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BOARD MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

CENTRAL VALLEY AUDITORIUM

SACRAMENTO, CALIFORNIA

WENDESDAY, APRIL 9, 2003

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APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Jose Medina

Steven R. Jones

Michael Paparian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Kathryn Tobias, Chief Counsel

Mark de Bie

Allison Spreadborough

Scott Walker

ALSO PRESENT

Richard Alarcon, Senator

Doug Corcoran, Bradley Landfill and Recycle Center

Manuel DeLeon, Teamsters Local 396

Donald Gambelin, NorCal Waste System

James Giannopoulos, State Water Resources Control Board

Mike Hammer, Looney Bins

Chuck Helget, Allied Waste/BFI

Dan Hirsh, Committee to Bridge the Gap

Justin Malan, CCDEH

APPEARANCES CONTINUED

ALSO PRESENT

Jim Moose, Remy, Thomas, Moose & Manley

William Neal, GeoChem Application

Greg Pirie, Napa County LEA

William Prinz, City of San Diego

Keith Richman, Assemblymember

Kent Stoddard, Waste Management

Arthur Sweet, Sun Valley Chamber

Brian K. Williams, Deputy Mayor, City of Los Angeles

Carol Zeihler, East Valley Coalition

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PROCEEDINGS

CHAIRPERSON MOULTON-PATTERSON: I'd like to welcome you all.

Please call the roll.

SECRETARY WADDELL: Jones?

BOARD MEMBER JONES: Here.

SECRETARY WADDELL: Medina?

BOARD MEMBER MEDINA: Here.

SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: Here.

SECRETARY WADDELL: Peace?

BOARD MEMBER PEACE: Here.

SECRETARY WADDELL: Moulton-Patterson.

CHAIRPERSON MOULTON-PATTERSON: Here. We have a quorum.

Any ex partes?

Mr. Jones?

BOARD MEMBER JONES: John Cupps on AB 939 and RMDZ. And I just addressed a group of RMDZ zone administrators on our RMDZ programs and loans.

CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

BOARD MEMBER PEACE: Mine are up to date.

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

Mr. Paparian.

BOARD MEMBER PAPARIAN: I'm up to date.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.
2 Mr. Washington.
3 BOARD MEMBER WASHINGTON: The RMDZ zone
4 administrators.
5 CHAIRPERSON MOULTON-PATTERSON: Thank you.
6 I'd like to ask everyone to please turn off their
7 cell phones or put them on the vibrator mode. And again,
8 we have copies of a limit number of copies of the agenda
9 in the back.
10 We only have two items today. If you would like
11 to speak to either of these items, please give the form,
12 which are back in the back, to Ms. Waddell, and she'll
13 make sure I know of your desire to speak. And we already
14 have some of those up here.
15 I'm not going to call on Board members for any
16 reports since this is not a regularly scheduled monthly
17 meeting, unless there's anything they really feel they
18 need to say.
19 And I'll turn it over who's -- Scott, you're
20 going to be giving the presentation on this, and we're
21 going to be starting with C&E.
22 MR. WALKER: Thank you. Scott Walker, Permitting
23 and Enforcement Division.
24 Item 1 is consideration of the adoption of a
25 negative declaration State Clearinghouse number 2003022-

1 --

2 CHAIRPERSON MOULTON-PATTERSON: Scott, may I
3 interrupt you for a moment. I forgot to make the special
4 announcement that my colleagues had made this morning at
5 the committees. But there are new faces here so I need to
6 make that. I apologize, Scott.

7 Throughout the month of April we'll be conducting
8 safety preparedness drills that will include evacuating
9 this room. This drill may occur during this meeting. In
10 order to prepare us for an unexpected emergency, we do not
11 know what date or time the alarm will sound.

12 I understand we had one yesterday so it's not
13 likely, but we still don't know.

14 Please look for and note at least two emergency
15 exits. Exits are located inside the public hearing rooms
16 on the first and second floor and in the connecting halls
17 outside the conference rooms within the remainder of the
18 building.

19 If alarm sounds, evacuate immediately. Take all
20 valuables with you. Do not use the elevators.

21 If you have mobility concerns that would prevent
22 you from using the stairways, please let the host of the
23 meeting know so that arrangements can be made to have you
24 wait safely in a protected area. You will be directed to
25 a safe stairwell vestibule, and an aide will stay with you

until we have heard the all-clear announcement.

Follow your meeting host down the stairways to the relocation site. If you're on floors 8 through 25, you will relocate five floors down. If you're on floors one through seven, you will evacuate to Cesar Chavez Park located outside the building and across from -- directly south of the city hall. If you evacuate outside of the building, obey all traffic signals and be cautious when crossing the street.

Stay at the relocation area until the all-clear signal and the completion of the drill is given. Inside the building the completion of the drill will be announced via the public address system. At the park the all-clear signal will be given from the command center set up on the stage. If you do not hear the announcement, simply stay with and follow the lead of your meeting host.

Am I the meeting host? Oh, you're the meeting host, Debra. Ms. McKee down here, raise your hand. She'll be in charge.

And thank you very much for your cooperation with our safety program.

And now I'll turn it back over to Mr. Walker.

MR. WALKER: Thank you. Again, Item Number 1 is consideration of the adoption of negative declaration State Clearinghouse Number 2003022081 and proposed

1 regulations for the construction and demolition and inert
2 processing tiered regulations.
3 Couple of introductory comments before I hand it
4 off to staff. At the March Board meeting, we brought
5 forth this item, and the Board directed us to make
6 specific changes for an additional public comment period.
7 Staff conducted that comment period and are prepared to
8 present the summary of those comments received in the
9 final recommendation. With that, I'll hand it off to
10 Allison Spreadborough.
11 MS. SPREADBOROUGH: Good afternoon, Madam Chair
12 and Board members. My name is Allison Spreadborough.
13 This comment period began on March 22nd and ended
14 on April 7th. In order to meet timelines of the Office of
15 Administrative Law requirements, final adoption of this
16 regulation package by the Board would be required today.
17 Following are highlights of comments received
18 during this last comment period. Richard Lymp from Right
19 2 Know commented that the proposed regulations would allow
20 hazardous waste to be commingled with other solid waste
21 streams and also allow hazardous waste streams to be
22 classified and managed as inert waste.
23 Malcolm Weiss of Jeffers, Mangels, Butler &
24 Marmaro on behalf of United States Gypsum Company asked to
25 eliminate or significantly extend the time limit for

1 on-site storage of inert debris awaiting reuse or
2 recycling, or specify that unused, as posted demolished,
3 gypsum wallboard be considered to be Type A inert debris
4 and a material production facility so the storage limits
5 do not apply, and add on-site storage of gypsum wallboard
6 for use of recycling as an excluded activity.
7 Mark Bulot from Bulot, Incorporated, on behalf of
8 Fourth Street Rock Crusher commented that recycling of
9 inerts should be encouraged in the regulations.
10 Charles Rea on behalf of the Construction
11 Material Recycling Association of California commented
12 that they are in support of the proposed regulations.
13 Tammy Derby as the Sacramento LEA commented they
14 support the current version of the regulations, especially
15 the tonnage limits for tier placement and the full permit
16 phase-in process.
17 Wayne Tsuda as the City of Los Angeles LEA
18 commented that the 15-day comment period is unreasonable
19 to consider and provide meaningful comments back to the
20 Board on the newly proposed public hearing section and
21 asks that this section be removed to provide sufficient
22 time for the LEA and the public to thoroughly consider
23 this critical issue.
24 Steve Kephart as the Ventura County LEA commented
25 that the mandatory DOSH training for LEAs should be

1 removed in its entirety as it is outside the scope of
2 expected responsibilities for solid waste regulations and
3 exposes local government to unnecessary liabilities. Also
4 that the public hearing, community outreach required by
5 the LEA is unnecessary and unworkable and should be
6 removed in its entirety. He further states that the
7 public has an opportunity to comment and express project
8 concerns during the land use conditional phase of the
9 project. Furthermore, the section is unworkable because
10 the LEA has 30-days to review an application for a solid
11 waste facility permit.
12 And Government Code Section 65091 requires a
13 minimum of ten days' notice for public hearing. This
14 would give the LEA 20 calendar days to review the permit,
15 set up the permit meeting, send out all the required
16 notices, and then write permit.
17 Shari Afshari from Los Angeles County Department
18 of Public Works commented that the proposed regulatory
19 changes will have a negative effect on small facilities
20 operators as it may lead to a significant increase in
21 operating costs and the closure of some facilities due to
22 the increased regulatory and economic burden. This would
23 result in a decline in the C&D recycling market,
24 increasing costs and reducing recycling option for C&D
25 contractors and hampers jurisdictions' efforts to meet the

1 state waste reduction mandates.

2 Ms. Afshari strongly urged the Board to consider

3 the economic impacts on jurisdictions as they endeavor to

4 comply with the state waste reduction mandates.

5 And, finally, Mark Murray of Californians Against

6 Waste commented they can no longer support the regulatory

7 package. Requiring virtually all C&D recycling and

8 processing facilities to obtain a full solid waste

9 facility permit will discourage the market entry and

10 development of C&D recycling facilities and divert limited

11 state and local enforcement resources away from more

12 damaging solid waste facilities and other illegal waste

13 handlers. For it will undoubtedly discourage existing and

14 new small and medium size C&D facilities.

15 Lowering the minimum tons per day in the proposed

16 registration tier from 100 to 25 tons per day is

17 inconsistent and more burdensome than existing regulations

18 for solid waste transfer stations. Requiring facilities

19 that process between 25 to 175 tons per day to divert

20 60 percent of the material to remain in the registration

21 tier versus no residual requirement for solid waste

22 transfer stations creates a loophole that may actually

23 encourage facilities to opt out of recycling.

24 These are the comments received via e-mail, fax,

25 and mail today. Staff recommends Option 1, approval of

1 Resolution 2003-191, adopting the Negative Declaration
2 2003022081 and approval of the Resolution 2003-227,
3 adopting proposed regulations for forwarding to the Office
4 of Administrative Law for promulgation.
5 This concludes staff's presentation.
6 CHAIRPERSON MOULTON-PATTERSON: Thank you.
7 Before we go to the public comments, are there
8 any questions or comments that any Board member has for
9 staff?
10 Okay. We'll go right into public comment.
11 Donald Gambelin from NorCal Waste Systems.
12 MR. GAMBELIN: Good afternoon, Board Chair,
13 Members of the Board. Donald Gambelin, NorCal Waste
14 Systems out of San Francisco.
15 CHAIRPERSON MOULTON-PATTERSON: Excuse me, Don.
16 Mr. Medina, would you like to report any ex
17 partes?
18 BOARD MEMBER MEDINA: I'm up to date as far as ex
19 partes.
20 CHAIRPERSON MOULTON-PATTERSON: Thank you.
21 I'm sorry. Go ahead, Mr. Gambelin.
22 MR. GAMBELIN: We certainly had our share of
23 comments on this item.
24 I do have one item that I wanted to perhaps seek
25 clarification on today. In reading through the 15-day

1 package, I took note of a number of statements to the
2 effect that the intent of the regs and the regs themselves
3 was to reduce the potential hazards in facilities,
4 particularly fire hazards, and other similar safety
5 issues, public health and safety issues.
6 What wasn't clear is -- although I think it would
7 be implied -- is that a proper hazardous waste load
8 checking program be implemented at the various facilities
9 in order to ensure that folks are not operating in a
10 manner that does create fire and other health and safety
11 hazards.
12 I'm hoping that can be clarified because that's
13 not explicitly stated as a requirement in either the
14 operations plan or the regulatory package itself. That
15 would be my comments on the 15-day package.
16 I did also want to confirm that our prior
17 comments as to tonnage and tiering remain as previously
18 stated, and I certainly won't go into those in detail in
19 the interest of time. Thank you.
20 CHAIRPERSON MOULTON-PATTERSON: Mr. Gambelin.
21 MR. GAMBELIN: Yes.
22 CHAIRPERSON MOULTON-PATTERSON: Would you repeat
23 for me briefly your concerns. I was distracted. From on
24 the fire, which one was it? Which --
25 MR. GAMBELIN: Well, unfortunately, I didn't

1 write down the code section to cite, but what it talks
2 about is the need for proper fire control measures to be
3 implemented and precautions to take effect. What I would
4 assume is that that should include a hazardous waste load
5 checking program so people are well aware -- and fire
6 departments included are well aware of what comes into the
7 site, what's prohibited.
8 Essentially, I think it appeared to be in
9 response to the problems down in Fresno where you had
10 hazardous waste stored within the material on site. And
11 in order to prevent that, it would seem appropriate to
12 have a hazardous waste load checking program where that
13 material's removed from incoming loads.
14 CHAIRPERSON MOULTON-PATTERSON: Stan.
15 MR. de Bie: Mark de Bie with Permitting and
16 Inspection Branch.
17 The regulations point over to the regulations for
18 transfer of processing facilities and state minimal
19 standards associated with them, and one of which is
20 Section 17409.5, load checking. These regs require the
21 same level of load checking as a solid waste transfer
22 station.
23 CHAIRPERSON MOULTON-PATTERSON: Thank you very
24 much, Mr. de Bie.
25 Thank you, Mr. Gambelin.

1 MR. GAMBELIN: Can I ask one question related to
2 that? Would that also include the lower-level tiers, the
3 registration tier and the notification?
4 MR. DE BIE: That would be for every operation
5 and facility.
6 MR. GAMBELIN: Thank you.
7 CHAIRPERSON MOULTON-PATTERSON: Thank you.
8 Gregg Pirie, Napa County LEA, be followed by
9 William Prinz.
10 MR. PIRIE: Good afternoon. Gregg Pirie, Napa
11 County LEA, and also representing the Enforcement Advisory
12 Council.
13 The last few comments, the last comment period
14 have talking about limitation issue. I think the major
15 concern right now is just being able to implement the new
16 language on the public hearings and also the enforcement.
17 And it seems like the major attempt right now of the LEA
18 is just to be able to implement what's stated in there and
19 essentially have a level playing field to where we
20 wouldn't have one site that would have to have public
21 hearing with one next door that wouldn't require it. A
22 lot of things we're looking at are in terms in materials
23 of -- you know, with the major issue of public hearings
24 somehow to be able to have it set in statute to where you
25 level the playing field throughout all the tiers.

1 And also in terms of enforcement, to be able to
2 have some kind of statutory change and not just one single
3 package. Make it broad throughout. But I think the
4 biggest deal is if you are going to approve it today,
5 please come back as soon as possible and please include
6 the EAC with any type of review or comments that you might
7 have. We're always available.
8 And not only does the EAC represent the LEAs in
9 terms of those questions coming to the EAC and Deputy
10 Director if there's any questions, but we're Advisory
11 Council for the Board questions coming back to us. So if
12 you do approve them, please come back to us and include
13 us. And we are working closely with the CCDEH Waste
14 Policy Committee.
15 So thank you very much.
16 CHAIRPERSON MOULTON-PATTERSON: Thank you for
17 being here. And I think I can speak for all Board
18 members, we definitely agree with you on the level playing
19 field, and we want to make sure that happens, and we will
20 be addressing that.
21 MR. PIRIE: Thank you.
22 CHAIRPERSON MOULTON-PATTERSON: William Prinz,
23 City of San Diego LEA, followed by Justin Malan.
24 MR. PRINZ: Thank you very much. Basically I
25 have three comments I'd like to make on the last 15-day

1 comment package.

2 The first one has to do with the public hearing

3 process. In concept the LEAs agree that the stakeholders

4 and the public should all be notified, especially if

5 there's no comparable public hearing that's been held by

6 the local agency.

7 But the concerns we have are that that is a

8 dramatic departure from the permitting and regulation

9 system we have intact now. And it's -- and there's been

10 minimum opportunity for public input on this change. You

11 know it's within the smallest time period in the hearing

12 process -- I mean, the administrative rule process.

13 So we think it would be a stronger package if it

14 were addressed through the full administrative law process

15 that, you know, opened up for a longer period of time to

16 give LEAs and all the stakeholders more of an opportunity

17 to review it. I think it would strengthen the concept

18 behind having a public hearing.

19 Also the second point I'd like to make is with

20 the new enforcement Section 17383.5K, also called the

21 three strikes section. This also, I think, is a worthy

22 concept that -- is that it grants the enforcement agencies

23 an enforcement tool that we can use to address the

24 specific violations. And it's commendable that the Board

25 is seeking to address some of the gaps in the current

1 enforcement structure. But this could be more effective,
2 I believe, if it will looked at across the Board with all
3 the different facilities in mind. Now this is just
4 something that's kind of sequestered in with the C&D
5 regulations. And I think there'd be merit in looking at
6 it as an enforcement strategy for all the solid waste
7 facilities. So we'd like to just think this should be
8 given some broader consideration before being placed in
9 these regulations.
10 And also under -- in today's agenda item there's
11 a quote that says "under current regulations CDI
12 operations and facilities can only be issued a full solid
13 waste facility permit by the CIWMB." And really the
14 current regulations are not a one-size-fits-all approach.
15 The transfer processing regs already implement the tiered
16 permitting structure.
17 And this, we believe, would be a good starting
18 point to address the C&D issues that the Board's been
19 looking at for a while. The existing tiers are comparable
20 in many ways to the proposed regulations as far as where
21 the different facilities might fit in on tonnage. And
22 they are tried and true starting for protecting public
23 health, safety, and the environment as well a fair and
24 just permitting system.
25 So in conclusion, our LEA is concerned with the

1 addition of these 11th-hour provisions that represent
2 sweeping shifts from current statute and regulations.
3 These changes should be subject to full administrative law
4 review before being implemented. And the existing
5 transfer process regulations are adequate to address
6 public health, safety, and the environment and provide
7 enough flexibility to fairly address permitting concerns.
8 Thank you.
9 CHAIRPERSON MOULTON-PATTERSON: Thank you very
10 much for being here.
11 Justin Malan, CCDEH, followed by Mike Hammer.
12 MR. MALAN: Madam Chair, third time's the charm.
13 Maybe we'll get it this time.
14 I must represent our position as reluctant Dons
15 Parker in this gig. And the reason we're elected is that
16 we see too many holes, too many problems with this that we
17 do acknowledge the urgency of our passing these
18 regulations and adopting these regulations. And as such,
19 we reservedly support this package that's before you.
20 I want to echo and reenforce what the two
21 previously LEAs have mentioned very quickly. Overall, we
22 believe this is over-regulation. We believe that all the
23 talk of the protection of public heath and environment has
24 been overstated in this particular case. And we alert
25 everyone here that we may be setting ourselves up to

1 --loading on requirements where they may not be actually
2 necessary and moving away from a risk-based permitting and
3 enforcement structure. That's our biggest concern.
4 Secondly, we do have a concern about the public
5 hearing process. Although I want to reiterate and
6 emphasize that CCDH is fully 100 percent supportive of
7 proper public notification. We do not oppose public
8 notification, public involved in the process at all. Our
9 concern lies more with the fact that we could possibly
10 have multiple public hearing processes that duplicate or
11 overlap or conflict with the current processes that are in
12 place, particularly with the CUP, the CEQA process, or
13 other local land use processes. So we would urge that you
14 expect public hearing only where one isn't afforded by the
15 other existing planning process.
16 Secondly -- thirdly, maybe more for
17 clarification, but an LEA did raise issue of DOSH. We
18 would be concerned about assuming additional statutory or
19 regulatory requirement under this where there's a
20 potential overlap of responsibility between the LEA and
21 OSHA. And I think that can be clarified. We may not be
22 able to make a change in the regulations, but we do have a
23 protocol in place which ensures that we refer any
24 suspected violation of occupational health and standard
25 provision to DRESH, and we've always supported that. We

1 would hate these regulations to take it a step further and
2 compromise an existing agreement.
3 The next issue is on tiering, and we see a little
4 bit -- that's t-i-e-r. We see a little bit of a move away
5 from the concept of tiering which, again, we fully endorse
6 the notion of risk-based permitting and risk-based
7 enforcement. And we hope that doesn't set too strong a
8 precedent against that.
9 Second, last point is that we would urge the
10 Board -- and we brought it up on previous occasions. We
11 urge the Board to work with the LEAs with looking at a
12 consolidated and more effective administrative enforcement
13 process.
14 For the past three years we have worked with
15 CalEPA on hazardous materials, otherwise known as CUPA
16 enforcement process. It's gone through a rigorous review.
17 It's a strong, fair process that provides a full spectrum
18 of authority and tools to the local enforcement agency.
19 And we would urge your Board to work with us to consider
20 the adoption of a very similar process which has due
21 process worked in and will ensure adequate authority to
22 the LEAs.
23 And finally, if and when these regulations go
24 through today, we'd ask your commitment that within a year
25 we review them. We review them to see whether the

1 thresholds are correct. We review them to see whether the
2 additional requirements that have been interjected at the
3 last moment are, in fact, necessary and are working.
4 Thank you.
5 CHAIRPERSON MOULTON-PATTERSON: Thank you,
6 Mr. Malan.
7 I'd just like to say that I certainly would be in
8 favor for the one-year review. And I think all the
9 members are.
10 Also, it's not my intent to have redundant public
11 hearings. We want to make sure the public has a hearing
12 but not redundantly.
13 And then certainly we know that a lot of this is
14 new, and we really want to work with all of you very
15 closely.
16 MR. MALAN: Thank you, Madam Chair. Thank you,
17 Board members.
18 CHAIRPERSON MOULTON-PATTERSON: Washington.
19 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
20 I'm glad you clarified that. Because if you read the regs
21 and public hearings, it says if the LEA is doing a hearing
22 for any particular reason, you can institute that part of
23 the process into that public hearing.
24 You probably should go back and read it again to
25 make sure you're clear as to what you can do.

1 It's not allowing you to have hearing after
2 hearing. But you can institute another hearing into that
3 particular hearing.
4 MR. MALAN: I appreciate that. And maybe it is a
5 bit of understanding what's in the regs, but the caution
6 is out there. Thank you, sir.
7 CHAIRPERSON MOULTON-PATTERSON: Thank you. Thank
8 you, Mr. Washington.
9 We have Mike Hammer of Looney Bins, Incorporated,
10 followed by Chuck Helget.
11 MR. HAMMER: Good afternoon, members of the
12 Board. I'm here representing Looney Bins as well as the
13 Construction Materials Recycling Association of Southern
14 California.
15 You know, it's been a long process, many
16 compromises, a lot of emotion. And I really want to thank
17 the staff for all their hard work. But I really feel like
18 in the end what we have right now is an overreaction to
19 the Crippin fire, so much so that we now apply more
20 stringent standards on a recycler of C&D debris that's in
21 a 50 to 75 tons per day than we do on someone that takes
22 the same amount of just pure garbage. And I think that's
23 one example where there's been an overreaction during this
24 process.
25 And all throughout the whole process it was never

1 disputed that the state minimum standards, the definition
2 of C&D waste alone, state minimum standards, processing
3 limits, and storage limits would have adequately protected
4 the public health and safety in every bad case that was
5 ever brought before the Board. In every case it was
6 almost always a storage or processing limit infraction if
7 these regulations would have been implemented.
8 Unfortunately, what happened is we've thrown so
9 many other regulations into this package that it's now
10 going to strangle small processors. And, you know, we're
11 going to comply with whatever set of regulations you
12 adopt. Unfortunately, we feel like the registration
13 tonnage limits should have been much higher, at least
14 double where they are in this set of regulations. There
15 were adequate health and safety standards in there before
16 we added all the other things as a result of the Crippin
17 fire.
18 But I do want to ask the Board, if you go forward
19 and adopt these, to crystallize what help you're going to
20 offer the small processor. I know past Board Member
21 Cannella had offered that and the Board seemed unanimous
22 that it wanted to help. It didn't want the small/medium
23 processors to be hurt. But there isn't anything
24 crystallized in there. And I fear as you are move on to
25 new issues that we could be forgotten. And I want to make

1 sure that that's not the case. I'd like you to put
2 something in there.
3 The only suggestions I can come up with -- and
4 you have a lot more wisdom so you may have others -- is
5 grants for consulting expenses or just personnel help, hot
6 line numbers we can call or people that are really
7 available that we can meet with to help us through this
8 process.
9 Finally, I just want to recommend what Mr. Malan
10 just said is that I think it would be a good thing to go
11 back and look in a year at how many facilities there are,
12 what tonnages they are doing compared today because I
13 really feel like you're hindering growth. And I think
14 especially looking at how many new small/medium processors
15 have come on line because, like I told you in the past, I
16 think they're going to be the ones that are most hindered.
17 And the state needs dozens and dozens of new processors to
18 meet the recycling demands.
19 CHAIRPERSON MOULTON-PATTERSON: Thank you.
20 We have some questions or comments. First of all
21 Mr. Washington and then Mr. Paparian.
22 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
23 I think you made a good point in terms of -- I
24 hope the staff is taking note. Because it's not our
25 objective to put anybody out of business. And anything we

1 can do to help, as you and I talked before about this,
2 we're going to certainly do everything we can to try to
3 assist you with that. And I think you came up with some
4 good ideas in terms of the 800 number or something like
5 and that you can call in to say, "How do we get to where
6 we need to be at?"
7 And I think, Madam Chair, that's a good
8 suggestion he made in regards to that.
9 CHAIRPERSON MOULTON-PATTERSON: Thank you.
10 Mr. Paparian.
11 BOARD MEMBER PAPARIAN: Yeah. I agree with that
12 also. This was an issue that I remember Mr. Cannella when
13 he was here was very vocal about. And I certainly agreed
14 with him then, and I agree with this issue now that we
15 ought to -- particularly for folks who have not been in
16 the regulatory system that we operate providing some
17 assistance in terms of the process, in terms of how to get
18 their permits I think would be appropriate. Having
19 somebody on our staff who's the designated person that
20 they could talk to in getting that word around I think
21 would be very helpful.
22 My only -- I probably -- I'll certainly leave it
23 up to Mr. Leary, but I think it may be important to, you
24 know, make sure that person isn't -- well, I take that
25 back. I was going to say in some situations some agencies

1 that do this they separate people who are the regulator
2 from the people who are the assisting individuals, but
3 that may not be as important in this case. I think having
4 the individual who's knowledgeable about how to get a
5 permit, what the steps are, how to overcome barriers, that
6 kind of stuff is the most critical thing.
7 CHAIRPERSON MOULTON-PATTERSON: Thank you,
8 Mr. Paparian.
9 And I agree. I think that we need at least
10 something on the record that we will have a designated
11 person or help line or whatever because I think this is
12 critical. And I want to make that commitment, and I think
13 we all want to make that commitment to you. Mr. Leary.
14 EXECUTIVE DIRECTOR LEARY: I think you'll find
15 the staff have always been as helpful as they possibly can
16 be in assisting folks who are filling out applications and
17 make sure those -- help them make sure those applications
18 are complete, and together with the LEA community have
19 provided assistance in the past and will continue to
20 provide assistance in the future.
21 Once that application is deemed complete, it will
22 fall into a more traditional regulatory function and have
23 to evaluate those applications. But I think there is an
24 opportunity and have been supportive of assisting
25 applicants to make sure their processes are done the

1 correct way and completely.

2 CHAIRPERSON MOULTON-PATTERSON: I think that

3 that's true, and I think staff has been wonderfully

4 helpful from everything I've heard out in the field. But

5 I'd like to see an extra special effort since this is new.

6 Mr. de Bie.

7 MR. de BIE: Staff totally agrees, and we've

8 heard the Board comments previously.

9 Our strategy right now is to be proactive. Not

10 wait until someone calls us with a question, but go and

11 find these people and contact them and let them -- you

12 know, and address it that way. We've gone to survey. We

13 have a good solid baseline survey of the sites out there.

14 We're working with the LEAs currently in completing that

15 survey to identify those facilities that may fall under

16 these regs, as well as the compost regs that were just

17 recently adopted and have new facilities coming in.

18 Staff is going to go through intensive training

19 on these regs so they're very clear on what the

20 requirements are. And we're going to use those existing

21 relationships between staff and LEAs to do the outreach

22 and work hand-in-hand with the operators to get them

23 through this process as quickly as possible.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. De

25 Bie. And thank you, Mr. Hammer.

1 MR. HAMMER: Thank you.

2 CHAIRPERSON MOULTON-PATTERSON: Our last speaker

3 is Chuck Helget representing Allied Waste, BFI.

4 MR. HELGET: Madam Chairman, members of the

5 Committee, Chuck Helget representing Allied Waste, BFI.

6 We believe there is a clear urgency to moving

7 these regulations forward today, and Allied Waste supports

8 regulations that are before you in this package today.

9 If there are holes in the regulatory package as

10 we heard in some testimony, we pledge our support to work

11 with you and the LEAs and the other stakeholders to help

12 close any loopholes or to help facilitate people in

13 complying to these regulations.

14 And, further, we support the one-year review and,

15 in fact, you may even consider somewhat of a six-month

16 update to make a determination if there truly is an

17 economic impact of these regulations on the businesses

18 that recycle this very important product, and we would

19 also support that.

20 Thank you.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you very

22 much, Mr. Helget.

23 That concludes our public speakers, and I'll turn

24 it over to Board members. Mr. Jones and Ms. Peace and

25 Mr. Paparian -- just turn on your lights. We have a

1 system now so -- Mr. Jones.

2 Mr. Medina had asked to make a motion. But I

3 think we had some members that want too speak first.

4 We'll go to Ms. Peace and then to Mr. Paparian.

5 Did you want to speak, Mr. Paparian?

6 And Mr. Washington.

7 BOARD MEMBER PEACE: First, I would like to thank

8 our staff, Scott Walker, Mark de Bie, and especially

9 Allison Spreadborough, for all the work they have done on

10 these regulations and all the changes they have had to

11 make.

12 It is obvious that regulations of these

13 facilities is needed now. However, I'm not pleased with

14 many of the parts of these regulations, not the mention

15 the way they unfolded with so many last-minute additions.

16 While no one could explicitly define the impacts on small

17 businesses, no one can deny there will be an impact and

18 that those impacts will vary greatly, depending where they

19 are located, not to mention possible negative impacts on a

20 city's diversion rate.

21 This disturbs me. I think this is

22 over-regulation, and this is not the type of policy I

23 relish to proving. I would like the Board to review these

24 regulations in six months to reevaluate their

25 effectiveness as well as their impacts on small business

1 and diversion.

2 Because so many people are convinced that

3 construction and demolition debris is enough of a public

4 safety threat to warrant scales, a fire protection plan, a

5 three strikes trigger, mandatory OSHA training, random

6 inspections, and public hearing requirements, you can

7 expect to see me supporting those same requirements in the

8 C&D disposal regulations, as well as the transfer and

9 processing regulations and the landfill regulations.

10 Thank you.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you,

12 Ms. Peace.

13 Mr. Paparian was next and then Mr. Washington.

14 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

15 I'm planning to vote for these regulations today,

16 but I want to make a few comments about them.

17 First of all, I wanted to thank the Chair for her

18 leadership on this issue. I know that she and her

19 advisor, Bonnie Bruce, spent countless hours in meetings

20 in both Northern and Southern California with the

21 industry, with small recyclers, with a variety of the

22 interested parties. And while the regs aren't perfect,

23 I'm very thankful to the Chair for her commitment and

24 leadership on getting these regs in place.

25 I also think Ms. Peace certainly has jumped in

1 and has demonstrated her interest in and commitment to
2 this issue, and I'm looking forward to working with her as
3 she follows up on some of these items.
4 I believe that the regulations are the best we
5 can do at this point. However, I also am concerned that
6 they have the potential to hurt some of the small
7 businesses and some of the recycling entrepreneurs that
8 are out there. The regs also have the potential to put
9 some of the larger haulers at a competitive advantage over
10 the smaller recyclers. I think that's something we're
11 going to have to keep tabs on as we watch how these
12 regulations are implemented over the coming months.
13 I support the idea that's been mentioned about
14 taking a look at these things in a few months, seeing how
15 they're being implemented, and seeing whether there's any
16 unintended consequences, or anything that we need to do to
17 improve the regs.
18 And I also agree that we need to look at the
19 consistency of what we've done with these regs with all of
20 our other regulation packages. And certainly that was
21 part of our Strategic Plan that we adopted recently. The
22 Strategic Plan called for consistency and application of
23 our regulations and programs. And I think it's going to
24 be important to take a look at all of our programs and see
25 whether there are inconsistencies with things like the

1 inspection frequencies, the public hearings, the three
2 strikes, the OSHA, and the other items that Ms. Peace laid
3 out.
4 I know that I tried to do this yesterday with the
5 tire program. I wasn't successful at that point in the
6 Special Waste Committee, but I'll bring that up again
7 because I think in all of our permitting and inspection
8 and enforcement programs we need to have some consistency.
9 And if we're not having consistency, we better understand
10 why we're not having that consistency and make sure we're
11 comfortable with that.
12 So with all that, again, I'm going to vote for
13 these today, but I think we need to take a look at some of
14 these items in the future.
15 CHAIRPERSON MOULTON-PATTERSON: Okay.
16 Mr. Washington doesn't wish to speak.
17 Before I call on Mr. Medina -- he's asked to make
18 a motion -- I just want to say this has been a long haul,
19 and staff has done a fabulous job, and they have been so
20 great to work with on this. And I really appreciate it.
21 Ms. Spreadborough and Mr. De Bie, Mr. Walker, you've done
22 a great job.
23 And we worked hard on these. I certainly agree
24 with the members of the audience that said they're not
25 perfect. They're not. But I think we had an obligation

1 after nine years, or whatever it was, to adopt something
2 that maybe we're not all totally happy with, but we have
3 regulations.
4 I agree with Mr. Paparian and Ms. Peace. We must
5 be fair across the board. And I appreciate Mr. Helget
6 stepping up to the plate and offering to do this.
7 Just as an example of what I'm talking about --
8 and I won't even say the company. But a large company in
9 our notes today is currently expanding its C&D debris
10 sorting and organic transfer capabilities at its transfer
11 station. And looking at the information I've been given,
12 you know, just looking down a few of these, the C&D regs
13 that we are possibly going to adopt today, they require
14 mandatory OSHA training. They don't necessarily for
15 transfer stations. Public hearing requirements, there
16 aren't public hearings requirements. Fire prevention
17 plan, some might have them, some might not.
18 And I just want to make sure that as we go
19 through we're fair and that it is -- because I don't want
20 to hurt small business. I feel very strongly about that,
21 as the Governor does. And so I also agree that we should
22 have a six-month review of the impact of these
23 regulations, as Ms. Peace suggested, and include in this,
24 please, the six-month review of any businesses that could
25 have gone out of business. And if you could address that,

1 I would appreciate it.

2 And with that, I will turn it over to Mr. Medina.

3 BOARD MEMBER MEDINA: Thank you, Madam Chair.

4 Before I move this, I just want to preface it

5 with some remarks.

6 First, I want to congratulate the Board members

7 from -- we had half a Board at 100, half the Board at 300.

8 And we were generous and meet more than halfway at 175.

9 And for all of the discussions that he participated in,

10 the C&D, the C actually stood for Cannella sometimes

11 because of the role Mr. Cannella played in the discussions

12 that we had.

13 I'm very happy that we had an opportunity to

14 review and improve the health and safety, safeguard,

15 because any time that you can specifically direct

16 regulations at further health and safety, you're better

17 off.

18 I personally think that six months is too short a

19 period for review. I think that as a couple of the

20 speaker mentioned, a one-year review is appropriate.

21 Six months, we're just barely getting these regulations

22 off the ground. Any time that we go to regulations as

23 we've done in regard to these regulations, you have an

24 opportunity to review and revise and hopefully make the

25 regulations better.

1 So in that regard, I would like to move
2 Resolution 2003-191, consideration of the adoption of a
3 Negative Declaration, State Clearinghouse Number
4 2003022081 for the construction and demolition of inert
5 debris processing tiered regulations.
6 BOARD MEMBER JONES: I'll second.
7 CHAIRPERSON MOULTON-PATTERSON: Did you have a
8 question?
9 BOARD MEMBER PEACE: I still would like to see
10 some sort of review in six months.
11 CHAIRPERSON MOULTON-PATTERSON: An informal
12 review in six months.
13 EXECUTIVE DIRECTOR LEARY: Madam Chair, members
14 of the Board, I know you can assume we will have our
15 fingers on the pulse of the regulations every step of the
16 way. We will at least at a minimum report back to you
17 after six months, and we can decide whether we want to
18 undergo a full evaluation at that point.
19 I just ask for clarification purpose we consider
20 the six months to be from effective day of their passage
21 by the Office of Administrative Law, not six months from
22 today because there is a process that has to go on at the
23 Office of Administrative Law.
24 CHAIRPERSON MOULTON-PATTERSON: That's fine. I
25 think that's reasonable.

1 Okay. We have a motion. I'll go ahead and
2 second it. So please call the roll.
3 SECRETARY WADDELL: Jones?
4 BOARD MEMBER JONES: Aye.
5 SECRETARY WADDELL: Medina?
6 BOARD MEMBER MEDINA: Aye.
7 SECRETARY WADDELL: Paparian?
8 BOARD MEMBER PAPARIAN: Aye.
9 SECRETARY WADDELL: Peace?
10 BOARD MEMBER PEACE: Aye.
11 SECRETARY WADDELL: Washington?
12 BOARD MEMBER WASHINGTON: Aye.
13 SECRETARY WADDELL: Moulton-Patterson?
14 CHAIRPERSON MOULTON-PATTERSON: Aye.
15 We're going the take a ten-minute break before we
16 go to the Bradley.
17 MR. WALKER: Excuse me.
18 CHAIRPERSON MOULTON-PATTERSON: Oh, we have
19 questions. Sorry.
20 MR. WALKER: The Board just adopted the negative
21 declaration. Now they have to do the adoption of the
22 regulation.
23 CHAIRPERSON MOULTON-PATTERSON: Sorry. See, I
24 wanted to get it done.
25 Okay. Mr. Medina.

1 BOARD MEMBER MEDINA: Thank you, Madam Chair.
2 I'd like to move Resolution 2003-227,
3 consideration of the adoption of regulations for the
4 construction and demolition and inert debris processing
5 tiered regulations.
6 BOARD MEMBER JONES: Second.
7 CHAIRPERSON MOULTON-PATTERSON: We have a motion
8 and a second for Resolution 2003-227. Please substitute
9 the previous roll call without objection.
10 And I think we're finished now, and we'll take
11 our ten-minute break before we do the Bradley regrade.
12 (Thereupon a recess was taken.)
13 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington,
14 do you have any ex partes?
15 BOARD MEMBER WASHINGTON: I'm up to date.
16 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.
17 BOARD MEMBER PAPARIAN: I just said hello to
18 Assemblyman Richman, Senator Alarcon, but I don't think we
19 really talked about the Bradley item. I said hello. And
20 then Chuck Helget, very brief conversation about C&D regs
21 and the Sunshine Landfill.
22 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
23 Mr. Medina.
24 BOARD MEMBER MEDINA: Scott Gordon regarding
25 Assembly Bill 240, and Joe Cupps, just a meet and greet.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you. And I
2 met Assemblyman Richman.
3 BOARD MEMBER PEACE: I also talked to Mike Hammer
4 from Looney Bin about the C&D regs.
5 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.
6 BOARD MEMBER JONES: Denise on the last item, and
7 John Cupps.
8 CHAIRPERSON MOULTON-PATTERSON: Thank you. We'll
9 go right into the Bradley item, and I'm going to ask that
10 Mr. Walker give a very brief report. I know we have
11 Senator Alarcon as well as Assemblyman Richard who have
12 very tight schedules. If you could just give a brief
13 report on the questions that were raised and why we put
14 this over to this meeting, I'd appreciate it.
15 MR. WALKER: Thank you Scott Walker, Permitting
16 and Enforcement Division.
17 Item 2 is consideration of revised full solid
18 waste facilities permit to the Bradley Landfill West and
19 West Extension Los Angeles County. At the March Board
20 meeting, the Board directed staff to continue the item to
21 today's Board meeting and review specific issues and
22 comments that had come up in eight categories or areas,
23 and they include: the CEQA record regarding landfill
24 height, radioactive waste disposal, buffer between waste
25 and residences, leachate and storm water control, landfill

1 gas control, disclosure of the regrade project. Number 7
2 is environmental justice and cumulative impacts. And
3 number 8 is consistency with the CIWMB.
4 Staff provided an analysis of these issues in
5 Attachment 5 of this item. And, again, staff is prepared
6 to answer questions or run through those, if you'd like,
7 quickly.
8 Our recommendation still stands, and that's to
9 concur on the issuance of the permit. So I'd like to ask
10 the Chair, would you like us to run through those eight
11 issues real quick or answer questions or --
12 CHAIRPERSON MOULTON-PATTERSON: I think I'll ask
13 if any Board members have questions at this time,
14 otherwise I'll go right to Senator Alarcon.
15 Any questions Board members?
16 Senator Alarcon, we'll start with you and then
17 you'll be followed by Assemblyman Richman.
18 SENATOR ALARCON: Madam Chair, members, thank you
19 very much taking up this issue and thank you for delaying
20 your decision and reviewing additional information.
21 I've stated my position on many occasions, and I
22 think it's clear to everybody where I stand with regard to
23 this permit application, and clearly I'm opposed to this
24 provision.
25 At the last meeting I requested that the

1 application be kicked back to the city for further
2 consideration of the radioactive -- the low level
3 radioactive waste issue.
4 And in staff's analysis I wanted to mention --
5 discuss just a little bit about the radioactive waste
6 issue. The federal standards -- currently the state's
7 standards are at a par with the federal standards, but,
8 frankly, the federal standards were not to be a threshold.
9 They were to enable the states to further restrict their
10 issues in compliance with their particular problems.
11 And so I want to state for the record that there
12 is a considerable debate in the Legislature about the
13 Health Department standards with regard to radioactive
14 waste disposal. Many, many of the people in the
15 Legislature believe that there needs to be -- the
16 standards for disposal of radioactive waste need to be
17 strengthened, particularly with regard to the low level
18 radioactive waste. And so we are in strong disagreement
19 with the Department of Health Services with their
20 determination to have theirs correlate to the federal
21 standards.
22 So I think the real issue is public safety. This
23 Board was established in order to ensure the public
24 safety. And so I don't think that it is appropriate for
25 us to merely say that the local enforcement agency

1 authority has the ability to impose stricter standards.
2 And, in fact, I have called upon the City of Los Angeles
3 to explore this issue.
4 I believe this Board has the authority as well to
5 look at that, particularly with regard to disposal in the
6 landfills. I don't think we should just acquiesce to the
7 Department of Health Services and put what I believe is
8 risk into our communities. In this particular case we're
9 actually moving trash closer to residences than before.
10 In fact, according to the analysis on the northwest side,
11 the trash heap will be extended from 750 feet from the
12 perimeter to 250 feet. We're actually pushing trash
13 closer to the surrounding community.
14 What is worse is that according to the analysis
15 two-thirds of the additional capacity has been filled
16 already. In other words, the city already moved forward
17 as if this permit were approved by the state. Well, I
18 think that usurps your authority. You should not allow
19 local jurisdictions to move forward on a permit that has
20 not been approved by you.
21 So I really believe that this has created a
22 situation where the LEA and operators are frankly shoving
23 this proposal down the throat of the local community. And
24 you really are the -- you really have the opportunity to
25 correct a problem at the local level, particularly with

1 the low level radioactive waste disposal.

2 I believe the City of Los Angeles did not fully

3 and adequately consider the implications of the

4 radioactivity. They certainly did not review it in their

5 public hearing process. And I believe they need to do

6 that. And so I think the appropriate decision for this

7 Board is to send this back to the City of Los Angeles.

8 Let them decide whether or not to impose stricter

9 standards with regard to low level radioactive waste

10 disposal and not block them from doing so.

11 If this Board makes the decision to approve this

12 permit, they're, in essence, saying that it doesn't matter

13 if a new problem emerges during the process, we're just

14 going to approve the permit anyway. I don't know why -- I

15 don't know how we can do that. If the city did not have

16 adequate opportunity to consider this issue, I think this

17 Board has a responsibility because of the nature of your

18 responsibility to protect the public health of the

19 community and the environment that, in fact, you should

20 send it back.

21 I do want to point to one very troubling issue

22 with regard to the Board's analysis. With regard to

23 whether or not this permit is consistent with state

24 minimum standards, it indicates that -- the box is checked

25 to be determined. The landfill operator at this

1 particular site has been the subject of 35 violations from
2 1998 to 2002. I don't know how in the world you can make
3 a decision that it needs to be determined whether or not
4 this meets with the state minimum standards when, in fact,
5 there's been a pattern of violations at this particular
6 site.
7 And so I'm hoping that you stand up and look at
8 the issues beyond the staff analysis, that you take your
9 responsibility to protect the public health seriously by
10 sending this back to the city and allow them the
11 opportunity to review it.
12 In our communication with the Mayor's office they
13 are -- because of the process they're telling us that they
14 don't want to upset the process even though they agree
15 that they would like to have the opportunity to review the
16 implications of the radioactive waste disposal.
17 Notwithstanding that, they are not pulling the
18 application, which I think they should.
19 And so I just wanted to be here to reiterate
20 that, in fact, there has not been sufficient study of the
21 implications of low level radioactive waste disposal, that
22 the city did not have the opportunity to consider that.
23 The findings of disposal of low level radioactive waste on
24 the particular site and to the extent have not been fully
25 examined by the City of Los Angeles. And had it been, I

1 believe the permit application would be different and at a
2 minimum would take more care in resolving the issues of
3 radioactive waste disposal.
4 And so I would ask this Board to -- again, not to
5 oppose or not to approve or reject this permit, but to
6 send it back to the city for further review and
7 consideration. And so with that, I think you would be
8 doing a service not only to the communities in this
9 San Fernando Valley, but I believe you'd be sending a
10 message to the rest of the state of California. We're not
11 opposed to waste disposal, but we need it to be done in a
12 way that's safe. And given the new findings with regard
13 to the amount of radioactive waste disposal that is going
14 to occur in California, there needs to be new thresholds
15 and new standards set for the state of California, and I
16 don't believe approving this permit is -- it makes
17 sound -- is in the best interest of the state of
18 California.
19 So I would urge you again to please override what
20 has been the history of landfills in California. Set a
21 new trend, a trend where public safety is first,
22 particularly in communities where tens of thousands of
23 residents live within a few miles of this particular site.
24 We can send a message -- let's work together to improve
25 the status. Work together with you, work together with

1 the industry, work together with large LEAs, and small
2 LEAs, particularly in the City of Los Angeles where they
3 have so much waste produced and disposed. And let's
4 create a system that's better. I mean, that really should
5 be all our goal at the end of the day.
6 I believe approving this permit without doing
7 that would be a black eye in the history of California.
8 And I urge you to stand up against all odds and be leaders
9 and direct us in a new direction, one that is ensuring
10 that our public will be safer.
11 Thank you very much.
12 CHAIRPERSON MOULTON-PATTERSON: Thank you,
13 Senator Alarcon. We appreciate you taking the time to
14 speak to us. I neglected to mention after Assemblyman
15 Richman, Brian K. Williams, Deputy Mayor of the City of
16 Los Angeles, will speak to us right after Assemblyman
17 Richman.
18 Welcome.
19 ASSEMBLYMAN RICHMAN: Thank you, Madam Chair,
20 Members. Thank you very much for giving us the
21 opportunity to speak this afternoon.
22 I'm very pleased to be here in a bipartisan way
23 with Senator Alarcon to oppose this permit and oppose the
24 expansion of the Bradley Landfill and to make it clear,
25 not only do I oppose the expansion, but I think that

1 Bradley Landfill should be closed.

2 The people of the San Fernando Valley have for
3 too long been the recipients and paid the price for the
4 failure of the City of Los Angeles to plan for solid waste
5 disposal. In fact, they have not done their work to find
6 alternatives for disposal of solid waste other than
7 Bradley Landfill and the Sunshine Canyon landfill.

8 The California Integrated Waste Management Board
9 must not enable this failure, the failure of the City of
10 Los Angeles to plan and look for alternatives. And I will
11 emphasize the Waste Management Board should not and cannot
12 enable the failures of the City of Los Angeles. The Waste
13 Board should deny this permit in order to put the pressure
14 on the downtown interest to stop abusing the communities
15 around Bradley Landfill and Sunshine Canyon and make good
16 public policy.

17 Madam Chairman and Members, this is not an issue
18 that was remote to me. My medical practice was in this
19 community. And, in fact, my medical office was all of
20 about one mile from this dump. And it is time that we
21 stop abusing this community.

22 For those of you that have not been down there
23 and see this dump, you've got to look quite a ways up in
24 the air until you reach the top of this dump. And the
25 expansion, as Senator Alarcon has said, has already

1 occurred, and it is time to stop and close this dump.
2 You know, California statute defines
3 environmental justice as the fair treatment of all races,
4 cultures, and incomes, with respect to the development
5 adoption implementation, and enforcement of environmental
6 laws, regulations, and policies. By approving the
7 expansion of Bradley Landfill, the Waste Board will be
8 telling the working-class Latino population, most of
9 whom -- you know, many of whom were my patients, were
10 Spanish-speaking only around the Bradley Landfill, that
11 this law does not apply to them.
12 Respectfully, you all know the right thing to do.
13 Enabling the failure of the City of Los Angeles to plan
14 and imposing greater burdens on the people of Arleta, the
15 community surrounding Bradley Landfill, is a failure of
16 leadership -- a failure of leadership of Los Angeles, and
17 I hope not a failure of leadership of the Waste Management
18 Board. Please do not join the City of Los Angeles in
19 taking the easy way out.
20 Thanks very much.
21 CHAIRPERSON MOULTON-PATTERSON: Thank you very
22 much, Assemblyman, for being here.
23 Now I'd like to call on Brian K. Williams, Deputy
24 Mayor of the City of Los Angeles.
25 DEPUTY MAYOR WILLIAMS: Thank you, Madam Chair,

1 members of the Board.

2 Before I get to my comments, I do have a letter

3 here to you, Madam Chair, and to members of the Board that

4 I'll hand to the secretary that I would like to read in

5 the record.

6 I would also like to invite the Board to hold one

7 of their meetings, the next meetings, as we know -- I'm

8 sure you know there is greater interest in our community

9 as to the Bradley Landfill and the Sunshine Canyon

10 Landfill. There are a number of people in the community

11 who wanted to make it to this meeting today, but for

12 whatever reason could not make it here, financial, job,

13 child care reasons. So we'd love to have you down in

14 Southern California and Los Angeles in the Valley to

15 deliberate these issues. And we'd be able to provide any

16 assistance you need, whether it be office space or meeting

17 rooms, anything of that sort to facilitate that meeting.

18 This is a letter from the Mayor.

19 "Dear Chair Moulton-Patterson, I along with

20 the thousands of residents who must daily live

21 their lives in the shadow of the Bradley Landfill

22 urge you to deny any expansion of the Bradley

23 Landfill and ask that you undertake an immediate

24 review of new issues that have arisen at the

25 landfill site prior to the grading of any permit

1 provision.

2 "As I'm sure that you're aware, the Water

3 Quality Control Board is currently conducting an

4 investigation of the Bradley Landfill in an

5 effort to determine what types material may have

6 contributed recent preliminary findings

7 indicating leachate at the landfill exceeds state

8 standards for radioactive consent. Moreover, an

9 issue continues to exist concerning methane gas

10 release at the Bradley site.

11 "While this investigation into these issues

12 is ongoing, it is vital that the Waste Board take

13 all necessary actions to protect the public

14 health and welfare. I would strongly recommend,

15 therefore, that the proposed revised permit for

16 the Bradley Landfill include a provision that

17 requires the Waste Board, along with the Water

18 Quality Control Board, and other agencies as

19 appropriate to fully investigate these issues and

20 to develop and implement a mitigation program

21 that ensures the protection of both workers at

22 the facility and the public against hazards.

23 This mitigation plan should also consider the

24 potential revocation of the permit.

25 "It is precisely because of issues such as

1 these that I remain steadfast that the Bradley
2 Landfill should not be permitted any future
3 extension such as the proposal to allow an
4 additional 43 vertical feet of capacity.
5 "I'm sure that we have a shared desire to
6 ensure the landfills within our community are
7 operated in the safest manner possible. The
8 safety of the residents who must live adjacent to
9 these landfills as well the environmental
10 concerns of our entire community should be
11 paramount in your deliberations. I look forward
12 to working with you to ensure that our community
13 is safe."
14 CHAIRPERSON MOULTON-PATTERSON: Thank you very
15 much, Mr. Williams for being here.
16 DEPUTY MAYOR WILLIAMS: Thank you.
17 CHAIRPERSON MOULTON-PATTERSON: I have a question
18 of the legal staff right now. Several of the speakers
19 have talked about sending it back to the City of
20 Los Angeles. Is it in our purview to do that at this
21 time?
22 CHIEF COUNSEL TOBIAS: Madam Chair, I don't think
23 that it is.
24 Let me just site several sections from our Act
25 and then from our regulations. In Section 44001 it says,

1 "Any person who proposes to become an operator of a solid
2 waste facility shall file with the enforcement agency an
3 application for a solid waste facility permit at least
4 150 days in advance of the date of which it's desired to
5 commence."
6 And it talks about later coming back in to change
7 their project. So it's the applicant who really starts
8 that process, whether it's for a new permit or for a
9 change in the permit.
10 Then in our regulations in 21650 that's where we
11 lay out what the LEA's responsibilities are for processing
12 that permit. And we have time lines in there that
13 indicate that LEA or the EA has to review the package to
14 make sure that it's complete, that it has to accept or
15 reject the application package within 30 days of its
16 receipt, and then moves the application through these
17 different time lines. So it later says, "No later than
18 55 days after the application package has been filed, the
19 EA small mail to the CIWMB the following: the copy of the
20 permit, the accepted application package," and so on.
21 So I think that the guidelines are fairly clear
22 that once an applicant has started the process by
23 submitting their Application, that the LEA and then the
24 Board have a duty to follow those regulations and to
25 process the permit as it's been submitted.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you,
2 Ms. Tobias. I appreciate that.
3 We have a number of speakers yet to hear.
4 Jim Moose for Waste Management.
5 MR. CORCORAN: Madam Chair, My name is Doug
6 Corcoran. Jim Moose is here if we need him to answer
7 specific questions.
8 CHAIRPERSON MOULTON-PATTERSON: He's with the
9 firm of Remy, Thomas --
10 MR. CORCORAN: Thomas and Moose. That's correct.
11 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
12 Arthur Sweet, the Sun Valley Chamber.
13 MR. SWEET: I don't know whether I need this or
14 not.
15 Madam Chair, members of the Board, I'm glad I
16 have a chance to speak after Keith Richman who actually
17 belongs to my Rotary Club, and I've known him for many,
18 many years, since 1962. He's a little bit carried away
19 with this particular situation primarily because 250 of
20 the best jobs in the Northeast San Fernando Valley are at
21 risk.
22 I realize that that doesn't cut any mustard with
23 part of the people that are involved in taking withholding
24 the permit if there's public safety involved. But as far
25 as the economic safety and public requirements of the

1 northeast San Fernando Valley, the Sun Valley Chamber
2 wants this permit granted, and we're 100 percent for it.
3 We've looked at it. I've personally gone to the site a
4 number of times on my own and with members of the Sun
5 Valley Chamber so that basically we feel that this permit
6 should be granted.
7 And that having been a businessman since 1962 in
8 the area and have no commercial interest at all in the
9 permit -- I do own some real estate in the San Fernando
10 Valley through a trust that I have. But other than that,
11 everything I've done for the waste valley -- or Waste
12 Management permit application has been strictly on the
13 basis that we feel it's very important to the San Fernando
14 Valley and all the citizens, commercial and residents, to
15 have this permit granted.
16 Thank you very much.
17 CHAIRPERSON MOULTON-PATTERSON: Thank you for
18 being here.
19 Carol Zeihler, East Valley Coalition.
20 MS. ZEIHLER: Madam Chair, Board members, in all
21 due respect to Mr. Sweet, I am a business owner and a
22 member of the Sun Valley Chamber of Commerce, and I'm not
23 for approving this permit. All right. And I don't know
24 how many others are or not, and I don't think Mr. Sweet
25 does either.

1 But I have submitted to you a letter -- a
2 six-page letter today, and I will be presenting to you now
3 a condensed version of the contents of that letter.
4 Let me get my glasses on here.
5 "Our community feels betrayed by the Board.
6 Following the meeting on February 13th we were
7 hopeful that a real solution could be found. As
8 it turns out, we simply were going through a
9 series of a expensive appeasement meetings so
10 your Board could say that they addressed
11 environmental justice issues. We never spoke of
12 environmental justice issues in our meetings
13 except indirectly. We discussed technical issues
14 and CEQA issues.
15 "Mr. Leary's response letter to Assemblywoman
16 Cindy Montanez carefully reflects the spin from
17 Waste Management. He has clearly not read the
18 CEQA document, nor is he familiar with the
19 technical issues from CEQA through environmental
20 justice issues.
21 "Mr. Leary alludes to the formation of a
22 Bradley Landfill Advisory Council. The East
23 Valley Coalition stated at the February 13th
24 meeting we felt the time was right for a Sun
25 Valley Waste Facilities Oversight Committee to

1 oversee the Waste Facilities in Sun Valley, not
2 another advisory committee. There is a high
3 density of waste facilities in Sun Valley, and we
4 feel the community should have oversight over all
5 of them. Keep in mind that the East Valley
6 Coalition requested the follow-up meetings as
7 well as the formation of the committee as well as
8 the money in an endowment fund.
9 "The East Valley Coalition continues to
10 contend that the CEQA has been inadequate for the
11 following reasons:
12 "Cumulative impacts have not been disclosed
13 or mitigated since the 1977 supplemental EIR.
14 "There has been deliberate inadequate
15 disclosure of project description and impacts
16 beginning with the 1986 MND through the 1998
17 exemption.
18 "The East Valley Coalition has been involved
19 with meetings with your Board staff, Waste
20 Management, political offices, and regulatory
21 agencies on February the 28th, March the 12th,
22 and March 27th of 2003. It became apparent at
23 the March 12th and 27th meeting that project
24 description for the 1986 and 1991 MND were
25 obfuscated to hide the phasing plans that were

1 the real proposed projects. The phasing plans
2 showed a number of small changes to the landfill
3 that were seemingly individually insignificant
4 but cumulative devastating to the community. The
5 community just now understands the impact of
6 these individual and cumulative changes.
7 "What we want the Board to do is one of two
8 things, one or the other: deny the permit and
9 remand it back to the LEA and City Planning for
10 full disclosure under CEQA and prepare a
11 subsequent environmental impact report as
12 required pursuant to Public Resources Code
13 Section 21166 and 14 California Code of
14 Regulations Section 15162, CEQA guidelines; or
15 second, assume lead agency role and disclose
16 impacts pursuant to CEQA guidelines Section
17 15150.
18 "In conclusion, we believe that we've been
19 betrayed. Your Board was the last hope, but
20 everyone from the Board through the Executive
21 Director down made up their minds beforehand and
22 were unwilling to buck the pressure from Waste
23 Management. You still have the opportunity to
24 make the right decision in the public's interest,
25 and we hope you do so."

1 Thank you.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you,

3 Ms. Zeihler.

4 I must say on behalf of all the Board members

5 that attended that night that many of us traveled many

6 miles and spent long hours there, and it was a sincere

7 attempt to hear the community.

8 Dan Hirsch.

9 Oh, excuse me. Mr. Washington.

10 BOARD MEMBER WASHINGTON: I would like to just

11 say I take exception to what you've just stated. The

12 Board went down to the San Fernando Valley at the request

13 that we go down to hear the community concerns. To say

14 that we betrayed this community in any way is nothing but

15 a false statement.

16 This Board tried to do everything we could to

17 help that community down there deal with Waste Management

18 on this issue. And to come here and say we betrayed

19 anybody is outrageous, from me. I don't know about the

20 other Board members. Because I came here as a public

21 member of this Board. And to take those statements and

22 put them in that form is totally outrageous. That's not

23 how you accomplish things. This is not the San Fernando

24 Valley, and you don't have to come to this Board thinking

25 that you can put these words in a form that's going to

1 make us jump or do things like that.

2 We go through everything we can to approve or --

3 approve, deny, or whatever we have to do according to the

4 powers we have by the laws. We're not going to sit here

5 and try to pretend as though we're doing something that

6 you guys feel is a dance and pony show to make everyone in

7 the community down there happy. That's not what we're

8 here for.

9 And, Ms. Zeihler, I'm really offended by that,

10 that you guys would take that type of position against

11 this Board who our obligation is to follow up on what the

12 LEA has put forward and to see if you met the requirements

13 of the state minimum standard. We've asked them to jump

14 over hoops on other things that had nothing to do with

15 this.

16 And I think it's unfair that you guys start

17 putting these type of things in this type of form saying

18 that this Board has betrayed you. What the heck you guys

19 get that from? I think you should take a second look at

20 stuff before you start coming in accusing people of doing

21 something, when you look at what we have to do and what

22 our responsibilities are versus what we've done for you

23 guys. That meeting that we held down there was not a

24 requirement of this Board to do that.

25 CHAIRPERSON MOULTON-PATTERSON: Thank you,

1 Mr. Washington.

2 Dan Hirsch, Committee to Bridge the Gap.

3 MR. HIRSCH: Thank you.

4 My name is Dan Hirsch I'm president of the

5 Committee to Bridge the Gap which is an organization that

6 provides technical assistance to communities that have

7 nuclear projects near them.

8 My background, I'm the former director of the

9 Stevenson program on nuclear policy at US Santa Cruz.

10 I'm neutral on the particular action you have to

11 take today. But I have some information I would like to

12 pass on that may be helpful and also propose something

13 that may be a bit of a compromise that may help move

14 things forward.

15 I've been concerned as some of you know for some

16 time about the problem of radioactive waste dumping in

17 municipal landfills. I serve on an oversight panel for

18 cleanup of the Rocketdyne Nuclear Facility in Simi Valley.

19 And through that activity we learned that 6,000 tons of

20 radioactive debris from former nuclear reactors at that

21 site have been sent to the Bradley Landfill for disposal.

22 I want to make clear this is not a failure in my

23 view of any way of Waste Management. As best I can tell

24 on this issue they've acted responsibly. They have not

25 voluntarily taken any of this waste. They had no way of

1 knowing that it was radioactive because of these
2 unfortunate confused and not well thought out state
3 policies. Nonetheless, we know that 6,000 tons of
4 radioactive debris did go to Bradley. We don't know what
5 else has gone in addition.
6 The State Water Board issued orders last year,
7 and Waste Management and other companies took measurements
8 of the radioactivity at each of their sites. And in the
9 Bradley Landfill there was elevated tritium, although not
10 above the maximum concentration limits, still about 1,000
11 times what you get in background. And that's clearly not
12 coming from nature. Clearly some tritium was dumped in
13 that facility. And there was very high gross beta at
14 about 940 pico curies per liter or about 19 times the
15 maximum concentration limit.
16 Now, there may be some natural explanations for
17 that, though I must tell you that reading the Waste
18 Board's letter to Assemblymember Montanez I was troubled
19 by a number of statements in it that were inaccurate. And
20 before you move forward it would be helpful, I think, for
21 you to get some of that corrected.
22 The letter does not confirm the one piece of
23 information we do know, which is that radioactive waste
24 was dumped there, and instead suggests it could be coming
25 from nature. And it's very hard initially to presume that

1 that is the case because if this is standard radioactivity
2 that you find in any municipal landfill, we would be
3 getting these levels in all the municipal landfills, and
4 Bradley was far higher than we saw anywhere in the state.
5 And most of the landfills had no gross beta at all. We
6 know tritium has to be coming from something that was
7 dumped. Nonetheless, it isn't their fault that this got
8 in.
9 But you as a Board have certain responsibilities
10 under CEQA. And I know Mr. Paparian will remember a
11 famous case called Fort Mohave versus the Department of
12 Health Services State Appellate Court decision that says
13 when there's significant new information, the lead agency
14 must consider that in the form of a supplemental EIR or
15 subsequent EIR at the time of the next discretionary
16 agency action.
17 Now in some sense, that's today. That's your
18 next discretionary agency action on this issue. And you
19 have an environmental impact report that was written, I
20 gather, in 1975. Am I correct about that? Over a quarter
21 of a century ago. And it clearly did not consider the
22 radioactive waste issue. We did not know in 1975 that
23 radioactive waste was or was going to be dumped at this
24 site. We did know the high levels to be found in it. As I
25 understand the law, the Board has an obligation now to

1 consider that significant new information.
2 Now I know that may not happen here today and
3 that, in fact, you have two sets of decisions about this
4 landfill pending. One is this grading permit matter which
5 may arguably not be effected by the radioactivity. Maybe
6 the opposite is the case, but the expansion clearly does.
7 And a possible compromise is for you to determine
8 that over the period of time you have, which I gather is
9 something on the order of a year before that expansion
10 permit request comes before you, to commence that
11 supplementation of your CEQA responsibility and to fully
12 consider the implications of these new radioactive
13 disclosures. Since it's the expansion that's particularly
14 important because you could get additional radioactive
15 waste by that expansion, you might want to make sure that
16 you've gotten yourself into full CEQA compliance by the
17 time you have to reach that decision.
18 These are important issues. There is a
19 moratorium in place at the moment, but it has large
20 loopholes in. Under the moratorium radioactive waste
21 could still shipped today to Bradley, but the moratorium
22 is intended to be only temporary for a year or year and a
23 half. And if you grant an expansion, the facility would
24 then be taking waste for a number of years beyond when
25 that moratorium would lapse. So this is serious.

1 Right now the radioactivity is kept in the
2 leachate. We're not finding it in the groundwater, but
3 the liner has a design life of something like 30 years.
4 So I don't want radioactivity in a municipal landfill.
5 It's not designed for it. It can't handle it safety. The
6 lifetime of that radioactive material is much longer than
7 the liner.
8 So if you're having questions, I'll be pleased to
9 answer them. But the basic point I want to make for you
10 is that this is serious and significant new information.
11 The decisions you make can effect and exacerbate the
12 environmental impacts of that radioactive waste disposal.
13 I believe that you have legal responsibilities under CEQA
14 to consider that information in a CEQA context. You might
15 be better off legally doing it now, which is the next
16 discretionary agency action. If you're not going to do
17 that, I would urge you to at least start the process so
18 that the expansion has that full coverage.
19 And I want to just end with one other point. I
20 really do think that Waste Management on this issue has
21 been fairly responsible. They don't want the radioactive
22 waste. It's not their failure that it's come in. But
23 that's still doesn't alleviate the Board from trying to
24 resolve this issue. Because it's the impact from this
25 facility that matters whether they are responsible for it

1 or not, it's still coming into that facility unless you do
2 something.
3 Thank you.
4 CHAIRPERSON MOULTON-PATTERSON: Thank you,
5 Mr. Hirsch, for being here and testifying. I have a
6 couple of lights on, questions that people want to ask
7 you.
8 But before I do, I need to ask Ms. Tobias, do we
9 need advice in closed session on this? Shall I finish the
10 public comments? What is your advice to us as Chief
11 Counsel?
12 CHIEF COUNSEL TOBIAS: I do think I would like to
13 address you in closed session. And I think it would be up
14 to you if you want to finish public testimony. And then
15 if there are questions the Board members might ask --
16 which I'll like to talk to them first. Perhaps I would
17 just say we could go into closed session at that time.
18 CHAIRPERSON MOULTON-PATTERSON: We only have
19 three for public speakers so we'll finish it. But before
20 we do, we have Mr. Jones, Ms. Peace, and Mr. Paparian that
21 have comments or questions.
22 BOARD MEMBER JONES: Thank you, Madam Chair. The
23 6,000 tons that you alluded to, that was from a
24 decommissioned facility?
25 MR. HIRSCH: Yes. The Rocketdyne site is a

1 former Atomic Energy Commission, Department of Energy
2 Nuclear Facility that had about 12 reactors, one of which
3 suffered a partial meltdown in 1959, another in 1964 had
4 another serious accident. So what was sent to Bradley was
5 a portion of the debris from those reactor buildings. The
6 hottest stuff went to licensed sites, but the stuff that
7 wasn't quite so hot went to Bradley.
8 BOARD MEMBER JONES: This was stuff that fell
9 within the parameters of Health Service's rules on how you
10 dispose of decommissioned facilities that have had -- that
11 are radiation?
12 MR. HIRSCH: To be absolutely accurate, it fell
13 within the purview of the Department of Health Services'
14 proposed rules, which was subsequently struck down by the
15 Superior Court here in Sacramento as illegal. The DHS
16 criteria had been struck down by the Superior Court.
17 BOARD MEMBER JONES: They hadn't been struck
18 down, then the material got delivered?
19 MR. HIRSCH: Unfortunately, the material got
20 delivered while the rule was still a proposed rule, and
21 somehow DHS was acting under the proposed rule before it
22 became final. The Court said even when it was final it
23 was illegal -- clearly illegal when it was proposed.
24 BOARD MEMBER JONES: Okay. And then the
25 radiation standards that are continually spoken about are

1 in drinking water. I think you alluded to it.

2 MR. HIRSCH: The radiation standards that the

3 Water Board measured -- excuse me -- the Water Board in

4 terms of what they saw in the leachate, yes. In fact, I

5 think that it should be clarified because someone said

6 that it exceeds the permissible limits. There are no

7 permissible limits for leachate. The Water Board used the

8 maximum concentration limits for drinking water as their

9 measure of what -- to see if it was high or not. But no

10 one drinks leachate, but they needed some measure to be

11 able to see if it was high.

12 BOARD MEMBER JONES: And I think what I'm trying

13 to do is just get the record to fully reflect what

14 happened because it clearly hasn't to this point. And I

15 think that when you talk about a standard for radiation in

16 drinking water there's very serious -- I mean, I don't

17 think anybody here would deny that. But we're not talking

18 about drinking water. We're talking about leachate. And

19 people don't drink leachate or they shouldn't drink

20 leachate.

21 MR. HIRSCH: I believe it was a previous speaker

22 who spoke about that, and I'm very glad you clarified it.

23 I do want to make clear you do have six unlined facilities

24 that the Water Board found contamination in groundwater,

25 and there we have a greater concern because it's reached

1 the groundwater. There, clearly, the drinking water
2 standard would apply.
3 BOARD MEMBER JONES: That's not this site.
4 MR. HIRSCH: Understood. But the levels that are
5 found in the leachate are enough of a concern when that
6 liner fails, the groundwater could be at risk.
7 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.
8 BOARD MEMBER PEACE: The 6,000 tons of
9 radioactive waste that was put at Bradley, when did that
10 happen?
11 MR. HIRSCH: From 1995 through about 2000 or
12 maybe into the early 2000s.
13 BOARD MEMBER PEACE: From what I understand, the
14 landfill does have guided counters now, that this will not
15 be something that will be happening.
16 MR. HIRSCH: No. I'm afraid porto monitors at a
17 landfill are normally set at two to five times background.
18 That would be the equivalent of 2000 -- well, 200 to 600
19 millieme per year or the equivalent of about 100
20 additional chest X-rays per year. The waste we're talking
21 about coming in are at levels of about 25 millieme. So
22 the detectors can't detect -- if it's alpha material they
23 can't detect it at all because it's shielded by the truck.
24 If it's beta material, they can't detect it at all because
25 it's shielded. Only if it's very, very strong gamma.

1 And the porto monitor's mainly designed to
2 protect the workers from getting fried. It's not designed
3 to be able to catch it. And you can't really create a
4 system whereby this is caught at the entry point. You can
5 do more by some actual measurements of the soil that comes
6 in measuring them in a particular layout. But a guider
7 counter hanging over an entrance will not be able to catch
8 what you're looking at here.
9 BOARD MEMBER PEACE: Well, I was told by people
10 at Waste Management that their guider counters catch
11 people that have just had radiation treatment.
12 MR. HIRSCH: But you'd be surprised how much dose
13 you can get sitting next to someone who had iodine 131
14 treatment for their thyroid. Those are very, very high
15 doses.
16 BOARD MEMBER PEACE: I know they're talking about
17 the radioactive particles in the leachate, but how does
18 that effect the ground? I mean, does any of that come out
19 up through the ground?
20 MR. HIRSCH: They're measuring it in the leachate
21 because that's easy to do. Every time it rains, you
22 collect water in the liner and you can then measure it.
23 But you have a secondary problem which is there's
24 obviously lots of dust and particles that are released at
25 a landfill, and many of these radioactive materials are

1 particularly dangerous if inhaled. And that you can't
2 measure either with a guider counter or measuring a
3 leachate. That's, again, why radioactive material doesn't
4 belong in a municipal landfill. It's not designed to
5 measure for it or be able to control its release.
6 BOARD MEMBER PEACE: The last time you put this
7 in was '95 to 2000. And since then they put layers and
8 layers of garbage over this already. What is the
9 possibility of this still becoming --
10 MR. HIRSCH: Well, two answers. One is still
11 significant. When rain falls into it a landfill, some of
12 that moisture moves up. There are hydraulic radiants. It
13 carries it up as well as down.
14 Secondly, when I said that I know of 6,000 tons
15 that were just dumped from '95 to 2000, that's just what
16 we know has been disposed of there. The measurements at
17 the landfill suggest much more has been disposed where the
18 tritium come from. And under the Department of Health
19 Services' policy, the controversial policy struck down by
20 the court, lots of radioactive waste could be going into
21 Bradley today without Waste Management even knowing about
22 it.
23 Remember that the moratorium is on decommissioned
24 wastes and the Water Board has only sent out warning
25 letters to the operators of current Department of Health

1 Services licensees. No letters went out to the NRC or
2 Department of Energy licensees telling them they can't
3 ship. So there're big loopholes even in the moratorium
4 today. When I told you that one incident from '95 to
5 2000, don't assume by any means that's all that has gone
6 or could be going on now.
7 BOARD MEMBER PEACE: Thank you.
8 CHAIRPERSON MOULTON-PATTERSON: Thank you.
9 Since there have been some water questions
10 mentioned, I'd like to call on James Giannopoulos from the
11 State Water Resources Board who's been able to join us
12 today.
13 And then I'll call on you Mr. Paparian, is that
14 okay?
15 MR. WALKER: I'd like to indulge the Board.
16 Mr. Giannopoulos has a brief presentation on the Water
17 Board. Would you like to see that or would you to like
18 just answer questions?
19 CHAIRPERSON MOULTON-PATTERSON: If it's brief and
20 we can hold off our closed session. I don't think we're
21 going say anything we shouldn't.
22 Thank you. And we appreciate you being here very
23 much.
24 MR. GIANNOPOULOS: As Scott mentioned, I gave
25 testimony before Senator Romero at the March 7th meeting

1 in Los Angeles, and I think I can go through this very
2 quickly to give us a brief overview.
3 CHAIRPERSON MOULTON-PATTERSON: I'd like to see
4 that.
5 (Thereupon an overhead presentation was
6 presented as follows.)
7 MR. GIANNOPOULOS: So let's move.
8 This is just an indication of the universe that
9 we deal with. And when, of course, we talk about
10 regulated landfills, when we talk about closed landfills
11 those are landfills that are -- still require groundwater
12 monitoring including the active landfills. So we're
13 dealing with close to 500 landfills. So this is not
14 anything that is new to members of this Board.
15 Next.
16 --o0o--
17 MR. GIANNOPOULOS: The 50 landfills that we ask
18 regional boards to require industry to sample, of those
19 50, 37 were active landfills and 13 were closed. So we
20 were pleased to see we had a pretty good sample of the
21 active landfills. Next.
22 --o0o--
23 MR. GIANNOPOULOS: The 50 landfills are shown on
24 this map with the background of the universe of landfills
25 with the line -- those landfills that were lined and

1 unlined in blue and landfills that were just unlined in
2 red triangles.
3 You can see the concentration down in the Orange
4 County area. We originally selected, as I recall, about
5 34 landfills. Senator Pathway asked us to include
6 Calabasas Landfill and then the Santa Ana Regional Board
7 elected to have additional 15 or 16 landfills. So you see
8 a concentration down in the Orange County area.
9 --o0o--
10 MR. GIANNOPOULOS: These are the MCLs for the
11 constituents that we asked to be monitored. We asked to
12 be monitored for gross alpha, gross beta, and tritium. If
13 they found gross alpha, then the standard protocol is to
14 test for a radium and uranium which are alpha emitters.
15 Betas are typically electrons and alphas are basically the
16 nucleus of a helium. So much larger particle. And as Mr.
17 -- as one of your speakers said -- I think it was
18 Mr. Hirsch -- alpha particles are easily stopped by a
19 piece of paper, and beta particles also don't travel
20 unless they're very high energy.
21 --o0o--
22 MR. GIANNOPOULOS: This indicates that of the 50
23 that were sampled for radioactivity, 26 were active, 13 --
24 and of the unlined units 13 -- 11 were active, and 13 were
25 closed. At all of the active units that -- where we

1 indicate lined -- we talk about lined, we mean they had a
2 composite liner. They all have unlined portions as well.
3 Next.
4 --o0o--
5 MR. GIANNOPOULOS: We found only -- what we did
6 is we required testing at upgradient well, downgradient
7 well and in leachate. We found only six landfills where
8 downgradient wells indicated radioactivity higher than
9 upgradient. These are the six that were all closed
10 landfills. The reason why I include Calabasas in this
11 example is to show that we had certainly higher values in
12 leachate. But if you look at the downgradient number that
13 has alpha particles and uranium and pico curies per liter,
14 you will see that the upgradient values are greater. We
15 did not include that as part of the six.
16 Of the 50 landfills, 16 of the landfills -- I
17 think that is indicated in your staff report -- had
18 leachate where radioactivity in one of the constituents
19 was greater than the MCL. And for Bradley there were
20 three samples taken. The highest was something like 930
21 or 940, as Dan Hirsch mentioned, and the lowest -- and I'm
22 going to put on my glasses. The lowest was 187 and the
23 third was 372. What we did was we averaged those to 450
24 which is what we showed in our summary.
25 Next.

--o0o--

MR. GIANNOPOULOS: Just for perspective, this is a slide of all of the public water supply wells and the point I want to make -- next.

--o0o--

MR. GIANNOPOULOS: This slide shows the public water supply wells in California that have had at least one exceedance of uranium or one exceedance of gross alpha. So I wanted to give an indication that there's a lot of background radioactivity in the soil there in California.

Next slide.

--o0o--

MR. GIANNOPOULOS: The exceedances of gross alpha are indicated by this slide, and again these are public water supply wells. I wanted to indicate that the exceedances may be multiple fold the MCL. So you can see the largest of the pink circles is 105 pico curies per liter, whereas the drinking water standard is 15. So you can get multiple fold exceedances in the background radioactivity.

Next slide.

--o0o--

MR. GIANNOPOULOS: And finally, there have been over 600 wells with radioactive exceedances.

1 I wanted to point out as I pointed out in the
2 hearing that none of the groundwater wells showed an
3 exceedance for tritium and only two for gross beta. The
4 number of wells that we looked at was about 28,000 over a
5 period since 1984. So it's a long time, a lot of samples.
6 The good news is that we don't see a gross beta and gross
7 tritium appreciably or at all in our public water supply
8 wells, but you see much higher numbers for gross alpha and
9 uranium and radium, which are gross alpha emitters.
10 That was my presentation to Senator Romero.
11 And your next question is going to be, what's
12 next? And what's next is clearly we are interested in
13 more analysis. When I say more analysis, I mean first of
14 all the data's preliminary. We're taking a look at the
15 data that we have. The data we have indicates that we
16 need to do another round of sampling and maybe more
17 focused sampling to help us understand in the case of the
18 gross beta what were the sorts of gross beta, and in case
19 of uranium, some assurance that the uranium we saw in both
20 leachate and groundwater was, in fact, background.
21 We are considering options. Options include
22 having a third party conduct that next round of sampling
23 analysis or requiring industry to do that sampling
24 analysis with additional direction from us and then
25 getting a third party to analyze it. Needless to say, we

1 at the Water Board are not experts in radioactivity, and
2 we are interested in consulting with third-party experts.
3 CHAIRPERSON MOULTON-PATTERSON: Thank you very
4 much.
5 Any questions?
6 We appreciate that very much.
7 Next speaker is William Neal, GeoChem
8 Applications.
9 BOARD MEMBER PAPARIAN: Madam Chair.
10 CHAIRPERSON MOULTON-PATTERSON: Oh, I'm sorry.
11 Next speaker is Mr. Paparian.
12 BOARD MEMBER PAPARIAN: I just wanted to follow
13 up on something Mr. Hirsch brought up. Well, he brought
14 up two issues. One was the issue of whether we need to
15 look at CEQA right now. I guess that will be the subject
16 in our closed session.
17 But he also raised the issue of making sure that
18 CEQA on the expansion, the next phase -- presuming Waste
19 Management moves forward with their expansion -- that this
20 includes the sorts of issues that have been brought up
21 here today. And I want to ask our staff to respond to
22 that. Are we aware of what type of CEQA they're going to
23 do on their expansion, whether this will be part of that,
24 so forth?
25 MR. DE BIE: Mark de Bie with Permitting and

1 Inspection.

2 We're aware there were some initial movement

3 towards doing additional CEQA documentation for proposed

4 expansion beyond this regrade. There was a Notice of

5 Preparation that was circulated and request for comment.

6 This issue was not known to staff at the time that Notice

7 of Preparation was sent around, but we will certainly add

8 it to the list of concerns and questions and comments as

9 any environmental document proceeds through the process

10 for any planned expansion.

11 We'll work with the Water Board to make sure that

12 our comments are complementary to anything they might want

13 to include too. So, yes, definitely it's on the list of

14 things to comment and to ensure that it is part of the

15 CEQA process.

16 BOARD MEMBER PAPARIAN: And then this may be

17 better for Waste Management when they come up, but it is

18 our understanding that they're going to do a full EIR on

19 the expansion.

20 MR. DE BIE: That's my personal understanding,

21 and certainly Waste Management can indicate what they're

22 hearing from the city that would be the lead agency for

23 that project. But as evident, at least initially there

24 was a Notice of Preparation sent around. That is the

25 first step towards doing an EIR.

1 BOARD MEMBER PAPARIAN: So, Dan, if they did a
2 full EIR and looked at these issues in the context of that
3 EIR on the expansion, does that get at what you were
4 suggesting as your compromise alternative?
5 MR. HIRSCH: Yes. I mean, I'm not sure it gets
6 you out of potential legal problem if, in fact, that law
7 requires that subsequent EIR to be done or supplemental
8 EIR to be done at the time of your next discretionary
9 agency action.
10 BOARD MEMBER PAPARIAN: That would be the issue
11 for --
12 MR. HIRSCH: That would be today, and that's what
13 I suspect you'll be talking about when the rest of us --
14 or you move out and have your discussion in private.
15 But as a compromise, in one way or another, the
16 radioactive issues needs to be done in a comprehensive
17 CEQA fashion. And at a minimum you need to do that before
18 you decide on expansion. It's serious significant new
19 information you better deal with.
20 BOARD MEMBER PAPARIAN: Thank you.
21 MR. HIRSCH: If I could make one very quick point
22 regarding what Mr. Giannopoulos had said. I was present
23 when he testified before Senator Romero's committee, and
24 there was one point he made there I think is worth
25 mentioning to you as well.

1 The data he showed you are very interesting
2 because they show that out of 28,000 wells around the
3 state that they've been monitoring for radioactivity over
4 a period of many years, no well has ever shown tritium.
5 So the tritium we're finding in the landfills has to be
6 coming from something dumped there. And only twice, two
7 wells out of 28,000, have ever shown gross beta. So the
8 gross beta being found in the landfills is arguably
9 unlikely to be background. And even for the gross alpha
10 and uranium, they've only found that in approximately
11 2 percent ever of state drinking water wells, and nearly
12 half of the landfills are showing elevated radioactivity.
13 So it's unlikely to be explainable as background.
14 Thank you. And I do hope you find some way to be
15 able to address this issue because you're going to find it
16 occurring, I'm afraid, in many of your landfills unless we
17 get a handle on it.
18 CHAIRPERSON MOULTON-PATTERSON: Thank you,
19 Mr. Hirsch.
20 William Neal, GeoChem Applications, followed by
21 Manual DeLeon.
22 MR. STODDARD: Kent Stoddard from Waste
23 Management. We have a number of witnesses. It might make
24 more sense -- we did anticipate this issue would come up.
25 But if Doug Corcoran could speak first, then we do have

1 legal counsel specifically on this issue of CEQA, then we
2 do have a technical expert who's been doing the monitoring
3 on the radioactivity of Bradley. And that in sequence, it
4 might make more sense if we could proceed accordingly.
5 CHAIRPERSON MOULTON-PATTERSON: That's fine with
6 me, but I need to ask our court reporter, do you need a
7 break right now.
8 THE REPORTER: No, I'm okay.
9 CHIEF COUNSEL TOBIAS: Madam Chair, I think we
10 might want to go into closed session at this point and
11 then come back and hear the rest of it.
12 MR. STODDARD: Madam Chair, the only thing I
13 would say is one of our speakers is directly on point and
14 actually has a letter relating to the CEQA issue and
15 specifically to the radioactive monitoring data. If it'd
16 be possible to do that before you go into closed session,
17 it might be helpful to counsel and the Board.
18 CHAIRPERSON MOULTON-PATTERSON: Okay. We'll go
19 ahead. And is this --
20 MR. STODDARD: This is Jim Moose from Remy,
21 Thomas, and Moose.
22 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr. Moose.
23 Thank you.
24 And then we'll go into closed session.
25 MR. MOOSE: Thank you very much for letting us

1 have me speak before your closed session, Madam Chair.
2 And good afternoon, members of the Board.
3 I would like to hand out the letter that was just
4 mentioned. The reason it's coming in late is that I have
5 every confidence from having worked with Ms. Tobias over
6 the years that she knows the law very well in this area.
7 We didn't think it was necessarily going to be required to
8 put this into the record so that she would understand the
9 law. But since there was a possibility of a contentious
10 hearing today, we did bring it in that event. And for
11 that reason I would just like to submit it into the
12 record. We have ten copies.
13 I would like to articulate our understanding of
14 the governing legal principles applicable here today. But
15 before I do that, I would like to say on behalf of Waste
16 Management that our understanding is that there will be a
17 full EIR for the proposed expansion and that it will and
18 should deal with these issues of radioactivity so that you
19 should be assured that if, as we believe, you concur in
20 the permit today and not require any additional CEQA
21 review, the issue will be addressed. And we would believe
22 the proper forum would be that later EIR. We also believe
23 that the regulatory agencies with the statutory duty to
24 deal with the water quality issues associated with
25 leachate are entities other than yourself, under your

1 statutory authority.

2 Let me back up and talk about what we understand

3 we're doing here today. The LEA has submitted this

4 application to you for this regrade which is essentially a

5 way to handle the waste and contour it and grade it in a

6 way that is an improvement over what is happening today

7 with some small additional increment of tonnage for the

8 life of the landfill. This is an improvement over the

9 status quo and really is not an expansion but simply an

10 improvement in the processing and the ultimate handling of

11 the waste.

12 The LEA's submission did conclude that the

13 proposal met all applicable state minimum standards under

14 your jurisdiction. Your staff report, as I noted earlier

15 today when I read it again says the same thing. The LEA

16 has indicated it believes that there is no need for

17 additional CEQA review, and your staff report Attachment 5

18 concurs in that.

19 And I'd just like to quote the operative

20 language. This is on page 3 of Attachment 5. It says,

21 "Because the public is not exposed to leachate and because

22 there are measures in place to protect employees, and

23 based on the information about the nature and effect of

24 gross bata particles noted above and earlier in the staff

25 report, the presence of beta particles in the waste fill

1 or leachate will not caution any significant environmental
2 impacts or any significant hazard at Bradley landfill."
3 So essentially what you have is the expert
4 judgment of the LEA and also that of your staff indicating
5 there are no significant effects on the environment
6 associated with this issue. And under the law what that
7 means is that you do not have the discretion, with all due
8 respect, to require a supplemental EIR under these
9 circumstances.
10 Little background on the law. There had been
11 numerous CEQA documents here. Earlier speaker mentioned
12 an EIR prepared in the 70s. But there have been a number
13 of additional documents including supplemental EIRs
14 prepared over the years.
15 So we're under a provision of CEQA that deals
16 with the question of when do you do yet another EIR after
17 you've already done one or more in the past. And
18 essentially boiled down to its essence, the standard is
19 that you can only do so if there are new significant
20 effects on the environment or a substantial increase in
21 the severity of previously identified impacts requiring
22 major revisions to the prior EIR.
23 And the case law, in fact, says that supplemental
24 and subsequent EIRs are disfavored because of the fact
25 that entities have already gone through the CEQA process

1 and it need not and should not be undertaken again
2 lightly.
3 So we don't believe that the record before you
4 would support the decision to do a supplemental EIR. We
5 base that in part on the staff report and the LEA and our
6 own advisors on these issues. We don't believe that issue
7 of water quality in leachate is properly before this
8 entity. That would be something for the Regional Quality
9 Control Board, perhaps the Department of Health Services.
10 So we believe because the application meets the state
11 minimum standards and there is no substantial evidence
12 that there is a significant effect on the environment from
13 this, that there are no grounds for a supplemental EIR.
14 Now, having said that all, I would reiterate what
15 I said at the beginning which is this issue, of course,
16 needs more analysis. We're not pooh-poohing it. We are
17 not convinced it's as serious an issue as some others are
18 suggesting. But there are other forums in which it can be
19 addressed, one of which would be the EIR for the
20 expansion. But there's ongoing authority from those
21 regulatory agencies that do have statutory authority over
22 this landfill.
23 So this is not a point of no return by any means
24 with respect to this issue. If you concur on this permit
25 and do not require the additional CEQA documentation, that

1 does not mean this issue will not be studied. We suspect
2 this issue will continue to be studied very seriously by
3 those entities that have regulatory authority, and we are
4 willing to work with them and do whatever's necessary as
5 we have done in the past to make sure that the public
6 health and safety are protected.
7 So I do appreciate the chance to articulate our
8 views on that issue in advance of going to closed session.
9 And I can only hope that Ms. Tobias will tell you pretty
10 much what I've just told you. But I've given you my best
11 view of the law on this.
12 CHAIRPERSON MOULTON-PATTERSON: Thank you.
13 Any questions?
14 Mr. Jones.
15 BOARD MEMBER JONES: Madam Chair, not so much a
16 question. Just our -- I think all of our condolences on
17 the loss of your partner.
18 MR. MOOSE: Thank you very much.
19 BOARD MEMBER JONES: Who was a leader in this
20 work and actually instrumental in shutting down Rancho
21 Seco. It's too bad.
22 MR. MOOSE: We very much appreciate that. That
23 was one of his proudest accomplishments, whether you agree
24 with that or not.
25 BOARD MEMBER JONES: We lost a real leader.

1 CHAIRPERSON MOULTON-PATTERSON: Yes. Thank you.
2 And at this time the Board will adjourn into
3 closed session and should be back within about 15, 20
4 minutes.
5 (Thereupon the Board recessed into a closed
6 session.)
7 CHAIRPERSON MOULTON-PATTERSON: Okay. We'll go
8 ahead and start back and continue with the oral testimony.
9 I have three speakers, and since they're all in support,
10 Mr. Stoddard, did you have -- you had suggested what you
11 would like to see as the order.
12 MR. STODDARD: I'd suggest Corcoran and then we
13 may or may not need technical witnesses depending how
14 things go.
15 CHAIRPERSON MOULTON-PATTERSON: Okay. With that,
16 I will call on Doug Corcoran, Bradley Landfill and
17 Recycling Center.
18 MR. CORCORAN: Thank you, Madam Chair. I'm Doug
19 Corcoran. I'm the district manager at Bradley Landfill.
20 I'd like to thank the Board for all the work that
21 you have put in. Each one of you came to this site,
22 visited the community. You've had your staff members
23 there. You've been very engaged, very active, and it
24 meant a lot to all the employees and others over there at
25 Bradley that the Board was becoming fully involved and

1 fully engaged in this process right from the beginning.
2 I'd also like to thank your staff, in particular
3 thank Mark de Bie and Kit Cole. They have participated in
4 the February 13th workshop, and they've been at every
5 single one of the follow-up meetings which were long
6 all-day sessions leading up to today's agenda. I just
7 think that's fantastic.
8 The Board February 13th workshop and the three
9 follow-up meetings with the community members represented
10 an unparallel level of community outreach and addressed
11 virtually every component of the regrade project.
12 Today I'd like to briefly cover two issues. The
13 first is the status of radioactivity monitoring, and the
14 second is an update on the formation of the new Bradley
15 Community Advisory Committee.
16 So a couple of things before I get going I'd just
17 like to address from some of the previous speakers. We
18 have had numerous environmental documents completed for
19 the Bradley landfill under CEQA, the latest being in 1996.
20 Our radiation detection equipment is set at two times
21 background. And the reference to the full EIR that we
22 intend to complete as regard to our transition plan, which
23 includes a small expansion of the Bradley Landfill, will
24 be done. It will be a complete full EIR separate from
25 this project starting from scratch. This project is not a

1 springboard. It doesn't move into -- it's not part of
2 that at all. It's a separate project all together with a
3 separate EIR right from the get-go all the way through the
4 process again. Okay.
5 First, the status of radioactivity monitoring.
6 That was conducted for the Water Board of 50 solid waste
7 landfills and including at Bradley Landfill. First of
8 all, there's nothing particularly unique about the Bradley
9 leachate. Almost half of the landfills that were tested
10 had levels of radioactivity in leachate that may be above
11 drinking water standards, which is, as some people have
12 already noted, a particularly stringent standard since
13 nobody's going to drink the leachate. That's the
14 measurement that you've been looking at.
15 Bradley was one of eight landfills whose leachate
16 contained elevated levels of gross beta particles. There
17 was absolutely no evidence of radioactivity in the
18 groundwater above natural conditions. Any levels that
19 were detected were in the leachate contained within the
20 liner and leachate collection system.
21 Second, based on other leachate monitoring we
22 performed at Bradley, it appears that the most likely
23 source of our elevated beta level is potassium 40.
24 Potassium 40 is a very common naturally-occurring isotope
25 that is found in food waste, green waste, and construction

1 materials. And by way of reference, many types of food
2 have higher beta activity caused by potassium 40 than the
3 levels in Bradley leachate.
4 And, third, I do want to emphasize the importance
5 of keeping radioactive materials out of solid waste
6 landfills. Waste Management and the Bradley Landfill are
7 very serious about preventing radioactive waste shipments
8 to our landfill. For over ten years we've maintained
9 radioactivity detection equipment at the landfill gate.
10 And as we noted before, the equipment is sensitive enough
11 to detect a driver undergoing radiation therapy or even a
12 cell phone as a call is being sent.
13 Waste management activity supports legislation by
14 Senator Romero to prohibit radioactive waste generators
15 from sending any waste with elevated levels of manmade
16 radio activity to solid waste landfills. We have fully
17 implemented the Governor's executive order placing a
18 moratorium on the disposal of decommissioned waste, and
19 we've mailed special notices to 190,000 commercial
20 customers informing them of the disposal ban.
21 And finally, we are working closely with the
22 State Water Board, Department of Health Services, other
23 landfill operators, outside consultants on the protocols
24 for a continued sampling and analysis of radioactivity in
25 leachate. This is an area of environmental monitoring

1 that will require the cooperation of all landfill
2 operators, all of them. We are fully committed to doing
3 everything we can to assist the regulatory agencies in
4 determining the most likely sources of radioactivity in
5 landfill leachate.
6 I personally commit to you, and I'm committing
7 the company to you, to report back to you and other
8 interested parties on the results of all future testing
9 that we do in that regard. We do have a consultant here
10 who -- if you decide when I'm done you'd like to hear from
11 him, he can expand on that if you need that.
12 Next I'd like to talk briefly about the new
13 Bradley Advisory Committee. Los Angeles City Councilwoman
14 Ruth Galanter and her staff deserve tremendous credit for
15 moving forward to establish the Bradley Landfill Community
16 Advisory Committee, and Waste Management totally supports
17 this initiative. We've worked closely with the Council
18 Office to provide input to the committee plan, and we have
19 already escrowed $100,000 to fund the start-up of the
20 committee. The Councilwoman will be introducing a motion
21 soon in Los Angeles to start the Committee, and we look
22 forward to the meetings beginning shortly.
23 The Committee will review and provide
24 recommendations on our current operations and on any
25 future operations and of proposed future operations and

1 also post-closure uses of the Bradley site. The Committee
2 will also make recommendations for a new community
3 enhancement fund, and it will address issues raised by
4 both Senator Alarcon and Assemblywoman Montanez, as well
5 as those of the East Valley Coalition and other members of
6 the entire community that the Bradley belongs to. We've
7 started reaching out beyond, I believe, anything I've seen
8 before, and we're going to continue to do that with our
9 community.
10 Beyond our support for the Community Advisory
11 Committee, I've had discussions with many Sun Valley
12 businesses about teaming up to do more to help the Sun
13 Valley Community. Well, everybody's been down there and
14 toured the area, and you can see how industrialized it is.
15 So I've been reaching out to these other industrial uses
16 and saying, "Let's get together and work together just to
17 help make this community a better place." I've invited a
18 number of them to meet later this month to discuss how we
19 can work together to support, clean up, and mitigation
20 programs for Sun Valley as industry as a whole in that
21 area.
22 Again, I make my personal commitment here and
23 also Waste Management's commitment to continue to sustain
24 the highest level of public outreach. We will continue to
25 take a leadership role in addressing the vast array of

1 environmental challenges facing Sun Valley.

2 Thank you.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you,

4 Mr. Corcoran.

5 I have Manuel DeLeon, Teamsters Local 396.

6 MR. DeLEON: Good afternoon, and I want to thank

7 the Board for coming down to our community. Our members

8 express their gratitude to you for coming down and holding

9 a meeting in February. I want to also thank you for all

10 you have to done to increase the public awareness regrade

11 and operations of the Bradley Landfill.

12 I spoke before you at the public meeting at the

13 Sun Valley Middle School in February, and it was important

14 to me to be here again today to express the full support

15 of not only our Local 396 Union, but also the Teamsters

16 Joint Counsel 42 for the regrade permit.

17 Since we first met -- since we met in February, I

18 hope you saw that Miguel Contreras and the L.A. County

19 Federation of Labor also endorse Waste Management's plans.

20 Labor is a big supporter of Sun Valley and Waste

21 Management's plans at Bradley. As you know, this is an

22 important issue for more than 200 employees of Valley,

23 most of whom are members of our good union. You should

24 also remember that our members are more than vocal. They

25 are local. Most of them live in Sun Valley or very close

1 to the landfill. We are investing in the Sun Valley
2 community. Our kids go to school there. We own houses
3 and property. We shop in and around Sun Valley, and we
4 pay taxes, and so does Waste Management. Our voice is
5 important. Our point of view should be heard. Our
6 members and their families live in the community of Sun
7 Valley. Sun Valley is our backyard.
8 I want to let you know just how we feel about
9 Waste Management. We just renewed our contact about two
10 months ago with improved salary and benefits. Waste
11 Management is one of the best -- if not the best --
12 company we work with. The Sun Valley Chamber of Commerce
13 rightly named Waste Management as business of the year
14 just two weeks ago. You can trust their word, and our
15 members love working there.
16 They have grown professionally, and as a result
17 they have good paying jobs. They pay well. The employees
18 have tremendous benefits, like good medical plans, dental
19 plans, and pensions. And those types of jobs don't grow
20 on trees in Sun Valley. Those kinds of jobs have to be
21 protected, and that's what Waste Management's long-term
22 plans call for, transitioning those workers to the
23 recycling and transfers facilities. Sun Valley is
24 fortunate to have such a responsible corporate citizen.
25 I'm very familiar with the Bradley Landfill and

1 have taken time to learn about the regrade and about the
2 operations that go into recycling and transfer facilities
3 too. There is no doubt in my mind that the regrade
4 improved public safety and environmental protection that
5 it provides.
6 Some members of the communities, in particular
7 some members of the East Valley Coalition, won't let the
8 facts get in the way of their agenda, which is to remove
9 good businesses and good jobs from Sun Valley. I've
10 listened to their comments. I've read their letters. And
11 I'm very disappointed. While I don't doubt that at some
12 level they are trying to improve the quality of life, we
13 need to transform Sun Valley, not dismantle it. We cannot
14 jeopardize the jobs of our people, the well-being of their
15 families, not in this economy, not in this part of the
16 northeast San Fernando Valley.
17 Sun Valley is sold for heavy industrial uses.
18 Sun Valley is sold to provide jobs. Sun Valley is not a
19 cesspool, as Ms. Zeihler, president of the East Valley
20 Coalition, stated to you at your last meeting. That
21 comment was an insult to our community, an insult to my
22 union members, and an insult to Waste Management and the
23 other tax-paying employers. It shows they will say
24 anything, as evidenced by some of their remarks in today's
25 meeting, to get your attention, to pressure you, and to

1 try to speak for the whole community. And they don't
2 speak for the whole community.
3 Already more than 700 local people have signed
4 support cards and petitions supporting Waste Management on
5 the topics of the regrade, and transition master plan;
6 neighbors, businesses, employees, community leaders,
7 customers, and other who really represent Sun Valley.
8 The facts speak for themselves. The regrade is a
9 superior landfill design. The regrade protected the
10 community. Please deal with the facts and the truth as
11 you vote on the regrade.
12 First, on a personal note, I would just like to
13 speak on behalf -- as you heard Mr. Doug Corcoran say he
14 personally be responsible for the -- effecting the plans
15 that he talked to you about. And I wish to convey to you,
16 members of the Board, that in the dealings I had with
17 Mr. Corcoran, I fully believe that he will carry out those
18 plans that he has made. Therefore, I respectfully request
19 your unanimous support for this.
20 Thank you very much.
21 CHAIRPERSON MOULTON-PATTERSON: Thank you.
22 We have one more speaker but who is just
23 available for questions. William Neal, GeoChem
24 Applications. Did any Board member wish to hear from him
25 or did -- Mr. Stoddard, did he wish to speak?

1 MR. STODDARD: It's really up to the Board. He's
2 available for question. He's expert on the monitoring
3 work that's been done.
4 CHAIRPERSON MOULTON-PATTERSON: Thank you. I see
5 no questions at this time so I'll open it up to Board
6 members.
7 Ms. Peace.
8 BOARD MEMBER PEACE: First, I'm glad that
9 Assemblyman Richman recognized that it was the L.A. City
10 Council that was responsible for citing all the landfills
11 in Sun Valley. It was not this Board that did that.
12 I don't think any of us will be taking the "easy
13 way out" today by approving this permit. 21 years ago
14 today I was in the middle of a 17-hour labor with my
15 middle son. That was easier.
16 I'm voting for this permit because I believe the
17 permit should reflect the existing conditions at the
18 landfill. And while I'm not thrilled the regrade was
19 started before it came to the Board for approval, the fact
20 is it is already over two-thirds complete. Denying their
21 permit will not make the radioactive waste go away. It
22 won't make the big mountain of waste disappear.
23 To be clear, though, I want it on the record that
24 my vote for this permit should not be taken as a sign that
25 I'm in support of any other expansions at Bradley.

1 Closing Bradley will only leave Sun Valley with another
2 closed landfill. It seems to me the only way Sun Valley
3 citizens are going to see real needed changes in their
4 community is by working towards alliances with Waste
5 Management instead of being their adversaries. That Waste
6 Management is working with City Council and the local
7 community in establishing an Advisory Committee is a
8 commendable start.
9 It seems to me the only way this community will
10 really be helped is if everybody can reasonably discuss
11 what specific improvements are needed and how they are
12 going to be funded. It is clear that the infrastructure
13 as it has developed over the years has left an undeniable
14 negative impact on disadvantaged communities. It should
15 be all of our responsibility, the Legislature, the City
16 Council, the landfill owners, the haulers, as well as all
17 the other industrial businesses that contribute to the
18 problem to help these communities realize some
19 environmental justice.
20 One of the ideas I believe worthy of
21 consideration is the creation of environmental justice
22 zones around the landfills where areas outside the zone
23 pay a slightly higher disposal with that money going to
24 affected area. Also the landfill operators and haulers
25 should be giving the additional moneys to provide for the

1 environment and social enhancements. And I do look
2 forward working with the Legislature, the local
3 governments, and the waste companies in helping to right a
4 situation that has been left unanswered for way too long.
5 Mr. Stoddard, get out your checkbook.
6 CHAIRPERSON MOULTON-PATTERSON: Thank you,
7 Ms. Peace.
8 Before I call on Mr. Medina, I did want to call
9 on our legal counsel. Some legal questions had been
10 raised, and I'd like to call on Ms. Tobias.
11 CHIEF COUNSEL TOBIAS: Thank you, Madam Chair.
12 I do want to answer the issue that was raised as
13 to whether this Board should be doing a supplemental
14 document at this time in connection with this permit. As
15 you know, I think -- and we've talked on this project and
16 other projects, there's a higher threshold as to whether
17 to do a supplemental document than there is where you did
18 an EIR for a new project. And basically what CEQA
19 indicates is that it doesn't take much to do an initial
20 CEQA document for a new project. But CEQA does not
21 anticipate that we will do environmental impact report
22 after environmental impact on subsequent projects unless
23 there is a reason to do so.
24 In this case, the guidelines indicate that where
25 an EIR been certified or declaration adopted for a

1 project, no subsequent EIR should be prepared for that
2 project unless the agency determines on the basis of
3 substantial evidence one or more of the following. And
4 the one that I think is pertinent here is whether there's
5 new information of substantial importance which was not
6 known and could not have been known with the exercise of
7 reasonable diligence at the time the previously EIR was
8 certified or the negative declaration was adopted. And if
9 there is new information of substantial importance, then
10 we have to show that the project would have one or more
11 significant effects not discussed in the previous CEQA
12 documents.
13 I think it's important next to consider what
14 substantial evidence is. So let me quote. "Substantial
15 evidence means enough relevant information or reasonable
16 inferences from this information." It indicates that
17 "argument, speculation, unsubstantiated opinion, or
18 narrative does not constitute substantial evidence." And
19 then it says that "substantial evidence shall include
20 facts, reasonable assumption predicated upon facts and
21 expert opinion supported by facts."
22 In this particular case staff is relying to a
23 great extent on the information presented by
24 Mr. Giannopoulos of the State Water Resources Control
25 Board. We understand that the findings are preliminary at

1 this time, that the staff from the Water Board would not
2 and could not make any conclusions at this time as to what
3 the information means and that they intend to pursue
4 additional fact-finding and testing to try to determine
5 what may be going on leading to these statistics.
6 So at this time we find that -- the staff finds
7 that the information is preliminary, that there is not
8 enough for us to make a reasonable inference that there
9 would be a significant environmental impact on this
10 project. And so that's what we're recommending.
11 We do think that, depending upon what the State
12 Water Resources Control Board finds, there may be grounds
13 for changes in the project or enforcement by the State
14 Water Resources Control Board, the Regional Board, or DHS,
15 the Department of Health Services, who have jurisdiction
16 over this area.
17 CHAIRPERSON MOULTON-PATTERSON: Thank you,
18 Ms. Tobias.
19 Before I call on other speakers, Mr. Leary, can I
20 be assured that if any information comes in from the Water
21 Board, any change, that we'll be informed immediately?
22 EXECUTIVE DIRECTOR LEARY: Absolutely, Madam
23 Chair.
24 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.
25 BOARD MEMBER MEDINA: Madam Chair, I wish to move

1 Resolution 2003-190, consideration of revised full solid
2 waste facilities permit disposal facility for the Bradley
3 Landfill West and West Extension Los Angeles County. And
4 as a preface to moving to resolution forward, I just want
5 to say I concur with the issuance of the proposed permit
6 as submitted by the LEA. The LEA findings were that the
7 permit application package was complete and direct
8 correct. The report of facility information meets the
9 requirements of 27 CCR Section 21600. The proposed permit
10 is consistent with and is supported by CEQA.
11 One of the speakers made reference that this is a
12 working-class community, and, indeed, there's different
13 elements of a working-class community. There is the
14 working poor, those people that get minimum wage or less.
15 And then there are those persons who are fortunate enough
16 to have union jobs that have health benefits, pensions,
17 and a decent wage.
18 Also, this landfill has to file a post-closure
19 plan and make financial arrangements for such. That's the
20 only facility that impacts the air, water, our land in
21 that whole area that is required to do so in regard to a
22 closure. Number of the others are scheduled for closure.
23 So in this regard, again, I would like to move
24 this resolution forward.
25 BOARD MEMBER JONES: I'll second.

1 CHAIRPERSON MOULTON-PATTERSON: Before we do
2 though we haven't finished our comments. We have a motion
3 by Mr. Medina, seconded by Mr. Jones. And then
4 Mr. Paparian was next and then Mr. Washington. And then I
5 would like to speak.
6 Mr. Paparian.
7 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
8 First of all, I wanted to ask our counsel a
9 question.
10 In the statute it's very clear that if we wanted
11 to object to a facility, we would have to make certain
12 findings based on certain issues, and there's a list of
13 them in the statute. Have we heard anything to indicate
14 that there is a reason to deny this permit?
15 CHIEF COUNSEL TOBIAS: Not in my opinion.
16 BOARD MEMBER PAPARIAN: Okay. One of the -- when
17 this permit first came forward, I was very concerned that
18 there had been a breakdown in communication between the
19 operator and the community. And I think that as painful
20 as our session on February 13th was, I would like to think
21 that it was an important step in at least allowing the
22 community to air their concerns in a public way, allowing
23 us to hear those concerns, and that that session led to a
24 beginning of some communication between the applicant and
25 the community where there really, in my view, had been a

1 communication breakdown previously.

2 I was glad that my office could play a role in

3 some of the follow-up meetings in bringing the community

4 and the applicant together. And I think that, from what I

5 understand, those meetings were very productive in terms

6 of being able to get at some of the basic information that

7 the community had been concerned they hadn't been getting

8 previously.

9 I want especially to thank Mark de Bie for his

10 role in attending those sessions. I think he did an

11 outstanding job, from what I heard, in answering questions

12 that came up and providing information about things within

13 our purview. And I know that it was quite a struggle to

14 get down there, get back. I know he got back very late at

15 night a few times from some of the sessions, but I think

16 he deserves quite a bit of credit for his work on this.

17 I think that there's a lot more that needs to

18 continue with regards to this facility. We heard the

19 commitment from Waste Management to do the full EIR, to

20 look at the sorts of issues that Dan Hirsch raised in that

21 EIR and hopefully get at some of the issues or get, you

22 know, an understanding of what those issues are and what

23 the implications might be.

24 We also heard about a commitment to a Community

25 Advisory Committee. We'll have to see what happens with

1 that. Obviously we're being told it's all put together
2 and it actually works itself out. That, you know, remains
3 to be seen what will happen there.
4 I recognize what is likely to happen in terms of
5 the vote here on the Board. I don't think it would be too
6 much of a crystal ball to recognize that there are
7 probably four or five votes for this permit. But I did
8 want to send a small message to the applicant, to the
9 community, to the elected officials that the concerns of
10 the community are being heard by the Board, that the
11 issues in the future will be closely watched by myself,
12 and I'm sure they'll be watched by other members of the
13 Board as well.
14 But I'll be abstaining on this vote in order to
15 send the message that I will continue to closely watch
16 what's going on and will continue to work with the elected
17 officials and the community as I can and as necessary to
18 help continue to bridge the gap in communication that
19 existed previously with regards to this facility.
20 CHAIRPERSON MOULTON-PATTERSON: Thank you,
21 Mr. Paparian.
22 Mr. Washington.
23 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
24 I, too, wanted to thank Mr. De Bie and
25 Mr. Paparian, his staff. I remember we had this

1 discussion when we came and I brought up the issue about
2 the public participation, and ultimately we ended up out
3 of Sun Valley with this issue. And the community showed
4 up as well as Waste Management.
5 And I'm not going to abstain on this vote. I
6 think it's clear. I believe that this Board has the
7 obligation to do what it's always been doing, that is to
8 make sure that as it is now and as the law is written that
9 these permits are issued to agencies that meet the
10 requirements. I don't believe abstaining on the vote
11 would help any because it all goes back to our local
12 governments.
13 You had a State Senator who was on the City
14 Council at the time who could have done something about
15 this. You have an Assemblywoman, was the Mayor of San
16 Fernando Valley, City Council of San Fernando Valley who
17 could have had an input on this particular issue. And to
18 put it on this Board I think is ingenious, and I don't
19 think it's the right thing to do.
20 I believe that staff has done everything they
21 could to try to meet the community as well as Waste
22 Management in trying to address the concerns of the
23 citizens. And you have no bigger advocate than Carl
24 Washington on this Board who wants to make sure there's
25 public input on every issue they take forward. And I

1 believe that the Chair is going to ask -- and I'll leave
2 that to her in terms of making sure that Waste Management
3 doesn't use this as the next stepping stone. And I'll
4 leave it at that and let you do the rest of that.
5 But I do want to thank Waste Management for going
6 all the way and really stepping up to the plate and say,
7 "Hey, we want to do something." I hope it's a lessen
8 learned. I know for all of us you've learned a whole lot
9 in terms of what this Board is going for in terms of
10 making sure the public is a part of this process. And
11 that's at every level that Ms. Peace talked about. This
12 is just the beginning. I believe public hearing should be
13 in everything we do in this place. Every permit that is
14 issued. Every issue we address. Whenever the community
15 is involved, whenever you doing business people backyard,
16 they should be a part of the decision-making.
17 So I will be supporting this permit as it is
18 today, and I hope that Waste Management will move forward.
19 And, again, you know, we have an obligation and I believe
20 that I was appointed to this Board to help move forward
21 that obligation.
22 So I will thank you, Madam Chair.
23 CHAIRPERSON MOULTON-PATTERSON: Thank you,
24 Mr. Washington.
25 And I just want to ask Waste Management one more

1 time. Voting for this regrade has nothing to do with
2 anything in the future. I don't want anyone to come back
3 and say --
4 BOARD MEMBER WASHINGTON: Can we hear from Doug
5 Corcoran?
6 (Laughter)
7 MR. CORCORAN: Okay, I'm back. Voting for this
8 regrade has nothing to do with any expansion that's coming
9 down that's proposed.
10 CHAIRPERSON MOULTON-PATTERSON: Thank you.
11 Mr. Jones.
12 BOARD MEMBER JONES: Thank you, Madam Chair.
13 Just briefly. I want to thank staff as well for
14 going through all of this. I think they did a remarkable
15 job. I think that Mr. Paparian's leadership through this
16 process trying to get -- getting his office involved was
17 the first step. I think that -- you know, I think every
18 member on this Board toured this site and really saw what
19 was going on.
20 I do want to address issue I didn't address it
21 tonight and down in Sun Valley. But this Board makes its
22 decision based on the current law. And the law on
23 environmental justice is clear. For us to be accused of
24 not taking that into consideration is not fair to these
25 members, you know, or even me. But I'll say for these

1 members especially because they are concerned. Our staff
2 is concerned. But the law is very clear on how we deal
3 with those things. And to sit there and say it is within
4 our purview to make a decision and we should vote no is
5 not an accurate reflection of the law.
6 And I think this Board actually at one time
7 thought -- sent a message that some environmental justice
8 stuff at the local level as part of CEQA is appropriate
9 because it's the local level that has the understanding of
10 what's going on in their community. And that's up to the
11 Legislature to do that.
12 But I just want to get that -- I mean, I heard it
13 four or five times. And I just don't think it's fair to
14 these members because it almost makes it sound like we
15 don't care. And I'll guarantee you that this Board does
16 care. And that's it.
17 CHAIRPERSON MOULTON-PATTERSON: Thank you,
18 Mr. Jones.
19 We have a motion for approval to approve
20 resolution 2003-190 revised by Mr. Medina, seconded by
21 Mr. Jones.
22 Please call the roll.
23 SECRETARY WADDELL: Jones?
24 BOARD MEMBER JONES: Aye.
25 SECRETARY WADDELL: Medina?

1 BOARD MEMBER MEDINA: Aye.
2 SECRETARY WADDELL: Paparian?
3 BOARD MEMBER PAPARIAN: Abstain.
4 SECRETARY WADDELL: Peace?
5 BOARD MEMBER PEACE: Aye.
6 SECRETARY WADDELL: Washington?
7 BOARD MEMBER WASHINGTON: Aye.
8 SECRETARY WADDELL: Moulton-Patterson.
9 CHAIRPERSON MOULTON-PATTERSON: Aye.
10 Thank you all. At the end of each our public
11 meetings there is a chance for public comment. I don't
12 see any so this meeting is adjourned.
13 (Thereupon the California Integrated Waste
14 Management Board Meeting adjourned at 4:40 p.m.)
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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:
5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.
10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.
13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 22nd day of April, 2003.
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