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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

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

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9:30 A.M.

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CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

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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iii

APPEARANCES CONTINUED

STAFF CONTINUED

Kevin Taylor

Steve Uselton

Lorraine Van Kekerix

Susan Villa

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INDEX

	PAGE
Call to Order and Roll Call	1
VII. NEW BUSINESS AGENDA ITEMS	
Executive, Administrative and Policy	
14. Consideration of Approval of Consulting and Professional Services Concepts to be Funded from RMDZ and IWMA	5
Motion	8
Vote	9
Waste Prevention and Market Development	
31. Discussion of Threats to the Organic Materials Recycling Industry in California	15
34. Consideration of Diversion Credit for Materials Sent to Conversion Facilities and Definition for "Conversion"	44
Motion	130
Vote	134
Diversion, Planning and Local Assistance	
35. Presentation of Study of Minority Communities and the Waste Stream	141
36. Presentation of the City of Indian Wells' Food Scrap Diversion Program	10
37. Discussion and Request for Direction Regarding ADC Tonnages Reported to the CIWMB Disposal Reporting System	149
39. Discussion of Jurisdictions that have Received 60-Day Notification for Non-Submittal of Annual Reporting Documents	138

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

v

INDEX CONTINUED

PAGE

50. Consideration of the Application for a SB1066 Time Extension by the City of El Monte, Los Angeles County	144
Motion	147
Vote	148
Public Comment	186
Adjournment	186
Reporter's Certificate	187

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1 PROCEEDINGS

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

5 SECRETARY VILLA: Eaton?

6 BOARD MEMBER EATON: Here.

7 SECRETARY VILLA: Jones?

8 BOARD MEMBER JONES: Here.

9 SECRETARY VILLA: Medina?

10 BOARD MEMBER MEDINA: Here?

11 SECRETARY VILLA. Paperian?

12 BOARD MEMBER PAPARIAN: Here.

13 SECRETARY VILLA: Roberti?

14 CHAIRPERSON MOULTON-PATTERSON: Here.

15 CHAIRPERSON MOULTON-PATTERSON: Ex partes, Mr.

16 Eaton.

17 BOARD MEMBER EATON: Yes, Madam Chair, three:

18 Quick hello to John Cupps; quick hello to Mike Mohajer.

19 And then I just received a letter dated April 16th, 2002

20 from Californians Against Waste, Mark Murray, absent

21 signature, regarding Agenda Item 34, and I don't know if

22 all of you got that, but --

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Could you

24 ex parte it for us.

25 BOARD MEMBER EATON: Yes. So that would have

1 been regarding Agenda Item 34, Conversion Technologies.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you Mr.
3 Eaton.

4 Mr. Jones.

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

9 CHAIRPERSON MOULTON-PATTERSON: Thank you.
10 Mr. Medina.

11 BOARD MEMBER MEDINA: None to report at this
12 time.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.
14 Mr. Papanian.

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

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

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

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

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

6 My little bit of business is, as you all know,
7 I'm required by regulation to report to the Board about
8 all emergency waivers granted by LEAs. And on March 21st,
9 2002, we received a copy of an emergency waiver granted by
10 the Nevada County LEA for the McCourtney Road Landfill and
11 Transfer Station pursuant to the section of the regs,
12 Title 14-17210.

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

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

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

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

15 We will then have left on our agenda 37, 39, 50,
16 and then probably lastly Agenda Item 35 because our
17 contractor providing that study is not available before
18 2:00 o'clock today.

19 So that's how I suggest we proceed.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

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

1 Okay. With that, we'll go back to Item Number
2 14, the reallocation.

3 Ms. Jordan.

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

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

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

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

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

20 Ms. Villa.

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

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

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 BOARD MEMBER MEDINA: Yes.

17 CHAIRPERSON MOULTON-PATTERSON: Okay.

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

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

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

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

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

5 BOARD MEMBER JONES: Is that what you were
6 saying?

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

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

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

14 CHAIRPERSON MOULTON-PATTERSON: Eighty-five.

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

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

22 Are we all clear on it?

23 Would you please call the role.

24 SECRETARY VILLA: Eaton?

25 BOARD MEMBER EATON: Aye.

1 SECRETARY VILLA: Jones?

2 BOARD MEMBER JONES: Aye.

3 SECRETARY VILLA: Medina?

4 BOARD MEMBER MEDINA: Aye.

5 SECRETARY VILLA: Papanian?

6 BOARD MEMBER PAPANIAN: Aye.

7 SECRETARY VILLA: Roberti?

8 Moulton-Patterson?

9 CHAIRPERSON MOULTON-PATTERSON: Aye.

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

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

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

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

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

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

24 CHAIRPERSON MOULTON-PATTERSON: Good morning.

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

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

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

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

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

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

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

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

1 CHAIRPERSON MOULTON-PATTERSON: Do we need five
2 minutes?

3 Let's take a quick 5-minute break.

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

6 CHAIRPERSON MOULTON-PATTERSON: We definitely
7 need 5 minutes.

8 (Thereupon a brief recess was taken.)

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

11 We'll continue.

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

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

16 (Thereupon a video was shown.)

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

21 Gentlemen.

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

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

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

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

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

25 William.

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

3 The year 2001, which was when you helped us out
4 and was the most challenging year, is when we had to get
5 over six different organizations, subcontractors, and all
6 the rest of those folks to buy into the program, we got a
7 34 percent total diversion rate and that was one-third of
8 the total waste that the facility generated.

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

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

16 Thank you very much.

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

21 Any other comments, Mr Medina?

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

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

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

6 But, again, congratulations on running an
7 exemplary program.

8 MR. O'TOOLE: Thank you, again.

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

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

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

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

25 I'd like to introduce Judy Friedman and Kevin

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

4 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

7 BOARD MEMBER ROBERTI: No, thank you.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you.

9 Okay, Ms. Friedman.

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

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

23 --o0o--

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

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

4 --o0o--

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

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

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

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

24 --o0o--

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

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

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

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

14 --o0o--

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

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

1 workplan was approved on the consent calendar for this
2 item.

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

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

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

16 Kevin.

17 --o0o--

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

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

1 facilities with ventilation of their emissions to
2 bio-filters.

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

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

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

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

25 So, in other words, it may not cost these

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

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

17 The second issue is the chromated copper
18 arsenate.

19 --o0o--

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

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

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

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

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

22 MS. FRIEDMAN: Thank you, Kevin.

23 --o0o--

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

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

6 --o0o--

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

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

1 --o0o--

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

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

22 So, Judy, thank you very much.

23 And Julie will finish up.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you, Kevin.

25 --o0o--

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

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

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

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

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

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

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

24 Senator Roberti.

25 BOARD MEMBER ROBERTI: Madam Chair, I'm just

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

9 MR. TAYLOR: I think, at this point, we really
10 don't know. With regards to clopyralids, I think we're
11 just finding -- getting a general idea now of just how
12 many or a percentage -- you know, I would say -- 19 out of
13 29 yesterday, and that's just small samples.

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

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

1 to take this seriously.

2 Sorry, I don't have that answer.

3 BOARD MEMBER ROBERTI: That's a good point.

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

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

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

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

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

17 BOARD MEMBER ROBERTI: It hurt the apple
18 industry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 California.

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

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

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

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

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

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

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

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

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

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

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

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

12 Thank you.

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

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

18 Very briefly to speak about Sudden Oak Death
19 Syndrome.

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

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

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

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

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

19 Very briefly, the million tons coming out of the
20 10-county quarantine area, the Waste Board study from 2001
21 on compost infrastructure tells us that 40 percent of that
22 waste stream is headed toward the biomass industry. Our
23 efforts on behalf of the CRRC with the -- in conjunction
24 with CDFA, USDA, and Waste Board staff has been to explain
25 that the existing California vehicle code contains

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

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

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

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

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

5 Thank you.

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

8 We will go to Item 34 at this time.

9 Yes, Mr. Jones.

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

15 The issue -- when we were down here, PR 1133,
16 when the technical assessment came out, it identified
17 2,600 calls and complaints in one area. I think 1,200 or
18 1,300 of those were verified or -- but I do know that
19 those 1,200 complaints came from 10 people in a
20 residential community that is considerably larger than 10.
21 Those are one of the issues that we -- that this industry
22 and solid waste handling industry is continually dealing
23 with. That operator has got to operate so he doesn't
24 create a nuisance, there's no doubt about it.

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

1 I don't want to really get into that as much. But when
2 1200 complaints are made by 10 people, there is another
3 level --

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

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

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

11 Mr. Papanian.

12 BOARD MEMBER PAPANIAN: Just one quick comment.
13 I brought this up yesterday under some bioreactor
14 discussion.

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

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

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

12 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
13 Papanian.

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

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

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

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

22 MR. LEVENSON: Good morning.

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

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

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

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

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

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

1 the findings from that workshop at the February Board
2 meeting.

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

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

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

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

1 started by stating their support for full credit up to 50
2 percent. There was a minority position of -- that favored
3 10 percent. And during the course of the meeting, local
4 government representatives, while still supporting the
5 full diversion credit, also indicated or put forth a
6 proposal subject to approval by their governing bodies
7 that jurisdictions be allowed 25 percent diversion credit
8 if they met the findings made by the Board, with the
9 provision that the Board could adjust this level up or
10 down after some due process.

11 --o0o--

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

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

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

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

24 The fourth is a report to the Legislature.

25 And the fifth is choices on the level of credit.

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

3 --o0o--

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

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

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

25 So this differs a little bit from what we had

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

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

8 CHAIRPERSON MOULTON-PATTERSON: Certainly.

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

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

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

19 MR. LEVENSON: No, sir.

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

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

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

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

11 MR. LEVENSON: That's correct.

12 BOARD MEMBER ROBERTI: Okay.

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

16 CHAIRPERSON MOULTON-PATTERSON: Thank you,
17 Senator.

18 --o0o--

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

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

25 The working group reached consensus on four

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

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

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

15 Three, the facility maintains or enhances
16 environmental benefits.

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

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

1 --o0o--

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

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

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

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

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

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

1 infrastructure.

2 --o0o--

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

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

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

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

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

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

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

7 However, our rationale for still proposing Option
8 5C is as follows: There's only one facility in the world
9 that uses solid waste, one conversion facility, as being
10 defined, plus one that's being built in New York that uses
11 solid waste. There are none in California that use solid
12 waste.

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

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

1 information on that.

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

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

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

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

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

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

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

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

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

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

25 The fact is that there are no new transformation

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

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

11 --o0o--

12 MR. LEVENSON: In closing, our staff
13 recommendation is Options 2B, which is the definition with
14 the modified phrase about residuals; Option 3, which is
15 the findings with the modified phrase about previously --
16 solid waste that was previously disposed, in Finding 2;
17 Option 4 regarding the report; and Option 5C, which is the
18 10 percent diversion credit, plus revisit in a few years.

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

24 So we recommend that the Board adopt Resolution
25 2002-177.

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

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

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

8 Mr. Eaton, did you want to speak?

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

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

22 Any other comments before we break for ten
23 minutes.

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

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

4 And we will now take a 10-minute break.

5 (Thereupon a brief recess was taken.)

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

9 Mr. Eaton, any ex partes?

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

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

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

18 Mr. Papanian.

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

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

1 Mr. Medina.

2 BOARD MEMBER MEDINA: None to report.

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

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

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

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

1 the timing would be during that biennial review period.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Eaton.

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

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

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

20 Mr. Jones, any ex partes?

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

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

24 Okay. We'll go ahead to our public speakers.

25 And, again, I ask that you be brief because we have quite

1 a few.

2 Yvonne Hunter, League of California Cities.

3 MS. HUNTER: Good morning, Board Members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 And thank you very much for your indulgence.

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

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

10 BOARD MEMBER ROBERTI: No.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you.
12 Mr. Papanian.

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

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

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

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

1 about material having be dug up out of the landfill.

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

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

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

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

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

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

6 (Laughter.)

7 MS. HUNTER: A site visit with all stakeholders.

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

17 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

18 MS. HUNTER: Madam Chair, may I --

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

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

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

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

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

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

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

23 Lori Van Arsdale, city of Hemet, SCAG.

24 Yes, Senator.

25 BOARD MEMBER ROBERTI: I would just like to make

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

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

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

25 No larger public policy purpose, I would submit,

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

7 And the League of Cities is here.

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

10 CHAIRPERSON MOULTON-PATTERSON: Ms. Hunter.

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

14 BOARD MEMBER ROBERTI: I'm sorry.

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

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

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

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

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

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

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

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

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

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

18 Councilmember Van Arsdale, City of Hemet.

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

21 I would like to say --

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

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

1 Cities.

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

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

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

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

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

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

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

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

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

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

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

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

25 I thank you for that. And we do also appreciate

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

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

6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you very
8 much.

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

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

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

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

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

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

6 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

9 Welcome.

10 MS. CLARK: Thank you very much.

11 I'd like to continue back on what Lori just said.

12 You're not financing them. She means a loan guarantee or
13 some kind of program where they could get off the ground.

14 But we know there's a tremendous budget crisis here.

15 We're not trying to get any money to flow.

16 Now, we are very much in support of the Board
17 having the sole discretion to give more credit where
18 there's better programs and better results. And so maybe
19 if you want to pick a base amount -- we would like to see
20 25 percent. But if you pick a base amount, and then have
21 a reopener -- have several reopeners, but at least in two,
22 maybe three years see how the programs are going, evaluate
23 on a case-by-case basis and give more credit as credit is
24 due; so that there is an incentive for the cities to get
25 involved in these programs, and there's also a market

1 incentive for these technologies to get off the ground.

2 We need to have enough credit given so that it goes -- it
3 really goes.

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

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

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

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

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

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

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

17 BOARD MEMBER ROBERTI: Yes, we reuse.

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

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

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

4 BOARD MEMBER ROBERTI: Right.

5 MS. CLARK: Okay. Thank you very much.

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

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

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

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

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

1 that we're here today.

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

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

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

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

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

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

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

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

1 Thank you very much.

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

4 Mike Mohajer, followed by Kathy Lynch.

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

10 I also do want to thank the Board and also the
11 staff really taking the lead on this issue over the past
12 year and a half or two years. And I do want to commend
13 you. And having said that, our Board of Supervisors still
14 believes that nearly 100 percent credit diverting waste
15 from disposal facilities ought to be eligible for
16 diversion credit, recognizing their political dream. The
17 dilemma that everybody has as a member of the peanut
18 gallery and the working group, we all compromise on the 25
19 percent. And we are in support of the letter of April
20 11th that the CSAC Board -- to Madam Chair, and also the
21 statement that Kay Martin just made.

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

1 Thanks very much.

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

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

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

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

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

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

1 in a very careful fashion.

2 Thank you.

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

5 Chuck White, Waste Management, followed by John
6 Richardson.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 forward and promote these as much as possible.

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

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

15 Thank you.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you.

17 BOARD MEMBER JONES: Madam Chair?

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

19 BOARD MEMBER JONES: Just two questions of
20 Howard.

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

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

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

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

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

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

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

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

13 BOARD MEMBER JONES: Absolutely.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 John Richardson, Community Recycling, followed by
16 Paul Relis.

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

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

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

1 with this.

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

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

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

13 And then on Option 5, we would support the option
14 5A, allowing the 25 percent credit.

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

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

24 Thank you.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you.

1 Paul Relis, followed by Bob Nelson.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 Bob Nelson, Riverside County, followed by Mark
17 Murray.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 with the 10-percent diversion credit.

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

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

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

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

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

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

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

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

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

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

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

8 So just please --

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

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

22 Thanks a lot.

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

25 Troy Butzlaff, City of Indian Wells, followed by

1 Bill Magavern.

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

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

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

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

18 And, finally, CVAG does support up to a
19 25-diversion credit on a jurisdiction's annual report for
20 waste sent to conversion projects that is then diverted
21 from landfill disposal.

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

25 Thank you very much.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.

2 Bill Magavern, Sierra Club, followed by Rob
3 Bernheimer.

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

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

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

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

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

25 Now, the company does try to distinguish its

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

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

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

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

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

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

1 that they're going to get some diversion on the front end.

2 And I'd like to see that happen at the permitting process.

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

8 Thank you very much.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

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

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

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

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

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

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

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

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

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

10 I guess I'll just close with that.

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

13 Thank you, Board Members.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 Grace Chan, Los Angeles County Sanitation
16 Districts.

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

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

25 And I do also want to thank both the Board and

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

3 Thank you.

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

6 Okay. That completes our speakers.

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

9 Mr. Paparian, and then Mr. Jones.

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

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

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

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

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

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

12 BOARD MEMBER PAPARIAN: Environmental Health
13 Hazard Assessment.

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

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

21 EXECUTIVE DIRECTOR LEARY: Yes, we can.

22 CHAIRPERSON MOULTON-PATTERSON: Okay.
23 Mr. Jones.

24 BOARD MEMBER JONES: Thanks, Madam Chair.

25 DEPUTY DIRECTOR WOHL: Can I just comment, that

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

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

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

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

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

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

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 Mr. Jones.

5 BOARD MEMBER JONES: Thanks, Madam Chair.

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

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

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

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

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

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

11 CHAIRPERSON MOULTON-PATTERSON: Okay.

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

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

25 BOARD MEMBER JONES: Sure.

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

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

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

9 You know, I want to move forward.

10 From my perspective, in Option 4, I'd like to see
11 it changed to three years. And I also would like to see
12 5C -- I think in our annual report to the Legislature, it
13 should be 2005.

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

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

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

1 Senator.

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

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

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

8 CHAIRPERSON MOULTON-PATTERSON: Sure.

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

14 CHAIRPERSON MOULTON-PATTERSON: Thank you,
15 Senator.

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

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

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

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

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

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

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

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

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

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

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

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

3 And I think that the language is appropriate in
4 2B. In addition, none of these technologies -- putting
5 aside the anaerobic technology right now, which is proven.
6 But none of these technologies have even come to our
7 shores of our country. So if we even look at it -- let's
8 say that they come within five months or six months, okay.
9 Well, if this bill passes or any bill passes without an
10 emergency provision, it wouldn't be effective till January
11 1st of 2003.

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

25 That would be at least something. Because we're

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

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

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

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

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

18 BOARD MEMBER MEDINA: Thank you, Madam Chair.

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

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

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

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

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

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

1 percent.

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

4 Senator Roberti.

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

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

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

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

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

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

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

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

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

9 CHAIRPERSON MOULTON-PATTERSON: Okay.

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

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

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

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

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

22 BOARD MEMBER ROBERTI: Yes.

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

25 BOARD MEMBER ROBERTI: The first reevaluation

1 would be three years once we have something in place.

2 After that I don't have a problem with every year.

3 BOARD MEMBER JONES: That's fine.

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

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

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

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

17 BOARD MEMBER ROBERTI: Yes.

18 CHAIRPERSON MOULTON-PATTERSON: Okay.

19 BOARD MEMBER MEDINA: Second the motion.

20 MS. HUNTER: Madam Chair.

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

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

1 CHAIRPERSON MOULTON-PATTERSON: I can live with
2 that.

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

7 Was that your motion, Senator Roberti?

8 BOARD MEMBER ROBERTI: Yes.

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

11 MS. HUNTER: I just have a question.

12 CHAIRPERSON MOULTON-PATTERSON: Okay.

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

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

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

24 Thank you very much.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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

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

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

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

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

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

14 Okay. Please call the role.

15 Motion by Senator Roberti, seconded by Medina.

16 SECRETARY VILLA: Eaton?

17 BOARD MEMBER EATON: Aye.

18 SECRETARY VILLA: Jones?

19 BOARD MEMBER JONES: Aye.

20 SECRETARY VILLA: Medina?

21 BOARD MEMBER MEDINA: Aye.

22 SECRETARY VILLA. Paparian?

23 BOARD MEMBER PAPARIAN: Aye.

24 SECRETARY VILLA: Roberti?

25 BOARD MEMBER ROBERTI: Aye.

1 SECRETARY VILLA: Moulton-Patterson?

2 CHAIRPERSON MOULTON-PATTERSON: Aye.

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

5 We will be returning at 2:30. We will have Item
6 35, 37, 39, 50 and then closed session.

7 (Thereupon a lunch recess was taken.)

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

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

8 BOARD MEMBER JONES: Thanks, Mr. Chair.

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

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

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

4 Thanks, Mr. Chair.

5 BOARD MEMBER MEDINA: Thank you, Board Member
6 Jones.

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

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

12 MS. CARDOZO: Good afternoon, Board Members.

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

16 Today's Agenda Item 39 is a discussion to apprise
17 you of the jurisdictions that have not yet completed their
18 2000 annual report submittal.

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

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

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

3 2) Conferring with a jurisdiction not less than
4 60 days before issuing a notice of the Board's intent to
5 issue the jurisdiction and compliance order for failure to
6 implement its source reduction recycling element; and

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

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

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

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

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

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

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

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

19 That concludes my presentation. Are there any
20 questions?

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 And I have no ex partes for the record.

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

25 Thank you, Ms. Cardozo.

1 Do any Board Members have any comments on this?

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

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

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

8 CHAIRPERSON MOULTON-PATTERSON: Okay.

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

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

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

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

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

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

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

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

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

20 Mr. Tootelian.

21 MR. TOOTELIAN: Thank you.

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

25 I'd be happy to make any appropriate

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

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

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

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

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 Mr. Medina, did you have a comment?

15 BOARD MEMBER MEDINA: Yes, Madam Chair.

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

21 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

22 BOARD MEMBER PAPANIAN: Thank you, Madam Chair.

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

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

3 DEPUTY DIRECTOR SCHIAVO: Okay.

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

11 Thank you.

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

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

16 EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair.

17 CHAIRPERSON MOULTON-PATTERSON: Okay.

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

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

25 MR. USELTON: Steve Uselton.

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

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

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

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

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

1 programs.

2 There will be a new permitting process for
3 encouraging the diversion of demolition and renovation
4 projects, as the disposal reporting systems indicates that
5 22 percent of this city's disposal is going to inert
6 disposal facilities.

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

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

15 CHAIRPERSON MOULTON-PATTERSON: Questions.

16 Mr. Medina.

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

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

1 Monte from earlier implementation.

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

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

20 CHAIRPERSON MOULTON-PATTERSON: Okay.

21 BOARD MEMBER JONES: Second.

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

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

1 Please call the role.

2 SECRETARY VILLA: Eaton?

3 BOARD MEMBER EATON: Aye.

4 SECRETARY VILLA: Jones?

5 BOARD MEMBER JONES: Aye.

6 SECRETARY VILLA: Medina?

7 BOARD MEMBER MEDINA: Aye.

8 SECRETARY VILLA: Papanian?

9 BOARD MEMBER PAPANIAN: Aye.

10 SECRETARY VILLA: Roberti?

11 BOARD MEMBER ROBERTI: Aye.

12 SECRETARY VILLA: Moulton-Patterson?

13 CHAIRPERSON MOULTON-PATTERSON: Aye.

14 Thank you.

15 BOARD MEMBER MEDINA: Madam Chair, if you'll just

16 indulge me one moment again.

17 I want to recognize the two tribal

18 representatives that are with us today. Mr. Randolph

19 Feliz, please stand up, with the Hopland Band of Pomo

20 Indians. And Mr. Ricardo Tapia with the Coyote Valley

21 Tribal Council.

22 CHAIRPERSON MOULTON-PATTERSON: Welcome. We're

23 glad you could be here.

24 Thank you, Mr. Medina.

25 Okay. Well, that moves us to our last agenda

1 item, Item Number 37 on Alternative Daily Cover.

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

10 And Dianne Range will be making this
11 presentation.

12 MS. RANGE: Good afternoon.

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

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

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

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

7 5,419 excess tons for Colton and 117,524 excess
8 tons for Fontana for the period 1999 through 2001.

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

13 --o0o--

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

21 --o0o--

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

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

14 --o0o--

15 MS. RANGE: For report year 2000: 1A, to
16 determine appropriate density for green waste ADC to be
17 .39 tons per cubic yard; 2D, for Fontana to find that ADC
18 has been used excessively and to add tonnage to the
19 jurisdiction's disposal using the vendor and hauler listed
20 jurisdictions; 6D, for Colton to find that ADC has been
21 used excessively, and again to add the tonnage to
22 jurisdiction's disposal using the vendor and hauler listed
23 jurisdictions, and then to work with the CALMAT operator
24 to determine disposal of 2000.

25 --o0o--

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

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

14 CHAIRPERSON MOULTON-PATTERSON: Thank you.

15 BOARD MEMBER PAPARIAN: I have a question.

16 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

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

25 MS. RANGE: It's determined to be functionally

1 equivalent in its performance.

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

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

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

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

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

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

7 Mr. Jones, did you want to speak?

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

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

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

1 I mean I'm having a hard time going along with
2 780 pounds, but I'm going to go there. But it clearly was
3 not .49. It --

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

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

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

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

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

24 In addition, there were some sampling concerns
25 that as we drove that pipe into the waste and tried to get

1 our sample, that we were not able to capture the entire
2 sample in our volume calculation. We had no way of
3 verifying that. So that was one reason why we came back
4 with a different methodology.

5 The second thing is, on the green waste, the
6 grass is definitely much higher moisture content, comes
7 automatically more dense to begin with, doesn't go from
8 like a thickness of this down to that. I think it
9 compacts pretty quickly.

10 But, as far as the County being dry, one of the
11 things we've become aware of also in the last several
12 months is part of South Coast AQMD's work on composting
13 facilities. And San Bernardino County is getting, I think
14 the number is around 850,000 tons of composting material
15 is coming into our county in South Coast AQMD
16 jurisdiction, which is strictly the valley. That's a
17 small area that's getting a lot of green waste. And a lot
18 of that green waste is coming in as grass clippings and
19 yard trimmings, and that is a more dense material.

20 So, yes, a lot of the County is a dry, arid area,
21 but that tends to be the desert. And that is not the
22 material that's coming into Mid Valley or Fontana or
23 whatever.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

25 BOARD MEMBER JONES: One way that you could

1 have -- that you could even further support this is, there
2 was a wood grinding operation there from the time that
3 NorCal took that facility over. And putting that material
4 out as biofuels. And as biofuels are sold on a bone-dry
5 ton and --

6 MS. GALLAGHER: I am not aware of any grinding
7 facility that was at that site.

8 BOARD MEMBER JONES: Actually, they were at all
9 those sites -- all four of those sites in San Bernardino
10 County.

11 And the material was sold as fuel and it was sold
12 as bone-dry ton. And of all of our operations in the
13 State of California, San Bernardino had the least
14 deduction for bone-dry ton. So that kind of supports the
15 idea that it is dry.

16 MS. GALLAGHER: Again, I can tell you what is
17 coming into our sites right now is a quantity of 850,000
18 tons per year. That data shows that we are getting more
19 than double the tonnage in composting material into the
20 composting facilities, who are then trying to ship it to
21 our landfill, and we're taking it as ADC. That is more
22 than twice the tonnage of Orange County and L.A. County
23 combined, which I think you would consider to be fairly
24 green material. It is apparent -- or we believe it's
25 apparent from the jurisdiction and origin information that

1 that is the material that's being used as ADC in our sites
2 and is a more representative sample at the sites.

3 There is a median number in there, that may also
4 be true. But we do believe that the 0.39 tons per cubic
5 yard is low, in part because it sat out there for three
6 months in the middle of the summer and it was very
7 desiccated material. And it was very woody. It was
8 not -- on the day we took that sample we had three
9 different types of material. What I tried to do in that
10 sampling was pull material that seemed to be consistent
11 with what we were hearing that the Waste Board staff had
12 seen during their inspection. We were not extrapolating
13 into the area that had been done at that site at that
14 point in time.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 Any other questions at this time?

17 Did you wish to speak?

18 MR. GLASS: Yes, I do.

19 Paul Glass from the County of San Bernardino,
20 Madam Chair and Board Members. I just have a few comments
21 to make here.

22 First, I think most importantly, I'd like to
23 thank the Board Members and their staff for their effort
24 in working with us in resolving the ADC issues at Mid
25 Valley or Fontana AND the Colton Sanitary Landfills.

1 We would like to assure the Board that the County
2 has taken several steps to ensure control of the use of
3 ADC at our facilities. I'd like to mention some of the
4 steps.

5 Beginning in July 1st of last year the Solid
6 Waste Management Division has assumed operation of the
7 scale houses. All vendors for the contract operator must
8 be preapproved by the County and all waste-derived
9 materials must be weighed in.

10 Secondly, the County's new contract provides
11 financial incentives to the contract operator to improve
12 compaction rates and waste-to-cover ratios and actually to
13 discourage use of ADC.

14 Under the new contract, the County has more than
15 doubled its in-house staff to actively manage and oversee
16 landfill projects and activities.

17 The county is concerned with the large quantities
18 of green material being processed by facilities within the
19 San Bernardino Valley. Ms. Gallagher already alluded to
20 the Southwest Air Quality Management District report, with
21 the amount of true tonnage that is coming into the San
22 Bernardino County.

23 We believe that there are problems with the
24 current disposal reporting system process, and I think
25 our staff and your staff can verify that. We would

1 encourage the Board to seize the opportunity to resolve
2 conflicts with the diverse and competing interests in the
3 State and develop an effective waste storage and diverse
4 reporting system or improve the existing system.

5 In regards to staff's recommendations regarding
6 the appropriate density for the green waste ADC, we
7 believe that the calculations for the .46 tons per cubic
8 yard are more representative of the actual density and
9 would, therefore, recommend Option 1B rather than staff's
10 recommendation, which is Option 1A.

11 But I think even more importantly, we are
12 concerned with staff's recommendations regarding the
13 reallocation of excess ADC tonnage for 1999 through 2001
14 in regards to jurisdiction of origin.

15 A significant amount of effort by our staff and
16 Board staff has been expended over these past nine months
17 to accurately reflect -- determine and reflect the origin
18 of the ADC.

19 If the goal is to ensure the most accurate
20 disposal reporting system possible, then we believe that
21 Option 6D should be applied to all the years in question,
22 1999 through 2001, and not just for the year 2000.

23 Therefore, our recommendation would be that staff
24 would be directed to add the calculated excess ADC
25 tonnages to the disposal tonnages for the revised

1 jurisdictions of origin based on green waste processors
2 and hauler lists.

3 We believe it is neither fair nor equitable to
4 overlook the data that has best been developed to date.
5 That more accurately reflects the true origin of the
6 excess ADC tonnages.

7 Considering the jurisdictions of origin in some
8 years but not in others seems to be inconsistent and
9 arbitrary and further degrades the integrity and
10 confidence level with the disposal report system.

11 Perhaps as another option not mentioned, if staff
12 and/or the Board believes that truly accurate
13 jurisdictions of origin cannot be determined for a
14 specific year, then the Board has the option to consider
15 the excess ADC tonnage as disputed tonnage and, therefore,
16 unallocated.

17 Now, we recognize that there are a number
18 difficult decisions facing the Board. And we would only
19 ask that the Board carefully and thoroughly consider all
20 the issues before reaching a decision on an issue of such
21 significant impact.

22 I'd like to again thank you for your
23 consideration and time. And we have several staff members
24 here to address any questions in regards to the technical
25 calculations that were done to determine the density

1 and/or the level of effort that was done to look and
2 determine the origin -- jurisdictions of origin for the
3 ADC tonnage.

4 That concludes my presentation, Madam Chair.

5 CHAIRPERSON MOULTON-PATTERSON: Thank you.

6 CHAIRPERSON MOULTON-PATTERSON: Oh, yes. Mr.

7 Jones has a question, Mr. -- is it Mr. Glass?

8 MR. GLASS: Yes.

9 BOARD MEMBER JONES: Did you say 6B as an option?

10 MR. GLASS: 6D. Staff recommend 6D, I believe,
11 for the year 2000. And we're saying that it would be
12 appropriate for the year 1999 and 2001 as well.

13 BOARD MEMBER JONES: Okay. Well, one of the
14 things that you did bring up was that there is a problem
15 with the disposal reporting system for the point of
16 origin.

17 As the operator of the system, you have an option
18 of going, instead of quarterly, to daily point of origin,
19 which would slow up your system a little bit, but it would
20 give you more accurate data. Had you considered that as a
21 possibility from your standpoint?

22 MR. GLASS: Well, as I mentioned, prior to July 1
23 of 2001, we did not man the scale houses and we were not
24 reporting that. We had a contract operator who was in
25 charge of that operation.

1 Since that time, what we have put in the contract
2 with our current operator, actually disincentivize to use
3 ADC. So we don't -- you know, that's not a bad point, and
4 we will pursue that as well.

5 BOARD MEMBER JONES: No, I'm not saying the ADC.
6 The point of origin as far as your disposal goes, at
7 the --

8 MR. RICHARDSON: Rex Richardson, County of San
9 Bernardino.

10 Member Jones, we do actually scale every load
11 that comes into the landfill as far as waste. The ADC is
12 supplied by -- for the years 2000 and 2001 our contractor,
13 NorCal, bought or procured ADC from five different
14 vendors. And that's going to be used -- we use NorCal's
15 records for that.

16 BOARD MEMBER JONES: That's not what I'm talking
17 about. One of the -- Mr. Glass had made an observation
18 that in the future the Board should work on the disposal
19 reporting system, is what I heard. Maybe I misunderstood.
20 But I thought it was what we could do in the future.

21 And what I am asking is that, in the future, is
22 the County of San Bernardino to try to make the disposal
23 reporting system more accurate, instead of doing quarterly
24 point of origin surveys, change to a daily point of origin
25 for all the material that's coming in? That was my

1 question.

2 MR. RICHARDSON: Oh, yeah. I believe what we're
3 trying to explain is that since July 1 every load of
4 material coming into the landfill is scaled on a daily
5 basis.

6 BOARD MEMBER JONES: I understand that. And is
7 the point of origin --

8 MR. RICHARDSON: And the point of origin is
9 determined either at the --

10 BOARD MEMBER JONES: That works. Thank you.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. For the
12 record, were you Mr. Rex Richardson?

13 MR. RICHARDSON: That would be me.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. Was that
15 your testimony? Did you want to speak anymore, because I
16 have a speaker's slip for you?

17 MR. RICHARDSON: You're right, I do.

18 I just wanted to maybe reiterate what Mr. Glass
19 from the County has also said. And the concern I have
20 is -- I've been involved in the disposal reporting system
21 for San Bernardino County for a number of years.

22 And I did participate in the SB 2202 working
23 group specifically on the disposal reporting system. And
24 at that time, I voiced the concern that we had, as a
25 county, the ability of getting proper origin information

1 and tonnage information from the green waste processors,
2 material recovery facilities, and so on. That is
3 problematic. And that is one of the issues that's come
4 back to haunt us now in terms of how we've allocated the
5 ADC in terms of origin over the years on the San
6 Bernardino County quarterly disposal reports.

7 When we're looking at that tonnage, our
8 contractor didn't provide us with origin information for
9 that tonnage until the beginning in July 1 of last year.
10 With the new contractor we are being able to get a city of
11 origin on the ADC being supplied to our contractor and
12 used at those sites.

13 Prior to that, we did not get that information,
14 and it was problematic. I did -- over the years I've
15 worked with most all of the green waste processors in San
16 Bernardino County and -- for instance, we've run a
17 Christmas tree program since the year 1990, and even
18 trying to find out from them the amount of -- how many
19 Christmas trees they took in from the public or whatever
20 by jurisdiction at the end of a holiday season. And I'd
21 always get back from those guys, well, it came from
22 so-and-so disposal company, and they didn't really have
23 that information broken down in terms of jurisdiction.

24 Again, that haunted me when I've done the
25 disposal reporting system because I realized that the

1 haulers that bring material into those green waste
2 processors are reporting back to their jurisdictions that
3 diversion, in other words, when XYZ hauler brings in a
4 load of green waste from the City of so-and-so, they're
5 reporting back to that hauler -- or to that city they've
6 recycled X amount of green waste.

7 So the cities are getting the information from
8 the hauler. I did not want to compound a problem or
9 potentially have an over reporting issue by pursuing
10 origin information. Even though it would be very
11 cumbersome to do, I felt it was most expeditious to go
12 ahead and just, as basically a placeholder, use the County
13 unincorporated area as a placeholder.

14 We don't do the alternative method or calculation
15 on our AB 939 compliance on annual reports. I knew that
16 it was problematic. I even said so in the 2202 workshops,
17 that we have a problem with that, and I would welcome in
18 enforcement in a way to make this material is auditable so
19 that we can get an accurate accounting.

20 My goal as the disposal reporting coordinator is
21 to only count the stuff once. I don't want to see it done
22 twice, and I want it to be as accurate as possible.

23 And I just want to -- just wanted to let the
24 Board know that even though we listed that material as
25 origin, as coming from unincorporated San Bernardino

1 County, that was merely a placeholder because our options
2 were either don't put any origin in there at all or just
3 default to the County. That way then the cities aren't
4 going to be double-counting it. And, of course, we were
5 at the time planning on seeing it coming back as disposal
6 as well.

7 So, again, it is problematic. But I do feel with
8 the vendors that our contractor used in the first two
9 quarters of 2001 are the same vendors that they used in
10 2000; and two of the three vendors used in 1999 are also
11 the same vendors they used in 2000. We know that all
12 those suppliers get materials from various jurisdictions.
13 And I feel it would be very inappropriate to try to
14 allocate that tonnage coming back formally as ADC and
15 allocate that back as unincorporated. I don't think
16 that's helping the DRS system at all.

17 And that's probably the major point I'd like to
18 make.

19 Thank you for your time.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you very
21 much for coming.

22 Mike Mohajer, Los Angeles County.

23 I guess Mike's not here now.

24 Mark Aprea, Republic Services.

25 MS. VAN KEKERIX: Excuse me. I did hear what Mr.

1 Mohajer planned to say.

2 Excuse me. Lorraine Van Kekerix in the Waste
3 Analysis Branch.

4 He was reporting that CALMAT had delivered the
5 revised tonnage reports.

6 CHAIRPERSON MOULTON-PATTERSON: Thank you,
7 Lorraine.

8 Mark Aprea.

9 MR. APREA: Madam Chair, Members of the Board,
10 Mark Aprea representing Republic Services.

11 First, we want to commend this Board and staff
12 for their efforts to engage in enforcement of the ADC
13 regulations, that we would urge that you continue to do
14 so.

15 Earlier last week the staff recommendation that
16 considered one of the options was to reallocate the
17 overuse of ADC as disposal to the host jurisdiction. And
18 in response to that, Republic Services, along with a
19 number of other private waste companies and organizations,
20 responded, urging that the staff and the Board rather look
21 at reallocating it to the generating jurisdictions based
22 upon the amount of ADC waste being -- or ADC material
23 being sent to the disposal facilities. And we want to
24 thank the Board and the staff for responding to our
25 concerns, and we would urge the Board to adopt the staff

1 recommendation.

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

4 Mr. Papanian.

5 BOARD MEMBER PAPANIAN: Yeah, I wanted to -- I'm
6 still stuck on this ADC density issue. I had a couple
7 more questions for staff about that. I see that Scott
8 Walker is here. Maybe he can help out a little bit.

9 What we heard from the County was that part of
10 the reason -- part of the reason it weighed so lightly was
11 that it had been sitting outside for quite some time,
12 several weeks or possibly even a couple months. What I'm
13 wondering is, is that ADC at that point or is that
14 intermediate cover if it's been sitting out there for so
15 long? And is this stuff appropriate for more intermediate
16 cover?

17 MR. WALKER: Scott Walker, Permitting and
18 Enforcement Division.

19 Alternative intermediate cover would be something
20 different. That would be cover for areas that don't
21 receive waste -- new waste on top for at least six months.

22 And so when they store and handle daily cover --
23 alternative daily cover, there is a period of time where
24 you normally stockpile the material before you use it.

25 BOARD MEMBER PAPANIAN: So is it appropriate for

1 then the daily cover to sit out exposed for six months?

2 MR. WALKER: That's pretty rare. In some cases
3 in situations where it's woody and certain times of the
4 year, that has -- that is appropriate. But in other cases
5 where it's a warmer climate and where it's a little bit
6 more problematical for odors and other problems, six
7 months is a little bit long.

8 It's usually based on kind of site specific. And
9 in the standards the LEAs have some discretion to allow
10 for the storage and handling to be kind of site specific.
11 So if it can stay out longer and it's not causing
12 problems, then they can allow it. Six months is typically
13 a pretty long time though.

14 BOARD MEMBER PAPARIAN: Part of the testimony we
15 heard was that the situation in this area is more likely
16 urban county use than the desert areas, that the type of
17 material coming in is the type of material that you're
18 getting in urban-type landfills. I'm wondering what --
19 are there densities used by, say, L.A. County? What's
20 their densities? Is it similar --

21 MR. WALKER: L.A. County Sanitation District uses
22 .3 tons per cubic yard as their density. That's what
23 they've reported. That's what we have in our records.
24 And, you know, that generally between approximately .3, a
25 little less than .3 would normally be what you'd expect.

1 Now, if you look at the documents on conversion
2 factors, it would indicate that if you have more grass,
3 wet grass, heavier stuff, that you could conceivably go
4 higher. But SAN District uses, that I recall, .3, which
5 is lower than .39.

6 BOARD MEMBER PAPARIAN: Yeah. So we're
7 essentially -- if we go with the staff recommendation,
8 we're allowing a 30 percent higher density factor than
9 L.A. has.

10 MR. WALKER: And I think it's my understanding
11 that this factor that they use is site specific and
12 that would not be applicable necessarily to any other
13 site. So the key issue is, you know, is the circumstances
14 of the green waste ADC here significantly different such
15 that a higher conversion factor would be appropriate?

16 BOARD MEMBER PAPARIAN: It would be not only site
17 specific, but green waste stream specific in that the
18 material used for ADC could change over time, thus
19 affecting the density factor you would use.

20 So not only would I not want to see this as a
21 precedent to be used by other jurisdictions; I wouldn't
22 want to see this as a precedent used from year to year,
23 because the density of material could change depending on
24 the waste stream that they're using for ADC?

25 MR. WALKER: Yes, correct.

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

3 Mr. Jones.

4 BOARD MEMBER JONES: Madam Chair, I'd agree with
5 Mr. Paparian, that we don't want to set a precedent. The
6 600 pounds that the SAN District's talking about is a lot
7 more comfortable than the 780.

8 Now, as part of this, what you're looking at in
9 this direction -- because we're going to get this wrapped
10 up real quick -- Mr. Schiavo, all of your staff
11 recommendations, if we were to accept them all, would mean
12 that this waste would get allocated back to each
13 jurisdiction based on delivery?

14 DEPUTY DIRECTOR SCHIAVO: Right.

15 BOARD MEMBER JONES: L.A. County, Riverside
16 County, San Bernardino County, it's spread out everywhere,
17 and it's based on the delivery of --

18 DEPUTY DIRECTOR SCHIAVO: -- as staff found
19 reported, yes.

20 BOARD MEMBER JONES: On green waste or delivery
21 of solid waste? Green waste?

22 DEPUTY DIRECTOR SCHIAVO: Green waste.

23 BOARD MEMBER JONES: Okay. That's consistent.
24 It makes more sense to be able to do it that way.

25 Now, because of the difference in the excesses,

1 we're also looking at a shortfall in the dollar
2 thirty-four a ton. Is part of the direction that you need
3 here based on the .39 on this case only, so that we can
4 start down that process?

5 Clearly, this Board is owing money.

6 DEPUTY DIRECTOR SCHIAVO: Right. That would be
7 disposal.

8 MR. RICHARDSON: May I address the Board?

9 CHAIRPERSON MOULTON-PATTERSON: Yes.

10 MR. RICHARDSON: My name is Rex Richardson, San
11 Bernardino County.

12 I wanted to be clear also on what staff is
13 recommending. When we're talking about allocating the
14 excess ADC in counting it as waste, the way I understand
15 the amended board item is -- what they're wanting to do is
16 as originally submitted by the County of San Bernardino
17 for 1999 and the first two quarters of 2001.

18 What I would suggest is -- 1999's research was,
19 Number 1, not I don't believe fully done. Part of three
20 quarters of that year those records were retained by
21 NorCal. When we changed operators, NorCal didn't provide
22 the County with that.

23 So, at this point, then what would happen is --
24 the way I understand it is you were advocating taking the
25 1999 overuse tonnage and applying it to unincorporated San

1 Bernardino County, and similarly for the first two
2 quarters of 2001.

3 And what I'm suggesting is, that would be
4 inappropriate and inconsistent considering all work that
5 we've done on the year 2000, knowing that we had five
6 separate vendors supplied ADC to those two landfills. And
7 staff has worked to come up with all of the different
8 jurisdictions that contributed green waste into that ADC.

9 Since we've used basically the same vendors for
10 1999 and the first two quarters of 2001, I would suggest
11 that we find a methodology here that we can also
12 distribute that push back ADC as waste; similarly to the
13 multiple jurisdictions that most certainly contributed to
14 that ADC that was used.

15 I'm trying to be clear. Because right now the
16 way the staff recommendations read is they're advocating
17 because the numbers don't match or some of the information
18 is not available, that we need to just -- they recommend
19 pushing the 1999 and the first two quarters of 2001
20 origins, put that back on San Bernardino County. And as I
21 indicated before, that was really a placeholder that --
22 and as even Board staff has said at the outset, they
23 realize that San Bernardino County didn't generate that
24 much ADC to begin with. So I don't think it would be
25 appropriate to take that option for 1999 and 2001.

1 CHAIRPERSON MOULTON-PATTERSON: Staff.

2 MS. RANGE: Dianne Range. I'm from the Waste
3 Analysis Branch.

4 Again, when staff did the review of records for
5 1999 data, there was really no data from the vendors and
6 haulers that could be obtained. And so what we were
7 proposing to do is just to take the data that was
8 submitted originally by the County, because their really
9 isn't anymore verifiable data for '99 or for 2001.

10 And so for the year 2000 there was more
11 verifiable data. We felt that it was a lot more reliable.
12 And so it would have been more -- it's more accurate data.

13 And that's why we proposed for 2000 to use the
14 vendor hauler list. But for 1999, since no data exists
15 that we could really verify; and for 2001 there were huge
16 discrepancies of 4,000 tons between the hauler and the
17 vendor data, we felt that that should be what was
18 originally reported by the County. And so that's how we
19 proposed the allocation based on that --

20 BOARD MEMBER JONES: So the allocation is based
21 on the County's --

22 MS. RANGE: -- reporting.

23 BOARD MEMBER JONES: -- reporting?

24 MS. RANGE: Right.

25 CHAIRPERSON MOULTON-PATTERSON: Mr. Papanian.

1 BOARD MEMBER PAPARIAN: Just so I can be clear.
2 The responses that just came were after Mr. Jones was
3 asking about collection of the dollar thirty-four. Now,
4 you guys might have jumped ahead of me real quick there.
5 And I just want to make sure I'm understanding. We're not
6 and the Board of Equalization is not going to go knock on
7 the doors of 100 jurisdictions. They're going to knock on
8 the door of one person and say, "You owe us the money."
9 And it's going to be up to San Bernardino County then to
10 decide, you know, if they're going to try and go collect
11 it from 100 jurisdictions or not.

12 MS. RANGE: As soon as the Board makes a decision
13 on the excess tonnages, then the Board of Equalization
14 will be awarding the fee assessment for those excess
15 tonnages. And that's a separate issue.

16 BOARD MEMBER JONES: And that's to each one of
17 these. So they not only get the disposal, but they get
18 the assessment for the dollar thirty-four.

19 STAFF COUNSEL BLOCK: Elliot Block from the Legal
20 Office.

21 Really, part of the problem here is we're talking
22 about two different issues. One issue is that both stem
23 from making a determination as to what the excess use was.
24 And once that's determined, one issue is which
25 jurisdictions in disposal reporting are charged with that.

1 And that's the issue that we're talking about, which data
2 is used for '99, 2000, 2001.

3 Separate from that, there's a simpler issue, if
4 you will, which is just whatever that total is, the Board
5 of Equalization will go back to the individual
6 landfills -- the two landfills involved and say, "You
7 still owe the dollar thirty-four for these tonnages." And
8 Board of Equalization will just deal with the landfills.
9 Now, the landfill then may in turn do some other things in
10 terms of how they're going to recapture that or not.

11 So that the issues -- they kind of meld, but
12 there are two different things there.

13 CHAIRPERSON MOULTON-PATTERSON: Thank you.

14 MR. RICHARDSON: I'm sorry.

15 CHAIRPERSON MOULTON-PATTERSON: Did you --

16 MR. RICHARDSON: Again, Rex Richardson again, San
17 Bernardino County. I'm afraid that we're not being clear.

18 I'm trying -- I would like maybe Board staff to
19 be clear with me. As far as for 1999, are we saying that
20 San Bernardino County unincorporated would be charged back
21 that excess tonnage as originally submitted in our DRS
22 quarterly report, and the same thing for 2001?

23 I see, yes.

24 And I'm saying I would hope that the Board would
25 not consider that as an option in that we know from the

1 work that Board staff has done for 2000, we've got four of
2 the five vendors for 2001 supplied us with data, be it
3 maybe not accurate tons, but we know that the vendors that
4 we used in 2001 are the same ones we used in 2000, and
5 through the research we've done in 2000 we know
6 jurisdictions besides San Bernardino County contribute to
7 that ADC.

8 The same thing is true for 1999. We had three
9 vendors there. We've already talked with the vendor --
10 those same three vendors were part of 2000, with the
11 exception of one, which is a hauler. And so we know that
12 they get material from multiple jurisdictions. And I just
13 want to again --

14 BOARD MEMBER JONES: Yeah, but our problem is is
15 that in testimony -- Madam Chair --

16 CHAIRPERSON MOULTON-PATTERSON: Sure.

17 BOARD MEMBER JONES: -- in testimony from our
18 staff, they've said that there are huge discrepancies
19 between what you guys are offering and what they can
20 verify. So the problem then has got to revert back to
21 what's the constant. And the constant is San Bernardino
22 County. If you've got distortions of four and five
23 thousand tons for each one of these things, how do you
24 ever get it -- how do you ever go back and try to figure
25 it out? They've tried to do that. They cannot do that.

1 You just now said, even though it's the same
2 vendor, you're having trouble even reaching some of them.
3 So I mean we've got to bring this thing to an end. And
4 the one thing on this disposal reporting, I'm sure when
5 you talk to Schiavo if it's an issue of compliance, is
6 this is an unusual circumstance. It ought to be flagged
7 as an unusual circumstance when you turn in your thing. I
8 don't want to talk to staff, but it's very consistent with
9 the way most of these things have always worked, right?

10 CHAIRPERSON MOULTON-PATTERSON: Thank you. I
11 think this item is a perfect example of why the Board
12 needs legislative authority to require timely submittal
13 and accuracy of disposal data as the Board identified in
14 SB 2202 in the report.

15 And I'm comfortable with the staff
16 recommendations as proposed.

17 BOARD MEMBER JONES: So am I.

18 CHAIRPERSON MOULTON-PATTERSON: Is that pretty
19 much the consensus.

20 Mr. Papanian.

21 BOARD MEMBER PAPANIAN: Yeah, I'm comfortable as
22 long as we understand that it's not a precedent to be used
23 elsewhere or even to be used in future years in this
24 jurisdiction.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you.

1 With that, is there's any final public comments.

2 Seeing none, the Board will adjourn to closed

3 session for personnel and litigation.

4 (Thereupon the California Integrated Waste

5 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