have the ability to go back and redo a base  
15 year.

16 MR. BROWN: Thank you. That's our understanding.  
17 And it's on that basis that we respectfully request that  
18 you accept the staff's recommendation.

19 BOARD MEMBER JONES: Thanks, Mr. Brown. I  
20 appreciate it.

21 Madam Chair.

22 CHAIRPERSON MOULTON-PATTERSON: Yes.

23 I'm sorry, Mr. Eaton.

24 BOARD MEMBER EATON: Madam Chair, just a point of  
25 in general. Perhaps when we find these situations

1 wherein, and they're becoming increasingly more frequent,  
2 where we have found discrepancies of this magnitude, I  
3 think we ought to think about considering an alternative  
4 process by which these jurisdictions go into a separate  
5 pool by which we can take a closer look at the kinds of  
6 things if we're catching them.

7 I think it's unfortunate, but we really need to  
8 take a second look at them and see if there's an  
9 alternative track, and that's not only a stick, but there  
10 also seems to be a carrot by which we can help them.

11 In this instance, I have not found any increased  
12 program since 1997, yet they tell me that concrete  
13 recycling has been going on since 1992. I find it hard to  
14 believe that you can use that kind of recycling of  
15 concrete and not have it show up in a previous 1997  
16 diversion rate.

17 So I still think there's a lot left to be done  
18 with this jurisdiction, but I would also like to think  
19 about having Mr. Schiavo come back and give us an  
20 alternative process by which jurisdictions of this nature  
21 can be looked at with a different kind of eye and some  
22 other things, so that we don't have to kind of go through  
23 this time and time again.

24 Thank you.

25 CHAIRPERSON MOULTON-PATTERSON: Can you do that,

1 Mr. Schiavo?

2 DEPUTY DIRECTOR SCHIAVO: Yes.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 BOARD MEMBER PAPARIAN: Madam Chair.

5 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr.

6 Paparian.

7 BOARD MEMBER PAPARIAN: Just also to follow up.

8 I know it's a tremendous strain on our staff to go out and  
9 double check a lot of the work that's been coming forward.  
10 And you've been doing a good job of doing that and, you  
11 know, finding where there are questionable numbers and  
12 discrepancies and so forth, but I'd love to figure out a  
13 way to have greater incentive for accuracy in the material  
14 that's coming forward so that our staff isn't in the  
15 position of having to go out and verify and find huge  
16 discrepancies between the forwarded numbers and what they  
17 believe is accurate.

18 So if we're going to come forward with any  
19 suggestions, I'd like to also explore some of those  
20 alternatives, and that might involve our legal office  
21 providing us some input as well about what options and  
22 alternatives we might have in the case of inaccuracies.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

24 Paparian.

25 So that's noted also.

1 Thank you.

2 BOARD MEMBER JONES: Madam Chair.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: I agree with my fellow board  
5 members and just throw a suggestion out there, that when  
6 we have these ones where they're in dispute, bring them to  
7 the -- I mean, I'm going to throw this is to the  
8 Chairwoman and ask her to think about the logistics and  
9 how it would fit into the other Board Members' schedules.  
10 But maybe we want to have a line by line, blow by blow of  
11 this at the agenda review. That's what we used to use our  
12 committees for. We can go through this and really get it  
13 so that where there are issues, we can deal with the  
14 issues. And then when the item comes to the Board, I  
15 mean, obviously people still have the right to voice  
16 whatever opinion they want, but it may give us the ability  
17 to spend some time, because those days usually go pretty  
18 quick and we could go through this, and afford people the  
19 opportunity.

20 It's just a suggestion to tag on to the other  
21 board members.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you. I  
23 think it's a good suggestion.

24 BOARD MEMBER JONES: With that, I want to  
25 congratulate our staff and thank Mr. Brown and his

1 organization and the City for trying to get us to  
2 completion of this.

3           And with that, considering there's no caveats, I  
4 am going to move adoption of Resolution number 2001-446,  
5 consideration of staff recommendation to change the base  
6 year to 1999 from the previously approved source reduction  
7 and recycling element for the City of Madera, Madera  
8 County.

9           BOARD MEMBER MEDINA: Second.

10           CHAIRPERSON MOULTON-PATTERSON: We have a motion  
11 by Mr. Jones seconded by Mr. Medina to approve Resolution  
12 2001-446.

13           Please call the roll.

14           SECRETARY VILLA: Eaton?

15           BOARD MEMBER EATON: Abstain.

16           SECRETARY VILLA: Jones?

17           BOARD MEMBER JONES: Aye.

18           SECRETARY VILLA: Medina?

19           BOARD MEMBER MEDINA: Aye.

20           SECRETARY VILLA: Papanian?

21           BOARD MEMBER PAPANIAN: Aye.

22           SECRETARY VILLA: Roberti?

23           BOARD MEMBER ROBERTI: Aye.

24           SECRETARY VILLA: Moulton-Patterson?

25           CHAIRPERSON MOULTON-PATTERSON: Aye.

1           Okay, agenda Item number 14.

2           DEPUTY DIRECTOR SCHIAVO: Agenda Item 14 is  
3 Consideration of Extending Compliance Order Due Dates for  
4 the Following Jurisdictions that are Required to Complete  
5 New Base Year Studies, and this includes Baldwin Park,  
6 Clearlake, Compton, Gardena, La Canada Flintridge, La  
7 Puente, La Verne and Torrance.

8           And making this presentation will be Jill  
9 Simmons.

10          MR. SIMMONS: Thank you. Good morning, Madam  
11 Chair and Members of the Board. My name is Jill Simmons  
12 and I'm with the Office of Local Assistance.

13          At the briefing on October 16th, 2001, a  
14 presentation was made regarding the jurisdictions that  
15 were issued compliance orders during the 95/96 biennial  
16 review process.

17          At this briefing, we stated that a consideration  
18 item requesting time extensions would be brought forward  
19 at the November board meeting. The item I am presenting  
20 today is that request.

21          These eight jurisdictions represent the last of  
22 the jurisdictions that need to provide additional  
23 documentation to complete the requirements of their  
24 compliance orders, and all are finishing base year  
25 studies.

1           Each jurisdiction has indicated they require more  
2 time to complete business surveys, correct data problems  
3 and submit completed certification forms to the Board.

4           Seven jurisdictions Baldwin Park, Clearlake,  
5 Compton, La Canada Flintridge, La Puente, La Verne and  
6 Torrance have submitted extension requests to complete  
7 their studies by December 31st, 2001.

8           And one jurisdiction, Gardena, has submitted an  
9 extension request to complete their base year study by  
10 January 31st, 2002.

11           Staff recommends the approval of the requests for  
12 an extension for all of these jurisdictions. However, if  
13 the jurisdictions do not submit complete base year studies  
14 by the extension due date, then staff recommends the Board  
15 immediately schedule a public hearing for those  
16 jurisdictions failing to meet the requirements of the  
17 compliance order.

18           This completes my presentation. Are there any  
19 questions?

20           BOARD MEMBER ROBERTI: Madam Chair?

21           CHAIRPERSON MOULTON-PATTERSON: Senator Roberti.

22           BOARD MEMBER ROBERTI: Just by curiosity, why --  
23 Gardena has had quite a few problems, why are they taking  
24 so much more time?

25           MR. SIMMONS: It's my understanding that they

1 need more time to complete more studies. And I don't know  
2 if you have anything you want to add to that.

3 MR. POULSON: I'm Zane Poulson with the Office of  
4 Local Assistance, working with Gardena. They need a  
5 little bit more time. They are using extrapolation and  
6 just a number of additional audits that they need, that  
7 once they realized they needed more audits, they had  
8 several that they need in that city in order to be able to  
9 use the extrapolation methodology and that was the timing  
10 that they thought that they could complete the audits and  
11 then put it together into a study and submit that.

12 And also the calculations for extrapolation are a  
13 little bit more difficult to do than the normal  
14 calculations, so they figured they needed a little more  
15 time also to complete the calculations.

16 BOARD MEMBER ROBERTI: I thought one reason why  
17 jurisdictions used extrapolation was because it was easier  
18 and cheaper. Now, you're telling me it takes more time.

19 MR. POULSON: Well, it's easier and cheaper than  
20 doing every single business, but it still requires a  
21 minimum number. And they realized that they were far  
22 below that minimum number once the revised diversion study  
23 guide was available, and so they are just taking -- need a  
24 little bit more time to get that together, to do those  
25 additional audits in order to put the study together.

1                   And the calculations, even though, you know, you  
2 have less studies they have to do, you still have a little  
3 more work on the end of it putting the calculation part  
4 together.

5                   BOARD MEMBER ROBERTI: I mean maybe I'm making  
6 this unfair on Gardena, but they always seem to be pulling  
7 up the rear on the law and the jurisdiction of the Board.  
8 I mean some jurisdictions are enthusiastic about waste  
9 management stewardship and others are in the caboose,  
10 whatever, and Gardena's been in the caboose ever since I  
11 came on this Board.

12                   BOARD MEMBER EATON: And my myself as well. If  
13 you remember, we had long day sessions where we had  
14 numerous individuals come up and testify about some of the  
15 problems that arose. What's of concern to me, however, is  
16 that many of these extensions have expired as early as  
17 this past spring, so we're already six months in. What is  
18 the legal status of the Board not having had the extension  
19 expire and now bringing it forward today.

20                   And I understand that there's a heavy workload,  
21 but here's my point. We've had problems with  
22 extrapolation. The Board has had numerous occasions and  
23 said extrapolation, don't follow what's in the study  
24 guide, the diversion study guide. And yet it seems like  
25 they're using this as an excuse now to come back and do

1 some of those. We're within 30 days. I would think for  
2 you as a staff to properly prepare and to prepare for us  
3 as board members the packets, all this materials should be  
4 in for December, so are we now going to schedule them into  
5 next year after the extension, is that what we're talking  
6 about. So that in some cases that we have nearly a year  
7 has gone by, and we've gotten nothing, and that's not to  
8 be critical of staff, but we are under the legislative,  
9 you know, audit that talks about having teeth and whatever  
10 and this is another instance where we're almost a year  
11 after the fact of looking at some of these jurisdictions.

12           And so are we sure December 31st is the final  
13 date, because if I go back through and look at some of the  
14 past extensions, my understanding was is that those were  
15 the final ones, and now we have another final one. So  
16 what more can we get within the next 28 days for you to  
17 properly prepare?

18           DEPUTY DIRECTOR SCHIAVO: Well, what we're hoping  
19 for is that they complete -- in fact, they're working on  
20 their samples. I wish representatives were here, but  
21 they're supposed to be working on their samples, supposed  
22 to be wrapping up the studies, supposed to be submitting a  
23 completed study, not pieces of studies. And if they do  
24 not by December 31st, as we show in the recommendation, we  
25 want to take them for a compliance hearing.

1           BOARD MEMBER EATON:  Would it be better if we  
2 gave notice of the public hearing now, would that help you  
3 give them -- light a little fire under one or two of the  
4 jurisdictions which, you know, have been somewhat reticent  
5 in the past?

6           I mean, isn't that the way to do it, because now  
7 we're talking -- you probably won't get these scheduled  
8 until sometime in spring; is that correct?  Assuming they  
9 get everything in by December 31st which is during the  
10 Christmas and other holiday season, nothing is going to  
11 happen then.  You've got January, February and March.  
12 You're probably looking at March by the time you get done  
13 doing that work.

14           And in some cases, if you look at it, I can't  
15 remember which one, that was granted until April,  
16 Torrance, and March was Baldwin Park.  So I mean a year  
17 after, and at some point we've got to say, you know, if  
18 you're having problems getting the information, maybe we  
19 should just schedule the hearing and that seems to work  
20 very well.

21           DEPUTY DIRECTOR SCHIAVO:  It has worked very well  
22 in the past.  As you see it's one of the options that we  
23 laid out for you.  We laid out, you know, the three  
24 options.  The recommendation we went forward with is  
25 giving them the extra month.  If you want to move it up,

1 that's your choice and that's your call, but that is one  
2 of the options we did lay out for you.

3           It only changes the time line by, you know,  
4 again, about a month, month and a half, two and a half  
5 months before the one particular jurisdiction.

6           CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian, did  
7 you wish to speak on this?

8           BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
9 Most of it has been answered, but just to clean up the  
10 resolution, my copy of the resolution shows Gardena  
11 extension to January 31st, 2001. You probably want that  
12 to read 2002, I would imagine.

13           MS. SIMMONS: Thank you.

14           BOARD MEMBER PAPARIAN: The question -- one of  
15 the questions I have is when these folks come forward and  
16 ask for an extension, what do we tell them about what's  
17 going to happen if they don't meet their deadline? Do we  
18 tell them that they're going to -- that they're likely to  
19 go forward to a hearing with the possibility of fines, do  
20 we tell them that the Board's history is that we grant  
21 extensions.

22           My understanding of the history is every time a  
23 request for an extension has come forward, we've granted  
24 the extension. So then, in my mind, the question I have  
25 is what's the point of the deadline if we're always going

1 to grant the extension?

2 DEPUTY DIRECTOR SCHIAVO: That's the reason if  
3 you look at the language for the recommendation. We  
4 typically put in language that says if they do not comply,  
5 we will take them directly to the hearing. We typically  
6 leave that part off of our Recommendation if they've had  
7 multiple extensions.

8 This particular time we're informing them and  
9 have informed them that if it's not in, it will be taken  
10 directly to a hearing. So we've set up the process to go  
11 directly to a hearing after December 31st if they don't  
12 get completed packages in.

13 That's a distinction between what we've done in  
14 the past and what we're looking at doing now.

15 BOARD MEMBER JONES: Madam Chair.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones and  
17 then I'd like to speak.

18 BOARD MEMBER JONES: I'm sorry, Madam Chair.

19 CHAIRPERSON MOULTON-PATTERSON: No, go ahead.

20 BOARD MEMBER JONES: I agree with making sure we  
21 have a compliance order. I think one of the things that  
22 came up when we talked about extrapolation being easy to  
23 do, is it is easy to do what we did in our meetings with  
24 dealing with extrapolations, is we said -- we put more  
25 work on the verification that, in fact, the math wasn't

1 just funny math, and that they actually had to be able to  
2 go back and prove that the numbers worked, identify the  
3 outliers, the exceptions to the rule.

4           And if you remember at the briefing, I said make  
5 sure they've included weekly debris box service,  
6 compactors, which it always seemed to be excluded out of  
7 every example of extrapolation I've seen. So that may be  
8 part of it was the fact that we -- that the Board  
9 conducted those workshop meetings trying to get  
10 resolution, especially on this extrapolation.

11           I don't want to give them excuses, but I wanted  
12 to answer one of the questions where it is easy to do  
13 extrapolation. We made it so that they had to be able to  
14 justify what it was, tell us, as staff and the Board how  
15 they got to those numbers, because that's where all the  
16 funny stuff happens.

17           BOARD MEMBER EATON: Well, I would agree with  
18 you, Mr. Jones. Our workshops took place this past fall.  
19 Some of these extensions and the things that they've been  
20 working on were all done previous thereto. We hadn't even  
21 taken up the whole idea of diversion yet.

22           Following up on Mr. Papanian's point, I'm sorry  
23 Madam Chair, so when is the City of Gardena requesting the  
24 extension to?

25           MR. SIMMONS: January 31st, 2002, so it's a month

1 later than the other seven.

2 CHAIRPERSON MOULTON-PATTERSON: Are you finished,  
3 Mr. Eaton?

4 I just, you know, no one wants -- coming from  
5 local government, no one wants to work with them more than  
6 I do. But I just think it's terribly unfair that some of  
7 these cities keep asking for extensions over and over. It  
8 makes our deadlines meaningless, especially in the case of  
9 Gardena. So what's the Board's pleasure, I guess?

10 BOARD MEMBER EATON: Madam Chair, I'll make an  
11 alternative revised resolution 2001-447. That the eight  
12 jurisdictions be granted, all of them or how many there  
13 are, be granted one final extension to December 31st,  
14 2001. And if they do not have complete material or  
15 packets in by December 31st, they automatically go to a  
16 hearing and there will be no -- in accordance with the  
17 proper notice provision, right, because they change that  
18 as well.

19 So now you're talk probably another 180 days  
20 before you even bring them to hearing with a compliance  
21 order under 2002, 2202, if you remember.

22 DEPUTY DIRECTOR SCHIAVO: Actually, the way we're  
23 operating, it would be 30 days from the date.

24 BOARD MEMBER EATON: Right, and that they be  
25 brought for a compliance hearing.

1 DEPUTY DIRECTOR SCHIAVO: Within 30 days.

2 BOARD MEMBER EATON: Within 30 days and there  
3 would be no further extensions. I mean that's the only  
4 way we solve this problem.

5 CHAIRPERSON MOULTON-PATTERSON: We have a motion  
6 by Mr. Eaton. And Senator Roberti.

7 BOARD MEMBER ROBERTI: I want to second it and  
8 speak to the motion. In thinking about it as the  
9 discussion is going along, one year of extensions is long  
10 enough. And I think it puts the Board into an element of  
11 disrepute if we start going into the 13 month. So thank  
12 you, Mr. Eaton, for offering this. I think, you know, the  
13 axe has to come down at some point.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you. So we  
15 have a motion by Mr. Eaton seconded by Senator Roberti to  
16 approve Resolution 2001-447 with the change that they all  
17 would have extensions until December 31st, is that it?

18 BOARD MEMBER EATON: Correct.

19 CHAIRPERSON MOULTON-PATTERSON: Please call the  
20 roll.

21 SECRETARY VILLA: Eaton?

22 BOARD MEMBER EATON: Aye.

23 SECRETARY VILLA: Jones?

24 BOARD MEMBER JONES: Aye.

25 SECRETARY VILLA: Medina?

1 BOARD MEMBER MEDINA: Aye.

2 SECRETARY VILLA: Paparian?

3 BOARD MEMBER PAPARIAN: Aye.

4 SECRETARY VILLA: Roberti?

5 BOARD MEMBER ROBERTI: Aye.

6 SECRETARY VILLA: Moulton-Patterson?

7 CHAIRPERSON MOULTON-PATTERSON: Aye.

8 Thank you, Ms. Simmons.

9 MR. SIMMONS: Thank you.

10 CHAIRPERSON MOULTON-PATTERSON: Okay, number 15

11 is time certain Wednesday at 11:00 a.m.

12 I guess we'll do number 16 and then take our

13 lunch break, is that okay with everyone?

14 Okay, number 16.

15 DEPUTY DIRECTOR SCHIAVO: Item number 16 is

16 Discussion of the Impact of State and Federal Construction

17 and Demolition Projects on Jurisdictions' Diversion Rate

18 Achievement.

19 This item was presented at the Board briefing a

20 month ago, and we were asked to bring it forward to the

21 entire board for a more detailed discussion.

22 This item will be presented by Catherine Cardozo.

23 MS. CARDOZO: Good morning, Madam Chair and board

24 members.

25 CHAIRPERSON MOULTON-PATTERSON: Good morning.

1 MS. CARDOZO: Item 16 includes a brief discussion  
2 of two example cases that have been brought to staff's  
3 attention. One is a short-term or a one-year project that  
4 has the potential to impact the City's diversion rate for  
5 that year. Another is a long-term project that spans  
6 three or four cities, but where the construction and  
7 demolition or C&D waste is being allocated to only one of  
8 the jurisdictions.

9 The second example was discussed more fully in a  
10 March 2001 agenda item. The majority of the item,  
11 however, is a discussion of six possible options for  
12 dealing with the impact of State or federal C&D projects  
13 on jurisdictions' diversion rates.

14 Options 1 through 4 have been used before by the  
15 Board to resolve various diversion rate issues, and option  
16 4 was used to resolve the specific issue of C&D project  
17 impacts.

18 Option 5 has not been used previously, although  
19 the Board does have an approved process for its use in the  
20 future.

21 Option 6, deducting reporting year disposal has  
22 not been previously used by the Board.

23 In my presentation I will just describe each of  
24 the options and highlight the key points.

25 Option 1 allows the Board to consider a

1 jurisdiction's good faith efforts to implement diversion  
2 programs aside from a C&D project outside of its control.

3           This option was used for a few jurisdictions  
4 during the '95 and '96 biennial review process when their  
5 diversion rates were slightly lower than the 25 percent  
6 diversion requirement.

7           Option 2 would allow a jurisdiction to establish  
8 a new base year based on the new waste generation study  
9 that included both disposal and diversion from the C&D  
10 project.

11           It would therefore be important for the  
12 generation of tonnage measured to be representative of a  
13 jurisdiction's annual waste stream, and for the agency  
14 responsible for the project to work with the host  
15 jurisdiction so that tonnage disposed or diverted could be  
16 tracked by jurisdiction of origin.

17           Option 3 would allow a jurisdiction to calculate  
18 its diversion rate using the generation method, that is by  
19 directly counting all of its waste disposed and diverted,  
20 including the tonnage from the State or federal C&D  
21 project.

22           This option would not be establishing a new base  
23 year, however. So once the project was completed, a  
24 jurisdiction could once again use its original base year  
25 for estimating its annual diversion rate.

1           It would therefore be important for a  
2 jurisdiction allowed this option to know that  
3 jurisdictions are now required to maintain a 50 percent  
4 diversion rate after 2000, unless they have a board  
5 approved reduced diversion requirement.

6           Option 4 would allow the Board to accept a  
7 nondetermined diversion rate for a jurisdiction for the  
8 reporting year in question. In this case, as a demolition  
9 portion of the C&D project winds down, the disposal  
10 tonnage should decrease and its impact on the city's  
11 diversion rate should also decrease accordingly.

12           Option 5 would allow a jurisdiction to apply for  
13 one or more SB 1066 time extensions or an alternative  
14 diversion rate until the project in question was  
15 completed. The jurisdiction would not be required to be  
16 at 50 percent diversion during the extension.

17           Option 6 would allow a jurisdiction to deduct the  
18 project's disposal tonnage from its reporting year  
19 disposal amount. Several jurisdictions have requested to  
20 use this option but it hasn't been offered to date as an  
21 alternative to this particular issue. Use of this option  
22 would therefore set a precedent. The option could be  
23 similar, however, to the Board's policy of allowing  
24 certain waste sent to Class 2 landfills to be deducted  
25 when certain conditions are met.

1           The major benefit of this option would be the  
2 relief provided to a jurisdiction from having to count  
3 toward its disposal the waste from a federal or State  
4 agency project over which it had no control. A problem  
5 with this option is that it may be difficult for the Board  
6 to determine when a project's disposal tonnage should be  
7 deducted.

8           For example, should the disposal tonnage from all  
9 federal and State C&D projects be deducted or only tonnage  
10 from projects lasting a certain number of years or having  
11 a certain particular percentage impact on a jurisdiction's  
12 diversion rate?

13           In conclusion, since 1995 the Board has used  
14 Options 1 through 4 on a case-by-case basis, while option  
15 5 has not been used, although the Board does have an  
16 approved process for the submittal of 1066 applications.

17           Option 6 is a new alternative and would require a  
18 Board determination of the circumstances underwhich this  
19 option could be used. Staff, therefore, seeks the Board's  
20 direction regarding Option 6.

21           That concludes my presentation for this  
22 discussion item.

23           Are there any questions?

24           CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton?

25           BOARD MEMBER EATON: I have, sort of, a, not to

1 be fickle about it, but a base question. As the State of  
2 California is fixing a State highway, by its very  
3 definition, it's a State highway, it owns that highway,  
4 correct, and the material that's contained therein.

5           Following me thus far?

6           If, for some reason, that material is taken out  
7 of the State highway, it has been past practice then that  
8 material that's taken away from State property is then  
9 either credited or charged against a local jurisdiction;  
10 is that correct?

11           MS. CARDOZO: Yes.

12           BOARD MEMBER EATON: And that's under statute or  
13 is that an interpretation by which we give it?

14           MS. CARDOZO: Well, up to now even federal  
15 projects --

16           BOARD MEMBER EATON: Just State. Let's just go  
17 State. Let's not confuse the issue with federal yet.  
18 Let's just go with a State highway.

19           MS. CARDOZO: Well, any waste generated within a  
20 jurisdiction, whether it be city or county, that city or  
21 county is responsible for that waste.

22           BOARD MEMBER EATON: Right. But if it's a State,  
23 and then that's the point that's always bothered me about  
24 this, that if it's a State highway, it's generated -- now  
25 you're saying generated within a city or a county. But

1 the State, and my understanding is, it's sovereign  
2 territory, the State Highway.

3 MS. CARDOZO: We have not deducted that tonnage  
4 from the individual jurisdictions, nor is it reported that  
5 way.

6 BOARD MEMBER EATON: Correct. They get no  
7 diversion and they get no -- but they do get --

8 MS. CARDOZO: No, whatever -- I mean, there is  
9 not separate reporting at the landfills that this waste  
10 comes from a State highway, so there would be no way to  
11 not count it against the jurisdictions.

12 BOARD MEMBER EATON: One of the things that I'm  
13 trying to get at is that we now have an additional tool at  
14 our disposal, which the problem is with the cities and  
15 counties of the State, and we can only probably do it with  
16 the State since that's where we have some bite with AB 75.  
17 Then if the cities and counties aren't charged with that  
18 State material at all, either credit or debit, you know,  
19 as diversion or disposal, then the State agencies would  
20 then be charged with their 25 and 50 percent, right? I  
21 mean, wouldn't that be the case?

22 I mean, I'm just trying to figure out if we can  
23 segregate, because this is going to help in the mine  
24 reclamation project as we get through it that we're  
25 working on as well, that if it's State property and it's

1 State generated, under what legal definition are we going  
2 that it was generated within that city or county? Is that  
3 what we're saying, and do we need a statutory change to  
4 make that clear, Mr. Block?

5           You know what I'm trying to go at is that at some  
6 point, you know, part of the problem has been is that the  
7 cities and counties are complaining that it's not their  
8 material. They have nothing. The only benefit they get  
9 is obviously probably less traffic congestion, but that's  
10 subject to some debate as well in the future.

11           But the question, I'm trying to narrow the issues  
12 that maybe we can resolve some of these issues without  
13 having to do some of these options and relieve the burdens  
14 from the cities and maybe put it back on the State where  
15 it properly belongs.

16           STAFF COUNSEL BLOCK: Elliot Block from the legal  
17 office. I understand the issue that you're raising. I  
18 have to say, at this point, up until now we haven't viewed  
19 the county in that regard. I think that's an issue we can  
20 explore without doing a little bit of work research on my  
21 own to determine exactly what the status of the State  
22 highways are, whether they're, in fact, considered not  
23 part of the incorporated jurisdictions, for instance, or  
24 whether they're -- the word is popping out of my head, I  
25 can't think of it. What are those called, not

1 sovereign -- forget it. It doesn't matter.

2 I need to do some more research on that and get  
3 back to the Board. That's one of the things we can do as  
4 part of -- with option 6 as you can see, there's not a lot  
5 of detail right now, because there are a number of factors  
6 that we would have to look at if the Board wanted to  
7 explore that issue. What I think we were looking for is  
8 some direction that that Board even wanted us to be going  
9 down that route, and the issues that you raised are some  
10 things that we can fold into coming back to you with some  
11 more options.

12 Clearly, that's potentially a viable alternative,  
13 if, in fact, our research shows that it works out that  
14 way. And if it needs a statutory change to do that, we  
15 could also, you know, provide that information to the  
16 Board.

17 BOARD MEMBER EATON: Because, in essence, that  
18 would leave whatever local building is going on, i.e.,  
19 local build permits and what have you for them to deal  
20 with that issue of waste.

21 STAFF COUNSEL BLOCK: There are some issues we  
22 would also have to explore. Since we haven't been looking  
23 at those properties in that regard, we'd have to look at  
24 whether it might solve the problem in some jurisdictions  
25 and not in others, so there certainly would be some work

1 we'd have to do.

2           And "right of away" is the phrase that I couldn't  
3 remember just a moment ago. I don't know if those  
4 highways are considered right-of-ways as opposed to  
5 sovereign properties or not and that's the area I'd need  
6 to explore before I could give the Board some more  
7 information on that.

8           BOARD MEMBER EATON: Madam Chair, I'd just like  
9 to see as we're having the discussion something along  
10 those lines because that may help us take a great deal of  
11 pressure off of everyone. However, it would probably put  
12 CalTrans in a difficult position, because I think we  
13 proved their diversion rate at 70 percent, so if they were  
14 to get back some of their concrete, I'm not sure it would  
15 be up as high as 70 percent.

16           CHAIRPERSON MOULTON-PATTERSON: The Attorney  
17 General, do you have -- I don't want to put you on the  
18 spot right now, but is this something that comes up at  
19 other boards and commissions with state highways.

20           DEPUTY ATTORNEY GENERAL REEVES: Not in my  
21 experience, no.

22           CHAIRPERSON MOULTON-PATTERSON: Mr. Medina, did  
23 you have a comment?

24           BOARD MEMBER MEDINA: Just a couple of comments,  
25 Madam Chair.

1           First, it's my understanding that CalTrans owns  
2 and operates and maintains the State Highways on behalf of  
3 the State system. I know that that's the reason the  
4 Highway Patrol can, you know, maintain public safety on  
5 these roads.

6           From my experience at CalTrans, a decision as to  
7 where the C&D material was going to go was determined by  
8 the district director. And they look for the most cost  
9 effective and the closest in proximity location to deposit  
10 the C&D material. And from all of the townhall meetings  
11 that I attended in regard to transportation projects, I  
12 never ever heard any committee bring up the issue of  
13 diversion in regard to the materials.

14           If an interchange was going to be torn down and a  
15 newer larger one going to be built, the subject never came  
16 up.

17           I don't know what decision will be made here  
18 today. If it was a matter of CalTrans notifying the local  
19 government, local jurisdictions, then a letter to the  
20 Director Jeff Morales, might be in order such that he  
21 would send that to the districts, and then the districts  
22 if they were going to transport C&D material to a given  
23 area would notify the local governments of that.

24           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
25 Medina.

1                   BOARD MEMBER MEDINA:  If not.  If we follow Mr.  
2  Eaton's suggestion, then this certainly would have an  
3  impact on CalTrans' diversion rate, because they do  
4  generate a lot of C&D material.

5                   BOARD MEMBER EATON:  But it would help us in the  
6  ultimate solution of what to do with this material in the  
7  end.  And I'm not saying I want to punish another State  
8  agency, but it gives us a little bit of the ability  
9  without penalizing the cities and counties, which I  
10 understand have been -- and it also takes away a large  
11 load now would hurt them, as Mr. Block said, because some  
12 of the cities are allowing diversion to occur as well.

13                   So there's a double-edged sword here, but at  
14 least it takes and segregates, and I think that's the key  
15 word, segregates one waste stream so that no one is unduly  
16 or unfairly penalized or credited.  And I think that's  
17 where we want to try and go with some of these efforts in  
18 trying to figure out good faith or whatever.  We can  
19 figure out a way that takes it off the table, that helps  
20 everyone and we will account for it in some ways as well.

21                   CHAIRPERSON MOULTON-PATTERSON:  Thank you, Mr.  
22 Eaton.

23                   And, Mr. Block, you'll be researching it and  
24 getting back to us?

25                   STAFF COUNSEL BLOCK:  Yes.

1 CHAIRPERSON MOULTON-PATTERSON: We do have two  
2 speakers.

3 Mr. Schiavo.

4 DEPUTY DIRECTOR SCHIAVO: I just wanted a little  
5 bit of clarification. When we're looking at the  
6 construction and demolition, we're talking CalTrans right  
7 now, would we want to expand the research into other C&D  
8 projects related to State agencies?

9 BOARD MEMBER EATON: Well, it would be helpful in  
10 terms of, you know, who owns some this material.  
11 Obviously, it becomes a little more involved when you have  
12 the Department of General Services and the Department of  
13 Corrections, but those are all State owned facilities.  
14 The only problem comes in is when General Services decides  
15 to lease a building as opposed to buy a building and that  
16 there's construction debris.

17 But right now I think if we can get a large load  
18 initially and figure out what's State property what isn't,  
19 that may help us get to the city's dilemma of what not to  
20 have to be charged with.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you. We're  
22 going to go to the speakers now.

23 Mr. Cupps followed by Mr. Aprea.

24 MR. CUPPS: Madam Chair and Members of the Board,  
25 my name is John Cupps. I'm a consultant. One of my

1 clients is the San Luis Obispo County Integrated Waste  
2 Management Authority and I'm here today speaking on their  
3 behalf.

4           Very quickly, I guess I would like to suggest  
5 that there is at least one additional category of projects  
6 that the Board should consider as it moves forward in  
7 addressing this, what I think, is a very critical policy  
8 question, and that is projects where the local  
9 jurisdiction has either little or virtually no control  
10 over the approval of those projects. And specifically I  
11 would suggest that powerplant construction projects fall  
12 into that category, and I'd just like to briefly give you  
13 a specific example.

14           Duke Powerplant plans to modernize it's Morro Bay  
15 Powerplant. That project will include the demolition of  
16 the existing power plant and construction of a new power  
17 plant. Just the demolition phase alone is projected to  
18 generate approximately 138,000 tons of waste.

19           Duke Power has indicated that they believe that  
20 they can, in fact, recycle approximately 83 percent of  
21 that waste. So far, however, Duke has not agreed to that  
22 as a permit condition. The local jurisdiction has, in  
23 fact, requested of the Energy Commission that it be  
24 included as a requirement of their certification of the  
25 project.

1           We're optimistic that, in fact, that will happen.  
2   Nonetheless, even assuming that Duke Power meets that 83  
3   percent recycling goal, that means that there will still  
4   be approximately 23,000 tons of waste generated from that  
5   project. The 23,000 tons of waste represents almost twice  
6   the annual disposal for the City of Morro Bay.

7           Obviously, that would have a devastating impact  
8   on their diversion rate. Now, as it turns out, the City  
9   of Morro Bay is, in fact, a member of the Integrated  
10  Authority, so that impact is somewhat diluted.

11           Nonetheless, based upon certain assumptions, we  
12  would project that the impact would be on the authority,  
13  the regional authority, would depress the diversion rate  
14  from like 52 percent to 47 percent.

15           So I guess what I would ask, as you move forward  
16  in discussing this policy, you do consider, shall we say,  
17  a broad range of projects. That whatever policy  
18  determination you make would be that they could use this  
19  alternative option, if you will, to adjust their diversion  
20  rate.

21           And I would suggest that you strongly or  
22  favorably consider the Option 6. We think that that's a  
23  very practical way of dealing with these somewhat unique  
24  circumstances.

25           Thank you very much.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

2 Cupps.

3 Mr. Aprea.

4 MR. APREA: Good morning, Madam Chair and Members  
5 of the Board. Mark Aprea representing Republic Services.

6 I've submitted through staff a letter to you on  
7 this item. And I won't go over the letter word for word,  
8 but I'd like to summarize some points. And I think that  
9 the issue was brought before the Board again by the City  
10 of Arcadia. And, Mr. Roberti, I believe that you  
11 commented on that presentation.

12 Ostensibly, what we're looking at, Madam Chair  
13 and Members of the Board, if we have two comparable  
14 facilities, one is a mine reclamation facility that is not  
15 a permitted solid waste facility, and we have another  
16 facility, nonreclamation facility, that is permitted with  
17 the same identical tonnage of waste going into one  
18 facility versus another, irrespective of its source,  
19 whether it's a state or a federal project or as one, as  
20 Mr. Cupps described, a private operation, that that waste  
21 is treated very differently.

22 And each municipality whose waste goes to that  
23 permitted mine reclamation facility, in essence, is  
24 penalized in terms of their diversion rate. I submit to  
25 you, that number one, that there is serious inequity in

1 addressing that issue, number 1.

2           Number 2 is that the problem is not an isolated  
3 or limited one, in the data that we submitted to you for  
4 the four-county jurisdictions of Los Angeles, Orange,  
5 Riverside and San Bernardino counties. There are 174  
6 jurisdictions who send some portion of their inert waste  
7 to one of the three mine reclamation facilities that are  
8 permitted solid waste facilities in Los Angeles County.

9           In the case of 47 of those jurisdictions, their  
10 disposal is at ten percent or greater, and one  
11 jurisdiction has, I believe, 55 percent of its waste  
12 being -- inert waste going to one of those facilities.

13           Now, even if you take that one high number as an  
14 aberration, you have a significant number who are in the  
15 high tens and twenties in terms of their disposal.

16           I think that the options that were brought to you  
17 by staff are laudable but really do not address the  
18 problem, and that is that the Board needs to take action  
19 to, in essence, say this ton of waste going to a mine  
20 reclamation facility should count neither as disposal nor  
21 would that waste be eligible for any diversion credits by  
22 a local jurisdiction.

23           In essence, that waste should not count for  
24 purposes of achieving the AB 939 goals. Both local  
25 jurisdictions and the haulers that serve them are under

1 incredible scrutiny to achieve the 50 percent diversion  
2 goal. Those who have engaged in all necessary activity to  
3 reach that and have been found by staff and by this Board  
4 to have done a laudable job, nonetheless will fail by  
5 virtue of one act and one act only, and that could be a  
6 State, a federal agency or a private operator choosing to  
7 send its waste to one of those permitted mine reclamation  
8 facilities.

9           So we would ask that this Board adopt a policy to  
10 not count these as either disposal or diversion or if the  
11 Board is unable do that, then to support or to initiate  
12 legislation on their own to make a statutory change.

13           I want to thank Mr. Eaton in terms of his  
14 efforts. I would submit that that effort alone does not  
15 go far enough. It does not address the problem, and that  
16 problem will continue to plague local jurisdictions that  
17 have to send their waste to a particular facility or whose  
18 waste is sent there. And it not only penalizes that  
19 jurisdiction, but it also penalizes those facilities who  
20 will now find themselves in a position of not having waste  
21 to accept because of calculations made by haulers or by  
22 local jurisdictions as to where that waste should go.

23           That should not be what the State's policy should  
24 do. It shouldn't change people's behavior in terms of one  
25 facility versus another one, when, in fact, there is no

1 difference between one versus the other.

2                   So, again, we would urge the Board to adopt such  
3 a policy or to initiate such legislation.

4                   Are there any questions?

5                   CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
6 Aprea. Just while you're up, and I want to ask Mr.  
7 Schiavo And Ms. Nauman, will we be addressing the C&D regs  
8 in January?

9                   DEPUTY DIRECTOR NAUMAN: Actually, we have an  
10 item on this month's agenda, I was just taking another  
11 quick look at it, Item 34 is an update for you on the  
12 development of the C&D regs, and kind of our completion of  
13 Phase 1, and, yes, we'll be delving into this hole issue  
14 as we start Phase 2 of the C&D regs.

15                   CHAIRPERSON MOULTON-PATTERSON: We're all very  
16 concerned about it.

17                   MR. APREA: Madam Chair, I respect the Chair's  
18 view to perhaps address this issue in that manner. I  
19 might suggest that those mine reclamation facilities that  
20 are not currently permitted, who might be permitted under  
21 some kind of a tiered C&D facility permitting scheme would  
22 very likely resist being brought in under the Waste  
23 Board's jurisdiction.

24                   And this issue would then be held captive to the  
25 Board's success in addressing that issue. And I would

1 again submit that they ought not be necessarily linked but  
2 addressed in a separate manner.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
4 Aprea.

5 MR. APREA: Thank you, Madam Chair and Members of  
6 the Board.

7 CHAIRPERSON MOULTON-PATTERSON: That concludes  
8 the public speakers. Now, you needed some direction on  
9 Options 6; is that correct?

10 DEPUTY DIRECTOR SCHIAVO: Yeah, we have some  
11 direction so far.

12 CHAIRPERSON MOULTON-PATTERSON: You know, I like  
13 the case-by-case myself.

14 What about other Board Members?

15 Mr. Jones.

16 BOARD MEMBER JONES: Thanks, Madam Chair. I  
17 think that the issue of the inert waste going to those  
18 three sites still needs to be discussed. I think we gave  
19 that city a little bit of direction down at our meeting at  
20 the South Coast Air District, that if it fell into a  
21 couple of categories we needed to, you know, look at it  
22 again.

23 But as far as the discussions, and I understand  
24 where Mr. Eaton is going and I appreciate it and I agree  
25 with it, on the State highway system being, in fact,

1 attributed under AB 75 to CalTrans. I think the one thing  
2 that, as an operator, when they would do these kinds of  
3 projects and you'd sit down and try to meet with them,  
4 you'd basically get told to forget it and not worry about  
5 it.

6           So, I mean, while there is some interaction, it's  
7 usually not very responsive. So I think that we can  
8 handle that through either Mr. Eaton's idea of trying to  
9 allocate that under AB 75 to the agency, but I also think  
10 under Option 6, we need to have a little more discussion.  
11 I like the idea of option 6. I support the idea of option  
12 6, because we're a disposal based system. We're no longer  
13 looking at what gets recycled.

14           So 80 percent of a 100,000 ton project still  
15 means 20,000 tons of material going to disposal. That's a  
16 great act to recycle 80 percent of a project. The impact  
17 is to the jurisdiction in a way that they have no control.  
18 I think one other piece that we need to look at in those  
19 discussions, which I brought up at the briefing, and I  
20 appreciate, Mr. Schiavo, you producing, as the Chairwoman  
21 had asked, those ordinances that could be copied.

22           I think that it's important that if a  
23 jurisdiction comes to us and that jurisdiction has put an  
24 ordinance in place when somebody pulls a building permit  
25 on how to deal with the demolition of a building and the

1 types of options that the City recognizes so that that  
2 material gets recycled is an important factor when we're  
3 looking at Option 6, because the one thing we really need  
4 to look at as well as the federal agencies and the State  
5 agencies are those jurisdictions, especially down south,  
6 that have historically had \$20 million, \$10 million, \$50  
7 million worth of new construction or some form of  
8 construction on a yearly basis.

9           And then because of the economy or changes in  
10 areas, Paul Rellis can give you an example of one city  
11 that had historically got \$20 million to \$40 million worth  
12 of activity a year, and last year had \$250 million worth  
13 of new construction activity, that obviously is going to  
14 create a lot more waste than anybody had probably thought  
15 about. And yet on a goal year, that waste all goes as  
16 disposal even if they had diverted a bunch of it.

17           So Option 6 would give us, with some more work,  
18 and I think we need to bring it back in the form of a  
19 workshop or whatever or something, Madam Chair, and I mean  
20 whatever you guys want to do, talk about setting  
21 parameters where if jurisdictions have done their jobs in  
22 trying to do the programs, put the infrastructure in  
23 place, and growth is impacting them to the point where the  
24 disposal is going through the roof, even though they've  
25 got those kinds of programs in place, we need to have some

1 kind of an option, a one-line option that if you meet this  
2 criteria, whether it's a road project, whether it's new  
3 construction that is out of the ordinary or, you know,  
4 considerably more than what has been the norm, we should  
5 be able to look at those on a case-by-base basis.

6 That would be my suggestion.

7 CHAIRPERSON MOULTON-PATTERSON: Any other  
8 comments?

9 BOARD MEMBER ROBERTI: I take it that we'll be  
10 discussing the C&D regs and therefore the specific problem  
11 of equal treatment on Item 34?

12 CHAIRPERSON MOULTON-PATTERSON: Right.

13 Thank you.

14 BOARD MEMBER PAPARIAN: Madam Chair, I'm sorry,  
15 just as we go forward with this, I want to make sure that  
16 we don't lose any incentives that might be there to  
17 recycle as much as possible out at the C&D.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay,  
19 so at this time, we're going to take our lunch break. At  
20 2:00 o'clock we'll hear Item 1 first thing and then Item  
21 18, 19 and go back to 7, that will complete our agenda for  
22 today.

23 (Thereupon a lunch recess was taken.)

24

25

1 AFTERNOON SESSION

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

4 Mr. Jones, do you have any ex partes?

5 BOARD MEMBER JONES: You know, I had gotten all  
6 up to speed until I saw George Larson, so I have George  
7 Larson on strategic plan and I think that's it.

8 John Davis on RMDZ, sorry.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton?

10 BOARD MEMBER EATON: I just had a quick hello to  
11 Mark Aprea just before we broke for lunch.

12 That's it, thank you.

13 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina?

14 BOARD MEMBER MEDINA: None to report.

15 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian?

16 BOARD MEMBER PAPANIAN: None.

17 CHAIRPERSON MOULTON-PATTERSON: Senator Roberti?

18 BOARD MEMBER ROBERTI: No ex partes.

19 CHAIRPERSON MOULTON-PATTERSON: And I have none.

20 Okay. We're going to start back on Item number  
21 1, and I'll turn it over to Ms. Packard.

22 ASSISTANT DIRECTOR PACKARD: Thank you, Madam  
23 Chair. Good afternoon, board members. My name is Rubia  
24 Packard with the Policy Office.

25 And I am here today to present Agenda Item 1,

1 Consideration of Adoption or Discussion of the Board's  
2 2001 Strategic Plan. I'd like to thank you for your  
3 consideration and patience this morning in putting the  
4 item off till this afternoon so we could get a couple of  
5 things cleared up.

6           This item is a culmination of Board efforts  
7 beginning with the 21st Century Policy Project in 1999 and  
8 continuing through 2001. We have conducted four publicly  
9 noticed stakeholder forums, and used that material as a  
10 foundation for the development of the draft Strategic Plan  
11 that is before you today.

12           The elements of the plan were developed through  
13 the Board's executive team utilizing input from the Board  
14 through interviews and board meetings, as well as through  
15 internal teams representing board member offices, the  
16 executive team and staff.

17           The Board provided direction on the draft  
18 elements during the June and August board meetings. And  
19 at the October 2001 board meeting, the Board directed  
20 staff to allow for an additional opportunity for public  
21 review and comment of the proposed plan by continuing  
22 consideration of a draft plan to this month's board  
23 meeting.

24           We received many comments during this period,  
25 both in writing and during the November 7th board workshop

1 on this strategic plan.

2           Based upon board comments at the workshop and the  
3 comments we received, staff has prepared the Revised 2001  
4 Draft Strategic Plan that is Attachment 1 to today's  
5 agenda item.

6           The changes that we have proposed are in the area  
7 of clarifying the definitions of product stewardship, zero  
8 waste and sustainability. We've added some language  
9 regarding the future steps in terms of implementation and  
10 stakeholder input. We've clarified the commitment to  
11 environmental justice. We've added some --or excuse me,  
12 revised the language around proper use and disposal of  
13 household chemicals and safe alternatives, and we've made  
14 a few more minor editorial changes to either clarify a  
15 definition or add a little bit to it.

16           So with that, the revised plan is before you.  
17 And if you have any questions about any of the changes,  
18 I'd be happy to answer those.

19           CHAIRPERSON MOULTON-PATTERSON: Before we go to  
20 questions, I misspoke, I do have on ex parte, a letter  
21 that was faxed to me I guess from Myra Nissen of Northern  
22 California Recycling Association on support for the  
23 strategic plan.

24           Any questions before we go to the speakers?

25           Excuse me.

1 BOARD MEMBER EATON: Madam Chair, before I got  
2 back from lunch, did you happen to do the Livingston and  
3 Mattesich that was on my desk or that --

4 CHAIRPERSON MOULTON-PATTERSON: No, I don't.

5 BOARD MEMBER EATON: Let me do that one as well.  
6 It's on this plan. It's a letter from Randy Pollack from  
7 Livingston and Mattesich on Agenda Item number 1 regarding  
8 the strategic plan, ex parte, I'm sorry.

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

11 Okay, any questions before we go to speakers?

12 Mr. Papanian.

13 BOARD MEMBER PAPANIAN: Thank you, Madam Chair.  
14 I just wanted to clarify one item with regard to the  
15 changes that staff has proposed. Manufacturer  
16 responsibility is something that we engage in pursuant to  
17 law and I'm sure -- well, I'm sure a lot of us are  
18 familiar with things like the RPPC program and the Plastic  
19 Bag Program and other programs where I, for one, at least  
20 consider that part of our manufacturer responsibility  
21 agenda.

22 I just want to be sure that from staff's  
23 perspective by removing those words, we haven't lost those  
24 concepts in terms of the things that were required to do  
25 and required to be part of?

1 ASSISTANT DIRECTOR PACKARD: Well, in the review  
2 of some proposed revisions, one of the comments that I  
3 received from a program was that they felt that  
4 manufacturer responsibility is a part of product  
5 stewardship. And in the reading that I did over the last  
6 week, I saw that in many documents that was the assumption  
7 as well, that manufacturer responsibility was a part of  
8 product stewardship. But certainly if you feel it  
9 warrants being called out or you don't agree, we can  
10 certainly change it back, but that was the thinking behind  
11 eliminating manufacturer responsibility from the list  
12 because product stewardship was already in that goal  
13 articulated in that goal.

14 BOARD MEMBER PAPARIAN: Thank you.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
16 Paparian.

17 Okay, we'll go to public speakers.

18 Skip Lacaze, city of San Jose.

19 MR. LACAZE: Good afternoon. My name is Skip  
20 Lacaze. I'm the Civic Services Manager in the City of San  
21 Jose's Environmental Services Department. I'd like to  
22 express the City's support for the Board's 2001 strategic  
23 plan, and its final form of last Friday.

24 We'd specifically like to support the strong  
25 statements in favor of extended producer responsibility,

1 manufacturer responsibility, and also zero waste.

2           The City has had a longstanding set of policies  
3 along these lines, dating back to the mid-1980s supporting  
4 the addition of additional container types and materials  
5 to the Bottle Bill, and other methods of making the  
6 producers, distributors and retailers of problematic goods  
7 responsible for the ultimate recycling or disposal.

8           As the Board continues reviewing a strategic plan  
9 and then later implementing the recommended legislation,  
10 we think that all policies should continue to receive  
11 strong consideration.

12           Thank you very much.

13           CHAIRPERSON MOULTON-PATTERSON: Thank you for  
14 coming.

15           Karen Jarrell, Smurfit-Stone Container  
16 Corporation or Jarrell.

17           MS. JARRELL: Karen Jarrell with Smurfit-Stone  
18 Containers, Smurfit Recycling Company. We appreciate the  
19 work that the Board and staff has done lately to get us  
20 all involved and to pay attention to our concerns. We  
21 very much appreciate that, and the input that we've been  
22 able to put in there, which is reflected in a lot of the  
23 changes that have been made in this last document.

24           I will say, however, that on behalf of my  
25 company, and only speaking for my company, that we still

1 have a problem with the term zero waste. We don't think  
2 it's realistic. We don't think it's attainable. If you  
3 want to say minimum waste or minimize waste, we don't have  
4 a problem with that. But zero waste is something that can  
5 be picked up out of a document without looking necessarily  
6 at how it's defined in here, which is not defined very  
7 well in here, and pick it up and use it in legislation, et  
8 cetera, and that's our concern.

9 We just don't think it's attainable, as I said,  
10 or feasible. You'd have to recycle or compost everything.  
11 You wouldn't need haulers.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you. Thank  
13 you for coming.

14 John Davis followed by George Larson.

15 MR. DAVIS: Madam Chair and Board Members, John  
16 Davis. I'm currently the President of the California  
17 Resource Recovery Association. And I'd like to speak, I  
18 guess, to the concept of zero waste. And truly I think  
19 the question would be how much waste would you support,  
20 how much waste does Smurfit think is good for the  
21 environment, good for the economy.

22 Zero waste as a goal, zero waste as a mission, I  
23 think is where we really need to go. Can we get there?  
24 You know, I know at my house, we're pretty darn close. If  
25 it wasn't for plastic packaging, we'd be zero waste every

1 week. I think the issue for industrial manufacturing  
2 process is a different issue.

3 We have the tools. I think we all know we have  
4 the tools. And what you're doing now is adopting the will  
5 for it, so I hope you will.

6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.

8 George Larson followed by Jeff Sickenger.

9 MR. LARSON: Thank you, Madam Chair and Members.  
10 I also want to express appreciation on behalf of the  
11 American Plastics Council for the very diligent work that  
12 was done, and I want to note Rubia Packard in particular,  
13 for having very seriously considered the suggestions that  
14 were offered. And I think there is some distinct  
15 improvements in addressing the issues that we raised.

16 On the issue of zero waste, maybe there is a  
17 middle ground that I might suggest. I think on page ten  
18 of the document, there is a definition of zero waste that  
19 I feel very strongly accurately depicts what the Board is  
20 trying to say in terms of what zero waste means, and  
21 that's the, "Striving towards maximum waste reduction  
22 through the most efficient use of natural resources and  
23 materials and maximizing recycling."

24 My suggestion would be that the concept of that  
25 definition on page ten be integrated into the references

1 to zero waste on page five and page 25. We don't need to  
2 go obviously through that now. But I think you've  
3 addressed really what the concern was in that definition.  
4 If we could use that definition where it's used in, at  
5 least, conceptual language, that would be very helpful.

6 I definitely support and appreciate the quarterly  
7 updates language that will allow a report to the Board on  
8 the progress of the implementation, and then an annual  
9 review of that strategic plan.

10 And as my last comment on page 19, we recommended  
11 inclusion of plastics, since as the last speaker spoke, it  
12 might need some additional support for waste management  
13 technologies, where tires and solid waste management  
14 technologies are referenced in objective number 3 at the  
15 top of page 19.

16 If we could incorporate tires, plastics and solid  
17 waste management technologies, that would help to foster  
18 and engender new ways to manage that particular waste  
19 stream. And then under that section, there's objective 3  
20 on page 19, there's an A and a B subsection.

21 I would suggest the addition of a Subsection C  
22 that says, "Promote development of conversion technologies  
23 to convert waste tires and plastic into green fuel and  
24 energy."

25 Thank you very much.

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

3                   Jeff Sickenger followed by Mark Aprea.

4                   MR. SICKENGER: Madam Chair and Members, Jeff  
5 Sickenger of the California Manufacturers and Technology  
6 Association.

7                   I'd like to say on balance we feel that staff's  
8 proposed language improves the document. I'd just like to  
9 make three points as briefly as I can here.

10                  First of all, CMTA would like to thank staff and  
11 also the Board Members for being so responsive to our  
12 concerns about having opportunities for input,  
13 particularly in the context of the implementation of  
14 concepts in the plan.

15                  Secondly, on the issue of zero waste, it is  
16 reassuring to many of our members to see the new language  
17 that Mr. Larson referred to, which I think appears both on  
18 page ten and again on page 25, that talks about more  
19 efficient use of resources and an effort to reduce waste.

20                  And I think as Board Member Papanian noted in the  
21 discussion last Wednesday, a number of our member  
22 companies have made the great strides in that direction,  
23 and we certainly want to support their efforts in that  
24 regard, and in no way want to undermine the notion that  
25 they should set aggressive goals for themselves and

1 develop innovative programs to achieve them, but I feel  
2 like there's some disconnect in the discussion of zero  
3 waste, and I just want to touch on it for a minute.

4 I think it's a bit of a apples and oranges  
5 comparison for a company to set a zero waste goal for  
6 itself where it controls the decisions that affect how  
7 much waste it generates and how that waste is managed.

8 On the other hand, when certain stakeholders talk  
9 about concepts like advanced disposal fees and mandatory  
10 recycling rates and minimum content, I think it's  
11 important to recognize that these concepts are -- they  
12 take the form of mandates, they're not goals, and, in  
13 fact, they involve external factors that are typically  
14 beyond the control of the manufacturers.

15 So while we see the proposed language as an  
16 improvement, we would still prefer to see a specific  
17 reference to the need to balance the pursuit of waste  
18 reduction with other factors, such as consumer preferences  
19 and economics.

20 And, again, I'd like to support Mr. Larson's  
21 suggestion that the language on page ten and page 25 be  
22 made consistent throughout the document.

23 And then third and finally, we appreciate staff's  
24 language changes on the issue of environmental justice. I  
25 think during last week's discussion, the theme of

1 consistency with CalEPA's strategic vision document came  
2 up repeatedly, and I think it's important to note that  
3 that the CalEPA document which was issued back in, I  
4 believe, it was July of 2000, predates at least four  
5 pieces of environmental justice legislation, all of which  
6 use the SB 115 definition of environmental justice, which  
7 is fair treatment for all people.

8           And our view is that the CalEPA document probably  
9 should be updated to reflect what has since become a  
10 fairly substantial body of State law on this issue. So  
11 with that being said, with Mr. Larson's recommendation and  
12 the view that this document is sort of an ongoing work in  
13 progress, we would ask that the Board adopt this strategic  
14 plan with staff's proposed recommendation and we look  
15 forward to being a part of the implementation process.

16           Thank you.

17           CHAIRPERSON MOULTON-PATTERSON: Thank you.

18           Mark Aprea followed by Mark Murray.

19           MR. APREA: Madam Chair and Members of the Board,  
20 Mark Aprea representing Republic Services.

21           At the last board meeting in which the strategic  
22 plan was considered, we raised the issue of the strategic  
23 plan being considered in light of budget considerations,  
24 and thereby establishing priorities as to what was more  
25 important as opposed to other items.

1                   We're encouraged that there has been some  
2 discussion by the Board, as well as some discussion within  
3 the document that this strategic plan will be used in  
4 concert with the budget process. Nonetheless, the  
5 strategic plan, as adopted, is certainly ambitious and, in  
6 terms, of its effect on the Board's budget as well as the  
7 effect on municipal budgets as well as the budgets of  
8 individual residences and companies, not to mention solid  
9 waste haulers.

10                   I might suggest that while the strategic plan is  
11 certainly laudable that we haven't really come to reality,  
12 come to grips with reality in terms of strategic plan  
13 versus fiscal constraints. And so as the Board moves  
14 forward in looking at each of the individual items within  
15 the strategic plan that I, again, encourage the Board to  
16 establish some priority mechanism whereby the Board and  
17 the staff and the stakeholders can understand, you know,  
18 what's in front of the line versus what's not as high a  
19 priority.

20                   Again, thank you, members.

21                   CHAIRPERSON MOULTON-PATTERSON: Thank you.

22                   Mark Murray is our last speaker right now, but  
23 there might be one coming up.

24                   MR. MURRAY: Madam Chair and members, Mark Murray  
25 with Californians Against Waste.

1           I'll be very brief. I really appreciate the time  
2 and thoughtfulness that your staff has put into the  
3 strategic plan. And we strongly support its adoption,  
4 and, frankly, very pleased that this Board and staff has  
5 really stuck to their guns in terms of embracing this  
6 vision document and not watering it down, so it ended up  
7 meaning nothing.

8           I do want to maybe echo a point that Mr. Paparian  
9 made, and just to kind of affirm it with folks. There was  
10 a deletion of the term manufacturer responsibility. I do  
11 consider manufacturer responsibility a means of achieving  
12 product stewardship.

13           So I think that there is a commonality between  
14 those. I guess I'd like to just know that the Board feels  
15 that way and that this change this cross out of that term  
16 is in no way intended to reflect a moving back on that  
17 concept of manufacturer responsibility.

18           I would also note in terms of this notion of  
19 maybe putting plastics and plastics recycling in some  
20 special category, I would note that we have targeted tires  
21 in this State, and we've been able to put additional  
22 resources into tire waste management and tire recycling,  
23 because we have an advanced disposal fee on tires.

24           And I think that if we had an advanced disposal  
25 fee on a plastic containers, it would be very appropriate

1 for us to put that same kind of effort into plastic  
2 recycling.

3 Right now the only tool we have is manufacturer  
4 responsibility, I mean, product stewardship.

5 Thanks a lot.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

7 Domonic DeMari, I can't read it.

8 MR. DeMARI: My apologies to the Chair. My  
9 handwriting is really bad despite the nun's best effort.

10 (Laughter.)

11 MR. DeMARI: My name is Domonic DeMari. I'm with  
12 the California Chamber of Commerce. I'm here to thank the  
13 Board and the Members of the Board and staff publicly for  
14 the consideration and the work that they put in working  
15 with our organization and CMTA, whom you've heard from  
16 earlier and some of the other folks with regard to the  
17 strategic plan and with regard to the issues raised  
18 particularly the product stewardship issues and the  
19 manufacturers responsibility issues.

20 We are pleased to continue our work with the  
21 Board, and we're very happy with the direction that we're  
22 heading together and we look forward to the continued work  
23 on the strategic plan and working with the Board and  
24 staff. Once again thank you very much for your efforts in  
25 listening to us.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.

2 And I want to thank all the speakers. We really  
3 appreciate your participation and coming today and on many  
4 other occasions.

5 Members on that?

6 Mr. Paparian, do you want to start off?

7 BOARD MEMBER PAPARIAN: I'll go. A couple of  
8 comments, Mr. Larson has brought up a couple times issues  
9 involving objective 3, and on page 19 of the revised  
10 version, and I wonder if there's a different approach. I  
11 was a little bit hesitant to single out the waste streams  
12 that he identified, but I wonder if there's a way to  
13 capture some of the direction that he was hoping would go  
14 with in a different way.

15 My suggestion would be that objective 3 be to  
16 promote the increased development and use of waste  
17 management technologies rather than starting a list. He  
18 suggested adding to the list of waste tires and other  
19 things, but I think waste management technologies or solid  
20 waste management technologies would capture everything  
21 that's out there.

22 And then similarly on Strategy B, rather than  
23 singling out waste tire and solid waste management  
24 technologies, perhaps just calling that Waste Management  
25 Technologies, Innovative Waste Management Technologies.

1 ASSISTANT DIRECTOR PACKARD: Sounds good to me,  
2 if you're asking me.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: Just a question, Madam  
5 Chair.

6 So strike tire and solid waste?

7 BOARD MEMBER PAPARIAN: Right.

8 BOARD MEMBER JONES: So it just says Waste  
9 Management technologies.

10 BOARD MEMBER PAPARIAN: So we capture all the  
11 types of waste that we deal with. He was suggesting  
12 adding some waste types. The reason I don't want to do  
13 that is then you start having a long list of waste types.

14 BOARD MEMBER JONES: I don't want to add the  
15 waste types, I'm wondering, though, solid waste technology  
16 is going to be looked at as picking up of recyclables more  
17 so than the conversion technology issues that we've been  
18 dealing with. Can you think of another -- do we have --

19 BOARD MEMBER PAPARIAN: I think we have  
20 conversion elsewhere, but I could see in Letter B adding  
21 conversion technologies to that so it could read, "Foster  
22 and maintain partnerships to accelerate the development,  
23 evaluation and implementation of innovative waste  
24 management and conversion technologies."

25 BOARD MEMBER JONES: That would work. Then we

1 wouldn't have to put in C and we'd get the message out.

2 We wouldn't have to list the types.

3 CHAIRPERSON MOULTON-PATTERSON: Is that it, Mr.  
4 Paparian?

5 BOARD MEMBER PAPARIAN: That's my only suggestion  
6 for now.

7 Thanks.

8 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: Just one question on the  
10 description on 25 of zero waste. I think it was 25 and  
11 then we've got it where we put in the definition. We kind  
12 of made the definitions by bolding the word zero waste and  
13 bolding manufacturer responsibility or whatever the word  
14 was, whatever we used there.

15 If we didn't want to add that, could we at least  
16 put a thing in there that says see page 25?

17 ASSISTANT DIRECTOR PACKARD: Certainly.

18 Although, I got the impression Mr. Larson -- maybe I  
19 misheard Mr. Larson who wanted to use the definition on  
20 page five on page 25.

21 The definition on page five is very brief.

22 BOARD MEMBER JONES: I heard it the other way.

23 ASSISTANT DIRECTOR PACKARD: Yeah, I just heard  
24 it backwards then.

25 BOARD MEMBER JONES: I heard use 25 on and

1 include it with five.

2 ASSISTANT DIRECTOR PACKARD: The Definition on  
3 page 25 is more expansive and the words that we used on  
4 page five were intended to be just a very brief, a summary  
5 of what's on page 25.

6 BOARD MEMBER JONES: So I'm wondering if we just  
7 say, and I don't know the right way to do this, but if we  
8 leave it short on page five, but reference the, you know,  
9 say that it's expanded on page 25.

10 MR. LARSON: Can I clarify, I was referencing  
11 page ten.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Larson, come  
13 forward, please.

14 BOARD MEMBER JONES: Right, the definitions are  
15 on page ten. I said five, that was a mistake, ten.

16 MR. LARSON: Yes.

17 ASSISTANT DIRECTOR PACKARD: Well, it's also on  
18 page five. Page five is the message from the Board, so  
19 necessarily you'd want to keep it a little bit shorter  
20 there, but on page ten, that is again intended to be a  
21 shorter version of what's on page 25.

22 BOARD MEMBER JONES: Right. How would the Board  
23 feel about just saying see page 25 for a more broader  
24 definition?

25 CHAIRPERSON MOULTON-PATTERSON: I don't see any

1 downside in that. Does anybody else?

2 BOARD MEMBER JONES: It would just add clarity to  
3 it.

4 CHAIRPERSON MOULTON-PATTERSON: Yeah, that's fine  
5 with me.

6 BOARD MEMBER JONES: Is that okay? And we'll  
7 just do it with the reference, so they don't have to add  
8 the words or would you rather adds the words? I mean, it  
9 doesn't matter to me.

10 CHAIRPERSON MOULTON-PATTERSON: I think just see  
11 page 25 for expanded definitions.

12 BOARD MEMBER JONES: I think that would just add  
13 clarity.

14 ASSISTANT DIRECTOR PACKARD: Okay.

15 CHAIRPERSON MOULTON-PATTERSON: Anyone else?

16 Well, before we make a motion to approve this, I  
17 just want to thank Ms. Packard and her staff for such hard  
18 work in capturing what everybody wants. And I want to  
19 thank all our speakers. You know, I think this is a great  
20 document. I don't think we've watered it down, but yet  
21 we've been sensitive to industry and tried to work with  
22 everyone, and I'm real proud of it. And I think everybody  
23 involved has done a really good job.

24 So with that --

25 BOARD MEMBER JONES: Can I second your motion?

1 CHAIRPERSON MOULTON-PATTERSON: Okay, I'll move  
2 the adoption of Resolution 2001-428, the adoption of the  
3 Board's 2001 strategic plan. And I might add, I almost  
4 forgot, one of the things that we did add in here, and I  
5 think it's important, is that there is an annual review  
6 and there will be time for the public to look at it so it  
7 can -- if there's a problem, we can talk about it.

8 BOARD MEMBER JONES: I'll second it.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Motion by  
10 Moulton-Patterson seconded by Mr. Jones to approve the  
11 Board's 2001 strategic plan.

12 Please call the roll.

13 SECRETARY FARRELL: Eaton?

14 BOARD MEMBER EATON: Aye.

15 SECRETARY FARRELL: Jones?

16 BOARD MEMBER JONES: Aye.

17 SECRETARY FARRELL: Medina?

18 BOARD MEMBER MEDINA: Aye.

19 SECRETARY FARRELL: Papanian?

20 BOARD MEMBER PAPANIAN: Aye.

21 SECRETARY FARRELL: Roberti?

22 BOARD MEMBER ROBERTI: Aye.

23 SECRETARY FARRELL: Moulton-Patterson?

24 CHAIRPERSON MOULTON-PATTERSON: Aye.

25 Okay, the strategic plan is adopted.

1           Now, I believe we left off -- okay, for those of  
2 you that weren't here before lunch, it's our plan to do  
3 18, 19 and then we'll go back to seven, which we discussed  
4 and we were looking at a little different language.

5           So with that we'll go to number 18.

6           DEPUTY DIRECTOR SCHIAVO: Item number 18 is  
7 Consideration of Approval of the SB 2202 Draft Report to  
8 the Legislature Titled A Comprehensive Analysis of the  
9 Integrated Waste Management Act Diversion Rate Measurement  
10 System. And over the past year we've been providing board  
11 members with detailed updates regarding the progress and  
12 input that we received.

13           Last month we brought forward a discussion item  
14 that went through all of the details. As we mentioned  
15 several times, this has been disseminated out to over  
16 1,000 people for comment. We received about 15 different  
17 comments which have been addressed either they've been  
18 incorporated into the study or we've presented a reason as  
19 to why we did not incorporate the comment.

20           So Lorraine Van Kekerix will be presenting this  
21 item.

22           (Thereupon an overhead presentation was  
23 presented as follows.)

24           MS. VAN KEKERIX: Good afternoon, board members.  
25 Let's see if we can go to the presentation.

1 I'm going to give you a brief report on the  
2 report to the Legislature that was required by Senate Bill  
3 2202.

4 And I have plenty of staff here who can answer  
5 detailed questions. I just thought I'd briefly go over  
6 mostly the recommendations that came out of our work.

7 --o0o--

8 MS. VAN KEKERIX: SB 2202 went into effect on  
9 January 1st of this year and required the Board to analyze  
10 how the disposal reporting system is working throughout  
11 the State after five years. It required us to develop a  
12 report to the Legislature with assistance from a working  
13 group of stakeholders. And that was to include  
14 recommendations for improvement of accuracy and  
15 streamlining the system. And this report is due to the  
16 Legislature by January 1st of 2002.

17 --o0o--

18 MS. VAN KEKERIX: Almost 70 volunteers served on  
19 four working groups. We have the disposal reporting  
20 system adjustment methods and alternatives to the existing  
21 system. And then the recommendations coming out of those  
22 more focused working groups were synthesized by a group of  
23 18 people that were comprised of the members of those  
24 groups. And they represented the north, central and  
25 southern California cities and counties, haulers, the



1 --o0o--

2 MS. VAN KEKERIX: In terms of large  
3 jurisdictions, our existing diversion rate measurement  
4 system is relatively inexpensive, easy estimate or  
5 indicator of what's happening with diversion. It works  
6 reasonably well if the measurement year disposal is  
7 accurate and base year conditions are similar to the  
8 measurement year conditions. And diversion program data  
9 is important for large jurisdictions.

10 --o0o--

11 MS. VAN KEKERIX: For small jurisdictions, we  
12 found that there was a high probability of measurement  
13 error for each of the factors that goes into measuring the  
14 diversion rate. And in these cases diversion program data  
15 is important.

16 --o0o--

17 MS. VAN KEKERIX: There were seven categories of  
18 recommendations in the report, and I'm going to go through  
19 each of those briefly.

20 --o0o--

21 MS. VAN KEKERIX: In terms of accuracy, several  
22 of the recommendations deal with our disposal reporting  
23 system or DRS. One of the recommendations is to set  
24 statewide standards for collecting data.

25 --o0o--



1 MS. VAN KEKERIX: In order to improve accuracy,  
2 larger regions seem to be more accurate, so one of the  
3 recommendations is to increase incentives to form regional  
4 agencies.

5 --o0o--

6 MS. VAN KEKERIX: The adjustment factors were  
7 another topic discussed in terms of accuracy. In terms of  
8 default factors, the factors that are currently on the  
9 Board's web site, the recommendation is to continue to use  
10 those factors and to carefully analyze alternative sources  
11 of information for the adjustment method on a case-by-case  
12 basis.

13 --o0o--

14 MS. VAN KEKERIX: One of the things that the  
15 working group felt very strongly about was the need to  
16 look at ways other than numerical compliance to determine  
17 whether they've met their objectives of the Integrated  
18 Waste Management Act.

19 The recommendation was to include a diversion  
20 rate accuracy indicator table in the biennial reviews  
21 agenda items that are coming to the Board. This would  
22 give the Board information that it could use to determine  
23 the balance between relying on diversion rates and program  
24 information.

25 Some of the accuracy indicators that could be

1 included in such a table would be the ones that are listed  
2 on the slide. There are additional measures that could  
3 also be included if the Board wants to recommend that.

4 --o0o--

5 MS. VAN KEKERIX: Another category that the  
6 working group felt very strongly about was that  
7 jurisdictions have the responsibility for meeting the  
8 requirements of the act but may not have control over all  
9 of the waste stream. So some of the recommendations to  
10 spread the responsibility include the following. Make  
11 solid waste facility participation in the disposal  
12 reporting system a permit requirement. Currently transfer  
13 stations are required in their facility permits to  
14 participate in the disposal reporting system but landfills  
15 are not.

16 Draft a model local ordinance to require haulers  
17 to report origin information; remove institutional  
18 barriers to establishing diversion programs and  
19 facilities.

20 --o0o--

21 MS. VAN KEKERIX: Require disposal facilities to  
22 divert self haul waste; and require schools and State  
23 agencies to divert waste in cooperation with  
24 jurisdictions.

25 Existing law encourages them to divert in

1 cooperation with jurisdictions. This would be stronger  
2 and would require them to cooperate.

3 --o0o--

4 MS. VAN KEKERIX: Another major category under  
5 responsibility and control was looking at enforcement.  
6 Some of the recommendations we're authorizing an  
7 assessment of penalties for misinformation by haulers,  
8 landfills, MRFs of transfer station. And after extensive  
9 discussion in the working group, the recommendation was  
10 that the Board be responsible for enforcement and  
11 assessment of penalties.

12 --o0o--

13 MS. VAN KEKERIX: Another major category for our  
14 working group was that markets were essential to diversion  
15 programs, and they recommend that the Board develop  
16 markets through a variety of activities and mandate more  
17 recycled content products.

18 --o0o--

19 MS. VAN KEKERIX: We also request to change what  
20 counts as disposal and diversion, and there are several  
21 recommendations in this category. Eliminate disposal  
22 counting inconsistencies. You've heard several people  
23 speak to that this morning dealing with the inerts issue.  
24 And additionally, we've been asked in our working groups  
25 to deal with special waste issues differently as well.



1 working group and staff recommendations are included in  
2 the table. The Board recommendations may differ from both  
3 of those two groups.

4 --o0o--

5 MS. VAN KEKERIX: We see that the options the  
6 Board has is to approve the report and the recommendations  
7 in it, approve a modified report and modified  
8 recommendations or direct staff to modify the report and  
9 recommendations and bring it back to the Board for  
10 consideration in December.

11 --o0o--

12 MS. VAN KEKERIX: Once we get the Board's  
13 recommendations, the next steps in order to get this to  
14 the Legislature and to implement any Board recommendations  
15 are to direct staff to work with the Office of Public  
16 Affairs and Legislative Office to forward the report to  
17 CalEPA and the Legislature, and for implementation to  
18 direct staff to develop a workplan to implement the Board  
19 recommendations and present that workplan for board  
20 consideration in the near future.

21 Any questions?

22 CHAIRPERSON MOULTON-PATTERSON: Questions?

23 We do have a speaker and then we'll come back.

24 Dave Ault, Republic Services.

25 MR. AULT: Good afternoon, Madam Chairman and

1 Board Members.

2 I want to first thank the staff for allowing me  
3 the opportunity to be on the disposal reporting group in  
4 working with the synthesis group. It was a really  
5 enjoyable experience working with people from throughout  
6 the entire State.

7 There are two things that I would like to share  
8 with you that I feel are very important and probably need  
9 a little additional highlight.

10 They're both fairly easy to address. First,  
11 would be the incentives or removing disincentives for  
12 regional reporting agencies. In all of our research we  
13 found out that the larger the jurisdiction reporting area  
14 the more accurate the information. And, quite frankly,  
15 with over 500 -- close to 550 reporting jurisdictions in  
16 California, we're subject to pretty extreme ebbs and flows  
17 of tonnage reporting.

18 So whatever we can do to encourage  
19 regionalization reporting, I think it would be extremely  
20 beneficial to the accuracy of our data for the disposal  
21 reporting systems.

22 I would just like to give you one example in  
23 Orange County. The cities of Fountain Valley and  
24 Huntington Beach are both served by the same hauler,  
25 Rainbow Disposal. They both have identical programs and

1 the cities are contiguous to each other. Yet one city is  
2 in compliance and the other city, preliminary numbers is  
3 noncompliance.

4           If this was a regional reporting agency, both  
5 cities would be in compliance and you'd have half the  
6 paperwork. And, again, one less city for board and staff  
7 members to deal with. So I think there's some natural  
8 fits in here that would be excellent statewide.

9           We have a number of jurisdictions ourself that  
10 we've combined. The problem is each city thinks their  
11 trash is better than the next city's trash, so there needs  
12 to be some incentive as elected folks, which most of you  
13 are. You know that we always think that our city, our  
14 jurisdiction is the best. But as a trash man and being  
15 one of the token trash members of the working groups, I  
16 can tell you that trash is very similar, but it's very  
17 difficult to tell city officials that.

18           (Laughter.)

19           MR. AULT: But, again, if there's anything the  
20 Board can do as far as incentives, be it monetary to help  
21 the cities in their legal costs of putting this together  
22 or possibly even with three or more jurisdictions together  
23 allow some kind of incentive on the numerical compliance.  
24 It would be a very good idea, and again from a hands-on  
25 approach, I think it made a lot of sense.

1           And, again, trying to be brief, the other one  
2 which is near and dear to my heart, and I follow the rain  
3 at a symposium last week on this and that's inert disposal  
4 reporting.

5           I don't if you've got a copy of what I prepared  
6 for you for Orange County, but for years I thought inert  
7 disposal reporting, a new way in reliance bid, was  
8 consistent statewide and not really until I got on this  
9 committee or disposal reporting committee to find out that  
10 these facilities were reporting differently than the rest  
11 of the State, material handled exactly same way.

12           I don't advocate that inerts that are put into a  
13 mixed waste disposal should not count. They should. In  
14 fact, they should probably count three or four times, so  
15 you shouldn't put them there at all.

16           But if you use for land or mine reclamation inert  
17 material, it shouldn't count on the disposal reporting  
18 system. It also was removed from the SREs in our base  
19 year tonnage. Any diversion credit or any disposal  
20 amounts were removed in our original documents to you.

21           So to pile with inerts that are going to these  
22 three facilities or Orange County cities, and I've listed  
23 them all there, basically adds about a five percent burden  
24 to Orange County, because none of the cities in Orange  
25 County have this material in their base year

1 consideration.

2           Now, at 176,000 tons in 2000, if you would look  
3 at about a \$50 cost of diverting material, that's an  
4 annual cost to the rate payers of about \$9 million for  
5 what I consider a very unfair reporting system. Now, I  
6 understand by statute we're required to do this under the  
7 current conditions because these facilities are permitted  
8 landfill sites.

9           But they were permitted for basically the San  
10 Gabriel River basin water concerns not on disposal  
11 concerns of reporting.

12           So, again, whatever we can do in our report under  
13 SB 2202 to correct this, it would be greatly appreciated.  
14 And the example, again, I showed you, there are four  
15 cities in Orange County that are not in compliance now,  
16 that would be in compliance if inerts were removed from  
17 the system. And, again, finally, I don't want to be  
18 negative, it was a great experience and I hope some of our  
19 recommendations will help with the disposal reporting  
20 system.

21           Thank you.

22           CHAIRPERSON MOULTON-PATTERSON: Thank you.

23           John Davis followed by Mike Mohajer.

24           MR. DAVIS: Madam Chair and Board, John Davis  
25 Mojave Desert Mountain Integrated Waste Management

1 Authority. I was fortunate enough to be able to  
2 participate on the alternatives working group, and on the  
3 synthesis group. And I really want to commend you for  
4 initiating that effort and Lorraine and all the staff that  
5 we got to know and work with.

6 I think you have the opportunity here to develop  
7 a document in this report to the Legislature that would  
8 really go a long way to building consensus amongst all the  
9 groups that participated in this process.

10 I don't know the final count, how many people  
11 were involved in these working groups, but there was a lot  
12 of discussion. There was a lot of exchange of knowledge  
13 and information, and people spoke very candidly and very  
14 patiently. And the recommendations that came forward  
15 didn't come out of a void, they came out of a lengthy  
16 process. And we don't agree with staff on some of the  
17 recommendations that you're going to have to resolve. I'm  
18 not sure you form one, a particular one, where the entire  
19 synthesis group said no and the staff recommendation is  
20 yes.

21 You're going to have to resolve that sort of  
22 thing to send it forward, and clearly there's a lack of  
23 consensus. But you look beyond a few instances like that  
24 and we have the opportunity here to all stand together  
25 with some recommendation of some problems and some

1 solutions to the problems.

2           And you've heard me many times encourage you to  
3 look to the zone administrators, work with us on market  
4 development issues. We do that daily. We think about it  
5 all the time. We do it at the local level. And I would  
6 say that was a big reason that I was in this group.

7           I think what you've done here is start some  
8 dialogue and some process and some consensus building and  
9 ways to go forward that really is noteworthy, and I hope  
10 that we'll all have a chance to continue having some input  
11 to it. But I hope that you look at the whole document  
12 with the thought and the effort that went into it.

13           So thank you for the opportunity.

14           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
15 Davis.

16           Mike Mohajer, LA County Public Works.

17           MR. MOHAJER: Madam Chair and Members of the  
18 Board, my name is Mike Mohajer with LA County Public  
19 Works. Like the previous speakers, I also want to thank  
20 the Waste Board, Pat and Lorraine and their staff for  
21 doing a tremendous amount of work putting this report  
22 together.

23           And overall we are in support of the document.  
24 There are a couple of items that we have various issues  
25 with in the past, and we'd like it to be addressed in the

1 report.

2           The first one really gets involved with the issue  
3 of the accuracy and the margin of error with the disposal  
4 reporting system that really it has not been addressed.  
5 The problem that we have for this issue not being  
6 addressed goes back to the enforcement policy that the  
7 Waste Board has adopted that measures the jurisdiction's  
8 compliance on two items, one, achieving mathematical  
9 compliance and implementing the programs that are listed  
10 in the SRRE.

11           So if you don't know the margin of errors and the  
12 disposal reporting systems, so how can you measure the  
13 jurisdiction's achievement of 50 percent?

14           So we believe as a part of addressing the problem  
15 for the disposal reporting system, the margin of error has  
16 got to be addressed in the report. And hopefully as we  
17 move forward, the Board and the staff will consider this  
18 matter and try to establish some kind of mechanism.

19           The second issue is in reference to the executive  
20 summary. There is a certain statement that has been made  
21 both by the working group, the synthesis group and the  
22 staff as well. And I'm just going to hope and pass the  
23 statement that we'd like to be also included in the  
24 executive summary. And I'm going to quote -- and this is  
25 listed on the page 3-5 and 3-6 of the 1026 Reports.

1                   Quote, "The working group believes  
2                   that more emphasis should be put on  
3                   diversion programs than on disposal,  
4                   tonnage and diversion rates. The group  
5                   feels that the Board should recognize  
6                   that there is the potential for  
7                   significant errors in the disposal  
8                   reporting system. The disposal  
9                   reporting system is an estimate of  
10                  jurisdiction disposal, and therefore the  
11                  numbers should be used solely as an  
12                  indicator rather than as an exact  
13                  measurement of the jurisdiction's  
14                  progress toward meeting their diversion  
15                  goal.

16                  "The Board should look at diversion  
17                  rates as an indicator and focus on  
18                  diversion programs, implementation and  
19                  good faith efforts. Board staff  
20                  supports this recommendation" period,  
21                  end of quote.

22                  This is pretty important. And the reason that we  
23                  are emphasizing this is generally when you look at the  
24                  report the decision makers are going to be looking at the  
25                  first few pages or maybe the first page to get some sense

1 of the report. And that's why we believe this statement  
2 is pretty important to be included in the executive  
3 summary, even though it is in the report.

4           So having said those two, we believe the report  
5 has done a fairly good job. And it's from a personal  
6 standpoint I've been coming before this Board for the past  
7 two and a half to three years. And going back to June of  
8 1999, I keep talking about the problem in the disposal  
9 reporting system.

10           So it sort of looks like that there may be a  
11 light at the end of the tunnel. I don't know what is  
12 going to happen with the report. It hopefully is not  
13 going to go sit on the shelf and collect dust.

14           But having said that, that pretty much concludes  
15 my discussion as far as the public works is concerned.  
16 But I also got a letter from the City of Arcadia that they  
17 would like me to read it into the record. But I'd try to  
18 save time, if you don't mind, I have distributed a copy.  
19 They would like it to be included.

20           CHAIRPERSON MOULTON-PATTERSON: We received it.

21           MR. MOHAJER: And having said that, I just want  
22 to read the last paragraph of the statement that the City  
23 of Arcadia made, which pretty much goes again with the  
24 issue of inert waste and the depleted gravel pit that's  
25 being used for a landfill that was discussed this morning

1 on Item 16. Dave Ault says, and he said it pretty well,  
2 and this is what this letter also says.

3                   "The City of Arcadia strongly urges  
4                   the California Integrated Waste  
5                   Management Board to include the  
6                   recommendation of excluding inert  
7                   materials not subject to the Board of  
8                   Equalization fee and disposed at a mine  
9                   reclamation facility from the disposal  
10                  reporting system including those  
11                  permitted in Los Angeles county into the  
12                  SB 2202 report to the Legislature."  
13                  Thanks very much.

14                  CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
15 Mohajer.

16                  Before I bring it back to our board members for  
17 comments and/or action, I did want to thank Ms. Van  
18 Kekerix.

19                  MS. VAN KEKERIX: Lorraine.

20                  CHAIRPERSON MOULTON-PATTERSON: And Mr. Schiavo.  
21 And also I would like to recognize all of the people that  
22 have worked on it. I understand in the back row there's a  
23 lot of people, would you stand and let us recognize you,  
24 because this was a big job. The back row, didn't you work  
25 on it?

1 Well, everybody who worked on it stand up and let  
2 us give you a big hand.

3 (Applause.)

4 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
5 much to all of you, the working group, the staff it really  
6 was quite an effort.

7 And with that other comments, motions?

8 BOARD MEMBER JONES: Madam Chair.

9 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: I think that staff, even the  
11 bashful ones in the back, did a great job as well as all  
12 the stakeholders.

13 I do think that -- I'll be more than happy to  
14 make the motion. I'd like to see -- there are some  
15 recommendations that probably need to happen sooner than  
16 later. So I'm wondering if there is a plan or if you need  
17 some direction to look at some of these items that either  
18 board members have talked to you about or whatever.

19 I think the idea of going in and working with  
20 local jurisdictions or operators on the importance of DRS  
21 and what that means is something that we ought to try to  
22 think about how we can do.

23 You may want to talk to, you know, Rubia and Don  
24 Dier. I mean they've got part of a training program.  
25 Maybe some of that can be incorporated, I don't know.

1                   But I think that the more that the operators  
2 understand the importance of the DRS system, the better  
3 it's going to be as far as it coming full circle so that  
4 you're getting better data, because they'll appreciate how  
5 important it is.

6                   And I think maybe we do, if it's not already in  
7 here, maybe we do need to at least put a sentence or two  
8 in about looking at the inert issues that are in that San  
9 Gabriel Valley, I don't know.

10                  CHAIRPERSON MOULTON-PATTERSON: I would like to  
11 see that added.

12                  BOARD MEMBER JONES: You want to see that. And  
13 just say that we want to look at the fact that there's  
14 three permitted facilities that take inert waste and by  
15 statute we have to account for that material. It is  
16 creating a problem. You know, some folks think we  
17 shouldn't count it as either disposal or diversion, which  
18 is -- if we made it neutral, it would be consistent with  
19 the other 18 facilities. But is there --

20                  MS. VAN KEKERIX: We have two places in here  
21 where we refer to the upcoming construction and demolition  
22 regulations as a place to address that. Do you want to --

23                  BOARD MEMBER JONES: We may want to just  
24 highlight -- put it in the report to highlight that, that  
25 we may need to do a legislative fix, if we can't figure

1 out another way to do it. Isn't that what this report is  
2 for, is to give them a heads up?

3 CHAIRPERSON MOULTON-PATTERSON: Yes.

4 BOARD MEMBER JONES: Well, I'm not advocating how  
5 it needs to be fixed, just to make the Legislature aware  
6 that we are faced with an issue of three out of 19  
7 facilities that get treated differently.

8 CHAIRPERSON MOULTON-PATTERSON: Yes, definitely.

9 Thank you.

10 Mr. Papanian, did you want to make the motion or  
11 did want to speak to it first?

12 BOARD MEMBER PAPANIAN: Yeah. I just had a  
13 couple quick things. As long as the wording on that is  
14 neutral as to what we ultimately want to see happen,  
15 that's fine with me.

16 BOARD MEMBER JONES: Just to make them aware of  
17 the issue, Mr. Papanian.

18 BOARD MEMBER PAPANIAN: And then I also wanted to  
19 mention, you know, Mr. Mohajer sent us a series of letters  
20 complaining about different things not being included in  
21 here. And just for the record, I've looked through his  
22 letter very carefully. I've looked through the document,  
23 and Mr. Mohajer I feel like your issues have been  
24 addressed, but perhaps not in the way that you want them  
25 addressed.

1 I think Mr. Larson could probably verify that  
2 sometimes we do deal with issues but not always in the way  
3 that advocates for one cause or another like to see them  
4 addressed. Just in defense of the staff, you know, as I  
5 look through the document I think that they considered the  
6 concerns of the county of Los Angeles and incorporated  
7 them in the best way that they thought appropriate. And  
8 as I read the document, I see them reflected in the  
9 document itself.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
11 Papanian.

12 Mr. Jones.

13 BOARD MEMBER JONES: Madam Chair, with those just  
14 couple of suggestions, I'd like to move adoption of  
15 Resolution 2001-450, consideration of approval of the SB  
16 2202 draft report to the Legislature titled, A  
17 Comprehensive Analysis of the Integrated Waste Management  
18 Act Diversion Rate Measurement System.

19 BOARD MEMBER MEDINA: Second.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
21 motion by Mr. Jones seconded by Mr. Medina to approve  
22 Resolution 2001-450.

23 Please call the roll.

24 SECRETARY FARRELL: Eaton?

25 BOARD MEMBER EATON: Aye.

1 SECRETARY FARRELL: Jones?

2 BOARD MEMBER JONES: Aye.

3 SECRETARY FARRELL: Medina?

4 BOARD MEMBER MEDINA: Aye.

5 SECRETARY FARRELL: Papanian?

6 BOARD MEMBER PAPANIAN: Aye.

7 SECRETARY FARRELL: Roberti?

8 BOARD MEMBER ROBERTI: Aye.

9 SECRETARY FARRELL: Moulton-Patterson?

10 CHAIRPERSON MOULTON-PATTERSON: Aye.

11 Motion approved.

12 Number 19.

13 DEPUTY DIRECTOR SCHIAVO: Okay. Item number 19

14 is Consideration of Action on the Submittal of Integrated

15 Waste Management Plans as Required by AB 75 That Have Been

16 Deemed Incomplete for the Following State Agencies and

17 Large State Facilities. These include the 3, California

18 School for the Deaf in Fremont; Rio Hondo Community

19 College; and Sierra Joint Community College District and

20 Campus.

21 And Al Chaney will be making this presentation.

22 MR. CHANEY: Good afternoon, Madam Chair and

23 Members of the Board.

24 CHAIRPERSON MOULTON-PATTERSON: Good afternoon.

25 Sorry.

1           MR. CHANEY: My name is Al Chaney and I will be  
2 making the presentation on Agenda Item number 19.

3           (Thereupon an overhead presentation was  
4 presented as follows.)

5           MR. CHANEY: Before I get started with my  
6 presentation, I just would like to mention that my  
7 presentation is based on previous agenda items of a  
8 similar nature and will be consistent within those  
9 particular formats for State agencies that have submitted  
10 incomplete plans.

11           The item is consideration of the action of the  
12 submitted Integrated Waste Management Plans as required by  
13 AB 75 that have been deemed incomplete for the following  
14 State agencies, again, just to review, California School  
15 for the Deaf, Fremont; Rio Hondo Community College, Sierra  
16 Joint Community College District.

17           To summarize, the Public Resources Code 42920  
18 requires each State agency to submit an integrated waste  
19 management plan. To date, approximately 462 agencies have  
20 submitted integrated waste management plans, three  
21 previously mentioned State agencies following the category  
22 of those that have submitted incomplete integrated waste  
23 management plans.

24           Notwithstanding the Public Resources Code Section  
25 42920, provides that if State agencies have not completed

1 Integrated Waste Management Plans submitted or if they are  
2 found to be incomplete by the staff, here at the  
3 Integrated Waste Management Board, then it requires our  
4 staff to work in consultation with the State agency  
5 affected to submit a complete integrated waste management  
6 plan.

7           Previous action by the Board. May 23rd, the year  
8 2000, the Board basically approved procedures for  
9 approving and reviewing integrated waste management plans.

10           With that, there are several options that are  
11 available basically before the Board. As provided in  
12 Public Resources Code 42920, we could find that the  
13 following submitted integrated waste management plans to  
14 be incomplete and to also disapprove them. Within this  
15 also, the option is to have staff direct -- for the Board  
16 to have staff to work with the State agencies to  
17 facilitate and adopt an integrated waste management plan  
18 with consultation with the Board and also with the State  
19 agencies affected.

20           Another option is that the Board can approve the  
21 submitted integrated waste management plan and direct  
22 staff to work with the State agencies in preparing them  
23 for the upcoming annual report, which is due on April 1st,  
24 the year 2002.

25           Another option that the Board basically has

1 available is to notify that the State agency and large  
2 facilities that a letter will be sent to the Governor and  
3 to the Legislature notifying them of the action basically  
4 of noncompliance.

5 Or another option for the Board basically is that  
6 the Board basically can take no action and direct staff  
7 until the December board meeting.

8 Based upon this, staff's recommendation is for  
9 number one and that would be to provide, that is provided  
10 within the Public Resources Code number 42920, find the  
11 submitted integrated waste management plans incomplete and  
12 disapprove them, and also to direct staff to work with the  
13 State agencies and large facilities within consultation to  
14 submit and approve an integrated waste management plan.

15 This basically concludes my presentation.

16 Are there any questions?

17 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
18 Chaney.

19 Any questions?

20 BOARD MEMBER JONES: Madam Chair.

21 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones?

22 BOARD MEMBER JONES: I'll move adoption of  
23 Resolution 2001-448 consideration of action on the  
24 submittal of integrated waste management plans as required  
25 under AB 75 that have been deemed incomplete for the

1 following State agencies and large facilities.

2 BOARD MEMBER MEDINA: Second.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
4 motion by Mr. Jones seconded by Mr. Medina to approve  
5 resolution 2001-448, option one.

6 Please call the roll.

7 SECRETARY FARRELL: Eaton?

8 BOARD MEMBER EATON: Aye.

9 SECRETARY FARRELL: Jones?

10 BOARD MEMBER JONES: Aye.

11 SECRETARY FARRELL: Medina?

12 BOARD MEMBER MEDINA: Aye.

13 SECRETARY FARRELL: Papanian?

14 BOARD MEMBER PAPANIAN: Aye.

15 SECRETARY FARRELL: Roberti?

16 BOARD MEMBER ROBERTI: Aye.

17 SECRETARY FARRELL: Moulton-Patterson?

18 CHAIRPERSON MOULTON-PATTERSON: Aye.

19 Okay. That brings us back --

20 MR. CHANEY: Thank you, Madam Chair and Board  
21 Members.

22 CHAIRPERSON MOULTON-PATTERSON: Okay, I'm sorry.

23 Thank you.

24 Who's speaking?

25 Oh, okay, thank you.

1           Sometimes I can't hear where the voice is coming  
2 from.

3           Okay, thank you. As many you know that were here  
4 this morning, we did trail Item number 7 to the end of the  
5 meeting, and we've gotten some revised language on it, but  
6 I also have a speaker's slip, but I'll turn it over to  
7 you, Ms. Jordan, and then to Ms. Avila.

8           DEPUTY DIRECTOR JORDAN: Yes, thank you. Good  
9 afternoon, again. Madam Chair and Board Members, Terry  
10 Jordan with the Executive, Administration and Finance  
11 Division returning for further discussion on Item 7,  
12 Consideration of Approval of Selected Grant Scoring  
13 Criteria, Evaluation Methods and Processes for all  
14 Competitive Grant Programs.

15           As requested this morning, Members have been  
16 provided with a copy of the June 9th, 1999 Board adopted  
17 Resolution number 1999-157, revised, to address the  
18 Integrated Waste Management Board's in-house waste  
19 reduction and recycled content and product procurement  
20 policy.

21           The policy does address grant programs. The  
22 third bullet from the bottom with regards to, "Where  
23 appropriate and feasible, the Board shall require grant  
24 recipients to use recycled content, recyclable or reusable  
25 products or practice other waste reduction efforts" or

1 "measures," excuse me.

2 That being said, staff has amended the resolution  
3 for Item 7 number 2001-464 to reflect the revisions not  
4 previously incorporated and to address the Board's  
5 discussion this morning on green procurement, geographic  
6 distribution and tied scores. And I believe those have  
7 been distributed also.

8 Revisions to those areas or the resolution  
9 include setting a standard with consideration for  
10 flexibility by the Board for program staff to address the  
11 variety of program requirements and subscription of grant  
12 programs.

13 The changes include language also that requires  
14 that staff present justification at the time the scoring  
15 criteria and evaluation process is brought to the Board  
16 for approval. Sara Avila will continue to present the  
17 other items that we didn't finish on number 7.

18 MS. AVILA: Sara Avila with the Financial and  
19 Assistant Branch.

20 The third item, the green procurement, what we're  
21 going to recommend for the new recommendations for the  
22 green procurement is the Board grant scoring criteria form  
23 shall be revised to reflect the green procurement policy.

24 The evaluation criterion, evidence that a green  
25 procurement policy should be valued at 15 percent of the

1 total points used to determine eligibility, whether that  
2 determination is made solely upon the general review and  
3 scoring criteria, a combination of the general review and  
4 scoring criteria, and program scoring criteria or any  
5 other methods used by board staff.

6           Any deviation of the 15 percent evaluation would  
7 require Board approval at the time the criteria and  
8 evaluation process agenda item is presented. Staff shall  
9 describe any proposed deviation from this requirement in  
10 the agenda item and verbally during the presentation of  
11 the item requesting board approval of the scoring criteria  
12 and evaluation process.

13           The fourth item is geographic distribution of  
14 funds. Where grant programs have not received sufficient  
15 applications to support the geographic distribution of  
16 funds, then the most qualified applicants, regardless of  
17 vocation, will be funded. On occasion, the Board directed  
18 applications be divided and awarded based on the  
19 Department of Finance's figures on the geographic  
20 distribution of the State's population.

21           Staff recommends the Board direct staff to award  
22 grants to the highest ranking proposals based upon the  
23 geographic distribution of State's population as  
24 determined by the Board approved general review evaluation  
25 criteria process.

1           If approved by the Board, staff will use the most  
2 current Department of Finance estimated population  
3 figures. If grant staff believes that the fundamental  
4 purpose of the grant would not be served by the geographic  
5 distribution, then grant staff must present justification  
6 at the time the scoring criteria and evaluation process is  
7 presented to the Board for approval.

8           The last item is tied scores. All proposals are  
9 ranked according to the total number of evaluation points  
10 received. On occasion, grant requests among applicants  
11 with tied scores exceeding the remaining funding can be  
12 available. Grant staff part of the scoring criteria and  
13 evaluation process have requested Board approval for a  
14 random number generation system to pit the applicants for  
15 funding.

16           Another method which has proven effective has  
17 been for the Board to divide the remaining funds among the  
18 tied applicants. As an alternative to these processes, it  
19 was suggested at the August 2001 board meeting that in the  
20 event of a tied score, the Board should determine how the  
21 remaining funds should be distributed.

22           Staff recommends at the time program staff brings  
23 this scoring criteria and evaluation process forward for  
24 approval, the Board will determine how tied scores will be  
25 broken. Where grant requests among applicants and tied

1 scores exceed funding availability, the ties shall be  
2 brought forward to the Board in an agenda item and the  
3 Board shall make the determination of which applicant  
4 shall receive the award, as long as staff has made the  
5 determination that the scaling down of the proposed  
6 projects resulting in decreased grant requests could not  
7 be accomplished successfully.

8 This concludes my presentation.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
10 Avila. And I apologize for having to break your  
11 presentation in two. We appreciate you coming back this  
12 afternoon.

13 Any questions or comments before the speakers,  
14 one speaker?

15 Mr. Eaton.

16 BOARD MEMBER EATON: I just have one question  
17 with regard to tied scores. At the time program staff  
18 brings the scoring criteria and evaluation process  
19 forward, isn't that where we are right today? We're  
20 trying to set up the criteria, are we not, the scoring  
21 criteria? So today is the day we have to determine how  
22 the ties are being broken under this language.

23 DEPUTY DIRECTOR JORDAN: What we're --

24 BOARD MEMBER EATON: It says right here, aren't  
25 we talking about scoring criteria today?

1 DEPUTY DIRECTOR JORDAN: Yes, we are.

2 BOARD MEMBER EATON: So today we have to  
3 determine how the ties are going to be broken under this  
4 language.

5 CHIEF COUNSEL TOBIAS: May I try to answer?

6 BOARD MEMBER EATON: Let me just finish here,  
7 Counsel. You know, we had it right when we talked this  
8 morning. This is an issue, you don't have to complicate  
9 it with the process. This is a very fair issue that I  
10 believe that we, as six board members, can make up our own  
11 minds. This is simply that if you have 15 successful  
12 applicants who have a passing score and there's limited  
13 amount of funds, then we as a board ought to be able to  
14 determine it because the grants are up to \$25,000 or up to  
15 \$50,000.

16 We ought to be able to make a determination, the  
17 six of us, as to how we think fairly and equitably these  
18 funds ought to be distributed, based upon if they receive  
19 a passing score. We do not need to get into a situation  
20 where the process is submerged within the bureaucracy.  
21 It's the sunshine process, and the sunshine process says  
22 if there's ties or it's only your recommendation as to  
23 what should we fund it at what level, then we as a board,  
24 which we've done successfully in the past, try to reach  
25 some accommodation on what programs are worth it.

1           I mean, we did it with regard to the issue in  
2 Santa Cruz. We've done it with the issues with Oil and  
3 Tire. I don't think we have to complicate it. The issue  
4 is is that there's ties and passing scores. It's up to  
5 the Board to determine how the funds should be distributed  
6 and under what is an equitable manner.

7           That is not a process by which can be challenged.  
8 In fact, if anything, it's a much more open process,  
9 because it would be done in a public forum not with some  
10 sort of scoring criteria made up of individuals who are  
11 faceless.

12           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
13 Eaton.

14           Ms. Tobias.

15           CHIEF COUNSEL TOBIAS: I think just to try to  
16 clarify the purpose of this board agenda item is to set  
17 out some policies that will apply to the criteria that are  
18 important. On each grant that comes forward, we always  
19 set out different levels or different types of criteria.  
20 So what this particular item is saying is that when each  
21 one comes forward, staff would, at that time, bring it  
22 forward, and these would be discussed.

23           So I wasn't sure that I quite understood what you  
24 said on the last one, Mr. Eaton, that these would come  
25 forward.

1           The other point that I'd bring up that the legal  
2 office feels on this issue of the ties is that if the  
3 Board does want to decide ties, we feel that the criteria  
4 that you're going to use to decide those ties would need  
5 to be set out at the beginning when you decide these  
6 criteria. Otherwise, the applicants in the processes  
7 really have no way of knowing what that final  
8 determination might be in terms of what things might turn  
9 on.

10           So what we are trying to do is set out a process  
11 in this full agenda item that is fair, is equitable, that  
12 the applicants have as much information as possible, that  
13 the Board has a maximum ability to set out the criteria  
14 and really determine at the very start how the process is  
15 going to work, and what's important to them and perhaps  
16 what's not so important.

17           CHAIRPERSON MOULTON-PATTERSON: Wouldn't it be  
18 less complicated just, you know -- with respect to you,  
19 Ms. Tobias, but couldn't we just say ties will be decided  
20 by the Board? We are a public board. That's why we were  
21 appointed. We represent different sections. I don't  
22 understand why that can't just be said.

23           CHIEF COUNSEL TOBIAS: It can. I think that's  
24 why I said it's the legal office's opinion that what  
25 probably would be most fair and with as much information

1 as possible to applicants is to know how the Board might  
2 make that decision. The way we've done in the past has  
3 either been a random -- as far as I remember, is either a  
4 random approach or I think a lot of times the Board has  
5 basically taken the remaining money and tried to make sure  
6 that the applicants who are tied at the bottom have gotten  
7 something.

8 Sometimes that works and sometimes it doesn't, if  
9 they can't, you know, make enough of a project out of that  
10 money.

11 I think what the Board might have trouble with is  
12 when they get to that is how to choose among, you know,  
13 two applicants at the bottom as to A or B whether who's  
14 going to get that money.

15 CHAIRPERSON LLOYD: Senator Roberti.

16 BOARD MEMBER ROBERTI: We're not talking about a  
17 situation where we're starting from the beginning. We are  
18 talking about now the very fine tuning of splitting a  
19 hair. And as long as we're doing it publicly, making a  
20 hopefully rational decision as to how we reach what we  
21 reach, I may want to weigh, because of my articulating  
22 feelings, one of the criteria much stronger than Mr. Eaton  
23 who wants to weigh another one and we just voted it out.

24 I think counsel's position, and I respect her  
25 caution, but I think counsel's position is really based

1 somewhat on the premise that we're starting from the  
2 beginning. We aren't. So I feel safe that we can decide  
3 a tie as long as we can justify it upfront, based on,  
4 well, I want to stress criterion A because of the  
5 conditions that existed on September, whatever the day,  
6 the 13th, 2001, and, you know, I feel comfortable in doing  
7 that.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
9 Senator.

10 SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:  
11 Excuse me.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

13 BOARD MEMBER JONES: Thank you. I appreciate  
14 that, and I support that 100 percent. We've sat at this  
15 dais before on a couple of grants and really looked at  
16 them and asked an applicant or told an applicant that we  
17 thought it needed to be reduced a little bit to free up  
18 money to take care of four or five others. And it's funny  
19 because really what we're talking about here is who has  
20 the choice, us or them.

21 But that's how that broke down just a minute ago.  
22 So I think we get paid to make that choice. So I think it  
23 needs to come up here and, you know, we'll do a little  
24 fandangling and see what we can do and hopefully get the  
25 money to a few more people than we could have.

1           I don't support taking -- I mean as long as  
2 they're numbered, they need to come in numbered, we keep  
3 them in that order, and then if there's four at 70, then  
4 those are the ones we play with, not 71, because 71 scored  
5 higher. So I mean under that, I have no problem.

6           One of the things I'd like to bring up, Madam  
7 Chair, is I talked to Jerry Hart a little bit about some  
8 stuff he's putting together for the State buy-recycled  
9 program, that may be helpful for Admin. In fact, he may  
10 be working with Admin on that. And, Jerry, I don't mean  
11 to steal your thunder, but I thought it was a heck of an  
12 idea.

13           That he's actually got a little matrix to not  
14 only -- for people that say they've got a green  
15 procurement program, but identify what they're doing. It  
16 might be worth working with Mr. Hart, and, Jerry, I really  
17 apologize if you were going to bring this forward, but it  
18 is a heck of an idea and it needs to be looked at. And he  
19 just caught me as we were walking in here.

20           And the other thing is, I think all of the deputy  
21 directors are kind of responsible for their own grants and  
22 stuff. And as part of this we may want to say they can be  
23 responsible for the grants, but Admin has to look over  
24 them and make sure that the criteria meets what the Board  
25 wants or something like that. I guess it's a delegated

1 authority of Mr. Leary. But, you know, Admin is getting  
2 beefed that people aren't following the criteria, but it's  
3 not Admin that's got control over those grants. It's  
4 those individual departments.

5           So, you know, and I have no problem with beefing  
6 them out, but I'm just saying if we're going to, we ought  
7 to say that they've got either some kind of an  
8 administrative check off that it's met all the criteria,  
9 and that might -- I mean, Mr. Leary, I'm not trying to get  
10 into your business. I mean this is your decision to make,  
11 but it would be more consistent for this Board, because we  
12 see grants and contracts from every division. And so  
13 there is not one person to hold accountable for that  
14 structure.

15           And if we said that Admin had to alternately make  
16 sure it went through, then that would take care of your  
17 issue, Senator, and, I think, some of ours. And I think  
18 it was just something that never came up, because I always  
19 assumed, in fact, I said it I think at the briefing, there  
20 was something I thought was consistent and it didn't go  
21 through.

22           BOARD MEMBER ROBERTI: Madam Chair.

23           CHAIRPERSON MOULTON-PATTERSON: Mr. Medina then  
24 Senator Roberti.

25           BOARD MEMBER MEDINA: I agree with the previous

1 speakers. And if we have to write in the words, "coin  
2 toss by board members," so be it.

3 (Laughter.)

4 BOARD MEMBER MEDINA: Actually, I had a minor  
5 change to the resolution on the last page where it says,  
6 "And the Board shall make the determination of which  
7 applicant shall receive the award as long as..." I wanted  
8 to change the word, "as long as" rather ambiguous, I  
9 wanted to change that to, "when staff has made the  
10 determination."

11 And in regards to the resolution itself, you  
12 know, I'm very happy to see this resolution that includes  
13 environmental justice, indian tribes, the green  
14 procurement language and all the other language in it.  
15 It's a very good resolution, I'd be happy to move it at  
16 the appropriate time.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Senator.

19 BOARD MEMBER ROBERTI: Yes. Madam Chair, I'd  
20 like to return to something that was of concern to me  
21 during the morning session. And that is my concern that  
22 in our desire to have a hands-off approach in order to  
23 structure fairness, we have to be very careful that we  
24 don't abdicate our power as a board to the staff.

25 Frankly, I cannot emphasize my distress over the

1 fact that for two years on grants I have been voting  
2 believing the staff has been implementing our policy when,  
3 in effect, and I know everybody may not agree with me on  
4 this, when, in effect, staff has obviously been  
5 implementing its policy.

6           And for two years of not having a green  
7 procurement policy, when I can't think of any discussion  
8 we had that was more clear, more concise, more direct to  
9 the staff and then we come here and we are told that we  
10 decided not to do it.

11           We decided not to even inform you that we weren't  
12 doing it, and that there was a problem. It goes to the  
13 old adage that, you know, board members come and board  
14 members go, but the staff is here forever.

15           And that's a cute one we talk about, but when  
16 we're talking about the public policy of the State, it's  
17 unconscionable. I've never lectured the staff before  
18 because I have the highest degree of respect for their  
19 expertise, but this was unconscionable. It was based on  
20 the premise that board members come and board members go  
21 and the staff is here forever and we're not going to  
22 implement it and we're not going to tell you about it  
23 either.

24           That's why Mr. Eaton's position on the tie vote  
25 is very, very important. But I would go even further, and

1 I would commend to the staff -- to the Board Members  
2 thinking about it that once in a while we actually, I hate  
3 to say it, ought to do the scoring ourselves. Maybe every  
4 six months take one of our projects and do the scoring  
5 with the help of staff, with the help of counsel. It's  
6 going to bog us down a little bit, but there's no way to  
7 supervise our own staff unless we know what they're doing,  
8 unless we know what criteria they are using.

9           And, obviously, I don't have a clue, because I  
10 thought for two years the green purchase power was being  
11 implemented and I find out it wasn't.

12           And then there are just disagreements that  
13 reasonable people come to when you talk about a public  
14 policy itself. For example, to make it very, very  
15 simplistic, we establish a directive that everything has  
16 to be on blue paper. And so then the issue is, yeah, but  
17 it was turquoise paper.

18           I'm being simple, but I'm trying to make a point.  
19 Some people will say well, that's clearly blue, and others  
20 will say, no, that's green or something in between.  
21 Reasonable people can disagree. It doesn't mean they're  
22 not trying to implement the policy. It's just that it's  
23 implemented differently by reasonable people seeing blue,  
24 turquoise and green differently.

25           How do we know that, and how do we know how staff

1 is implementing the program, unless we, at times, do it  
2 ourself?

3           And I know it will bog us down, and I don't look  
4 at that excitedly, because it's an area of power that I  
5 necessarily don't want to engage in. But right now I  
6 submit, I'm speaking for myself, after nearly three years  
7 on this Board, I think I'm kept in the dark. And I don't  
8 say that with anger, I say it because it's just the way  
9 the bureaucracy works.

10           On such a major policy where we spent the better  
11 part of one day discussing it, one session, and when we  
12 just decided not to do it, there was a problem and nobody  
13 bothered to come and tell us about it either on something  
14 that goes to the heart of what this Board does,  
15 procurement.

16           I think we have to relook, and this is a switch  
17 in my position from last week when I talked to counsel and  
18 said no, I don't want to do anymore micro-managing. But  
19 the fact is I think we've got to micro-manage because if  
20 we don't micro-manage, staff is going to micro-manage for  
21 us, and we will truly be what bureaucracy wants boards to  
22 be and that is a rubber stamp.

23           CHAIRPERSON MOULTON-PATTERSON: Thank you.

24           DEPUTY DIRECTOR JORDAN: Chairman?

25           CHAIRPERSON MOULTON-PATTERSON: Yes, Ms. Jordan.

1           DEPUTY DIRECTOR JORDAN: Can I address the  
2 Senator with regards to raising this issue.

3           I understand what you're saying. I would like to  
4 clarify that staff have implemented the '99 requirements.  
5 As I mentioned before, that particular bullet talks about  
6 grant recipients, that's after the award.

7           It has been incorporated into the terms and  
8 conditions of the grant agreements that they follow these  
9 procedures. What hasn't been done is it's not been put  
10 into all of the grants as far as the actual screening  
11 criteria, because they're not recipients at that point.

12          BOARD MEMBER ROBERTI: I understand that and I  
13 appreciate that. So I give staff credit for trying to do  
14 something along the lines of what we talked about.

15          But if my recollection to date is even remotely  
16 clear, and I think it is, we were talking about the grant  
17 as it was before it was to be awarded not after the fact,  
18 and not a language that exhorts the recipient or even goes  
19 further than and exhortation to do well.

20          And I think we were talking about the award  
21 itself, a priori. And I haven't reviewed the text of the  
22 discussion of December of 1999, but I have a hunch that if  
23 we do review it, we will find that it was clear we were  
24 talking about the award itself and not something after the  
25 fact.

1                   CHAIRPERSON MOULTON-PATTERSON: Thank you,  
2 Senator.

3                   Mr. Paparian.

4                   BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
5 I wanted to actually get back to something Mr. Eaton  
6 brought up initially and I'll just ask it in a different  
7 way I guess.

8                   We have references in here to scoring criteria  
9 and evaluation process. And I guess the question is is  
10 what we're voting on today the scoring evaluation and the  
11 criteria process or is there a different scoring criteria  
12 and evaluation process for each grant that comes forward,  
13 I guess that's to counsel or to Admin.

14                  DEPUTY DIRECTOR JORDAN: Each of the grant  
15 programs has different preference criteria. What we have  
16 attempted to standardize over the years is the actual  
17 general review criteria. This item is specifically  
18 talking about the scoring criteria, whether it be general  
19 or preference points, and the actual evaluation process  
20 that's set out in determining how to review those  
21 applications an award them.

22                  BOARD MEMBER PAPARIAN: Okay, but every time a  
23 grant program, if we have the playground grants for this  
24 year, will we have a new scoring criteria and evaluation  
25 process brought to the Board before that goes forward?

1           DEPUTY DIRECTOR JORDAN: Each of them are brought  
2 before the Board annually.

3           BOARD MEMBER PAPARIAN: Each scoring criteria and  
4 evaluation process?

5           DEPUTY DIRECTOR JORDAN: Yes.

6           CHAIRPERSON MOULTON-PATTERSON: But I thought you  
7 said the general.

8           BOARD MEMBER EATON: But part of the problem has  
9 been, and each of you as board members at one time have  
10 referenced it, with regard to why you can't change the  
11 criteria, this is the general criteria by which all grants  
12 are governed by. Then each of them, as we get into  
13 certain issues, we get into the preference points.

14           So if you look at it, this is the master mould,  
15 if you will. So when they bring the criteria together in  
16 individual grants, it has this master mould, and then what  
17 we're able to do is tinker with the specifics of the  
18 preferences that you might have, based upon the particular  
19 criteria.

20           It could be green procurement, it could be  
21 environmental justice, all those kinds of things, but the  
22 master mould as to how you look at things are done, when  
23 that's brought forward, you can't even determine when the  
24 tie is going to be, because you don't even know that  
25 you'll have a tie.

1           So you set it up here as a master, sort of,  
2 theme. And that's what this is about. And so when we,  
3 three months from now, say we didn't know that's what  
4 we'er voting on, that's what you're voting on, you're  
5 voting on the master plan, if you would, so to speak.

6           And that's why this is so important in the sense  
7 of how you set your direction for the staff, and so that  
8 there cannot be these differences with regard to the  
9 general criteria. There can be differences with  
10 specifics, because that's based upon some of the subject  
11 matter of the individual grants. But, yes, obviously  
12 they've got to come back, but as you look at the two boxes  
13 always the first box is always the same, because we have  
14 approved a general criteria which is just what we're doing  
15 right now.

16           That will never change, because they'll say we  
17 can't change it three months from now, because we did the  
18 whole master for the grant cycle, that's what Senator  
19 Roberti was trying to do a month or two ago. And they  
20 said you couldn't do it because of the criteria generally  
21 for all the grants. So this is it that -- that's why this  
22 mould becomes kind of an important footprint, so to speak,  
23 for the rest of us.

24           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
25 Eaton. We do have one speaker.

1           Skip Lacaze City of San Jose.

2           MR. LACAZE: Good afternoon. My name is skip  
3 Lacase with the City of San Jose. The City would like to  
4 support the revised green procurement criterion for the  
5 value of 15 percent of the total points. I'm not offering  
6 a position on the entire item. The City of San Jose has  
7 just completed approval of a new council policy on  
8 environmentally preferable procurement.

9           This policy was put on the purchasing division's  
10 workplan for the year in great part because of the  
11 existence of your board's policy on green procurement as a  
12 requirement for grants.

13           The policy built on our existing 1990 policy,  
14 which because of the five-year rule, did not satisfy your  
15 criterion. I have to admit that when I first saw this  
16 last year too late to deal with it, I was irritated.  
17 However, the fact that we had to open it up and look at it  
18 again has given us a much broader and deeper policy, has  
19 given us an opportunity to take this subject before the  
20 council, achieving unanimous consent both at the  
21 environment committee and at the full council to proceed.

22           The ongoing criterion just in your own grants  
23 will give us a significant amount of strength within the  
24 city bureaucracy to continue to push for strong  
25 implementation of the environmentally preferable

1 procurement policy, which could fade if there was no  
2 penalty attached to it.

3           So I'd simply like to restate our support and  
4 inform you that the Solid Waste Commission of Santa Clara  
5 County has adopted our policy as a model and recommended  
6 it to all the cities in Santa Clara County and to the  
7 Board of Supervisors. And, in part, because of the  
8 existence of your 15 percent criterion, I strongly suspect  
9 that the majority, if not all, of those jurisdictions will  
10 implement some policy.

11           Thank you.

12           CHAIRPERSON MOULTON-PATTERSON: Thank you very  
13 much, and please thank the City of San Jose for what  
14 they're doing.

15           Mr. Eaton, do you have some -- we only --

16           BOARD MEMBER EATON: I have some alternative  
17 language with regard to Subsection E and tying scores.

18           And I'm going off of the Agenda Item number 7,  
19 revised, which was recently handed out, a two-page  
20 document, just one page.

21           I think Mr. Papanian's office has the single  
22 sheet of paper that I have and not the double one handed  
23 out.

24           Anyway, the language would read Subpart E, Ties  
25 And Scores, "Where grant requests among the applicants

1 with tie scores exceed funding availability, the ties  
2 shall be brought forward to the Board at the time the  
3 award for the grants are to be made in the agenda item,  
4 and the Board shall, to the extent possible, determine how  
5 those ties shall be resolved from the most fair and  
6 equitable manner to the parties."

7 CHAIRPERSON MOULTON-PATTERSON: That sounds fine.  
8 Mr. Medina, you had said before you wanted to  
9 make the motion. Would that language be acceptable to  
10 you?

11 BOARD MEMBER MEDINA: Yes, it would.

12 CHAIRPERSON MOULTON-PATTERSON: Okay, Mr. Medina  
13 makes the motion.

14 BOARD MEMBER PAPARIAN: Madam Chair?

15 CHAIRPERSON MOULTON-PATTERSON: Yes.

16 BOARD MEMBER PAPARIAN: Just to clarify, so we'll  
17 be working off the version of the resolution that was  
18 handed out with a lot of strikeouts and so forth with the  
19 substitution of the E that Mr. Eaton stated.

20 CHAIRPERSON MOULTON-PATTERSON: Right. Did we  
21 get that or do we need to repeat that?

22 DEPUTY DIRECTOR JORDAN: Could we have that  
23 repeated, please.

24 CHAIRPERSON MOULTON-PATTERSON: Sure E, Ties And  
25 Scores -- could you just read from this, Mr. Eaton?

1 BOARD MEMBER EATON: Sure.

2 CHAIRPERSON MOULTON-PATTERSON: "Where grant  
3 requests among applicants with tie scores exceed funding  
4 availability, the tie shall be brought forward to the  
5 Board in an agenda item and the Board shall make the  
6 determination of which applicant shall receive the award,  
7 assuming the staff has made the determination that the  
8 scaling down of the proposed projects resulting in  
9 decreased grant requests could not be accomplished  
10 successfully."

11 BOARD MEMBER EATON: That's the old language.  
12 That's the language that needed to be revised.

13 Perhaps, the court reporter could --  
14 I'll read it again.

15 CHAIRPERSON MOULTON-PATTERSON: I apologize I had  
16 it wrong.

17 BOARD MEMBER EATON: No, that's fine. What we're  
18 doing is we're going to strike all of Subsection E. It  
19 gets crazy when we have 15 million pieces of paper.

20 Let's work off what Mr. Papanian had mentioned  
21 was the two-page document we just handed out with those  
22 changes, correct? And we all agree that the change with C  
23 on green procurement were okay?

24 CHAIRPERSON MOULTON-PATTERSON: Right.

25 BOARD MEMBER EATON: And with D the strikeouts in

1 the subsequent language was agreed to. Just work off the  
2 two page document right here and that may be the easiest  
3 way to work, because I think that's the proper way so we  
4 don't try to incorporate two pieces of paper, just one.  
5 Then we get to Subsection E.

6 And what we should do with Subsection E is strike  
7 the entire subsection E with the exception of that, "Be it  
8 further resolved," that should continue to stay.

9 So the new subsection which would read, "Ties And  
10 Scores," would read, "When grant requests among the  
11 applicants with tie scores exceed funding availability,  
12 the tie shall be brought forward to the Board at the time  
13 the awards are made in an agenda item and that the Board  
14 shall make a determination as to ties as to which  
15 applicant, if any, shall receive an award or portion of an  
16 award in a manner that is both fair and equitable in order  
17 to resolve the issue of the tie score."

18 CHAIRPERSON MOULTON-PATTERSON: Thank you. So we  
19 have a motion by Mr. Medina for Resolution 2001-464,  
20 revised, with the new language Mr. Eaton just spoke into  
21 the record, and did anyone second it?

22 BOARD MEMBER JONES: I'll second it.

23 CHAIRPERSON MOULTON-PATTERSON: Seconded by Mr.  
24 Jones.

25 BOARD MEMBER JONES: Just one question to the

1 maker of the motion, Mr. Medina, can the idea about having  
2 Admin make sure that all those criterion meets our  
3 criteria approval of the Executive Directors, is that  
4 acceptable?

5 BOARD MEMBER MEDINA: That's correct.

6 BOARD MEMBER JONES: Because right now it's in  
7 every department. So they're going to have a more, yes or  
8 no.

9 DEPUTY DIRECTOR JORDAN: Board Member Jones, the  
10 Administration and Finance Division, Grants Administration  
11 we currently work with each of the programs and we do  
12 review the actual scoring criteria and evaluation process.  
13 We also will sit on many of the panels with regards to  
14 looking at the actual awards.

15 BOARD MEMBER JONES: What I'm asking the maker of  
16 the motion is to make sure that you not only review it,  
17 but if they don't follow our board criteria, you deny it.

18 DEPUTY DIRECTOR JORDAN: Okay.

19 CHAIRPERSON MOULTON-PATTERSON: Okay, please call  
20 the roll.

21 SECRETARY FARRELL: Eaton?

22 BOARD MEMBER EATON: Aye.

23 SECRETARY FARRELL: Jones?

24 BOARD MEMBER JONES: Aye.

25 SECRETARY FARRELL: Medina?

1 BOARD MEMBER MEDINA: Aye.

2 SECRETARY FARRELL: Paparian?

3 BOARD MEMBER PAPARIAN: Aye.

4 SECRETARY FARRELL: Roberti?

5 BOARD MEMBER ROBERTI: Aye.

6 SECRETARY FARRELL: Moulton-Patterson?

7 CHAIRPERSON MOULTON-PATTERSON: Aye.

8 That's our last agenda item for today. But when  
9 we split it like this, I would like to have public  
10 comments on each day. And we do have just real quickly is  
11 Mr. William Prinz, City of San Diego still here.

12 Mr. Prinz thought we were hearing 31 today, so  
13 we're not going to take action on it, but we would be  
14 happy to hear your brief comments.

15 And sorry we had to wait all day.

16 MR. PRINZ: Madam Chair and Members of the Board,  
17 Bill Prinz with the City San Diego LEA. And I appreciate  
18 your accommodating some testimony on tomorrow's item.

19 The item is number 31, revised solid waste  
20 facility permit for the West Miramar Landfill.

21 Concurrence with this permit will resolve a longstanding  
22 permit violation for the traffic volume at the facility.

23 The revised permit will increase the daily  
24 traffic from 1,400 vehicles per day to 2,000 vehicles per  
25 day. And that was based on traffic studies on some very

1 solid environmental work on that and hard work from the  
2 City staff and the LEA and board staff.

3 So if there are any questions about that item, I  
4 can address them now.

5 I'd like to respectfully request concurrence with  
6 that item.

7 CHAIRPERSON MOULTON-PATTERSON: Okay, any  
8 questions today?

9 We'll be taking action tomorrow, but any  
10 questions of Mr. Prinz?

11 Yes, Mr. Papanian?

12 BOARD MEMBER PAPANIAN: Just a quick question.  
13 Can you just briefly characterize, you know, why they've  
14 exceeded it, have landfills closed down in jurisdictions,  
15 is the tipping fee low, what's the cause?

16 MR. PRINZ: Probably one of the main reasons for  
17 the increase in traffic was there's another landfill  
18 nearby in the City, and they have a lot of requirements on  
19 the public using the facility, like they require hard hats  
20 and some steel-towed boots and different things, just for  
21 the public to come in and use the landfill, and so a lot  
22 of the public would rather go five miles down the road to  
23 the Miramar Landfill. Also, you know, just a general  
24 population increase.

25 Because the traffic studies show that most of the

1 volume increase was from the public loads, the small  
2 pickup trucks, cars and that sort of thing, so that's  
3 where most -- the actual tonnage volume hasn't increased  
4 very much, and we aren't addressing tonnage with this  
5 permit.

6 BOARD MEMBER PAPARIAN: Are the tipping fees  
7 comparable?

8 MR. PRINZ: They're comparable. They're  
9 identical basically.

10 BOARD MEMBER PAPARIAN: Okay.

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

12 BOARD MEMBER MEDINA: Yes. In reading your --  
13 the parties that you have CC'd, I wonder if you would add  
14 Senator Gloria Romero to that who's been chairing the  
15 Senate Committee on Solid Waste?

16 MR. PRINZ: Antonio Romero?

17 BOARD MEMBER MEDINA: Yeah, Senator Gloria  
18 Romero.

19 MR. PRINZ: Okay.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 Thank you for waiting around. And our last --  
22 Any other questions?

23 Thank you, Mr. Prinz.

24 Our very last public comment is someone who  
25 cannot be here tomorrow and will make a brief comment is

1 Justin Malan.

2 MR. MALAN: Madam Chair and Board Members, thank  
3 you for your indulgence. I'm sorry. I have to be at a  
4 legislative hearing in Fresno tomorrow. I'd like to end  
5 up on a high note. I did send around a letter to you and  
6 Mark Leary.

7 And on behalf of CCDH and the LEAs, we wanted to  
8 take this brief opportunity of thanking you and your board  
9 for the progress that you made over the last year. We're  
10 not always here for every event and we apologize, because  
11 we've been stretched pretty thin.

12 But we did want to take the opportunity, and we  
13 would have done it tomorrow, had I been here to just cover  
14 four quick points.

15 Firstly, although it's time consuming and at  
16 times costly to go through a rulemaking process, for every  
17 single policy of the Board, we applaud you, we support  
18 you. We feel that going through that formal rule-making  
19 process now with nearly 15 different sets of regs in the  
20 hopper for P&E alone, it's certainly going to add  
21 clarification to the process. And it helps us and I'm  
22 sure it helps you and your staff ensure that the direction  
23 you give to industry and the direction you give to the  
24 LEAs is clear and consistent.

25 So at times although it's cumbersome and tiring,

1 we applaud that. We also applaud your open, constructive  
2 way in which you conduct the rule-making process, and we  
3 appreciate being part of virtually all those reg packages  
4 as they move through the process.

5           With a few, I wouldn't say all minor exceptions,  
6 but with a few relatively minor exceptions, we support all  
7 15 packages going through the process. And we certainly  
8 want to commend staff for the effort that they have done.

9           Secondly, we'd like to thank the Board for taking  
10 the initiative in being proactive on helping the locals  
11 address the legacy burn dump issue. This has been a  
12 problematic issue for us, for all local agencies. The  
13 Waste Board has stepped up with grant funds. They've  
14 stepped up with a tremendous amount of staff support and  
15 encouragement and we've been able, throughout the State,  
16 to fix up, to remediate scores of old legacy burn dumps  
17 throughout the State.

18           We hope that you stay in the process with us.  
19 And as we negotiate the most equitable way of dealing with  
20 this with CalEPA that you'll be able to continue providing  
21 the support to the LEAs and the locals.

22           Thirdly, we'd like to thank you and the Board for  
23 continuing the excellent training that you have been  
24 offering us. The LEA conference is part of that training.  
25 But recently we were shared -- your staff shared with us

1 an 18-month training program. This is great. This is  
2 what we have always perceived as one of the most  
3 invaluable services that the State can provide the locals  
4 to bring up our service and generally the service of the  
5 solid waste management in the State is to ensure that we  
6 are trained and calibrated.

7           And finally, a little bit late after the fact,  
8 but we did want to formally acknowledge that the LEAs and  
9 CCDH is strongly supportive of your strategic plan. We  
10 believe this is a visionary document. We don't always get  
11 involved in that type of issue. We're more on the  
12 regulatory side. But from environmental health agencies  
13 throughout the State, we would like to commend you and  
14 your board and your staff for showing that vision, and  
15 we'd like to offer any assistance we can in implementing  
16 that strategic plan.

17           And finally, we haven't done it formally, but  
18 we'd like to congratulate Mark in his position.

19           Thank you.

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

22           Mr. Medina.

23           BOARD MEMBER MEDINA: Yes, Madam Chair, it was  
24 Mr. Malan and not the previous speaker that I had asked to  
25 add Senator Gloria Romero to your CC list and thank you

1 for your letter.

2 MR. MALAN: Thank you very much.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

4 Medina.

5 With that, our meeting is adjourned for today.

6 We'll see you tomorrow at 9:30.

7 (Thereupon the California Integrated

8 Waste Management Board adjourned at

9 3:55 p.m.)

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