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BOARD MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING

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CENTRAL VALLEY AUDITORIUM

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APPEARANCES

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Linda Moulton-Patterson, Chairperson

Dan Eaton

Steven R. Jones

Jose Medina

Michael Paparian

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

Elliot Block, Staff Counsel

Catherine Cardozo

Judy Friedman

Chris Kinsella

Howard Levenson

Phil Morales

Dianne Range

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APPEARANCES CONTINED

STAFF CONTINUED

Kevin Taylor

Steve Uselton

Lorraine Van Kekerix

Susan Villa

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PROCEEDINGS

CHAIRPERSON MOULTON-PATTERSON: I'd like to call our meeting back to order. And would you please call the role.

SECRETARY VILLA: Eaton?

BOARD MEMBER EATON: Here.

SECRETARY VILLA: Jones?

BOARD MEMBER JONES: Here.

SECRETARY VILLA: Medina?

BOARD MEMBER MEDINA: Here?

SECRETARY VILLA. Paperian?

BOARD MEMBER PAPARIAN: Here.

SECRETARY VILLA: Roberti?

CHAIRPERSON MOULTON-PATTERSON: Here.

CHAIRPERSON MOULTON-PATTERSON: Ex partes, Mr. Eaton.

BOARD MEMBER EATON: Yes, Madam Chair, three: Quick hello to John Cupps; quick hello to Mike Mohajer. And then I just received a letter dated April 16th, 2002 from Californians Against Waste, Mark Murray, absent signature, regarding Agenda Item 34, and I don't know if all of you got that, but --

CHAIRPERSON MOULTON-PATTERSON: Okay. Could you ex parte it for us.

BOARD MEMBER EATON: Yes. So that would have

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been regarding Agenda Item 34, Conversion Technologies.

CHAIRPERSON MOULTON-PATTERSON: Thank you Mr. Eaton.

Mr. Jones.

BOARD MEMBER JONES: Lori Van Arsdale from the City of Hemet; Margaret Clark from the City of Rosemead; and on conversion technology, the letter from Mark; and a letter from Paul Ryan on the ADC issue. That's it.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Medina.

BOARD MEMBER MEDINA: None to report at this time.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Paparian.

BOARD MEMBER PAPARIAN: Thank you, Madam Chair. I think the letter that Mr. Jones just referenced from Mr. Ryan is probably exparted on behalf of all of us, I assume, because I got it as well.

CHAIRPERSON MOULTON-PATTERSON: Thank you. And I'm up to date.

Okay. Speaker slips are on the back table, if you'd like to speak on an agenda item. I'm going to be turning it over to Mr. Leary to go over -- if we're ready to start with the budget item. We're going to be skipping around a little bit from yesterday.

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EXECUTIVE DIRECTOR LEARY: Thank you, Madam Chair. Good morning, Members.

I have a little bit of business to cover of my own. And then I'd like to make a suggestion on how we might proceed today.

My little bit of business is, as you all know, I'm required by regulation to report to the Board about all emergency waivers granted by LEAs. And on March 21st, 2002, we received a copy of an emergency waiver granted by the Nevada County LEA for the McCourtney Road Landfill and Transfer Station pursuant to the section of the regs, Title 14-17210.

The situation here is, of course, as those of you who live in Sacramento are aware, the big fire that occurred in Nevada city at an establishment known as Friar Tuck's. And as a result of the waste generated as a result of this fire, the LEA has granted this emergency waiver to McCourtney Road Landfill and Transfer Station to deal with the waste generated by the fire.

It allows the facility to process and transfer waste resulting from the fire. The Deputy Director of P&E, Julie Nauman, and I have reviewed this waiver and find it complies with all the requirements, and I do not plan to take any further action pursuant to the regulations.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

EXECUTIVE DIRECTOR LEARY: Then as far as the suggestion on how we may proceed this morning, Madam Chair, I'd like to suggest that we clean up a little bit of business we need to do in regards to Item 14, the Reallocation item, and then possibly pursue -- proceed to the Indian Wells' Food Scrap Diversion Program, and then the discussion of -- that is Agenda Item 36 -- and then Agenda Item 31, Discussion Of Threats To The Organic Materials Recycling Industry In California, before -- hopefully before we reach our 10:30 time certain for Agenda Item 34, the conversion technology item.

So that is, again, Agenda Item 14, then 36, 31, and then 34.

We will then have left on our agenda 37, 39, 50, and then probably lastly Agenda Item 35 because our contractor providing that study is not available before 2:00 o'clock today.

So that's how I suggest we proceed.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

That sounds fine with me, Mr. Leary. And we will be having our closed session. It will probably be after the 2:00 o'clock report, if we're finished with the agenda items. You know, I hope to be, but who knows. But we'll have it at the end of our regular meeting.

Okay. With that, we'll go back to Item Number 14, the reallocation.

Ms. Jordan.

DEPUTY DIRECTOR JORDAN: Good morning, Madam Chair and Members.

Yes, we'll continue with Item 14. As we left off yesterday, we were discussing the available dollars still to be allocated.

And there is approximately $110,000. Those two -- there were two concepts that were put aside. I believe we were planning to discuss 79 this morning. The dollars were -- on Number 79 there was $30,000 that we were looking at, and on Number 85 there was $80,000, for the total of 110.

I'll turn over the discussion to Susan Villa so that we can begin talking about where you want to go from here.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms. Jordan.

Ms. Villa.

CONTRACTS MANAGER VILLA: We ended last night with discussion that Concept 79 would be brought back before the Board today, pending some discussion between board member offices on an approach that would be amenable to everyone on that concept.

And I'm not sure if members had the opportunity to have that discussion last night.

CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

BOARD MEMBER MEDINA: Yes, Madam Chair. I'm prepared to proceed with this matter. Yesterday, Board Member Eaton raised some concerns with regard to the contract concept that I proposed in providing training to LEAs and indian tribes. The intent of the training is to ensure that non-indian persons that dispose of waste on tribal lands be prosecuted by local jurisdictions and tribal governments working together.

This request was made of me by several tribes that have a continuing problem with chronic illegal waste disposal on their lands by non-indians.

Member Eaton proposed that this problem could be better addressed by working with internal board resources to train LEAs to deal with this problem.

And, in fact, we did look at that. I know that our staff's plates are pretty full. And also we wanted to ensure that we would get the utmost tribal government participation. So after discussing this at length with staff, we have come up with an alternative solution that also addresses Member Eaton's concerns.

I'd like to amend the concept that I originally proposed to fund a workshop training session at the next

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LEA training conference to be held in August. This session will be dedicated entirely to this subject as an introduction to the problem, with some representatives of the tribes present to discuss the issue and to work out a process by which to prosecute persons that dump waste on indian land illegally.

After this one-day session staff proposes to follow up with additional training by providing approximately three training sessions in the southern, central, and northern areas of the State.

Because of the peculiar nature of indian sovereignty in local jurisdictions, it will be necessary to work with persons that are also knowledgeable with regard to indian law. San Francisco State has -- San Francisco State University has the staff with the expertise and is prepared to ensure the participation of the tribes in this endeavor.

Dr. Joely Dela Torre, a member of the Pachanga Tribe and a professor in indian culture and law is prepared to work with our staff to do the research and to take on the tasks of bringing the tribes to our training session.

Therefore, I would like to take the funds originally proposed for Contract Concepts 85 and 79 and combine them for one contract for $50,000 to fund this new

concept that has incorporated Member Eaton's suggestions. I propose that your remaining $60,000 be set aside in the reuse fund for reallocations at a later date. And we will work with staff to finalize the details in a scope of work that will be presented to the Board at the meeting -- our board meeting of May or June. And I'd also like to thank staff for reacting swiftly to our request to incorporate Board Member Jones' and Eaton's suggestions.

And Mr. Eaton, Mr. Jones, thank you for your suggestions. I hope that this meets with your approval and look forward to any more suggestions that you may have.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you. So you're going to put that in the form of a motion or we'll go --

BOARD MEMBER MEDINA: Yes.

CHAIRPERSON MOULTON-PATTERSON: Okay.

BOARD MEMBER EATON: What would the other 60 go for, reuse?

DEPUTY DIRECTOR JORDAN: I was going to ask that clarification. Was that the intent?

BOARD MEMBER JONES: On that reuse item? There was --

DEPUTY DIRECTOR JORDAN: Was it reallocation or a quote from reuse item, concept --

CONTRACTS MANAGER VILLA: -- 75. There was discussion yesterday regarding fully funding the reuse concepts, and that was Concept 75, which $60,000 would give them the amount they would need to fully fund that.

BOARD MEMBER JONES: Is that what you were saying?

BOARD MEMBER MEDINA: Yes. That was your suggestion yesterday, wasn't it?

BOARD MEMBER EATON: Right, so we could fully fund the reuse, and then the rest would go for the other item and --

BOARD MEMBER JONES: Then we do away with 80 or whatever it is.

CHAIRPERSON MOULTON-PATTERSON: Eighty-five.

BOARD MEMBER EATON: Eighty. We'll look at trying to bring back some of those additional concepts. But that seems fine to me, Board Member Medina. I appreciate you helping out. It seems like a good idea; and if you make the motion, I'll second the motion.

CHAIRPERSON MOULTON-PATTERSON: Okay. So we have a motion by Mr. Medina, seconded by Mr. Eaton.

Are we all clear on it?

Would you please call the role.

SECRETARY VILLA: Eaton?

BOARD MEMBER EATON: Aye.

SECRETARY VILLA: Jones?

BOARD MEMBER JONES: Aye.

SECRETARY VILLA: Medina?

BOARD MEMBER MEDINA: Aye.

SECRETARY VILLA: Paparian?

BOARD MEMBER PAPARIAN: Aye.

SECRETARY VILLA: Roberti?

Moulton-Patterson?

CHAIRPERSON MOULTON-PATTERSON: Aye.

Okay. Thank you very much. And Thank you staff for working with us on that. I think we had a good outcome on that, Board Members, also.

Okay. That brings us to Item 36, a presentation of the City of Indian Wells Food Scrap Diversion Program.

DEPUTY DIRECTOR SCHIAVO: Pat Schiavo, Diversion Planning and Local Assistance. And Chris Kinsella, who is project manager, will introduce this item.

MS. KINSELLA: Good morning, Madam Chair, Members of the Board.

CHAIRPERSON MOULTON-PATTERSON: I don't think it's on.

MS. KINSELLA: Good morning, Madam Chair, Members of the Board.

CHAIRPERSON MOULTON-PATTERSON: Good morning.

MS. KINSELLA: I'm Kris Kinsella from the Office

of Local Assistance. And I have the pleasure of managing the Food Scrap Collection Diversion Contract with the City of Indian Wells.

As you know, food waste and other organics can make up to 40 percent of the jurisdictions' waste stream. Food waste alone can be as high as 18 percent. And as you can imagine, when the jurisdiction gets a host of a large public venue such as Indian Wells Tennis Gardens and other sporting events, the quantities of waste are greatly increased.

Jurisdictions need creative and innovative programs to deal with these venues. The Food Scrap Diversion Program at the Indian Wells Tennis Gardens is the model program.

In the coming months, we will be promoting this model as such so that other large venues throughout the State can learn from the Tennis Gardens' challenges and successes.

So in lieu of an oral presentation on the program by myself, I'd like to show you a video that really says it all.

MS. KINSELLA: Frank, I said don't leave me hanging here.

BOARD MEMBER EATON: Just like Christine Lahte a couple of years ago.

CHAIRPERSON MOULTON-PATTERSON: Do we need five minutes?

Let's take a quick 5-minute break.

ASSISTANT DIRECTOR SIMPSON: I'm sorry, I'm locked out of the room.

CHAIRPERSON MOULTON-PATTERSON: We definitely need 5 minutes.

(Thereupon a brief recess was taken.)

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

We'll continue.

I don't think any members had time for ex partes, did they? I don't think so.

DEPUTY DIRECTOR SCHIAVO: Ready to roll the film, Frank?

(Thereupon a video was shown.)

MS. KINSELLA: At this time, I'd like to introduce Mr. Troy Butzlaff, Assistant City Manager of Indian Wells, and Mr. William O'Toole, President and Founder of Economics, Inc.

Gentlemen.

MR. BUTZLAFF: Good morning, Madam Chair, Members of the Board. My name is Troy Butzlaff. I'm the Assistant City Manager for the City of Indian Wells. Joining me today I have my Mayor Pro Tem, Mr. Rob

Bernheimer, as well as the City's AB939 consultant, William O'Toole.

First, I'd like to recognize the Board for its past support of our food scrap program. It was with your assistance that we were able to make this program a reality. And we are looking forward to continuing this effort for many years to come.

I would also like to acknowledge the participation of Board Member Medina and members of the Waste Board staff who attended our on-site demonstration that was held on March 13th. I think it was an enjoyable time for everyone. We certainly learned a lot about food scrap that evening. And we hope to invite the rest of the Board down in future years so you can also see firsthand our food scrap diversion program.

I'd also like to take this time to have our AB939 consultant, Mr. O'Toole, speak briefly about some of the results from this year's food scrap program. We've crunched the numbers. We've had some time between the videos' production, which I think was very self-explanatory on the features and how the program functions. But we have now had the opportunity to crunch those numbers, and Mr. O'Toole can tell you exactly what we accomplished this year.

William.

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MR. O'TOOLE: Good morning. I was the guy in the white hat and the pink aloha shirt.

The year 2001, which was when you helped us out and was the most challenging year, is when we had to get over six different organizations, subcontractors, and all the rest of those folks to buy into the program, we got a 34 percent total diversion rate and that was one-third of the total waste that the facility generated.

This year it looks -- the preliminary figures, we're still chasing a couple of loads, but it looks like it's between 28 percent and 32 percent.

So the program has become institutionalized, and we're excited about that. And without your help, your financial help, as well as your psychological and institutional profile, it couldn't have been done.

Thank you very much.

CHAIRPERSON MOULTON-PATTERSON: Thank you. And I know Mr. Medina agrees with me that it's a very impressive program. I visited it also and it's very impressive. So thank you very much.

Any other comments, Mr Medina?

BOARD MEMBER MEDINA: Yes. I welcome you to our board meeting today. And I wanted to say that I was very impressed with the thoroughness of the program and also the commitment that I saw there on the part of the

employees to the program and how well everything was coordinated. And it was a very, very exceptional program, that I hope certainly we can carry it to other venues.

And the video didn't do justice to the wind on that day and the way those flags were waiving.

But, again, congratulations on running an exemplary program.

MR. O'TOOLE: Thank you, again.

CHAIRPERSON MOULTON-PATTERSON: Thank you and thanks for coming.

Okay. And that will lead us right into 31, Discussions Of Threats To The Organic Materials Recycling Industry In California.

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

Agenda Item 31 is Discussion Of Threats To The Organic Materials Recycling Industry In California. And I'd like to note that Senator Roberti requested this item to come to the full board to give you a perspective on everything that's going on in the organics program kind of as a whole. We've brought pieces to you, but this is an opportunity to talk to you about everything we're doing in this area.

I'd like to introduce Judy Friedman and Kevin

Taylor. They'll be doing the presentation today. But we have a variety of staff here who are able to answer questions, if you have any.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Before we go to Ms. Friedman, Senator Roberti, do you have any ex partes you wanted to declare?

BOARD MEMBER ROBERTI: No, thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Okay, Ms. Friedman.

MS. FRIEDMAN: Good morning, Madam Chair and Board Members.

For the record, I'm Judy Friedman with the Organics and Resource Efficiency Branch. And as Patty mentioned, this item was requested by Senator Roberti. And as far as we're concerned, the time couldn't have been more perfect, as we're dealing with a variety of challenges as we're -- threats to the organic industry and infrastructure. In fact, we kind of get poetic sometimes in our branch and call them slings and arrows. And with all due respect to Will Shakespeare, it does seem like outrageous fortunate when you consider all the variety of issues we're dealing with right now.

--o0o--

MS. FRIEDMAN: Why is this significant? Well, as mentioned before by Chris, organics makes up 40 percent of

the disposed waste stream. And clearly diversion of organic materials is crucial and for -- crucial for a variety of reasons.

--o0o--

MS. FRIEDMAN: We need to maintain healthy organics infrastructure. We need to do that because of AB939 mandates and the Board's strategic plan. Clearly, local jurisdictions rely on organic programs to achieve 50 percent, maintain 50 percent, and also because we have to make sure we have an availability of quality feed stocks to produce quality products.

In addition, we see environmental benefits to organics diversion and use of compost and mulch products. We see benefits in the water quality area, in that we know that use of a composting mulch reduces erosion, which keeps sediment out of our waterways.

Also, air emissions. We know that by collecting organic materials and managing them through best management practices, we can reduce air emissions.

And last but not least, soil health. Organic use of compost and mulch products add to general soil health and nutrient value, as well as allowing us to reduce our dependence on chemicals such as pesticides and herbicides.

--o0o--

MS. FRIEDMAN: So today we're going to discuss

some of the current threats to the organics industry or infrastructure. And those include the South Coast Air Quality Management District proposed Rule 1133, some of which you've heard about over time. And certainly we have board member participation in that.

The clopyralid herbicide issue, which you've also heard board items on; the "Sudden Oak Death" disease; chromated copper arsenate; and odor emissions.

One thing I'd like to note is we aren't going to discuss ADC. That has been discussed with the Board many times, and there is a whole separate workplan associated with that. So that is one area that we are not planning on concentrating on today.

--o0o--

MS. FRIEDMAN: So some of the actions that the Board has been involved with concerning these issues: Last October the Board held a hearing in Diamond Bar as part of its board meeting to take testimony on Proposed Rule 1133. And then recently our Chair and Board Member Jones provided testimony at the South Coast hearing on this issue. And the Board also provided funding for baseline air emissions testing.

On clopyralid, we had a March informational item. We are working with -- jointly with the Department of Pesticide Regulation on a working group. And, in fact, a

workplan was approved on the consent calendar for this item.

For "Sudden Oak Death" disease, we have provided technical information to the California Department of Food and Agriculture. Board Member Jones provided testimony, and a follow-up letter was sent by our Chair to USDA.

And odor issues we have -- the Board has funded a study dealing with wood ash and its relation to odor reduction.

So those are some of the examples. And what I'm going to do now is introduce Kevin Taylor, who is going to go over these issues. And then we're going to look at some other issues as well, some of the positive aspects that we're dealing with in the program to provide a comprehensive view.

Kevin.

--o0o--

MR. TAYLOR: Good morning. Kevin Taylor, Waste Prevention and Market Development.

The first issue is the South Coast Air Quality Management District Proposed Rule 1133 -- I think you've heard a lot about it -- to reduce air contaminant emissions from compost and mulch facilities. And the premise -- or the original regulation looked like coverings for all facilities, basically all enclosed

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facilities with ventilation of their emissions to bio-filters.

And I think we all realized pretty early on it was incredibly expensive for these facilities that in many cases do not have -- or are not making that much money. We also realized that the impact on the infrastructure potentially was incredible in that area. So we pretty much were right on that it's impossible.

Since that time we've been working with them -- working with the South Coast Air District, a lot of meetings. We heard Judy talk about a lot of testimony.

In fact, the Board funded a project with the City of Los Angeles to test air emissions. We've worked with them pretty much close to a year now. And about a month ago or three weeks ago their technical assessment report came out. And I think we made a lot of progress with them, and they're very happy to see that.

I mean, it's still a long way to go, but we've made some progress with them. Now, they're looking at not just enclosing these facilities, but also looking for other potential alternatives to control those emissions, and that would be best management practices, BMPs; for example, controlling feed stock, maybe doing different types of aeration.

So, in other words, it may not cost these

facilities as much. In fact, they're looking maybe at even breaking up the rule into two different areas where they'd be looking at maybe biosolids and green materials separately, because those materials produce different types of emissions.

I think the real key is, as we continue to work with them, is to be involved in their working group which is going to be part of their plan; and I'm sure that we'll be involved, and also to keep developing those BMPs, best management practices, because that's going to be the key to the industry surviving this rule. And it will probably take more research and more development by staff. So we'll make sure that we keep you involved in that. And Mr. Jones has been following this quite closely. And I'm sure you'll hear a lot more. But, again, it's not the end of the road on this one.

The second issue is the chromated copper arsenate.

--o0o--

MR. TAYLOR: It's called CCA. It's a widely used wood preservative. And a couple of the issues involving this are the, one, potential health effects of this material as well as the product quality issue. And that is, again, perception by the public of these materials, compost and mulch. And it's also very difficult to

identify those materials coming in. If they're in a big load of wood or construction demolition material that might be coming in, there might be some in there we may not know it. And also if they do find it, how do they dispose of that material? This would be a hazardous material.

It's also difficult because it's not only compost facilities, mulch facilities, but they're potentially waste-to-energy or biomass facilities, so there might be air emission issues.

What are the next steps here? That is, how do we keep this material out of the feed stock in the first place?

One would be potentially more load checking. And also, just for your information, there's a proposed bill Romero's Bill, SB1393, that is addressing this issue. And even so, even if this material is banned or they no longer use it, it's a longer term issue, whereas it's still out there, it's still coming into the waste facilities as we need to do more research on that.

--o0o--

MR. TAYLOR: The third issue clopyralid. Again, you've heard a lot about this issue. Clopyralid is a broad leaf herbicide with many uses, right-of-way uses in agriculture. And for us, most importantly, landscaping,

where it seems to find its way into the composting mulch.

Unfortunately, this material doesn't break down in the compost process, and that's where the problem comes about. It's phytotoxic to tomatoes, legumes, sunflowers, and other types of plants.

The Board had a briefing on March 6th, so you're probably fairly well acquainted with this issue. And this slide here it said that it found 13 in 20 compost samples. But I heard Mr. Jones talk yesterday, and he said 19 out 29. So we know it's out there. And the staff has been working fairly closely with the Department of Pesticide Regulation. In fact, they've started cancellation on 15 products and different uses. The next step here is to continue working with the industry -- closely with the industry, closely with the Department of Pesticide Regulation. In fact, there's a May 3rd external working group meeting, as well as there was a workplan item on the consent agenda yesterday.

"Sudden Oak Death," you probably read about this in the paper.

--o0o--

MR. TAYLOR: This is a disease that affects oaks and other species in northern California in about a ten-county area. There are about 26 composters and chippers and grinders in that area that are affected.

And Judy had talked about CDFA -- working with CDFA and USDA. Well, they've got some rules that are restricting movement of this material, so it's very difficult for those composters and mulch producers in that area.

We had testimony and a letter -- I think really what we wanted them to look at -- and that's the USDA and Department of Food and Ag -- is to look at different alternatives, such as using a composting process to eliminate infected material and to maybe turn it into another type of material.

The next steps, we definitely need to do more research on how this material is spread, how can we combat it, how it affects the compost and mulch industry.

--o0o--

MR. TAYLOR: Okay. Odors from facilities is another major issue affecting our composters in this State, potentially limiting the development of new composting facilities as well as existing facilities. Again, urban encroachment is affecting very much. And I think back, I think it was about a year and a half ago, when the Board had an opportunity to look at a permit for the line dockets facility. I think most of you were there back at our old building. I just remember the emotion of the time when all the newspapers were there and the

filming it, and just a lot of people speaking. So this is the kind of issue that a lot of our composters and -- are facing.

A couple of areas that we're trying to address this issue is through the wood ash study that we'll talk a little bit more about, as well as in our compost regs where the organic materials handling regulations and development or the requirement of the odor impact management plan that these facilities will have to develop and how to address odor in their areas.

So to think about it, if you were a composter or mulch producer, you know, one of these issues is probably pretty tough. But many of these composters are looking at two and three issues right at this one time. So just imagine how difficult it is for them as well as the effect on the industry and going back to the diversion of all these materials. So that's why we're here today, just to -- so you have an understanding of what's going on out there and the difficulty they're having.

So on some good news, Judy's going to talk about some of the new initiatives that we're working on.

MS. FRIEDMAN: Thank you, Kevin.

--o0o--

MS. FRIEDMAN: Actually, I'm just going to briefly introduce it and turn it back to Kevin. Give him

a voice break.

But we've gone over some of our major challenges. We also want to provide some information on some of the positive initiatives that we've been involved with, including our wood ash study referenced by Kevin; external grant solicitation, which is kind of an exciting new thing we're dealing with; landscape management, some ongoing and some new things; food residuals; conversion technologies; and a partnership with the California Department of Food and Agriculture.

One thing you'll notice when, as we have kind of a theme that goes through this, is that when we engage in research in one area, it often relates to and helps us with other areas. So I guess a -- the cross media is the key focus for our organics program. Very interrelated.

And so, Kevin, if you could go over these topics, it would be great.

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MR. TAYLOR: Okay. Just following up on the carbon wood ash study, this was the response to the odor issues. They are affecting the industry. And the Board had the foresight to fund this project, which really turned out pretty well. And they used, I think, 12 1/2 percent and 25 percent activated carbon wood ash in the compost facility at Lionudakis, for that matter, here in

Sacramento. And what they found were including incredible results, up to a 90 percent reduction in odors. And when we talk about odors, they're made up of many different compounds. But in some compounds, up to 90 percent, as well as unexpected -- an unexpected 90 percent reduction in volatile organic compounds, VOCs. So this has a great potential as a best management practice for 1133 -- PR 1133 that Judy was talking about.

And it also has some other potential uses such as soil remediation. So, again, we're -- this allowed us to think out of the box a little bit, this project, and look at some different solutions and alternatives. So this is really a great project.

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MR. TAYLOR: Judy mentioned the grant solicitation program. This is a new initiative. And what we're trying to do here is encourage research and also develop partnerships by connecting these partners with outside funding sources. We may not have all the money to do these projects, but there's money out there potentially for these people to find and to do these projects.

And again, I think what we're really trying to do is leverage our resources. That is key for us. It's a popular theme that we have in our projects, but it really is the only way for us to do business. There are 17

proposals, five were recommended in different areas, erosion control, disease control, even looking at compost into mushroom substrate reuse for compost, water savings, as well as mine reclamation. Again, trying to leverage our resources.

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MR. TAYLOR: Landscape management, several different projects we're working on. The Board funded a North Natomas Landscape Management Outreach Program. They gave us $15,000 a few years ago. And we were able to leverage this into a $50,000 U.S. EPA grant, a pollution-prevention grant, cross-media grant working with the City of Sacramento. And it was great for them because we got to work with several different of their programs that had never talked to each other before -- the water groups, waste groups, looking at pesticide issues, water saving, water quality. It really is working out well. It's a great project.

The Capital Park Project, again, you funded this project. This was looking at operations of the park, trying to incorporate sustainable practices; and not only that, but developing training for them. You know, they have a high turnover over there. So if we can get -- train those people and develop written materials so when new people come on, they can continue those practices.

The third program which you funded and is just about to start is the Sustainable Design Education Program, another great program which have long-term benefits. What we do is develop training materials, curriculum where -- in cross-disciplinary areas such as green buildings, sustainable landscaping practices; for not only the university programs, for the landscape architects, but continuing education programs for those already in the field.

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MR. TAYLOR: You heard about food residuals. It's statewide 16 percent. You funded a food residuals summit, which would probably be in October of 2002. I'm just trying to make sure all the dates are okay for all the different things that are going on for board members and staff. And what we're trying to do here, this is similar to the conversion technology forum that we did last year. Not just education, which it would be educational, but identifying barriers and solutions regarding foods residual programs.

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MR. TAYLOR: Conversion technology, I won't have to say too much about that. That will be the next program. A lot of activities surrounding that area, a lot of good things.

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MR. TAYLOR: And the last program -- and certainly is not the only program -- these aren't the only programs we're working on. But kind of a new program is a partnership with the Department of Food and Agriculture. Ag is still the biggest market -- potential market for us with regards to compost and mulch. And it's been challenging, but we are determined to increase markets. And, again, we're trying to leverage our resources by working with CDFA, other ag groups, to penetrate those markets.

And they have their Fertilizer Research and Education Program, and we are working with them to kind of -- to get projects out there that are beneficial to our markets and also help them with regards to nutrient soil management in agriculture. So, again, our goal -- kind of our mantra here on the organics again -- organic materials management is to find a home for all organics. And although there have been a lot of problems and a lot of issues that we have to deal with, I think there are a lot of good things happening and we're dealing with that.

So, Judy, thank you very much.

And Julie will finish up.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Kevin.

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MS. FRIEDMAN: So I'd just like to summarize a few things, kind of leave you with a few key thoughts.

First, as you have seen, it's critical to protect and enhance the organics infrastructure and the investment that not only the Board but local governments and that industry have made in this area.

Second, it's important to do this because organics is a key to achieving and maintaining AB939 mandates.

Third, organics programs provide multiple benefits. When you have provided seed money for research, it has helped solve multiple problems and has created multiple benefits really beyond AB939. And that's been through your leadership to provide that seed money.

Organics supports the Board's efforts to achieve strategic plan objectives and will continue to need your leadership and support in this critical area if we are to be successful.

Thanks for your time and attention to these issues. And we're happy to answer any questions that you may have.

CHAIRPERSON MOULTON-PATTERSON: Thank you very much for an excellent presentation.

Senator Roberti.

BOARD MEMBER ROBERTI: Madam Chair, I'm just

curious. On the kinds of items that contaminate compost, I guess that's -- I don't know what the word is -- do we have a percentage of how much compost -- or an idea on volume, how much compost has been contaminated with things like Sudden Oak Death Disease and clopyralids and treated with some -- I mean, I recognize it is a burgeoning problem. But how big is it right now, or is there any way of knowing?

MR. TAYLOR: I think, at this point, we really don't know. With regards to clopyralids, I think we're just finding -- getting a general idea now of just how many or a percentage -- you know, I would say -- 19 out of 29 yesterday, and that's just small samples.

So we really don't know, you know, as far as CCA. Again, it's something that's just come to our attention. So to be honest with you, we don't know. I think just the fact that it's out there for us and is affecting the perception of compost, is that people start asking us questions, you know, "Is it safe?"

And one of our composters, Bill Box, was talking to us about -- saying he's getting all these calls from people, these users, about "Is it safe for me to use this compost?" I mean, it's tough enough for these guys, and then when people are asking, "Is it safe enough? Is it going to kill my tomatoes?"; I think that's enough for us

to take this seriously.

Sorry, I don't have that answer.

BOARD MEMBER ROBERTI: That's a good point.

MS. FRIEDMAN: I'd just like to add to that, too.

We also want to be preventative. You know, we hear about issues that arise, and we want to make sure we take steps to prevent, you know, a continuing degradation of the situation. But we don't have -- I agree with Kevin, we don't have detailed analysis of that, and that's some of the areas that we want to pursue.

MR. TAYLOR: I kind of think about like the alar issue.

BOARD MEMBER ROBERTI: Yeah, I remember it very well.

MR. TAYLOR: Nothing really happened, but it really hurt the industry.

BOARD MEMBER ROBERTI: It hurt the apple industry.

Another point is, do we have any programs or does any waste entity anywhere have a program on how we can site composting facilities with greater ease? I mean, do we have an inventory of geographic areas where it might be more acceptable or -- you get the drift? I know this is very vague. But obviously permitting a siting is an enormous problem, and how to go about it or where we go.

Do we have an inventory? Do we have a program?

MS. FRIEDMAN: I'll take a stab at it. I don't know if Ms. Nauman wants to add into that.

As far as I know, we don't have any such predictive model or program that says here is a place to site these facilities and here it is. I know that that sort of thing has been done over time in various arenas. Years and years ago we used to do that with energy facilities. But I don't know of that, in particular, for compost and organic facilities.

BOARD MEMBER ROBERTI: Well, Madam Chair, one thing that we try to do on this Board is we try to help those entities that are in the business of recycling, reuse, find -- to ease their way into business. And I think compost facility siting is one that maybe our staff could be directed to try to maybe work on some kind of program.

It's difficult. I understand what I'm saying is a little bit nebulous right now, but if we really want to move forward with this, and I think that's something the Board very much wants to do, and yet we don't want to inconvenience neighbors, whatever, I think we ought to start working on a program to work with sister agencies at the local level to find ways of making siting easier, coming up with inventory besides.

Everybody's in favor of composting and nobody wants one next door, understandably.

CHAIRPERSON MOULTON-PATTERSON: Exactly, Senator. And I was going to mention -- you know, I'm very, as everyone on this Board is, very committed to supporting the composting industry. But I was a little bit surprised when we testified at the AQMD. There were more odor concerns and the perception out there -- whether it's perception or reality, I mean this is something we have to take very seriously. And I was really, really concerned.

We do have -- we have a 10:30 time certain, but we do have one speaker. So I'm going to ask that Mr. Evan Edgar be somewhat brief, because we do want to keep with our time schedule.

MR. EVAN EDGAR: Thank you. Evan Edgar, Edgar Associates, on behalf of the California Refuse Removal Council. I represent 80 green waste collection programs statewide, 50 green waste transfer processing facilities, and over 12 permitted compost facilities. So this is a very huge issue.

We respect the leadership the Waste Board has taken and the responsiveness of the staff. This is very important to us. But sometimes I feel like I'm captain of the organic Titanic, because we are under siege. And all these issues emerging at the same time is putting us at a

very much uncertain future, and the consumer confidence is waning out there. So everything that staff has said today is very true, but even worse from the local composter perspective and in trying to make composting work statewide.

To answer Mr. Roberti's question about siting, we're finding that outside of PR 1133 still siting in L.A., about the 10-county region where Sudden Oak Death is, they won't site out of there. So right now we're being forced out of certain areas because of different situations.

But there is no statewide siting plan or siting element. Some people have it for landfills and the general plan, but nobody has it for compost facilities on the local or general plan level.

With regards to the mountain material out there in the 10-county Sudden Oak Death region, there's about a million tons of organic materials being processed today. And Sean Edgar will be talking a little bit more about that after I get done with my testimony here.

With regards to clopyralid, there's 16,000 cubic yards impacted in San Diego County and Sonoma County right now. That is over $100,000 worth of damages on compost that's not moving. The sales are not happening in Sonoma County, which is the highest use of clopyralid in

California.

What we have in here today is a basic cross-media multi-agency solution. You guys are the leaders upon doing that, on motivating DPR, motivating PR 1133 in Mr. Jones' testimony and the Chairperson's testimony, and motivating other people to come to the plate. So we appreciate that.

With regards -- with respect to clopyralid issues, CRRC took a leadership position on that. And Edgar Associates helped create the California's Compost Coalition, which is a coalition of public agencies, public sector composters, and private composters. And we sponsored AB 2356, the Keeley Bill.

We felt DPR was not doing an adequate job today. They only are looking at residential. And last week during committee hearings Dr. Toby Jones mentioned that they're only looking at the residential use of that at this time. We feel the commercial use is a greater problem and a greater opportunity for DPR to address, and we're looking forward to the major working group to participate in that.

During the March 6th item, I did mention about green procurement and product stewardship.

With regard to CCA wood waste and clopyralid, those are product manufacturers, product stewardship type

of issues. And one step the Waste Board could take is -- on green procurement is to look at the use of clopyralid at a commercial use on landscape maintenance by statewide agencies at parks and right-of-ways. That's something we can do now. Some local agencies are doing it. In the City of San Jose, in the city of San Francisco, they adopted some local ordinances looking at use of clopyralid at the local level. And at the statewide level we can be proactive to address some things that DPR can't do quite yet.

As part of AB 2356, we got out of committee last week. There will be some additional amendments in order to address agriculture. It's a very effective use for star thistle in agriculture uses. So there will be some type of selective-ban phase-in provision that will be added to that bill.

But we have to watch manures. Right now, manure is the main source of clopyralid contamination in Sonoma County. One of the facilities is having problems with moving their product. So whereas we want to exempt ag, we have to be very careful to keep an eye on the manure that comes off the agriculture.

So we look forward to the major working group and we're looking forward to getting it through Committee. But there will be additional amendments to that bill only

focused on clopyralid. It's a single-issue bill.

With regards to CCA wood wastes, the Waste Board took a leadership position on that as well with regards to C&D regulations. That was the first regulatory package that took a comprehensive look at load checking. We feel that was a first great start in order to look at CCA wood wastes as part of the C&D regs. We see that rolling over at the other facilities as well.

So we appreciate your leadership. And I'd like to bring up Sean Edgar on behalf of CRRC to talk a little bit about Sudden Oak Death.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Okay. Sean Edgar. I didn't have a speaker's slip, but go ahead.

MR. SEAN EDGAR: Madam Chair and Board Members, Sean Edgar. I guess I would be a sailor aboard the organic Titanic.

Very briefly to speak about Sudden Oak Death Syndrome.

Market development of course is the -- requires secure outlets. And we've been building outlets over time. We want to specifically thank the Board for your appropriation yesterday of $50,000 to conduct research into Sudden Oak Death Syndrome, because we do not yet understand all of the pathways and we don't understand all

the treatment methods in order to effectively manage infested materials. So we appreciate your leadership and staff's work to achieve that appropriation.

Now, the CRRC is a statewide organization that has adopted support for the AB 2251, Assemblyman Nation's Bill, that came out of the Natural Resources Committee on Monday.

Although, absent the funding, we're hopeful that part of the $6 million that will be put back in in the Budget Subcommittee -- the Budget Committee hearing will be used toward researching a variety of compost methods that are currently used. Currently, USDA and CDFA have looked toward outdoor windrow composting as -- initially evaluated that as an effective treatment based on studies from the University of California at Berkeley.

However, we're looking forward to the funds that were allocated by this Board yesterday to go toward that research as well.

Very briefly, the million tons coming out of the 10-county quarantine area, the Waste Board study from 2001 on compost infrastructure tells us that 40 percent of that waste stream is headed toward the biomass industry. Our efforts on behalf of the CRRC with the -- in conjunction with CDFA, USDA, and Waste Board staff has been to explain that the existing California vehicle code contains

provisions on safe transportation and provisions for cleaning up any spills in transportation. On that basis, USDA, appears that they're accepting continued shipments to the biomass industry, which, of course, is part of our addressing the energy challenge, which is real.

The second outlet that Waste Board tells us, 30 percent of outputs from the quarantine area is to the compost market. And the remedy there will be the research that we discussed earlier. And thank you again for your support.

I'll close by saying that to keep the organic flow moving, that cooperation by industry and the regulators is needed. This Board has taken a leadership position and this Board's staff has taken a leadership position and been an honest broker in this process.

We look forward to continuing with USDA and CDFA in developing an adequate remedy to make sure that there is no statewide quarantine. Just to put a sharp point on it, the USDA apparently has authority, at this time, to place a statewide quarantine on not only the 10 counties existing, but on all 58 counties in California. So if the USDA chose to do that tomorrow, every organics handling operation, composting facility in the state could be subject to new departmental permits and could really disrupt our handling of organic materials.

So our industry has provided comments to USDA by the deadline last Monday. And we look forward to continuing our work with and appreciate the Waste Board's leadership in this issue.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you very much. And, again, thank you for the presentation.

We will go to Item 34 at this time.

Yes, Mr. Jones.

BOARD MEMBER JONES: Just one quick comment on Senator Roberti's idea. I think it's important to look at, you know, some area to try to, you know, figure out where we can at least help people with siting these elements.

The issue -- when we were down here, PR 1133, when the technical assessment came out, it identified 2,600 calls and complaints in one area. I think 1,200 or 1,300 of those were verified or -- but I do know that those 1,200 complaints came from 10 people in a residential community that is considerably larger than 10. Those are one of the issues that we -- that this industry and solid waste handling industry is continually dealing with. That operator has got to operate so he doesn't create a nuisance, there's no doubt about it.

I don't know -- I know the past a little bit, and

I don't want to really get into that as much. But when 1200 complaints are made by 10 people, there is another level --

BOARD MEMBER ROBERTI: That's obviously a problem. I agree with that.

I want the world to know that I live within a half mile of a composting facility and didn't know it until I got on this Board.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you, Mr. Jones.

Mr. Paparian.

BOARD MEMBER PAPARIAN: Just one quick comment. I brought this up yesterday under some bioreactor discussion.

But I think as we look to the future, we may need to give some consideration to the potential competition for the organics waste stream between conversion technologies, composting, possibly bioreactor landfills, possibly transformation facilities. And then certainly we're already seeing it with ADC use. So there's a lot of potential use for this waste stream. You know, our goal right now seems to be to get this organic waste out of landfills. But once we do that, I can see some competition there between technologies, and we may need to look at whether we can or should play a role in

encouraging one versus another or encouraging a certain amount of one versus another.

We already have a situation in the plastics area where one plastics program has been so successful that there's some talk about backing down on a recycled content requirement in plastics waste stream because of the complication from another plastics product that's using recycled content material. I don't want to divert our attention to that right now. It'll come up at a different time. But I see it as an issue that we need to look at at some point.

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

Number 34, Consideration of diversion credit For materials sent to conversion facilities and a definition of conversion.

I'll turn it back over to Ms. Wohl.

DEPUTY DIRECTOR WOHL: I'll just move into introducing Howard Levenson, who will present this item.

CHAIRPERSON MOULTON-PATTERSON: Good morning, Mr. Levenson.

MR. LEVENSON: Good morning.

Good morning, Madam Chair, Board Members. Howard Levenson with the Waste Prevention and Market Development Division.

Before I get into details of today's item on conversion and diversion credit for conversion, I just want to remind us all that we've been working on this for a long time now, and that the basic approach that we've been trying to take is one of trying to create an opportunity for developing new technologies in California as alternatives to landfilling of the millions of tons of materials that are now going to landfills.

Currently, policy and statute does not provide an incentive for new technologies such as gasification and distillation, things that we've lumped under the umbrella term "conversion technologies." And this agenda item contains some proposals that we think would open the window on developing these new technologies.

As you know, we've generally used the term "conversion technologies" over the last year to mean non-burn, non-combustion processing by thermal, chemical or biological means of post-recycled materials into ethanol, energy and other products.

However, statute does not currently define the term "conversion technologies." Instead, most of these technologies are lumped into incineration, under the definition of transformation.

Furthermore, statute limits the amount of diversion credit that jurisdictions can claim from

materials that are sent to a transformation facility to 10 percent. And that's only if the facility was permitted and operational before 1995.

So any new transformation facilities in the current statute -- under current statutes would not be eligible for the 10 percent diversion credit.

This item has been debated for many years. And the positions historically have been either provide zero credit or provide full credit up to 50 percent for transformation facilities.

So I'm going to be going through the options in some detail. It will only take about 15 minutes, if you'll indulge me. But I do want to acknowledge that, you know, there are a lot of folks in the audience who have worked very long and hard on this issue. And while some of them may disagree with the staff recommendations, I think we're all looking forward to the Board's deliberations on this and your guidance at the end of this item.

So we'll go through it.

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MR. LEVENSON: Just in terms of kind of past history, in January, we did have a workshop on more of the permitting aspects of conversion technologies. But the diversion credit issue came up, and we reported on that --

the findings from that workshop at the February Board meeting.

At that time, we, as staff, attempted to provide kind of an in-between ground, between historical positions. And we recommended that the Board seek or support statutory changes for a new definition of conversion technologies, and also that the Board seek or support changes that would allow up to 10 percent diversion credit if the Board determined that a facility met several conditions including that it complemented the existing infrastructure -- recycling infrastructure, that it handled post-recycled material, and that it yielded products.

This is the first time, this February item, that anyone had proposed any credit level other than zero or full.

There at the February meeting there was general support for the idea of a new definition and for the concept of Board findings about the availability of credit, although not for the staff recommendation that those findings be made as part of the facility permitting process.

There was no consensus on the actual level of credit. Most of the local government representatives in February maintained their support for full credit up to 50

percent. Californians Against Waste stated that it had reservations about allowing any credit under 50 percent, but that it could support 10 percent under the conditions proposed by staff at that time. So the Board directed staff to convene a working group, and which we did in March. And we're reporting back to you today on that.

The working group had 10 members. It reached consensus on a definite -- language for a definition, on four findings that it thought the Board should make prior to jurisdictions' getting diversion credit for materials sent to these facilities, and on the need for a report on -- by the Board to the Legislature on progress in this area.

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MR. LEVENSON: There was no consensus on a couple of other findings. One that had been suggested was that these -- a finding that the Board would make that the facility did not preclude future source reduction of recycling efforts. There was also a finding about the facility produces products that meet quality standards. But as we'll see when we talk about the definition, that's covered in the definition.

There certainly was no consensus on the level of credit at the March workshop.

The majority of folks on the working group

started by stating their support for full credit up to 50 percent. There was a minority position of -- that favored 10 percent. And during the course of the meeting, local government representatives, while still supporting the full diversion credit, also indicated or put forth a proposal subject to approval by their governing bodies that jurisdictions be allowed 25 percent diversion credit if they met the findings made by the Board, with the provision that the Board could adjust this level up or down after some due process.

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MR. LEVENSON: So that brings us to the detailed item before you today. Basically, what you have in the item is a menu of options that are grouped into five categories.

The first category is just status quo, so there's no real discussion of that.

The second category, Option 2 provides you with three choices on the definition of conversion or conversion technology.

The third finding -- or the third option category provides you with language on findings that the Board could make in order to provide diversion credit.

The fourth is a report to the Legislature.

And the fifth is choices on the level of credit.

I'm going to go through each of these in some detail.

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MR. LEVENSON: Regarding Option 2 -- first of all, I want to point out that there was no specific language proposed in the February item, just the concept that a new definition was needed, along the lines of the way we generally have been using the term "conversion technologies."

The working group came up with a specific definition, which is Option 2A. It's listed on -- or it's on Page 2 of your agenda item. And I'll just read it for the record.

And it states: "'Conversion' means the processing, through non-combustion thermal means, chemical means, or biological means, other than composting, of residual solid waste from which recyclable materials have been substantially diverted and/or removed to produce electricity, alternative fuels, chemicals, or other products that meet quality standards for use in the marketplace."

So this differs a little bit from what we had

discussed in February, the general concept, in that it uses the term "conversion" instead of "conversion technology," and this makes it more consistent with other terms in the statutes, such as recycling or landfilling as a process. We don't focus on technologies as much in the definitions.

It also refined the general concept to include the phrases "substantially diverted and/or removed" as well as the phrase "quality standards for use in the marketplace."

At the same time, the working group also noted the need that if a definition like this was enacted in the statute, there would have to be conforming changes to the statutory definition of "transformation," to remove some of the wording in that definition.

In Option 2B is the same exact definition, but with a modification at the end to address an issue raised by Californians Against Waste about minimizing residuals after processing and promoting the idea that conversion facilities not function as de facto transfer stations. So the definition would read the same, but with the additional phrase at the end of "with a minimum amount of residuals remaining after processing."

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MR. LEVENSON: A third option, 2C, for this

category is to take the working group definition as it is and simply direct staff to consider this residual effort in rule making.

We have recommended Option 2B and acknowledged that that differs slightly from the working group's recommendation. Our rationale is that it made sense to us to suggest that conversion technologies maximize recovery and use of non-recyclable feed stock. And the suggested modification would indicate that this is the case. However, this could also be worked on during a rule making.

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MR. LEVENSON: At this point, since we're on the definition, I also want to make a clarification about anaerobic digestion.

We have generally included anaerobic digestion, which is an in-vessel kind of composting, in the discussions over the past year, partly because these technologies are not widely used for solid waste and because we think additional research on their technical performance and lifecycle costs and benefits would be worth conducting.

However, this has caused some confusion that does need to be cleared up, and I take the blame for that. But specifically anaerobic digestion is currently regulated

under our composting regulatory requirements. So any materials that are sent to an anaerobic digestion facility would not count as disposal. It's not included in the definition of "transformation" and, therefore, would not be subject to any diversion credit limitation.

BOARD MEMBER ROBERTI: Could I ask a question, Madam Chair?

CHAIRPERSON MOULTON-PATTERSON: Certainly.

BOARD MEMBER ROBERTI: If material goes to an anaerobic digester, going in -- the product coming out, is that all compost?

MR. LEVENSON: No, it could be a combination of some kind of soil amendments such as a compost and a gas that can be converted into electricity.

BOARD MEMBER ROBERTI: And to the extent that it becomes gas converted to electricity, under our current rules or statutes, that still would not be counted as transformation?

MR. LEVENSON: No, sir.

BOARD MEMBER ROBERTI: What if it's like 80 percent gas and 20 percent compost?

MR. LEVENSON: The mix would not make any difference because it is currently under our regulatory requirements for composting. And the proposed definition would not change this at all because the proposed

definition specific says by means other than composting. So right now for an anaerobic digestion facility to have a cap on it, you would have to make an explicit change to the current statute, which is not what we are proposing.

BOARD MEMBER ROBERTI: So to the extent that I'm -- entities have talked to me, very concerned that we don't give any credit to anaerobic digesters or that these statutes will alter what we currently do. Your response is that the current regulations and statutes, this is all counted as composting anyway?

MR. LEVENSON: That's correct.

BOARD MEMBER ROBERTI: Okay.

MR. LEVENSON: And I'd have to ask legal staff about that just to make sure that I'm not misstating anything.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Senator.

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MR. LEVENSON: Okay. So that's the definitional option.

Option 3 is a set of findings that is suggested that the Board make regarding the diversion credit, not the level but just kind of the availability, what conditions we need to apply.

The working group reached consensus on four

findings. Essentially, if the Board determined several things -- well, it would allow the jurisdiction of credit for materials that are sent to these facilities if the Board made the following determinations:

One is that the jurisdiction continues to implement its programs that are listed in the source reduction and recycling element or in its modified annual report.

Second is that the facility complements the existing recycling infrastructure and -- and I'll just note here that this next phrase is added by staff and I'll come back to this -- facility complements the existing recycling infrastructure and converts previously exposed solid waste.

Three, the facility maintains or enhances environmental benefits.

And, four, the facility maintains or enhances economic sustainability.

There were also two non-consensus findings discussed -- I mentioned those earlier on -- was the idea that there should be a finding that it doesn't preclude source reduction and recycling and composting. And the other, that it should yield products that meet quality standards. But that latter is redundant, the definition, in our opinion.

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MR. LEVENSON: Okay. This differs from our proposal regarding findings that had been made at the February meeting in the following ways.

First of all, the February meeting we had suggested that these findings be made as part of a facility permitting process. But stakeholders definitely did not want to link a finding like that about diversion credit with the permitting process.

In this case the timing of the determination would be when the Board reviews a jurisdiction's annual report or this SRRE, source reduction and recycling element.

It also differs by having two additional findings from the working group, one regarding environmental aspects and the other economic aspects.

And then, finally, it differs by having the phrase, in finding two, about converting solid waste that was previously disposed. We added this phrase after consulting with DPLA and legal staff to minimize problems that might occur later in accounting for tonnage claims and working with base-year generation studies.

This phrase would help ensure that there's no double counting or diversion. Also, it would help ensure that materials are not taken from the feedstock existing

infrastructure.

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MR. LEVENSON: Option 4 basically is the idea that came out of the working group -- we had not discussed this in February -- but that there needs to be -- the Board needs to report to the Legislature on progress in this general area of conversion technologies. And the working group suggestion was: "Beginning in 5 years, the Board shall, in its annual report to the Legislature, summarize the status of the industry," and so on.

There has been some discussion about modifying this 5-year date and -- and CSAC in their April 11th letter suggested it to you, beginning in two years to provide such a report.

DEPUTY DIRECTOR WOHL: Can I just add that staff is agreeable to that change.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

MR. LEVENSON: Okay. Then we get to Option 5, which is really the crux of the argument -- although there are points of contention on the earlier options -- the level of credit.

The majority working group proposal -- again, these are listed in the options on pages 2 and 3 -- basically is that jurisdictions that meet all the above criteria -- in other words, the findings that the Board

would have to make, whatever that set of findings ends up being -- would be eligible for 25 percent diversion credit, which is an amount that could be adjusted up or down by the Board after some due process and subsequent Board findings. That's 5A.

5B was the minority opinion from the working group that jurisdictions be eligible for 10 percent.

5C is taking -- staff's taking the 10 percent recommendation, but adding a provision that the Board assess the effect of allowing diversion credit and include recommendations in its 2008 report to the Legislature regarding future diversion credit.

That 2008 report was linked to the 5-year report in the earlier options. So that date might be changed, if you wish.

Option D was any intermediate amounts, such as 15 percent. And, of course, other percentages are possible and are acknowledged that the majority of the working group, you know, still support full diversion credit, and we probably should have included that as a fifth or sixth option.

--o0o--

MR. LEVENSON: Okay. We have recommended Option 5C, which would basically allow a 10-percent diversion credit and revisit this situation after some time and make

a recommendation as to whether this should be increased. Whether the timing of the revisit should be changed to an earlier date is up for discussion.

Again, we acknowledge that the working group majority recommended 25 percent, and that's a major shift in their position.

However, our rational for still proposing Option 5C is as follows: There's only one facility in the world that uses solid waste, one conversion facility, as being defined, plus one that's being built in New York that uses solid waste. There are none in California that use solid waste.

We certainly agree that conversion technologies have a lot of promise to help mitigate environmental issues, develop new products, increase diversion, and so on; and that's why, you know, we've been working on this for the last year or year and a half and had to have so much support from the Board.

But it remains a fact their actual environmental performance costs and impacts on existing programs are yet to be determined. There are some hydrolysis plants that have been proposed for California that have not come into fruition for technical and financial reasons. And there are questions about performance of the one plant in Australia, which looks good, but we still need to see more

information on that.

There were a number of issues raised in the League's and CSAC's letter on April 11th disagreeing with the 10 percent recommendation. I just want to go through a few of those that I think are important, because they are part of our rationale for the 10 percent.

One is a disagreement that 10 percent is sufficient incentive. Frankly, we do not understand this claim. It seems to us, and perhaps there are other perspectives on this, that staff -- I mean, jurisdictions could still enter into agreements to send more tonnage than just the amount that would be needed to get the 10 percent to a facility if it was more economical than landfilling.

In other words, if 100 tons would get them 10 percent, what would stop a jurisdiction from sending -- deciding in this contract to send 200 tons if it's economical? So we do not understand why this isn't at least some incentive. But, again, there may be other perspectives on that.

Another issue that was raised is why treat conversion differently than recycling and composting. And I have to respond in a little bit of detail on this. Basically, all the recycling technologies that we're aware of for glass, aluminum, paper and so on, as well as

traditional composting technologies, were all in existence long before AB 939 was enacted in 1989. They all have a long history of process improvements and a long history of regulatory oversight. This is not the case for conversion technologies that would use solid waste.

In 1989 the Legislature considered existing recycling and composting as diversion. It didn't include it in the transformation definition and didn't put a cap on it.

In contrast, the Legislature explicitly considered some of the conversion technologies as being transformation. So the situation is just not the same from our perspective.

We've raised some questions about -- their are still questions about performance as well.

So I would admit that there is not a scientific basis for choosing 10 percent versus 11 percent versus any particular percentage. But we think that it's valid to take a cautious approach based on these technical issues outlined above -- that is outlined before.

Lastly, there's some concern that if 10 percent was the chosen diversion level, that would equate conversion to transformation. And to us that's partly a matter of perspective and partly a matter of fact.

The fact is that there are no new transformation

facilities under the current statute, including incineration, that are eligible for 10 percent. So one could argue that allowing 10 percent for new conversion technologies but not for incineration, which is what Option 5C would do, simply does not equate the two.

I recognize, again, though that there a lot of different perspectives. You're going to hear quite a few comments that disagree with our recommendations. And I fully respect those comments and look forward to the discussion that you'll have with the stakeholders.

--o0o--

MR. LEVENSON: In closing, our staff recommendation is Options 2B, which is the definition with the modified phrase about residuals; Option 3, which is the findings with the modified phrase about previously -- solid waste that was previously disposed, in Finding 2; Option 4 regarding the report; and Option 5C, which is the 10 percent diversion credit, plus revisit in a few years.

We feel that this would at least provide some incentive now for development of these technologies. It would also allow for more thorough evaluation as facilities start coming on line and we can begin looking at them.

So we recommend that the Board adopt Resolution 2002-177.

With that, I'm happy to take any questions or listen to testimony.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Levenson for a very complete report.

I know many of the Board members want to speak briefly. Let's have board member comments and then -- because we must take a short break.

Mr. Eaton, did you want to speak?

BOARD MEMBER EATON: I just wanted to have Mr. Levenson as well as the speakers to come up in succession and address the issue of when they think the appropriate timing is for us to -- if we were to award diversion credit in Option 5, irrespective -- irrespective of the numerical allocation. When would be the appropriate time for us as a board to actually commit to a process of where we would award it? Is it after -- you know, do they have to come here for a permit first before the waste starts going to the facilities such as in a landfill? Just answer the timing question.

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

Any other comments before we break for ten minutes.

We have a number of speakers. And when we come back, we'll certainly hear all our speakers. And we're

anxious to hear your perspectives. I ask that you keep your comments to under three minutes because there's a lot of speakers' slips.

And we will now take a 10-minute break.

(Thereupon a brief recess was taken.)

CHAIRPERSON MOULTON-PATTERSON: I'd like to call the meeting back to order, if I can get my board members back here.

Mr. Eaton, any ex partes?

Could the audience please sit down? We want to get started.

BOARD MEMBER EATON: Yes, a couple. Yvonne Hunter on the item, just kind of clarifying some questions as to what I'm looking for in the response; as well as Dave -- Dave Altman, Terramino Industries.

CHAIRPERSON MOULTON-PATTERSON: Okay. And I have no ex partes.

Mr. Paparian.

BOARD MEMBER PAPARIAN: Yes, I spoke with Bill Magavern of the Sierra Club and Mark Murray of Californians Against Waste regarding both this agenda item as well as the issue we discussed yesterday about the definition of recycling versus incineration.

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

Mr. Medina.

BOARD MEMBER MEDINA: None to report.

CHAIRPERSON MOULTON-PATTERSON: Okay. I wanted to ask Mr. Levenson, did you have any input on Mr. Eaton's question? I know he was addressing it to the speakers, but I'd like your input.

MR. LEVENSON: Thank you, Madam Chair. My response to Mr. Eaton's question regarding the timing of the determination. Just for context, however, I might remind you that in February we had proposed that a set of findings, whatever those findings would be, would be made as part of the facility permit process, that the Board would look at the facility at that time and make a determination about whether credit should be available based on whether the facility complemented the existing recycling infrastructure and so on.

There was quite a bit of disagreement with the timing of that. And at the working group, the consensus out of the working group was that the timing of such a determination should be when a jurisdiction submits its annual -- either its SRRE or modified annual report. And the Board reviews that report. The jurisdiction would make a claim at that time, and the Board would evaluate that claim based on a set of findings.

So that's -- I think the current proposal is that

the timing would be during that biennial review period.

CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton.

BOARD MEMBER EATON: Would that be a separate finding on that alone? Because in some of those reviews we don't actually go through -- currently go through kind of report what they're doing. So is that a separate finding or would there be a new requirement?

MR. LEVENSON: Well, we may have to -- and Elliot may want to speak to that -- but I think we would be able to go through a rulemaking if you wanted to or at least some kind of item before the Board as to what the process is going to be, you know, how is the Board going to hear this or make the determination what kind of information would have to be included in the annual report and what are the steps in terms of notification and the Board making a finding. But the Board would have to make a positive finding in order for that credit to be available.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you, Mr. Levenson.

Mr. Jones, any ex partes?

BOARD MEMBER JONES: Thanks, Madam Chair. Just George Larson, John Cupps and Mark Murray.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

Okay. We'll go ahead to our public speakers. And, again, I ask that you be brief because we have quite

a few.

Yvonne Hunter, League of California Cities.

MS. HUNTER: Good morning, Board Members.

Okay. I just got caught off. Oh, I pushed the button. I'm sorry. Let's try this again.

Good morning, Board Members. Yvonne Hunter with the League of California Cities. I am going to try to be brief because I think Howard did an excellent job outlining the issues and the process. This is probably the third, maybe fourth time as a board or a committee the members have heard this, and so I think everyone is conversant with the major issues.

And I think I'm also speaking on behalf of CSAC. I'm not sure whether Karen King was able to get here, but if she'd not here, she's asked me to speak on behalf of CSAC.

First, once again, let me thank the Board and the staff for all of the hard work that has gone into this discussion. This is probably in the last year we've discussed conversion technologies -- last year and a half -- more than over the last 10 years. And so this is very positive and we appreciate it, and we applaud the Board for its leadership.

We did participate in the working group that was put together at the direction of the Board in February.

And as Howard aptly stated, there were a number of important consensus items that came out of that working group. And it was through the ability to have a dialogue back and forth to clarify what everyone meant and how to get from point A to point Z on the definition and on the findings. So we support the recommendations of the working group in the definition, which is 2A and Option 3, Board findings without the staff additions. And I'll explain to you why we have reservations about the changes proposed.

We also continue just philosophically to believe that these facilities should get 100 percent diversion credit. But we realize that that is not going to happen probably not in our lifetime or in this universe. So in an effort to move away from the polarization of 0 to 100 or even 10 to 100 percent, we put on the table a 25 percent option. And I'm pleased to say that the League's policy committee and I assume our board of directors on Friday will embrace that.

So we strongly believe that 25 percent is a reasonable alternative. It will give jurisdictions and the developers of these facilities and technologies the appropriate incentive to go ahead and approve them.

We want to remind the Board and call to your attention that the findings that the working group agreed

upon we think should put to rest once and for all that conversion technologies, and giving AB 939 credit for diversion from these facilities, this ought to put to rest those findings that any of these technologies will hurt the existing infrastructure or that jurisdictions will abandon all of their AB 939 recycling programs. Because the way the findings are written, if you do that, you're not eligible for credit. And this is, I think, a very important and it was a very constructive outcome from the working group.

Let me share with you why we do not agree with the staff recommendation for a few tweaks in the working group definition and for options -- the findings that the -- the changes made there.

We have some concerns that we haven't had the opportunity to explore with the staff what the implications of those changes in terminology mean.

For example, in the finding staff added that the material had to have been previously disposed before it goes to a conversion facility in order to get AB 939 credit. If they are -- we agree double counting should not be allowed. But how does -- what does one mean, previously disposed? Is this material that otherwise would have gone to the landfill? Or is it the conversion facility has to only take it if it literally was

previously disposed, that you have to dig it up from the landfill and put it in the conversion facility?

We don't think they meant the latter. But three or four years from now when we're all trying to figure out what this meant, we don't want that to be a difficulty. So what we recommend -- strongly recommend is that for the definition and the findings and any other -- that those recommendations from the working group be adopted by the Board today, with the direction that staff engage with the various stakeholders in exploring some of these other issues.

And the Board has a sponsorship bill that is -- will be a vehicle for what comes out of this Board meeting and additional discussions that any changes that need to be made be done through the legislative process through the Board's input. Because otherwise we are afraid the unintended consequences is we, you, all of us will be locked into definitions and findings that upon retrospect perhaps could be worded differently. So we would strongly encourage the working group definitions.

And we would also suggest that any other changes in definitions or findings that come from any other interest groups, like my friend Mark Murray from CAW, again be not adopted today, but be integrated into the mix of discussion through the legislative process.

So the League of Cities and CSAC again thanks you for your work. We recommend the working group's definition and findings for now, without any changes. And we strongly recommend the 25 percent level.

And thank you very much for your indulgence.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms. Hunter.

Before we go to the next speaker, Senator Roberti, do you have any ex partes?

BOARD MEMBER ROBERTI: No.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Paparian.

BOARD MEMBER PAPARIAN: Could we just -- could I just ask the staff for a quick response on this issue of converting solid waste that was previously disposed of, what that means?

MR. LEVENSON: Yes, that's added to clarify that this material would have been included in the base year for the jurisdiction, which would help avoid some of the double counting. But I think I'm going to turn to Elliot or Lorraine for --

STAFF COUNSEL BLOCK: I'll give a quick stab at it. Elliot Block from the Legal Office.

You know, that's correct. I mean certainly there was no intent with that language that you were talking

about material having be dug up out of the landfill.

MS. HUNTER: I didn't think so. But one never knows.

STAFF COUNSEL BLOCK: We were talking more in terms of waste streams -- for instance, when you're dealing with some of these conversion technologies, for instance, ethanol production, you have materials that weren't necessarily part of the waste base year initially that could then suddenly be given credit for diversion, that sort of a thing. And as you know we've had a lot of issues in the last three or four years dealing with what counts, and so we were essentially trying to tighten that language up a little bit.

Certainly, if there's some other issues out -- I think we always do have a possibility to do some additional details and regulatory process should this legislation ever get through, and that might be a better place to have some more specific details. But we were concerned that without saying something like that, it was much too open-ended.

BOARD MEMBER PAPARIAN: All right. So to give it a real-world example, I recently visited a brewery which does have an alcohol byproduct that's used for fuel. I don't even know if you can give a definite opinion on this. But since they have been doing that quite a while,

one would assume that they wouldn't be considering a conversion facility or they wouldn't get this sort of credit in that local jurisdiction.

STAFF COUNSEL BLOCK: I think that would require a site visit before I make that determination.

(Laughter.)

MS. HUNTER: A site visit with all stakeholders.

STAFF COUNSEL BLOCK: Obviously, I can't answer that particular site. But that's the kind of concerns that we have, that if the idea behind the concept was that we were dealing with jurisdictions that needed to address waste streams they couldn't address through the more traditional recycling infrastructure, that's what they'd be approaching. Of course, if you don't tighten that up a little bit, it opens it up to other materials that are in that universe.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

MS. HUNTER: Madam Chair, may I --

Mr. Block's correct, you only get AB 939 credit. But the term of art in the statute is for solid waste that had been previously disposed. But it had been going to a landfill and you're now pulling it out. Our only concern, and using that as an example -- but there were several additional suggestions in the staff recommendation that had not been discussed in the working group.

Our concern is that if the Board adopts those additional changes, that there be the opportunity to reopen them to discuss them and perhaps change them through the legislative process, not necessarily the regulatory process, so we don't get locked into something because it's a Board position today that can't be changed after everyone discusses it and says, no, it's an issue or, yes, it is and there's a better way to word it.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms. Hunter.

Larry Sweetser, Rural Counties Environmental Services, followed by Lori Van Arsdale.

MR. SWEETSER: Good morning, Madam Chair and Board Members. My name is Larry Sweetser on behalf of the Rural Counties Environmental Services Joint Powers Authority.

And I will be real brief just because I'm going to echo full support of the League's position on this with the full 25 percent recommendation. So thank you very much.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Sweetser.

Lori Van Arsdale, city of Hemet, SCAG.

Yes, Senator.

BOARD MEMBER ROBERTI: I would just like to make

an observation, reiterate something I said a hundred percent seriously last week, but with a touch of levity. But I really do mean it. And, that is, that on the 25 percent, we can only do so many things that skew the number so it ceases looking like recycling, reuse and reduction and it starts moving into some, you know, esoteric fanciful world.

And so if we're going to give 25 percent for conversion technologies, we then have to look at the other fiction we involve ourselves in when it comes to waste disposal and, that is, alternative daily cover. I don't see how this Board can operate with both, and have real numbers. It's hard enough to get real numbers right now.

So to those who want to go up to 25 percent, I hope maybe they address the issue of alternative daily cover, too. And are you willing to give something to the public at least in the sense that we have something approaching real numbers when we're talking about recycling and telling the world what we've done, and that our compilations aren't just fiction upon fiction? So we can deal with a little of this for public policy purposes. And conversion technologies has a real public policy purpose; and, that is, you know, finding new sources of energy.

No larger public policy purpose, I would submit,

than I think ADC has. But we can't have a number system which is just totally artful and totally fictional. And so those that come before us wanting the 25 percent, what are you willing to give for honest accounting? You know, we're all talking now about honest accounting. Well, what are you willing to give up for honest accounting?

And the League of Cities is here.

I was going to spare one more go around with you. But I mean -- so I see you coming up, so --

CHAIRPERSON MOULTON-PATTERSON: Ms. Hunter.

MS. HUNTER: Yvonne Hunter, League of California Cities. Part of my responsibility is also to protect elected officials who serve on my Policy Committee.

BOARD MEMBER ROBERTI: I'm sorry.

MS. HUNTER: Senator, I know you asked the question last time with great seriousness and, yes, a little bit of levity, and I responded I think in kind.

Let me say that if we're talking about ADC and accurate numbers, it's always been the League's position that we believe ADC should be considered as diversion as long as the landfill is using it as a functional equivalent to daily cover.

In other words, whatever the regulations are on the maximum amount of use, so that it's 12 inch -- I think it's 12 inches of ADC is the equivalent after it's

compacted to 6 inches of dirt, or it may vary. But if you go over that maximum, you do not get AB 939 credit. And if there is evidence that there are folks that are slipping by this, then that's the responsibility of the LEA and the Board to stop -- --

BOARD MEMBER ROBERTI: Well, as you know, in some cases there is evidence, but -- and I understand, you know, your point, I guess, on the 12 inches. I'm not an engineer by any stretch of the imagination. But of course the other side of the coin is that, yes, this is the requisite amount to keep a landfill clean, safe, whatever the point is, but on the other hand it's still trash going into a landfill.

That's the other side of the coin. And it's hard for us who compute an ADC business to try to explain it to anybody why it's diversion. So there is another side of the coin. And I think that's what I'm trying to address and, that is, the 25 percent on alternative technologies -- and on some things -- listen, I want to burn tires, which doesn't make me much of an environmentalist in that one small area.

So I'm not an absolutist in this, but we have to be concerned about our numbers, too. And if we have ADC and conversion technology, you know, suddenly we're dealing with Alice in Wonderland. And it's a great story,

and, you know, it's great and, you know, we could spend hours debating the issue of what the numbers really mean; but whether it really means real recycling, I don't think -- right now we're on the cusp as to whether our number system really means recycling.

MS. HUNTER: Which is -- you're absolutely right, which is why the League and others and this Board have recognized that it's a dual system. It's what is your number, which is -- our position is it's a general indication, because we all know there are factors that influence the accuracy, but it's also what programs you have on the ground. Do you have curb side? Do you have commercial recycling? And all of those programs. And it's a delicate balance, which is why the Board looks at both.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms. Hunter. Thank you, Senator.

Councilmember Van Arsdale, City of Hemet.

MS. VAN ARSDALE: Thank you. And thank you for rescuing me.

I would like to say --

BOARD MEMBER ROBERTI: We didn't get your city. What city?

MS. VAN ARSDALE: City of Hemet, and I'm also a member of the SCAG Waste Committee and the League of

Cities.

I do want to say that I keep with me on a continuous basis at the these committees your conversion technologies book that I got at your seminar, and Howard's summary, so that I can note them often.

We have been working on this issue for over five years at SCAG, and discussions about how to help get us two points where we invite and welcome conversion technologies in the State of California.

I do want to say, I want to make one correction that Howard mentioned. There is a facility that has been permitted and is being built in Riverside County at Romoland, 12 miles from Hemet. They're about half finished with building their manufacturing facility. And they will have a conversion facility on site. It's the pyrolysis system.

While we believe full credit is truly fair, as a city -- I must say that -- and being a part of this committee, I must say that we think that that is truly fair. We also have strongly considered CAW's issues, the Sierra Club's issues, and certainly the Board's issues when it comes to full credit, and have really tried hard to understand those considerations.

And in doing that, when we came down to the 25 percent, we felt like we had done quite a compromise.

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However, there is something else I'd like to bring up to you today.

We have been discussing with members over at the Assembly and also with members throughout the State, when it comes to financing and putting these facilities on the ground, that's where reality comes in. We really do need something that will give us some flexibility, in our opinion -- in my opinion and a few of our opinions that are on the Board who will take this back to a formal blessing.

If we have some type of program where the facility had a minimum amount that is allowed based on these four findings that you have, and then in addition to that there was flexibility enough -- if someone has a tremendous program and then they also do conversion technologies and you had programs up front. In addition to that, you had great recyclables on the back end, on top of electricity, that you might produce for your tires, Senator Roberti, a pyrolysis system. You can run those tires through that system, and you end up with carbon black and steel, you reduce the amount by about 80 to 90 percent. Carbon black and steel are marketable and -- very marketable, I should say.

So let's -- I'd like to float this idea, to consider the ability to take the technologies that we have

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today and make the consideration of both on the back end as to what kind of conversion product you have, and especially on the front end, I think, because of what a city or a county, municipality or a -- even a private party has done in order to create the programs that get the most use back into the industries that are marketable, and plastic to plastic, paper to paper, et cetera. I know that's the big concern.

And in addition to that I'd like to say that there have been some concerns brought up by the Sierra Club and some others about the pyrolysis technology, and asking that they not be considered in the conversion definition. And I would like to say that we have extensive studies that we can provide for you. I did provide one study for Caroll Mortensen on your Board yesterday. But we do have extensive studies by Danes and Moore. And Department of Energy had one done through Sandia Labs that showed that the dioxins are clean, the stacks are clean, they're 99.9998 percent clean with the pyrolysis processes of today.

Years and years ago pyrolysis was a problem. It was difficult to keep them running in the absence of oxygen. Today's systems are much more advanced and we're really happy to provide you with studies for that.

I thank you for that. And we do also appreciate

the two-year revisit or possibly up to three-year revisit.

That's what I meant. If it's a good process in the end, we really would like to see you. If we have someone at X percent and they are doing an excellent job, reconsider their diversion credits to a larger amount.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you very much.

BOARD MEMBER JONES: Can I ask a question, Madam Chair?

CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

BOARD MEMBER JONES: On the back, if it's a really good product at the end, are you saying deal with those like on a case-by-case, or how -- I mean you throw that out, and that might be something worth talking about. But how would you propose that it be looked at by this Board?

MS. VAN ARSDALE: Well, certainly X type of system produces Y type of product. It might be able to be in general for certain types of systems. But for now, I think you'd probably have to do case by case because we have limited -- you know, limited things done.

One other quick thing: I would like to see you guys consider sponsoring some demonstration projects. It is difficult to finance this company that's in Riverside

County. It has two-thirds of it paid for, and they're looking for venture capitalists to finish. It is very difficult to finance these kind of things, and I think you guys would do well to sponsor a few demonstration projects.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Councilmember Margaret Clark also chaired the L.A. County Integrated Waste Management Task Force.

Welcome.

MS. CLARK: Thank you very much.

I'd like to continue back on what Lori just said. You're not financing them. She means a loan guarantee or some kind of program where they could get off the ground. But we know there's a tremendous budget crisis here. We're not trying to get any money to flow.

Now, we are very much in support of the Board having the sole discretion to give more credit where there's better programs and better results. And so maybe if you want to pick a base amount -- we would like to see 25 percent. But if you pick a base amount, and then have a reopener -- have several reopeners, but at least in two, maybe three years see how the programs are going, evaluate on a case-by-case basis and give more credit as credit is due; so that there is an incentive for the cities to get involved in these programs, and there's also a market

incentive for these technologies to get off the ground. We need to have enough credit given so that it goes -- it really goes.

And what I wanted to talk about a little bit is, Senator Roberti when you said telling the public -- and the way that I see this, as long as we have those two -- I believe they're bullets one and two where we make sure that the cities are still doing their recycling programs and diversion programs, so that there's absolutely nothing going to these technologies that could be recycled at the front end. We're going to get those out already.

So this is all stuff that is filling the landfills now. We take it. It will not go to the landfill, so we won't need so many landfills. And we're making products that are useful and possibly, hopefully take the place of natural resources that are used in the product right now. We make them with this trash.

So when I tell the public -- I mean, I've been telling some of the legislators on this that "Hey, that's great, that's a no-brainer." We're reducing the landfills, we're saving natural resources, and we're making good products. It's just -- it's wonderful. So I'm just so excited that you're looking into this and really -- if we can get it off the ground, I feel like we're on the beginning of a real --

BOARD MEMBER ROBERTI: You're making a very important point, and it is a protection for the public. However, I do want to add that we still have a problem and, that is, if we count the number so high, we could come to the never-never land of generating all kinds of trash and have a city at, you know, 80-90 percent diversion. Maybe that's an extreme case, but -- and wondering why in the world that's the case. Well, because they have so much for ADC, they have so much for diversion technology.

MS. CLARK: But why do we care if -- I mean as long as we're taking out the recyclables.

BOARD MEMBER ROBERTI: We care because we're trying to maintain a conservation --

MS. CLARK: Okay. I understand, I think. We reuse rather than --

BOARD MEMBER ROBERTI: Yes, we reuse.

MS. CLARK: -- make it waste -- I understand what you're saying. And we'd want to build in safeguards for --

BOARD MEMBER ROBERTI: I guess it has something to do with our -- like our hierarchy, the highest thing is reuse. In fact, I don't even know of beneficial uses in our hierarchy. I'd suspect it is depending how creative your read is. But it's way at the bottom.

MS. CLARK: I see where you're coming from. So if we could build in the reuse and the recycling of it, then we wouldn't come to that?

BOARD MEMBER ROBERTI: Right.

MS. CLARK: Okay. Thank you very much.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Councilmember Clark and Senator.

Kay Martin, County of Ventura, followed by Mike Mohajer.

MS. MARTIN: Good morning, Board Members. I guess it's afternoon right now.

I don't have much substantively to add. I want to just tell you that this is an issue that's been near and dear to my heart personally for the last five years. And I want to commend staff, and in particular Howard Levenson and Fernando Berton.

This has been an issue that maybe five years ago we didn't even talk about. In fact, we referred to it as the "T" word. We didn't even talk about transformation. We've certainly come a long way. And this is a politically volatile issue. It is technically complex, and a very highly emotional issue for some people. And staff has shown an extraordinary degree of professionalism and persistence and objectivity, and I just want you to know that's appreciated and it's one of the major reasons

that we're here today.

With regard to the staff recommendations, I would only add: In terms of the definition, I think the difference that local government had with staff's recommendation is that although certainly the idea of residuals is an important one, it's a matter of where we deal with it. And in terms of the statute, if we're going to draft a new definition, we might look to the consistency that we have with other definitions. In other words, all processing options including recycling and composting have a degree of residual depending on how efficient they are.

We deal with the issue of residual not in the definitions, but in the rule-making process. And so our suggestion would be that the residual content of any process is something we deal with in the rule making and in the permitting rather than in the statutory definition.

If it looks like a transfer station but walks and talks like a transfer station, it's going to be permitted as such. And any residual that comes out of that facility is not going to count for diversion. It's going to disposal and will not count.

So we would ask your consideration to deal with this in the rule-making process, something more akin to the third recommendation in Option 2.

I would also with regard to the whole issue of diversion credit just urge your Board to remain open minded on this issue as the legislation proceeds. I think there's a lot of merit to considering giving yourselves discretion in deciding on the basis of your findings what type of diversion credit is merited on a case-by-case basis, because every facility has to be viewed in the context of the region and the locality in which it's found.

And so some concept of a sliding scale based on the economic and environmental merits of the facility may give you an opportunity to remain flexible as this very rapidly changing technology develops, and also for your Board to provide some real market incentives to target specific waste streams that you want to look at.

For example, a tire facility or a facility that can effectively deal with plastics that now have no other place to go might be something that you want to encourage, and you could do so by offering a greater degree of diversion credit provided that facility complemented what was there already.

So that's my comment basically, to perhaps maintain an open mind over the next few weeks. And not close the door today, but to consider other options as they may develop.

Thank you very much.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms. Martin.

Mike Mohajer, followed by Kathy Lynch.

MR. MOHAJER: Good morning, Madam Chair, Members of the Board. And I guess I represent L.A. County. And I have in -- L.A. County Integrated Waste Management Task Force. The Councilmember is over here, so I'll cross that one out.

I also do want to thank the Board and also the staff really taking the lead on this issue over the past year and a half or two years. And I do want to commend you. And having said that, our Board of Supervisors still believes that nearly 100 percent credit diverting waste from disposal facilities ought to be eligible for diversion credit, recognizing their political dream. The dilemma that everybody has as a member of the peanut gallery and the working group, we all compromise on the 25 percent. And we are in support of the letter of April 11th that the CSAC Board -- to Madam Chair, and also the statement that Kay Martin just made.

And having said all those, I really recommend strongly that we ought to move and come up to a conclusion today if you are going to achieve anything during this legislative session.

Thanks very much.

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

Kathy Lynch, Lynch and Associates, American Forest and Paper Association, followed by Chuck White.

MS. LYNCH: Thank you. Thank you for the opportunity to speak this morning. My name is Kathy Lynch and I represent the American Forest and Paper Association.

And I want to stand here today and thank you for taking on this very important issue, and particularly staff. I echo the comments of others before me on Mr. Levenson. He has really been a spark plug in this whole discussion.

I stand here today in concert really with Californians Against Waste and recommend -- for the most part support the staff recommendations. We do support at this time a 10 percent. We are concerned obviously -- we've invested very heavily in our infrastructure for recycling mills in this State, and did that with the induction of AB 939, Senator Roberti. And we believe that you need to reaffirm to at least our industry that we're going to continue to pursue recycling markets and organic composting.

We do, however, see an important role for conversion technology. But we think it needs to be done

in a very careful fashion.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms. Lynch.

Chuck White, Waste Management, followed by John Richardson.

MR. WHITE: Madam Chair, Members of the Board, Chuck White with Waste Management.

I likewise would like to echo the praise for Howard and Fernando and the rest of the staff that have worked on this. We invited some of our corporate people back from back east that monitor conversion technologies and like technologies around the country to participate in some of the events that Howard has sponsored, the Board has sponsored. And they came away really impressed with the level of sophistication and understanding that this Board, this staff have worked on in trying to develop conversion technologies.

So, like the others, I can't sing anything but praises for the work that has gone on today -- up to today.

With respect to the specific options in front of you, Option 2 definition, we likewise believe that the Board should go along with the recommendation of the working group. We do have some concerns about the

language that the staff is proposing to add into B. For example, it's unclear what a minimum amount is. There may be different kinds of conversion technologies. But what is a minimum amount for one may not be the same minimum amount for another.

There already is a built-in incentive for conversion technologies to minimize the amount of residuals because you get more diversion credit the more of the material that is actually converted for beneficial use.

And then that raises the question, well, what happens to a technology that otherwise looks like a conversion technology, but doesn't meet this minimum amount credit? Do they just simply drop off the face of the earth or do they become disposal, do they fall back into transformation? It's unclear what would happen to something that doesn't meet this test of the minimum amount.

There may be a need to put something like this in, but it's not ready. We haven't had an opportunity to discuss this issue with Howard. We would like -- would very much appreciate the opportunity to keep the door open to discuss how best to address this issue. And we don't believe this is quite there yet, and we'd really appreciate, like I said, the opportunity to keep working

on that. So we would either support A or C for Option Number 2.

With respect to Option 3, we fully understand the double counting issue. And we don't want to -- certainly wouldn't encourage double counting. But we don't frankly -- like the previous item I discussed, we don't understand how this works. And, just briefly, diversion credit is not based upon what you recycle. It's based upon what you don't dispose of, a disposal based system, not a diversion credit. So it's not clear how this would work. Certainly, if you put a cap like 10 percent or 15 percent or 25 percent, you would want to ensure that all of the conversion technologies in a particular jurisdiction comply with that cap. But you certainly wouldn't want to segregate the waste types into stuff that was previously disposed of and then previously recycled. You'd want to include all material that is being converted to make sure you complied with that cap.

So, again, I don't understand that language.

For example, what if you set up a plastics conversion technology in a particular jurisdiction and are using material that only was previously disposed of in a landfill, and other plastics that might have been going, say, to a plastic lumber company; that lumber company moves to some other location, and that suddenly frees up

this previously recycled plastic product; does that mean that plastic material is not eligible for being used for conversion to fuel at this facility you've just constructed.

So there are a lot of questions that we have about how this would actually apply to a real live situation. And I'd -- likewise, we would ask that there be opportunity for further discussions before the Board firmly makes a decision on these. And so we would ask that you go again with both Option 2 and Option 3, the recommendations of the working group.

Finally, with respect to the percentage level, which we know is very controversial, but we believe it's time for this Board to send a clear message, that you really support the idea of converting waste products to energy, given the energy needs of this State. These are marginal operations. The investment community is very nervous about them. And they're particularly nervous if they don't believe that this Board stands firmly behind a commitment to supporting and promoting conversion technologies for energy use. So we believe there needs to be a clear signal. Now, when you think of that, that's got to be more than 10 percent. In fact, personally I believe there shouldn't be any limitation on these conversion technologies. They ought to be able to go

forward and promote these as much as possible.

You go to your web site and go to the web site of any other counties, you see a little thing that says "flex your power." And I would ask this Board to remember that, to flex your power and to try to send a clear message that you support the use of a conversion of waste projects for this purpose using conversion technology.

Will this prevent the drilling of oil? Well, maybe not. Will it prevent the importation of foreign oil? Well, no, probably not. But it would create an opportunity for California to use the materials it readily has available to address its energy needs. And again, this Board should flex its power to send a clear signal that that's what they want to promote.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

BOARD MEMBER JONES: Madam Chair?

CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

BOARD MEMBER JONES: Just two questions of Howard.

When we're talking about in that option "previously disposed," that basically follows the definition that would be in AB 939, right? If there is a percentage waste stream that had originally been disposed of, then it would count. I think what you're -- the way

I'm reading it, the one consideration that came to my mind would be, sewer sludges are going to be a prime candidate for conversion technology, as could be rice straw and other things that may not have been in the waste stream at a landfill within a region. And if they're doing rice straw and wanted to do a new base year, they would have a huge number because of that activity that's not reflective of what had originally gone on. Is that what we're trying to avoid or is that what we're trying the control through this definition?

MR. LEVENSON: In essence, yes. But I might -- I don't want to misstate anything --

STAFF COUNSEL BLOCK: Absolutely. I mean what we're trying to do -- the idea behind that language -- and there's no question -- I'm sorry. Elliot Block with the Legal Office. There's no question that there are going to be a lot of details should any legislation pass that we will have to work through in regulations and otherwise. But the idea behind that language or language like that is to actually tighten that up, because as you know right now we do have -- because that definition -- the definition right now is "normally disposed prior to 1990" and it's by waste type.

And so that's, of course, what has opened up the ability the count as diversion a huge amount of material

that was never really disposable before. So the idea behind that language is to try to narrow that so that there's a little bit -- it's not as wide open as you're currently dealing with.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

MR. LEVENSON: Just add one clarification, Elliot is checking on this.

The intent here is to look at -- well, is to not allow something like rice straw to count for diversion credit. There was nothing that would preclude you from using rice straw, but it just wouldn't be counted for the credit portion.

BOARD MEMBER JONES: Absolutely.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

John Richardson, Community Recycling, followed by Paul Relis.

MR. RICHARDSON: Thank you, Madam Chairman and Board Members. My name is John Richardson with Community Recycling and Resource Recovery.

I would like to thank the Board for this opportunity to speak to you on this issue.

Although I have not been actively involved in participating in the working group, I have been following this item very closely. And I would also like to congratulate the staff on an excellent job they've done

with this.

And to keep my comments short, I'm only going to comment on the items that are different from the staff recommendations.

First, I would support the Option 2A without the added language. I believe that the 2B allows for possible subjective interpretation of what "minimal residuals" really means.

With Option 4, we would also support the option -- or the item as proposed by staff. However, we would like to see that timeframe shortened from five years to two or three years.

And then on Option 5, we would support the option 5A, allowing the 25 percent credit.

We would be willing to accept the option 5C, requesting the Board to, you know, giving the 10 percent. But then we would like to see the Board reassess it in a two- or three-year timeframe rather than a five-year timeframe.

We believe that in order to continue encouraging additional recycling of the waste stream and to keep materials out of the landfills, the credit for actually achieving recycling should not be limited.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Paul Relis, followed by Bob Nelson.

MR. RELIS: Madam Chair and Board Members, I too would like to echo the support for your giving this matter considerations. It's a very important one, I think, to the future of our system in California.

I'd like to speak first to the timetable that Mr. Eaton raised. I haven't given a great deal of thought to that. But I think while it may be comfortable to hear it's in the biennial review or that sort of thing, projects have a real time location basis. So I think the earlier -- if the Board accepts a -- takes a positive position on this. The earlier you could come to some process conclusion about how projects will be handled on the basis of diversion if you adopt that, the better, because projects don't necessarily tie into biennial reviews.

Regarding the whole basis of conversion, our company, CR&R Incorporated, has done extensive work researching various conversion options.

We believe that conversion technology represents a new frontier in the quest to find alternatives to landfills. We don't operate a landfill. We're not landfill oriented.

By converting materials that have been substantially processed -- and that was the word we spent

a lot of time on, and your staff did, and the working group. What's that mean? I'll come back to that in a moment.

But by converting materials that had been substantially processed for recycling into green energy and other products, the existing integrated waste management system is extended and moves closer to the goal of a system that manages materials, not waste. We generally support your staff's options 2A, 3, 4, and 5C, along with resolution 2002-177.

With respect to the definition of conversion, we recommend that you stick with the working group's definition and you do not add "with a minimum amount of residuals remaining after processing." We think that this addition is unnecessary and vague, given the requirement that substantial recycling precedes the conversion process. And, in fact, we think that whole discussion, which I believe would be a regulatory one, will be where there's a great deal of focus. And I think that will be -- the issue of what "substantial" means goes to the heart of this whole relationship of conversion and diversion.

As a company that is pursuing conversion technology, we believe that a 10-percent credit is sufficient at this time to be a strong stimulus for

advancing conversion technology. While additional credit would be -- could be warranted, I have to look at the fact that we don't have a facility available nearby to look at at this point. It's early in the development. And if they come on fast and prove themselves, well, yes, let's reconsider that number.

But at the moment, we doubt whether a diversion of a higher percentage is probably going to fly politically, and we want to see something go this year, if it all possible.

In closing, we applaud you for considering this important and complex item and urge you to act affirmatively.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Relis.

Bob Nelson, Riverside County, followed by Mark Murray.

MR. NELSON: Thank you, Madam Chair, Members of the Board. Bob Nelson, General Manager/Chief Engineer for Riverside County Waste Management Department.

Our board passed a resolution which we have forwarded to your board, and it supports the League's position on this matter. At the time that was forwarded, we did not have the new staff recommendations. And I would simply endorse what the League has said to you today

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regarding Option 2. We would not recommend that you add that phrase at the end of the definition.

We think that what's already in the definition regarding -- dealing with the "residual solid waste from which recyclable materials had been substantially diverted and/or removed" gives you plenty of authority to deal with the issue of "did we properly deal with what went into this new technology?"

And I think, too, that when you get down to the Option 3, the findings of -- what happens in Blythe with regard to such a project can be substantially different and yet totally appropriate from what might happen next to a market on the coast.

And so I think by adding some of the words that are suggested by staff, you limit some of the flexibility, which in my judgment should be exercised at the time of the annual reports. I believe that is the proper time to look at what did this city or county report in terms of diversion from landfill and why. Was it appropriate in view of their circumstances, not a broad statewide kind of a goal.

So I, too, would compliment the Board and staff for the work you've done on this. I certainly urge that we do take a position today, no matter what it is. We support the League's position regarding the amount of

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diversion. And I think, too, in view of the energy needs of this State, we're all remiss if we don't take some action in this regard, and do it quickly so that we can use products that we have that right now are going to the landfill.

So that I think summarizes my points. And I thank you for the opportunity to comment.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Nelson.

Mark Murray, Californians Against Waste, followed by Troy Butzlaff.

MR. MURRAY: Thank you, Madam Chair. Mark Murray with Californians Against Waste. I want to -- in the off chance that I might start talking longer than my 3 minutes here, I want to cut to the chase and focus first on the 10 percent. And then if I have some time, maybe focus on some of the other comments.

I did drop a rather long, for me, letter to the Board yesterday. I've got a few copies here if these folks don't have them. But I think I got it to most everyone.

So let me just kind of focus right in on the 10 percent.

Basically, offering diversion credit for a new technology is going to create an economic incentive for

that technology. The Board is basically going to be sending a signal to local agencies in the private sector that this is something good that we want you to make investments in. And local governments and the private sector are going to make investments based on that diversion credit.

I'm not sure that we're ready to offer a substantial level of diversion credit, a substantial level of incentive to tell local governments and to tell the private sector, go forward and start making investments in this technology. I think there's still, frankly, a lot that we need to learn about this technology here in California.

Not one of these facilities has made its way through the environmental review process in this State, which is a unique environmental review process. So we think it's important that before we go all out and say, yes, this represents the future of waste management and this is -- the environmental benefits outweigh the environmental risks, that we actually have a little bit more experience with this.

Now, having worked on this issue for -- with board members and many of the stakeholders for several years, we appreciate that many folks believe that zero diversion credit represents a barrier to anyone moving

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forward with this technology. And that's why we have agreed to remove our opposition to providing any diversion credit. And basically we're agreeing with the staff recommendation of providing not more than 10-percent diversion credit.

I agree that more than 10 percent -- 25 percent unlimited would provide a substantial incentive for this technology. But I don't agree we're ready to provide that substantial incentive. With 10 percent we're hopefully eliminating the barrier to folks making an investment and testing out this technology and seeing if it actually makes sense.

Now, frankly, 10 percent is a fairly sizable amount of diversion. With a possible exception of green-waste collection and composting, I can't think of a single program that a local government might implement that would get them 10-percent diversion. Curbside recycling is not going to get you 10-percent diversion. Ten percent is a lot of diversion.

And, frankly, fortunately most jurisdictions in this state don't need more than 10-percent diversion because statewide we're already at a 42-percent diversion rate.

So if our goal is to eliminate the barriers to checking out this technology, I think that's accomplished

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with the 10-percent diversion credit.

Some of the other comments that I'd want to make is that -- and I've got to tell you, this issue isn't getting any simpler the more we work on it. And, you know -- and I'm finding out information about this -- or I should say fellow environmental groups have raised issues and concerns about specific types of conversion technologies that have given us cause and have required us to take a closer look at some of these technologies.

At this point in time, I haven't seen anything that definitely tells me that we shouldn't be moving forward with this technology. But I certainly -- I think we need to tread carefully, and we shouldn't be providing some unlimited diversion credit.

But maybe to address some of those concerns, we have a couple of comments that I think, whether as part of the staff recommendation today or in the subsequent legislation that the Board is going to be pursuing, I think that they need to be considered.

Number 1, when we put hazardous materials into a waste stream, no matter whether it's a landfill or a garbage burner or a conversion technology facility, we're going to get hazardous emissions. So with these facilities in particular, more important than ever that we make sure that we're keeping hazardous materials out of

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this waste stream. Otherwise, we're going to get hazardous emissions.

And so we think there needs to be some kind of finding or at least some kind of process for really making sure that the cities or the jurisdictions that set up these conversion technologies are making every effort to remove and keep hazardous materials out of their waste stream.

Secondly, on the issue of recyclables, the technology -- I've gone way over, haven't I?

On the issue of recyclables -- and we're in line with the American Forestry and Paper Industry on this -- we know that markets and technology are going to improve so we can get more and more recyclables out of the waste stream. Look at how curbside recyclables changed in the last decade in terms of getting more and more mixed waste paper out of the waste stream. We don't want to see this technology preclude future recycling technologies -- source-reduction technology.

And so we'd like to see, again in the findings or in the legislation language, that says that facilities, if they're going to get credit, if they're going to get diversion credit, in no way should facilities preclude additional source reduction recycling and composting.

Basically, I don't want to see the kind of

contract on one of these facilities like we've had with the material recovery facility in Roseville, that basically precludes the local governments in that jurisdiction from implementing curbside recycling programs. We should always be able to try and maximize -- consistent with the hierarchy, maximize waste reduction recycling and composting.

So just please --

CHAIRPERSON MOULTON-PATTERSON: You'll need to conclude.

MR. MURRAY: -- in conclusion, we're willing to stick with where we were at the beginning of this process in terms of not objecting to 10-percent credit. We're going to continue to evaluate the potential environmental impacts associated with several of the conversion technologies. And I think that the Board -- it would be in their interests to spend a little bit of time in research looking at those potential impacts as well. And, again, we need to tread slowly. Five years down the line we can reassess this and make a determination if more credit is merited.

Thanks a lot.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Murray.

Troy Butzlaff, City of Indian Wells, followed by

Bill Magavern.

MR. BUTZLAFF: Thank you. And good afternoon, Madam Chair. Once again, my name is Troy Butzlaff. However, instead of representing the City of Indian Wells today, I am representing the Coachella Valley Association of Governments on this particular issue.

CVAG, which is comprised of ten cities stretching from Palm Springs to Blythe, the County of Riverside and three tribal nations, has unanimously adopted a resolution in support of the March working group's core recommendations.

Specifically, CVAG supports the creation of a legal definition for conversion projects.

Secondly, CVAG acknowledges and agrees that conditions under which waste sent to conversion projects, that is then diverted from landfills, can be then given diversion credit, should be established.

And, finally, CVAG does support up to a 25-diversion credit on a jurisdiction's annual report for waste sent to conversion projects that is then diverted from landfill disposal.

I have a certified copy of the resolution. And I ask, Madam Chair, that it be given to the clerk and incorporated into the record for this meeting.

Thank you very much.

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CHAIRPERSON MOULTON-PATTERSON: Thank you.

Bill Magavern, Sierra Club, followed by Rob Bernheimer.

MR. MAGAVERN: Good morning. Thank you, Madam Chair.

I appreciate all the hard work the staff has put into this, and also really commend the Board for pursuing alternatives to landfilling in California.

I'm here to raise caution flags about some of the technologies which have been put into this kind of catch-all category of conversion.

From what we can tell today, pyrolysis and gasification should remain in the transformation category, rather than being classified as conversion. They seem to have more in common with incineration than with the other conversion technologies. And the reason why this is important is that there is substantial evidence that these technologies will emit toxic air contaminants, including dioxins, furans, mercury and lead.

Interestingly, the company which is proposing to build a gasification project in North Carolina, Global Waste International, concedes that any process that involves heat and results in an ash is technically incineration.

Now, the company does try to distinguish its

technology from incineration. But, again, gasification has a lot in common with incineration, and we think that -- while this technology has been around generally for a long time, I think the proponents are saying that the processes that they are currently espousing are clean, will not result in these emissions. They may be able to make that case, but right now the burden should be on the proponents to show that they absolutely will be free of those toxic emissions before the move is made to put them in a conversion category.

It's also important to recognize, as I think the Board does, that often what you get out of a process like this is dependent largely on what goes into it. And so the staff does emphasize that there would be separation so that recycables would be taken out beforehand. And as Californians Against Waste has recommended, it's very important that hazardous products not be put in on the front end.

I would urge the Board to really take a close look at how those requirements are enforced, to make sure that we're not putting recyclables or hazardous materials into these high-heat technologies.

And so I will just close by saying that we need to proceed with caution; that there's a lot of promise in conversion technologies, but we have in our time seen some

major technologies that were very popular for awhile and claimed to be clean and safe for the environment, but later were found to have serious drawbacks, like, of course, large trash incinerators. And we want to proceed with caution when we're dealing with technologies that have not been proven. Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

We have Rob Bernheimer, Bright Star Environmental, followed by Paul Yoder. And our last speaker is Grace Chan.

MR. BERNHEIMER: Good morning, Madam Chair, Board Members. Rob Bernheimer representing Bright Star Environmental, and making it clear that I'm not representing any local jurisdictions here on this issue.

I want to address a number of items. Certainly, kudos to the staff and the Board for all the work that's been done, and I echo the comments before that.

I want to jump right into some of the issues that are here.

On the issue that was raised by the Sierra Club on things like dioxins with the gasification process, that simply can't happen. In order for you to have dioxins, you must have oxygen, you must have generally low-heat chlorine, things like that. By definition, gasification is a reducing process. There is no oxygen present. You

can't have a formation of dioxins, so you don't have that in gasification. I don't understand the concern there. It's certainly not based on science.

We do have, and we can provide when we go through the permitting process, a lot of science that has looked at these types of things. And we will, as opposed to any other company, be able to have a track record; although it's not in the United States, there is a facility up and running in Bright -- Woonton, Australia, that they'll have Australian EPA records that we'll be able to make available. And, in fact, I do know some of the Board staff has had some communication with the folks from Australia in starting to look at those things. And I think the track record is starting to show that those concerns are ill-founded.

And these are the things that we need to take a look at if we're going to move conversion technologies into the future.

In regards to recycling -- and this issue -- I know, Board Member Jones, we talked about this the last time two months ago. And I just want to reiterate it because it's come up again and again. We are committed to making sure that no recycling program goes off line in a local jurisdiction. And we'll take it further, that we do everything we can to get that paper out on the front end

so it doesn't go through that process. The process will, by definition, recycle all the metal that comes in, more so than you would at a landfill; all the rigid plastics that come in, more so than you would at a landfill. You bring up the paper on the front end and you're going to end up with diversion rates far in excess of what you have regardless of getting the diversion credit for the conversion process.

In regards to financing that was brought up, Bright Star is not looking to the Board for loan guarantees or financial incentives. They are going to privately finance the project that they want to do in Riverside County. And I do think that if we go forward in creating a diversion credit incentive, that you will see companies come in here not looking for financial assistance, but wanting to do it in a free market, so to speak.

Your timing issue, Board Member Eaton. I'd like to see something as early as possible. I think the local jurisdictions at least have expressed to me that in order to move forward, they want to have some guarantee that if they commit to a 20-, 25- or 30-year flow control agreements into a facility, which there's going to have to -- we're going to have to get those flow control agreements in order to do the financing, they need to know

that they're going to get some diversion on the front end. And I'd like to see that happen at the permitting process.

And in regards to the options, I won't reiterate it. I do agree with Yvonne Hunter, Chuck White and the others that the working group definitions are probably the best ones to go with because some of the issues that they raise I would just echo.

Thank you very much.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Paul Yoder, at SWANA, followed by our last speaker, Grace Chan, Los Angeles County Sanitation Districts.

MR. YODER: Good afternoon, Board Members. I think if the pro side had to do it all over again, we probably would have just let the fellow from Bright Star to use all my time this morning. I appreciate him taking the Sierra Club up on their offer and maybe heading this a little bit more in the direction of a science-based project, which as always is something that SWANA would like to see.

I want to thank staff. I want to thank the Board Members. I want to thank Yvonne for her leadership in the local government community on this issue.

On the criteria -- the criteria are fine. They're airtight. They're so airtight, in fact, that I

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think in and of themselves they sort of beg the question, why can't local government get full credit or certainly a lot more credit than 10 percent?

The criteria -- I mean, my God, it's a description of recycling. And I think criteria are fine and I think that's the criteria that local government ought to have to meet if they are going to get diversion for these types of technologies.

On the policy, Chuck White was right, Waste Management, God love 'em, was right. You do need to send a message. You have an opportunity today to be visionary, to be leaders. Mark Murray himself said, yes, you will incentivize these technologies the more credit you get. I don't think staff meant to imply that full credit wouldn't incentivize these technologies. But clearly it would -- clearly, anything other than 10 percent -- well, the more diversion, the more incentivization. I think that's just plain -- and any assertion to the contrary kind of falls on its face.

Processwise, I'm sorry to say, my gut tells me you're on the verge of adopting a minority opinion on this subject. And I think that's -- I hope, I'm not right about that. I hope you adopt something closer to 25 percent. SWANA would certainly support you pausing and contemplating this more if further reflection might lead

to something other than 25 percent, but you have a chance to be visionary today. The future, Board Members, is going to be all about tearing things apart at their most basic molecular level and putting them back together.

People like to joke around about flux capacitors and Starship Enterprise. And it's not the stuff of fiction; it's the stuff of tomorrow and it's very real and it's going to happen; it's what the future holds. I hope you incentivize it sooner than later.

I guess I'll just close with that.

Now, I'll close with the fact that -- I just want to reiterate, 10 percent is not a compromise.

Thank you, Board Members.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Grace Chan, Los Angeles County Sanitation Districts.

MS. CHAN: Good afternoon, Madam Chair and Board Members. My name is Grace Chan. I'm representing Los Angeles County Sanitation District.

And we, along with several of the other speakers, do believe that these technologies deserve full credit. But given the extensive discussions that have gone on in recent months, I'm here today to voice our support for the League's position.

And I do also want to thank both the Board and

the Board staff for their considerable efforts in this important issue.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms. Chan.

Okay. That completes our speakers.

I'll turn it over to the Board Members. I don't see anyone.

Mr. Paparian, and then Mr. Jones.

BOARD MEMBER PAPARIAN: Madam Chair, one issue that has been brought up is the question of whether there are potential problems with the emissions from some of these facilities.

Some of the people testifying, Ms. -- Councilwoman Van Arsdale from Hemet suggested that DOE, Sandia Labs, Danes & Moore, and I think some others, have produced studies showing that there is no problem with the emissions. Mr. Magavern from the Sierra Club suggested that there is substantial evidence that toxic emissions do result from these facilities.

I think that it's an important issue to try to get some answers on.

What I would suggest is that we ask our experts in Cal EPA, that is, the Office of Environmental Health Hazard Assessment, to take a look at the available

information and provide us with some feedback as to whether there's any validity to the suggestions that there might be some problems or whether the validity is more on the side of the study suggested by Ms. Van Arsdale there isn't a problem. I think that that's the kind of information we need to make informed decisions and to assure that, you know, the public is protected from possible environmental harm.

CHAIRPERSON MOULTON-PATTERSON: I agree. And hopefully we could have the Office of Environmental Education look into that.

BOARD MEMBER PAPARIAN: Environmental Health Hazard Assessment.

CHAIRPERSON MOULTON-PATTERSON: I know. It's been a long two days.

BOARD MEMBER PAPARIAN: I think we already have some contractual arrangement with them to help with stuff. And I see Mark Leary nodding his head. Hopefully, we can just take care of that with our existing arrangements with OEHHA.

EXECUTIVE DIRECTOR LEARY: Yes, we can.

CHAIRPERSON MOULTON-PATTERSON: Okay.

Mr. Jones.

BOARD MEMBER JONES: Thanks, Madam Chair.

DEPUTY DIRECTOR WOHL: Can I just comment, that

staff has done some initial research on this. And Fernando Berton could comment on that if you want some information today.

CHAIRPERSON MOULTON-PATTERSON: Could you briefly comment on that?

MR. BERTON: Yes. All I can really say is that the emissions coming out are all dependent on the feed stock going in. The studies that we've seen are -- the emissions are from different feed stocks. So it's difficult to really compare and to really contrast the emissions, because they're different feed stocks, they could be different gasification systems that are used, because there's more than one type of gasification system. So in order to make a really true assessment, we'd have to take into account those different factors.

BOARD MEMBER PAPARIAN: That could be important information in terms of suggestions for what feed stock should or shouldn't be allowed in certain types of facilities. We don't have that in the recommendation here, but if the scientists come back and tell us that there should be a limitation on some type of feed stock because of certain emissions, that's important information.

MR. BERTON: Yes. And what we've been talking about is, you know, materials -- post-recycle materials,

solid wastes, stuff that's within our jurisdiction and not really hazardous in nature.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Jones.

BOARD MEMBER JONES: Thanks, Madam Chair.

I think the other thing to go along with that discussion is there are 30 -- 33 or 23 different identified systems right now, of gasification, pyrolysis and anaerobic digestion. And they are all different. That's why the local authorities that end up having to make those decisions as to whether or not there are emission issues are going to deal with a specific thing.

I mean, a study that says gasification, if there are 15 different processes, you'd have to do 15 different studies based on 15 different waste streams. So I think there -- it's inherent, that local governments have air districts, they have things they'ye got to go through, there's technology that's already done, you know, as these proposals come forward. We don't have any yet -- I mean, we don't have any that are operating.

So they're going to have to go through a system of local checks and balances to be able to figure out if, in fact, there are emissions. But the systems that are coming forward that have zero oxygen in the system -- oxygen is a requirement of dioxin. You have to have

oxygen to have dioxin. So in the absence of that, it would seem to me that each one has got to go through that local regulatory process, so that those local air boards or -- well, it would be local air boards -- are looking at what is the test data on if, in fact, there is any emissions.

BOARD MEMBER PAPARIAN: I think the suggestion was there may be more concern than just dioxin.

BOARD MEMBER JONES: No, I understand that, but there's 23 different processes.

CHAIRPERSON MOULTON-PATTERSON: Okay.

BOARD MEMBER JONES: And my question -- you know, I mean, we're looking at an overall policy today to move conversion technology forward. And there's a difference between the assertion that some of these policy -- I mean, some of these older first cuts or whatever, I think he said they had some evidence of some previous ones that were problematical. I think that's probably accurate. But that's not the same technology or may not be the same technology that is coming forward in each of these individual proposals.

BOARD MEMBER PAPARIAN: Yeah, I think -- from my position, I think we simply don't know. I'd like to ask the people who do know how to analyze these --

BOARD MEMBER JONES: Sure.

BOARD MEMBER PAPARIAN: And I may be -- well --

BOARD MEMBER JONES: And that's fine if it's going to be part of -- because I -- you know, on the resolution it says, you know, while we're going forward on this, we ought to continue to do science.

CHAIRPERSON MOULTON-PATTERSON: Okay. So I think we have agreement on it. We'd certainly want all the information of our staff and have OEHHA look at it.

You know, I want to move forward.

From my perspective, in Option 4, I'd like to see it changed to three years. And I also would like to see 5C -- I think in our annual report to the Legislature, it should be 2005.

Personally -- and we will be getting a motion, and everybody else can express their opinions in a moment.

I'd like to see Option 2A. And I want to thank all of the stakeholders. I think you've done a terrific job in working together. And our staff I have enormous respect for. But personally, I feel the 10 -- I am going to support 10-percent recommendation. I am very, very cognizant of local governments' concerns, and I'm very supportive of local government, but I think 10 percent is the place we should start.

And that's where I'm coming from. I think Senator Roberti wanted to speak, and then Mr. Eaton.

Senator.

BOARD MEMBER ROBERTI: Did you say, Madam Chair, you would like 2A?

CHAIRPERSON MOULTON-PATTERSON: Personally, I was, but, you know, we'll see where that goes.

BOARD MEMBER EATON: Well, could we wait for the others to have spoken before we vote.

CHAIRPERSON MOULTON-PATTERSON: Sure.

BOARD MEMBER ROBERTI: I sort of would prefer to go with 2B because it deals with residuals at the back end, I guess, which I don't think 2A deals with. And from the environmental testimony we heard, residuals are an important --

CHAIRPERSON MOULTON-PATTERSON: Thank you, Senator.

BOARD MEMBER ROBERTI: -- issue. So I'd like to offer as a motion --

CHAIRPERSON MOULTON-PATTERSON: Before -- I'll get back to you. But Mr. Eaton wants to speak.

BOARD MEMBER EATON: I'd like to just basically say I appreciated everyone's testimony today. And I always love the artistry in the argument and the genuineness of conviction.

It is a big thing as we move along here. But I want to remind you of a couple of things, and I think

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we've talked about it before. This is Lakewood again, when you're talking about making commitments for 20 and 30 years down the road and the stuff that we're moving. What that tells you is we have to learn from the past and -- you know, history doesn't repeat itself. It's the human individuals that repeat history. So we have to be cautious in that respect.

I also liked Mr. White when he talked about flex the power. There was another organization a number of years ago who burnt tires a little south of here who told us to flex our power in a certain other way, we wound up having to pay that bill, too. So I'm not quite sure when the electricity market bottomed out that that's actually an argument, but I appreciate, as I said, the artistry.

The issue that I think -- and I just want to bring some practicality to it, because it does reflect upon a couple of issues. One, we are the first playground by which this is all going to happen. And there's posturing going on, as we well know, because whatever language goes in to the Legislature, it's sometimes harder to take language out that a regulatory board puts in at the beginning. And so, therefore, it provides procedural advantage. And I want to put that on the record because, you know, I think that we can be forthright about it.

In addition, the whole issue of -- the reason why

I wanted to know about when the permit was going to come forward -- and I'm happy that at least two of the speakers spoke to it, and that they concurred that it should happen at the beginning, because that is really the only chance we will have to find out what the waste stream is, how it's permitted, the issues of air emissions, all of those things.

If subsequently a jurisdiction signs on to a particular facility, we wouldn't know that. But if we were in a landfill, we would know it because it either -- if the capacity issue needed to be increased, they could come before us, so we could find out the waste stream. So I think it's important that at least we send a message as well that whatever conditions are imposed as the Board has to do, that we -- the credit would be appropriate at that time.

More importantly, we're kind of like -- these are sort of technology landfills, because if there are residuals, you know, the beneficial use would be energy, that's true. If you burn transformation -- and I'm not making a value statement one way or the other -- you have a use, some would say, that is beneficial because it produces energy. But the residuals are an important element, because if you can't use them, how do you count them? And we had that issue, if you remember, with the

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ash at Lakewood. So that is an important component that has to be dealt with.

And I think that the language is appropriate in 2B. In addition, none of these technologies -- putting aside the anaerobic technology right now, which is proven. But none of these technologies have even come to our shores of our country. So if we even look at it -- let's say that they come within five months or six months, okay. Well, if this bill passes or any bill passes without an emergency provision, it wouldn't be effective till January 1st of 2003.

Thereafter, to go through the local permit process, even granted that we have a situation where the red team, as part of the Governor's team, gets involved -- let's just say ideally that happens in another year, okay. So then you're at 2004. One of the things that I would recommend -- and I share your concern, Madam Chair, about getting a report quickly -- is maybe the language ought to be that within two years or three years, whatever, after the Board has first sited at least two facilities, because without that if we put it 2005 or 2006, we may not even have a facility, so we're going to send them a -- saying there ain't nothing to report, I think there has to be some finite sort of line from which we start.

That would be at least something. Because we're

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all talking about the future and yet we are way away from that. How do we then promote the issue of conversion technology within a realistic timeframe? And I think that one of the issues that I would have -- because right now the timeframe for all of this, whether it be 2005 or 2008, really isn't appropriate or relevant because there is nothing going to come here at least with regard to those technologies at least for another three or four years.

Perhaps maybe we should say that the Board should undertake a demonstration project in the north and the south.

And that's what I have, and I appreciate it. I think it was a good debate.

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

I'll come back to Senator Roberti, but I think Mr. Medina wanted to make a statement.

BOARD MEMBER MEDINA: Thank you, Madam Chair.

First, I wanted to state that the working group comprised of staff and stakeholders have done yeoman work on this issue, and so I applaud your efforts.

And also that I want to recognize Senator Roberti in regard to a place in this issue and the good public policy perspective for me. And so I appreciate his contributions in that regard on this Board, as always.

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And in regard to the speakers -- and I usually reserve any decisions that I'll make until I've heard the last speaker, because there's a lot to learn from the speakers. It always broadens my limited knowledge of a particular subject, and so I appreciate the remarks of all the speakers. And they certainly have made some salient points on this issue.

And City Councilwoman Van Arsdale, I think she certainly made a point in regard to the need for flexibility in our approach and also the need to support demonstration projects.

And I think we have to take seriously Mark Murray's comment that to date not a single facility has passed environmental scrutiny, so I think we have to take that very seriously if that's the case.

Normally, in these kinds of situations, having to decide between 10 and 25 percent, I would, you know, come out with something like 15 percent, but I think given some of the arguments they have been made here today, I think that, at this particular time, 10 percent seems like something that is reasonable at this time, that is workable at this time. Otherwise, I would easily have opted for 15 percent or even more generous -- 25 percent. Mr. Mohajer recommended 100 percent. And I would expect nothing less from Mr. Mohajer, who recommended 100

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percent.

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

Senator Roberti.

BOARD MEMBER ROBERTI: Yeah, I want to make a motion. But first, I'd like to address a point, I think staff has done an excellent job, and they are being very cautious. And I think with the state of the technology, that is the wise course to take. Nevertheless, we don't want to be so cautious that we're not willing to advance, and the granting of the 10 percent I think is important.

I would like to point out, however, that everything has its risks. And I think it's utterly inevitable, and it's a risk I'm willing to take -- therefore, that makes it more than a risk when I say it's inevitable. It's inevitable that there are going to be jurisdictions that will concentrate on conversion technology rather than engaging a more traditional hierarchy that we have. It's just utterly inevitable. And whoever is sitting on this Board five or six or seven years from now is going to have to deal with those questions.

And even a commodity, in my very layman's way of understanding it, like plastic, which we, when we deal with the plastic recycling legislation of the past, try to

figure out ways to recycle it, even though a lot of it still goes into the landfill. The technology, the energy, the enforcement to get us to recycle plastic is going to be reduced because we now have these converters of various sorts that are going around using up the same material, and something that really isn't recycling.

I'm saying this because we're sort of all congratulating ourselves and moving forward into a brave new world. But every brave new world we move into has its down side, and this is going to have a down side.

Having said that, we have to be willing to take those risks. And this is technology that's with us, and I think we should ride with the technology. Therefore, I'm going to move resolution 2002-177.

I would like to point out that I really don't have a problem myself, if the other Board Members are willing, that within the legislation we say that every three years -- once the technology or a facility engaging in the technology is in place in the State, that every three years the report come to us as to reevaluation as to the amount of diversion that we give. I think we can trust the Board to make an intelligent decision based on the technical data that is before us, and I think 3 years is reasonable. So that's once -- in following Mr. Eaton's advice, so once we have something in place.

CHAIRPERSON MOULTON-PATTERSON: So you would say beginning in three years when something's in place and then after that it's every year?

BOARD MEMBER ROBERTI: Yes, and -- however, yes, and report to -- in its annual report to the Legislature. But that would actually come back to the Board for reevaluation rather than necessarily having to go through the whole legislative process.

CHAIRPERSON MOULTON-PATTERSON: Okay.

BOARD MEMBER ROBERTI: People understand the gist of my comments, I'm sure.

CHAIRPERSON MOULTON-PATTERSON: Mr. Jones has a question.

BOARD MEMBER JONES: Just a question, Senator. So you're saying start with the 10 percent and then reevaluate it every three years?

BOARD MEMBER ROBERTI: Yeah. Yeah, I don't have a problem with the Board reevaluating if --

BOARD MEMBER JONES: After that. But we're going to start with like 5C, and then reevaluate every three years.

BOARD MEMBER ROBERTI: Yes.

BOARD MEMBER JONES: Okay. I just wasn't clear. That's --

BOARD MEMBER ROBERTI: The first reevaluation

would be three years once we have something in place. After that I don't have a problem with every year.

BOARD MEMBER JONES: That's fine.

BOARD MEMBER ROBERTI: Just as we do with like the plastics bill, we go through our little numbers game, or whatever the word is, every year.

CHAIRPERSON MOULTON-PATTERSON: Okay. So your motion is to approve Resolution 2002-177, and you wanted to go in three years after something is in place.

BOARD MEMBER ROBERTI: And that we -- yes, that we should report to the Legislature, but that the Board itself reevaluate on an annual basis the amount of diversion credit given based on the data presented to us.

CHAIRPERSON MOULTON-PATTERSON: Right. And then in Option 5C, we'd have that in 2005? Those are two separate ones.

BOARD MEMBER ROBERTI: Yes.

CHAIRPERSON MOULTON-PATTERSON: Okay.

BOARD MEMBER MEDINA: Second the motion.

MS. HUNTER: Madam Chair.

CHAIRPERSON MOULTON-PATTERSON: And what was Option 2? What were you proposing in that?

BOARD MEMBER ROBERTI: Oh, on Option 2 I'm proposing 2B, which I think is in the staff recommendation.

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CHAIRPERSON MOULTON-PATTERSON: I can live with that.

Okay. So we have Option 2B. And Option 3 is okay. And Option 4, it would be beginning in 3 years after the project is in place, and then the rest is okay. And in Option 5C, the report to the Legislature in 2005.

Was that your motion, Senator Roberti?

BOARD MEMBER ROBERTI: Yes.

CHAIRPERSON MOULTON-PATTERSON: And we have a second, Mr. Medina?

MS. HUNTER: I just have a question.

CHAIRPERSON MOULTON-PATTERSON: Okay.

MS. HUNTER: Clarification. When you are proposing to revisit the amount of credit in three years, I think what I heard you say is on a case-by-case individual jurisdiction basis, or are you talking globally?

BOARD MEMBER ROBERTI: On a case-by-case basis, because every jurisdiction is going to have a different -- I assume every jurisdiction is going to have a different, whatever, system in place.

MS. HUNTER: Senator, I think you've figured out how to split the baby.

Thank you very much.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Okay. Did we have a question before we vote, Mr. Paparian?

BOARD MEMBER PAPARIAN: Yes. In the past, counsel suggested that we put in resolution any of the local agreements we have during our discussion, one of which was the OEHHA --

CHAIRPERSON MOULTON-PATTERSON: Oh, I'm sorry.

BOARD MEMBER PAPARIAN: -- asking OEHHA to come back with an analysis of the appropriate data.

BOARD MEMBER ROBERTI: Yeah, I incorporate that in the resolution.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Paparian. That's good.

Okay. Please call the role.

Motion by Senator Roberti, seconded by Medina.

SECRETARY VILLA: Eaton?

BOARD MEMBER EATON: Aye.

SECRETARY VILLA: Jones?

BOARD MEMBER JONES: Aye.

SECRETARY VILLA: Medina?

BOARD MEMBER MEDINA: Aye.

SECRETARY VILLA. Paparian?

BOARD MEMBER PAPARIAN: Aye.

SECRETARY VILLA: Roberti?

BOARD MEMBER ROBERTI: Aye.

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SECRETARY VILLA: Moulton-Patterson?

CHAIRPERSON MOULTON-PATTERSON: Aye.

And again, thank you to all of the stakeholders and our staff.

We will be returning at 2:30. We will have Item 35, 37, 39, 50 and then closed session.

(Thereupon a lunch recess was taken.)

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AFTERNOON SESSION

BOARD MEMBER MEDINA: We're going to reconvene the meeting. And Board Chair Patterson has said that she's going to be slightly delayed and has asked me to start the meeting.

It is my intention to move ahead and adjourn by three o'clock. So if you could just kind of -- I'm kidding.

(Laughter).

BOARD MEMBER EATON: I think a motion is in order.

BOARD MEMBER JONES: Second.

BOARD MEMBER MEDINA: We're going to start with the ex partes.

Senator Roberti.

BOARD MEMBER ROBERTI: Yes. I discussed conversion technology with Kyra Ross of the Assembly Natural Resources Committee.

BOARD MEMBER MEDINA: Board Member Paparian.

BOARD MEMBER PAPARIAN: None.

BOARD MEMBER MEDINA: Board Member Eaton.

BOARD MEMBER EATON: Up to date, thank you.

BOARD MEMBER MEDINA: Jones.

BOARD MEMBER JONES: Up to date.

BOARD MEMBER MEDINA: Thank you.

My ex partes are two tribal representatives that I had lunch with and that were here today. And that's Ricardo Tapia with the Coyote Valley Tribal Council and Randolph Feliz with the Hopland Band of Pomo Indians. And they were here representing 10 northern California tribes.

With that, we'll move on to Mr. Jones, who is going to give a report on DPLA.

BOARD MEMBER JONES: Thanks, Mr. Chair.

This is the Committee report on Diversion Planning and Local Assistance. We had our first meeting on Tuesday, April 9th. The members of this committee include the Chair, Linda Moulton-Patterson, Jose Medina and Dan Eaton and myself.

We heard 44 items. Two were informational items that have been held over till the May meeting. One item was pulled. Twenty-one of those items are on consent. They include one non-disposal facility amendment for Alameda County. Twenty-five jurisdictions achieved 50 percent or over for the '99-2000 biennial review. One achieved a good-faith effort finding. Ten jurisdictions requested SB 1066 time extensions. Six were approved. Four were denied, but will be resubmitted in 30 days and will be before the Board in the May meeting. Seven jurisdictions were approved for base-year changes and completion of their compliance orders.

And we will here an ADC abuse item as well as that 60-day notification for non-submittals of annual reporting documents.

Thanks, Mr. Chair.

BOARD MEMBER MEDINA: Thank you, Board Member Jones.

And we will move on with Item Number 39 and Mr. Schiavo.

DEPUTY DIRECTOR SCHIAVO: Yes. Pat Schiavo of the Diversion Planning and Local Assistance Division. And this presentation will be made by Catherine Cardozo.

MS. CARDOZO: Good afternoon, Board Members.

Senate Bill 2202 -- well, let's see. Make sure I go over this what I'm talking about now since Pat didn't introduce.

Today's Agenda Item 39 is a discussion to apprise you of the jurisdictions that have not yet completed their 2000 annual report submittal.

Senate Bill 2202 made several amendments to the sections in the Public Resources Code related to annual reports in the biennial review process that Board staff now follows to ensure the timely review and processing of annual reports in biennial reviews. These include:

1) Reviewing a jurisdiction's annual report within 120 days of receipt and informing the jurisdiction

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of any missing information or documentation necessary for a complete evaluation;

2) Conferring with a jurisdiction not less than 60 days before issuing a notice of the Board's intent to issue the jurisdiction and compliance order for failure to implement its source reduction recycling element; and

3) Issuing a jurisdiction a notice of intent to issue a compliance order not less than 30 days prior to the public meeting where the Board would consider issuing the order.

Annual reports for 2000 were due to the Board last September 1, 2001. Board staff notified jurisdictions within the 120-day preliminary review period what additional information was necessary to complete its review; for example, a 1066 application, a new base-year certification, or a reporting-year disposal modification claim.

Also, any jurisdictions that had not submitted an annual report were also notified.

Jurisdictions were given additional time to submit the missing documentation. Despite this additional time, many jurisdictions still had not submitted the documentation by February 1, so they were notified via a telephone call that staff were beginning the 60-day conferring period as outlined in statute.

They are also notified at that time that a 30-day letter of intent to issue a compliance order could follow if the missing documentation was not submitted.

As of this morning, 12 jurisdictions still have missing information and may be sent 30-day notices of intent if they have not submitted their documentation within the 60-day period. And I believe you had new Attachment 1 distributed to you with strike-out information.

Staff will be bringing forward to the Board compliance orders as early as next month should any of these jurisdictions not submit their information within the 30-day notice of intent period.

And that Attachment 1 on the item is a list of those jurisdictions that currently have a missing documentation. You will notice that some of these have strike-outs. And this indicates that the documentation has been received since that attachment was put in.

That concludes my presentation. Are there any questions?

CHAIRPERSON MOULTON-PATTERSON: Thank you.

And I have no ex partes for the record.

BOARD MEMBER MEDINA: At this time, Madam Chair, we're still on Item 39.

Thank you, Ms. Cardozo.

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Do any Board Members have any comments on this?

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Medina, for taking over. I'm sorry I was detained.

So is it your pleasure to go back to Item 35 at this time?

DEPUTY DIRECTOR SCHIAVO: Yeah, that would be great. Thirty-five would be great.

CHAIRPERSON MOULTON-PATTERSON: Okay.

DEPUTY DIRECTOR SCHIAVO: Okay. And Phil Morales is going to introduce this item, as well as the author.

MR. MORALES: Good afternoon, Madam Chair and Board Members.

The item is Item Number 35, Presentation Of Study Of Minority Communities And the Waste Stream, based on the Contract Concept Number IWM-C0058.

In the interests of time I just want to briefly go over the information that's been provided to you, and then introduce the author of the article.

Each of the Board Members offices should have received three copies of the draft working copy of the study. And just to note, it is single sided. We knew that, but it's designed for purposes of providing you an opportunity for you or your staff to provide any comments you might have. We would like to have any comments that you have regarding the study as quickly as possible in my

office so we can obviously prepare it for final approval at a subsequent Board meeting.

At this time, I'd just like to briefly introduce you to Dennis Tootelian, who's a Professor of Marketing and Director of the Center for Small Business and the College of Business at the California State University. He has published numerous articles. Some of his research and writings has appeared in the Congressional Record, the Wall Street Journal, Forbes, The Kiplinger Report, U.S.A. Today and, yes, even the National Enquirer.

Dennis has worked in a capacity not only with this Board, but also with numerous other State agencies including the Department of Pesticide Regulations, Franchise Tax Board, CalPERS, Employment Development Department, California Department of Parks and Recreation, and California Conservation Corps.

At this time, I'd just like briefly to introduce you to Mr. Tootelian and so you can put a name with the face.

Mr. Tootelian.

MR. TOOTELIAN: Thank you.

Madam Chair, Members of the Board, I just wanted to thank you for the opportunity to conduct this study for you. I look forward to your comments.

I'd be happy to make any appropriate

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clarifications, modifications. My most important concern is to make this the best report it can be. And so when we do receive your comments and questions, we'll be happy to take and deal with them -- with every single one of them. So I look forward to that.

And, again, thank you so much for the opportunity to work with you.

I must say also, Senator Roberti, I chaired the Advisory Board for you back in 1979. It's good to see you again.

BOARD MEMBER ROBERTI: It's good to see you. Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Medina, did you have a comment?

BOARD MEMBER MEDINA: Yes, Madam Chair.

I just wanted to thank the Board for your support in funding this study and also let you know that we will schedule it for a more complete discussion in June. And we would appreciate any remarks, any questions that you might wish to submit prior to that meeting.

CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

Just quickly. At that time -- there are a number of recommendations that relate to the work of DPLA. And if DPLA is prepared, at that time, to provide some further

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background and response to some of the recommendations, I would find that very useful.

DEPUTY DIRECTOR SCHIAVO: Okay.

MR. MORALES: Just one comment I'd like to add, in my oversight, is that the executive summary for those members of the public who would like to see what has been prepared to the Board is available on the Board's web site. It is on the agenda items. And if someone would like a complete copy, please let my office know, and we'll have a few made available.

Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Morales.

Okay. My notes say that you have Number 37 and Number 50; is that correct, Mr. Leary?

EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair.

CHAIRPERSON MOULTON-PATTERSON: Okay.

DEPUTY DIRECTOR SCHIAVO: I'd like to introduce Number 50 first because that will be quicker, and then Number 37 could take a little while longer.

Item Number 50 is consideration of the application for an SB 1066 Time Extension by the City of El Monte, Los Angeles. And Steve Uselton will be making that presentation.

MR. USELTON: Steve Uselton.

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The City of El Monte has requested a two-year time extension for achieving the 50-percent diversion rate. This item was considered in committee and did receive a four-to-zero vote.

Staff will be brief in its presentation, knowing that this has been presented to some of the members.

The City did report a rate in 2000 of 39 percent. It has been implementing programs to target both residential and commercial sectors, but has identified the need to expand or implement new programs in order to achieve that 50-percent diversion rate.

To this end, the City does plan to focus additional effort on expanding outreach to invigorate participation in the residential curbside collection program. It also is placing a requirement on waste haulers to provide commercial programs, including the addition of newsletters to commercial business and doing ongoing audits, as the City has a high turnover rate in its commercial sector.

The City did identify and comment heavily in their application on the need to focus on overcoming language barriers inherent with the ethnic diversity in the community. Bilingual literature is being distributed, and ethnic diversity is encouraged on the City committees that are working on improvements in the solid waste

programs.

There will be a new permitting process for encouraging the diversion of demolition and renovation projects, as the disposal reporting systems indicates that 22 percent of this city's disposal is going to inert disposal facilities.

Haulers servicing the multi-family complexes will be required to provide multi-family recycling programs, as approximately one-third of the residents in this community are living in multi-family units.

Board staff is asking the Board -- or recommending the Board to approve resolution 2002-198, to approve this two-year time extension for the City of El Monte.

CHAIRPERSON MOULTON-PATTERSON: Questions.

Mr. Medina.

BOARD MEMBER MEDINA: Yes, Madam Chair, I have a brief statement. And basically I also wanted to say some good things about the City of El Monte.

But, first, recently, just prior to this item, I had a report on the study that was done on the various communities on the waste stream; and the City of El Monte's SB 1066 Time Extension request certainly makes the case as to why such a study is needed. And their report describes the barriers that have prevented the City of El

Monte from earlier implementation.

Among them was mentioned ethnic diversity, language barriers; the majority of businesses are mom-and-pop businesses; they have multi-family residences; and a lack of funding for recycling and public schools. And these are issues that the City of El Monte, which is made up of 64 percent Hispanic and 23 percent Asian and 15 languages are spoken -- these are barriers that the City of El Monte has aggressively sought to overcome.

And so, again, I think that their efforts are worthy of being recognized. And we certainly cannot expect cities like El Monte to go it alone with limited resources. And so I'd like to congratulate them again for their success in reaching out to the communities and to do everything they can to divert waste from the landfills. And so I'm sure that the 2-year extension submitted by the City of El Monte will be sufficient for them to achieve the 50-percent diversion requirement, and I'd like to move the resolution.

CHAIRPERSON MOULTON-PATTERSON: Okay.

BOARD MEMBER JONES: Second.

CHAIRPERSON MOULTON-PATTERSON: Mr. Jones will second it.

We have a motion by Mr. Medina, seconded by Mr. Jones, to approve Resolution 2002-198.

Please call the role.

SECRETARY VILLA: Eaton?

BOARD MEMBER EATON: Aye.

SECRETARY VILLA: Jones?

BOARD MEMBER JONES: Aye.

SECRETARY VILLA: Medina?

BOARD MEMBER MEDINA: Aye.

SECRETARY VILLA: Paparian?

BOARD MEMBER PAPARIAN: Aye.

SECRETARY VILLA: Roberti?

BOARD MEMBER ROBERTI: Aye.

SECRETARY VILLA: Moulton-Patterson?

CHAIRPERSON MOULTON-PATTERSON: Aye.

Thank you.

BOARD MEMBER MEDINA: Madam Chair, if you'll just indulge me one moment again.

I want to recognize the two tribal representatives that are with us today. Mr. Randolph Feliz, please stand up, with the Hopland Band of Pomo Indians. And Mr. Ricardo Tapia with the Coyote Valley Tribal Council.

CHAIRPERSON MOULTON-PATTERSON: Welcome. We're glad you could be here.

Thank you, Mr. Medina.

Okay. Well, that moves us to our last agenda

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item, Item Number 37 on Alternative Daily Cover.

DEPUTY DIRECTOR SCHIAVO: Okay. Item Number 37 is discussion and request for direction regarding alternative daily cover tonnages reported to the Board's disposal reporting system for calendar year 2000 for Fontana Refuse Disposal Site and Colton Refuse Disposal Site and discussion and request for direction regarding tonnages reported to the Board disposal reporting system for calendar year 2001 for CALMAT Reliance Pit Number 2.

And Dianne Range will be making this presentation.

MS. RANGE: Good afternoon.

This item was originally presented to the Board last July. So it's been almost a year in progress, with updates in October, November, and December, at Board meetings and briefings, and also publicly noticed.

Last June staff began investigating a number of facilities that reported significant amounts of alternative daily cover of reporting year 2000 in disposal reports that we received May 2001.

Over the past several months staff has conducted several site visits and a review of county records, landfill records, green waste, and processor and hauler records, and performed extensive analysis on the data obtained.

Nine facilities in all were investigated. And after the July board meeting, corrections were made to seven of the facilities' disposal and ADC tonnages due to inaccurate reporting. Two facilities are still unresolved and have potential issues with ADC overuse.

And one facility, originally resolved for incorrectly reporting ADC for reporting year 2000 has begun incorrectly reporting ADC tonnages for reporting year 2001.

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MS. RANGE: The facilities in review with issues of potential overuse are Fontana and Colton refuse disposal sites, located in San Bernardino County and owned and operated by the County.

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MS. RANGE: For the two facilities investigated for overuse, staff conducted site investigations and a review of facility records in June 2001.

In October 2001 San Bernardino County submitted origin data and the County's calculation method for determining how much ADC is needed at the sites to adequately cover the waste.

Then in February 2002, as directed by the Board, CIWMB staff and staff of the Board of Equalization conducted a review of the facility records to verify the

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appropriate amount of ADC and to determine the accuracy of the jurisdiction-of-origin information.

There are issues that need to be resolved in order to determine whether ADC was overused and the appropriate steps to take if overuse has occurred. Regulations specify that ADC material applied in excess of requirements for cover as disposal -- to be counted as disposal.

First, staff has to examine the accuracy of total ADC types, amounts, and densities, then review the landfill configuration and apply the ADC amount in density to calculate whether ADC use exceeds the regulatory limits.

Second, staff has to determine whether the jurisdiction of origin information is correct and to identify options for allocating any excess ADC to the jurisdictions as tons disposed.

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MS. RANGE: This is a picture of the Fontana site investigation showing the depth of the ADC application. And, as you can see, there is an inspector standing in a hole which is about 2 1/2 feet of measured ADC. And this was the second hole that was dug at that site. And at that point he still had not reached the waste.

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MS. RANGE: The county submitted calculations in October 2001 specifying a green waste density of .39 tons per cubic yard. Staff analyzed the calculations and determined that, based on the County's methodology, the amount of green waste ADC used at both sites is in excess of the amount allowed as cover by regulation.

5,419 excess tons for Colton and 117,524 excess tons for Fontana for the period 1999 through 2001.

Then in March 2002 the County submitted a revised density factor to be used in the calculation, indicating that .46 tons per cubic yard better represents the material and condition of the green waste.

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MS. RANGE: After calculating both densities into the County's methodology, staff found that both density factors resulted in excess ADC tonnages for Fontana. However, the revised density factor resulted in a change of excess tons for Colton from 5,419 tons to zero excess tons for the same period and from 117,524 tons to 95,454 excess tons for Fontana, a difference of 22,000 tons.

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MS. RANGE: In addition, the County also proposed that for Colton in reporting year 1999, ADC tonnages for the fourth quarter be revised to subtract out the ADC data reported for one month in the quarter when the facility

had received shredded waste tires in addition to green waste, and to use average daily tonnage for ADC.

The Board staff has determined that shredded waste tires and green waste are comparable in density and, therefore, it would not be necessary to take out the shredded waste tire tonnage.

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MS. RANGE: Originally, the ADC tonnages were reported as assigned to San Bernardino County. Staff has reviewed the records of green waste processors and haulers who supplied green waste material to the facilities to obtain verification on the jurisdictions of origin.

Staff found that for 1999, vendors and haulers have no records no records of jurisdiction data, so we're unable to provide any additional jurisdiction data. Data for 2000 first reported by the County appeared to be incorrect, as it showed the City of Grand Terrace having been assigned almost as much ADC as it had been assigned disposal. One of the vendors provided revised data identifying additional jurisdictions that supplied green waste material in different tonnages of ADC.

So the data supplied by haulers and vendors for 2000 we find to be more complete and reliable, as we've been able to verify that data.

Staff has attempted to verify data for 2001, but

has discovered that the data is unreliable due to several thousand tons of discrepancy between the hauler and vendor data.

So at this time staff recommends that -- the recommendations that we have in the presentation today and in the item are based on the most accurate data and most reliable data.

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MS. RANGE: So we have Board options. Board direction is needed for several items to deal with ADC overuse issues at Fontana and Colton.

First, on what is the appropriate density for green waste ADC, .39 tons per cubic yard or .46 tons per cubic yard.

Second, a finding on whether ADC has been used excessively or not.

Third, if the Board determines ADC excess, how should excess tonnages be allocated back to jurisdictions as disposal? Should it be allocated to the County, the owner and operator of the facility; to the host jurisdictions, the jurisdictions where the facilities are located; to all the jurisdictions disposing at the facilities based on a percentage of disposal; to the jurisdictions based on the percent of ADC tonnage as originally reported by the County; or to the jurisdictions

listed in the records from haulers and green waste processors based on the percent of ADC tonnage received.

There are different options for each reporting year due to the accuracy of the data available for each year.

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MS. RANGE: Finally, there is still an outstanding issue with CALMAT, the inert facility located in Los Angeles county. Based on the Boards' direction in July, the Board directed the staff to add the ADC tonnages claimed at the facility for reporting year 2000 to jurisdiction disposal tonnages.

Since the July board meeting revised disposal data has been recently sent to the County within the last week. In addition, three quarters of 2001 disposal ADC data indicated that 90 percent of all tonnage received at CALMAT was beneficial use and 10 percent was ADC.

Staff has reviewed the revised data and found all material received at the landfill is not reported as landfill.

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MS. RANGE: Staff has identified a Board option for CALMAT reliance to continue to work with the operator to determine the correct amount of disposal for 2001.

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MS. RANGE: So in summary, we have recommendations for 1999; and that is: 1A, to determine appropriate density for green waste ADC to be .39 tons per cubic yard; 2C, for Fontana to find that ADC has been used excessively to add those excess tonnages to jurisdictions disposal using the jurisdiction list originally reported by the County; 5B, to make no change to Colton's ADC tonnages for fourth quarter 1999 based on the comparable density of shredded waste tires and green waste; and, 6C, for Colton to find that ADC has been used excessively to add the excess tonnage to the jurisdiction's disposal using the jurisdiction list originally reported by the County.

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MS. RANGE: For report year 2000: 1A, to determine appropriate density for green waste ADC to be .39 tons per cubic yard; 2D, for Fontana to find that ADC has been used excessively and to add tonnage to the jurisdiction's disposal using the vendor and hauler listed jurisdictions; 6D, for Colton to find that ADC has been used excessively, and again to add the tonnage to jurisdiction's disposal using the vendor and hauler listed jurisdictions, and then to work with the CALMAT operator to determine disposal of 2000.

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MS. RANGE: And, finally, the staff recommendations for report year 2001: 1A, to determine the appropriate density for green waste ADC to be .39 tons per cubic yard; 2C, for Fontana to find ADC has been used excessively and that the added tonnage -- that the tonnage be added to the jurisdiction's disposal as reported by the County; and, 6C, Colton to find ADC has been used excessively and to add the tonnage to the jurisdiction's disposal as reported by the County; and, 9, to work with the CALMAT operator to determine disposal for 2001.

That concludes the presentation. And there are representatives from the County today if you have any questions of them.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

BOARD MEMBER PAPARIAN: I have a question.

CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

BOARD MEMBER PAPARIAN: It seems to me like there should be a relationship between the density and the thickness we allow for ADC. In other words, if it's denser, it almost seems like you would have -- you would need wet -- like soil I guess is what, six inches? Okay. And that's because soil is very dense. And then we allow green waste a foot, presumably because it's not so dense, right?

MS. RANGE: It's determined to be functionally

equivalent in its performance.

BOARD MEMBER PAPARIAN: Right. But if there's a -- I mean looking back at the picture you had, I mean just from my little screen here, it looked like that stuff was pretty dense. Do we have any allowance for, you know, differences in --

MS. RANGE: We don't really have a standard density by material type. We have made several attempts to call around other landfill sites to find out what their density figures are. And some have had -- actually declined to answer because it's so variable. And actually we have some staff that have done some collecting of some of that information, and we have a staff person who's actually looked at the density issue.

BOARD MEMBER PAPARIAN: Kind of, just so you know, related to this, if we were to go with the higher density number, requested I guess by the operator, it would almost seem like you need less thickness if you went to a higher density number.

MS. RANGE: And I think -- you know, again the County could better probably answer that question if it turns up, you know, the material that they used and the reason that they did a revised density factor was based on the fact that they felt that some of the grass clippings that they had had a lot of moisture in it so it was

compacted -- could be compacted more densely, more -- a greater application -- or a larger amount of ADC application.

CHAIRPERSON MOULTON-PATTERSON: There's a lot more questions. So why don't we have the representative from the County come up, too.

Mr. Jones, did you want to speak?

BOARD MEMBER JONES: I do want to speak to one issue, Madam Chair, if I could. I don't know if they're going to be able to bring staff up here. Scott Walker is the one that usually deals with a lot of that.

The beneficial -- or the equivalent to make sure, it's going to vary. Like tire chips, tire shreds are not, you know, as thick as green waste. Sludges are less -- you know, you need less. Auto shredder fluff is different again. Each one is different as it's compacted.

But green waste was automatically no more than a foot. And it varies depending upon the season and depending upon the feed stock as to how dense it is and how dry it is. Most of the stuff that was in that picture is pretty fluffy, you know, it's way excessive, I mean way, way excessive. But that's pretty fluffy material as far as its density. It looked like there was an awful lot of bark and woody material in that soil, so it would even be lighter.

I mean I'm having a hard time going along with 780 pounds, but I'm going to go there. But it clearly was not .49. It --

BOARD MEMBER PAPARIAN: You're thinking even that is high?

BOARD MEMBER JONES: Point three nine I can go with because of the unreasonable average for the State. But it's -- that's 780 pounds per cubic yard of that material. That's a lot in areas that are pretty arid. You know, it dries out quickly after it's been cut.

So I think it's generous to do .39.

MS. GALLAGHER: My name's Pat Gallagher. I'm with the County of San Bernardino. I wanted to address the issue on density. That's the main reason I was coming in on this issue today.

One of the things that happened with the low density, the .36, .39 material, is that was very woody, very twiggy. The sample that we took had been out on the landfill probably for -- our best guess was a couple of weeks. So in addition to being dry and arid, the sample was first put down probably in July -- we pulled a sample in late July. There was a lot of hot weather. We believe a lot of moisture was lost out of that sample.

In addition, there were some sampling concerns that as we drove that pipe into the waste and tried to get

our sample, that we were not able to capture the entire sample in our volume calculation. We had no way of verifying that. So that was one reason why we came back with a different methodology.

The second thing is, on the green waste, the grass is definitely much higher moisture content, comes automatically more dense to begin with, doesn't go from like a thickness of this down to that. I think it compacts pretty quickly.

But, as far as the County being dry, one of the things we've become aware of also in the last several months is part of South Coast AQMD's work on composting facilities. And San Bernardino County is getting, I think the number is around 850,000 tons of composting material is coming into our county in South Coast AQMD jurisdiction, which is strictly the valley. That's a small area that's getting a lot of green waste. And a lot of that green waste is coming in as grass clippings and yard trimmings, and that is a more dense material.

So, yes, a lot of the County is a dry, arid area, but that tends to be the desert. And that is not the material that's coming into Mid Valley or Fontana or whatever.

CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

BOARD MEMBER JONES: One way that you could

have -- that you could even further support this is, there was a wood grinding operation there from the time that NorCal took that facility over. And putting that material out as biofuels. And as biofuels are sold on a bone-dry ton and --

MS. GALLAGHER: I am not aware of any grinding facility that was at that site.

BOARD MEMBER JONES: Actually, they were at all those sites -- all four of those sites in San Bernardino County.

And the material was sold as fuel and it was sold as bone-dry ton. And of all of our operations in the State of California, San Bernardino had the least deduction for bone-dry ton. So that kind of supports the idea that it is dry.

MS. GALLAGHER: Again, I can tell you what is coming into our sites right now is a quantity of 850,000 tons per year. That data shows that we are getting more than double the tonnage in composting material into the composting facilities, who are then trying to ship it to our landfill, and we're taking it as ADC. That is more than twice the tonnage of Orange County and L.A. County combined, which I think you would consider to be fairly green material. It is apparent -- or we believe it's apparent from the jurisdiction and origin information that

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that is the material that's being used as ADC in our sites and is a more representative sample at the sites.

There is a median number in there, that may also be true. But we do believe that the 0.39 tons per cubic yard is low, in part because it sat out there for three months in the middle of the summer and it was very desiccated material. And it was very woody. It was not -- on the day we took that sample we had three different types of material. What I tried to do in that sampling was pull material that seemed to be consistent with what we were hearing that the Waste Board staff had seen during their inspection. We were not extrapolating into the area that had been done at that site at that point in time.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Any other questions at this time?

Did you wish to speak?

MR. GLASS: Yes, I do.

Paul Glass from the County of San Bernardino, Madam Chair and Board Members. I just have a few comments to make here.

First, I think most importantly, I'd like to thank the Board Members and their staff for their effort in working with us in resolving the ADC issues at Mid Valley or Fontana AND the Colton Sanitary Landfills.

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We would like to assure the Board that the County has taken several steps to ensure control of the use of ADC at our facilities. I'd like to mention some of the steps.

Beginning in July 1st of last year the Solid Waste Management Division has assumed operation of the scale houses. All vendors for the contract operator must be preapproved by the County and all waste-derived materials must be weighed in.

Secondly, the County's new contract provides financial incentives to the contract operator to improve compaction rates and waste-to-cover ratios and actually to discourage use of ADC.

Under the new contract, the County has more than doubled its in-house staff to actively manage and oversee landfill projects and activities.

The county is concerned with the large quantities of green material being processed by facilities within the San Bernardino Valley. Ms. Gallagher already alluded to the Southwest Air Quality Management District report, with the amount of true tonnage that is coming into the San Bernardino County.

We believe that there are problems with the current disposal reporting system process, and I think our staff and your staff can verify that. We would

encourage the Board to seize the opportunity to resolve conflicts with the diverse and competing interests in the State and develop an effective waste storage and diverse reporting system or improve the existing system.

In regards to staff's recommendations regarding the appropriate density for the green waste ADC, we believe that the calculations for the .46 tons per cubic yard are more representative of the actual density and would, therefore, recommend Option 1B rather than staff's recommendation, which is Option 1A.

But I think even more importantly, we are concerned with staff's recommendations regarding the reallocation of excess ADC tonnage for 1999 through 2001 in regards to jurisdiction of origin.

A significant amount of effort by our staff and Board staff has been expended over these past nine months to accurately reflect -- determine and reflect the origin of the ADC.

If the goal is to ensure the most accurate disposal reporting system possible, then we believe that Option 6D should be applied to all the years in question, 1999 through 2001, and not just for the year 2000.

Therefore, our recommendation would be that staff would be directed to add the calculated excess ADC tonnages to the disposal tonnages for the revised

jurisdictions of origin based on green waste processors and hauler lists.

We believe it is neither fair nor equitable to overlook the data that has best been developed to date. That more accurately reflects the true origin of the excess ADC tonnages.

Considering the jurisdictions of origin in some years but not in others seems to be inconsistent and arbitrary and further degrades the integrity and confidence level with the disposal report system.

Perhaps as another option not mentioned, if staff and/or the Board believes that truly accurate jurisdictions of origin cannot be determined for a specific year, then the Board has the option to consider the excess ADC tonnage as disputed tonnage and, therefore, unallocated.

Now, we recognize that there are a number difficult decisions facing the Board. And we would only ask that the Board carefully and thoroughly consider all the issues before reaching a decision on an issue of such significant impact.

I'd like to again thank you for your consideration and time. And we have several staff members here to address any questions in regards to the technical calculations that were done to determine the density

and/or the level of effort that was done to look and determine the origin -- jurisdictions of origin for the ADC tonnage.

That concludes my presentation, Madam Chair.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

CHAIRPERSON MOULTON-PATTERSON: Oh, yes. Mr. Jones has a question, Mr. -- is it Mr. Glass?

MR. GLASS: Yes.

BOARD MEMBER JONES: Did you say 6B as an option?

MR. GLASS: 6D. Staff recommend 6D, I believe, for the year 2000. And we're saying that it would be appropriate for the year 1999 and 2001 as well.

BOARD MEMBER JONES: Okay. Well, one of the things that you did bring up was that there is a problem with the disposal reporting system for the point of origin.

As the operator of the system, you have an option of going, instead of quarterly, to daily point of origin, which would slow up your system a little bit, but it would give you more accurate data. Had you considered that as a possibility from your standpoint?

MR. GLASS: Well, as I mentioned, prior to July 1 of 2001, we did not man the scale houses and we were not reporting that. We had a contract operator who was in charge of that operation.

Since that time, what we have put in the contract with our current operator, actually disincentivize to use ADC. So we don't -- you know, that's not a bad point, and we will pursue that as well.

BOARD MEMBER JONES: No, I'm not saying the ADC. The point of origin as far as your disposal goes, at the --

MR. RICHARDSON: Rex Richardson, County of San Bernardino.

Member Jones, we do actually scale every load that comes into the landfill as far as waste. The ADC is supplied by -- for the years 2000 and 2001 our contractor, NorCal, bought or procured ADC from five different vendors. And that's going to be used -- we use NorCal's records for that.

BOARD MEMBER JONES: That's not what I'm talking about. One of the -- Mr. Glass had made an observation that in the future the Board should work on the disposal reporting system, is what I heard. Maybe I misunderstood. But I thought it was what we could do in the future.

And what I am asking is that, in the future, is the County of San Bernardino to try to make the disposal reporting system more accurate, instead of doing quarterly point of origin surveys, change to a daily point of origin for all the material that's coming in? That was my

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question.

MR. RICHARDSON: Oh, yeah. I believe what we're trying to explain is that since July 1 every load of material coming into the landfill is scaled on a daily basis.

BOARD MEMBER JONES: I understand that. And is the point of origin --

MR. RICHARDSON: And the point of origin is determined either at the --

BOARD MEMBER JONES: That works. Thank you.

CHAIRPERSON MOULTON-PATTERSON: Okay. For the record, were you Mr. Rex Richardson?

MR. RICHARDSON: That would be me.

CHAIRPERSON MOULTON-PATTERSON: Okay. Was that your testimony? Did you want to speak anymore, because I have a speaker's slip for you?

MR. RICHARDSON: You're right, I do.

I just wanted to maybe reiterate what Mr. Glass from the County has also said. And the concern I have is -- I've been involved in the disposal reporting system for San Bernardino County for a number of years.

And I did participate in the SB 2202 working group specifically on the disposal reporting system. And at that time, I voiced the concern that we had, as a county, the ability of getting proper origin information

and tonnage information from the green waste processors, material recovery facilities, and so on. That is problematic. And that is one of the issues that's come back to haunt us now in terms of how we've allocated the ADC in terms of origin over the years on the San Bernardino County quarterly disposal reports.

When we're looking at that tonnage, our contractor didn't provide us with origin information for that tonnage until the beginning in July 1 of last year. With the new contractor we are being able to get a city of origin on the ADC being supplied to our contractor and used at those sites.

Prior to that, we did not get that information, and it was problematic. I did -- over the years I've worked with most all of the green waste processors in San Bernardino County and -- for instance, we've run a Christmas tree program since the year 1990, and even trying to find out from them the amount of -- how many Christmas trees they took in from the public or whatever by jurisdiction at the end of a holiday season. And I'd always get back from those guys, well, it came from so-and-so disposal company, and they didn't really have that information broken down in terms of jurisdiction.

Again, that haunted me when I've done the disposal reporting system because I realized that the

haulers that bring material into those green waste processors are reporting back to their jurisdictions that diversion, in other words, when XYZ hauler brings in a load of green waste from the City of so-and-so, they're reporting back to that hauler -- or to that city they've recycled X amount of green waste.

So the cities are getting the information from the hauler. I did not want to compound a problem or potentially have an over reporting issue by pursuing origin information. Even though it would be very cumbersome to do, I felt it was most expeditious to go ahead and just, as basically a placeholder, use the County unincorporated area as a placeholder.

We don't do the alternative method or calculation on our AB 939 compliance on annual reports. I knew that it was problematic. I even said so in the 2202 workshops, that we have a problem with that, and I would welcome in enforcement in a way to make this material is auditable so that we can get an accurate accounting.

My goal as the disposal reporting coordinator is to only count the stuff once. I don't want to see it done twice, and I want it to be as accurate as possible.

And I just want to -- just wanted to let the Board know that even though we listed that material as origin, as coming from unincorporated San Bernardino

County, that was merely a placeholder because our options were either don't put any origin in there at all or just default to the County. That way then the cities aren't going to be double-counting it. And, of course, we were at the time planning on seeing it coming back as disposal as well.

So, again, it is problematic. But I do feel with the vendors that our contractor used in the first two quarters of 2001 are the same vendors that they used in 2000; and two of the three vendors used in 1999 are also the same vendors they used in 2000. We know that all those suppliers get materials from various jurisdictions. And I feel it would be very inappropriate to try to allocate that tonnage coming back formally as ADC and allocate that back as unincorporated. I don't think that's helping the DRS system at all.

And that's probably the major point I'd like to make.

Thank you for your time.

CHAIRPERSON MOULTON-PATTERSON: Thank you very much for coming.

Mike Mohajer, Los Angeles County.

I guess Mike's not here now.

Mark Aprea, Republic Services.

MS. VAN KEKERIX: Excuse me. I did hear what Mr.

Mohajer planned to say.

Excuse me. Lorraine Van Kekerix in the Waste Analysis Branch.

He was reporting that CALMAT had delivered the revised tonnage reports.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Lorraine.

Mark Aprea.

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

First, we want to commend this Board and staff for their efforts to engage in enforcement of the ADC regulations, that we would urge that you continue to do so.

Earlier last week the staff recommendation that considered one of the options was to reallocate the overuse of ADC as disposal to the host jurisdiction. And in response to that, Republic Services, along with a number of other private waste companies and organizations, responded, urging that the staff and the Board rather look at reallocating it to the generating jurisdictions based upon the amount of ADC waste being -- or ADC material being sent to the disposal facilities. And we want to thank the Board and the staff for responding to our concerns, and we would urge the Board to adopt the staff

recommendation.

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

Mr. Paparian.

BOARD MEMBER PAPARIAN: Yeah, I wanted to -- I'm still stuck on this ADC density issue. I had a couple more questions for staff about that. I see that Scott Walker is here. Maybe he can help out a little bit.

What we heard from the County was that part of the reason -- part of the reason it weighed so lightly was that it had been sitting outside for quite some time, several weeks or possibly even a couple months. What I'm wondering is, is that ADC at that point or is that intermediate cover if it's been sitting out there for so long? And is this stuff appropriate for more intermediate cover?

MR. WALKER: Scott Walker, Permitting and Enforcement Division.

Alternative intermediate cover would be something different. That would be cover for areas that don't receive waste -- new waste on top for at least six months.

And so when they store and handle daily cover -- alternative daily cover, there is a period of time where you normally stockpile the material before you use it.

BOARD MEMBER PAPARIAN: So is it appropriate for

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then the daily cover to sit out exposed for six months?

MR. WALKER: That's pretty rare. In some cases in situations where it's woody and certain times of the year, that has -- that is appropriate. But in other cases where it's a warmer climate and where it's a little bit more problematical for odors and other problems, six months is a little bit long.

It's usually based on kind of site specific. And in the standards the LEAs have some discretion to allow for the storage and handling to be kind of site specific. So if it can stay out longer and it's not causing problems, then they can allow it. Six months is typically a pretty long time though.

BOARD MEMBER PAPARIAN: Part of the testimony we heard was that the situation in this area is more likely urban county use than the desert areas, that the type of material coming in is the type of material that you're getting in urban-type landfills. I'm wondering what -- are there densities used by, say, L.A. County? What's their densities? Is it similar --

MR. WALKER: L.A. County Sanitation District uses .3 tons per cubic yard as their density. That's what they've reported. That's what we have in our records. And, you know, that generally between approximately .3, a little less than .3 would normally be what you'd expect.

Now, if you look at the documents on conversion factors, it would indicate that if you have more grass, wet grass, heavier stuff, that you could conceivably go higher. But SAN District uses, that I recall, .3, which is lower than .39.

BOARD MEMBER PAPARIAN: Yeah. So we're essentially -- if we go with the staff recommendation, we're allowing a 30 percent higher density factor than L.A. has.

MR. WALKER: And I think it's my understanding that this factor that they use is site specific and that would not be applicable necessarily to any other site. So the key issue is, you know, is the circumstances of the green waste ADC here significantly different such that a higher conversion factor would be appropriate?

BOARD MEMBER PAPARIAN: It would be not only site specific, but green waste stream specific in that the material used for ADC could change over time, thus affecting the density factor you would use.

So not only would I not want to see this as a precedent to be used by other jurisdictions; I wouldn't want to see this as a precedent used from year to year, because the density of material could change depending on the waste stream that they're using for ADC?

MR. WALKER: Yes, correct.

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

Mr. Jones.

BOARD MEMBER JONES: Madam Chair, I'd agree with Mr. Paparian, that we don't want to set a precedent. The 600 pounds that the SAN District's talking about is a lot more comfortable than the 780.

Now, as part of this, what you're looking at in this direction -- because we're going to get this wrapped up real quick -- Mr. Schiavo, all of your staff recommendations, if we were to accept them all, would mean that this waste would get allocated back to each jurisdiction based on delivery?

DEPUTY DIRECTOR SCHIAVO: Right.

BOARD MEMBER JONES: L.A. County, Riverside County, San Bernardino County, it's spread out everywhere, and it's based on the delivery of --

DEPUTY DIRECTOR SCHIAVO: -- as staff found reported, yes.

BOARD MEMBER JONES: On green waste or delivery of solid waste? Green waste?

DEPUTY DIRECTOR SCHIAVO: Green waste.

BOARD MEMBER JONES: Okay. That's consistent. It makes more sense to be able to do it that way.

Now, because of the difference in the excesses,

we're also looking at a shortfall in the dollar thirty-four a ton. Is part of the direction that you need here based on the .39 on this case only, so that we can start down that process?

Clearly, this Board is owing money.

DEPUTY DIRECTOR SCHIAVO: Right. That would be disposal.

MR. RICHARDSON: May I address the Board?

CHAIRPERSON MOULTON-PATTERSON: Yes.

MR. RICHARDSON: My name is Rex Richardson, San Bernardino County.

I wanted to be clear also on what staff is recommending. When we're talking about allocating the excess ADC in counting it as waste, the way I understand the amended board item is -- what they're wanting to do is as originally submitted by the County of San Bernardino for 1999 and the first two quarters of 2001.

What I would suggest is -- 1999's research was, Number 1, not I don't believe fully done. Part of three quarters of that year those records were retained by NorCal. When we changed operators, NorCal didn't provide the County with that.

So, at this point, then what would happen is -- the way I understand it is you were advocating taking the 1999 overuse tonnage and applying it to unincorporated San

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Bernardino County, and similarly for the first two quarters of 2001.

And what I'm suggesting is, that would be inappropriate and inconsistent considering all work that we've done on the year 2000, knowing that we had five separate vendors supplied ADC to those two landfills. And staff has worked to come up with all of the different jurisdictions that contributed green waste into that ADC.

Since we've used basically the same vendors for 1999 and the first two quarters of 2001, I would suggest that we find a methodology here that we can also distribute that push back ADC as waste; similarly to the multiple jurisdictions that most certainly contributed to that ADC that was used.

I'm trying to be clear. Because right now the way the staff recommendations read is they're advocating because the numbers don't match or some of the information is not available, that we need to just -- they recommend pushing the 1999 and the first two quarters of 2001 origins, put that back on San Bernardino County. And as I indicated before, that was really a placeholder that -- and as even Board staff has said at the outset, they realize that San Bernardino County didn't generate that much ADC to begin with. So I don't think it would be appropriate to take that option for 1999 and 2001.

CHAIRPERSON MOULTON-PATTERSON: Staff.

MS. RANGE: Dianne Range. I'm from the Waste Analysis Branch.

Again, when staff did the review of records for 1999 data, there was really no data from the vendors and haulers that could be obtained. And so what we were proposing to do is just to take the data that was submitted originally by the County, because their really isn't anymore verifiable data for '99 or for 2001.

And so for the year 2000 there was more verifiable data. We felt that it was a lot more reliable. And so it would have been more -- it's more accurate data.

And that's why we proposed for 2000 to use the vendor hauler list. But for 1999, since no data exists that we could really verify; and for 2001 there were huge discrepancies of 4,000 tons between the hauler and the vendor data, we felt that that should be what was originally reported by the County. And so that's how we proposed the allocation based on that --

BOARD MEMBER JONES: So the allocation is based on the County's --

MS. RANGE: -- reporting.

BOARD MEMBER JONES: -- reporting?

MS. RANGE: Right.

CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

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BOARD MEMBER PAPARIAN: Just so I can be clear. The responses that just came were after Mr. Jones was asking about collection of the dollar thirty-four. Now, you guys might have jumped ahead of me real quick there. And I just want to make sure I'm understanding. We're not and the Board of Equalization is not going to go knock on the doors of 100 jurisdictions. They're going to knock on the door of one person and say, "You owe us the money." And it's going to be up to San Bernardino County then to decide, you know, if they're going to try and go collect it from 100 jurisdictions or not.

MS. RANGE: As soon as the Board makes a decision on the excess tonnages, then the Board of Equalization will be awarding the fee assessment for those excess tonnages. And that's a separate issue.

BOARD MEMBER JONES: And that's to each one of these. So they not only get the disposal, but they get the assessment for the dollar thirty-four.

STAFF COUNSEL BLOCK: Elliot Block from the Legal Office.

Really, part of the problem here is we're talking about two different issues. One issue is that both stem from making a determination as to what the excess use was. And once that's determined, one issue is which jurisdictions in disposal reporting are charged with that.

And that's the issue that we're talking about, which data is used for '99, 2000, 2001.

Separate from that, there's a simpler issue, if you will, which is just whatever that total is, the Board of Equalization will go back to the individual landfills -- the two landfills involved and say, "You still owe the dollar thirty-four for these tonnages." And Board of Equalization will just deal with the landfills. Now, the landfill then may in turn do some other things in terms of how they're going to recapture that or not.

So that the issues -- they kind of meld, but there are two different things there.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

MR. RICHARDSON: I'm sorry.

CHAIRPERSON MOULTON-PATTERSON: Did you --

MR. RICHARDSON: Again, Rex Richardson again, San Bernardino County. I'm afraid that we're not being clear.

I'm trying -- I would like maybe Board staff to be clear with me. As far as for 1999, are we saying that San Bernardino County unincorporated would be charged back that excess tonnage as originally submitted in our DRS quarterly report, and the same thing for 2001?

I see, yes.

And I'm saying I would hope that the Board would not consider that as an option in that we know from the

work that Board staff has done for 2000, we've got four of the five vendors for 2001 supplied us with data, be it maybe not accurate tons, but we know that the vendors that we used in 2001 are the same ones we used in 2000, and through the research we've done in 2000 we know jurisdictions besides San Bernardino County contribute to that ADC.

The same thing is true for 1999. We had three vendors there. We've already talked with the vendor -- those same three vendors were part of 2000, with the exception of one, which is a hauler. And so we know that they get material from multiple jurisdictions. And I just want to again --

BOARD MEMBER JONES: Yeah, but our problem is is that in testimony -- Madam Chair --

CHAIRPERSON MOULTON-PATTERSON: Sure.

BOARD MEMBER JONES: -- in testimony from our staff, they've said that there are huge discrepancies between what you guys are offering and what they can verify. So the problem then has got to revert back to what's the constant. And the constant is San Bernardino County. If you've got distortions of four and five thousand tons for each one of these things, how do you ever get it -- how do you ever go back and try to figure it out? They've tried to do that. They cannot do that.

You just now said, even though it's the same vendor, you're having trouble even reaching some of them. So I mean we've got to bring this thing to an end. And the one thing on this disposal reporting, I'm sure when you talk to Schiavo if it's an issue of compliance, is this is an unusual circumstance. It ought to be flagged as an unusual circumstance when you turn in your thing. I don't want to talk to staff, but it's very consistent with the way most of these things have always worked, right?

CHAIRPERSON MOULTON-PATTERSON: Thank you. I think this item is a perfect example of why the Board needs legislative authority to require timely submittal and accuracy of disposal data as the Board identified in SB 2202 in the report.

And I'm comfortable with the staff recommendations as proposed.

BOARD MEMBER JONES: So am I.

CHAIRPERSON MOULTON-PATTERSON: Is that pretty much the consensus.

Mr. Paparian.

BOARD MEMBER PAPARIAN: Yeah, I'm comfortable as long as we understand that it's not a precedent to be used elsewhere or even to be used in future years in this jurisdiction.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

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With that, is there's any final public comments.

Seeing none, the Board will adjourn to closed session for personnel and litigation.

(Thereupon the California Integrated Waste Management Board concluded at 3:40 p.m.)

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CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California Integrated Waste Management Board Meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of May, 2002.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063