Please note, these transcripts are not individually reviewed and approved for accuracy.

STATE OF CALIFORNIA

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

BOARD MEETING

JOE SERNA JR., CAL EPA BUILDING

CENTRAL VALLEY AUDITORIUM

1001 I STREET, SECOND FLOOR

SACRAMENTO, CALIFORNIA

TUESDAY, MAY 14, 2002

9:51 A.M.

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

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

A P P E A R A N C E S

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

STAFF PRESENT:
MARK LEARY, Executive Director
KATHRYN TOBIAS, Chief Legal Counsel
ELLIOT BLOCK, Legal Counsel
MARIE CARTER, Legal Counsel
DEBORAH MCKEE, Board Assistant
YVONNE VILLA, Board Secretary
EDNA WALZ, Office of Attorney General

--oOo--

I N D E X

	PAGE
Call to order	1
Roll Call	1
Opening Remarks	2
Reports & Presentations	3
Consent Agenda	12
Motion	13
Agenda Item 2	14
Motion	16
Agenda Item 3	17
Motion	21
Agenda Item 5	22
Motion	24
Agenda Item 6	27
Motion	30
Agenda Item 8	27
Motion	31
Agenda Item 10	32
Agenda Item 11	68
Afternoon Session	108
Agenda Item 11 (Cont.)	109
Agenda Item 12	137
Motion	153
Agenda Item 13	154
Motion	154
Agenda Item 14	155
Motion	156

I N D E X (Cont.)

	PAGE
Agenda Item 15	156
Motion	157
Agenda Item 16	157
Motion	162
Agenda Item 17	166
Motions	194,196
Agenda Item 20	208
Motion	209
Agenda Item 23	211
Motion	211
Agenda Item 26	212
Motion	213
Agenda Item 27	213
Motion	216
Agenda Item 28	217
Adjournment	260
Certificate of Certified Shorthand Reporter	261

--oOo--

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

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: We're ready to

4 begin. So I'd like to call the meeting to order and

5 welcome you to our May meeting of the California

6 Integrated Waste Management Board.

7 Would you please rise and join me in the flag

8 salute?

9 (Thereupon the Pledge of Allegiance was

10 recited.)

11 BOARD CHAIR MOULTON-PATTERSON: Thank you very

12 much. Would the secretary please call the roll?

13 BOARD SECRETARY VILLA: Eaton?

14 BOARD MEMBER EATON: Here.

15 BOARD SECRETARY VILLA: Jones?

16 BOARD MEMBER JONES: Here.

17 BOARD SECRETARY VILLA: Medina?

18 BOARD MEMBER MEDINA: Here.

19 BOARD SECRETARY VILLA: Paparian?

20 BOARD MEMBER PAPARIAN: Here.

21 BOARD SECRETARY VILLA: Roberti?

22 (Not present.)

23 BOARD SECRETARY VILLA: Moulton-Patterson?

24 BOARD CHAIR MOULTON-PATTERSON: Here. We do

25 have a quorum.

1 And at this time I'd like to ask everyone to
2 please turn off your cell phones and pagers for the
3 meeting.
4 Also, there are speaker request slips in the
5 back of the room and if you'd like to address us, please
6 fill one out and give it to Ms. Villa who's right over
7 here, she'll raise her hand, and we'll be glad to hear
8 your comments.
9 Do any members have ex-partes? We'll start
10 with Mr. Eaton.
11 BOARD MEMBER EATON: I just had two. A quick
12 hello to wanted to Art Kazarian and also a quick hello
13 to James Provensenta.
14 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
15 BOARD MEMBER JONES: Yes, Madam Chair. Also a
16 quick hello to Art Kazarian and a late fax from Edgar
17 and Associates on compost regs.
18 BOARD CHAIR MOULTON-PATTERSON: Thank you.
19 I said hello to Art also.
20 Mr. Medina.
21 BOARD MEMBER MEDINA: Yes, I have three. Lou
22 Gerado regarding conversion technology; Barry Stokes
23 regarding recycling opportunities and the motion picture
24 industry; and H.M. Holloway regarding the mine survey.
25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 Mr. Paparian.

2 BOARD MEMBER PAPARIAN: Yes, I said hello also

3 to Art Kazarian of Paramount Resource Recycling.

4 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank

5 you.

6 Any report today, Mr. Eaton?

7 BOARD MEMBER EATON: Just a quick, there's

8 several, but I'll mention the fact that we've been

9 successful in meeting with the RMDZ zone administrators

10 regarding the redesignation reauthorization as well as

11 the work group has started its work yesterday, and Mr.

12 Jones is in the process, I believe, in the next month or

13 two, of putting the financial component together for

14 that and bringing it before the committee and the

15 Board. So I think we're off to a good start.

16 There are some concerns on both sides about the

17 program and where, the direction it's going, but

18 hopefully once the process has been set up and once the

19 finances get ready, we'll get, I think it will move

20 quickly.

21 Thank you.

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

23 Eaton.

24 Mr. Jones.

25 BOARD MEMBER JONES: I'll just do a quick one

1 too. I had a couple of events I had to go to. But one
2 was at the request of the Oregon legislature for their
3 special task force, their chair asked me to go to
4 discuss, they actually kept me talking for almost three
5 hours straight.
6 They've got three and a half million tires,
7 that's clearly one tenth of what our issues are, and
8 they've got markets in California. So their problems
9 aren't quite as drastic as ours were.
10 But they are trying to develop, they've got a
11 legislative task force is trying to determine what kind
12 of legislation they need to do, they've sunsetted their
13 fee, and are looking now at how they're going to be able
14 to do that. So we spent some time in Oregon dealing
15 with those people.
16 Thanks.
17 BOARD CHAIR MOULTON-PATTERSON: Thank you for
18 doing that, Mr. Jones.
19 Mr. Medina.
20 BOARD MEMBER MEDINA: Nothing to report at this
21 time.
22 BOARD CHAIR MOULTON-PATTERSON: Thank you.
23 Mr. Paparian.
24 BOARD MEMBER PAPARIAN: Thank you, Madam
25 Chair. I'll just mention a couple of things briefly.

1 I had the opportunity to visit a couple of the
2 L.A. County san district facilities in Southern
3 California, including Puente Hills and the facility that
4 they operate in Scholl Canyon.
5 On one of those trips I actually stopped by our
6 new Board offices in Long Beach, and I think that they
7 are, you know, quite comfortable and welcoming offices.
8 And I think we did well to find the facility that we did
9 in conjunction with the Long Beach folks down there.
10 I wanted to mention one thing about the
11 committee work that we're doing. I think the committee
12 structure is working very well and we're all starting to
13 get the hang of it.
14 I'd like to thank especially Julie Nauman and
15 her staff for helping us with the P&E Committee and
16 helping it to run so smoothly.
17 Julie and I are going to be working together to
18 put together some workshops on topics of particular
19 interest to the P&E Committee, including capacity,
20 enforcement, and other issues.
21 I'm expecting that these workshops will be held
22 during the second half of the committee meetings, and
23 will be relatively informal and provide stakeholders a
24 chance to provide the committee with some more in-depth
25 information on some broader policy issues. And we're

1 talking about having one of these as soon as the June
2 meeting.
3 BOARD CHAIR MOULTON-PATTERSON: Thank you very
4 much. And I just wanted to add that everyone is working
5 very hard, and I feel that the committees have been very
6 successful and we've gotten a lot done in the committee
7 meetings.
8 I did want to mention, and Mr. Leary or one of
9 the committee chairs can correct me if I'm wrong, but in
10 addition to putting items on the consent calendar we
11 also have something, for lack of a better term, that
12 we're calling fiscal consent. It's not really on the
13 consent calendar because it involves money, but that
14 just implies that there was unanimous agreement on the
15 Board to go ahead with this, but it is not on consent.
16 Am I leaving anything out, Mr. Leary?
17 EXECUTIVE DIRECTOR LEARY: No, that's very
18 appropriate. And actually Madam Chair, I was going to
19 stop using that term. I think it implies that the
20 Board, it would send the wrong signals to our audience
21 and our stakeholders, and we'll find another way of
22 phrasing it, but that's probably inappropriate.
23 BOARD CHAIR MOULTON-PATTERSON: Okay, yeah.
24 We'll think of something, and we'll keep you updated.
25 I just in my report, and I want to be very,

1 very brief, I did want to highlight the press event that
2 we had with Senator Torlakson on SB 373, our
3 environmental education bill, and that was well
4 attended.
5 Secretary Hickox was there as well as the
6 senator, and it's really exciting. And Tricia Broddrick
7 did a really good job and everybody did, our PIO, Mr.
8 Schiavo, Mr. Leary attended, and we're really excited
9 about moving forward with that bill.
10 Also I attended the environmental,
11 environmentality awards down at Disneyland. And it's
12 always so good to see the kids and their enthusiasm and
13 the role models they are, and it really makes me believe
14 that the future is going to be really great and it's
15 just really exciting to be there and see that
16 enthusiasm. So I did want to report on that.
17 And with that, I'll turn it over to Mr. Leary.
18 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
19 Chair. Good morning, members.
20 I too have a short report. In fact, I will
21 dispense with it as quickly as the Sacramento Kings
22 dispensed with the Dallas Mavericks.
23 (Laughter.)
24 EXECUTIVE DIRECTOR LEARY: The environmental
25 justice forum that the chair and I will be attending is

1 this Saturday, May 18th, at the University of Southern
2 California in Los Angeles. There will be a joint
3 meeting of the Cal EPA External Advisory Committee on
4 Environmental Justice with the interagency working
5 group.
6 The purpose of the forum is to gather input
7 from a variety of stakeholders on environmental, public
8 health, and public participation and other related
9 environmental justice issues, and discussing, frame key
10 priority elements that will form the basis ultimately of
11 Cal EPA's environmental justice strategy.
12 Secretary Hickox will be attending as well as
13 Senator Alarcon and Assemblymember Hilda Solis.
14 The forum will feature panel presentations and
15 discussions with key grassroots and community groups in
16 a priority setting session. They expect about a hundred
17 to 150 external participants at that event this
18 Saturday.
19 I'd also like to take this opportunity to give
20 the Board an update on our progress on the plastics
21 white paper that I know you're very interested in
22 wanting to see that come forward.
23 The plastics represent, as you know, about 8.9
24 percent by weight and an estimated 20 percent by volume
25 of the material disposed of in California landfills.

1 While there are several state plastic recycling
2 programs, the state really has no comprehensive policy
3 for plastics.
4 There are three existing Board programs; the
5 plastic trash bags, the RPPC or rigid plastic packaging
6 containers, which combined address a minimal percentage
7 of materials disposed in landfills. And additionally,
8 we have the state agency Buy Recycled program that
9 requires half of the plastic products purchased contain
10 recycled content.
11 And then again, we all know of the beverage
12 container recycling program over at the Department of
13 Conservation which targets various plastic beverage
14 containers.
15 In partnership with the Department of
16 Conservation, we've secured the services of the New
17 Point Group. The contractor has independent and
18 Impartial third party experience in plastics and
19 recycling issues, and it's conducting appropriate
20 research, and will prepare a report for us and the Board
21 that will discuss various policy options for the Board's
22 consideration. These options are intended to optimize
23 plastic use, recycling, and disposal in California.
24 In addition to an overall review of plastics,
25 specific areas of focus in the report will include the

1 RPPCs, beverage containers, film plastic including trash
2 bags, and polystyrene as mandated by Senator Karnette's
3 Bill 1127.
4 Several issue framing sessions have been held
5 with a wide variety of stakeholders. And many of the
6 stakeholders have provided written position papers for
7 us. A stakeholder forum will be held here at Cal EPA
8 headquarters on June 24th and 25th to which, of course,
9 you all are invited and will be receiving an invitation
10 packet in the next couple of days.
11 A discussion item regarding the white paper and
12 possible policy options is planned for September, 2002
13 meeting with the Board's Special Waste and Market
14 Development Committee.
15 We anticipate that the Board will consider the
16 final report and policy options along with staff
17 recommendations at the November, 2002 meeting.
18 Last week I sent you a memo detailing the
19 status of the Board's special fund and the occurrence of
20 some short-term loans for the general fund. I just
21 wanted to say as the picture gets clearer as we approach
22 the Governor's budget deadline we'll keep you posted on
23 the developments. We are anticipating bringing more
24 information to you next month as a discussion item.
25 And relatedly, we know that the Governor will

1 be announcing the May revised budget proposals for
2 reducing the budget shortfall today at a press
3 conference at 1:00 o'clock.
4 And then lastly, we didn't have time to edit
5 the video shots of the recycled products trade show for
6 our April meeting, and I know you've been looking
7 forward to seeing it. So it's together now and if, I
8 think it's cued up, and I will end my report by turning
9 on the, or asking Deb to turn on the video, and we'll go
10 forward.
11 (Thereupon a video presentation was shown.)
12 BOARD CHAIR MOULTON-PATTERSON: That was
13 great. Thank you for all that contributed to that.
14 Frank, I know you led that up. And that's a
15 great promotional video, and it was a great event.
16 Thank you to you Ms. Wohl and Jerry Hart and
17 Tom and everybody that worked so hard on it. It was
18 just great.
19 I did have one slight correction to your
20 report, Mr. Leary, it's Congresswoman Hilda Solis.
21 Knowing Congress people, I know how touchy they can be
22 about their titles, so I just thought I'd add that to
23 the record.
24 EXECUTIVE DIRECTOR LEARY: You're absolutely
25 right, Madam Chair, thank you for correcting that.

1 BOARD CHAIR MOULTON-PATTERSON: And we'll look
2 forward to meeting with them on Saturday.
3 Also, I did want to announce that today,
4 probably around 2:00 o'clock after our lunch break,
5 we'll have a closed session on litigation.
6 Representatives from the Attorney General's office will
7 be here as well as Ms. Tobias has a couple of items.
8 And tomorrow we're planning on a, quite a short
9 meeting because many of the items probably will be
10 approved on consent, and then we'll go into a closed
11 session immediately afterwards to discuss personnel
12 issues.
13 And if that's okay with my fellow Board
14 members, I think that will be our plan.
15 Items nine, 34, 35, 37, and 38 have been
16 pulled. 34, 35, 37 and 38 and nine.
17 18 has been continued.
18 And if I goof here, Mr. Leary, please correct
19 me.
20 And we have on consent at this point in time we
21 have items 1, 4, 7, 19, 21, 22, 24, 25, 30, 32, 39
22 through 65; so that's 39 through 65, have been proposed
23 for the consent agenda.
24 Would any Board member wish to pull an item
25 from consent?

1 BOARD MEMBER JONES: Madam Chair.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: I'll move adoption --

4 BOARD CHAIR MOULTON-PATTERSON: Before you do

5 that, I'd like the record to reflect that Senator

6 Roberti is present.

7 And Senator, do you have any ex-partes?

8 BOARD MEMBER ROBERTI: I do not have any

9 ex-partes, thank you.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.

11 I'm sorry, Mr. Jones, go ahead.

12 BOARD MEMBER JONES: No problem.

13 I'll move adoption of the consent calendar.

14 BOARD MEMBER MEDINA: Second.

15 BOARD CHAIR MOULTON-PATTERSON: Okay. We have

16 a motion by Mr. Jones, seconded by Mr. Medina to approve

17 the consent calendar as read.

18 Please call the roll.

19 BOARD SECRETARY VILLA: Eaton?

20 BOARD MEMBER EATON: Aye.

21 BOARD SECRETARY VILLA: Jones?

22 BOARD MEMBER JONES: Aye.

23 BOARD SECRETARY VILLA: Medina?

24 BOARD MEMBER MEDINA: Aye.

25 BOARD SECRETARY VILLA: Paparian?

1 BOARD MEMBER PAPARIAN: Aye.
2 BOARD SECRETARY VILLA: Roberti?
3 BOARD MEMBER ROBERTI: Aye.
4 BOARD SECRETARY VILLA: Moulton-Patterson?
5 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.
6 Continued business item number two was one of those
7 that, the misnomer fiscal consent and we're going to
8 have to maybe rapidly think of another title for that,
9 and I'm going to turn it over to Mr. Leary.
10 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
11 Chair.
12 These items that are proposed for abbreviated
13 presentations enjoy the full support of the committees
14 that considered them last week, and so staff will do a
15 brief presentation. They are all fiscal in nature.
16 And pursuant to the Board's wishes, the Board
17 vote will be taken so the record reflects the Board's
18 concurrence or not with each of the items.
19 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
20 you.
21 EXECUTIVE DIRECTOR LEARY: And Martha will
22 present agenda item two.
23 MS. GILDART: Good morning, Chairwoman and
24 members, Martha Gildart with the Special Waste Division.
25 Agenda item two is a continued item and it is

1 on the "not to be called fiscal consent list." It is
2 the consideration of an interagency agreement with the
3 California Highway Patrol to conduct some ongoing
4 activities with the Board on the tire programs.
5 In the Board's five year plan for the waste
6 tire recycling management program, $600,000 was
7 allocated for these activities for the current fiscal
8 year and for the next fiscal year, that was out of a
9 total of 2.2 million allocated over the five years of
10 the plan.
11 This contract would be for two fiscal years.
12 It would cover activities both on the road in doing
13 vehicle stops and load checks, as well as sting
14 operations at facilities where we are concerned with
15 their activities, and aerial surveillance to photograph
16 illegal tire piles.
17 In the last contract with the CHP we had, they
18 identified a total of 330 piles, of which about half of
19 them we have had inspections due to concerns on the
20 size. And so we think this is a very worthwhile
21 activity to continue.
22 If there are any questions, I can have staff
23 available to answer them.
24 But we do recommend approval of award and
25 adopting Resolution number 2002-268.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
2 Gildart.
3 And we had a good suggestion from Board Member
4 Eaton to call it committee consensus, and I think that's
5 a good title. So you have a title for it now.
6 Any questions of Ms. Gildart?
7 Mr. Medina.
8 BOARD MEMBER MEDINA: No questions. I'd just
9 like to move this Resolution 2002-268, interagency
10 agreement with the California Highway Patrol to conduct
11 an enhanced enforcement waste tire compliance program,
12 tire recycling management fund, fiscal year 2001/2002,
13 2002/2003, and B, an aerial surveillance of waste tire
14 sites identification program, 2002/2003.
15 BOARD MEMBER JONES: I'll second.
16 BOARD CHAIR MOULTON-PATTERSON: We have a
17 motion by Mr. Medina, seconded by Mr. Jones to approve
18 Resolution 2002-268.
19 Please call the roll.
20 BOARD SECRETARY VILLA: Eaton?
21 BOARD MEMBER EATON: Aye.
22 BOARD SECRETARY VILLA: Jones?
23 BOARD MEMBER JONES: Aye.
24 BOARD SECRETARY VILLA: Medina?
25 BOARD CHAIR MEDINA: Aye.

1 BOARD SECRETARY VILLA: Paparian?
2 BOARD MEMBER PAPARIAN: Aye.
3 BOARD SECRETARY VILLA: Roberti?
4 BOARD CHAIR ROBERTI: Aye.
5 BOARD SECRETARY VILLA: Moulton-Patterson?
6 BOARD CHAIR MOULTON-PATTERSON: Aye.
7 And that brings us to permits, LEA, and
8 facility compliance. And I'd like to call on Mr.
9 Paparian, chair of the P&E Committee to give us a
10 report.
11 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
12 We had a fairly light agenda this month. Among
13 other things we did direct the staff to put out for a 45
14 day comment period item number nine, the proposed
15 regulations for closure and post closure maintenance.
16 We had several items dealt with on the consent
17 calendar, including items number four and number seven.
18 The remainder of the items before us, perhaps
19 just as we come to the item I can let the Board know
20 what the committee action was on the item, and then Ms.
21 Nauman, I don't know if you have anything to add from
22 the committee?
23 MS. NAUMAN: Not at this time.
24 BOARD MEMBER PAPARIAN: Okay. So the first
25 item from the committee was item number three related to

1 the Paramount Resource Recycling Facility.

2 The committee did recommend concurrence with

3 the resolution, recommend support of the resolution.

4 There were three members of the committee present, one

5 member of the committee was absent during the committee

6 Meeting.

7 BOARD CHAIR MOULTON-PATTERSON: Okay, thank

8 you.

9 MS. NAUMAN: So there were some questions

10 raised, I don't know if the Board wishes to have a

11 presentation on the item?

12 BOARD CHAIR MOULTON-PATTERSON: I think a brief

13 one.

14 MS. NAUMAN: Okay. Let me just read the title

15 in for the record. And for the record, this is Julie

16 Nauman with the Permitting and Enforcement Division.

17 This is item number three, consideration of a

18 revised full solid waste facility permit, transfer

19 processing station for the Paramount Resources Recycling

20 Facility in Los Angeles County.

21 I believe Bill Marciniak is here and can give

22 you a brief presentation.

23 MR. MARCINIAK: Good morning, Madam Chair and

24 Board members.

25 The Paramount Resource Recycling Facility is

1 located in the city of Paramount and is owned and
2 operated by Paramount Resource Recycling, Incorporated,
3 which is a wholly-owned subsidiary of Metropolitan Waste
4 Disposal Corporation.
5 The proposed permit will allow an increase in
6 the maximum waste received from 1,200 to 2,450 tons per
7 day; an increase in acreage from 1.79 acres to 4.4
8 acres; and allow public vehicles access to the site from
9 2:00 a.m. to 10:00 p.m. which is the same as commercial
10 vehicles; currently they're only allowed access from
11 6:00 a.m. to 10:00 p.m.
12 The local enforcement agency has certified that
13 the application is complete and correct, and that the
14 reported facility information meets the requirements of
15 the California Code of Regulations, and that the
16 California Environmental Quality Act has been complied
17 with.
18 Board staff have also reviewed the proposed
19 permit supporting documentation and found them to be
20 acceptable.
21 In conclusion, staff recommend that the Board
22 adopt permit decision number 2002-217 reconcurring with
23 the issuance of solid waste facility permit number
24 19-AA-0840 for the Paramount Resource Recycling
25 Facility.

1 The president of the Metropolitan Waste
2 Disposal Corporation is Mr. Arthur Kazarian, and his
3 consultant Mr. Chip Clements are available to answer any
4 questions you may have in addition to myself.
5 BOARD CHAIR MOULTON-PATTERSON: Okay. Any
6 questions?
7 Okay, Mr. Medina.
8 BOARD MEMBER MEDINA: Madam Chair, I had
9 originally requested that this item not be placed on the
10 consent agenda because I had questions regarding the
11 compliance history of this site which were unanswered at
12 the committee meeting on May 6th, 2002.
13 I have since looked into this matter and I am
14 more comfortable voting on this item.
15 I would also like to commend staff on putting
16 this new agenda item format together. The information
17 seems to be well laid out.
18 Staff included a profile of general demographic
19 characteristics as an attachment, attachment four, page
20 three through fifteen, and I'd like to see some
21 additional information in the analysis under subheading
22 G on environmental justice.
23 Specifically, I'd appreciate it if staff could
24 summarize attachment four, and include information on
25 median income for the areas around facilities like this

1 one under subheading G.

2 Again, you know, I'd like to see income

3 information added onto the general demographic

4 information.

5 Thank you.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you.

7 EXECUTIVE DIRECTOR LEARY: Madam Chair, if I

8 might, I just might explain, we are struggling -- not

9 struggling, I mean we've worked with the advisors on a

10 new template that included a specific environmental

11 discussion, we're still figuring out how to include the

12 environmental justice information, and we appreciate

13 Board Member Medina's guidance on what he'd like to see

14 here, and we'll do a better job as we try to include the

15 right information for the Board's consideration in that

16 section.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you.

18 And I might say that it's really important to

19 all of us and we appreciate your leadership on that.

20 Mr. Jones.

21 BOARD MEMBER JONES: Madam Chair, I'd like to

22 move adoption of Resolution 2002-217 revised,

23 consideration of a revised full solid waste facility

24 permit, transfer and processing station for the

25 Paramount Resource Recovery Facility in Los Angeles

1 County.

2 BOARD MEMBER MEDINA: Second.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. We have

4 a motion by Mr. Jones, seconded by Mr. Medina to approve

5 Resolution 2002-217.

6 Please call the roll.

7 BOARD SECRETARY VILLA: Eaton?

8 BOARD MEMBER EATON: Aye.

9 BOARD SECRETARY VILLA: Jones?

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY VILLA: Medina?

12 BOARD CHAIR MEDINA: Aye.

13 BOARD SECRETARY VILLA: Paparian?

14 BOARD MEMBER PAPARIAN: Aye.

15 BOARD SECRETARY VILLA: Roberti?

16 BOARD CHAIR ROBERTI: Aye.

17 BOARD SECRETARY VILLA: Moulton-Patterson?

18 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay,

19 motion approved.

20 Item four was approved on consent.

21 Item five is a committee consensus item.

22 And would you like to briefly go over that one,

23 Ms. Nauman?

24 MS. NAUMAN: Yes. Item five is consideration

25 of approval of new sites for the solid waste disposal

1 and co-disposal site cleanup program, or 2136 program.
2 And Scott Walker will make a brief
3 presentation.
4 MR. WALKER: Scott Walker, Permitting and
5 Enforcement Division.
6 The city of Huntington Beach submitted a
7 matching grant application for a cleanup project for the
8 Bolsa Chica number one and number two illegal disposal
9 sites.
10 This project was identified as an anticipated
11 near term project in the closed, illegal, and abandoned
12 site discussion item presented to the Board in December
13 of 2001.
14 The one thing to point out, this is the first
15 allocation we've had for Board consideration in the
16 contiguous county in the program since its conception.
17 The Bolsa Chica project would address the
18 significant trash accumulation in the Bolsa Chica
19 wetlands.
20 The Bolsa Chica wetlands is a state park
21 preserving ecologically sensitive wetlands habitat.
22 It's adjacent to and connected to public beaches that
23 have been plagued with pollution problems and beach
24 closures. These beaches include Bolsa Chica and
25 Huntington State beaches, and also Sunset County

1 beaches.

2 The total cost is estimated at $240,000, of

3 which Board cost would be 50 percent or up to $120,000.

4 The city of Huntington Beach will be

5 responsible for implementing the project and performing

6 ongoing maintenance.

7 Project is similar to four previous projects

8 approved by the Board for the L.A. urban area storm

9 water trash.

10 Based on staff's review of the application, all

11 program criteria have been met and cost recovery would

12 not apply.

13 In conclusion, staff recommend the Board adopt

14 Resolution 2002-219, approving the proposed Bolsa Chica

15 matching grant application from the city of Huntington

16 Beach.

17 BOARD CHAIR MOULTON-PATTERSON: I'd certainly

18 like to take the opportunity to make the motion, but are

19 there any questions?

20 Okay. As many of you know the Bolsa Chica is

21 near and deer to my heart. It is the largest

22 unprotected wetlands from San Francisco to the Mexican

23 border, and many, many people have been involved in the

24 restoration and protection of the Bolsa Chica.

25 So I would very enthusiastically move

1 Resolution 2002-219.

2 BOARD MEMBER JONES: I'll second.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you. So

4 we have a motion by Moulton-Patterson, seconded by Mr.

5 Jones.

6 Please call the roll.

7 BOARD SECRETARY VILLA: Eaton?

8 BOARD MEMBER EATON: Aye.

9 BOARD SECRETARY VILLA: Jones?

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY VILLA: Medina?

12 BOARD CHAIR MEDINA: Aye.

13 BOARD SECRETARY VILLA: Paparian?

14 BOARD MEMBER PAPARIAN: Aye.

15 BOARD SECRETARY VILLA: Roberti?

16 BOARD CHAIR ROBERTI: Aye.

17 BOARD SECRETARY VILLA: Moulton-Patterson?

18 BOARD CHAIR MOULTON-PATTERSON: Aye.

19 Mr. Jones.

20 BOARD MEMBER JONES: Thanks, Madam Chair.

21 On a different item, with PR 1133 and with the

22 activity that's been going on down south, and with a lot

23 of the impact on the composting industry, before Art

24 Kazarian leaves, he operates some of those facilities

25 down there that are taking a lot of that material.

1 But I think we need to, as a Board, be aware of
2 the issues with PR 1133, and I know we are, and we're
3 going to have to react quickly because some facilities
4 are experiencing difficulties, others are going to have
5 to be, get through the permit process.
6 And I'm not saying to shortcut any of that, but
7 just to make sure that we are completely aware that
8 we've got an obligation to not only work with the South
9 Coast and everybody down there, but we've, because of
10 some of the problems that have come up we're going to
11 have to really jump on some of these permits when they
12 get here.
13 I know you guys do, but I wanted to say it from
14 the dais because it's, we're losing facilities down
15 there, and we're, pretty quick we're not going to have
16 anywhere for that material to go.
17 So we just need to be, it needs to be, it needs
18 to come to the level of the Board, I think, to have a
19 full understanding of that.
20 And I'm not at all suggesting that we shortcut
21 anything, just that we're on it and can get it out.
22 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
23 Jones.
24 Okay. That moves us to item six.
25 MS. NAUMAN: I'd like to suggest that we look

1 at item six and eight and also seven which was on your
2 consent calendar kind of as a group because they all
3 stem from contract concept number twelve for fiscal year
4 2001 and two.
5 So let me start with number six which is
6 consideration of augmentation and amendment of contract
7 number IWM-C1067 with the Office of Environmental Health
8 Hazard Assessment for risk assessment assistance, again
9 from contract concept number twelve.
10 The committee looked at this and it is actually
11 a committee consensus item, but since it involves -- no,
12 excuse me, I misread my notes, they did not.
13 So let me start with this. In February the
14 Board took action to directly enter into this contract
15 concept and enter into an interagency agreement with the
16 Office of Environmental Health, Hazard and Assessment to
17 conduct risk assessments related to various Board
18 programs, including 2136 and composting regs, etcetera,
19 in the amount of $100,000.
20 At that time there was an additional $100,000
21 remaining from contract concept number twelve, and your
22 direction to us at that time was to continue to work
23 with OEHHA as well as the Department of Toxic Substance
24 Control who had indicated some interest in working with
25 us specifically on burn dump sites, and to return at a

later date.

As we approach the close of the fiscal year, it's important that we bring this item back to you in a timely manner for your consideration of that additional hundred thousand dollars.

What we are, and since that time you also have had a lengthy discussion about conversion technologies at which time you indicated an interest in having the office look at some of the scientific data that has been generated with respect to various conversion technology approaches. And we indicated to you at that time that we would suggest that you use the OEHHA interagency agreement as the vehicle for that.

So with all of that said, what we're proposing here is to take 50,000 of the available $100,000, and augment the interagency agreement with OEHHA so that we would have 150,000 available to us to do the original work that we had envisioned, as well as the work required on conversion technologies.

We're still talking with the office about the breadth and scope of the review of the conversion technology information. We think the 50,000 will be probably more than sufficient, but the approach is to have the bulk of the 150 available without designating specifically what's available for conversion technology,

1 and then continue to work with the office on review of
2 those materials as well as the other work under the
3 contract. So that's what's happening in this particular
4 one.
5 Before you act on that, I might suggest that we
6 move on to item number eight which relates to a scope of
7 work that was approved by the committee on consent. And
8 this is a scope, was a scope of work for a risk
9 assessment assistance by the Department of Toxic
10 Substance Control.
11 What we're proposing in item number eight is
12 that we enter into an interagency agreement with the
13 department for a total of $50,000, which is the second
14 fifty of the available one hundred, for purposes of
15 assisting us with our work on burn dump sites. And the
16 details of that work are in the scope item, and item
17 number eight is the award.
18 So in sum what you have in item number six is a
19 recommendation to augment the OEHHA contract for
20 $50,000, and in item eight a recommendation that we
21 enter into an interagency agreement with the Department
22 of Toxic Substance Control for $50,000 specifically to
23 assist us with burn dump sites.
24 BOARD CHAIR MOULTON-PATTERSON: Thank you.
25 Questions?

1 BOARD MEMBER MEDINA: Madam Chair.
2 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
3 BOARD MEMBER JONES: On the second one on the
4 one with toxics, the committee had asked the question,
5 any work that's going to be done will be at, the Waste
6 Board will be generating the request.
7 MS. NAUMAN: That's correct.
8 BOARD MEMBER JONES: And writing the work
9 order.
10 MS. NAUMAN: That's correct. All work will be
11 performed under work orders issued by the Board.
12 BOARD MEMBER JONES: Okay. So this isn't a
13 fund that they can come in and say, here, we're going to
14 do a project?
15 MS. NAUMAN: No, it's not.
16 BOARD MEMBER JONES: Okay.
17 MS. NAUMAN: It's very specific to specific
18 projects as outlined in the scope.
19 BOARD MEMBER JONES: Madam Chair.
20 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
21 BOARD MEMBER JONES: On the first resolution,
22 agenda item six with OEHHA, if there's no other
23 questions I'll move adoption of Resolution 2002-220,
24 consideration of augmentation and amendment to the
25 contract number IWM-C0167 with the Office of

1 Environmental Health Hazard Assessment, Risk Assessment
2 Assistance, fiscal year 2001-2002, concept number
3 twelve.
4 BOARD MEMBER MEDINA: Second.
5 BOARD CHAIR MOULTON-PATTERSON: Motion by Mr.
6 Jones, seconded by Mr. Medina.
7 Please call the roll.
8 BOARD SECRETARY VILLA: Eaton?
9 BOARD MEMBER EATON: Aye.
10 BOARD SECRETARY VILLA: Jones?
11 BOARD MEMBER JONES: Aye.
12 BOARD SECRETARY VILLA: Medina?
13 BOARD CHAIR MEDINA: Aye.
14 BOARD SECRETARY VILLA: Paparian?
15 BOARD MEMBER PAPARIAN: Aye.
16 BOARD SECRETARY VILLA: Roberti?
17 BOARD CHAIR ROBERTI: Aye.
18 BOARD SECRETARY VILLA: Moulton-Patterson?
19 BOARD CHAIR MOULTON-PATTERSON: Aye.
20 Mr. Jones.
21 BOARD MEMBER JONES: Madam Chair.
22 BOARD CHAIR MOULTON-PATTERSON: Number eight.
23 BOARD MEMBER JONES: On agenda item number
24 eight, I'll move adoption of Resolution 2002-270,
25 consideration of Department of Toxic Substance Control

1 as contractor for the Revised Risk Assessment Assistance
2 Contract, fiscal year 01-02, concept number twelve.
3 BOARD MEMBER MEDINA: Second.
4 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion
5 by Mr. Jones, seconded by Mr. Medina to approve
6 Resolution 2002-270.
7 Could we substitute the previous roll call?
8 Are there any objections?
9 BOARD MEMBER EATON: Sure.
10 BOARD CHAIR MOULTON-PATTERSON: Okay. Let's do
11 so.
12 Number nine has been pulled. Number ten.
13 MS. NAUMAN: Thank you, Madam Chair.
14 Agenda items number 10 and 11 are both related
15 to rulemaking packages and these are both public
16 hearings of which public notice has been given today.
17 Before we begin, let me just give you a little
18 background.
19 The purpose of the public hearing is to provide
20 an opportunity for all interested parties to deliver
21 oral or written comments instead of or in addition to
22 any written comments that they may submit during the 45
23 day comment period.
24 Because these two packages are interrelated and
25 it's been some time since the Board has had a discussion

1 of them, I thought it would be helpful if we take just a
2 couple of minutes to walk through with you a quick
3 review of what we're attempting to accomplish with these
4 two regulation packages, and the relationship of them.
5 The putrescible waste package, which is item
6 number ten, the 45 day comment period closed on April
7 15th, and staff has had the opportunity to evaluate the
8 comments that we received on that, and are proposing
9 some changes in the regulations that were sent out for
10 45 days.
11 So you will see those, those are in your
12 packet. And so in addition to the public hearing today,
13 at the close of the hearing we will be asking you for
14 direction to begin an additional fifteen day comment
15 period, opportunity for the public to review and comment
16 on those changes that we're presenting to you today as a
17 result of the comments we received during the formal
18 process.
19 In contrast, the compostable materials
20 management package that you'll be hearing as item number
21 11 differs in that the 45 day comment period actually
22 ended yesterday, May 13th. So staff has not had an
23 opportunity to evaluate all of the comments that have
24 been received.
25 So today we'll just be conducting the public

1 hearing on this package and not asking for any
2 additional direction or authorization to proceed.
3 We will return to you probably in July or
4 August with the package for further consideration.
5 I also wanted to just mention that with respect
6 to the compostable materials management package, that
7 throughout the development of this package we have, we
8 are aware that there will probably be a need for another
9 phase of these regulations.
10 There are a number of issues, very technical
11 issues that we want to take another look at. In
12 addition, since the time we started this package a
13 number of significant issues have emerged with respect
14 to composting. Mr. Jones just alluded to PR 1133; we
15 had a discussion a month or so ago about all the threats
16 to the composting industry including sudden oak death
17 syndrome and CAA wood, and so there is definitely a need
18 and staff recognizes for additional work in this area.
19 But with respect to what we're trying to
20 accomplish with this package, we think we're, this still
21 should proceed, and today you'll be taking public
22 comments.
23 So with that let me turn it over to Bob Holmes
24 and ask him to quickly walk you through the slide that
25 we have up and we'll leave up during the discussion so

1 that you can continue to focus on the individual
2 packages as the speakers are providing their comments
3 and see the relationship of the two.
4 So with that, Bob.
5 MR. HOLMES: Good morning, Madam Chair and
6 members.
7 You may remember this slide from the last time
8 you saw both of these packages late last fall, but we
9 thought we'd use it again to show you the
10 interrelationship between these two packages and, maybe
11 more importantly, how they differ.
12 On the left side of the slide you see some of
13 the history of our composting regs. There was actually
14 an earlier version of our composting regs in the earlier
15 nineties that doesn't show here that was related to just
16 green waste. But the '95 package was the first time we
17 had a comprehensive set of regulations that covered
18 multiple material types.
19 In that set of regulations inadvertent
20 composting and chipping and grinding activities were not
21 part of the package, they were not regulated under the
22 package.
23 What we found in the years after that is some
24 cause for concern, some nuisance odors, some fires. And
25 so the Board took action in '97 through emergency regs

1 initially and then with permanent regs to bring chipping
2 and grinding activities part of the way under
3 regulation, into the composting regulations. Partly
4 meaning that they were subject to some minimum standards
5 but there were no permitting requirements for them. And
6 the inadvertent composters were brought in completely.
7 So since '97 we've been kicking around a set of
8 regulations that would, among other things, slot
9 chipping and grinders fully into the compostable
10 materials regulations. So that is probably one of the
11 biggest reasons why we're doing that package.
12 We're also doing some tier simplification
13 within the packages. You know that the Board's tiered
14 regulations can be complicated sometimes, so we're
15 trying to do some simplification there.
16 We also are continually working to make sure
17 that we are protecting public health and safety, but not
18 at the expense of influencing business opportunities
19 that could lead to the diversion of this material from
20 landfills.
21 On the right side of the slide you see the
22 history of the transfer and processing regs. In '97 the
23 Board adopted regulations that used a two part test to
24 differentiate between a recycling center, someone who is
25 taking source separated material and recycling that

1 material, and between a waste handler.

2 That two part test was, number one, the

3 material had to be separated for reuse; and then less

4 than ten percent of the residual, residual defined as

5 the waste that goes onto further transfer processing or

6 disposal, could be in that material.

7 What we found in 1999 through a proposed permit

8 at first and then an appeal before you, an attempt to

9 use that two part test with respect to the receipt of

10 putrescible waste or food waste as we were referring to

11 it at the time.

12 This was a proposed facility that was going to

13 take restaurant scraps, and it was separated from the

14 municipal waste stream, so it could be argued that it

15 met the first part of the test. It was also going onto

16 composting which was not disposable, so it could have

17 arguably met the second part of the test as well.

18 The Board determined that that kind of

19 operation still would pose a risk to public health and

20 safety, and that it should be clarified in the

21 regulations that there should be some, it should be

22 under our regulation.

23 So the response to that through regulation was

24 to add a third part of the test. And that is, no more

25 than one percent of that material coming in can be

1 putrescible as defined.

2 So now if a facility, a facility would have to

3 meet all three parts of that test, be separated for

4 reuse, less than ten percent residual, and less than one

5 percent putrescible. If they fail any part of that then

6 they would be subject to the transfer processing regs.

7 Any questions so far about that recount?

8 BOARD CHAIR MOULTON-PATTERSON: I don't see

9 any.

10 MR. HOLMES: To further clarify the

11 interrelationship of the two packages, the length of

12 time on site is probably the most intuitive way to look

13 at it; there is one exception that I'll explain.

14 If the material is on site less than 48 hours,

15 that's more in tune to a transfer, material's coming in,

16 it's being loaded into larger trucks, and hauled off to

17 its destination site.

18 Composting takes longer. If you have to do

19 some pathogen reduction activity or adding water,

20 turning, that takes time. So if it's on site for

21 greater than 48 hours, in all likelihood it would be

22 regulated under the compostable materials regulations.

23 The one exception now, as these two packages

24 are currently drafted, is chipping and grinding.

25 Chipping and grinding could and should occur

1 under 48 hours as written in the regulations, and an LEA
2 can approve additional time if needed.
3 That would be covered currently under language
4 in the compostable materials regulations. So that's
5 this arrow coming over in the middle of your screen
6 here.
7 Also not shown on the screen here, just to keep
8 the side simple, chipping and grinding is limited only
9 to, to clean material. So if this operation exceeds the
10 contamination level as set in the standard, there would
11 be another arrow that could come over here and it could
12 come back to the transfer processing.
13 We're doing this to encourage the chipping and
14 grinding of clean material, and we don't want chipping
15 and grinding of MSW.
16 So that's it as far as the recap. If there are
17 no questions I can move onto the, to item ten in its
18 formal state, and describe to you some of the changes in
19 the putrescible waste package.
20 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
21 BOARD MEMBER JONES: Just a question, Mr.
22 Holmes.
23 In your interrelationship here when we're
24 talking about green waste only for the chipping and
25 grinding, some of the comments from RCRC about fire

1 clearing where you've got a woody waste where they chip
2 and grind it, they fall into these categories if they
3 were doing some land clearing for fire prevention, but
4 didn't have, you know, big stockpiles normally.
5 But have you looked at that in relationship to
6 these, to both of these packages, those comments that
7 RCRC has put forward on this slide?
8 MR. HOLMES: Yes, I don't think there's
9 anything necessary to do to the putrescible waste
10 package, item ten. In other words, the regulations as
11 written would accommodate, I think. Where we want to
12 look is how chipping and grinding is defined and what
13 regs are set forth in the compostable materials regs
14 with respect to those slash piles.
15 So does that answer your question?
16 BOARD MEMBER MEDINA: Yeah, I just wanted to
17 make sure I didn't pass it up. I'm a little nervous
18 about that one, you know, having to permit everybody
19 that clears around their homes in rural California which
20 could be a defect of this. So we just have to be kind
21 of careful about that one.
22 MR. HOLMES: Okay.
23 BOARD MEMBER EATON: Madam Chair, as we go
24 through this I'd like to sort of ask staff if they could
25 provide, as I read the regulations and as we'll be going

1 into the increase in cubic yards, the maintaining of
2 10,000 cubic yards, you increased that, correct, under
3 the regs?
4 MR. HOLMES: That is a change in the
5 compostable materials regulations, item number 11.
6 BOARD MEMBER EATON: Okay. That's, one of the
7 reasons I was thinking about it is why when we have a
8 series of crises, sudden oak amongst, one amongst three
9 or so, would we be actually increasing or lessening the
10 oversight in these matters when we should actually be
11 maintaining them or be more scrutinizing?
12 And as we went through this I'll hope, you
13 know, that we'll be able to explain that item, because
14 it doesn't make sense to me that, the underpinnings
15 where we're going to actually provide less oversight,
16 wherein less oversight may not be the best regulatory
17 avenue.
18 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
19 Eaton.
20 MR. HOLMES: Okay.
21 BOARD CHAIR MOULTON-PATTERSON: Senator, did
22 you wish to speak?
23 BOARD MEMBER ROBERTI: I think I'll wait.
24 BOARD CHAIR MOULTON-PATTERSON: Okay.
25 MR. HOLMES: As Julie mentioned, the

1 interrelationship between the two packages today in
2 terms of how the items will look is that with item
3 number ten, the putrescible waste package, we are asking
4 for your direction to go out for a fifteen day comment
5 period for changes to the regulations.
6 So I would like to point out to you the areas
7 covered by comments received on this package. These are
8 the seven areas that appear in your agenda item, they
9 are in a different order here for a reason, but they are
10 the same seven items.
11 The red now indicates the areas where staff has
12 suggested changes to text in response partially or fully
13 to the comments received.
14 We did not make changes with respect to the
15 areas number five, six, and seven that are shown in
16 black.
17 Number five has to do with residual waste
18 removal. There was a suggestion that we decrease the
19 time period allowed to keep residual waste at recycling
20 centers.
21 And staff felt that that was too onerous of a
22 request. With the inclusion of this one percent
23 putrescible waste limitation, we thought that the threat
24 would be equal to that of a small volume transfer
25 station or other premise, and that removal frequency is

1 currently set at seven days which is equal to what the
2 current standard is, so we did not make a change there.
3 We also had a comment that this package does
4 not, has failed to consider the potential for impacting
5 the disproportionate siting of transfer facilities in
6 low income areas.
7 Our response to that is that this package is
8 designed to distinguish between recycling centers and
9 municipal waste transfer stations, there's nothing in
10 these regs specific to the siting of the, of those
11 facilities.
12 And that we will continue to work through our
13 Cal EPA environmental justice coordinator, through the
14 strategic plan, and other methods that the Board
15 currently has in place with respect to environmental
16 justice.
17 And we'll make the necessary changes probably
18 in a wholesale fashion to all regulations once we've
19 determined what those, what we need to do in those
20 areas.
21 So there are no specifics changes to this
22 package with respect to environmental justice.
23 We also had a comment about diversion in that
24 we should, that the Board should take the steps
25 necessary to make sure that we're not overburdening the

1 business sector with regulations that would result in
2 less material being diverted.
3 Of course, that's always our goal to put before
4 you packages that are equally balanced in those areas.
5 Any questions about those areas that we are not
6 making changes to?
7 If I can now ask you to look at attachment
8 number one, which is the proposed text, and I can
9 quickly walk you through the changes to the package.
10 Attachment number one for agenda item ten, page
11 one we have -- the double underlined language is the new
12 language that we are requesting direction to initiate a
13 fifteen day comment period.
14 The first one is line 42. That first few words
15 there, "Notwithstanding subsection A of this section,"
16 was inserted to make it more clear that subsection F
17 takes precedence over subsection, over the change
18 previous there in line 17 and 18.
19 That was in direct response to a comment by
20 local enforcement agencies that these two sections may
21 be incongruent, that is that a facility could be
22 exempted in another part of the regulation but then also
23 be subject to regulation by these packages.
24 And we're trying to clarify that that's not
25 true, they're either subject to these or to another

1 package.

2 Also on page one there, lines 42 through 49 is

3 further clarification with respect to the crossover

4 between the chipping and grinding activities within the

5 compostable materials regs and this package.

6 So again, further clarifying that you're

7 regulated by one package or the other, and that the

8 chipping and grinding operations that exceed

9 contamination levels would be addressed by the transfer

10 and processing regulations and not the compostable

11 materials regulations.

12 And again, that's the, a means to encourage the

13 chipping and grinding of clean material.

14 The next change shows on page seven. This is a

15 regional produce distribution center definition. This

16 regional produce distribution center would be not

17 subject to these regulations, similar to those other

18 types of activities in that section, auto shredders, buy

19 back centers, manufacturer, rendering plants.

20 The clarification here is for consistency and

21 clarity. We were replacing the term "produce" for the

22 term "food wastes" because food wastes is an undefined

23 term, it is not even consistent with the title of that

24 section.

25 The next change is on page eight, lines five

1 and six. This is in response to comments received from
2 local enforcement agencies and the industry. And it's
3 probably the area of the regulations that received the
4 most comment.
5 LEAs are concerned with the enforceability of
6 the one percent threshold. They find that it may be
7 difficult -- that it is difficult, first of all, to get
8 information or data relative to the measurement of the
9 one percent from the activity because it is not a
10 regulated activity. They have to get permission to come
11 on site to look at records that are not required to be
12 kept, so they find this difficult.
13 They also find the physical measurement
14 difficult because much of this material can be, is
15 residue or residual on containers, and so even
16 separating that material to measure it can be difficult.
17 We also received comment on the other side that
18 it is imperative that we keep a numerical value here.
19 So whereas the suggestion by LEAs was to go to
20 a more subjective term such as a diminimus amount, we
21 also received comments that we need to keep the one
22 percent, the numerical value.
23 So what we've done is combined that. It now
24 reads that the third part of the test must have less
25 than one percent and you cannot be creating a nuisance.

1 What this means is that if an LEA has difficulty
2 in showing that an activity is greater than one percent,
3 either because they can't get on site access, they can't
4 measure it accurately, or they can't get records to show
5 it accurately, if they can show that that putrescible
6 waste is causing a nuisance, then they would also fail
7 this part of the test and they would be subject to
8 regulation in the transfer processing regulations.
9 BOARD MEMBER JONES: Madam Chair.
10 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones and
11 then Senator Roberti.
12 BOARD MEMBER JONES: Part of the exemption that
13 these recycling facilities enjoy is that they, part of
14 the two part test is that they only generate less than
15 ten percent residual.
16 And I know when we did those regs we talked
17 about LEAs having the right to go into a facility and
18 verify, that one of the conditions that allowed those
19 facilities to stay out of the permitted structure was to
20 be able to prove that they were less than ten percent
21 residual.
22 So it sounds like I've heard it before, not
23 just on this one, that LEAs are saying that they have,
24 they don't feel like they have the authority to go in
25 and verify that the exemption's even intact. Do we need

1 to address that in this reg package? Do we need some
2 clarifying language?
3 MR. HOLMES: I think, I know that there's LEAs
4 here to comment. I think it's less of an authority
5 question as much as it is a cooperation question that
6 it's clear that they have the authority to go there, but
7 that they're not getting the cooperation they need in
8 all cases.
9 BOARD MEMBER JONES: But if an operator at one
10 of these facilities can't prove that they are, in fact,
11 generating less than ten percent residual, then it seems
12 to me that they at that point don't pass the two part
13 test and then, and then, you know, they've got to start
14 making arrangements to get this permitted as a full
15 solid waste facility permit.
16 I mean that's how, that's how I think most
17 people viewed that. So I think we need to at least stay
18 aware of that. I mean if they are, if they're being
19 rebuffed and going in and getting this information, then
20 I think that clearly that those facilities that operate
21 with that exemption can't prove that they've passed the
22 two part test, pure and simple. So it might be a nice,
23 easy way to do it, you know.
24 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti
25 had a comment, then Mr. Paparian.

1 BOARD MEMBER ROBERTI: Yes, Madam Chair. I
2 don't quite understand how the showing of a nuisance
3 works. Can you go over that one more time? On whom is
4 the burden to show that taking in the material is a
5 nuisance?
6 MR. HOLMES: The language says that, "The
7 putrescible waste in the material shall not cause a
8 nuisance as determined by the LEA." So if the LEA
9 determines--
10 BOARD MEMBER ROBERTI: Shall not cause?
11 MR. HOLMES: Shall not.
12 BOARD MEMBER ROBERTI: So if the LEA finds that
13 it does not cause a nuisance, then it does not come
14 within the purview of the regs?
15 MR. HOLMES: Correct. If they meet the other
16 parts of the test then they are, they pass the test,
17 they are not subject to regulation.
18 BOARD MEMBER ROBERTI: And they have to meet
19 the other parts of the test as well?
20 MR. HOLMES: Correct.
21 BOARD MEMBER ROBERTI: So they meet the other
22 parts of the test and they show it does not cause a
23 nuisance, the LEA shows that it does not cause a
24 nuisance, then it does not come under the regs?
25 If they meet -- however, if they meet the other

1 parts of the test but they cannot show whether the, the
2 LEA cannot show whether a nuisance is created, then it
3 would come under the regs.
4 I'm asking a question.
5 MR. HOLMES: Yes, I see, I -- we may be talking
6 about the same thing. But I see it working that the
7 facility passes the other parts of the test, the LEA can
8 or cannot show that they are above one percent, it may
9 be or may be not, but the LEA can't determine that, and
10 they are causing a nuisance, the LEA determines that
11 they're causing a nuisance, therefore they fail the
12 test.
13 BOARD MEMBER ROBERTI: Regardless of whether
14 it's one percent or not one percent?
15 MR. HOLMES: Correct.
16 BOARD MEMBER ROBERTI: If it's a half a percent
17 but they're causing a nuisance, according to, the LEA so
18 finds, then they have failed to meet the entire test?
19 MR. HOLMES: Correct.
20 BOARD MEMBER ROBERTI: Correct. So the
21 nuisance requirement is, so the various tests -- you can
22 fail the various tests if you miss any one of them?
23 MR. HOLMES: Correct.
24 BOARD MEMBER ROBERTI: And therefore, you fall
25 under the regs?

1 MR. HOLMES: You must meet all parts of the
2 test.
3 BOARD MEMBER ROBERTI: Okay.
4 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.
5 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
6 Could you go over for me one more time the
7 issue of the LEAs not having access to sites that they
8 think may be questionable or that they just want to
9 verify whether they fall under the regulations or not?
10 What types of sites are these? These are --
11 MR. HOLMES: These are so-called recycling
12 centers that are not subject to regulation, but the LEA
13 may be on site to investigate a complaint, for example,
14 and are not getting the cooperation they need to verify
15 that one percent.
16 BOARD MEMBER PAPARIAN: Okay. Now, I mean I
17 agree with Mr. Jones that we ought to find some way to
18 deal with that, because I think it could become an
19 increasing problem once these things go into effect.
20 The facility that an LEA is not getting access
21 to is conducting, supposedly, recycling activities,
22 right?
23 MR. HOLMES: Correct.
24 BOARD MEMBER PAPARIAN: Those recycling
25 activities are being credited back, Mr. Schiavo is

1 giving somebody credit for those recycling activities
2 back in a host jurisdiction somewhere I would assume.
3 So, I mean one other approach might be that if the LEA
4 can't gain access to verify what's going on at that
5 facility, then the materials that are recycled, I mean
6 there shouldn't be a credit given to somebody if we
7 haven't verified what's actually going on there with
8 that material.
9 So I think Mr. Jones' approach might work, and
10 what I'm suggesting might be something worth exploring
11 too.
12 Certainly if we don't know what's going on
13 behind the fences, you know, it's, it's, it would be, it
14 in my view it would be difficult to give somebody credit
15 for something that we can't really verify one way or
16 another.
17 BOARD CHAIR MOULTON-PATTERSON: I certainly
18 agree.
19 Mr. Jones.
20 BOARD MEMBER JONES: Madam Chair, I agree, too,
21 with Mr. Paparian.
22 When we were doing these transfer station regs
23 which took us three years, there was a whole group of
24 folks that originally -- first we were going to do
25 yardage. It used to be in law that if you generated

1 over fifteen yards, that was the cutoff, that was all
2 the residue you could have. Then they changed it and
3 they wanted to put it in tonnage, but some didn't want
4 it so they said the ten percent, but you had to meet the
5 two part test.
6 By adding the putrescible waste to that, I mean
7 it is clear in my mind, and it was during that whole
8 discussion about these transfer station regs, that LEAs
9 and state staff have to be able to verify that, in fact,
10 these exempt facilities are meeting the two part test.
11 Otherwise, they don't meet the two part test and need to
12 have transfer station regs which they aren't going to be
13 very happy about, but that's one of the conditions to
14 keep the exemptions.
15 So I think, you know, it, I think some of it
16 may be anecdotal; I think some of them may be an excuse
17 for why people aren't looking or a fear for what might
18 be coming down the road; but I think some of it is
19 genuine, and I think people don't like discussing their
20 tonnages and things like that.
21 So I think as long as we're aware and as long
22 as we send that message, we're just going to have to
23 listen to Mr. Block tell us that we can enforce it.
24 LEGAL COUNSEL BLOCK: I'll take that as a
25 segueway for me to speak. Elliot Block from the legal

1 office.

2 Just to briefly comment on the issue. First of

3 all, for the record I want to indicate very clearly that

4 the LEAs do have the authority to look at these records.

5 And to echo both some comments that have already been

6 made, the issue here is not an issue of authority as

7 much as cooperation. And the problem is the LEA at that

8 point would still have the authority to take some

9 actions.

10 What we're dealing with is how far they want to

11 go with their own legal counsel process that they have

12 to deal with, because they're also making a judgment

13 call as to whether they think they're going to be right

14 or not in the long run, because there's always that

15 issue.

16 So what we were trying to do in adding the

17 nuisance language was to give them an additional tool

18 for some of these sites they might come across. And

19 regardless of whether it's one percent, two percent, a

20 half a percent, it's creating significant problems that

21 are a nuisance, and we ought to allow them another tool

22 to be able to address that quickly. So that was really

23 kind of the concept behind that.

24 As far as the authority issues, I mean I also

25 do want to agree that those are still significant

1 issues. And I think what I'd like to do is we can look
2 into a couple of these issues, both in terms of the
3 authority issue which in a sense is broader than just
4 this package. We've run into this issue on a number of
5 occasions as to when LEAs have authority to do things
6 versus what it takes to enforce that authority. So we
7 can look at some broader issues there.
8 And likewise, in terms of how this counts.
9 Part of the problem with coming up with a, say a very
10 quick and easy if you don't give us records, you can't
11 count this as a credit, is it kind of depends on the
12 context that you're in. That's, because of the way the
13 disposal reporting system is set up, it's not kind of a
14 one to one system where you can just sort of knock
15 numbers out that way.
16 So it's a little bit more complicated, but we
17 can certainly look into, as we deal over the next year
18 with some changes to the disposal reporting system and
19 some other issues there that we're addressing under SB
20 2202, we can look at some sort of language and some sort
21 of ways to deal with that.
22 So, but I definitely got the message. But I
23 did want to make clear that for the putrescible package
24 and dealing with the three part test, those are kind of
25 broader issues that have some other implications that

1 I'd like to be able to deal with, I think we'd like to
2 be able to deal with them separately from this
3 particular package.
4 We're -- again, just to reiterate, we do have,
5 the LEAs do have the authority to look at these records.
6 And in fact, the language in the regulations puts the
7 burden of proof on the operator where there's been a
8 complaint to prove that they are under one percent. So,
9 you know, that's the reason we set it up that way.
10 What we're responding to with adding the
11 nuisance language is trying to deal with some of the
12 practical issues that LEAs deal with on a day to day
13 basis.
14 BOARD CHAIR MOULTON-PATTERSON: Thank you.
15 Mr. Eaton.
16 BOARD MEMBER EATON: Just quickly. So if the
17 only way is a complaint, but if there's no complaint,
18 what triggers that? Is it only --
19 LEGAL COUNSEL BLOCK: Well --
20 BOARD MEMBER EATON: Well if there's no
21 complaint then you'll never know, and that's the issue
22 of authority.
23 LEGAL COUNSEL BLOCK: Well I --
24 BOARD MEMBER EATON: So are you saying you only
25 -- let me finish.

1 LEGAL COUNSEL BLOCK: Okay.
2 BOARD MEMBER EATON: Are you saying that you
3 only have authority if there's a complaint?
4 LEGAL COUNSEL BLOCK: The language that we've
5 used in the regulations --
6 BOARD MEMBER EATON: Or can it be, just, you
7 know spontaneous inspections?
8 LEGAL COUNSEL BLOCK: The language that we've
9 used in the regulations is that if the LEA has reason to
10 believe that the operation is, in fact, not a recycling
11 center, that it's not meeting the test. So that can be
12 either through a complaint or if they on their own have
13 gone by the facility and they've noticed that there's a
14 problem. If they drive by a site and, you know, there's
15 significant odors or litter or that sort of thing
16 emanating from there, that would give them the ability
17 then to go on site.
18 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
19 you.
20 MR. HOLMES: Okay. There's just a couple more
21 quick changes that I have to point out to you. Same
22 page, page eight, line 20 and 21.
23 This change is made in response to, again,
24 comments by LEAs. We feel that the approved by language
25 is inappropriate because these are, we're talking about

1 facilities here that are not subject to regulation.
2 Therefore, the role of the EA should not be a formal
3 approval here.
4 So we've adjusted that language to a
5 determination by the LEA which is more consistent with
6 their action in that case.
7 And then finally the last page, page nine,
8 lines 19 through 22, is another change for clarity and
9 consistency pointing out the interrelationship or the
10 crossover between chipping and grinding from compostable
11 materials.
12 This is just the same language as page one just
13 in another spot because we wanted to put it in both
14 spots.
15 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
16 you very much.
17 We do have two speakers, and I'd ask them to be
18 brief, and then we'll finish, we'll give direction on
19 this one, and then we're going to take a morning break,
20 because we have a lot of speakers on number 11.
21 MS. NAUMAN: I'd also like to suggest to the
22 speakers that those who have submitted written comments
23 to us, we have those and they don't need to be restated
24 for purposes of this public hearing.
25 So this is really an opportunity for people who

1 have not submitted written comments to come forward and
2 give us their comments so that they can all be addressed
3 in subsequent steps.
4 BOARD CHAIR MOULTON-PATTERSON: Thank you.
5 Sean Edgar, followed by Denise Delmatier.
6 MR. EDGAR: Madam Chair, Board members, good
7 morning, Sean Edgar on behalf of California Refuse
8 Removal Council Northern District.
9 We support the staff recommendation number one
10 to notice these revised regs for a fifteen day
11 additional comment period.
12 We thank you, to staff, for its responsiveness
13 in working through this process. We did submit our
14 written comments for the record which I will not beat to
15 death other than to say we have one remaining concern
16 pertaining to, and this follows up with Board Member
17 Jones' and Paparian's conversation on this regional
18 produce distribution center.
19 We support that staff has narrowed the
20 definition to produce as opposed to non-food items or
21 unsold food items.
22 The reason we've elevated this issue is that
23 our member companies from the central coast to the
24 central valley are noticing that where these types of
25 facilities exist the compactors that used to handle the

1 garbage are pretty much empty now. And the concern is
2 that the materials that, produce is one thing, but the
3 dairy, the meat, and all the other items that a typical
4 grocery store or a produce distribution center would
5 handle have now Evaporated to a large degree. So that's
6 why we've elevated that issue.
7 We will follow up with, on the transportation
8 aspect that we've highlighted in our comment letters
9 with the Department of Health Services and others with
10 regard to the transportation of sanitary food products.
11 We're happy that the LEAs can inspect and
12 recover costs to inspect facilities that may be
13 excluded. We echo Mr. Jones' comments that the onus
14 should be upon the operator to prove otherwise.
15 In the case of produce distribution centers, it
16 should not be an excuse for an excluded transfer station
17 without a permit.
18 There was an actor who I understand is in a
19 little bit of trouble right now who used to say, "Don't
20 do the crime if you can't do the time." And if you're
21 transferring MSW with, you should be subject to the
22 transfer processing regulations.
23 Thank you.
24 BOARD CHAIR MOULTON-PATTERSON: Thank you.
25 Denise Delmatier followed by our last speaker

1 William Prinz.

2 BOARD MEMBER JONES: Can I ask a question while

3 she's coming up?

4 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Jones.

5 BOARD MEMBER JONES: Thank you.

6 Bob, the produce distribution center would be

7 like Safeway or Ralphs distribution center where that

8 material is being hauled back, or is it the Tom Fry

9 operation in Sun Valley?

10 MR. HOLMES: It should be associated with -- is

11 this on -- associated with the grocery store

12 distribution.

13 BOARD MEMBER JONES: Right.

14 MR. HOLMES: My understanding is that the Tom

15 Fry situation there's some processing going on there,

16 and this definition precludes processing, so this is

17 just kind of the haul back situation.

18 Also, I didn't include it in my presentation

19 but it's in the agenda item the comment received with

20 respect to the federal law about hauling waste and food

21 in the same vehicle. We didn't address that as well

22 because we don't specify the vehicle type in this

23 regulation.

24 BOARD MEMBER JONES: Okay. Thanks.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 BOARD MEMBER PAPARIAN: On that point --
2 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.
3 BOARD MEMBER PAPARIAN: Thank you.
4 I'm wondering if you may need to actually
5 clarify what processes means, but we can talk about that
6 separately. But a facility where food, where produce is
7 processed, one reading of that could be you take produce
8 in from the fields, you wash it, you chop it up, you put
9 it in little bags, you send it off to a grocery store.
10 You don't want to include that type of facility, you
11 know, in a processing. What you're talking about is
12 processing it for composting, right?
13 MR. HOLMES: We don't want any processing
14 that's going to increase the amount of time or the
15 potential for the material to cause problems. So we
16 don't want any grinding of it, for example, or anything
17 that's going to add time where it's going, because the
18 material will break down and start causing odors.
19 So we want to facilitate the movement of this
20 material back from the stores, back through the
21 distribution center, and then onto its appropriate end
22 use, whether that be composting or beneficial use.
23 BOARD MEMBER PAPARIAN: Right. Okay. So what
24 I'm suggesting is you may want to, Elliot may want to
25 take a look at that wording right there and make sure

1 it's capturing exactly what you're trying to capture. I
2 don't know if you need to respond right now?
3 LEGAL COUNSEL BLOCK: Well let me, just to
4 clarify let me just point out on page four of the regs,
5 starting on line 33 we have an existing definition of
6 processing in there, so I'm wondering if that --
7 BOARD MEMBER PAPARIAN: Thank you.
8 LEGAL COUNSEL BLOCK: It's a more specific
9 definition, essentially, you know, waste processing,
10 that type of thing.
11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
12 Block.
13 Denise Delmatier.
14 MS. DELMATIER: Madam Chair, Denise Delmatier
15 with NorCal Waste Systems, here to support the proposed
16 package as presented by staff.
17 Obviously this has been a long time coming.
18 It's a great package, we think it looks real good. We
19 did not submit written comments but wanted to go on the
20 record here today and also support the addition of the
21 nuisance language. I think it's a real important, key
22 tool for the LEAs to be able to enforce.
23 And generally speaking, in response to Mr.
24 Elliott's comments, we definitely need to look at some
25 enhanced language that would give LEAs the enforcement

1 mechanisms that they need not only with this package but
2 generally speaking the compost package, the next item
3 up, similar issues there.
4 So I would encourage the Board to take a look
5 at providing enhanced regulatory language for the LEA's
6 enforcement.
7 BOARD CHAIR MOULTON-PATTERSON: Thank you.
8 William Prinz, City of San Diego.
9 MR. PRINZ: Thank you, Madam Chair. Bill Prinz
10 with the City of San Diego. I'm also speaking on behalf
11 of the Enforcement Advisory Council.
12 And we submitted a letter, submitted written
13 comments, and we'd like to thank the staff for
14 clarifying a lot of these issues along the way.
15 However, I would like to address the one
16 percent putrescible issue. Considering an LEA does an
17 inspection of a facility, I'm trying to think through
18 the actual physical aspect of doing that.
19 And let's say a facility passes parts one and
20 two, and then we come to part three and there's really
21 no nuisance but there is, you know, two or three, four
22 percent maybe, putrescible present; would we have to go
23 through the machinations of separating putrescible from
24 non-putrescible residues and weigh those out and
25 determine whether that is an objective one percent, you

1 know, exceeding that one percent?

2 The LEA would prefer a diminimus type of

3 language where we would be able to use our judgment. If

4 there's a small amount, an incidental amount of

5 putrescible and they pass the nuisance factors as well

6 as the ten percent and the source separated issue, I

7 think that there might be an additional issue with

8 having to determine the one percent.

9 The language as it's written now, it appears a

10 little confusing whether both the one percent and

11 nuisance have to be determined. And I think the more

12 general judgment call on the diminimus might be a little

13 easier and more enforceable.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you for

15 your comments. Okay.

16 With that, unless I hear otherwise I'd like to

17 direct staff to put this out for an additional fifteen

18 day comment period. And we are getting close.

19 MS. NAUMAN: Thank you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you. And

21 thanks for all your work, Bob.

22 BOARD MEMBER ROBERTI: Madam Chair, after the

23 fifteen day comment period then I take it it comes back

24 to us for the final, final vote?

25 Just for my own general interest, and I suspect

1 the answer is yes, but just to hear it; the staff, I
2 take it, has been working with the departments of the
3 larger jurisdictions. I was contacted by the City of
4 Los Angeles very concerned about the regulations having
5 an adverse effect on their operation. So --
6 MS. NAUMAN: I can assure you, Senator, and
7 other Board members we have done extensive outreach on
8 this package over many, many months we've been working
9 on it, and have had innumerable stakeholder meetings.
10 And we're always, you know, welcoming additional input
11 and comment. But I think we've done a tremendous amount
12 of outreach.
13 But if there's something specific that you'd
14 like to relay to us, we'll be happy to consider it.
15 BOARD MEMBER ROBERTI: No, but I knew that the
16 composting facility at Van Norman Dam, and this is about
17 as isolated as you can get in California, it's a most
18 un-urbanized area.
19 So I would, you know, I would, they have no
20 other options, and it is terribly isolated, and I would
21 just relay that to the staff's recollection in
22 developing the regs. And that is in urbanized areas,
23 the inability to find areas for composting is very, very
24 great, and there should be an exercise in the degree of
25 liberality when something is found, without getting

1 specific.

2 MS. NAUMAN: Thank you, Senator.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. At this

4 time we'll take a break until 11:30.

5 (Thereupon there was a brief recess.)

6 BOARD CHAIR MOULTON-PATTERSON: Ex-partes. Mr.

7 Eaton?

8 BOARD MEMBER EATON: Just a quick hello to

9 Arnie Sowell.

10 BOARD CHAIR MOULTON-PATTERSON: Okay, thank

11 you.

12 Mr. Jones.

13 BOARD MEMBER JONES: Quick hello to Arnie, and

14 said hi to Ken Hurish and Holloway.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you.

16 And I said hello to Arnie.

17 Mr. Medina.

18 BOARD MEMBER MEDINA: Hello to Arnie.

19 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

20 BOARD MEMBER PAPARIAN: Yeah, talked to George

21 Larson about the P&E Committee and his cell phone.

22 BOARD CHAIR MOULTON-PATTERSON: Okay. And

23 Senator Roberti.

24 BOARD MEMBER ROBERTI: No ex-partes because I

25 had to get my garage door opener out of my state car

1 before they took it away.

2 BOARD CHAIR MOULTON-PATTERSON: Oh, okay.

3 Okay.

4 We're on item number 11, public hearing. And I

5 might remind everybody that this is just the public

6 hearing, as I understand it all the comments will be

7 taken, you'll do your best work and come back to the

8 Board, and so --

9 MS. NAUMAN: That's correct, we'll come back in

10 July or August.

11 BOARD CHAIR MOULTON-PATTERSON: You know how

12 hungry we get before lunch. Okay.

13 MR. HOLMES: Okay. All I wanted to point out

14 to you is the slide that contains the eleven issues.

15 These are the same areas that appear in the agenda item.

16 These are the areas of comments that we've already

17 received prior to the 45, during the 45, and so what you

18 may hear today is again restatements of these issues, or

19 perhaps some new ones in the public hearing.

20 BOARD CHAIR MOULTON-PATTERSON: Okay.

21 MR. HOLMES: And that's it.

22 BOARD CHAIR MOULTON-PATTERSON: Anything else

23 before I open it up to the public? Any preliminary

24 comments, Board members?

25 Seeing none, we have quite a few speakers, and

1 I might ask you again to please be brief, we want to
2 hear your comments but we do have a lot of speakers.
3 William Prinz, followed by Matt Cotton. And
4 Mr. Prinz is from the City of San Diego.
5 MR. PRINZ: Thank you, Madam Chair. William
6 Prinz with the City of San Diego LEA.
7 The LEAs -- and I'm also speaking for the
8 Enforcement Advisory Council.
9 The LEAs are, in general, pleased with a lot of
10 the changes that have been done. We submitted a five
11 page letter, most, part of it was in favor and we still
12 had some concerns, and I was hoping to have a little
13 more time to pinpoint the one I wanted to speak on today
14 because -- but the one that I think I will focus on is
15 what are the exclusions for the 500 cubic yard, the
16 exclusion which is in the existing regs is reduced to a
17 one hundred cubic yard for the exclusion.
18 That would impact some sites in, basically
19 sites that haven't been a problem. Those that have been
20 excluded for, those that have been composting 500 cubic
21 yards should be, should be allowed to retain that
22 exclusion, that volume for their exclusion.
23 And there's some other issues, but I'll just
24 keep my comments brief. And thank you for the
25 opportunity.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you.
2 Matt Cotton on behalf of California Organics Recycling
3 Council, followed by Paul Ryan.
4 MR. COTTON: Thank you, Madam Chair. Matt
5 Cotton on behalf of the California Organics Recycling
6 Council.
7 We've been involved in these regs for a long
8 time. I personally was on the original compost advisory
9 panel the Board put together in 1993 to start crafting
10 these regulations. I guess it's not surprising we've
11 taken this long to get this package to where it is
12 today, and we have some brief comments. We do have some
13 written comments which we're submitting, I won't go over
14 those.
15 But I think it does to some extent reflect the
16 change in disposal practice that we've come so far in
17 the last ten years, we're starting to really manage a
18 lot more of this material and some of the issues come to
19 the fore because of that.
20 I think it's very important to remember why
21 we're here. That top of the list on the top there, 11
22 is slot chipping and grinding.
23 We support the activities to do that. I think
24 that would go a long way toward solving a lot of the
25 problems we're having.

1 Given what's been said about 1133 and the
2 various challenges to the industry at this time, I'm
3 going to reiterate what I said to this Board in April,
4 and again in August.
5 In the back of the package we've got a graphic
6 which I held up last time, the distribution of the tiers
7 this is based on Waste Board data that's equally
8 distributed among the five tiers.
9 I think that system works really well, I'm not
10 going to say there aren't small problems with it, and I
11 think most of 'em are small problems and I think we
12 ought to stick with what we have. Given the
13 uncertainties with other parts of the industry, this is
14 not the time to be ripping the system apart and shoving
15 it into a full tier. This is not the time that people
16 need to be worrying about their permit and exactly which
17 definition and, you know, the slight, you know, the
18 vagaries of 10,000 or 12,000 or 5,000 cubic yards.
19 In general I think the existing system is
20 working quite well.
21 Clearly we need to work on the food waste
22 definition, there's a lot more activity on that.
23 CORC supports operator training.
24 And again to summarize, I think the Board needs
25 to assure that we're encouraging composting, not

1 erecting artificial barriers at this time particularly.
2 Thank you very much.
3 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
4 Cotton.
5 Paul Ryan, followed by Teresa Eade or Eade, I'm
6 not sure.
7 MR. RYAN: Honorable Chair and Board members.
8 I'm representing the California Refuse Removal
9 Council Southern District and its affiliated local
10 associations as well as the Southern Organics Coalition.
11 The coalition is primarily a coalition of
12 processors and composters and local trade associations
13 working together to address the issues of PR 1133.
14 We appreciate member Steven Jones' comments
15 today because we're concerned about seeing these
16 regulations move forward and come to some conclusion
17 very soon so that we can comfortably address the issues
18 that we'll be faced with as we go through the rulemaking
19 process with South Coast.
20 We want to thank you for allowing us to
21 participate in the development of this most important
22 set of regulations, and we made comment with other
23 stakeholders which I will not go into.
24 We would ask you to instruct staff to process
25 the public comments and prepare responses along with a

1 revised draft of the regulations for consideration at
2 the Permit and Enforcement Committee meeting in July,
3 2002.
4 Our members also are willing and able to assist
5 the Board and staff in ironing out any language disputes
6 or issues that need clarified, and we feel that the
7 regulatory package is sound and it provides a good base
8 for moving forward. And if there are disputes we'd like
9 to be there to help resolve the issues.
10 Thank you very much.
11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
12 Ryan.
13 BOARD MEMBER ROBERTI: Madam Chair.
14 BOARD CHAIR MOULTON-PATTERSON: Senator
15 Roberti.
16 BOARD MEMBER ROBERTI: Just going back to one
17 of the prior speakers, I don't think this gentleman
18 addressed it, maybe staff can, why did we decrease the
19 amount of cubic yards, was it, what, five hundred to one
20 hundred?
21 MR. WATSON: Jeff Watson, P&E division.
22 BOARD MEMBER ROBERTI: And from whence did they
23 push to do that?
24 MR. WATSON: I think you're referring to some
25 consolidation of the tiers that we did where we ended up

1 with the end of the development with two basic tiers in
2 this section in what's been referred to by industry and
3 others as the new EA notification, and then we ended up
4 with a compostable materials facility permit which uses
5 the same process as a permit with a full solid waste
6 facility permit.
7 The reason we did that was when you get a
8 facility permit you have your monthly inspections, in
9 fact, that is one of the major costs to having a permit
10 across the state is the monthly inspection cost.
11 So what we did is we increased the type of
12 information that we needed to have in the EA
13 notification tier. And in doing so, we were able to
14 expand certain facilities to stay in EA notification.
15 So we actually get more information than we would have
16 had in the registration tier, but we lessened the
17 inspection frequency which was the major economic
18 disincentive to the small operator for those
19 inspections.
20 So that's kind of what happened. The new --
21 BOARD MEMBER ROBERTI: So the small operator,
22 in effect, had a trade-off, but the area that was of
23 greatest concern for their, on the economic side of the
24 operation is something you worked to adjust?
25 MR. WATSON: Correct. So the small operator

1 now really can have more material on site, but they have
2 to work a little more diligently to control odors and
3 nice nuisances. And so that's what we're talking
4 about. The point now is a requirement for all
5 operations and facilities.
6 So in a way we have not deregulated any
7 facility in the State of California, in fact, we have
8 more regulated from the standpoint of the problems that
9 we've learned about in the last four to seven years.
10 Does that answer your --
11 BOARD MEMBER ROBERTI: Yes, thank you.
12 MR. WATSON: Thank you.
13 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
14 you. Teresa, is it --
15 MS. EADE: It's Eade.
16 BOARD CHAIR MOULTON-PATTERSON: Eade, thank
17 you, sorry. Teresa Eade, and she's from the Alameda
18 County Waste Management Authority.
19 MS. EADE: I want to thank the honorable
20 members of the Board and Madam Chair for this time to
21 address you. I'm with the Alameda County Waste
22 Management Authority and Source Reduction Recycling
23 Board.
24 And I'm here to express the deep concern of our
25 agency staff over the proposed compost regs. In

1 particular, the effect on on-site composting projects
2 and small scale composting and chipping operations.
3 Our agency offers a wide variety of source
4 reduction and recycling programs. We're responsible for
5 the county-wide integrated waste management plan, and we
6 have, our county's met the AB 939 fifty percent
7 diversion goals. In fact, we have a 75 percent
8 diversion goal for Alameda County that was passed by the
9 voters to be met by the year 2010.
10 And our agency has worked hard to promote on
11 site composting, small scale composting projects that
12 are innovative approaches for institutions to both
13 public and private to address their recycling concerns.
14 And as a result of some of our efforts we have
15 a number of projects that will be directly affected by
16 these new regs.
17 The Alameda County Public Works, Hayward Area
18 Recreation Department, the Oakland Zoo, Rubicon
19 Landscaping, And the University of California food waste
20 composting project will all be affected by these regs.
21 And so we would strongly oppose reducing the
22 structure from five tiers to the three tiers. I think
23 far from simplifying, it will actually increase the
24 amount of regulation on these small and innovative
25 projects.

1 So I think it's making the regulations more
2 complicated because these projects which are current,
3 under the current regs are either an excluded activity
4 or have a simplified notification plan would go into a
5 much higher burden of regulation. They would have to
6 have a complex odor impact management plan, they would
7 have to have visual inspection and recordkeeping, the
8 mandated training, and four annual inspections, or four
9 inspections annually. And these apply to projects that
10 there have been no public health concerns or complaints,
11 and that are, have been very successful.
12 And since they're, especially on the on site
13 projects where staff are composting but they have other,
14 other responsibilities, increasing this kind of
15 regulation adds to that institution's disincentive to
16 try to compost on site, even though it may make sense to
17 do so.
18 In addition, we have concerns about the
19 current, the way the proposed regs have capped food
20 waste.
21 It would not allow the Oakland Zoo to
22 incorporate food waste into their ag bag system.
23 There's not environmental reason. In fact, there's
24 environmental reasons to include it in their ag bag
25 composting systems, but the way the regs are written now

1 it would preclude that.

2 It would also severely shut down or, you know,

3 severely limit or shut down the very successful food

4 waste composting projects sponsored by the ASUC at UC

5 Berkeley.

6 And I think an earlier speaker mentioned that

7 the 500 cubic yards, right now there's an exclusion in

8 the current regs if you're composting green materials

9 that are less than 500 cubic yards at universities,

10 parks, or residences; that exclusion is now less than

11 one hundred cubic yards.

12 This will require the Hayward Area Recreation

13 Department and UC Berkeley to get, be booted into the

14 more complicated notification tier that's being proposed

15 and they would have to comply with all those regs.

16 Right now they're excluded.

17 So in summary, I just want to say we would urge

18 you to keep the five tier structure. It allows the

19 regulation to be appropriately tiered to the level of

20 impact and scale of the project.

21 We're interested that food waste should be

22 allowed up to 50 percent of volume of feedstock or a

23 hundred cubic yards, whenever is the lesser amount to be

24 composted with green waste materials.

25 We would like you to keep the exemption for the

1 500 cubic yards for green materials.

2 And our first preference is to keep the five

3 tiers. But if that is not possible, we want it to

4 define a simpler notification tier for materials, for

5 operations that are handling 2,500 cubic yards or less,

6 to lump then in up to 12,500 cubic yards makes it too

7 onerous for these small projects. So a simpler odor

8 impact management plan for this lower volume, simplified

9 training, checking of loads, and of records being kept,

10 and fewer inspections.

11 I think there is an unintended effect on

12 penalizing small projects that are innovative that have

13 been operating successfully without raising any public

14 health concerns.

15 And also, that this will make it more difficult

16 for people to enter the market, and we want to encourage

17 innovation and want to encourage more players in the

18 field.

19 So I thank you.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you very

21 much for your comments.

22 BOARD MEMBER PAPARIAN: Madam Chair, could I

23 just ask a couple of questions?

24 BOARD CHAIR MOULTON-PATTERSON: Sure, Mr.

25 Paparian.

1 BOARD MEMBER PAPARIAN: I had a couple of
2 questions for you before you go away.
3 MS. EADE: Oh.
4 BOARD MEMBER PAPARIAN: Let's just take as an
5 example, you mentioned the University of California food
6 waste.
7 MS. EADE: Uh-huh.
8 BOARD MEMBER PAPARIAN: How big of a facility
9 is that right now?
10 MS. EADE: That project is operated by the
11 student ASUC coop union project. It's, they handle 170
12 tons of food waste that's collected from dorms, student
13 coops, and it's handled on campus property.
14 BOARD MEMBER PAPARIAN: So currently what
15 requirements are they under, they're currently --
16 MS. EADE: Currently they would be, they fit
17 into the, the, I think the notification or notification
18 or the registration -- no, the, I think the notification
19 tier which is a simpler notification term.
20 BOARD MEMBER PAPARIAN: So if these go into
21 effect as proposed they would switch from the
22 notification to a --
23 MS. EADE: The more complex notification term.
24 BOARD MEMBER PAPARIAN: Which would still be a
25 notification --

1 MS. EADE: Which would require, as opposed to
2 just writing and letting the LEA know that you exist and
3 that they can come do an inspection, they would have
4 to -- oh, that's the registration.
5 They would have to do an odor impact management
6 plan, they'd have to have four annual inspections,
7 they'd have to have training, they'd have to do
8 recordkeeping.
9 One of the things I failed to mention is that
10 it seems very logical for on site composting projects
11 that are using feedstock on site and using the material
12 on site that keeping records of contamination levels may
13 be burdensome and also not that useful, I mean, the
14 impact is circular.
15 BOARD MEMBER PAPARIAN: Okay. So in terms of
16 the amount of paperwork and so forth, I mean, maybe I'm
17 missing something, it doesn't seem that much to me. But
18 you're suggesting that it would be quite an onerous
19 burden?
20 MS. EADE: Yeah. The odor impact management
21 plan is quite complex. And for a student run operation
22 it would be, you know, you have to hire a consultant to
23 help you implement that.
24 BOARD MEMBER PAPARIAN: I mean is that
25 something that the Alameda Solid Waste Facility could

1 help with facilities like this? I mean if you're having
2 a bunch of facilities that you're trying to encourage,
3 it would seem like you could come up with a generalized
4 odor management plan that then could --
5 MS. EADE: Sure. What we're suggesting is that
6 you have a simplified odor impact management plan for
7 these projects so that we wouldn't have to be spending
8 undue amounts of money to help bring them up to
9 compliance.
10 BOARD MEMBER PAPARIAN: Okay.
11 MS. EADE: But that would be in scale with the
12 level of operation.
13 BOARD MEMBER PAPARIAN: Okay. Thanks.
14 BOARD MEMBER JONES: Madam Chair.
15 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
16 BOARD MEMBER JONES: I have a couple of
17 followup questions, too.
18 The, you had said on one hand that you want to
19 encourage these facilities so that they can enter the
20 marketplace, but then you just said that they're going
21 to generate it on site and keep it on site.
22 MS. EADE: There's two kinds of projects that
23 we're concerned about, the on site composting and small
24 scale. Rubicon Landscaping is a landscaping operation
25 which is, has received grants from the city of San

1 Francisco and ourselves, they have clients both in San
2 Francisco and in Alameda County, and we helped them
3 purchase a chipper. They would be going into the
4 notification tier because they keep materials on site
5 longer than 48 hours. And their main goal is to try to
6 use those materials for their clients as mulch. And
7 their product's very clean because they're collecting it
8 themselves.
9 So there's a number of landscaping operations
10 in our county who have talked to our agency who are
11 interested in diversifying into mulch more, and I think
12 this would definitely impact them. It makes it more
13 difficult for a small businessperson to diversify, our
14 landscaping operations to diversify.
15 BOARD MEMBER JONES: Okay.
16 BOARD CHAIR MOULTON-PATTERSON: Thank you.
17 Dan Meyers, City of Los Angeles, followed by
18 Jim Lites.
19 MR. MEYERS: Good morning. Again, Dan Meyers
20 from the City of Los Angeles.
21 I'm here to let you know today that the City of
22 Los Angeles opposes certain sections of the proposed
23 composting regulations. Specifically, the new
24 definition of green waste and the holding times at
25 chipping and grinding facilities.

1 The City of Los Angeles collects approximately
2 400,000 tons a year of curbside generated green waste.
3 All this green waste is either mulched or composted,
4 none of it goes to ADC. The city has invested heavily
5 in developing the infrastructure and markets to handle
6 this green waste.
7 The City of Los Angeles owns and operates two
8 chipping and grinding facilities, a green waste
9 composting facility, and a co-composting facility.
10 Under the proposed regulations, our green waste
11 would now be considered a mixed solid waste. The new
12 definition --
13 BOARD MEMBER ROBERTI: Could you delineate
14 exactly how that would come about?
15 MR. MEYERS: Yes, sir. Under the proposed
16 regulations there are contamination limitations of point
17 five percent. The curbside collected green waste from
18 the City of Los Angeles can have a contamination rate
19 that ranges from one all the way up to ten percent.
20 That would, that would again put us into no longer a
21 green waste category, but in mixed solid waste category.
22 All of the facilities that would then process
23 or handle the material would need full to obtain a full
24 solid waste facilities permit, and be permitted as a
25 transfer station. Okay.

1 These new requirements would essentially shut
2 down, due to the difficulty in obtaining permits and the
3 length of time to obtain the new permits, the city-owned
4 and operated collection -- sorry -- the city-owned and
5 operated processing facilities.
6 Furthermore, if the facilities that are
7 currently under contract with the City of Los Angeles
8 are unable or unwilling to obtain a full solid waste
9 facilities permit to compost our green waste, the city
10 would be left with no place to divert its green waste.
11 Furthermore, the city opposes the 48 hour
12 holding time on chipping and grinding facilities. We do
13 try to always get our material out within the 48 hour
14 time period; however, for example, on Fridays if
15 material is brought in, processed, but unable to get
16 distributed, it would be held over the weekend. In that
17 case we would exceed the 48 hour time limit, and over
18 holiday or extended weekends, that time limit would get
19 extended --
20 BOARD MEMBER ROBERTI: Where does the city
21 maintain the chipping and grinding?
22 MR. MEYERS: Well it's the Van Norman facility
23 you mentioned earlier. We also have our harbor mulching
24 facility that's operated in San Pedro. And also in San
25 Pedro we have our anchorage composting facility.

1 BOARD MEMBER ROBERTI: What is the reason for
2 reducing the holding time to 48 hours?
3 MR. MEYERS: I'm sorry?
4 BOARD MEMBER ROBERTI: I want staff to answer
5 your observation.
6 MR. MEYERS: Oh.
7 MR. WATSON: When we made the change -- Jeff
8 Watson, Permitting and Enforcement.
9 When we made the changes from a compost
10 structure to a compostable materials structure, we had
11 to make some adjustments in how we would view material.
12 Mulch, for instance, when does it become a product? In
13 many cases it's right when it's brought in the gate. So
14 we had to adjust the way we viewed an operation.
15 So what we did is we took a stricter look at
16 what green material is. And we said okay, a highly
17 evolved or direct flow of green material comes in at a
18 fairly clean level, and those levels tend to be less
19 than one percent, and very close to a half a percent.
20 So that's what we show. That was the number that was
21 given for the green, the clean green that was the
22 material that only could go to ag material operations in
23 the previous regs.
24 So we used that clean green number to come up
25 with a number for what would be now the state-of-the-art

1 green material at a facility in California.
2 So that was the reduction of the number from
3 the previous --
4 BOARD MEMBER ROBERTI: Yes, the reason for
5 reducing the hours, I take it, has to do with --
6 MR. WATSON: Oh, I'm sorry. The hours were
7 changed because we had to define the difference between
8 a facility that received the material just to chip and
9 grind it and ship, versus one that were processing it
10 and it would go into phases of anaerobic decomposition.
11 And then we would get the nuisance odor, and we'd get
12 the vector problems and the fire.
13 BOARD MEMBER ROBERTI: Mainly because of odor?
14 MR. WATSON: In Southern California it's almost
15 exclusively because of odor.
16 BOARD MEMBER ROBERTI: My great tour of Van
17 Norman in Los Angeles, and I hate to say never, but it's
18 such an extensive piece of property that --
19 MR. WATSON: The buffer truly is, it's an
20 excellent site.
21 BOARD MEMBER ROBERTI: -- that it's hard for
22 me, that should be taken into consideration.
23 MR. WATSON: And we have in the current regs
24 put in a situation where the LEA on that sort of
25 condition can allow for a seven day retention and

1 retain. So the LEA --

2 BOARD MEMBER ROBERTI: So you're saying --

3 MR. WATSON: In the current regulations the LEA

4 is under no risk because of these facilities.

5 BOARD MEMBER ROBERTI: Under the current

6 regulations?

7 MR. WATSON: No, under the current revisions

8 this proposal --

9 BOARD MEMBER ROBERTI: Okay. Right.

10 MR. WATSON: -- will have the opportunity to

11 get --

12 BOARD MEMBER ROBERTI: Let me ask the gentleman

13 from the City of Los Angeles, is that seven day period

14 satisfactory?

15 MR. MEYERS: That seven day period would be

16 satisfactory. But again, it would be left up to

17 basically the whim of our LEA to determine whether they

18 want to stick with the 48 hours or extend it to a seven

19 day period.

20 It offers us some protection, but no guarantees

21 that the LEA would not come back and state that we have

22 to remove it within 48 hours.

23 It's, it leaves quite a gray area and does

24 leave us wide open.

25 BOARD MEMBER ROBERTI: Is that because if the

1 LEA found that it was a nuisance?
2 MR. MEYERS: Well, as you've stated, as you've
3 seen it, at our facilities, the way they're located, is
4 we have not received any nuisance complaints. So we
5 would, we would hope to get the extension of the seven
6 days, but there is no guarantees that, I mean there's
7 nothing in the regs that state that the LEA, if there's
8 not a nuisance problem, must give seven days. It's at
9 the discretion of the LEA to give seven days, okay. But
10 it doesn't, and there's no, there's no background of why
11 they would give you a seven day extension as opposed to
12 sticking with the 48 hours included in the regs.
13 BOARD MEMBER ROBERTI: And the, I take it the
14 problem could occur in Los Angeles because of
15 jurisdictional disputes that are currently going on?
16 MR. MEYERS: Yes, sir.
17 BOARD MEMBER ROBERTI: That you could have a
18 facility that never had a nuisance ever in its history
19 suddenly having a nuisance?
20 MR. MEYERS: Absolutely.
21 BOARD MEMBER ROBERTI: Yeah.
22 MR. MEYERS: Because nuisance is a perception.
23 BOARD MEMBER ROBERTI: I tend to think this is
24 a real problem in Los Angeles and may have little to do
25 with nuisance or even odor problems.

1 And maybe there should be something where if
2 the property is extensive enough, as say at Van Norman,
3 that the LEA doesn't have to be part of the
4 decision-making process. I'm just offering that.
5 BOARD MEMBER JONES: Madam Chair.
6 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones and
7 then -- thank you, Senator, and then Mr. Paparian and
8 then --
9 BOARD MEMBER JONES: One thing that I think we
10 need to keep in perspective on this one too is we've got
11 PR 1133 which would have even tougher requirements than
12 that two days.
13 I mean we've got some odor issues. We've got
14 VOC generation issues right after chipping and grinding,
15 which we know those numbers were higher than if it had
16 sat there for a week.
17 So the real impact at a green waste facility is
18 immediate. And with what is at risk in Southern
19 California and then, and this will go to the young lady
20 from the Alameda authority, whatever happens in the
21 South Coast Air District is going to be copied first by
22 the Bay Area Air Quality Management District, and then
23 shortly thereafter every other air district in the State
24 of California.
25 We've got a, it's going to create a burden for

1 you, but there's a bigger burden, I think, that we've
2 got to be aware of, and that is what happens if we've
3 got to put buildings over every one of these facilities
4 which nobody is going to do, including the City of Los
5 Angeles.
6 MR. MEYERS: I absolutely agree that rule 1133
7 is an extreme impact to chipping and grinding and the
8 composting industry. As a note, the proposed H&B
9 regulations, at least the ones that they had last
10 presented, had a holding time at a chipping and grinding
11 facility of five days before they would consider it
12 incidental composting.
13 So, and that's actually what we would like to
14 see is an extended time to take care of situations such
15 as ourself, and to make sure that the AQMD rules and the
16 Integrated Waste Management rules, you know, come in
17 line with each other, that you don't have different days
18 in different regs.
19 And I know your staff is working very hard with
20 the AQMD to make sure that doesn't happen, and I
21 appreciate that.
22 BOARD MEMBER JONES: One other quick question
23 and then I'll stop.
24 MR. MEYERS: Yes, sir.
25 BOARD MEMBER JONES: The half a percent in

1 green waste, I mean that's an issue that should be dealt
2 with at your collection sites. I mean those trucks that
3 are on the road, if they're picking up, if they're
4 picking curbside recycling up from citizen,s I mean from
5 residents in L.A. that generate that much contamination,
6 it's got to be driving either you crazy with the cost to
7 remove that paper, or whoever you're contracting with.
8 Because that's totally, I've never, I mean I've heard of
9 numbers that high, but not with the amount of green
10 waste that you guys generate.
11 That it would seem to me I'd be in the office
12 of whoever the operations manager is on collection and
13 screaming that the contamination in a curbside bottles,
14 cans is one thing, but in a green waste system, that
15 should be easier to control at the curb, and should be
16 able to get you in under the ten percent--
17 MR. MEYERS: I appreciate that. It is an
18 ongoing issue, it is a problem, and it does create a
19 more burden on the city to clean its green material up,
20 and we do before, before it goes out to market it's all
21 clean.
22 We have an extensive education program at all,
23 every event held out by the city, sanitation attends and
24 updates the community. It's a problem that we are, you
25 know, we try to address every day.

1 But in fact, we are still left with, you know,
2 with the burden of the one to ten percent that we
3 realize on a daily basis.
4 BOARD MEMBER ROBERTI: And L.A.'s, L.A.'s
5 process is the city picks the, the city picks the
6 curbside trash up?
7 MR. MEYERS: Yes, sir.
8 BOARD MEMBER ROBERTI: At what point does an
9 entity other than the city get involved in trash
10 collection?
11 MR. MEYERS: Well it's --
12 BOARD MEMBER ROBERTI: If ever?
13 MR. MEYERS: As far as residential, single
14 family home?
15 BOARD MEMBER ROBERTI: Yes.
16 MR. MEYERS: The City of Los Angeles collects
17 everything. The refuse, the mixed recyclables, and the
18 green waste.
19 It's, as far as like the green waste, there's a
20 portion that goes to the city owned facilities, there's
21 a portion that goes out to contract, okay, for
22 composting. At that point in time there's a, there's a
23 second entity that's handling that material.
24 BOARD MEMBER ROBERTI: And that's both
25 residential, that's residential green waste as well

as --

MR. MEYERS: Well, the contract facilities typically handle residential, our green waste, but the green waste stream for others, we don't regulate what other green waste stream they --

BOARD MEMBER ROBERTI: And when you're talking about the city's green waste having, say, between one percent and ten percent.

MR. MEYERS: Ten percent, yes, sir.

BOARD MEMBER ROBERTI: That is at the city's collection site?

MR. MEYERS: Yes. Yes, that's the green waste that we collect and deliver to either our facilities or the contract facilities.

BOARD MEMBER ROBERTI: And just, just take me through it. And when you pick, when you pick the waste up if it's a compostable material, say it goes either to Harbor or Van Norman at that point?

MR. MEYERS: Yeah. Once the material is picked up in our refuse trucks there's certain collection routes that would go directly to our, either Harbor or Van Norman facility, okay.

The material is offloaded off the truck, and it's then screened, picked for refuse, chipped, and ground, and then either sent out as mulch or sent for

1 composting.

2 The same thing happens with our contract

3 composting facilities. The trucks go directly to those

4 facilities and drop the refuse, I'm sorry, the green

5 waste off there.

6 BOARD MEMBER ROBERTI: Okay, thank you very

7 much.

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian

9 has a question.

10 BOARD MEMBER PAPARIAN: Yeah, a couple of

11 things. I hope we're not suggesting that the Los

12 Angeles LEA would be subject to political pressures in

13 determining the seven day period.

14 BOARD MEMBER ROBERTI: Well the problem, to be

15 brutally honest, is that we don't know who the LEA is

16 going to be given a year from now, how many cities are

17 going to compose the City of Los Angeles. And you can

18 have jurisdictional rivalries that are so intense that

19 you can have a request for a delay that has absolutely

20 nothing to do with odor, it has everything to do with we

21 don't want your trash in my backyard because we're new

22 now.

23 BOARD MEMBER PAPARIAN: Yeah, you know, I mean

24 I can understand that there could be such requests, but

25 if the LEA is responding to political pressures, then I

1 think we have an issue for Ms. Anderson or Ms. Nauman to
2 deal with in terms of the certification or
3 decertification of the LEA. Because they shouldn't
4 be --
5 BOARD MEMBER ROBERTI: Nobody ever submits to
6 political pressures. I mean when asked I would say when
7 I was a, when I was a leader of legislature I never
8 submitted to political pressures.
9 (Laughter.)
10 BOARD MEMBER ROBERTI: So I mean it's going to
11 be rare when you're going to find somebody who is going
12 to have that degree of candor.
13 BOARD MEMBER PAPARIAN: And I mean the other
14 thing, I'm kind of worried about tinkering too much with
15 the seven day issue because, you know, a facility
16 that's, if it's not operated correctly, you know, ripe
17 compost odors can travel pretty long distances.
18 BOARD MEMBER ROBERTI: Yeah, well you have to
19 go to Van Norman and I think you'll find that probably
20 wouldn't be the case.
21 And I mean I have not been to the Harbor
22 facility, but I know on Van Norman that can't be the
23 case.
24 And I submit, without making an editorial
25 comment one way or the another on an unrelated issue,

1 but in Los Angeles, which is a major city in the state,
2 the intensity of feeling that is going to be generated
3 the next couple of months over ancillary political
4 issues over jurisdiction are going to affect everything,
5 starting with, starting with compost collection and, you
6 know, who, where it's picked up and where it's
7 deposited.
8 And I wouldn't be so, and many of the questions
9 are going to revolve over things that have nothing to do
10 with odors and everything to do with politics and very,
11 very hard feelings.
12 And I don't want to make an editorial comment
13 one way or another, it's just a reality when you're
14 dealing with the political world. And we don't even
15 know who the LEA will be under these circumstances.
16 BOARD MEMBER PAPARIAN: But if there is a new
17 LEA we would have to certify them, right?
18 MS. NAUMAN: Yes, sir.
19 BOARD MEMBER PAPARIAN: What would happen, what
20 happens when a city breaks off, say, and you have a,
21 we've had this happen and --
22 MS. ANDERSON: Currently the City of L.A. is
23 their own local enforcement agency, so they're not
24 broken off.
25 BOARD MEMBER PAPARIAN: Okay. But if,

1 hypothetically, if a portion of L.A. were to break off
2 into a new city --
3 MS. ANDERSON: Correct. They would have to
4 have a solid waste facility within their jurisdiction
5 and be an LEA, and then they would have to go through
6 quite a process with us to go on probation for a year.
7 To become certified they have to meet certain
8 requirements.
9 BOARD MEMBER PAPARIAN: So the instant a new
10 city comes into existence, who is the LEA?
11 MS. ANDERSON: Right now for anything in the
12 unincorporated area for the County of L.A., the County
13 of L.A. is the LEA.
14 BOARD MEMBER PAPARIAN: Let's take, for
15 example, if a portion of the City of Los Angeles --
16 MS. ANDERSON: Becomes another city.
17 BOARD MEMBER PAPARIAN: -- were to become
18 another city?
19 MS. ANDERSON: It would be between that new
20 city. They could either designate the old city or some
21 other local enforcement agency down there if they so
22 choose. Or they could go through, but that still would
23 require the designation process to be approved by the
24 Board.
25 BOARD MEMBER PAPARIAN: Okay. But suppose --

1 MS. ANDERSON: What are you getting at? What
2 is the specific question?
3 BOARD MEMBER PAPARIAN: Okay. Suppose on
4 November 5th we had a brand new city.
5 MS. ANDERSON: Okay. And they wanted to be
6 their LEA?
7 BOARD MEMBER PAPARIAN: And they have, they're
8 a brand new city, they haven't made any decisions
9 because they're a new city, they haven't even had a city
10 council meeting or anything. So on November 6th, who is
11 the LEA in that jurisdiction?
12 MS. ANDERSON: Here's what happened for the
13 city of Elk Grove. When the city of Elk Grove broke off
14 and became its own city, the County of Sacramento
15 continued the services because they enter into, usually
16 a joint agreement that, whatever the former jurisdiction
17 was.
18 BOARD MEMBER ROBERTI: That was a friendly
19 break sort of.
20 MS. ANDERSON: Correct. They would actually
21 have to work very quickly and be very fast on their feet
22 to become certified if they so chose.
23 BOARD MEMBER ROBERTI: I submit that the break
24 of the City of L.A. if it occurs won't be quite as
25 friendly.

1 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton has
2 been patiently waiting.
3 BOARD MEMBER EATON: Perhaps it will be
4 reassuring that the final arbiter of any dispute would
5 be the two, the five, the six of us here because under
6 the scenario of either what you propose, Senator, or
7 what Mr. Paparian proposed, that if for any reason one
8 department in the City of L.A. that you represent was
9 cited by the LEA, then either it has a right of an AB 59
10 appeal, which eventually works its way through at the
11 local level for a conflict resolution; and therefore, if
12 that can't be resolved at the local level, it would come
13 to us to be the fair and reasonable minds that we are
14 today and will be in the future.
15 So really the comment in the resolution doesn't
16 need to be put in the regulations. There is a
17 resolution dispute, which is the AB 59 dispute, rarely
18 used because the pressure is so great that we might
19 actually come up with a different opinion than any of
20 them at the local level as such governs everything.
21 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
22 Eaton.
23 Mr. Meyers, were you finished?
24 MR. MEYERS: Yeah, actually if I could just
25 close up with --

1 BOARD CHAIR MOULTON-PATTERSON: Yeah, if you
2 could just summarize.
3 MR. MEYERS: The City of Los Angeles is
4 recommending right now that, in fact, the Integrated
5 Waste Management Board's compost regulations get in line
6 with the rule 1133 regulations in respect to holding
7 times, which is five days; and recommends an increase in
8 the contamination rate from 20.5 percent to seven
9 percent.
10 Understanding that there's many ways to get at
11 this, and we're looking forward to working with staff to
12 come to resolution for these on items.
13 Other than that, thank you very much.
14 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
15 Meyers. Mr. Lites followed by Jim Hemminger, Hemminger,
16 Hemminger. I'm going to get that down, Jim Hemminger, I
17 have a mental block here.
18 Mr. Lites, thank you.
19 MR. LITES: Jim Lites representing the
20 Weyerhauser Company.
21 We have a relatively narrow issue related to
22 the green material portion of the draft regulations.
23 Following the presentation of the regulations
24 last summer, there was a proposal that would have sought
25 to eliminate paper from the definition of green

1 material. And if that were not the case, that green
2 material operations be subjected to a full solid waste
3 permit.
4 We like the regs as they were proposed by the
5 staff. We feel that the, any reduction or elimination
6 of paper from green material would be inconsistent with
7 the science on that subject.
8 And would like to compliment the staff that, on
9 the work that they did following that proposal, and the
10 discussions that we had over many months. And again,
11 would encourage you to adopt the regulations on that
12 portion as presented.
13 Thank you.
14 BOARD CHAIR MOULTON-PATTERSON: Thank you.
15 Jim, followed by Sean Edgar.
16 MR. HEMMINGER: Thank you very much. Board
17 Chair, Board members. My name is Jim Hemminger
18 representing the Environmental Services JPA.
19 We did submit a detailed, some people say
20 excruciating detailed letter on these regulations, and
21 consistent with Julie's admonition I won't try to go
22 through that level of detail.
23 But I would like to summarize our concern is
24 that somewhat as the regulatory web of compostable
25 materials, I think somewhat inadvertently included a lot

1 of the small -- and folks have said small, I'd like to
2 say very small rural operations which don't present
3 significant environmental or public health concerns
4 within the definitional framework, because there's a lot
5 of yard waste clearing operations for fire prevention,
6 other things in the rural counties, typically because
7 folks used to burn those on their properties.
8 New burning restrictions, we don't want the
9 materials going into the landfill, we have set up a lot
10 of yard waste drop-off sites, and there have been a
11 whole bunch of what I call mom and pop businesses, folks
12 who plow snow during the winter and now are yard
13 clearing during the summer to meet fire requirements.
14 These aren't typically your grass and smelly
15 leaves that you get in the suburbs, mainly pine needles,
16 brush, and this type of thing. But inevitably leaves
17 are mixed in with the yard waste clearings, and these
18 materials fit the definition of compostable and, as
19 such, these storage sites, which have a hundred cubic
20 yards of material at any one time, do get caught in the
21 regulatory web, even though actually only a small
22 portion of those hundred cubic yards qualify as
23 compostable, the definition right now includes the full
24 range of green waste.
25 These are small volume sites, a few cars come

1 and go each day. Typically the material stays on site
2 for weeks, months actually till it accumulates to where
3 it's economical to chip it or move it off-site.
4 Because this material stays on site more than
5 48 hours or seven days, they then kick in to the
6 compostable material tier, and a lot of these
7 regulatory, these rural yard waste sites would need to
8 be part of the notification tier for compostable
9 materials.
10 We did have the opportunity to meet with staff
11 Friday afternoon. I really did appreciate that. Took
12 time off of vacation to come and have the meeting with
13 us. Staff seems to be sympathetic to our concerns.
14 We do realize there's a lot of big issues here,
15 our concerns are somewhat the tail on the dog, and we
16 probably fit under miscellaneous up on the key issues,
17 but did want to put this on the radar screen, bring it
18 to the Board's attention.
19 I am hopeful we can work out some kind of
20 exclusion, a numerical definitional change to address
21 this concern.
22 Staff did suggest it would be helpful if we
23 could get some direction from the Board for flexibility
24 in dealing with these rural sites, particularly with the
25 hundred cubic yard threshold in rural areas.

1 That's my comments, and any questions I'd be
2 pleased to answer.
3 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
4 BOARD MEMBER JONES: I'll do this real quick.
5 Our staff, either Bob or Jeff, isn't one of the
6 issues the temperature? Okay. They have a woody
7 material that is compostable, but you've also got an
8 issue with temperature that may end up relieving some of
9 their issues?
10 MR. HEMMINGER: No.
11 MR. WATSON: Yes, we believe so. It's very
12 difficult for this last material, major concern to reach
13 the 122 that would make it a compostable material.
14 There are cases where it would go, when it's exposed to
15 water, if you put it in a ravine or something like that
16 you'd have a better chance of having edges that would do
17 it. But we feel that that covers some of it.
18 There also may be other ways to view it because
19 there is an exclusion that we have four people handling
20 their stuff on their own site, and it currently looks
21 like it might take care of it.
22 So there's several ways, I think, for this
23 slash issue. A small chipper and grinder in the woods
24 is a much more difficult issue because we're worried
25 about urban green flowing into ag and forest land and

1 becoming a disposal option.

2 BOARD MEMBER JONES: Yeah, I've got, I mean if

3 the temperature takes care of the small ones, truthfully

4 Jim, I think that your mom and pops that are operating

5 some over that hundred yards needs to have a permit,

6 because that's consistent with everything else in the

7 state.

8 But because it's a woody material, and a lot of

9 yours would be excluded because they didn't hit the 122

10 degrees, I think that there's got to be a sense of

11 relief as I see it.

12 MR. HEMMINGER: If that were the interpretation

13 that would be excellent. The problem is definitional.

14 Compostable material isn't active compost. The

15 regulations define compostable materials as material

16 that, when accumulated, could become active compost.

17 And the hundred cubic yard exception is not for

18 active compost, nor is it even for compostable materials

19 which have the potential for being active compost.

20 The hundred cubic yard threshold which kicks us

21 into the regulatory framework includes non-compostable

22 yard waste materials, and that's what we hope to work

23 with staff on in cleaning up these definitions so we

24 aren't included.

25 The hundred cubic yard threshold for active

1 compost, I certainly would agree with you that that
2 would need to be under some sort of notification. But
3 the concern is for a hundred cubic yards of material
4 that isn't actively composting.
5 BOARD CHAIR MOULTON-PATTERSON: Thank you.
6 Board members, I want to make a quick decision here. I
7 had hoped to finish this before lunch but we have six or
8 seven more speakers.
9 What's your pleasure, to take our lunch break
10 now and then do our closed session and come back or --
11 because I don't think we're going to finish this before
12 lunch.
13 BOARD MEMBER ROBERTI: Let's go to lunch.
14 BOARD CHAIR MOULTON-PATTERSON: Is that okay
15 down here? Okay. The Board will -- sorry, Sean, you're
16 going to be coming back, the Board will reconvene at
17 1:45 in closed session, and then we'll take up the
18 public hearing in the afternoon after that.
19 Sorry. Thank you.
20 (Thereupon the luncheon recess was taken.)
21
22
23
24
25

1 AFTERNOON SESSION

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton, do

4 you have any ex-partes?

5 BOARD MEMBER EATON: Just meet and greets with

6 George Larson, Matt Cotton, and Sean Edgar.

7 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

8 Jones.

9 BOARD MEMBER JONES: I got a document from Matt

10 Cotton, that was it.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

12 BOARD MEMBER MEDINA: Mr. Cupps, it was a meet

13 and greet.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

15 Paparian?

16 BOARD MEMBER PAPARIAN: Yeah. Just brief

17 hellos to, let's see, Barry Takallou, Bruce Robeck, Don

18 Gamblin, Denise Delmatier, and John Cupps.

19 BOARD CHAIR MOULTON-PATTERSON: And Senator?

20 BOARD MEMBER ROBERTI: And no ex-partes for me.

21 BOARD CHAIR MOULTON-PATTERSON: I have none.

22 We're going to get started right now, and I

23 see we left off on our public speakers, number 11. And

24 I do see that Don Gamblin of NorCal is here, so we'll

25 start with you, Don.

1 MR. GAMBLIN: Good afternoon, I'm Don Gamblin
2 with NorCal Waste Systems in San Francisco.
3 I think most of the other folks are still
4 outside. Everybody is around. I'll be brief --
5 installed a trick microphone over lunch, I see.
6 I'll be brief because our comments are detailed
7 in our solid waste industry group letter that you would
8 have received yesterday.
9 A Importantly at this stage in the process we
10 want to be assured of having continued access to and
11 productive discussions with Board staff and other
12 stakeholders, as we believe most of the issues that we
13 raised in our comments can be resolved in a very short
14 period of time.
15 And I think you heard from Paul Ryan that he
16 thought by July it can come back to the P&E Committee,
17 we're hoping that is the case too to continue to move
18 this forward.
19 The regulatory package, with whatever
20 shortcomings it may have at this point, is important
21 because it's proactive and it provides an important
22 regulatory framework for those of us that manage waste,
23 utilize composting and chipping and grinding
24 techniques. And it also keeps the Waste Board front and
25 center in regulating such waste handling activities,

1 because it's clear that other agencies, including air
2 districts, the CDFA, and the USDA, will step in if the
3 Waste Board does not take the necessary actions.
4 We too are greatly affected by the proposed
5 regulations. In fact, we have several facilities that
6 would move from either a registration level permit or a
7 standardized permit up to a full permit. But we
8 recognize the need for these regulatory changes.
9 And in fact, recently you heard an item on our
10 Pacheco Pass Composting Facility to move to a full
11 permit in recognition or in anticipation of the new
12 regulatory requirements, and so we've done that one and
13 we're working on another one. So we are moving in that
14 direction. And I guess I'm proof positive that permits
15 can be obtained for these composting facilities
16 facilities that others tend to be fearful of.
17 And then finally, I believe the proposed
18 regulations with the changes suggested by the industry
19 group will go a long way toward eliminating the
20 potential for regulatory and permit game playing by
21 handlers of organic waste that's certainly present in
22 the existing regulatory package.
23 Thank you.
24 BOARD CHAIR MOULTON-PATTERSON: Thank you.
25 Next we have Sean Edgar.

1 MR. EDGAR: Good afternoon, Madam Chair and
2 Board members, Sean Edgar on behalf of the California
3 Refuse Removal Council, Northern District.
4 We have the full text of the comments that have
5 been submitted to Ms. Villa for your review.
6 The present regulatory package reflects an
7 evolutionary process and must move forward given the
8 multiple threats to the organics industry as reported to
9 this Board last month.
10 The following key issues have our full support:
11 The odor impact minimization plan requirement
12 is a giant leap in the right direction.
13 The slotting of chipping and grinding
14 facilities is an important element to carry forward as
15 we have supported efforts to do so since 1997.
16 The proper definition and handling of food
17 materials is of the utmost importance as well.
18 Consistent with our prior testimony, food materials as
19 defined in this package require the highest level of
20 oversight and control.
21 Mr. Gamblin spoke accurately to the SWIG letter
22 of which we are a signatory.
23 However, there are a few elements of the
24 current proposed regs that require some further
25 discussion.

1 We believe that the registration tier for
2 compost facilities should be maintained at 10,000 cubic
3 yards. The appropriate break point for agricultural
4 composting operations needs some work as well. In an
5 era of sudden oak death syndrome and proposed rule 1133
6 in the South Coast, our members do not support a flood
7 of organic material on loosely regulated agricultural
8 lands. On the contrary, the PR 1133 process demands an
9 expeditious but correct package go forward from this
10 Board.
11 In addition, as indicated in the SWIG letter,
12 the status of the currently unpermitted green waste that
13 is greater than point five percent contamination, the
14 transfer sites should be addressed in this package as
15 well.
16 We request that this Board enable stakeholders
17 to continue to work with staff expeditiously on this
18 issues during the additional comment period.
19 And thank you for your efforts.
20 BOARD CHAIR MOULTON-PATTERSON: Thank you.
21 Theresa Dodge, Sanitation District, L.A. County.
22 MS. DODGE: Good afternoon, Madam Chair and
23 Board members. My name is Theresa Dodge, I'm
24 representing the Los Angeles County Sanitation
25 Districts.

1 The sanitation districts are signatory to the
2 solid waste industry letter which you received
3 yesterday, and we fully support the issues delineated in
4 that letter.
5 Our agency has a particular interest in making
6 sure that the compostable materials regulatory
7 requirements are appropriate for operations at a
8 landfill.
9 For example, managing residuals at a landfill
10 for composting or green waste materials handling
11 facility on that site does not present the same
12 challenges or concerns as it would at a stand-alone
13 facility.
14 We look forward to working with Board staff to
15 address these issues and others.
16 Thank you.
17 BOARD CHAIR MOULTON-PATTERSON: Thank you.
18 George Larson, Waste Management.
19 MR. LARSON: Thank you, Madam Chair and
20 members.
21 We are also a signatory to the letter, so I
22 will not go into the details that are contained in that.
23 Process-wise I'd just like to ask if we could
24 have the opportunity as interested parties to meet with
25 Board staff as soon as practical in order to go over in

1 detail with staff and present more in-depth what the
2 points being raised by industry in order to get the regs
3 package in as good a shape as we can prior to going out
4 to the next 15 day comment period.
5 That's our comments.
6 BOARD CHAIR MOULTON-PATTERSON: I'm sure that
7 can be arranged.
8 MR. LARSON: Thank you.
9 BOARD CHAIR MOULTON-PATTERSON: Steve Moise,
10 Riverside County, LEA.
11 MR. MOISE: Good afternoon, Madam Chair and
12 members of the Board. Steve Moise with the Riverside
13 County LEA.
14 We are in support of your efforts to push
15 forward these regulations. We feel it's going to be a
16 benefit to us. We've had some experiences in the past
17 years with operations, and I think these regulations
18 will certainly go a long way in helping that.
19 I also thank and we appreciate all the work the
20 staff has done up till now.
21 We have two items that are points of
22 clarification that I don't believe have been addressed
23 in the EAC letter of last January, or at least today,
24 that had to do probably with just clarifying some
25 language.

1 The first one has to do with some excluded
2 activities occurring at permitted sites. I've already
3 discussed this with staff this morning and we're in
4 agreement that that needs to be looked into.
5 The second item goes to the existing standards
6 for composting operation. Some of this is existing
7 language already, but specifically to the point having
8 to do with fire prevention and control plan. It's not
9 very clear even in the existing regulations what agency
10 is actually responsible for approving that plan, or for
11 that matter enforcing it, other than our sponsors making
12 sure that it's in place.
13 So that's something we hope that staff and we
14 can have a chance to take a look at.
15 Thank you.
16 BOARD CHAIR MOULTON-PATTERSON: Thank you.
17 Terry Shores.
18 MR. SHORES: Good afternoon. My name is Terry
19 Shores, I'm a citizen living in Petaluma, California,
20 and I'd like to talk for just a couple of minutes about
21 some issues generally related to major composting
22 facilities and operations, and then a few issues
23 directly related to mushroom composting.
24 First of all, I appreciate your efforts to
25 divert compostable materials out of the solid waste

1 stream with AB 939.

2 I also appreciate your acknowledgment of the

3 potential public health and environmental risks that are

4 imposed by poor handling standards.

5 In most of rural California, like the area that

6 I live, your agency provides the only apolitical

7 regulation of agricultural composting since they're

8 generally exempt from air quality control regulations

9 and routinely protected by zoning and right to farm

10 ordinances. So I appreciate your status in this

11 regulatory oversight.

12 Over the last eighteen months my wife and I had

13 originally dedicated our lives to researching health and

14 odor and environmental impacts of large scale

15 composting. We studied scores of newspaper articles and

16 environmental impact reports and lawsuits from around

17 the state and around the country.

18 During the course of this study we have reached

19 two fundamental conclusions about industry trends.

20 First of all, that the negative health of and

21 environmental impacts of large scale composting are only

22 beginning to surface. This is, of course, not news to

23 you.

24 But composting science has been almost entirely

25 industry driven, with the exception of a few countries

1 like New Zealand, Canada, and the Netherlands, few
2 governmental agencies have challenged the scientific
3 assessments of the highly organized and firmly rooted
4 compost industry.
5 As a result, as a society we've let the
6 sleeping monster rest. But it's waking up, and I fear
7 that we're perhaps not prepared to deal with it.
8 Secondly, as public policy, increasing
9 population and industry profitability drives larger
10 scale operations, more conflicts with public health and
11 environmental protection are certain to arise as a
12 result.
13 We suggest that there are two areas in which
14 our efforts would better protect the people of
15 California in the form of the regulations: proper siting
16 is one, and unbiased current science.
17 I understand that buffer zoning is not where
18 you want to go, not even for new facilities. But if
19 you're going to be serious about protecting the public
20 perception about composting or about preventing problems
21 before they occur, buffer zones cannot be categorically
22 ignored.
23 Australia uses them.
24 Ontario has an odor impact assessment for
25 proposed composting facilities that must be at least

1 four hundred meters from the nearest receptor.

2 New Zealand gauges its buffer differences to

3 prevent odor which is offensive beyond the boundary of

4 the premises of the project.

5 Other countries and many states also have

6 buffer zones.

7 Even your own LEAs, when surveyed by Cal Poly,

8 offered the most written in comments on the issue of

9 proper siting when they said that generally, that they

10 generally regard proper siting as the best way to avoid

11 conflicts over odor in their jurisdictions.

12 Planners and local government officials should

13 be educated on the issue of odor coming from composting

14 facilities, and they encourage planning departments to

15 promote appropriate land use planning which keeps

16 composting facilities at adequate distances from

17 neighborhoods, businesses, sensitive receptors,

18 transportation routes, etcetera. Unfortunately, these

19 recommendations haven't filtered down to the people who

20 are making the decisions, but perhaps we can get some

21 help in that.

22 Doctors around the country have been calling

23 for buffer zones for years. We have probably thirty

24 different letters and opinions on the part of the

25 medical profession around the country; just a few of

1 them, Kevin McGrath, president of the New England
2 Society of Allergy, Vincent Rekovich of Stanford, Mark
3 Higgins of St. Anthony's Medical Center of San Francisco
4 all concur that large scale composting facility should
5 be located at least two miles from any residences, work
6 places, and especially from sensitive receptors.
7 Even the industry acknowledges that proper
8 siting of compost facilities is a key factor in odor
9 control.
10 And in an article in "Biocycle" in 1995, solid
11 waste engineers Michael Gigley and Jeffrey Pinnette said
12 that,
13 "Adequate buffers are needed to
14 allow the odors emitted to be
15 diluted below objectionable levels
16 before reaching on-site receptors.
17 Problems can occur if the facility
18 is in the wrong place, either
19 because it was sited improperly to
20 begin with, or that the development
21 around the site has encroached
22 around the buffer areas that were
23 expected to remain undeveloped."
24 I realize that siting is primarily a local
25 issue, but the lead agencies rely on your expertise and

1 your guidance. They don't know composting, and they
2 think if they blow it that your agency will be there to
3 set it right.
4 But this time I'd like to say a couple of words
5 about science. For years your staff, the LEAs, and lead
6 agencies throughout the state have relied almost
7 exclusively on two reports generated for your agency
8 regarding odors and health from composting operations;
9 the "Aspergillus Aspergillosis in Composting Operations"
10 report done in 1993; and "Biosolids in Green Waste in
11 California" done in 1999.
12 They're both surveys of very outdated articles
13 and studies. The Aspergillus report relies on
14 information gathered in 1964 to 1993. The bioaerosols
15 report draws its major conclusions from small studies
16 during the 1980s.
17 Since most of the studies were done by or for
18 the compost industry, they predictably conclude that
19 there are no serious health impacts from the release of
20 bioaerosols from composting operations.
21 They also conclude that the assessment covers
22 only healthy people and not sensitive receptors, and
23 that more conclusive study needs to be done.
24 And I realize you've contracted with Cal Poly
25 to conduct an updated report on this topic. I hope it

1 includes current studies utilizing the technologies
2 that's been developed over the past year.
3 It would also be nice if Cal Poly would conduct
4 some studies of its own for you independent of the
5 industry.
6 Furthermore, I hope that the two tools that
7 you're building into the revised regulations,
8 specifically the compostable materials handling permit
9 and the odor management plan have the flexibility and
10 the enforceability to incorporate the findings and
11 recommendations of the new Cal Poly study when it
12 finally does come out.
13 Because without this flexibility and without
14 the clout, both documents will be a waste of taxpayer
15 money and, more importantly, a breach of trust in your
16 agency's charge to protect the public interest.
17 That concludes my comments. Thank you very
18 much.
19 BOARD CHAIR MOULTON-PATTERSON: Thank you.
20 Mike Falasco, Wine Institute.
21 MR. FALASCO: Madam Chair and committee
22 members, I'm Mike Falasco with Wine Institute. We're a
23 public policy organization for about six hundred of
24 California's wineries, large and small. We produce
25 about 92 percent of all of the wine that's made here in

1 California.

2 Whereas my comments don't necessarily reflect

3 everybody in agriculture, I think it's a reasonable

4 assumption that you can make is that, in the following

5 items I've discussed the matter with the other major

6 farm groups and, you know, they're not here today so

7 that gives you some kind of idea of their concerns, and

8 that, and the fact what that we have to offer is, I

9 think would be consistent with very many of them.

10 First of all, let us say that we look at

11 ourselves in the agricultural community as the receivers

12 of a lot of the urban clean green that the cities and

13 counties need to create to comply with AB 939.

14 We want to use the urban clean green. Not

15 exclusively, there would be probably many farmers, other

16 agriculturalists who would just use the agricultural

17 feedstocks and make compost out of that. But many of my

18 members are using clean green right now and like it.

19 The -- and want to continue to use it.

20 We like, as a reference point, the current

21 regulations. As far as we're concerned there's, the

22 only flaw in them is that the definition of agricultural

23 materials does not include manure. It's manufactured by

24 agriculture like pumice is for wine grapes.

25 We think it's appropriate that the regulations

1 be changed to make sure that manure is considered an
2 agricultural commodity, or maybe that's not an exact
3 definition, but --
4 Now, we have some comments about the reg
5 package as it affects farmers, other agriculturalists
6 that want to use the clean green beyond just normal
7 products that they themselves produce, or by-products
8 that they get from their neighbors.
9 We've worked with staff, have come a long way
10 with educating them and being educated. The issues we
11 have fall under the umbrella of proposed requirements
12 that we think would be unnecessary burdens. So let me
13 rapidly go through them.
14 The testimony will be, has already been sent to
15 all of you, I have extra copies of it here, quickly
16 because time is running along.
17 Right now the draft regs require that feedstock
18 only be stockpiled for six months. In the case of,
19 again, we're only talking about the farmers who want to
20 use their urban clean green, we ask that it be twelve
21 months.
22 We make our own by-products in the fall, summer
23 and fall, we don't compost until the following spring
24 and summer.
25 Current regulations, proposed regulations

1 require quarterly inspections. We believe that in the
2 annual inspection, again for a farmer using clean green
3 who's not in the commercial business, should only be
4 required to have one annual inspection. However, if the
5 LEA says that more frequent inspections are required
6 because they're a bad operator, then that's a burden
7 that they would have to absorb because they have broken
8 the rules.
9 We also believe that the inspections could
10 become quite significant, particularly for small
11 farmers. And right now there's no cap on them. The
12 Board staff has indicated that the fees could be
13 anywhere from 2,000, $3,000 per inspection.
14 We think there should be a cap on the fees
15 based on how much feedstock you either bring in or how
16 much finished product you produce, capping the fee at
17 around a thousand dollars.
18 Moving onto the odor plants. As other people
19 have testified, there's some design requirements built
20 in there. And that could be fairly expensive. Again,
21 we're talking about people who are taking compost and
22 putting it on their own property.
23 And we believe that those farmers who bring in
24 the clean green should not have to have an odor plan
25 unless there's been a verified complaint by the LEA

1 saying that, you know, you're breaking the law. Once
2 that has happened, then there should be a odor plan
3 requirement for them.
4 We believe that the Board staff can come up
5 with a template treating a farmer who's using it for his
6 own purpose differently than a commercial composter.
7 We also support staff recommendation to remove
8 the twenty hours of training requirement for staff on
9 the compost sites. These are farmers that are farming
10 the rest of the day, they're not composters
11 professionally.
12 The last comment we have is that recordkeeping,
13 that you limit the recordkeeping to the amount of
14 feedstock that a farmer brings from off-site sources.
15 We think that the Board's -- in conclusion, we
16 think the Board staff has been very receptive to the
17 comments we made. These are outstanding issues that we
18 hope will be addressed in the next 15 day comment
19 period.
20 I'm here to answer any questions that any of
21 you may have.
22 BOARD CHAIR MOULTON-PATTERSON: Thank you very
23 much.
24 And the last public speaker does not want to
25 speak, it's Chuck Helget, and he just wanted us to know

1 for the record that their issues were summarized in the
2 letter that was sent, is that right? Mr. Helget?
3 MR. HELGET: (Nodded head.)
4 MS. MOULTON-PATTERSON: All right. Thank you.
5 COMMITTEE MEMBER PAPARIAN: That's great
6 testimony, Mr. Helget, thank you very much.
7 BOARD CHAIR MOULTON-PATTERSON: Thanks, Mr.
8 Paparian.
9 Okay, that closes our public hearing. Did any
10 Board members wish to have any final comments?
11 Without --.
12 BOARD MEMBER EATON: Would staff just like to
13 respond to a number of the issues raised, one by the
14 agricultural community, that speaker, and the other
15 issue raised about the 10,000 cap? I mean I'd like to
16 hear some response, whether you agree, disagree?
17 MR. WATSON: Specific questions, could you
18 help, which ones you want in order?
19 COMMITTEE MEMBER JONES: How about the 10,000
20 cubic yard?
21 MR. WATSON: We made several changes in that
22 area, so I'm not quite sure what --
23 COMMITTEE MEMBER JONES: Why did you go from
24 10,000 when, in an era when we're looking for regulatory
25 oversight we're actually going to decrease.

1 MR. WATSON: In fact, I did allude to that
2 earlier but I didn't go into it quite enough.
3 BOARD MEMBER EATON: Okay. We'll start there.
4 MR. WATSON: Okay. We have changed the break
5 point from the notification to the registration permit
6 for green material, but at the same time we changed that
7 break point we did two other things before I go to the
8 break point.
9 Because of the inclusion of chipping and
10 grinding, which it's very difficult to determine what's
11 a product, what's active, what's not. Because it could
12 be a product right when it comes in, we've now included
13 for sizing purposes on these facilities all materials on
14 site, so that's the first change.
15 So we are dealing not just with feedstock and
16 active compost, we're dealing with everything on site.
17 So that's one thing to keep in mind.
18 So we actually are including more in that
19 number. So if we were just to leave that number,
20 everybody would be being more regulated, so to speak.
21 In addition to that, when we went to EA
22 notification, now we require more information in EA
23 notification from the odor management plan and some
24 recordkeeping than we required before.
25 So we're actually regulating from a standpoint

1 of those things that we need to know in order to make
2 sure that a facility stays in compliance with other
3 minimum standards we get that information at a lower
4 level. So that's the first explanation.
5 We went from 10,000 cubic yards when you go
6 from a registration permit to a standardized permit. We
7 went from that to now up to 12,500 cubic yards of green
8 material. But that green material that we've gone up to
9 is actually cleaner material, it's now the point five
10 material, the point five contamination material.
11 So we're actually saying that you need cleaner
12 material to be less regulated, and you end up getting a
13 full solid waste facilities permit for those materials
14 that would not meet that criteria.
15 So in, the way I would really answer your
16 question, are we actually less regulating any facility
17 in California? No, this package, in my opinion, we get
18 more information, the only thing you've done is we've
19 given regulatory relief from monthly inspections that
20 are now in statute. We cannot relax that because it's a
21 statutory requirement if they're a full permit or if
22 they're actually even called a permit.
23 Is that helpful? There was a lot of changes
24 that were interlaced.
25 BOARD MEMBER EATON: Right. And I'm not sure

1 that that actually solves the problem that you're trying
2 to get at, because if you should increase the
3 categories, then that whole category would have to be
4 separated out for each of those to make up a number, and
5 that's sort of the point where I'm at.
6 MR. WATSON: I don't understand that.
7 BOARD MEMBER EATON: Well you're basing your
8 answer on the fact that you have not, you're combining
9 it into two tiers, but what, it's going to take some
10 time now because you combine these two tiers, you've
11 gone from a several tier situation to two.
12 MR. WATSON: Well, yeah.
13 BOARD MEMBER EATON: So I haven't made that
14 jump yet, so I don't necessarily agree that we should
15 only have two tiers.
16 MR. WATSON: I understand.
17 BOARD MEMBER EATON: So at that point if I
18 don't agree, then I haven't, then you haven't answered
19 my question as it relates to the 10,000, because at that
20 point I haven't combined all of it and mixed it into a
21 different type of cake. Okay.
22 But that is an issue that I think is going to
23 continue to surface as we go through in the next 15
24 days.
25 And I'm just interested in what Mr. Falasco's

1 comments were with regard manure, with regard to the
2 issue of storage.
3 MR. WATSON: We have considered looking at the
4 storage also. Twelve months is a long time for a
5 non-agricultural, certain types of non-agricultural
6 operations. And what we're worried about is, again, a
7 hole that was in the existing regs where we basically
8 didn't provide a whole lot of oversight for urban
9 derived materials going onto ag land.
10 BOARD MEMBER EATON: But would you agree that
11 they have a valid point --
12 MR. WATSON: Absolutely.
13 BOARD MEMBER EATON: -- in the sense that, and
14 that's what I'm trying to work on, in the sense that
15 their operations may gather the feedstock, you know, in
16 those months, but they don't really actually start using
17 it until later.
18 And we have had a precedent for that, as you
19 well know, with C&D debris, correct, where others have a
20 longer period of time because the work season or
21 whatever else is going on takes some time.
22 And I'm just, the agricultural practices issue
23 is one that I want, you know, at least to be responded
24 to. And I think that's what he was talking about is
25 that under normal operating agricultural practices.

1 So we're not looking at exceptions, we're not
2 looking at anything, that this feedstock, you know, for
3 one thing we're trying to encourage people to use it,
4 and on the other hand we have to sort of recognize what
5 their practices are. And that's what I'm trying to get
6 at is what is the reaction of our staff?
7 MR. WATSON: We are highly encouraged by the
8 willingness of agriculture to work with us on this
9 issue. They have offered us some language on how we
10 would cut some of those things out and still not allow
11 for a loophole for urban disposal on ag lands. So I
12 think that it looks good.
13 One of the things that they've offered is that
14 the stuff would not be stockpiled, it would be spread in
15 a certain manner and it would be processed in a certain
16 manner.
17 So if we can get over some of those
18 definitional things, I think we have a very amenable
19 compromise available to us.
20 So I would say we're very receptive to that
21 point.
22 BOARD CHAIR MOULTON-PATTERSON: Anyone else?
23 COMMITTEE MEMBER JONES: Yeah, just a couple
24 follow-ups, Madam Chair.
25 What about the inclusion of manure on the ag?

1 MR. WATSON: There were some reasons
2 definitionally that that was done.
3 If you remember from last time we were before
4 you guys we had a discussion of what was green waste,
5 and we had some discussions about green waste not
6 including manure because it wasn't really green, and
7 paper because it wasn't really green.
8 And so what we've done is we've removed those
9 from the green waste definition and we've said that
10 those feedstocks are consistent with the type of
11 materials received at a green waste, and are a viable
12 addition to the feedstock mix. And that was the way we
13 handled that.
14 The addition of manure into the ag commodities
15 would not be difficult, and we've considered it, it just
16 didn't happen prior because of manure's unique spot in
17 several other places in the regs. So there have been
18 several LEA jurisdictions who have already accepted that
19 manure is, in fact, in the definition.
20 So to make it explicit, I don't know if that
21 serves us right now or not. But, so that's where we're
22 at. The definition says things that come, basically
23 come from things that you do for ag, and I don't think
24 that anybody would disagree that, you know, manure
25 doesn't come out of ag.

1 BOARD MEMBER JONES: Let me ask you a question
2 though. If you're doing green material with manure as
3 part of the feedstock, then isn't time and temperature
4 recording important? One of the things they want to get
5 away from is recordkeeping.
6 MR. WATSON: Yeah.
7 BOARD MEMBER JONES: One of the things that I
8 think is very important is recordkeeping.
9 MR. WATSON: Yeah.
10 BOARD MEMBER JONES: Both for pathogen
11 reduction and -- with things coming down the road, and
12 I've talked to Mike about this a couple of days ago.
13 With things coming down that we have to deal with like
14 sudden oak death and Clopyralid and those types of
15 things, we've got to, I think, unless there's no basis,
16 and I'm not a scientist, that's why I'm asking the
17 question; if we include manures, and there will be some
18 waste papers I'm assuming too, don't we have to do
19 pathogen reduction and have temperatures and time?
20 MR. WATSON: It's a very difficult question on
21 several fronts.
22 There's a great deal of data being gathered
23 that would suggest that both plant and animal pathogens
24 are incredibly disrupted by composting, to the point
25 where composting could all be referred to almost as

1 antiseptic magic for certain types of feedstocks.
2 With the advent of concern that has not been up
3 to this point a concern by this Board of plant
4 pathogens. In other words, those pathogens that would
5 not be human sources of damages but would be damages to
6 crops and other things.
7 Now that we're looking in that area, the idea
8 of windrow management for, universally for compostable
9 materials does seem to be a more logical trend.
10 There are products that will still be viable
11 that won't need that type of treatment. Those products
12 may include manure.
13 So we're on the edge. I don't feel qualified
14 at this point with the data we've received to say that
15 all materials that include manure need to go through a
16 pathogen reduction, I couldn't say that yet. The trend
17 looks like that it's going that way, that there is a
18 heightened need, and if you do consider the requirements
19 of USDA and CDFA with respect to control and management
20 of sudden oak death, you'd have to --
21 BOARD MEMBER JONES: You have to do it.
22 MR. WATSON: -- you'd have your first shot. If
23 you were a farmer and you're going to accept materials
24 out of the Bay Area of every county basically but Contra
25 Costa County, you would have to provide records saying

1 that you manage it in a certain way.

2 BOARD MEMBER JONES: Right.

3 MR. WATSON: So that's a foregone --

4 BOARD MEMBER JONES: Right.

5 MR. WATSON: But to say that it would be

6 universal, that's something I'm not prepared to do yet.

7 BOARD MEMBER JONES: And that's something that

8 will be worked through in this first go-round, that

9 you'll at least be able to have some definition?

10 MR. WATSON: We will be able to fill one of the

11 holes there with the urban disposal, I think that will

12 be the, and I think we could if, for clarification, we

13 could add manure into ag commodity in the definition.

14 That will not exactly address what you've just said,

15 because there are ag exclusions currently that if, for

16 instance, a person took a certain amount of material on

17 site they, we wouldn't necessarily be requiring them, if

18 they only, if they sold or gave away, here's the hitch

19 right now. If they sold or gave away 2,500, then they

20 have to do the sampling. If they have to do the

21 sampling, that's talking about the pathogen reduction.

22 We do not require that for EA notification purely, so

23 there is a place where we would not be aligned with USDA

24 and CDFA. Is that --

25 COMMITTEE MEMBER JONES: And I'm not sure

1 that's going to work for me.

2 MR. WATSON: Yeah, okay.

3 BOARD MEMBER JONES: There's just too much at

4 stake.

5 MR. WATSON: Then that's a discussion that we

6 need to have specifically. And I would love to call a

7 meeting specific on that because that's some hitches.

8 BOARD MEMBER JONES: Mike knows, I mean I told

9 Mike there's just a lot at stake here.

10 MR. WATSON: Well, thank you.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you.

12 So Ms. Nauman, it's my understanding that

13 you're going to take all these comments and Board

14 comments into consideration?

15 MS. NAUMAN: We will take all of these

16 comments, yes.

17 BOARD CHAIR MOULTON-PATTERSON: I am, just

18 personally I am very, very concerned about the odor

19 issue. I think it's just a big, big issue and, you

20 know, many anxious to work with staff or hear from staff

21 about it.

22 MS. NAUMAN: We will be working diligently

23 over the next couple of month. I know there were a

24 couple of comments and requests that we will be back to

25 the P&E Committee in July.

1 At this point I think staff needs to assess the
2 comments that were received today. We have some work to
3 do. We obviously have some additional meetings we need
4 to have with the stakeholders.
5 So we will do our best, but I think at this
6 point we're probably looking closer to August rather
7 than July to get back before the committee.
8 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
9 you. That takes us to our special waste section of our
10 agenda.
11 We're on number twelve, but before we begin I'd
12 like to call on the chair of the Special Waste
13 Committee, Mr. Jones to report.
14 BOARD MEMBER JONES: Thanks, Madam Chair. We
15 met, we have 19 items between special waste and market
16 development. We are presenting at least five of 'em
17 for, under the committee consensus of fiscal issues for
18 short presentations.
19 We, I think we've taken care of, we've
20 dispensed with the interagency agreement with the CHP.
21 We've got some contract concepts and some grant
22 awards.
23 We did not, in this committee, try to put
24 recommendations forward on the reallocation of dollars
25 out of the tire fund because we felt that it was more

1 important to hear from all six Board members. So we
2 look forward to that.
3 Thanks.
4 BOARD CHAIR MOULTON-PATTERSON: Okay. We're on
5 number twelve.
6 MS. GILDART: Good afternoon, Martha Gildart
7 with the Special Waste Division.
8 Item twelve is a consideration of a scope of
9 work for the fifth tire management recycling conference.
10 And this scope of work item is coming to the Board
11 because the Market Development Special Waste Committee
12 had directed a revision to the scope.
13 Staff is not present at the moment so I'm going
14 to do my best to wing it here. The issue that had
15 been --
16 MS. MOULTON-PATTERSON: Would you like us to go
17 to another one or --
18 MS. GILDART: I think I can present it. If you
19 start asking hard questions then I may have to wait a
20 minute.
21 BOARD CHAIR MOULTON-PATTERSON: Okay.
22 MS. GILDART: The concept that had been brought
23 up by the committee was if there was some way we could
24 enhance outreach to local government participants and
25 have them come to these conferences. And one of the

1 things discussed was to help either with the conference
2 fee or with the per diem or travel.
3 Basically what we have here is a hundred
4 thousand dollar proposal as approved by the Board at the
5 five year plan to hold a conference. And we were
6 proposing a hundred dollar registration fee at that
7 level to cover the anticipated costs for a two and a
8 half day conference.
9 So the proposal is to try and either lower that
10 or somehow lower the costs to local government
11 participants.
12 We've brought back two possibilities. One is
13 to totally waive the hundred dollar registration fee for
14 the first fifty local government applicants. That would
15 come to about a $5,000 price tag, something to be added
16 to this scope of work and the funding.
17 The second alternative was to help with the per
18 diem, once again for the first fifty local government
19 participants, roughly $600 per person, it came to just
20 over $30,000. If we added to that the registration fee,
21 I think we were calculating about $37,000.
22 So we could do any of those augmentations to
23 the funding in the reallocation item number 17 and add
24 it here to the scope of work, but we would make that
25 effort to reach out to local government participants.

1 So if there are any questions, the staff are
2 here to answer it.
3 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina and
4 Mr. Jones.
5 BOARD MEMBER MEDINA: I had a question regards
6 to the $150 conference registration fee. What does that
7 cover?
8 MS. GILDART: It covers some of the room
9 rental, food service, for instance, if we want to
10 provide luncheons or breakfast meals. We will be trying
11 to pay speakers a certain amount of travel or certain
12 per diem. The registration fee goes largely to cover
13 the cost of food service and room rental.
14 BOARD MEMBER MEDINA: And so it was set at 150
15 so as to cover all of those costs? Could it be any
16 lower than that hundred and fifty?
17 MS. GILDART: It's one of these balancing
18 acts. With the money we have available we are paying
19 both the contractor for their services, but then also
20 paying a lot of the costs of preparing the agenda and
21 writing up and printing up the proceedings, paying for
22 some of the per diem and costs for the speakers, paying
23 for some of the room rental, sometimes transportation if
24 we're going to have facility tours and we want to have
25 buses available. So there's a whole host of costs that

1 the Board's money goes for.

2 And T.J. or admin might be able to help us

3 here. Under the state contracting restrictions we can't

4 buy food out of the state monies. So we usually charge

5 a registration fee that at least covers whatever food

6 service that we want to make available.

7 In two and three day long conferences it's

8 become pretty typical to have, you know, a sort of

9 breakfast buffet and luncheons with speakers. So quite

10 a bit of the registration fee covers that.

11 BOARD MEMBER MEDINA: So that was my followup

12 question, in regard to other similar conferences is the

13 registration fee in this ballpark?

14 MS. GILDART: We're hoping to set it around, I

15 think, a hundred dollars for this one. The last

16 conference we just held it was higher, partly because of

17 the location and partly because of our part, partly

18 because of partnering with a private entity that had its

19 own way of structuring the conference, and that budget

20 was also only limited at $60,000, so we had to make up

21 more of the difference through the registration fees.

22 So that's sort of our proposal this year. With

23 the hundred thousand dollars we thought we could bring

24 the registration fee around a hundred dollars.

25 Typically what you see is early signup might be

1 a hundred dollars per person, then if they come in late
2 it's a hundred and fifty, so you sort of balance between
3 those two.
4 And the proposal that was made at the market
5 committee was to try and zero that out for local
6 government participants, or find some other way to help
7 lower their cost of attending. So that was the second
8 alternative was to look at the per diem issues and
9 whether we could pay some travel or hotel bills there.
10 Once again, to try and bring more local
11 government people in so they can learn more about our
12 local government cleanup grant programs, our local
13 government enforcement programs, our amnesty days, those
14 sorts of programs that the Board has that are directed
15 at local governments.
16 BOARD MEMBER MEDINA: And I guess my concern
17 here would be that it would not be an impediment to
18 anyone that wished to attend the conference. And have
19 you done any sort of a survey in terms who attends the
20 conferences and who this might impose some sort of a
21 hardship or impediment to in terms of trying to come up
22 with a registration fee?
23 MS. GILDART: We haven't done a specific
24 survey. We do evaluations at the conference when it's
25 being held where people attending fill out a form and,

1 you know, rank the presentations, the facility, the
2 services, and the cost.
3 So sort of anecdotally from past conferences, I
4 know we do have a, usually have a large number of local
5 government attendees.
6 In past conferences before the one in March we
7 hadn't had too much concern expressed over our
8 registration fees, which have typically been in the
9 hundred, hundred and fifty dollar range.
10 This year we were higher, the conference in
11 March. Partly, as I said, because of the location,
12 partly because of partnering with the International Tire
13 and Rubber Association, and their concerns on how it was
14 structured, and the fact that we were somewhat limited
15 in our budget, our fee was higher than usual and our
16 attendance numbers had dropped.
17 So without doing a survey we sort of assumed
18 that drop in attendance came from both that price and
19 location. So we're hoping this year to have it a little
20 closer to a large metropolitan area and have a lower
21 registration fee.
22 So no, we haven't done a specific survey, but
23 we have done some research.
24 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.
25 Jones was next, and then Mr. Paparian.

1 BOARD MEMBER JONES: Thanks, Madam Chair. I
2 think you're on the right track. I think that this
3 reflects what the discussion of the committee was about
4 to try to figure this out.
5 If we were to offer a, Let's just say for the
6 sake of argument a five hundred dollar grant, local
7 government grant for attending, let's say you offer it
8 to the first 60 people, that's 30 grand, but you limit
9 it to one per jurisdiction --
10 MS. GILDART: We could do that.
11 BOARD MEMBER JONES: -- so we could spread it
12 out to more people.
13 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.
14 Paparian.
15 BOARD MEMBER PAPARIAN: Thank you, Madam
16 Chair. A couple of questions.
17 The, on page 4-5 talks about publishing and
18 distributing the conference proceedings.
19 It appears from the way this is worded that we
20 would be publishing on paper the proceedings? Cause
21 we're talking about getting fifty additional copies and
22 so forth.
23 My recommendation would be for this sort of
24 thing that we encourage Web publishing of the material
25 so we don't actually deal with paper. And I think, you

1 know, it may actually help our SABRC or maybe some of
2 your AB 75 requirements, we cut down on the amount of
3 paper we're putting out there.
4 MS. GILDART: Typically a hard copy is provided
5 to the registered attendees. We could maybe alter the
6 registration format so they could do a check-off box to
7 say whether they want such a hard copy or whether they
8 would download it themselves from the Web.
9 We can obviously put all the proceedings on the
10 Web, but there may be a desire on the part of the
11 attendees to have a copy on paper.
12 BOARD MEMBER PAPARIAN: Well just in general,
13 because I think we've got a number of conferences and
14 similar types of things coming up in various divisions,
15 I don't want to single this one out, but I think that we
16 should look towards the default, if you will, being
17 publishing materials on the Web site. And if somebody
18 really, really has to have a paper copy, they can print
19 it out perhaps themselves rather than --
20 MS. GILDART: When you say conference
21 materials, do you include the agenda and abstracts that
22 are given out in advance to let people know what they're
23 going to be hearing, as well as proceedings which are
24 usually done sort of after the fact or maybe, at the
25 earliest, at the meeting? Do you distinguish between

1 the different types?

2 BOARD MEMBER PAPARIAN: I think certainly in

3 some of the longer documents especially, like the

4 proceedings which tend to be fairly thick. And perhaps

5 we ought to consider doing that with the abstracts as

6 well.

7 It shouldn't be that difficult for the

8 participants to look at the abstracts on their computer

9 screen and not necessarily have to have physical copies

10 of them.

11 MS. GILDART: Usually there's a document that

12 the attendees can hold, you know, on their laps or on

13 the table or whatever during the conference, it helps

14 them know who's speaking, when, on what topic. I think

15 that might be difficult to do electronically if they're

16 needing that. So it seems to me that material at least

17 should be printed and available.

18 And that's partly, I was thinking that at the

19 site of registration we can have them sign up for either

20 hard copy proceedings or maybe electronic, and that way

21 we could cut down on some. I think it might be

22 difficult --

23 BOARD MEMBER PAPARIAN: Yeah, proceedings are

24 after the fact.

25 MS. GILDART: Correct.

1 BOARD MEMBER PAPARIAN: So that, it seems like
2 that, you could almost automatically do that on the Web
3 site. I don't even know that you need to give people a
4 choice. The choice could be they could print it out
5 from their screen or not.
6 But this actually, it actually brings up a
7 broader issue which we should perhaps get into as to
8 just overall what our protocol is for the various types
9 of conferences we're putting on, and the various, you
10 know, various divisions are all doing similar
11 conferences and perhaps we should have a protocol for
12 what type of stuff gets printed on paper and what type
13 of stuff doesn't. You know, I think we ought to show
14 the way for greening conferences, if you will.
15 BOARD CHAIR MOULTON-PATTERSON: Thank you.
16 BOARD MEMBER PAPARIAN: I had one other item.
17 BOARD CHAIR MOULTON-PATTERSON: Just to
18 comment, Mr. Paparian. Didn't the conversion technology
19 conference do that, I believe? One of the conferences I
20 was at --
21 MS. NAUMAN: The LEA conference was billed as a
22 paperless conference.
23 BOARD CHAIR MOULTON-PATTERSON: Yeah, the LEA
24 conference.
25 MS. NAUMAN: And we sent all the materials to

1 the LEAs electronically, and then they chose whether to
2 review them before they got there, print them out,
3 ignore them, whatever, but we didn't provide conference
4 binders.
5 BOARD MEMBER PAPARIAN: Did you have much
6 complaint about that?
7 MS. NAUMAN: I don't recall any complaints, I
8 recall a lot of compliments actually.
9 BOARD CHAIR MOULTON-PATTERSON: Do you have
10 another question, Mr. Paparian?
11 BOARD MEMBER PAPARIAN: Yes. And this gets
12 more generally to these sorts of events as well, because
13 we have in several areas events like this coming up in
14 the next year.
15 The cost, the subsidy per participant in this
16 one is about $350. The subsidy per participant in the
17 recycled products trade show is about a hundred dollars.
18 And I'm not, I'm not sure why there's a discrepancy
19 there, if it's inherent in the types of conferences they
20 are or the length of them or whatever, but I think we
21 ought to be aware that in this case, in this tire
22 conference we're actually paying $300 per participant to
23 show up. And maybe we ought to look across the board at
24 conferences to see what we can do to assure that we
25 handle these things as frugally as possible.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
2 Paparian.
3 And as I stated at the committee meeting, you
4 know, I certainly don't want to micro manage how you're
5 going to put on this conference. I would just like to
6 see local government get a break, either get in free or
7 whatever you can do and still stay within your budget,
8 because I do think it's very important that local
9 government get the information that we're giving at this
10 conference.
11 And so, however you do it is really not my
12 concern, I just want to make sure that local government
13 gets a break.
14 Anything else, Mr. Jones?
15 BOARD MEMBER JONES: Madam Chair, if, I think
16 the, I think local government would get a break if we
17 offered grants to local governments, to either cities or
18 counties, one per jurisdiction, in the sum of $500, that
19 would help in both transportation per diem and
20 registration. And it's not an excessive amount, and
21 it's similar to an LEA grant type thing.
22 Because what we're trying to do is get them in
23 here, as we all know on this committee, to hear about
24 rubberized asphalt, hear about the other opportunities.
25 And, you know, we've obviously got to make sure that our

1 agenda reflects that kind of activity at the conference.
2 If we were to offer that in the form of a
3 motion, which I'm prepared to do, it would mean, because
4 I would offer $130,000 towards this contract which means
5 that 30,000 would have to come out of the money yet to
6 be allocated at some point.
7 I mean we're going to do a reallocation of
8 dollars, this would be adding to that contract from a
9 hundred thousand to 130,000.
10 So I don't know, I throw that out before I make
11 the motion.
12 BOARD MEMBER PAPARIAN: I'd feel more
13 comfortable, I'm sympathetic with the 30,000, but I'd
14 feel more comfortable looking at the whole list of
15 options in item 17 and feeling comfortable that this is
16 one that is fundable given all our various priorities.
17 I think it is from what I know about the
18 funding that's now available and before us, but I'd like
19 to look at all of them together.
20 BOARD MEMBER JONES: All right, and that's fine
21 and that's why I threw it out. But this was a request
22 by all the members of the Special Waste Committee to
23 help local government --
24 MS. GILDART: Madam Chair.
25 BOARD MEMBER JONES: -- and what's going to

1 happen is if we add dollars to that --

2 BOARD MEMBER PAPARIAN: Yeah, again it would be

3 a very high priority for me to do this, but I'd like to

4 look at it in the context of everything that's

5 available.

6 BOARD CHAIR MOULTON-PATTERSON: Ms. Jordan.

7 MS. JORDAN: Yes, thank you. Terry Jordan for

8 the record.

9 I'd just like to add a little bit on this. We

10 did, Administration did meet with Martha and her staff

11 with regards to the committee's request.

12 We've looked at both the augmentation of the

13 contract in order to help defray some cost for the

14 participants, which is an easier resolution for this

15 year.

16 I don't disagree with you on the grants. It's

17 a little late in this year to be able to set it up

18 provided, you know, do the appropriate paperwork for the

19 grants.

20 What we had thought was is if we could do that

21 for another year that would be better. For this

22 particular case where we're looking at, you know,

23 putting these costs or these monies to bed before June

24 30th, and trying to put grants together, even though

25 they're small grants, it still takes criteria, etcetera;

1 that would make it a little difficult to try to get them
2 all wrapped up before the end of the fiscal year.
3 BOARD MEMBER JONES: So what do you want to do,
4 Terry?
5 MS. JORDAN: We would propose that we try to do
6 this within the contract, augment the contract to help
7 defray those costs, and then pursue and look at the
8 potential for grants.
9 Because if there's not criteria set up within
10 the grants, we still have to monitor and audit,
11 etcetera. And they have, the purpose of the grants
12 obviously are for them to come to the conference, and if
13 they don't follow through on that, then those monies
14 will revert back to us.
15 BOARD MEMBER JONES: So if we augment this by
16 30 grand or whatever, that would effectively lower the
17 rate, the fee at the --
18 MS. JORDAN: That's correct.
19 BOARD MEMBER JONES: And that's the preferred
20 way to do it?
21 MS. JORDAN: That's correct, for now.
22 BOARD MEMBER JONES: Okay. I'm easy. All
23 right, Madam Chair.
24 BOARD CHAIR MOULTON-PATTERSON: Yes.
25 BOARD MEMBER JONES: I want to move adoption of

1 Resolution 2002-211, consideration of the scope of work
2 for the fifth CIWMB tire management recycling conference
3 contract for one hundred grand, and then I want to come
4 back when we do the allocations and ask for another 30.
5 BOARD MEMBER MEDINA: Second.
6 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
7 a motion by Mr. Jones, seconded by Mr. Medina to approve
8 Resolution 2002-211.
9 Please call the roll.
10 BOARD SECRETARY VILLA: Eaton?
11 BOARD MEMBER EATON: Aye.
12 BOARD SECRETARY VILLA: Jones?
13 BOARD MEMBER JONES: Aye.
14 BOARD SECRETARY VILLA: Medina?
15 BOARD CHAIR MEDINA: Aye.
16 BOARD SECRETARY VILLA: Paparian?
17 BOARD MEMBER PAPARIAN: Aye.
18 BOARD SECRETARY VILLA: Roberti?
19 (Not present.)
20 BOARD SECRETARY VILLA: Moulton-Patterson?
21 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.
22 Items 13, 14, 15 were approved on consent.
23 That takes us to item 16.
24 MS. GILDART: Excuse me, I believe those were
25 what's on the committee consensus now, is that --

1 BOARD MEMBER JONES: Those are the -- oh, these
2 are abbreviated ones.
3 MS. GILDART: Yeah, abbreviated committee
4 consensus item.
5 BOARD CHAIR MOULTON-PATTERSON: Okay. An
6 abbreviated number 13, please.
7 MS. GILDART: Item 13 is consideration of
8 contractor for the fifth tire management recycling
9 conference.
10 And staff is proposing that CSUS, California
11 State University of Sacramento administer the
12 conference. They've done the last three conferences.
13 BOARD MEMBER JONES: Madam Chair.
14 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
15 BOARD MEMBER JONES: Sorry, I hate to
16 interrupt, but can I move adoption of Resolution
17 2002-212 naming the University of California, California
18 State University of Sacramento as the contractor.
19 BOARD MEMBER MEDINA: Second.
20 BOARD CHAIR MOULTON-PATTERSON: Okay. We have
21 a motion by Mr. Jones, seconded by Mr. Medina to approve
22 Resolution 2002-212.
23 Please call the roll.
24 BOARD SECRETARY VILLA: Eaton?
25 BOARD MEMBER EATON: Aye.

1 BOARD SECRETARY VILLA: Jones?
2 BOARD MEMBER JONES: Aye.
3 BOARD SECRETARY VILLA: Medina?
4 BOARD CHAIR MEDINA: Aye.
5 BOARD SECRETARY VILLA: Paparian?
6 BOARD MEMBER PAPARIAN: Aye.
7 BOARD SECRETARY VILLA: Roberti?
8 (Not present.)
9 BOARD SECRETARY VILLA: Moulton-Patterson?
10 BOARD CHAIR MOULTON-PATTERSON: Item Number
11 14.
12 MS. GILDART: Number 14 is consideration of the
13 contractor for the waste dire utilization and abatement
14 contract.
15 This is a contract that's funded under the five
16 year plan, $1.5 million from the current fiscal year,
17 and 1.5 million from the fiscal year 2002-2003.
18 The Board approved the scope of work last
19 December. It went out as a request for qualifications.
20 We received one qualified applicant, and staff is
21 recommending the Board approve Sukut Construction,
22 Incorporated as contractor for the waste tire
23 stabilization and abatement contract IWM-C0149.
24 BOARD MEMBER JONES: Madam Chair.
25 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

1 BOARD MEMBER JONES: I'd like to move adoption
2 of Resolution 2002-210, consideration of contractor for
3 the waste tire stabilization abatement contract with
4 recycling market management fund 2002-2003.
5 BOARD MEMBER MEDINA: Second.
6 BOARD CHAIR MOULTON-PATTERSON: We have a
7 motion by Mr. Jones, seconded by Mr. Medina.
8 We better call the roll on this.
9 BOARD SECRETARY VILLA: Eaton?
10 BOARD MEMBER EATON: Aye.
11 BOARD SECRETARY VILLA: Jones?
12 BOARD MEMBER JONES: Aye.
13 BOARD SECRETARY VILLA: Medina?
14 BOARD CHAIR MEDINA: Aye.
15 BOARD SECRETARY VILLA: Paparian?
16 BOARD MEMBER PAPARIAN: Aye.
17 BOARD SECRETARY VILLA: Roberti?
18 (Not present.)
19 BOARD SECRETARY VILLA: Moulton-Patterson?
20 BOARD CHAIR MOULTON-PATTERSON: Aye.
21 Okay. That brings us to item number 15.
22 MS. GILDART: Item 15 was also the committee
23 consensus. This is consideration of the grant awards
24 for the waste tire enforcement grant program for fiscal
25 year 2001-2002. This is the be second cycle for this

1 fiscal year.

2 In this instance we only received two grant

3 applications, which were both deemed eligible. The

4 total request is $86,000, I'm sorry, $86,002.

5 And staff is recommending approval.

6 BOARD MEMBER JONES: Madam Chair.

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

8 Jones.

9 BOARD MEMBER JONES: I'll move adoption of

10 Resolution 2002-221, consideration of grants awards for

11 the waste tire enforcement grant second cycle, for

12 $86,002.

13 BOARD CHAIR MOULTON-PATTERSON: Okay. We have

14 a motion by Mr. Jones, seconded by Mr. Medina.

15 Please substitute the previous roll call.

16 Seeing no objections, that leads us to --

17 BOARD MEMBER JONES: 16.

18 BOARD CHAIR MOULTON-PATTERSON: 16.

19 MS. GILDART: Item 16 is consideration of

20 approval of grant awards for the energy recovery from

21 tires grant.

22 This was one of the, if you remember that the

23 Board just approved the criteria at its meeting this

24 March, so this is a very short cycle grant program. And

25 we have just determined the passing qualified applicants

1 that ended last week.

2 Nate Gauff of the Special Waste Division will

3 be making this presentation.

4 MR. GAUFF: Good afternoon, Madam Chair and

5 Board members. I'm Nate Gauff with the Special Waste

6 Division.

7 And before I start I'd like to tell anybody

8 interested in this item that there are copies available

9 on the back table for the folks here in the audience.

10 The Board approved this, the criteria for this

11 item in March of 2002. The applications were sent out

12 to the interested parties in early April with a due date

13 of April 30th, postmark due date of April 30th.

14 Two applications were received requesting a

15 funding total of forty, $444,576.

16 A review panel was convened, and the

17 applications were scored. Both applications were

18 approved as with passing scores, but the staff did, the

19 panel did recommend reducing the funding to a total of

20 $411,640 for the two applicants.

21 Staff recommendation is to adopt Resolution

22 202 -- 2002-214 approving the awards to the two

23 applicants.

24 Oh, the other part of this is that since we

25 didn't receive sufficient applicants to dip into the

1 2002-2003 funding of a million dollars, we will be going
2 out with a second solicitation for this grant program
3 sometime after the budget is approved and we know we
4 have the money.
5 Are there any questions?
6 BOARD MEMBER PAPARIAN: Madam Chair.
7 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.
8 BOARD MEMBER PAPARIAN: Yeah. So the money
9 that we're talking about here, the 411,000 more or less
10 would, your proposal is that this come out of this
11 fiscal year's funding, right?
12 MR. GAUFF: Correct, there was 500,000
13 allocated in the five year plan for this item.
14 BOARD MEMBER PAPARIAN: Okay. So that would
15 leave an extra 88,360 for the reallocation if I
16 calculate it, is that about right?
17 MS. GILDART: Correct, and we'll be showing
18 that in the chart to display for that item.
19 BOARD MEMBER PAPARIAN: This, these grants are
20 for research. Can you just briefly describe the
21 research products we're expecting to get from each of
22 the two grants?
23 MR. GAUFF: Okay. The one applicant, Mt. Poso
24 Co-generation is proposing to put in a handling, a fuel
25 handling system which they are, they are prepared to

1 share all their findings on that system with the other
2 co-generation facilities that are not currently burning
3 tires if they would like to install such a system.
4 The other thing they're looking at at Mt. Poso
5 is there's some issues with the bead wire that's in most
6 of the tires, especially some of the truck tires as
7 being a problem in some of the handling systems, and
8 that's one of the specific issues they're going to look
9 at in their project is ways to handle the bead wire so
10 that it's not as much of a hindrance in these systems,
11 in the handling systems. That's more their specific
12 area of research that they're looking at.
13 The Cal Portland Cement project, what they're
14 looking to do is actually in a sense speed up the kiln
15 and increase the number of tires they're burning from
16 their current rate.
17 And the way they plan on doing that is looking
18 at injecting air into the kiln to effectively increase
19 the combustion rate of the tires.
20 And once again, that's a new, a whole new
21 aspect of burning tires in cement kilns that hasn't been
22 done to this point as far as I know. So that's their
23 research component, which once again they're willing to
24 share with the industry.
25 BOARD MEMBER PAPARIAN: I presume we will be

1 getting copies of this research as well?

2 MR. GAUFF: Yes, we will.

3 BOARD MEMBER PAPARIAN: And then we'll have it

4 available to share as well?

5 MR. GAUFF: Yes.

6 BOARD MEMBER PAPARIAN: Okay. The next round

7 with the, what happened at this round is that back in

8 March in El Centro we approved this going out, and I had

9 some comments about research and assuring that it was

10 consistent with the type of research that we were

11 looking for in the five year plan.

12 We had to kind of rush it out the door fairly

13 quickly, for understandable reasons. But now that we

14 have a little bit more time for the next round, I think

15 it would be worthwhile to take a look and see what we

16 can do to improve the NOFA and the scoring criteria to

17 assure that we're getting the type of research that

18 we're looking for; and we're getting the type of

19 reporting on that research; and, if necessary, the type

20 of peer review that we call for in the five year plan.

21 So I guess what I'm asking for is that before

22 we go out for the next million dollars, we have the item

23 come back to us so that we can, you know, take a look at

24 it a little more carefully to assure that we're getting

25 the type of research conducted and the type of research

1 results that we're looking for.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you.

3 Mr. Jones.

4 BOARD MEMBER JONES: Thanks, Madam Chair. I'll

5 move adoption of Resolution 2002-214 revised,

6 consideration of approval of the grant awards for the

7 energy recovery for the tire grant, 2002-2003, for a

8 total of $411,640.

9 BOARD MEMBER MEDINA: Second.

10 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion

11 by Mr. Jones, seconded by Mr. Medina to approve

12 Resolution 2002-214 revised.

13 Substitute the previous roll call without

14 objection.

15 Okay. Number 17.

16 BOARD MEMBER MEDINA: Madam Chair.

17 BOARD CHAIR MOULTON-PATTERSON: Oh, Mr.

18 Medina.

19 BOARD MEMBER MEDINA: Thank you, Madam Chair.

20 The Executive, Legal, Budget, and

21 Administration Committee met on Wednesday, May the 8th,

22 2002. In attendance were Board Member Paparian and

23 myself.

24 We discussed the scope of work for the grant

25 writing workshop, item 30, and the scope of work for the

education assessment project, item 32. And these two items have been placed on the consent agenda.

We also discussed the contractors for both the education assessment project, item 31, grant writing workshop, item 33. We also discussed item 17, consideration of concepts to be funded from the reallocation of unused fiscal year 2001-2002 waste tire management programs.

In addition to the items proposed for funding by staff, we received a request from the State Consumer Agency to fund a rubberized asphalt project for the east end project at the corner of 15th and Capitol Mall for the reallocation funds.

We also received a request from the City and County of San Francisco to fund a small project for the use of recycled tires and paving at a green building parking garage.

As item 17, 31, and 33 are fiscal items, we are bringing these items forward for consideration by the null Board.

And I want to thank Terry Jordan, Deputy Director for Administration, on doing a good job on putting all the material together.

And Martha Gildart will be making the presentation of the specifics of item 17.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
2 Medina.
3 BOARD MEMBER EATON: Before we begin, Madam
4 Chair, one of the points, procedural, that I'd like to
5 get kind of worked out here, because it is the first
6 time we're working through the committee project.
7 But that we in our committee did not
8 specifically take up the allocation item as a courtesy
9 to you as fellow Board members to have discussion of the
10 items that were there, we felt it was too important.
11 And we had before us most of the items, with the
12 exception of the last three items that you mentioned.
13 Out of your committee we had three items that
14 were added. I don't have any particulars on those at
15 all. There are no contract concepts that I can rely
16 upon to have any information.
17 I'm not going to the merits of those three,
18 whether or not they ought to be funded, but procedurally
19 I'd like some establishment, because as a committee
20 person who sat in Special Waste, I could have easily
21 added something into my committee that I wanted but did
22 not have the opportunity, but rather with the consensus
23 of each and every Board member within that committee
24 that our fellow Board members, you in particular and Mr.
25 Paparian and others, had the courtesy to basically look

1 at the allocation and that we would not make any
2 recommendation.
3 So I would like to have the courtesy extended
4 back to us with regard to how we go about putting items
5 on that we may want to have funded. And at least having
6 a write-up on them, I think that's only fair.
7 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
8 Eaton.
9 BOARD MEMBER MEDINA: I'd just like to respond
10 to Board member Eaton.
11 I think that's a point well taken, and also
12 that's also a result of the timing of the committee
13 meeting.
14 Our committee has now been rescheduled to meet
15 before the Board briefing, and we'll make certain that,
16 as time allows to get you information on these items as
17 to when we receive it.
18 Some of the information I received at the time
19 of our committee meeting which was after the Board
20 briefing.
21 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
22 you, Mr. Medina.
23 So we will be having a full discussion on that
24 at this time, is that correct?
25 BOARD MEMBER MEDINA: Yes.

1 BOARD CHAIR MOULTON-PATTERSON: I think
2 everybody's in agreement with that. And we also have
3 speakers.
4 Would, well maybe we better have the
5 presentation first.
6 Ms. Gildart, you are going to give the
7 presentation, is that correct?
8 MS. GILDART: Correct. Okay. So I guess we
9 should just jump into it.
10 This items deals with the funds remaining in
11 the Board's waste tire management program at the end of
12 this first bill under the new $1 fee from Senate Bill
13 876.
14 The State Budget Act last year gave the Board
15 an expenditure authority of $31,304,000 for the fiscal
16 year. Out of that, $21.7 million were allocated by the
17 Board to fund grants, loans, and contracts under the
18 consulting and professional services category to carry
19 out elements of the waste tire management program.
20 Table one, as revised in your items, lays out
21 the projects that were undertaken by staff this year,
22 and gives the amount allocated, the amount encumbered,
23 and the balance remaining.
24 If you will take a look at the revised table
25 one, the amount of money split out between the different

1 programs started out of the $21.7 million, there are
2 just a couple of things that I want to bring your
3 attention to.
4 Under the first page under the enforcement
5 totals there were two contracts the Board acted on and
6 approved, and those were the $600,000 awards to the
7 Department of Toxic Substances Control and to the
8 Regional Water Quality Control Board for their
9 participation at the Westley tire fire site cleanup.
10 That total of 1.2 million was outside and separate from
11 the original allocation in the five year plan. So that
12 has to be dealt with first off, and is taken out of the
13 balance available.
14 We have tried to update the list to show all
15 dollars available, including the change in the energy
16 grant program.
17 There's roughly ten percent available for
18 reallocation, about $2,117,884.
19 In addition, in response to some questions that
20 were raised at the Admin Committee last week, the
21 administration division has identified another $215,000
22 in the operating expenses and equipment category which
23 may be made available. T.J. may have to describe the
24 process by which those dollars could be used.
25 Staff has prepared an electronic table on the

1 screen in front of you and behind you that we can use to
2 go through the different proposed uses for the funds and
3 to keep sort of a running total of what's available.
4 In the Administration Committee meeting there
5 were three proposals added. Those, as I understand it,
6 were requests received just in the day or two before or
7 even at the committee. I can briefly describe them if
8 the Board is so interested.
9 There was one project from the San Francisco
10 Environment which I understand is a department of the
11 City and County of San Francisco for $25,000, and that
12 shows up at the very bottom of the screen there. They
13 want to use recycled tire products as paving material
14 for pedestrian walkways.
15 As I understand it, the Admin Division and some
16 of the Board staff are going to be working on developing
17 details for a scope of work that we would bring back in
18 June if the Board so directs us to undertake this
19 project.
20 We've also received a request from the
21 Department of General Services, and specifically the
22 State Consumer Services Agency to put in $250,000 split
23 between a rubberized asphalt project, interest mats, and
24 playground mats at the east end project.
25 And there is also a proposal from one of the

1 Board member offices to set aside $30,000 for a
2 California tire research center feasibility study to be
3 conducted by the Office of Environmental Health Hazard
4 Assessment.
5 The other items on this list were included in
6 the original write-up of the agenda item. They include
7 $318,000 for a new project with the California District
8 Attorney Association. That action has been put off
9 until June for a presentation of the scope of work.
10 There is an augmentation of the RMDZ loan
11 program at $318,750. That is to make whole loans that
12 were already approved by the Board that totaled over the
13 $2 million that had been allocated in the five year
14 plan.
15 There's a request for $994,409, once again to
16 fully fund all passing grant applications in the track
17 and other recreational surfaces grant program which was
18 also directed by the Board at its approval of that
19 grant.
20 There is a request for $250,000 to be added to
21 the product commercialization grant program to make
22 whole and be able to fund all passing applications.
23 There's a request for $75,660, and this is not
24 a tire funded program. This is to supplement the park
25 bond funded park playground and accessibility grant

1 program where we had more passing applicants than there
2 were monies for them. And it was the direction of the
3 Board to see if any of the applications had tire derived
4 products that could legitimately use tire dollars and
5 thereby fund all passing applications.
6 The green building program, which had
7 originally received $300,000 for grants and contracts,
8 would like to supplement their activities with $30,000
9 to test emissions from building materials such as tiles
10 and mats and carpet backing to see if there are any
11 concerns there.
12 And there is $25,000 allocated to the Admin
13 Division's proposed contract for grant writing
14 workshops.
15 I think that covers all of the fundings
16 requested.
17 Staff is here and we are happy to answer any
18 questions on specifics, or we can start taking
19 recommendations on funding those.
20 BOARD CHAIR MOULTON-PATTERSON: We'll have
21 Board comments, but keep in mind we do have public
22 speakers we want to hear before we start making
23 allocations.
24 With that, do you want to speak, Mr. Jones?
25 BOARD MEMBER JONES: I just want to ask a

1 couple of questions of staff. I mean I'll wait until
2 everybody is done pitching.
3 But do we have anything in writing on the San
4 Francisco Environment on this, on this research center
5 or on this east end project?
6 MS. GILDART: I was given at the committee
7 meeting a copy of a fax that was sent to the Market
8 Development Division for the San Francisco Environment
9 project. If that's not been distributed I can -- has
10 anyone, who has seen or not seen these?
11 BOARD CHAIR MOULTON-PATTERSON: I have not seen
12 it.
13 BOARD MEMBER EATON: I have not seen it.
14 BOARD CHAIR MOULTON-PATTERSON: I wasn't able
15 to be at the committee.
16 MS. GILDART: Okay. Then we have the letter
17 from -- gosh, who is it? The State Consumer Services
18 Agency directed to Linda Moulton-Patterson which was
19 also handed out at the Admin Committee for the east end
20 project.
21 And then I have a draft copy, it's for the
22 scope of work from, I believe it was Board member
23 Paparian's office, on the tire research center.
24 If necessary, while we have this discussion we
25 can have copies made and distributed.

1 BOARD MEMBER JONES: I'd appreciate it.
2 BOARD MEMBER PAPARIAN: I previously
3 distributed copies of the research center proposal, but
4 we have extra copies which Kit has that she can hand out
5 now. But we previously distributed that to all the
6 Board offices.
7 BOARD MEMBER JONES: Okay. That's the
8 proposal, the OEHHA thing?
9 BOARD MEMBER PAPARIAN: The OEHHA thing, yes.
10 BOARD MEMBER MEDINA: And again, as the chair
11 of this committee I saw these on the day of the
12 committee meeting, and in the future, you know, I do
13 want more time for these items. And again, just
14 changing the date of our meeting to go before the Board
15 briefing will also help.
16 BOARD CHAIR MOULTON-PATTERSON: Thank you.
17 BOARD MEMBER EATON: I want to be able to get
18 my pork in.
19 BOARD CHAIR MOULTON-PATTERSON: Okay. We'll go
20 to our public speakers at this time.
21 Our first one is Arnie Sowell. Also on the
22 speaker slip were Mike Meredith and Jim Ogden. I don't
23 know if you all want to speak or just one.
24 Come on up. And they're from the State and
25 Consumer Services Agency.

1 Welcome back to the Waste Board, Arnie.
2 MR. SOWELL: Board members, good afternoon, on
3 behalf of the --
4 BOARD CHAIR MOULTON-PATTERSON: I don't think
5 it's on.
6 MR. SOWELL: Board members, good afternoon. On
7 behalf of Secretary Eileen Adams I have come before you
8 with a request for some funding out at the east end
9 complex.
10 I find myself in a different position here as
11 I'm usually or had historically been up on the dais with
12 you and now find myself out here asking you for funding.
13 BOARD CHAIR MOULTON-PATTERSON: You can always
14 come back.
15 MR. SOWELL: Thank you.
16 Just briefly, just by the way of a little bit
17 of history. As you know, the Governor has issued a
18 couple of executive orders around the green building
19 concept, and there is a sustainable building task force
20 that has been meeting for probably a couple of years now
21 in relationship to that, not only that executive order
22 but previously at Mr. Eaton's actual sort of pivotal
23 role in all this in terms of the green building sort of
24 process.
25 The east end project was probably the first

1 project that the Board was very, very instrumental in
2 getting involved with in greening not only the RFP
3 documents early on in the process, but continuing to
4 play a vital role as far as what's called the green
5 team, a group of state agencies, primarily environmental
6 agencies, that have been involved with DTS in terms of
7 the tracking and monitoring of all the green activities
8 that have gone on over at the east end.
9 What I can tell you at this particular juncture
10 is that we're 30 percent better than Title 24. The air
11 quality in the building is supposed to be superb,
12 there's going to be a variety of indoor quality testing
13 that's going to go on. We've done a great job in the
14 area of water efficiency as well as the use of recycled
15 content materials.
16 With this particular project, one of the things
17 that did come up and did surface was the fact that there
18 were some additional opportunities that were not
19 necessarily contemplated in the initial RFP. Those
20 things have now -- excuse the pun -- now surfaced, and
21 we are, we have come before the Board with a request for
22 roughly about $250,000.
23 As Martha indicated, $220,000 of that is to
24 increase the amount of rubberized asphalt concrete that
25 we're using at the project. Initially there was

1 somewhere in the neighborhood of, I think, about 38,000
2 square feet of rubberized asphalt concrete that we
3 wanted to put in that was originally spec'd. We now
4 want to move that up to about 320,000 square feet of
5 rubberized asphalt concrete.
6 There is a playground there for a daycare
7 center. It was originally spec'd for mulch, we'd like
8 to use rubberized materials at that particular
9 playground.
10 As well as there are other opportunities for
11 matting surfaces that are made from tire derived
12 products. And we'd like to use those at that, at the
13 east end complex as well.
14 I have with me Mike Meredith who is the project
15 manager out there if you have any specific questions.
16 But at this time I'd respectfully ask your
17 consideration of our request for about $250,000 from the
18 tire reallocation fund.
19 BOARD CHAIR MOULTON-PATTERSON: Thank you. Any
20 questions?
21 COMMITTEE MEMBER EATON: I have a couple of
22 questions.
23 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.
24 BOARD MEMBER EATON: Since I was there, and one
25 of the things that I sort of picked up through the rumor

1 mill and what have you, my main question is we had
2 several grants that were put out, and we went all out to
3 state agencies, and we got no response from the
4 Department of General Services and, in fact, on all
5 kinds of green building.
6 Why haven't we in General Services gotten the
7 grants? Because it seems to be a repetitive process,
8 and you were here Mr. Sowell, and it's one thing that
9 stuck in your craw as well, so I know why you haven't
10 defended it, is that they come, they want to apply for
11 grants, they want to go through the grant process, and
12 yet whenever they, there's a reallocation they seem to
13 be there with their hand out, and I think, you know,
14 we need to figure out why, because you don't want to
15 come forward and seek grants from state agencies.
16 MR. SOWELL: Mr. Eaton, I think it's a point
17 very well taken, and it's something I've wrestled with
18 and grappled with since I've been over at the State
19 Consumer Services Agency.
20 Issues I've heard are issues around
21 communication in terms of not necessarily knowing that
22 some of the grants are out there, not necessarily having
23 the staff to apply for the grants or knowing how to
24 access them, those sorts of things like that.
25 I can tell you that we did miss an opportunity

1 here with the recent green building grants that the
2 Board had to offer. We missed some opportunities with
3 the Department of Water Resources. We've missed some
4 opportunities with the Energy Commission. And I,
5 frankly I can tell you I'm not happy about it. But it
6 is something that exists that we are, or actually I
7 should say I am attempting to try to rectify with the
8 Department of General Services.
9 I know that I can tell you this, one of the
10 things that they have done is we're in the process of
11 getting ready to hire internally what's called a
12 sustainability manager for the Department of General
13 Services. And this person will be responsible for
14 across the board sustainable issues. Those will be
15 issues of, I guess, on the pillars of sort of drive
16 green, buy green, save green, manage green, those --
17 build green, those particular issues.
18 And so I can only think that in the near future
19 that we would do a better job at accessing not only this
20 Board's grants but other state agency's grants.
21 BOARD MEMBER EATON: One other question. What
22 kind of credit do we at the Board get in terms of
23 signage for our money?
24 MR. SOWELL: I'll let Mr. Meredith talk
25 specifically about that, but I know that that is always

1 a requirement of things that the Board, projects that
2 the Board funds. And I can let him talk about some
3 displays that are not only within the east end project
4 itself, but specifically as it relates to the matting
5 and rubberized asphalt concrete.
6 MR. MEREDITH: Madam Chair and Board members,
7 good afternoon. Appreciate the opportunity to be here.
8 Let me first mention to Mr. Eaton, I'm
9 specifically assigned to the east end project, and I
10 think I've heard your message loud and clear and will be
11 glad to be the voice to carry that back through General
12 Services.
13 The east end project we believe is a, you know,
14 it's a demonstration project for green sustainable
15 buildings. We think it's probably the premiere high
16 performance building on the entire west coast. And it,
17 the sustainable design -- excuse me.
18 The east end project is a demonstration project
19 for green and sustainable design in operation on all
20 levels.
21 Arnie, do you have that handout?
22 MR. SOWELL: It's already up there.
23 MR. MEREDITH: We've provided a handout that
24 identifies, you know, some of the project features. I'm
25 here to discuss the specific opportunity, and that is to

1 increase the use of the rubberized asphalt concrete.
2 Currently we have designed into the project
3 about 38,000 square feet, and it's intended to be used
4 between, basically between 15th and 17th Street on
5 Capitol Avenue. And what we'd like to do or think we
6 have an opportunity to increase the use of this product
7 around the entire project, all five city blocks, all
8 five buildings.
9 I believe that we can have the product actually
10 designed and installed before you finish the move-in of
11 the tenants, which is probably in a nine to ten month
12 period.
13 I have under contract two design build teams
14 very capable of both the design and installation. And
15 we have an opportunity to avoid the capital outlay
16 process, and it's something that I'd go to work on
17 tomorrow.
18 The numbers that are presented are, were
19 developed in large part with the help of the rubberized
20 asphalt concrete technology center, and in particular
21 with the help of Theron Roshen.
22 That's kind of a general overview. If there's
23 any particular questions about the project I'd be more
24 than --
25 BOARD MEMBER EATON: Signage.

1 MR. MEREDITH: Signage.

2 BOARD MEMBER EATON: Yes, and one other

3 question. If we didn't give you the money, would you

4 still have enough money to pave the streets of the area

5 that you're talking about?

6 And what I'm really looking at is, do you have

7 enough money, and so this is just money in order to be

8 able to do the green building construction, or that you

9 don't have the money and you're looking for backfill and

10 this is a way to backfill the money that you don't have?

11 MR. MEREDITH: No, we're here specifically,

12 what we're asking for is outside the project scope.

13 What we have in the scope from the design build

14 teams is, as an example, if they were to replace a

15 concrete gutter or curb, and the existing street were to

16 be damaged, they're obligated under contract to repair

17 that, but not to resurface the entire surface.

18 The, to more directly answer your question, no,

19 you know, I don't have money to do this work unless the

20 Board would see fit to provide it for us.

21 BOARD MEMBER EATON: You misinterpreted my

22 question. And it's not the agency, but the department

23 has a history of being able to have cost overruns, and

24 they did it in this building as well. When they don't

25 have enough money then they look to backfill. And they

1 look to say, well, we need this component part, so
2 therefore what we'll do is we'll go out looking for
3 money. And what we'll do is we'll green. We'll look
4 for green money because the Waste Board has green money
5 available to 'em, and so therefore we will fund that
6 portion of the building with green building money,
7 freeing up money in the budget to do other things that
8 you haven't got money for.
9 And that's just what I want, because that right
10 there tells me that it's not becoming part of your
11 culture in your department, but rather just a bank by
12 which you come and do business with. And that's what we
13 don't like to have happen.
14 And thankfully you have a secretary over there
15 who makes it part of her culture, I'm just not sure it's
16 always gone down to department level. So that's why I
17 asked that specific question, and I also want the issue
18 of signage.
19 MR. MEREDITH: I hope I answer your question by
20 saying we're absolutely not going to use this money for
21 anything other than we're asking for. I'm not
22 backfilling, I'm not backfilling the project or paying
23 for other scope with it, Mr. Eaton.
24 BOARD MEMBER EATON: Signage?
25 MR. MEREDITH: Signage.

1 MR. SOWELL: Mr. Eaton, there's, there is ample
2 opportunity at the east end complex for all sorts of
3 displays. One of the things that we're actually going
4 to be meeting on tomorrow has to do with some of the
5 public art and those sorts of things like that, as well
6 as in some of the entranceways and those sorts of
7 things, where signage as well as other types of public
8 art and things like that are going to go.
9 I think the short answer is there absolutely
10 will be signage that acknowledges the funding on behalf
11 of the Integrated Waste Management Board as well as
12 there will be signage that specifically relates to
13 rubberized asphalt concrete, the playground, the tire
14 derived mats, those sorts of things like that.
15 But there will also be signage around the cool
16 roof, the raised floors, the recycled content tile, the
17 recycled content carpet, the energy, the light sensors,
18 and all those sorts of things like that.
19 So throughout the building in terms of green
20 building materials and products and technologies there
21 will be signage.
22 And just one of the things I would encourage
23 all the Board members to do if you haven't had a chance,
24 block 225 is the block, the first block that's going to
25 be occupied, probably later in the month of June. You

1 can go visit that block right now and take a tour and
2 see pretty much everything it is that we've done in
3 terms of green building. And everything I've enunciated
4 at this particular point in time is in that project.
5 BOARD MEMBER JONES: Madam Chair.
6 BOARD CHAIR MOULTON-PATTERSON: Thank you.
7 Mr. Jones.
8 BOARD MEMBER JONES: Just one other thing.
9 We've, in the grants that we do give and things like
10 that if the Board so decides to fund this thing,
11 California only crumb rubber. Capiche?
12 MR. SOWELL: I remember very well, Mr. Jones.
13 MS. GILDART: Madam Chair.
14 BOARD CHAIR MOULTON-PATTERSON: Yes.
15 MS. GILDART: If I could just ask Arnie a
16 question that I had asked him when he had made his
17 presentation to the Administration Committee but I have
18 not heard yet.
19 In 1998 this Board made a grant to the
20 Department of General Services of $198,000 for
21 rubberized asphalt to be used in one of their projects,
22 and in return we had also gotten a commitment from them
23 that specifically for four other projects they were
24 going to use rubberized asphalt, and the commitment to
25 use it wherever appropriate in the future.

1 I have not heard any followup and had asked
2 Arnie, he briefly mentioned to me today that he was
3 looking into it, but I just wanted to hear what we could
4 expect from the department on those issues.
5 MR. SOWELL: Martha is absolutely right. She
6 faxed me a letter regarding, the signatory on the letter
7 was Mike Kortney, the former RSDI Deputy Director. And
8 in that we specifically, the Department of General
9 Services specifically stated that there were additional
10 products where we were going to try to use rubberized
11 asphalt concrete.
12 I have since put out an all points bulletin on
13 what those particular projects were that were enumerated
14 in the letter.
15 One of them is the Richmond Lab. And I think
16 that because of some of the segmentation in the process,
17 some of these projects are still in the preliminary
18 planning phase and those sorts of things, and aren't
19 necessarily at the construction phase at this particular
20 point in time.
21 But all I can do is tell you that we are doing
22 further sort of investigation into some of the other
23 projects that are there. I don't have exact information
24 on these particular projects at this particular point in
25 time, but I can tell you, that was 1998, that for sure

1 if we indicated or if the department indicated that
2 they'd be using rubberized asphalt concrete in other
3 projects, we'll make sure that happens.
4 BOARD CHAIR MOULTON-PATTERSON: Okay. Any
5 other questions for Mr. Sowell?
6 Okay. Thank you. We have two more speakers.
7 Bruce Robeck, California Tire Recyclers.
8 BOARD MEMBER EATON: See Mr. Sowell, you can
9 never come home.
10 MR. ROBECK: Pardon the dark glasses, I left my
11 other ones in the car. Part of the reason I was out in
12 the car is we went out across the river into West
13 Sacramento and watched, among other things, a machine
14 neatly extracting steel from truck tires. Thought you'd
15 be interested in that in lieu of item 16.
16 I really want to make two brief comments. One
17 has to do with fiscal accountability of the grant
18 program, and particularly the commercialization grants.
19 And second has to do with program accountability.
20 Although I think those remarks probably generally apply
21 to other grants, they're specifically directed to that
22 item.
23 In terms of fiscal accountability, I'm
24 preparing some material that I got and, from the
25 Treasurer's office. I was a deputy controller for a

1 while, and one of the things we did was sit on funding
2 authorities. And those funding authorities had, among
3 other things in their loans and grant programs, an
4 escrow process. The escrow process did apply to both
5 the principals, the principal funds as well as the
6 matching funds. And in that process those escrow
7 accounts provided for the grant recipients to never
8 actually have direct control of the funds, but use the
9 escrow agent as the paying agent.
10 And when the purchase per the contract was
11 submitted as a request to the escrow agent, the escrow
12 agent would contact the funding agency and the funding
13 agency would consult with experts as to whether or not
14 that conformed with the technical aspects of the grant,
15 and then the vendor was paid directly.
16 That particular escrow system seems to me
17 introduces some very important fiscal accountability and
18 responsibility in the grant and loan programs.
19 The second area talks about program
20 accountability, and here the issue is on evaluation. I
21 see in the roughly ten percent or about $2 million that
22 there's nothing in these programs that specifically
23 speak to the issue of evaluation, what are you getting
24 for your dollars? Evaluation in terms of individual
25 products, did it produce what the grant was proposed?

1 And evaluation in terms of the overall system, are you
2 meeting the objectives of your five year plan,
3 etcetera?
4 And it seems to me that those two areas are
5 sorely in need of some attention and perhaps some of
6 these funds.
7 Thank you.
8 BOARD CHAIR MOULTON-PATTERSON: Thank you, very
9 much. We have Mark Korte followed by the last speaker
10 is Dr. Barry Takallou.
11 MR. KORTE: Good afternoon, Madam Chairperson
12 and Board members. I am Mark Korte with Tri-C Tire
13 Recycling. We are a tire collection firm as well as we
14 process down to rims.
15 I'm rising because I'd like to raise some
16 issues for the transfer of funds to the rest of the
17 product commercialization grants of $250,000.
18 A.G. Link and Golden State By-products are
19 interrelated, and because of that they do become a
20 competitor of mine. As a matter of fact, what really
21 got me going on this issue and the product
22 commercialization grant issues is that I had a salesman
23 down talking to a generator, a tire generator, about the
24 possibility of using our collection service.
25 And the owner of the company basically said,

1 well, you know, funny you should be here today,
2 yesterday Golden State By-products was here, they're our
3 current scrap tire collector, and they said because of
4 the half million dollars in grant monies becoming
5 available from the state, they could actually
6 potentially lower the fees for collection.
7 Apparently the grant monies are not going to
8 divert tires from landfills or illegal stockpiles,
9 they're going to push the market conditions one way or
10 another based on the additional funds.
11 Basically what it's doing is putting me in
12 direct competition with not only Golden State
13 By-products, which is fine, but I'm also in direct
14 competition with the State of California. And it's an
15 uncomfortable position for me. It's unfair competition
16 in my opinion.
17 The last comment that I want to make is that
18 according to what little I know about what this A.G.
19 Link is doing with the money, it's revulcanization. I
20 don't know if that's the same as devulcanization.
21 But devulcanization, if it is that, there was a
22 study done by the DOE a while back that basically says
23 that it's not commercially viable.
24 And it seems also to me that in the past I
25 remember a grant given in the past by this Board on

1 devulcanization, and I don't think the project was
2 successful.
3 That's my only comments.
4 BOARD CHAIR MOULTON-PATTERSON: Thank you very
5 much.
6 Dr. Barry Takallou.
7 MR. TAKALLOU: Thank you, Madam Chair and
8 members of the Board.
9 I would like to bring to your attention to the
10 reallocation of the funds to tire commercialization
11 program recommended by the staff under agenda item
12 number 17.
13 The Board approved funding of eight projects in
14 March 13, 2002 for a total of $1,929,389. The shortfall
15 to fund the A.G. Link project is $179,389. Staff
16 recommended to reallocate $250,000. This is $70,611
17 more money than needed to fully fund this project.
18 Furthermore, before additional funds are
19 transferred to this program, I want the Board to fully
20 understand the monumental issues associated with rubber
21 molded product manufacturing process.
22 Based on this program requirements, a minimum
23 of 250,000 waste tires must be recycled by each project
24 annually. This is equivalent to three million pounds of
25 crumb rubber. To mold three million pounds of crumb

1 rubber into rubber molded products you approximately
2 gonna consume about 120,000 pounds of binder.
3 The rubber molded products generally aren't
4 produced by mixing crumb rubber with binder under high
5 pressure at elevated temperature. In this type of
6 process PAH components, polycyclene aromatic
7 hydrocarbons such as pyrene and VOC components such as
8 benzene, Butadiene, and akroelin (sic), may be generated
9 and committed to the environment if air control devices
10 are not installed. These type of components are known
11 to be carcinogenic and can harm human health.
12 Also, these projects may be subject to public
13 notification requirements under prop 65, safe drinking
14 water and toxic act of 1986.
15 Specifically, some of these projects approved
16 for grant funding are located less than a block away
17 from elementary school and low income, heavily
18 residential areas.
19 I would like to recommend the Board to ensure
20 the tire commercialization grant recipient for their
21 proposed project to conduct CEQA process and proper
22 public notification notices provided to protect
23 California public health prior further reallocation of
24 funding for this program.
25 That concludes my comments. And thank you very

1 much for your attention.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you, Dr.

3 Takallou. Our court reporter has requested a ten minute

4 break, so we're going to take it right now.

5 (Thereupon there was a brief recess.)

6 BOARD CHAIR MOULTON-PATTERSON: Okay. Let's

7 go ahead and get started.

8 We'll start at the other end this time.

9 Senator Roberti, any ex-partes?

10 BOARD MEMBER ROBERTI: No.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

12 Medina?

13 BOARD MEMBER MEDINA: None to report.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

15 Paparian?

16 BOARD MEMBER PAPARIAN: None.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton?

18 BOARD MEMBER EATON: None.

19 BOARD CHAIR MOULTON-PATTERSON: And I have

20 none.

21 Okay. So we've heard our public comments, we

22 now want to go to allocation of the money.

23 And yes, Mr. Paparian.

24 BOARD MEMBER PAPARIAN: A couple things. First

25 of all, I thought we should clarify the one question

1 about the seventy some thousand dollars. I wonder if
2 Martha can just clarify?
3 MS. GILDART: The $70,000 for the
4 commercialization grant is in table one, funds
5 available. It went into the pot. If the Board chose
6 not to give the 250,000 to the last passing grant, that
7 $70,000 is in the pot, so we are not double counting.
8 The 70,000 that was not used in the
9 commercialization was put in the funds available for
10 table number one, and it's part the total $2,117,884.
11 And the 250 to give the full funding for that grant is
12 on the books.
13 BOARD MEMBER PAPARIAN: Okay. So just to be
14 absolutely clear then, this applicant has not received
15 any money at all, this would --
16 MS. GILDART: None whatsoever.
17 BOARD MEMBER PAPARIAN: This would be for the
18 entire grant?
19 MS. GILDART: If the Board does not approve
20 this allocation they would get none.
21 BOARD MEMBER PAPARIAN: Okay. And then in
22 terms of the funds that we have available, as I look at
23 the chart that the Admin Division provided us, it looks
24 like with the additional money available from the energy
25 grants as well as the operating savings, that there is

1 on the order of 2.3, over $2.3 million available for
2 reallocation.
3 MS. GILDART: If you look at the table on the
4 screen there is a line item at the very top that says
5 OE&E funds available. We were waiting for some Board
6 action to redirect those from OE&E to see if they're for
7 consideration today, and we can fill in that amount if
8 necessary.
9 BOARD MEMBER PAPARIAN: Right. And as I see
10 the information from admin, there could be $215,000 in
11 that item.
12 MS. GILDART: So I've been told.
13 BOARD MEMBER PAPARIAN: Right. So that would
14 again get us up over 2.3, 2.33 approximately.
15 BOARD MEMBER MEDINA: Just so it's clear on the
16 record, can you state what OE&E stands for?
17 MS. GILDART: Operating expenses and equipment.
18 It's part of what pays for furniture, rent, telephone,
19 cars, etcetera, etcetera.
20 BOARD MEMBER PAPARIAN: Okay. Then in terms,
21 one of the things that I think came up in the Admin
22 Committee is that the CDAA item is going to come back to
23 us potentially in June.
24 MS. GILDART: That was the direction.
25 BOARD MEMBER PAPARIAN: Okay. So action on

1 that item isn't necessary today. If you look at all the
2 rest of the items, in fact if you were able, if we
3 decided to fund all of the east end project related
4 items, it would almost appear as, well it doesn't appear
5 to me that we would have enough money left over to fund
6 CDAA next month if we chose to.
7 MS. GILDART: A partial funding, and then I
8 think there was some discussion that some of the funds
9 could be split funded over two fiscal years, a portion
10 with this reallocation item, and then another portion
11 for next fiscal year.
12 BOARD MEMBER PAPARIAN: Right, we discussed
13 that. And in fact, I think I brought that up as a way
14 to have more funds available in this fiscal year, but
15 it's actually appearing that we may not need these
16 additional funds in this fiscal year, but we can deal
17 with that next month.
18 I'd like to suggest that we go forward and fund
19 all the proposals that are there before us, again with
20 the exception of the CDAA which will come back in June.
21 BOARD MEMBER MEDINA: I would support that.
22 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina --
23 oh, you said you would support that?
24 Any other comments?
25 Mr. Jones.

1 BOARD MEMBER JONES: Madam Chair, just to, I
2 know there were some questions out of the Special Waste
3 Committee that Mr. Eaton had that before we ever look at
4 this reallocation on CDAA need to be answered.
5 BOARD MEMBER EATON: I'm going to be meeting
6 with them sometime, we're trying to coordinate schedules
7 over the next couple of weeks to get to the preliminary
8 questions, and then once I get those answered then I'll
9 be able to report back, hopefully at our committee
10 meeting as to their answers to the series of questions
11 that are separate and apart from the questions I asked
12 Mr. Leary.
13 BOARD MEMBER JONES: Okay. So there's --
14 BOARD MEMBER PAPARIAN: Let me --
15 BOARD MEMBER JONES: Just one second. So
16 there's a, there's a potential that at our next
17 committee meeting next month you may have some of those
18 answers and be able to give us a better idea?
19 BOARD MEMBER EATON: I may even mention that
20 they shouldn't be funded or funded, whatever.
21 BOARD MEMBER JONES: All right, whatever,
22 that's fine.
23 BOARD CHAIR MOULTON-PATTERSON: But the
24 California District Attorneys Association will be taken
25 up in June, is that correct?

1 BOARD MEMBER EATON: Yeah, right.
2 BOARD CHAIR MOULTON-PATTERSON: And we might be
3 discussing that at our committee meeting?
4 BOARD MEMBER EATON: At the committee meeting,
5 yeah.
6 BOARD CHAIR MOULTON-PATTERSON: Great.
7 BOARD MEMBER PAPARIAN: My point on that is we
8 wouldn't have, even if we funded everything here today
9 we would still have funds available to do that if we
10 chose to do so next month.
11 The one thing I forgot, Mr. Jones, my
12 short-term memory was failing me, you wanted $30,000.
13 BOARD MEMBER JONES: To the tire conference
14 augmentation for local government.
15 BOARD MEMBER PAPARIAN: Yeah.
16 BOARD CHAIR MOULTON-PATTERSON: And I --
17 BOARD MEMBER PAPARIAN: For purposes of helping
18 local government, so that should be added in here.
19 And again, even with that additional $30,000, I
20 believe that there's plenty of funding available for
21 what's here, and for what could be anticipated for CDAA
22 if we choose to go forward with that.
23 BOARD CHAIR MOULTON-PATTERSON: So did you make
24 a motion on that, Mr. Paparian?
25 BOARD MEMBER PAPARIAN: I will so move.

1 BOARD MEMBER MEDINA: Second.

2 BOARD CHAIR MOULTON-PATTERSON: Okay. So just

3 for clarity, we're approving everything on this list,

4 including the tire conference augmentation with the

5 exception of the California District Attorneys

6 Association which will come back to the Special Waste

7 Committee in June, is that correct?

8 BOARD MEMBER PAPARIAN: Correct. And including

9 the east end project items that are on here.

10 BOARD CHAIR MOULTON-PATTERSON: Right. Right.

11 Everything on here.

12 BOARD MEMBER JONES: Can I ask a question

13 before we take a vote, madam Chair?

14 BOARD CHAIR MOULTON-PATTERSON: And then we had

15 a second, and Mr. Jones had a question.

16 BOARD MEMBER JONES: Thank you. This is for

17 Arnie Sowell and his folks.

18 It's been proposed that the east end project be

19 funded. There were some issues when we did the DOJ with

20 getting paperwork.

21 Do we have, since we don't have a proposal

22 really in front of us that would have laid out certain

23 criteria for making sure that we got timely reports and

24 those kinds of things, is it your commitment that you're

25 going to work with our admin and our tire group when

1 they set up the timetable for reporting and those types
2 of things so that we get timely reports on this
3 material, I mean if you get funded?
4 MR. SOWELL: Absolutely, Mr. Jones.
5 BOARD MEMBER JONES: Okay. I just didn't want
6 to leave it unsaid, I don't think it's fair to staff or
7 the Board, and it wasn't, we didn't talk about it so we
8 needed to before we took that action.
9 MS. GILDART: I do have a process question and
10 maybe T.J. can answer. I believe we'd have to bring a
11 scope of work back to the Board in June to approve the
12 specifics, is that appropriate?
13 MS. JORDAN: That's correct. The scope of work
14 and award for the interagency agreement.
15 BOARD MEMBER EATON: On all these projects or
16 just one?
17 MS. GILDART: All of them, I believe.
18 MS. JORDAN: They can all be incorporated into
19 one agreement.
20 MS. GILDART: But the three -- okay, the three
21 for the east end project could be a single agreement
22 with DGS.
23 We'd also have to do an agreement with San
24 Francisco Environment and Office of Environmental Health
25 Hazard Assessment.

1 BOARD MEMBER JONES: Those are all scopes.
2 BOARD MEMBER EATON: Those are all scopes that
3 would have to come back.
4 MS. GILDART: If I understand the Board's will,
5 yes.
6 BOARD CHAIR MOULTON-PATTERSON: Okay. And I
7 just wanted to ask Mr. Sowell, we'll have a beautiful
8 sign giving us credit for our good work if this is
9 approved?
10 MR. SOWELL: Yes, I've taken notes on several
11 things that I need to make sure that our folks are clear
12 on.
13 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
14 you. We have --
15 BOARD MEMBER JONES: And using California
16 tires.
17 BOARD CHAIR MOULTON-PATTERSON: Right. Okay.
18 We have a motion by Mr. Paparian --
19 LEGAL COUNSEL CARTER: Marie Carter, Legal
20 Office.
21 I think we would like go to over with admin the
22 possibility of these being a direct sole source grant as
23 maybe rather than an interagency.
24 BOARD MEMBER EATON: I don't think I want to
25 get into sole source contracts.

1 MS. CARTER: Well, this would be a sole source
2 contract if it went interagency. I'm suggesting the
3 possibility of exploring whether a direct grant might be
4 even the more appropriate vehicle, and we haven't had an
5 opportunity to discuss this.
6 MS. JORDAN: That is true, that is absolutely
7 correct. Because typically a contractor you're getting
8 a product out of it, and this would be more appropriate
9 to a grant.
10 BOARD MEMBER EATON: For which?
11 MS. JORDAN: For all three.
12 BOARD MEMBER EATON: For all four of 'em.
13 MS. GILDART: I would say the San Francisco
14 Environment, the east end project, the Research Center
15 is a contract because we would be getting a product
16 back.
17 But whatever, we can bring this back in June as
18 a description of, you know, what will be done, the
19 details, the tasks, the budget. I'll have to have those
20 written up for the June agenda.
21 MS. JORDAN: And award.
22 MS. GILDART: And award obviously.
23 BOARD MEMBER EATON: So are we not getting
24 scopes?
25 MS. GILDART: You would get the scope.

1 MS. GILDART: No, it's the wording.
2 LEGAL COUNSEL CARTER: You'd get the scope.
3 MS. GILDART: It's just the semantics.
4 Normally in a grant program we come to you with a
5 description of what we want to put out as an offering.
6 In this case we've had the applicant, if you will, come
7 to us first.
8 So what we would put before you would be the
9 terms and conditions that would go then folded into a
10 grant agreement. It's very similar to a scope of work,
11 we just call it something different. But you would be
12 able to approve those terms and conditions, the budget,
13 the tasks, etcetera.
14 BOARD MEMBER EATON: With the exception that
15 they're, it's one instrument versus two, correct?
16 Because if you have the scope you approve the scope and
17 then you approve the contract?
18 MS. GILDART: Correct, it would be a single act
19 of the Board.
20 BOARD MEMBER EATON: Right. So it's not
21 exactly semantics, there's an instrumental issue because
22 you can award the contract and the scope of work, and
23 then if they meet the conditions of their contract they
24 may not actually have envisioned what we envisioned them
25 to do, but we have no recourse within the scope, the

1 course and scope of the work order.

2 But, I mean I just want to see 'em back again,

3 and so that's exactly what it is.

4 BOARD CHAIR MOULTON-PATTERSON: Okay.

5 COMMITTEE MEMBER JONES: Okay.

6 MS. GILDART: There's also the matter of the

7 304,000. I think we've finally caught up with the

8 Board's direction on our last column there, and showed

9 all the requested funds as being available, plus the

10 215,000 redirect from the OE&E to the C&P, and that

11 leaves an available balance of $304,065.

12 BOARD MEMBER PAPARIAN: Right. And that was,

13 that's right. And what I was describing in my motion

14 was that we are not at this point funding CDAA.

15 MS. GILDART: That's right.

16 BOARD MEMBER PAPARIAN: We have the option with

17 that 304,000 or some portion of that 304,000 to fund

18 CDAA next month if we chose to do so.

19 BOARD CHAIR MOULTON-PATTERSON: Yes,

20 understand.

21 BOARD MEMBER JONES: Yeah.

22 BOARD CHAIR MOULTON-PATTERSON: Okay.

23 MS. GILDART: There may be the need though for

24 the Board though, separately from the actual award when

25 we bring any of that, to also reallocate that 304 or is

1 that not necessary -- that is necessary?

2 MS. JORDAN: (Nodded head.)

3 MS. GILDART: I'm looking at T.J., sorry.

4 It would be necessary then for the Board. We

5 would do items as Mr. Eaton has requested with the

6 scopes of work slash grant agreement, but we'd also have

7 to item, have an item that specifically redirected the

8 $304,000 remaining in the tire fund to this specific

9 activity.

10 You know, the way the Board conducts its

11 business, like in the five year plan where you've

12 allocated the dollars to each activity, that $304,000 is

13 not earmarked for any activity, and CDAA has no such

14 funding earmarked, we just have to close the books, if

15 you will, on that.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: I think what Mr. Paparian

18 and Mr. Eaton both said, Mr. Eaton is going to try to

19 get his information by our May committee meeting. If we

20 he does, then Mr. Paparian's motion said --

21 BOARD CHAIR MOULTON-PATTERSON: June.

22 BOARD MEMBER JONES: If we get these things

23 maybe we can allocate --

24 BOARD CHAIR MOULTON-PATTERSON: June.

25 BOARD MEMBER JONES: What? Danny said he may

1 get some of it by May or -- oh, June, okay.

2 BOARD MEMBER EATON: No, at the June meeting

3 we're going to take up the item of the CDAA, that's the

4 issue.

5 BOARD MEMBER JONES: Okay. So --

6 BOARD MEMBER EATON: The issue I have with

7 grants is that when I went before the Senate Budget

8 Subcommittee, then Senator Kathy Wright, and you may

9 remember this, Ms. Jordan, that we were chastised when

10 we tried to do the loans or the grant programs to state

11 agencies because we didn't have statutory authority to

12 enter into a grant program.

13 My fear about doing these three or four as

14 grants is that it could be perceived as a grant program

15 without statutory authorization.

16 If you remember that, we went through that and

17 Ms. Wright had us go back through, we had the issue, no

18 interest loans was her way of doing it, and we had

19 statutory authority, and it was two or three budget

20 cycles ago.

21 So anytime anyone talks about grants that

22 aren't authorized under a statutory scheme, I have

23 difficulty given the fact we don't have statutory

24 authority for that grant program.

25 Is this a grant program? No, it's a

1 reallocation. So if you call it a grant, I know it's
2 semantics, but that's where we got into trouble with the
3 budget subcommittee in the Senate.
4 MS. JORDAN: Mr. Eaton, we are looking at the
5 appropriate mechanisms. We'll work with legal and the
6 tire program, bring it back to you in June, and it could
7 possibly be proposed as a sole source grant or a sole
8 source contractor interagency agreement.
9 But we'll make sure that we work together and
10 advise you and bring it back.
11 MS. GILDART: And specifically with the east
12 end project, we are authorized to do grants for things
13 like rubberized asphalt projects. Under the terms of a
14 contract, we the Board would end up using that, owning
15 that segment of the street or something. There's
16 differences between what a contract can accomplish and
17 what a grant can accomplish.
18 So, you know, I would certainly look to the
19 legal office. And we could look at the best definition
20 and come back to the Board with our, you know,
21 recommendation. But my understanding of the difference
22 between a grant and the contract boils down to who owns
23 the product made under that funding.
24 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
25 Gildart.

1 Mr. Eaton, are you satisfied that it will come
2 back in the form that you suggest?
3 BOARD MEMBER EATON: I think it's going to come
4 back, we'll have to see what they come up with.
5 BOARD CHAIR MOULTON-PATTERSON: Okay. Fine.
6 But we'll have an opportunity to look at it.
7 Okay. We have a motion by Mr. Paparian,
8 seconded by Mr. Medina. Is there anything that's not
9 clear from the, on the record?
10 Ms. Jordan.
11 MS. JORDAN: Did the motion include the
12 redirection of the $215,000 to the C&P budget?
13 BOARD MEMBER PAPARIAN: Yes.
14 MS. JORDAN: Okay. Thank you.
15 BOARD CHAIR MOULTON-PATTERSON: Okay. Please
16 call the roll.
17 BOARD MEMBER ROBERTI: Madam Chair.
18 BOARD CHAIR MOULTON-PATTERSON: Oh, question,
19 Senator.
20 BOARD MEMBER ROBERTI: I want to be perfectly
21 clear what we're voting on because I understand we're
22 coming back in June on the proper terminology of whether
23 this is a contract or a grant, but our vote right now is
24 the reallocation.
25 BOARD CHAIR MOULTON-PATTERSON: That's right.

1 BOARD MEMBER ROBERTI: And is that the
2 reallocation on the entire scope of the agenda item?
3 BOARD CHAIR MOULTON-PATTERSON: Everything.
4 It's my understanding everything except the California
5 District Attorney Association, is that correct?
6 BOARD MEMBER JONES: Yeah, G.
7 MS. GILDART: The last column, G, yes.
8 BOARD MEMBER ROBERTI: Now, on the California
9 District Attorney Association, will that come back to us
10 in June?
11 MS. GILDART: We're hoping to come back with a
12 scope of work. If the Board wants to fund it from this
13 year's fiscal dollars, we'll also have to have a
14 separate item showing a reallocation of that $304,000
15 that's remaining in some way, shape, or form, to a CDAA
16 item. So we will come back with two items for the
17 Board.
18 BOARD MEMBER ROBERTI: And we can vote on those
19 on the same day?
20 MS. GILDART: Correct.
21 BOARD MEMBER ROBERTI: And voting on those in,
22 at the June meeting will still be within our deadline?
23 MS. GILDART: T.J. is nodding, she's the one
24 that has --
25 BOARD MEMBER ROBERTI: Okay. She's got to say

1 it on the record.

2 BOARD CHAIR MOULTON-PATTERSON: Say it on the

3 record.

4 Okay, yes. Okay.

5 Thank you, Senator.

6 Please call the roll.

7 BOARD SECRETARY VILLA: Eaton?

8 BOARD MEMBER EATON: Aye.

9 BOARD SECRETARY VILLA: Jones?

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY VILLA: Medina?

12 BOARD CHAIR MEDINA: Aye.

13 BOARD SECRETARY VILLA: Paparian?

14 BOARD MEMBER PAPARIAN: Aye.

15 BOARD SECRETARY VILLA: Roberti?

16 BOARD CHAIR ROBERTI: Aye.

17 BOARD SECRETARY VILLA: Moulton-Patterson?

18 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

19 Thank you.

20 Which brings us to item number 20.

21 MS. WILLD-WAGNER: Shirley Willd-Wagner with

22 Special Waste Division. Good afternoon, Madam Chair and

23 Board members.

24 Item 20 is a committee consensus item.

25 Consideration of San Francisco State University as

1 contractor for phase two of the do-it-yourselfer oil
2 change research, fiscal year 2001-02, used oil program,
3 concept number 46.
4 This is the companion item to the scope of
5 work, item number 19, that was approved on our
6 committee's consent agenda.
7 And the Public Research Institute has performed
8 phase one of the study, and we feel that they are the
9 contractor of choice for implementing phase two. A
10 contractor profile was distributed to the Board members.
11 And if you have any question on the scope of
12 work I'll be happy to answer it, otherwise we recommend
13 2001-222.
14 BOARD MEMBER JONES: Madam Chair.
15 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
16 BOARD MEMBER JONES: I'll move adoption of
17 Resolution 2002-222, consideration of the San Francisco
18 State University as the contractor for phase two of the
19 do-it-yourselfer oil change research, fiscal year 01-02,
20 for the used oil program, concept number 46.
21 BOARD MEMBER MEDINA: Second.
22 BOARD CHAIR MOULTON-PATTERSON: Motion by Mr.
23 Jones, seconded by Mr. Medina.
24 BOARD MEMBER MEDINA: Mine says 223.
25 BOARD CHAIR MOULTON-PATTERSON: Mine is 222.

1 Yours might be a typo. This is item 20, right?

2 BOARD MEMBER JONES: Yes, please.

3 BOARD CHAIR MOULTON-PATTERSON: 222, is that

4 correct?

5 MS. WILLD-WAGNER: That's correct.

6 BOARD CHAIR MOULTON-PATTERSON: Okay. So we

7 have a motion by Mr. Jones, seconded by Mr. Medina to

8 approve Resolution 2002-222.

9 Please call the roll.

10 BOARD SECRETARY VILLA: Eaton?

11 BOARD MEMBER EATON: Aye.

12 BOARD SECRETARY VILLA: Jones?

13 BOARD MEMBER JONES: Aye.

14 BOARD SECRETARY VILLA: Medina?

15 BOARD CHAIR MEDINA: Aye.

16 BOARD SECRETARY VILLA: Paparian?

17 BOARD MEMBER PAPARIAN: Aye.

18 BOARD SECRETARY VILLA: Roberti?

19 BOARD CHAIR ROBERTI: Aye.

20 BOARD SECRETARY VILLA: Moulton-Patterson?

21 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

22 That brings us to Waste Prevention and Market

23 Development.

24 Did you have -- Chair?

25 BOARD MEMBER JONES: I included it.

1 BOARD CHAIR MOULTON-PATTERSON: You included
2 it in the last one, okay. It's been so long I had
3 forgotten that.
4 22 was on consent.
5 That brings us to 23 which was committee
6 consensus.
7 MS. WOHL: Patty Wohl, Waste Prevention and
8 Market Development Division.
9 Agenda item 23 is consideration of contractor
10 for the second assessment of California's compost and
11 mulch producing infrastructure contract. It's in the
12 amount of $49,910. The contract is being awarded to
13 Integrated Waste Management Consulting.
14 There was a three 0 vote for consensus by the
15 committee.
16 And staff recommends that the Board adopt
17 Resolution 2002-224 revised.
18 BOARD MEMBER JONES: Madam Chair.
19 BOARD CHAIR MOULTON-PATTERSON: Yes.
20 BOARD MEMBER JONES: Madam Chair, I'll move
21 adoption of Resolution 2002-224 revised, consideration
22 of contractor for the second assessment of the
23 California compost and mulch producing infrastructure
24 contract, fiscal 01-02, concept number 21 in the amount
25 of $49,910.

1 BOARD MEMBER MEDINA: Second.
2 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion
3 by Mr. Jones, seconded by Mr. Medina to approve
4 Resolution 2002-224 revised.
5 Please substitute the previous roll call if
6 there's no objections.
7 BOARD MEMBER EATON: Madam Chair, can I just
8 ask, when are we supposed to get the assessment? Do we
9 have end dates when work products are supposed to come
10 back?
11 MS. WOHL: Yes, I believe we do.
12 BOARD MEMBER EATON: I don't see it. Let's
13 move on to the next one, if you can just get it to me?
14 MS. WOHL: Okay.
15 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
16 you. Then while you're looking for that we'll go on to
17 26.
18 MS. WOHL: Agenda item 26 is consideration of
19 Shasta College as contractor for sustainable building
20 and adult learning contract. And this item is for
21 $15,000 to Shasta College. And this is to assist us
22 with several things within the market's development
23 staff, including the preferable purchasing and the
24 collaborative with high performance schools.
25 And staff recommends that the Board adopt

1 Resolution 2002-230.

2 BOARD CHAIR MOULTON-PATTERSON: This was also

3 one that had the committee unanimous support?

4 MS. WOHL: Yes, they had a three zero vote.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

6 Jones.

7 BOARD MEMBER JONES: Madam Chair, I'll move

8 adoption of 2002-230, consideration of Shasta College as

9 the contractor for sustainable building and adult

10 learning contract, fiscal 2001-02, contract concept

11 number 78.

12 BOARD MEMBER MEDINA: Second.

13 BOARD CHAIR MOULTON-PATTERSON: Okay. We have

14 a motion by Mr. Jones, seconded by Mr. Medina, to

15 approve Resolution 2002-230.

16 Without objection, please substitute the

17 previous roll call.

18 Number 27.

19 MS. WOHL: And then agenda item 27 is

20 consideration of contractor for the sustainable building

21 technical assistance service contract. And this was not

22 presented at the committee so this is the first

23 presentation.

24 And Francisco Gutierrez will present.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 MR. GUTIERREZ: Good afternoon, Madam Chair
2 and Board members. Can you hear me now?
3 BOARD CHAIR MOULTON-PATTERSON: Yes, that's
4 fine. Thank you.
5 MR. GUTIERREZ: Good afternoon, Chair and Board
6 members.
7 The purpose of the sustainable building
8 technical assistance service contract is to provide the
9 Board a team of on-call experts for the sustainable
10 building program.
11 In January Board meeting the Board approved the
12 SOQ, the scope of work for this contract. Consequently
13 the request for qualification was released on February
14 the 1st, 2002.
15 Five teams submitted the standard of
16 qualification, and one team submitted a letter of
17 interest for future contracts.
18 As for the selection process, all the SOQ's
19 were scored based on the SOW approved by the Board in
20 the January meeting.
21 Team that scores 75 percent or higher was
22 scheduled for interview and given, and gave a 30 minute
23 presentation on projects that they have worked on which
24 address whole building design, mature selection, and
25 life cycle costs.

1 Before the negotiation process started, the
2 first ranked team submitted a detailed fee proposal and
3 a cost estimate based on a hypothetical assignment.
4 Since you have all received a profile for the
5 selected team, which is BNIM.
6 If you have any question, I'll be glad to
7 answer them now.
8 BOARD MEMBER JONES: I've got one question,
9 Madam Chair.
10 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
11 Jones.
12 BOARD MEMBER JONES: I have no problem with the
13 lead contractor or the co-lead contractor. Do you have
14 the opportunity as Board staff to suggest the use of
15 other subcontractors that would have more expertise in
16 certain areas?
17 MS. WOHL: Patty Wohl, Waste Prevention Market
18 Development Division.
19 Yes, the contract is set up specifically to do
20 that if we need it. A different expertise or different
21 individual, we do it by work order, by assignment, so we
22 have that flexibility.
23 BOARD MEMBER JONES: Okay. Cause I understand
24 that everybody can submit a team, but there is, there
25 are always some opportunities there for us. As long as

1 we're not locked into using just these subordinate
2 members, then I can go along with it.
3 MS. WOHL: Yes, definitely.
4 BOARD CHAIR MOULTON-PATTERSON: Any other
5 questions from the Board?
6 BOARD MEMBER JONES: Madam Chair.
7 BOARD CHAIR MOULTON-PATTERSON: Do I have a
8 motion, Mr. Jones?
9 BOARD MEMBER JONES: I'll move adoption of
10 Resolution 2002-225, consideration of contracts for the
11 sustainable building technical assistance service
12 contract, concept number 25, fiscal year 2001-2002, to
13 B, I guess it's BNIM Elements and Sustainable Design and
14 that team, for up to $150,000.
15 BOARD MEMBER MEDINA: Second.
16 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion
17 by Mr. Jones, seconded by Mr. Medina.
18 Without objection please substitute the
19 following roll call.
20 BOARD MEMBER PAPARIAN: Previous roll call.
21 BOARD CHAIR MOULTON-PATTERSON: Previous roll
22 call -- it's getting late.
23 Okay, I hear no objections.
24 MS. WOHL: Madam Chair, before I move onto the
25 next item, can I answer Mr. Eaton's question?

1 BOARD CHAIR MOULTON-PATTERSON: Of course.
2 MS. WOHL: The date, Mr. Eaton, for agenda item
3 23 is June, 2003.
4 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
5 Wohl.
6 Now we'll go on to item number 28, our last
7 item of the day.
8 MS. WOHL: Agenda item 28 is consideration of
9 amendments to recommendations concerning the plastic
10 trash bag law as contained in a report to the
11 legislature on the plastic trash bag survey, and
12 approved by the Board at its September, 2001 meeting.
13 I'd like to introduce three staff members, Bill
14 Orr, Marie McLean and John Nuffer.
15 BOARD CHAIR MOULTON-PATTERSON: Good afternoon.
16 MR. ORR: Good afternoon, Madam Chair and Board
17 members. My name is Bill Orr, manager of the recycling
18 technologies branch.
19 This item presents for your consideration the
20 results of staff followup since the adoption of the
21 plastic trash bag survey report last September.
22 The presentation has been organized into three
23 sections. The first section contains a brief overview
24 of how the trash bag law works, and the chronology of
25 events leading to this meeting.

1 The second section contains information about
2 the method we used to prepare these amendments.
3 And the third section includes options for your
4 consideration as well as our recommendation.
5 I'll be presenting the first section. Marie
6 McLean who coordinated and conducted the research on
7 which we based our recommendation will be presenting the
8 second. And John Nuffer, the supervisor of the plastics
9 recycling technology section, will present the options
10 in our recommendation. I expect that the presentation
11 will last less than eight minutes.
12 BOARD MEMBER PAPARIAN: Madam Chair, just to
13 clarify.
14 BOARD CHAIR MOULTON-PATTERSON: Yes.
15 BOARD MEMBER PAPARIAN: This was heard before
16 the subcommittee, right?
17 BOARD CHAIR MOULTON-PATTERSON: Yes.
18 BOARD MEMBER PAPARIAN: The committee, excuse
19 me.
20 BOARD CHAIR MOULTON-PATTERSON: Uh-huh.
21 BOARD MEMBER PAPARIAN: And was there a
22 recommendation of the committee?
23 BOARD CHAIR MOULTON-PATTERSON: No, there was
24 not, was there, Mr. Jones?
25 BOARD MEMBER PAPARIAN: I'm not, I'm not sure

1 we need the whole presentation. I think we've got some
2 of the background, I think the committee's heard and
3 discussed some of the details as I understand it.
4 BOARD CHAIR MOULTON-PATTERSON: Yes, we have.
5 MR. ORR: Okay. Well, we can jump to either
6 the options or we can go through the methodology,
7 whatever the Board's pleasure is.
8 Do you want us to start with the options?
9 BOARD CHAIR MOULTON-PATTERSON: Yes, please.
10 MR. ORR: Okay, it sounds like, John, you're
11 up.
12 MR. NUFFER: John Nuffer with the plastics
13 technology recycling section.
14 We explored seven options, and I'll briefly
15 discuss each of those options, and then I'll talk about
16 what we recommended and why.
17 Option one was to increase recycled content in
18 trash bags beyond the current ten percent requirement.
19 And we saw some problems with that option.
20 First being the film plastic isn't being collected
21 generally to any great extent. Only one percent of the
22 processors statewide are collecting film plastic, the
23 residential film plastic, and only 15 percent of the
24 processors are collecting commercial film plastic. And
25 only about three percent of all film plastic is being

1 recycled statewide. And much that tends to go overseas.
2 And also there tends to be more demand than
3 supply for that plastic because of the competition from
4 plastic lumber manufacturers.
5 And, in fact, in recognition of this, the
6 legislature reduced the minimum content from 30 percent
7 down to ten percent on January 1 of 1998.
8 Option two would eliminate the exemption the
9 companies get, the companies can claim if they can't
10 obtain enough of the right post consumer material at the
11 right price. And manufacturers generally need a
12 long-term reliable supply of consistent quality material
13 at a relatively stable price.
14 Option three would be to provide additional
15 compliance options such as giving credit for source
16 reduction or making bags thinner, but they tend to do
17 that anyway to reduce their raw material costs.
18 We're giving them credit for making
19 biodegradeable bags.
20 Option four would leave the law alone, but
21 wouldn't address some of the issues with the current
22 situation. We would still need to address the confusion
23 between the definitions and the regulations of recycled
24 post consumer material and actual post consumer
25 material.

1 There's confusion between the definitions of
2 post consumer and post industrial. Some companies tend
3 to use post industrial when we're looking for the term
4 post consumer.
5 We also need to work, we would also need to
6 work to change the law so that exempt manufacturers that
7 couldn't use enough, couldn't meet the ten percent
8 requirement couldn't any longer sell to the state.
9 In the past there have been companies that were
10 exempt because they couldn't find enough material and
11 didn't meet the ten percent requirement but were selling
12 to the state.
13 Also, it would leave the problem of film
14 plastics collection unsolved. We would need to work to
15 improve the collection of film plastics statewide.
16 If you could turn the slide to number five,
17 please?
18 Option five would be to defer the
19 recommendation until the white paper is adopted later in
20 the year. And the white paper has a broader scope than
21 the report to the legislature.
22 Now, the white paper was not intended to tell
23 us whether or not to raise the minimum content in trash
24 bags, and if so to what level; it was designed to tell
25 us generally how to optimize the use and reuse,

1 recycling, and disposal of plastics in California.
2 And as an aside, several staff including Marie,
3 several of my staff including Marie, who has spent all
4 of her time on this project, has spent the last five
5 months researching this issue, talking with literally
6 hundreds of stakeholders, consultants, waste haulers and
7 other states at workshops, meetings, through e-mails,
8 phone conversations, and in person at collection and
9 recycling facilities.
10 The white paper won't provide any more detailed
11 information than we have already gathered. It won't
12 provide any new waste characterization data for
13 plastics. The next waste characterization study is
14 planned for 2003.
15 Option six would be to work with the Department
16 of General Services to develop an approved brands list
17 for bags sold to the state, and that would involve
18 publishing an approved list of trash bags so the
19 procurement officers could buy from that list.
20 The state of Massachusetts has such a list, and
21 they have a 20 percent minimum content requirement.
22 The state of Missouri, for example, has a list,
23 and their requirement varies from 30 to 70 percent
24 depending on the type of bag they're buying.
25 Option six would involve increasing the minimum

1 recycled content in bags sold to the state to as much as
2 is technologically possible. It may be possible now to
3 get 50 percent in bags. And DGS is currently attempting
4 to raise their requirements to 30 percent for the
5 upcoming fiscal year.
6 Option six would also involve making all state
7 agencies buy compliant bags. Currently DGS buys about
8 fifty million bags a year. We believe that if all state
9 agencies were required to buy bags, that it could be a
10 hundred million or more bags per year.
11 The option also, we'd want to ensure that bags
12 bought by the state actually contain post consumer
13 resin, and we could do that through an independent
14 testing service or by requiring an independent
15 certification.
16 Option seven would be to eliminate the annual
17 compliance certification. This would eliminate the
18 process the Board goes through each year to determine
19 who is using the ten percent post consumer resin, which
20 by virtue of the regulations is very complex and
21 confusing for companies, and replace it with a more
22 stringent system of selling bags to the state.
23 Our recommendation really is a combination of
24 options six and seven. Let me describe why we like
25 option six. Why develop a list for DGS? Because we

1 could set a higher minimum content for bags than the ten
2 percent and there would, excuse me, and there would be
3 no exemption.
4 We could guarantee minimum content by requiring
5 independent verification by an outside independent
6 laboratory.
7 And we could reward smaller companies that
8 continue to use more than the ten percent PCR required.
9 Some of those now use anywhere between 15 and 50
10 percent.
11 And we could also increase the use of
12 California post consumer resin by we estimate from
13 anywhere between 15 and 40 percent if all of the bags
14 had a higher minimum content. And currently, only 21
15 percent of the post consumer resin that is in bags comes
16 from California, and that continues to decline from a
17 couple of years ago when 65 percent of the post consumer
18 resin in bags came from California.
19 BOARD MEMBER ROBERTI: Why is that? Do we know
20 why that is? Can you hear me?
21 MR. NUFFER: Yeah.
22 MS. MCLEAN: I think a lot of it is, just about
23 three percent of it is being collected, quite a bit of
24 it is going overseas, when it's collected it's brokered
25 and sold overseas. I think that's one of the main, one

1 of the main reasons that it's California --
2 BOARD MEMBER ROBERTI: Well yes, overseas, but
3 there's some, a plastic bag is a plastic bag is a
4 plastic bag. There's some reason why it's more feasible
5 to get our plastic post consumer content in bags from
6 out of the state, or some company thinking that they
7 have to do this. Do you understand my point why?
8 MR. NUFFER: We're also finding that there are
9 more and more companies, larger companies and companies
10 from out of state and out of the country that are
11 producing bags that are sold in California. And they
12 get their post consumer resin elsewhere. There are
13 fewer companies in California that are actually
14 producing bags, so there's less California resin being
15 put in those bags.
16 Did that, does that make sense to you?
17 BOARD MEMBER ROBERTI: Yeah.
18 BOARD CHAIR MOULTON-PATTERSON: Okay.
19 Continue.
20 MR. NUFFER: Option seven, why eliminate the
21 certification process? The law only applies to about a
22 quarter of the five billion bags that are sold annually
23 in California, and the law is essentially voluntary.
24 And what I mean by that is if a company can't
25 get a consistent, if you think in terms of what they're

1 looking for, if they can't get a consistent long-term
2 supply of the right quality post consumer resin at the
3 right price, they can claim an exemption. And large
4 companies generally can't get enough because they need a
5 lot of it. So the large companies tend to claim
6 exemptions.
7 BOARD MEMBER ROBERTI: Do, does the company's
8 failure to have a collection process, is that, do we
9 take that into consideration when they ask for an
10 exemption? If they ask for an exemption, we can't get
11 enough plastic bags because we need so many. The fact
12 of the matter is the company has absolutely made no
13 attempt to have a collection process. Do we take that
14 into consideration in granting the exemption or do we
15 just grant the exemption without regard to whether the
16 company has bothered to institute a collection process,
17 or can we take the collection process into
18 consideration?
19 MR. ORR: Senator Roberti, basically the
20 current exemption is a self-exemption, it's not
21 something that we grant, it's something they claim. And
22 that's why John's indicating that it's a voluntary
23 program.
24 But I think there are speakers in the audience
25 that can address the efforts that they've undertaken to

1 establish infrastructure for collection of film for
2 recycling.
3 BOARD MEMBER ROBERTI: Well yeah, and I hope
4 the speakers will address the point because I tend to
5 think that the reason why the program hasn't been as
6 successful as we might like is that the companies have
7 made no attempt to establish a collection system.
8 Much the same as if we left the bottle bill
9 voluntarily to whether they want to do it, do they need
10 an exemption, and just about everybody who sells a soda
11 bottle or a beer bottle would say it's unfeasible and we
12 can't do it because we can't store these things.
13 So I tend to think that the fact that we don't
14 have a collection system is the problem, and that what
15 we ought to be doing is asking the legislature to
16 institute a collection system rather than ask the
17 legislature to debunk the program, in my estimation.
18 But I would like to hear from the people in the
19 audience as to, as to what they have been doing to
20 establish a collection system.
21 BOARD CHAIR MOULTON-PATTERSON: John, were you
22 finished?
23 MR. NUFFER: I can be finished, sure.
24 (Laughter.)
25 BOARD CHAIR MOULTON-PATTERSON: We do have a

1 number of speakers, no, but I do want to give you time
2 to wrap up if you'd like.
3 MR. NUFFER: I think now is maybe the
4 appropriate time to have them speak.
5 BOARD CHAIR MOULTON-PATTERSON: Okay. Laurie
6 Nelson followed by Pete Price.
7 BOARD MEMBER JONES: Madam Chair, while she's
8 walking down can I ask the Senator a question or
9 something to add onto?
10 The collection issue is one thing and they're
11 going to say it's the garbage companies aren't providing
12 'em.
13 One of the other problems is, one of the
14 exemptions is if they can't get it priced reasonably,
15 however they conceive reasonably to be.
16 If we're going to ask them about collection
17 systems, I think we also need to ask 'em about the
18 variation between virgin material and recycled content
19 pellets, and where does that price fluctuation end.
20 Because if it's like a lot of other plastics, every time
21 we get a lot and the market starts to go up, the price
22 of virgin goes down.
23 So I think we need to not only look at
24 collection but a pricing of those materials.
25 BOARD CHAIR MOULTON-PATTERSON: Okay. Ms.

1 Nelson.

2 MS. NELSON: Madam Chair, if I could defer my

3 place in line to John Eberhard from Heritage Bag, he has

4 a more extensive display.

5 BOARD CHAIR MOULTON-PATTERSON: Okay, thank

6 you.

7 Mr. Eberhard.

8 MR. EBERHARD: Thank you, Madam Chair, Board

9 members. My name is John Eberhard, and I work for

10 Heritage Bag Company.

11 We have nine facilities across the country, and

12 we have two located in Southern California.

13 Senator Roberti asked some very good

14 questions. One comment he made was a bag is just a bag

15 is just a bag is just a bag. And actually there's a

16 very large array of plastic bags out in the industry.

17 I have some samples that I'd like, I'm going to

18 kind of walk you through a poly 101 is what I call it,

19 if that's okay. I have some samples of resin that I'd

20 like to give to each one of you, as well as a PCR bag

21 and a virgin bag.

22 If you would be willing to kind of walk this

23 through with me that would be fantastic.

24 BOARD CHAIR MOULTON-PATTERSON: Certainly.

25 MR. EBERHARD: Okay. I also want to apologize

1 for doing single-sided copies on the paper that I
2 submitted. I know now that they need to be double-
3 sided.
4 BOARD MEMBER ROBERTI: My staff asked me to ask
5 you about that in order to gig you, but the fact of the
6 matter is I refuse to give a speech on double-sided
7 pages because I can't follow my own, my own speech, so I
8 like it single-sided.
9 BOARD MEMBER EATON: Neither could Chet Ray.
10 BOARD MEMBER ROBERTI: That's right. Neither
11 could Chet Ray.
12 (Laughter.)
13 MR. EBERHARD: Next time they'll be on both
14 sides.
15 We do have kind of a two-sided problem. And
16 one side is that we do struggle to get enough PCR that
17 we can put inside our bags. A lot of the problem that
18 we have is that PCR that we receive is extremely
19 contaminated, it's very dirty, and it makes for a very
20 poor quality material when putting it in with virgin
21 material. A lot of what we receive is so poor that we
22 have to refuse it, we can't run it through our machines.
23 But to go back --
24 BOARD MEMBER ROBERTI: Well again, now you've,
25 but where do you, do you have a collection system with

1 your, either you or your suppliers?
2 MR. EBERHARD: We have suppliers that we
3 purchase our PCR from, we do not have a collection
4 system in place. We're in the business to make garbage
5 bags, not necessarily collect. That sounds like a
6 terrible thing, but it is a completely separate
7 industry, and it's something that we've never
8 necessarily been involved in on the collection side.
9 BOARD MEMBER ROBERTI: It's hard for me to
10 understand how a bag, a plastic bag can be contaminated
11 unless the source of collection is in the blue barrels.
12 If it goes back to the XYZ Cleaners from whence, you
13 know, you got your clothes, I mean if they're collecting
14 that stuff why would it be contaminated?
15 MR. EBERHARD: Right. Senator, I think the one
16 thing that we have to remember is that the percentage of
17 recycled content that we're receiving from those
18 containers is minimal, it's a tiny amount.
19 We have post industrial that we're using, and
20 we have post consumer. Post consumer is heavily
21 contaminated with paper, plastic, whether it's
22 residential, collection, or the other type, commercial
23 collection.
24 The one thing to remember is that there's a
25 multitude of plastics -- and Frank Ruiz is going to talk

1 a little bit more about this. There's a multitude of
2 plastics out there. When we talk about contamination
3 you have PET resins, you have PVC resins, you have
4 linear resin, you have all sorts of resins that don't
5 work together with each other. And if you will hold up
6 this bag, and everybody open it up and take a sniff.
7 BOARD MEMBER ROBERTI: Take a sniff.
8 MR. EBERHARD: Take a whiff. Put it up to your
9 nose and take a smell.
10 BOARD MEMBER EATON: Is this legal?
11 BOARD MEMBER ROBERTI: It doesn't smell like
12 glue.
13 MR. EBERHARD: This is recycled material.
14 BOARD MEMBER EATON: Make sure to inhale.
15 MR. EBERHARD: This is recycled material.
16 And --
17 BOARD MEMBER ROBERTI: So it has a funny smell.
18 MR. EBERHARD: Well, when you heat it up it has
19 a horrendous smell. Actually we did some research to
20 find out where this came from. This came from Arkansas.
21 Arkansas, from a mulch facility, or they make drip
22 irrigation and this drip irrigation is sitting in the
23 dirt in the, on this property. And when you heat this
24 up it smells like a pig farm, it smells terrible.
25 Now, put it inside of a garbage bag that's

1 going into a hospital, the hospital does not want this
2 product, okay. We have, you have to remember there's
3 two different markets.
4 BOARD MEMBER ROBERTI: Well, I still don't
5 quite understand now.
6 MR. EBERHARD: Okay.
7 BOARD MEMBER ROBERTI: We are talking, okay,
8 we're talking about plastic irrigation material.
9 MR. EBERHARD: Uh-huh.
10 BOARD MEMBER ROBERTI: That I guess at that
11 point is virgin?
12 MR. EBERHARD: No, it's not virgin, it's --
13 Frank is technical director for Heritage Plastics and he
14 can answer those type of questions.
15 BOARD MEMBER ROBERTI: I really love your name
16 because I've heard of Heritage tomato seeds, but
17 not --
18 MR. RUIZ: Thank you, Senator, and thank you,
19 Madam Chairwoman for allowing us to present today. I
20 know it's late, so we'll try and keep all this brief.
21 This material we're getting, we're using it
22 when it doesn't smell too bad because it actually has
23 about the best consistency of the material that we've
24 been able to find.
25 What this company does is they manufacture

1 large rolls of tubing, it's anywhere from 24 to 30
2 inches in diameter, a quarter mile long. They take this
3 out to the farm, they unroll it, they seal one end, pump
4 water in the other end, and wherever there's a plant
5 they go in and stick a hole in that waters the plants.
6 So it sits in the ground for about six months.
7 They put fertilizer down around it, they spray
8 pesticides around it. And then what this company does
9 is they go back and collect this material from the farms
10 after it's used. So this is a great recycling program
11 that gets this material from going to the landfill.
12 So they take it, they wash it, they clean the
13 dirts, the roots, most of the contamination off of it.
14 And the key thing is most, they get most of it off. And
15 then they repalletize it and they sell it to us.
16 So the sources of the odors in this is probably
17 from the fertilizer and pesticides and whatever organic
18 matter could not be removed from the plastic prior to
19 reprocessing.
20 The concern that we have is with odor. A lot
21 of our product goes into food service, winds up if the
22 kitchens and restaurants. And we get complaints, you
23 give us these bags and they stink. Well, you know, we
24 have to do it, it's the law.
25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 Anything else? Okay.

2 BOARD MEMBER ROBERTI: I thought we were only

3 requiring ten percent.

4 MR. EBERHARD: At ten percent --

5 BOARD MEMBER ROBERTI: We're at ten percent, so

6 this smell, which doesn't smell like a pig farm to me,

7 sort of like it's just dusty, would be considerably

8 diluted, would it not be?

9 MR. EBERHARD: When you put it in with a virgin

10 material that has absolutely no smell to it, it's not.

11 When you open up a box of bags, you can smell it. I

12 mean you get, it is not a good smell.

13 BOARD MEMBER ROBERTI: Well I understand based

14 on what our staff said that Massachusetts has 20 percent

15 content.

16 MR. EBERHARD: For their state programs.

17 BOARD MEMBER ROBERTI: For their state. It's

18 hard for me to believe that the state of Massachusetts

19 has their state use plastic all smelling like pig farms.

20 MR. EBERHARD: Well it doesn't all smell like

21 that.

22 BOARD MEMBER ROBERTI: Whatever.

23 MR. EBERHARD: We've received some that smells

24 like fish, I mean you can receive 'em smelling like

25 everything, Senator.

1 I mean I think that the issue is is that
2 depending on what type of PCR you're going to put in the
3 bag really depends on whether it's going to have a
4 strong smell or a weak smell.
5 When this resin is heated up, it smells a
6 hundred times worse than what it does in the little
7 bags. As soon as you heat it, that smells compounds.
8 BOARD MEMBER ROBERTI: What about when it
9 recongeals?
10 MR. EBERHARD: It still smells.
11 BOARD MEMBER ROBERTI: It smells like this
12 again, does it not?
13 MR. EBERHARD: Yeah, absolutely. Now that's
14 not the biggest issue. The biggest issue is that
15 Heritage Bag and other bag manufacturers, the smell is
16 the smell, we can almost sell around it sometimes.
17 BOARD MEMBER ROBERTI: You can what? Excuse
18 me, I didn't --
19 MR. EBERHARD: Well we can sell around the
20 smell most of the times with our customers, because this
21 is a mandated law, we have to follow it, okay.
22 The problem is that we do not feel that this
23 law is meeting its intended purpose. And the reason why
24 is that when we introduce a contaminant into a plastic
25 virgin material the properties drop significantly. You

1 go from having a virgin, very strong --

2 BOARD MEMBER ROBERTI: But I've got to stop you

3 there because you are talking as if the material we're

4 using is almost exclusively going to be the irrigation

5 pig farm material.

6 If the companies would bother to impose a

7 collection plan, then what we would have would be

8 material collected at less noxious points of collection,

9 like cleaning establishments or like packing at

10 department stores.

11 MR. EBERHARD: Right.

12 BOARD MEMBER ROBERTI: So, the fact of the

13 matter is the most easily accessible material, simply

14 because the owner of that material doesn't want to hold

15 it for a long time, is this kind of quasi-noxious

16 smelling material.

17 And my point is rather than going backwards and

18 saying, hey, we can't do something because five percent

19 of this material smells like a pig farm, which I don't

20 really think it does but, you know, all our nasal

21 capacities are different.

22 MR. EBERHARD: Right.

23 BOARD MEMBER ROBERTI: We should go in the

24 other direction and have a collection point of cleaner,

25 non-noxious material, because there isn't a recycling

1 collection bill ever passed by the legislature or
2 regulation by us that didn't have its problems with the
3 contamination and the noxiousness of it, if the only
4 thing we're dealing with is the kinds of stuff the
5 manufacturer wants to get rid of.
6 MR. EBERHARD: Right.
7 BOARD MEMBER ROBERTI: Because they want to get
8 rid of it for a lot of reasons, not the least of which
9 it's noxious.
10 MR. EBERHARD: Right.
11 BOARD MEMBER ROBERTI: But the kinds of stuff
12 that's not noxious but may be more difficult to collect,
13 nobody wants to bother with.
14 MR. EBERHARD: Right.
15 BOARD MEMBER ROBERTI: And I think your point
16 has to address that kind of material.
17 MR. EBERHARD: I guess my question in return
18 would be, I think that product is out there, the
19 question is who's going to collect it? How is it going
20 to be cleaned and decontaminated? That's the big
21 question. It hasn't been done at this point. If the
22 possibility were for it to be done, it would have been
23 done.
24 You have large companies such as Trex Plastic
25 Lumber, such as potholders, pot manufacturers that are

1 taking all the recycled content.

2 BOARD MEMBER ROBERTI: I understand your point,

3 and I guess we're arguing the point that almost comes

4 from the genesis of environmental questions.

5 MR. EBERHARD: Right.

6 BOARD MEMBER ROBERTI: And that is if there is

7 no technology it can't be done, or if you mandate it the

8 technology will follow. And that's the way it's been on

9 every, every question. But I just think this is an

10 issue of running away from the battle.

11 One point which I hope that the manufacturers

12 of plastic bags understand, and for your own long-term

13 economic benefit, one of the things that most hinders

14 the siting of landfills, the public acceptance of more

15 plastic, are all these flying bags all around the place.

16 And maybe if we controlled their proliferation

17 just a little bit, not eliminated, not put you out of

18 business, but you'll be around for a lot of days, but

19 when you want to do nothing about it, and I know that's

20 not your intent but that's what I'm hearing.

21 MR. EBERHARD: Right.

22 BOARD MEMBER ROBERTI: You are going to be your

23 own worst enemy. Much like the big automobile

24 manufacturers, you know, refused to come up with an

25 economy car --

1 MR. EBERHARD: Right.

2 BOARD MEMBER ROBERTI: -- that didn't use up so

3 much gas, and the American automobile manufacturer

4 turned out to be his own worst enemy.

5 MR. EBERHARD: Right.

6 BOARD MEMBER ROBERTI: Penny wise and pound

7 foolish.

8 MR. EBERHARD: And if I can just, and I know

9 we're running way behind.

10 The one thing that we have said that this can

11 liner industry will do is we will drop our gauges. And

12 I have one example. In that pamphlet that I handed out,

13 the single-sided, the very last page has a perfect

14 example.

15 You take a two mil linear bag like this that

16 has anywhere from 10 to 20 percent PCR on it that has no

17 dart, no tear, has no strength, that has to be made two

18 mil in order to meet the specifications of our

19 customers.

20 If I were to take this two mil and make a

21 virgin 1.25 mil bag that will hold twice as much as this

22 two mil bag, I will save literally a million and a half

23 pounds of plastic going into the landfill a year on one

24 item that we sell 10,000 cases a month on. That, in my

25 opinion, is true source reduction.

1 True source reduction is eliminating plastic at
2 the beginning, the onset during the manufacturing
3 process, and that's what we've said from day one, we can
4 do this. If you allow us to do it, we can do it.
5 Atlanta, Dallas, Cincinnati, Philly, New York,
6 their average gauge is a .95 mil bag. In the state of
7 California it's anywhere from a 1.25 to a 1.5.
8 They don't haul any different garbage than we
9 do. What they do do is use virgin material.
10 Thank you.
11 BOARD CHAIR MOULTON-PATTERSON: Thank you.
12 BOARD MEMBER JONES: Can I just ask one
13 question, Madam Chair?
14 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Jones.
15 BOARD MEMBER JONES: What are you paying,
16 what's your normal range for pellet product? This
17 product right here, recycled, what are you paying for
18 it?
19 MR. RUIZ: Do you know what we're paying for
20 it?
21 MR. EBERHARD: I think it's about 29 cents.
22 MR. RUIZ: About 29 cents.
23 BOARD MEMBER JONES: About 29 cents.
24 MR. RUIZ: A pound.
25 BOARD MEMBER JONES: How much you paying for

1 virgin?

2 MR. EBERHARD: It's about twenty, the last

3 price increase it's about 27. So maybe at or slightly

4 below that of, that material is probably two, three

5 cents a pound more than virgin resin.

6 BOARD MEMBER JONES: Because part of the

7 problem is that every time we as haulers are looking for

8 markets, and the markets start to do pretty good, the

9 virgin resin price drops so that we end up with no

10 markets.

11 And what you guys are asking us to do is to

12 eliminate a market that isn't controlled by that. And I

13 have a hard time dealing with, this mandate is

14 irregardless, the other stuff that we have to deal with

15 every day, every time we find a source, the oil

16 companies drop the prices and we're stuck with bales of

17 material that we've spent a lot of money to collect, and

18 that's a problem, you know.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you.

20 Pete Price, followed by our last speaker Rachel Zellner.

21 Oh, Laurie, did you want to --

22 MS. NELSON: Yeah, if I could just say a few

23 words, Madam Chair.

24 BOARD CHAIR MOULTON-PATTERSON: Sure.

25 MS. NELSON: Laurie Nelson representing the

1 Clorox Company.

2 This is a very important issue to our company.

3 We are committed to meeting, and in many cases exceeding

4 environmental challenges given to us by this Board and

5 by the California legislature.

6 However, as we have consistently stated since

7 your first meeting in September on this issue, the

8 workshop, we followed up with them, every interested

9 parties meeting as well as individual meetings, we

10 cannot locate the quality or the quantity of material we

11 need.

12 We make linear low density polyethylene bags.

13 You can get that from stretch pallet wrap which you get

14 at Costco and those sorts of places, or egg film wrap.

15 And you may hear from others that all of that material

16 has to be cleaned and washed to a higher standard for us

17 to use it, but it can also be used in the plastic lumber

18 business which is gobbling it all up.

19 And it's a better, higher use of the material,

20 it doesn't have to be as clean, it doesn't take as much

21 energy to get it ready to use.

22 We have provided extensive technical data in a

23 November letter to the Chairwoman, and we have contacted

24 every single supplier recommended by this Board, I think

25 there were 69 in 2002. We followed up leads from our

1 vendors and suppliers trying to find a source of PCR.
2 Again, all of those detailed efforts are in the
3 letter, and we're very appreciative of the staff's
4 attention to this issue, their willingness to consider
5 that perhaps the program has outlived its usefulness and
6 its necessity.
7 We believe even, perhaps, the environmental
8 community may be open to exploring this further.
9 Perhaps as you get additional data from other companies
10 the Board will have a comfort level knowing that this
11 sort of material is being recycled into plastic lumber.
12 BOARD MEMBER ROBERTI: Madam Chair.
13 BOARD CHAIR MOULTON-PATTERSON: Senator.
14 BOARD MEMBER ROBERTI: I agree with you that a
15 higher or better or more acceptable use would be
16 something like plastic lumber. I had my little, I had
17 the staff come and give me a demonstration of all
18 various types of plastics, I was very impressed.
19 Plastic lumber is great.
20 But that, too, has a limited market. If we
21 collected more, especially collected more of the
22 non-noxious -- or noxious is too strong a word --
23 non-obnoxious stuff, wouldn't we then have enough
24 feedstock for recycled plastic bags with, rather the
25 plastic bags with recycled content and things like

1 plastic lumber?

2 MS. NELSON: Well, there's a couple of issues

3 with that. One is our manufacturing plant is located,

4 although we're headquartered in California, the bag

5 manufacturer is in Virginia, so that the material was

6 coming back east, it was coming from Canada and other

7 places.

8 Secondly, you will find that, I believe Mr.

9 Price following me will be able to tell you that they

10 did have a contract to collect all of the plastic pallet

11 wrap at one time, and they, the plastic lumber people

12 could pay more for it because they didn't need it as

13 clean. So we run up against that.

14 We've got to have a really clean supply because

15 we blow it up five stories high, and everytime you get a

16 contaminant that whole bubble comes down, we gotta throw

17 it out and start all over again, whereas plastic lumber

18 they can throw a lot of stuff in. Although I'm not a

19 plastic lumber expert, my understanding is that that

20 market is growing quite extensively.

21 BOARD MEMBER ROBERTI: Maybe staff can help me

22 with this. I thought that most of what we were talking

23 about was what we call a type four plastic. Can all

24 type fours be mixed together? Or what does that do to

25 the quality of the resins that we get?

1 MR. ORR: I think most of the, most of the
2 plastic that we're talking about that is recycled is
3 from things like stretch wrap that was referred to.
4 That is mostly type four.
5 The part that doesn't happen is there really
6 isn't a trash bag recycling loop. You basically can't
7 take a trash bag, use it as a trash bag, and then
8 recycle it back into a trash bag. So I think that
9 that's where the competition comes from.
10 BOARD MEMBER ROBERTI: Is the composition of
11 the trash bag significantly different that it cannot be
12 mixed with other kinds of plastic film?
13 MR. ORR: Well for trash bags you can't mix it.
14 Some other uses like plastic lumber are a lot more
15 forgiving in terms of mixing resins than the trash bags
16 were because they're so thin.
17 BOARD MEMBER ROBERTI: Well whether we're using
18 it then for either recycled content in plastic bags or
19 for other materials such as plastic lumber, it still
20 strikes me that the issue is collection more than, more
21 than the law.
22 MR. ORR: Collection is definitely an issue.
23 BOARD MEMBER PAPARIAN: Madam Chair.
24 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.
25 BOARD MEMBER PAPARIAN: Yeah, one of the, some

1 of the information that we have indicates that three
2 percent of film plastic is being recycled currently, and
3 97 percent is not.
4 Our waste characterization study a couple of
5 years ago seems to validate these numbers in terms of
6 the amount of film plastic that's going to California
7 landfills. It was a, I don't remember the exact
8 numbers, but it was a pretty significant amount of
9 material that was going to the landfills.
10 Have you looked at what, that 97 percent at all
11 to see whether there is clean stuff in there and whether
12 it's just a matter of being able to get that into, you
13 know, into your facilities? Or do you believe that the
14 97 percent that's being thrown away is truly unusable?
15 MS. NELSON: I don't know how you would define
16 the film wrap of that 97 percent, I don't know how
17 extensive that is. I know we are limited to linear low
18 density polyethylene in what we can use, number one.
19 And secondly, as I said earlier, and as we gave
20 details on, we've contacted literally hundreds of
21 suppliers and, which you would think would be the
22 middleman would try and get their hands on that material
23 to repalletize it and sell it to us, and we haven't been
24 able to get a source.
25 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank

1 you.

2 Thank you, Ms. Nelson.

3 Pete Price followed by Rachel Zellner.

4 MR. PRICE: Madam Chair, thank you. Pete Price

5 representing PolyAmerica Corporation.

6 We appreciate the time the staff has spent on

7 this issue in the last six months. Their latest work

8 reflects a much more thorough understanding of the film

9 plastic, recycled film plastic market and the place that

10 the trash bag law fits into it.

11 PolyAmerica is one of the largest trash bag

12 manufacturers in the country, and one of the two biggest

13 suppliers to California. Per the Board data,

14 PolyAmerica and other another manufacturer themselves

15 make up 43 percent of the market in California. I think

16 the next largest company contributes three percent, so

17 there really are two large companies supplying, and a

18 number of other smaller ones.

19 For some folks who are kind of surprised to see

20 me representing a trash bag manufacturer given the side

21 of the fence I'm always on, I want to respond to Senator

22 Roberti's question a little earlier as to, about what he

23 seems to see as an obligation on the part of the trash

24 bag manufacturers to go set up their own collection

25 system.

1 I frankly don't think that that's their
2 obligation, but let me saw that the reason I represent
3 PolyAmerica is because long before this law was ever
4 passed, PolyAmerica as a business model figured out that
5 they could do well and do good, I guess, by collecting
6 used or recycled film plastic.
7 PolyAmerica for the last ten years or so has
8 had contracts with some of the largest retailers,
9 Wal-Mart, Costco, Sam's, all around the country. We
10 have collection facilities all around the country to
11 collect the pallet shrink wrap that comes off the back
12 of their docks, and there's a lot of it, and it is
13 relatively clean compared to the other kinds of film
14 plastic that have been discussed here a lot, trash bags
15 and whatnot. But even that material has contaminants in
16 it that really make it difficult for plastic trash
17 bags. And if there's a paper label on the side of a
18 shrink wrap off the pallet, that's got to come
19 completely off or it contaminates the plastic.
20 But notwithstanding that, we did go out and
21 establish a nationwide collection system. That
22 collection system also included a big effort here in
23 California to collect what I call ag sheeting, some of
24 the film plastic that's used, as was mentioned before,
25 that's used in agricultural applications over fields.

1 We've been collecting a lot of that material
2 from California, sending it back to our plant in Texas,
3 turning it into pallets, and using it in trash bags and
4 other products that come back to California.
5 We don't have any of those anymore. That's our
6 collection system and it's gone. And it's gone for one
7 reason only, because there's a new entry on the market
8 that is taking it all up. And I hate to sound dramatic
9 here, but the fact is it has all been, all of those
10 contracts are now held with Trex and other composite
11 lumber manufacturers, and it's for two reasons.
12 They don't need clean product like we do. They
13 don't care, in fact they like a little mess in their
14 stuff, it's part of the composite.
15 And the second reason is because they don't
16 have to clean it up the way we do, they can pay a higher
17 price for it, so we're priced out of that market and
18 we've lost those supplies.
19 I want to mention that PolyAmerica defended
20 this law in the previous legislative iteration SB 698 by
21 Senator Rainey in 1997 or '98. And as a matter of fact,
22 we were instrumental in creating the second compliance
23 track where instead of putting ten percent recycled
24 material in your trash bags, you can comply by putting
25 30 percent recycled material in all of the products you

1 manufacture.

2 Now that may sound counter-intuitive, but it's

3 an indication of how difficult it is to use this

4 material in trash bags.

5 We can get closer to getting 30 percent

6 recycled content in all of the products we manufacture,

7 plastic bender board for gardens, all these sorts of

8 other plastic products, we can get closer to 30 percent

9 with those products than we can to ten percent with the

10 bags we manufacture because, because of the very

11 thinness of film plastic and bags, and their need to

12 resist tears and punctures. It's extremely difficult.

13 But, because we cannot get an adequate supply

14 at an adequate quality, we can't even meet the 30

15 percent anymore, and it's hardly for lack of trying

16 given the collection system that we've had.

17 And by the way, on that I'd like to make

18 another point. Someone mentioned earlier you can get

19 the exemption if you call it a voluntary exemption, I

20 think that's incorrect.

21 But you said we could get the exemption if we

22 simply claimed it wasn't cost effective. The statute

23 doesn't say that. The statute says we can get an

24 exemption only if we can document to the Board that we

25 can't get enough of it, a supply, or it's not of

1 adequate quality. We don't have the right to claim to
2 you that it costs too much. That's not an option.
3 BOARD MEMBER ROBERTI: It's not a -- what did
4 you say?
5 MR. PRICE: Two things we can do, we can show
6 we can't get adequate supply or adequate quality. As a
7 matter of fact that's our problem in both cases, I mean
8 we can't get an adequate supply of adequate quality.
9 BOARD MEMBER ROBERTI: And then you get your
10 exemption?
11 MR. PRICE: That's correct. Only after we've
12 shown that we've done everything we can to find that.
13 BOARD MEMBER ROBERTI: Yes. But, so you do get
14 your exemption.
15 What I don't understand, and the arguments for,
16 I guess wanting to eliminate the law, is we are talking
17 about trash bags. And when you're talking about
18 contamination of trash bags, to talk about smell or odor
19 in even small degrees, the reason why the law is
20 restricted to trash bags, I would submit, is simply
21 because we're less delicate when we're talking about
22 trash bags. Otherwise we'd be talking about all film
23 plastic, including the stuff that covers your clothes
24 which, of course, we have to think about twice because
25 we don't want the clothes smelling like fish or whatever

1 else.

2 But, but the composition of that material can

3 come from all sorts of plastic film. So you can use

4 your cleaning, your cleaning bag and whatever else. We

5 haven't restricted you there. So you have this world of

6 plastic that you can get your resin from restricted only

7 to trash bags because trash bags are trash bags. We

8 haven't expanded it to all kinds of film.

9 So I understand your problem, but it doesn't

10 strike me as big a problem as you're making it out to be

11 because people are less sensitive to smell, odor, and

12 other things like that when you're talking about a trash

13 bag. And you still have this world of resin

14 possibilities of plastic film that you can get your

15 trash bags from, or rather your recycled content from if

16 we bother to establish collection facilities, which I

17 never indicated was only the duty of the industry --

18 MR. PRICE: Good, we appreciate that.

19 BOARD MEMBER ROBERTI: -- to engage it.

20 Because I'm talking about feedstock coming from a lot of

21 sources other than the feedstock, than the material you

22 deal in.

23 MR. PRICE: Let me respond, Senator. First of

24 all, PolyAmerica has never raised the odor issue. For

25 others it may be an issue for them, but that's not been

1 something we've raised.

2 Our issue, I think, is much more fundamental

3 that we, I think PolyAmerica for one company has proven

4 by its track record that we're not trying to slip and

5 slide. We've been out there because, you know what,

6 with or without our law we're going to be collecting the

7 stuff, it's the business model, we decided we can make

8 some money off of using recycled material.

9 Last year, for example, we documented in the

10 State of California we used more than 6,800 tons of

11 recycled material in our non-trash bag products that we

12 are also selling in California that we can use to comply

13 with the law. That was in 2000.

14 In 2001 we certified that we used 2,500 tons.

15 That wasn't cause we decided we don't care about it

16 anymore, it's only because we couldn't find it. I mean

17 I don't think there's any evidence that PolyAmerica

18 decided it's not as important to us anymore, it's just

19 as important, it's just as central to our business model

20 for how we're going to make a buck, it's not there

21 anymore.

22 So I don't think it's largely back sliding on

23 the part of the companies, and I hope the Board will

24 take seriously this issue that supply -- listen, I

25 completely agree, there may well, I don't know if three

1 percent is correct, that sounds awfully low to me, but
2 the fact is there's a lot that's going to the landfills,
3 but it's not going to be found by the companies who
4 cannot go to every dry cleaner, can't go to every house
5 and say, "Do you have any trash bags?" We've got to go
6 to large, centralized suppliers.
7 The separate industry that actually
8 manufactures recycled plastic, that's where most
9 companies go. PolyAmerica also went out and developed
10 its own collection system. But we're going to go to
11 large centralized suppliers, we can't be going to every
12 small place.
13 And when government does decide to do something
14 like that, as in the bottle bill, they put an advance
15 disposal fee on it.
16 Now speaking only for myself and not
17 PolyAmerica, I think advance disposal fees make sense
18 across the board. When you create an infrastructure
19 it's because you put the money on the table and create
20 an infrastructure. That hasn't been done here.
21 PolyAmerica put its own money on the table to
22 create its infrastructure, and that's now gone, the
23 supply has now gone elsewhere.
24 With or without this law PolyAmerica is going
25 to continue using as much recycled material as it can

1 get its hands on.

2 We support the recommendation, but I'll say

3 this, I understand that the Waste Board wants to take a

4 look at what else can be collected and how it can be

5 folded into the system, and I think you ought to do

6 that. But when you do that, here's what I think you're

7 going to find.

8 Number one, that you're going to find it

9 downstream. You're going to find it in MRF's, you're

10 going to find it in curbsides. You're going to have to

11 create a separate infrastructure from the one we're

12 using.

13 And secondly what you're going to find is the

14 vast majority of what you collect will not be useful in

15 trash bags. That sort of stuff that you find downstream

16 at the end of the system is the most contaminated, it's

17 the least available to use.

18 It may be that you'll find enough of it that

19 Trex and the others will suck it all up and there will

20 be more leftover for trash bags. I doubt it, but you

21 may find that, and I think maybe the Waste Board should

22 go take a look at that.

23 But at a minimum I would urge this. Until such

24 time as you make a decision like that, the

25 self-exemption has got to stay in place. We're doing

1 everything we can to find as much recycled material as
2 we can, and we can't find enough to comply with the law.
3 The only way we're staying consistent with the
4 law is the self-certification exemption, which we've got
5 to document things to the Board to get.
6 Thank you very much.
7 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
8 Price.
9 Rachel Zellner, Californians Against Waste.
10 MS. ZELLNER: Good evening, Madam Chair,
11 members. My name is Rachel Zellner and I'm here
12 representing Californians Against Waste. Mark Murray
13 asked me to be here in his absence.
14 We oppose the staff's recommendation to
15 effectively eliminate enforcement of the plastic trash
16 bag recycled content law.
17 Film plastic represents nearly four percent of
18 California's waste stream, the ninth most prevalent
19 material. This is more than tires and beverage
20 containers and electronic waste.
21 As you've discussed, three percent of it is
22 currently being recycled. The bulk of film plastic, 53
23 percent, is concentrated in the commercial waste stream
24 where it is the seventh most prevalent material
25 disposed. And while film plastic is a top ten material

1 in virtually all commercial subsectors, roughly half, 49
2 percent is concentrated in just seven commercial
3 subsectors where film plastic is one of the top five
4 most prevalent waste materials.
5 Given the size and concentration of this waste
6 stream, we think it is an appropriate target for waste
7 or diversion efforts.
8 In October, staff recommended to increase the
9 recycled content for plastic trash bags. After
10 discussing it with staff and industry, we concluded this
11 to be premature.
12 Now, six months later, staff has changed
13 course, but we still believe this to be premature.
14 Film plastic is a significant part of the waste
15 stream, and the Board has limited options for reducing
16 that waste stream. When the plastics white paper is
17 complete we think it will demonstrate the need to
18 increase both the collection and development of markets
19 for film plastics.
20 Thank you.
21 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
22 Zellner. Any -- Mr. Paparian.
23 BOARD MEMBER PAPARIAN: I'm troubled by the
24 amount of film plastic that's out there that we're not
25 able to capture. And I'm tempted to, I'm tempted to

1 make a motion about going after that in some way in
2 trying to increase recycling of that, but I think the
3 hour is late and we need to ponder this perhaps a little
4 more and maybe take a look at the plastics white paper
5 when it comes in and see what options come from that.
6 So I would just as soon defer any
7 recommendation at this point until completion of the
8 plastics white paper.
9 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
10 you.
11 BOARD MEMBER JONES: It looks like whoever is
12 controlling the lights agrees with you.
13 (Laughter.)
14 BOARD CHAIR MOULTON-PATTERSON: Now when is the
15 white paper due?
16 They want us out of here.
17 MR. ORR: Basically the white paper there's
18 going to be a stakeholders workshop on June 24th and
19 25th here in the building.
20 We anticipate a draft report would be coming to
21 the Market Development Committee in August or September,
22 and then the final report would go to the Board in
23 November.
24 BOARD CHAIR MOULTON-PATTERSON: It's fine with
25 me. Do you want to make a motion? Do we need a motion?

1 BOARD MEMBER PAPARIAN: I don't know if we need
2 a motion?
3 BOARD CHAIR MOULTON-PATTERSON: Do we need a
4 motion? Okay then, we will wait.
5 Anything else anyone wants to say?
6 Mr. Eaton? Mr. Jones?
7 BOARD MEMBER JONES: No.
8 BOARD CHAIR MOULTON-PATTERSON: Okay. We'll
9 see you tomorrow.
10 (Thereupon the foregoing was concluded at
11 6:01 p.m.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2

3 I, DORIS M. BAILEY, a Certified Shorthand
4 Reporter and Registered Professional Reporter, in and
5 for the State of California, do hereby certify that I am
6 a disinterested person herein; that I reported the
7 foregoing proceedings in shorthand writing; and
8 thereafter caused my shorthand writing to be transcribed
9 by computer.
10 I further certify that I am not of counsel or
11 attorney for any of the parties to said proceedings, nor
12 in any way interested in the outcome of said
13 proceedings.
14 IN WITNESS WHEREOF, I have hereunto set my hand
15 as a Certified Shorthand Reporter and Registered
16 Professional Reporter on the 18th day of May, 2002.
17
18
19
Doris M. Bailey, CSR, RPR, CRR
20 Certified Shorthand Reporter
License Number 8751
21
22
23
24
25