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COMMITTEE MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

SUSTAINABILITY AND MARKET DEVELOPMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

TUESDAY, AUGUST 5, 2003

1:30 P.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
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APPEARANCES

COMMITTEE MEMBERS

Steven R. Jones

Cheryl Peace

Carl Washington

STAFF

Julie Nauman, Chief Deputy Director

Elliot Block, Staff Counsel

Geannine Bakulich, Committee Secretary

Fernando Berton

Kaoru Cruz, Supervisor, DPLA

Trisha Knight

Jim La Tanner, Supervisor, Recycling Market Development Loan Program

Mike Leaon, Supervisor, Plastic Technology Recycling Section

Michelle Marlowe, Plastics Recycling Technology Section

Cara Morgan

Pat Schiavo, Deputy Director

Lorraine Van Kekerix

Steve Uselton, Supervisor, DPLA

Melissa Vargas

Tabetha Willmon, Supervisor, DPLA

Patty Wohl, Deputy Director

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APPEARANCES CONTINUED

ALSO PRESENT

Shari Afshari, L.A. County DPW

Denise Delmatier, Norcal Waste Systems

Jack Doering, Stanislaus County

Sean Edgar, CCRC

Robin Gentz, The Clorox Company, Oakland

Laurie Hansen, National Film and Bag Federation, Pactiv

Chuck Helget, BFI, Allied Waste

Bryce Howard, General Manager, Potrero Hills Landfill

Steve Lautze, California Association of RMDZs

Douglas Reilly, City of Laguna Woods

Jocelyn Reed, City of Modesto

Art Roth, Hunter Paine Enterprises

Larry Royal, Earthworm Soil Factory

Pete Price, PolyAmerica

Tony Vieira, City of Gardena

Chuck White, Waste Management

Laura Wright, City of Pittsburg

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PROCEEDINGS

CHAIRPERSON JONES: Good afternoon, and welcome to the August 5th Committee meeting of Sustainability, Market Development, and Planning.

Geannine, could you call the roll.

SECRETARY BAKULICH: Peace?

COMMITTEE MEMBER PEACE: Here.

SECRETARY BAKULICH: Washington?

COMMITTEE MEMBER WASHINGTON: Here.

SECRETARY BAKULICH: Jones?

CHAIRPERSON JONES: Here.

Thanks.

Anybody that wants to speak to an item today, there are speaker slips in the back of the room. Go ahead and fill it out with the agenda item number on it. Give it to Ms. Bakulich, and she'll give it to us. If you've got cell phones, could you either put them off or put them on vibrate so we can keep moving.

Ms. Wohl.

DEPUTY DIRECTOR WOHL: No ex partes or anything?

CHAIRPERSON JONES: Oh, any ex partes? Oh, we do have ex partes.

Ms. Peace.

COMMITTEE MEMBER PEACE: Yes. I spoke with Mike Hammer from Looney Bins regarding our loan program.

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CHAIRPERSON JONES: Mr. Washington.

COMMITTEE MEMBER WASHINGTON: I'm up to date.

CHAIRPERSON JONES: And I'm up to date.

DEPUTY DIRECTOR WOHL: Good afternoon, Chairman Jones and Committee members. My name is Patty Wohl with the Waste Prevention and Market Development Division.

I just had a brief report. I wanted to announce that the State Controller has announced the new surplus money investment fund interest rate, which is now 1.9 percent, and that's what we base our interest rate for loans. That's a decrease from 2.5 percent. So that can be the interest that's charged on the loans that are approved today by the Board, if they're approved.

However, I wanted to let you know that agenda Item Number 11 does talk about possibly changing the interest rate. So I think our staff recommendation is that we would put that 90 days out, and so any loan that came to the Board after November 12th would have that new rate if the Board voted for that. So it shouldn't affect the loans today.

So with that, I think we can begin.

CHAIRPERSON JONES: All right.

DEPUTY DIRECTOR WOHL: So we have seven loans today, the first one being consideration of the recycling market development revolving loan application for Larry

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Royal and Karen Royal, d.b.a., Earthworm Soil Factory.

And Jim La Tanner will present all the loans.

MR. LA TANNER: Good afternoon. Jim La Tanner, supervisor for the recycling market development revolving loan program.

The loan application from Earthworm Soil Factory is requesting $300,000 to purchase equipment and machinery. The applicant is located in Butte Valley, California, which is in the Chico or Northern Butte County recycling market development zone.

As a result of this loan, the local jurisdiction should have increased diversion of organic waste from landfills. The project is projecting to divert 5,000 tons of organic waste per year. The company currently employees two people. The project is projected to create an additional three jobs.

Staff recommends that this Committee approve Option 1 and adopt Resolution 2003-409.

Members of the company are in the audience, should there be any questions.

CHAIRPERSON JONES: Any questions, members? Okay. I've got a speaker slip from Larry and Karen Royal.

MR. LA TANNER: That's if the Board had questions.

CHAIRPERSON JONES: All right. Well, I got a

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1 question. Our P&E Division is saying that there is no
2 need to get this permitted. What's going to be the
3 material on site at any given time?
4 Could you identify yourself, please.
5 MR. ROYAL: Larry Royal, Earthworm Soil Factory.
6 Right now the vermacomposting, vermaculture
7 operation at the Butte valley location will only have
8 about 75 yards of material at a time because it's fed to
9 the worms, then processed, and then shipped right back
10 out.
11 CHAIRPERSON JONES: And the biosolids as a feed
12 stock, have you done that before?
13 MR. ROYAL: Yeah. Actually, what that is is the
14 city of Chico when we started working on this project
15 said, "We've got a problem. We've got about 2,000 yards
16 per year going to the landfill. Is there any way to deal
17 with them through vermicomposting?" Yes, there is. There
18 has been trials done in various areas of the country even
19 sanctioned by EPA. The difficulty with biosolids is all
20 the pathogens having metals and things of that nature.
21 Anything that we would do would be done on site at the
22 wastewater treatment plant itself with cooperation with
23 the city of Chico.
24 CHAIRPERSON JONES: All right. Great. Thanks,
25 Mr. Royal.

1 Any questions, members?

2 MR. LA TANNER: I'd like to add the Loan

3 Committee will meet this Thursday to consider the

4 applicant's ability to repay the loan. The results will

5 be presented at the Board meeting.

6 CHAIRPERSON JONES: Are all of these seven loans

7 going to be addressed at the Loan Committee?

8 MR. LA TANNER: Yes.

9 CHAIRPERSON JONES: All right. Then I think that

10 as with -- we need to make sure that it's understood that

11 at the end of every one of these resolutions it's going to

12 state that it is with the concurrence of the Loan

13 Committee. Okay.

14 DEPUTY DIRECTOR WOHL: Right. It will be on

15 fiscal consent, and they'll be presented at the Board with

16 the results of the Loan Committee. And you can vote.

17 CHAIRPERSON JONES: Right. But just in case

18 somebody -- okay. Every one of these loans, irregardless

19 of how we vote, will be -- you know, we'll wait until the

20 outcome of the Loan Committee for the repayment.

21 MR. LA TANNER: There is a clause in the

22 resolution for that.

23 CHAIRPERSON JONES: Okay. Thank you, La Tanner.

24 Ms. Peace.

25 COMMITTEE MEMBER PEACE: I'd like to move

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1 Resolution number 2003-409 revised, consideration of the
2 recycling market development loan program application for
3 Larry Royal and Karen Royal doing business as Earthworm
4 Soil Factory.
5 Washington.
6 COMMITTEE MEMBER WASHINGTON: Second.
7 CHAIRPERSON JONES: I've got a motion by Ms.
8 Peace and a second by Mr. Washington.
9 Geannine, could you call the roll.
10 SECRETARY BAKULICH: Peace?
11 COMMITTEE MEMBER PEACE: Aye.
12 SECRETARY BAKULICH: Washington?
13 COMMITTEE MEMBER WASHINGTON: Aye.
14 SECRETARY BAKULICH: Jones?
15 CHAIRPERSON JONES: Aye.
16 We'll cut this on fiscal consensus, members.
17 Next item.
18 MR. LA TANNER: Consideration of the recycling
19 market development revolving loan application for Pre
20 Plastics, Inc.
21 The company is requesting a $510,000 loan to
22 purchase equipment to extent their current recycling
23 project by adding a new production line to manufacture a
24 new product. The project will be located in Auburn,
25 California within the Placer County recycling market

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development zone.

This project is projected to divert an additional 190 tons per year of post-consumer plastic and will contribute to the diversion of the local area.

Loan Committee will meet on August 7th. Staff recommends that the Committee approve Option 1 and adopt Resolution Number 2003-410.

I believe a representative from the company is in the audience if there are any questions.

CHAIRPERSON JONES: Are there any questions, members, of the applicant?

COMMITTEE MEMBER PEACE: No.

CHAIRPERSON JONES: Ms. Peace.

COMMITTEE MEMBER PEACE: Okay. I would like to move Resolution Number 2003-410, consideration of recycling market development revolving loan program application for Pre Plastics, Inc.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON JONES: We have a motion by Member Peace, a second by Member Washington.

This is in my hometown. I remember the first loan we did for these folks, and I'm glad to see they are doing well.

Could you substitute the previous roll without objection, members. On fiscal consensus. Next item.

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1 MR. LA TANNER: Consideration of the recycling
2 market development loan program application for U.S.
3 Rubber Recycling, Inc. The company is requesting a
4 $562,500 loan to purchase equipment to provide working
5 capital for their new recycling project. The project
6 would be located in Riverside, California, within the Agua
7 Mansa recycling market development zone.
8 The project will divert an additional 1,000 tons
9 of waste tire rubber on an annual basis. It is projected
10 that seven to ten new jobs will be created as a result of
11 this loan.
12 The Loan Committee will meet on August 7th.
13 Staff recommends that the Committee approve Option 1 and
14 adopt Resolution Number 2003-411.
15 CHAIRPERSON JONES: Any questions members?
16 Mr. Washington.
17 COMMITTEE MEMBER WASHINGTON: Mr. Chair, if
18 there's no question, I'd like to move adoption of
19 Resolution 2003-211, revised consideration of the
20 recycling market development revolving loan program
21 application for the U.S. Rubber Recycling, Inc.
22 CHAIRPERSON JONES: Thank you, Mr. Washington.
23 And a second -- I'll second.
24 COMMITTEE MEMBER PEACE: Second.
25 CHAIRPERSON JONES: We've got a motion by Mr.

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1 Washington and a second by Ms. Peace. Substitute the
2 previous roll. On fiscal consensus.
3 Thank you, members.
4 Next item.
5 MR. LA TANNER: Consideration of the recycling
6 revolving loan program application for Sierra Pacific
7 Packaging, Inc.
8 The company is requesting a $2 million loan to
9 purchase equipment to expand their existing recycling
10 project. The project is located in Oroville, California,
11 within the Oroville recycling market development zone.
12 This project is projected to process 3,750 tons
13 per year of post-consumer paper, including 6,000 tons over
14 two years. The project will make a significant impact on
15 the diversion of the local area.
16 Loan Committee will meet on August 7th. Staff
17 recommends that the Board approve Option 1 and adopt
18 Resolution 2003-412.
19 CHAIRPERSON JONES: Ms. Peace.
20 COMMITTEE MEMBER PEACE: I would like to move
21 Resolution Number 2003-412, consideration of recycling
22 market development revolving loan program application for
23 Sierra Pacific Packaging, Inc.
24 CHAIRPERSON JONES: I've got a motion by Ms.
25 Peace, a second by Mr. Washington. Could you substitute

1 the previous roll. On consensus.

2 Before we go to the next item, just so the

3 audience understands, this Committee has had a reputation

4 of being able to be well studied and move through these

5 issues. So don't think we -- this was a $2 million loan,

6 but we do our homework. So don't get nervous.

7 COMMITTEE MEMBER WASHINGTON: Mr. Chair, if they

8 want to sit here for the next four hours, I can ask a lot

9 of questions.

10 CHAIRPERSON JONES: No. I just like to explain

11 our efficiency. All right. Next item.

12 MR. LA TANNER: Consideration of the recycling

13 market development revolving loan program application for

14 Looney Bins, Inc. The company is requesting a $2 million

15 loan to purchase --

16 CHAIRPERSON JONES: How much?

17 MR. LA TANNER: 2 million.

18 CHAIRPERSON JONES: Oh, 2. It sounded like 10.

19 COMMITTEE MEMBER WASHINGTON: I don't think

20 they'd have a problem with that.

21 MR. LA TANNER: To purchase C&D recycling

22 equipment to fund working capital and pay the loan fee.

23 The project is located in Los Angeles in the city

24 of Los Angeles recycling market development zone. This

25 project will divert an additional 50,000 tons of C&D

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1 material in the first year, projects to add up to 40
2 employees.
3 The Loan Committee will meet on August 7th.
4 Staff recommends that the Committee approve Option 1 and
5 adopt Resolution Number 2003-413. And members of the
6 Committee are in the audience.
7 CHAIRPERSON JONES: Any questions, members?
8 Ms. Peace.
9 COMMITTEE MEMBER PEACE: I'd like to move
10 Resolution Number 2003-413, consideration of recycling
11 market development revolving loan application for Looney
12 Bins, Inc.
13 COMMITTEE MEMBER WASHINGTON: Second.
14 CHAIRPERSON JONES: We have a motion by Ms.
15 Peace, a second by Mr. Washington. Substitute the
16 previous roll. On fiscal consensus.
17 Before we go to the next item, it's still got to
18 go through Loan Committee. This is a result of our work
19 in C&D transfer and processing. And obviously you are
20 putting your money where your mouth is and we appreciate
21 it. Next.
22 MR. LA TANNER: Consideration of recycling market
23 development revolving loan program application for Three D
24 Plastics, Inc.
25 The company is requesting a $250,000 loan to

1 purchase equipment for the new recycling project, the
2 manufacturing of plastic folding sawhorses from
3 re-processed and re-ground polypropylene.
4 The project will be located in Burbank,
5 California, within the Los Angeles county recycling market
6 development zone. The project will divert an additional
7 1,750 tons of post-consumer plastic from the landfills and
8 create 16 new jobs.
9 The Loan Committee will meet on August 7th. The
10 staff recommends that the Committee approve Option 1 and
11 adopt Resolution Number 2003-414.
12 CHAIRPERSON JONES: Mr. Washington.
13 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I'd like
14 to move adoption of Resolution 2003-414, consideration of
15 recycling market development revolving loan program
16 application for Three D Plastic, Inc.
17 COMMITTEE MEMBER PEACE: Second.
18 CHAIRPERSON JONES: We've got a motion by Mr.
19 Washington, a second by Ms. Peace. Substitute the
20 previous roll. On fiscal consensus.
21 Thank you, members.
22 Next item.
23 MR. LA TANNER: Consideration of the recycling
24 market development revolving loan application for Hunter
25 Paine Enterprises, LLC. The company is requesting

1 $1,535,055 to purchase equipment.

2 The project is located in Pittsburg, California,

3 which is in the Contra Costa recycling market development

4 zone. This is a new project that the company will be

5 making plastic pallets using tire crumb. The loan will be

6 split funded out of the tire fund and partially out of the

7 RMDZ because we have one-million-five allocation from the

8 tire fund and this would exceed that so we're going to

9 split fund it.

10 Members of the company are in the audience if

11 there are questions. Staff recommends that the Committee

12 approve Option 1 and adopt Resolution Number 2003-415.

13 CHAIRPERSON JONES: Any questions?

14 Laura Wright from the City of Pittsburg who is

15 the RMDZ zone administrator and very involved in our loan

16 program.

17 MS. WRIGHT: As a matter of efficiency, I won't

18 take very long. I just want to speak in support of this

19 project. We're very excited to have Hunter Paine in the

20 city of Pittsburg, not only for economic purposes, but

21 also for ecological purposes for what their product will

22 do in dealing with our tire problem. Thank you.

23 COMMITTEE MEMBER WASHINGTON: 16 jobs it's going

24 to create.

25 MS. WRIGHT: Actually, it's going to go up to 53.

COMMITTEE MEMBER WASHINGTON: 53 jobs.

CHAIRPERSON JONES: And didn't they bring their pallets to one of our meetings?

MS. WRIGHT: Yes. We had the pallets here.

CHAIRPERSON JONES: Remember they had them in the back.

COMMITTEE MEMBER WASHINGTON: That was great. Well, Pittsburg -- down there certainly -- that's certainly going to have 53 jobs in city down there --

MS. WRIGHT: We're very excited about that.

COMMITTEE MEMBER WASHINGTON: Yvonne Beals, I'm sure she's going to be very happy.

MS. WRIGHT: Yvonne will be very happy. Thank you.

CHAIRPERSON JONES: Thank you.

Ms. Peace.

COMMITTEE MEMBER PEACE: I was just curious in terms of the pallets that are being produced, how do they compare to the life expectancy of wood pallets?

DEPUTY DIRECTOR WOHL: I think it's something like 10 to 1, but the company will --

MR. ROTH: Art Roth, President of Hunter Paine Enterprises. Good afternoon. It's about a 10 X. It depends upon the actual pallet that's made and how it's constructed. But using a CPR 2000 as a base, it's about

1 10 X that of a wood pallet, and it's five times reparable
2 over a standard pallet. So it's actually got a 100 time
3 life span over a wood pallet.
4 COMMITTEE MEMBER PEACE: That's wonderful. Are
5 they also recyclable?
6 MR. ROTH: 100 percent recyclable. We are a G4
7 product. Yes, ma'am.
8 COMMITTEE MEMBER PEACE: Great. Thank you.
9 I had one more question of staff. It says here
10 that we're waiting for response from DTSC that Hunter
11 Paine's operations will not interfere with cleanup
12 efforts. Have we heard from DTSC?
13 MR. LA TANNER: I believe we have. It's a new
14 industrial site. It was an old cannery type building on
15 the property that had been abandoned. One tenant years
16 ago had some small one-gallon paint cans out in, like, a
17 5 square foot area out in the corner of the property, and
18 DTSC is overseeing the cleanup of that. It's a minor
19 site, not bigger than the desk up in front of me.
20 That cleanup is almost completed. Our applicants
21 can occupy part of the building which is not involved in
22 that. And DTSC just wanted to make sure that the
23 chemicals or process used by Hunter Paine wouldn't
24 interfere or further contaminate the property, and it
25 won't. They have the clearance.

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1 CHAIRPERSON JONES: All right. A motion.
2 COMMITTEE MEMBER PEACE: I'd like to move
3 Resolution 2003-415, consideration of the recycling market
4 development revolving loan program application for Hunter
5 Paine Enterprises, LLC.
6 COMMITTEE MEMBER WASHINGTON: Second.
7 CHAIRPERSON JONES: We have a motion by Ms.
8 Peace, a second by Mr. Washington. Substitute the
9 previous roll. On fiscal consensus.
10 Thank you, members.
11 Next item.
12 MR. LA TANNER: Consideration of revision --
13 CHAIRPERSON JONES: Now it's going to get
14 exciting, folks.
15 MR. LA TANNER: Hold your applause to the end.
16 Consideration of revisions to the recycling
17 market development revolving loan program project
18 eligibility.
19 Periodically, staff brings forward to the Board
20 an agenda item to ensure the types of projects that we
21 lend on are in adherence with the Board direction, the
22 strategic plan, and the current efforts and materials
23 going to the landfill. This was last brought to the Board
24 in September 2001.
25 This year we started the effort, and we put out

1 notices soliciting input from Board staff and
2 stakeholders. Attachment 1 is the September 2001 project
3 eligibility, and then it shows the tract changes to what
4 we want to add and delete. The short site is we want to
5 first delete the JTR set aside since the project will end.
6 We want -- we added additional examples under reuse and an
7 additional example under recycling to further emphasize
8 types of those projects that are currently eligible.
9 We want to make changes in the terminology to the
10 conversion technology description to more accurately
11 reflect the types of projects we'd like to lend on, and we
12 are proposing to delete lending on public infrastructure
13 and capital improvement projects.
14 On number 5, we've only had one application
15 received and processed from the public entities in the 13
16 years of the program. That was to the city of Cloverdale.
17 It's a very complex process to underwrite those loans and
18 analyze them and have the outside counsel to document
19 those loans. As an alternative, the Trade and Commerce
20 Agency, which is still around until December 31, has two
21 programs over there. Both the infrastructure bank which
22 still has all of its funding for this year, plus they also
23 have a re-dip program which is available to public
24 entities. It currently has a zero balance available.
25 I spoke with the infrastructure bank several days

1 ago, and they would be happy to entertain any financing
2 request from local jurisdictions for their program.
3 At December 31, if the bill passes, it's proposed
4 that the infrastructure bank be transferred to the
5 Business, Transportation, and Housing Agency. And it will
6 continue in its current stance, just have different
7 management up on top. The program is available, and there
8 are funds.
9 Staff will assist local jurisdictions that want
10 funding by referring them over to the infrastructure bank
11 and, if need be, helping them through that process. But
12 the infrastructure bank has several staff members that
13 specialize in going out to local governments and helping
14 them complete the forms. These types of projects that we
15 currently fund for local governments are eligible under
16 that program over there. So we're proposing to delete
17 that.
18 There's a number of guest speakers, including the
19 stakeholders. Some of the 40 zone administrators are in
20 the audience. And I'd like to move at that point.
21 DEPUTY DIRECTOR WOHL: Can I just add one thing?
22 I wanted to bring the Board's attention to the fact that
23 in the recent budget language under Section 44 it was
24 added that the plan, meaning the tire plan, may not
25 propose financial or other support that promotes or

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1 provides for research for the incineration of tires.
2 There is a line in this RMDZ -- there's a couple
3 pages where we talk about transformation. And granted, it
4 is related to RMDZ, which is an IWMA fund. But we do also
5 fund loans. So I just didn't know if it was an issue for
6 you or if you wanted to modify that to reflect any
7 commonality with this or if we want to add an example or
8 non example. But just so you're aware of it.
9 CHAIRPERSON JONES: Any questions? I only have
10 one speaker slip. I have a -- I always kind of find this
11 interesting. Under 4(d), recycling isn't sorting. It's
12 not putting it out at the curb. Recycling in its truest
13 form is when it's gone through all of the processes and
14 used as a feed stock and comes back as a product.
15 Are you comfortable with saying "post-recycled"
16 for a feed stock, or should it be "post-processed and
17 sorting"? You talk to anybody that runs a paper
18 manufacturing plant that used recycled content, he'll tell
19 you the only one in the room is him. He's the only
20 recycler in the room. So I just -- you know, it may be
21 semantics, but it could also be a source of confusion.
22 MR. LA TANNER: I would invite Fernando up to
23 answer the question.
24 CHAIRPERSON JONES: Really what you're after --
25 and I think it has to be always explained -- and I think

it's the difference between success and failure is these materials go through a sorting process prior to ever going through a conversion technology so --

MR. BERTON: Good afternoon, Chairman Jones and Members. Fernando Berton with the Waste Board.

The term post-recycled I think could be an artifact of a previous version of AB 2770 when that term was in a previous version. And really I think what it was referring to was materials in which -- or feed stock in which recyclables have been pulled out, namely the one and two plastics, aluminum, high-grade paper, et cetera. So that's more of what it refers to.

And so that those stakeholders would be comfortable that materials that can be recycled would be recycled and leftovers or whatever would go to a conversion process. Does that answer your question?

CHAIRPERSON JONES: It's an answer to a question. I'm just not sure that -- I am worried about an upcoming battle.

DEPUTY DIRECTOR WOHL: Instead of the term, do you think maybe just saying what it is, which is --

CHAIRPERSON JONES: Even if you put in parentheses after "post-sorted" or -- you know what I mean?

DEPUTY DIRECTOR WOHL: For a definition.

1 CHAIRPERSON JONES: I want it to be definite.
2 You know, it's gone through the process of removing the --
3 recovering potential recyclables, because that's what it
4 is. It's potential recyclables. If there's no market for
5 it, it's never going to get recycled. That's -- it's not
6 semantics when it comes to something like that. I think
7 it's important to make that determination.
8 Is that reasonable to you, members?
9 Mr. Block, is that reasonable as far as to make
10 it a little clearer?
11 STAFF COUNSEL BLOCK: Sure.
12 CHAIRPERSON JONES: Okay. Thanks.
13 DEPUTY DIRECTOR WOHL: We'll note that change.
14 COMMITTEE MEMBER WASHINGTON: I just had a
15 question for staff. In terms of the criteria, it talks
16 about -- I understand that business people who want to
17 operate these loans or who apply for the loans and use it
18 as collateral, they can use their homes.
19 MR. LA TANNER: That's the next agenda item after
20 this, Number 11.
21 COMMITTEE MEMBER PEACE: I just have one more
22 quick question. In regards to number 4(a). What does
23 catalytic cracking mean? Explain that real quickly.
24 MR. LA TANNER: Again, Fernando will be happy to
25 answer that question.

1 MR. BERTON: Yes. Hi, Fernando Berton again.
2 Catalytic cracking is a process that uses -- I'm not sure
3 how to describe it. It's not fairy dust. But it's a
4 chemical process that -- it's a powdery substance that you
5 mix in with plastics, and it breaks up the plastic
6 polymers into basic oils. Because plastic is made up of
7 oil monomers. A monomer is one molecule. So when you
8 chain those together, you make plastic.
9 The catalytic crackling process breaks that up
10 into its basic oil, and then can you recrack or
11 essentially refine that oil into some other petroleum
12 product. In the case of the catalytic cracking business
13 that's going to be constructed in Kings County and near
14 Hanford, they would make low sulfur diesel out of the oils
15 from the catalytic cracking process.
16 COMMITTEE MEMBER PEACE: Thank you.
17 COMMITTEE MEMBER WASHINGTON: One more,
18 Mr. Chairman.
19 CHAIRPERSON JONES: Mr. Washington.
20 COMMITTEE MEMBER WASHINGTON: On where it talks
21 about delete the public infrastructure and capital
22 improvements, it says that staff would seek alternative
23 state funding. With commerce closing down, where would
24 you seek funding from?
25 MR. LA TANNER: The infrastructure bank is going

1 to transfer over to the Business, Transportation and
2 Housing Agency.
3 COMMITTEE MEMBER WASHINGTON: Oh, okay. Thank
4 you.
5 CHAIRPERSON JONES: All right. Mr. Lautze.
6 MR. LAUTZE: Yes. Most of my comments are on the
7 next item, which is related. But the one point on this
8 item. I'm Steve Lautze, President Of the California
9 Association of Recycling Market Development Zones. And
10 we're 40 groups around the state that help operate this
11 program.
12 We have no fundamental opposition to the
13 technical amendments on eligibility for different types of
14 conversion. But one thing we would like to point out is
15 that conversion technology tends to be very capital
16 intensive that you will see from the list of loans that
17 you just approved, that this year's $10 million loan
18 allocation is now under $5 million here in the second
19 month of the fiscal year.
20 So we're interested in working with staff and
21 your Board on ways to sustain the recycling market
22 development zone. And at one level, adding in conversion
23 technologies can add more stress on the fund. But that's
24 all.
25 CHAIRPERSON JONES: Questions, members? All

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right.

A motion. Ms. Peace.

COMMITTEE MEMBER PEACE: I would like to move Resolution 2003-416, consideration of the revisions to the recycling market development revolving loan program project eligibility criteria.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON JONES: That's with that little modification.

COMMITTEE MEMBER PEACE: With the modification of Mr. Jones.

CHAIRPERSON JONES: Thank you. We've got a motion by Ms. Peace, a second by Mr. Washington. Substitute the previous roll, members. On consent. Then if a member wants to pull it off, they can; is that fair? Okay. All right. So we're three on consent. If one of the members wants to pull it off and have a discussion at the Board meeting, they have that right.

Next item.

MR. LA TANNER: Consideration of revisions to the recycling market development revolving loan program general eligibility criteria.

What we've done this year for the first time, both criteria essentially were one document. We split them into two for several reasons. One is the project

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1 eligibility criteria we just completed focuses only on
2 what types of projects and how to qualify a project, and
3 they're project specific.
4 This item on general eligibility criteria is to
5 spell out terms and conditions applicable to all loans,
6 and it's a summary of prior Board agenda items, which
7 under item history on the first page it lists them. We're
8 not proposing to change most of it.
9 There's three areas that we are asking the
10 committee to consider for discussion and recommendation.
11 The first one is we presently have a policy not to take
12 personal residences as collateral. That was put in place
13 in October of 1999 because of one loan default situation.
14 At that Board meeting the Board directed staff that should
15 there be an issue with any potential applicant applying to
16 the loan program that may need to provide their residence
17 as collateral -- and it was an issue that we would come
18 back to the Board for that to be revisited.
19 Since October '99 the Board staff has not had any
20 contact with any recycling business that a personal
21 residence was an issue or not. I do believe some of the
22 zone administrators have talked to recycling businesses
23 where it was an issue, but those companies did not
24 actually apply.
25 COMMITTEE MEMBER WASHINGTON: Did they not apply

1 because that was the issue?

2 MR. LA TANNER: It was not referred from the zone

3 administrator to the loan staff to consider.

4 CHAIRPERSON JONES: Right. But what I think what

5 Mr. Washington is asking is, were those potential new

6 recycling businesses shut out of the process because the

7 only bit of collateral they had couldn't be used as

8 collateral?

9 MR. LA TANNER: Staff is not aware -- I believe

10 Steve Lautze has more information on those. I have

11 several comments on residential properties as collateral.

12 We still have outstanding loans with residential

13 properties, some that originated before October 1999.

14 Generally, with the loan fund of these loans, roughly 80

15 percent of the money goes towards equipment. The loans

16 are 75 percent of the project cost, and we advance 75

17 percent of the comment, and a borrower comes up with the

18 match. So for the most part, all the loans are

19 collateralized by equipment.

20 It's when the applicant come in for working

21 capital money for accounts receivable inventory type items

22 that they need additional collateral to support the loan.

23 We do take accounts receivable on inventory, which

24 fluctuate on a daily basis as a ten-year collateral

25 position on the loan. Our thought is that if an applicant

needs to use the equity in their home, they're probably better off financially by going out and refinancing the home or getting a second mortgage, and that can be used in the matching funds portion.

There are, however, some applicants out there that may not qualify to go out and refinance their home, especially if it's a brand-new start up business. And we do startups. But they're applying -- mainly they would need the equity for receivables inventory if they have job training or other uses of loan funds where that does not provide additional collateral for the loan.

Staff's recommendation is to continue not taking them. However, should the Board want to change that, it wouldn't be a problem to resume taking them again. And the CA RMDZ has more background as to the recycling business in zones where this is actually an issue.

COMMITTEE MEMBER WASHINGTON: I can just tell you I'm certainly not inclined to continue to using people's personal homes. Under the type of scrutiny this Board is under right now, all we need is for someone to come up in default and we end up taking their home, and they make it a political issue. And then the Board is on the chopping block again. So I'm very reluctant at this point to support that. The idea that we continue to take people's personal homes, it's not a good idea for me.

1 COMMITTEE MEMBER PEACE: I agree. I agree. I
2 don't think the Board should be in a position to foreclose
3 on a person's home.
4 MR. LA TANNER: We're not going to vote right
5 now. You should hear the other side of the coin.
6 COMMITTEE MEMBER WASHINGTON: I certainly don't
7 mind you knowing what my vote would be.
8 CHAIRPERSON JONES: So I stay consistent, the
9 last time we did this because people didn't like taking
10 somebody's home, it was a 5-to-1 vote. And I was the one
11 that said keep the collateral in. And I did it for a very
12 different reason. There are times when you want to run a
13 business and that's the only piece of collateral you have.
14 And if you believe in what you're doing and you want to
15 put that home up as collateral, you know what, you've got
16 a right to do that. And you've got a right to deal with
17 the consequences. But that's where I come from. So just
18 since we're all telling everybody where our vote's going
19 to be, you know -- and having had to put my home up as
20 collateral -- and I'm still there, you know.
21 COMMITTEE MEMBER WASHINGTON: You're still paying
22 it off.
23 CHAIRPERSON JONES: I'm still paying it off.
24 Nobody took it. But it's amazing the incentive that it
25 gives you.

1 Go ahead. Finish.

2 MR. LA TANNER: Okay. In the agenda item number
3 two, staff is proposing to change the basis on which we
4 charge interest on these loans. Since inception of the
5 program and in statutes, we have always charged the
6 surplus money index fund interest rate on these loans.
7 It's calculated and monitored and changed by the State
8 Controller's Office on a semi-annual basis in January and
9 July. Every January and July the Controller's Office
10 announces the new rate. This July it's 1.9 percent. That
11 would normally be in effect for six months ending December
12 31.

13 Staff is proposing, because the rate is so low
14 and we use the interest to help cover the overhead, to
15 increase the rate on the loans. We're proposing to go to
16 using Smith as a basis, which we have to by statute but
17 adding the factor of X which is the difference between
18 Smith and prime. If this were in effect, which we're
19 proposing would start November 12, all loans at that point
20 would get prime rate, currently which is 4 percent instead
21 of 1.9. It would be fixed for the term of the loan at the
22 Board meeting.

23 In January the Controller's Office will announce
24 the new Smith rate. We will look at the prime rate in
25 effect in January and estimate the difference between the

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1 two, and the loans would be fixed at that interest rate.
2 In the past we have had a number of borrowers
3 come to us simply because we have a below-market interest
4 rate. Their matching funds are coming from a bank. The
5 bank wants to finance more of the project, and the
6 applicant says, "Well, the loan program is 1.9 and the
7 bank rate is 6. I want to finance as much as I can with
8 the RMDZ program and the bank gets the rest." None of the
9 applicants -- I'm only aware of one applicant which was
10 Fire and Light up on the coast that needed the low
11 interest rate in order to have a better cash flow to buy a
12 larger building for their facility.
13 One of the sales pitches that's used that is very
14 appropriate is the incremental cost of getting into
15 recycling or adding recycled material is a low interest
16 rate program that adds the equipment to get into it. The
17 1.9 fixed for ten years versus the market interest rate
18 that banks charge as prime plus two to four on a floating
19 basis on five- to seven-year loans, we're locking these
20 loans in for 10, 15 years in for this rate. Today's loans
21 will get the 1.9. I'm suggesting that starting November,
22 all loans would get prime at the Board meeting fixed for
23 the term.
24 The third item that's under consideration is the
25 state agency buy recycled campaign is mandatory for

1 agencies. The Board adopted the agenda item requiring it
2 be mandatory on all grants, and now it is proposed that
3 the SABRC requirement be required for loan borrowers to
4 account for how they use the specific loan dollars. It's
5 a one-time reporting how the money was spent. Was any of
6 it spent on the 13 SABRC items? If so, how many of those
7 items purchased had recycle content and the percentage?
8 We're also adding -- we've always had -- recently
9 the 25 percent of loan funds used for improvements
10 concerning purchase green building materials. We also
11 like the reporting to know what type of materials were
12 purchased with it that were green and the recycled
13 content. That is item number three in the agenda item as
14 proposed to a new mandatory reporting requirement for the
15 borrowers.
16 That's the three changes that staff is
17 recommending.
18 CHAIRPERSON JONES: Okay. We've got a speaker
19 slip. I will say that I got two e-mails. I think all the
20 members did. One from Kevin Drew in city of San
21 Francisco's RMDZ encouraging us to use the primary
22 personal residence as collateral. And one from Steve
23 Lautze who said that was what CA RMDZ had said.
24 Before Mr. Lautze comes up, just to let the
25 members know, we've been working for quite a bit of

1 time -- both Chairwoman Linda Moulton-Patterson and
2 myself -- we asked the recycling market development zone
3 administrator for -- I think there were three or four of
4 them -- and our staff to figure out a way to keep this
5 RMDZ zone program even working. We can't make
6 contributions. We've got some options we're going to be
7 looking at.
8 We had actually looked at a loan sale. There's
9 interest in it. We have to do a little bit of work
10 because we don't want to do a loan sale and have the money
11 swept. So we've got to look at -- we've got a little bit
12 of work to do there to keep this program alive.
13 We're also looking at -- what I think got a lot
14 of attention from the Board members when it was brought
15 forward was the potential to do a loan sale at the point
16 of execution. Meaning, if we were in that program right
17 now, these seven loans that came forward today then would
18 go through the Loan Committee and then back to the Board.
19 We would do the paperwork and we would sell the loan
20 immediately for that interest rate so that we kept this
21 group of recycling market development type businesses
22 coming through the door, but because of our limited
23 resources, we're able to get them right into conventional
24 funding. Where a lot of these may not be able to get
25 conventional funding, with our help, they can, because

we're going to have to use some money to guarantee some things. That will come forward later.

Actually, I think we gave staff direction six months ago or eight months ago to get all the information on that option as well as the loan sale option. So I wanted that, just for the sake of the new members, to refresh people's memories that when we're talking about Smith plus something to come up to prime, that's going to be consistent with what one of our options is.

And like Mr. La Tanner said, we had a series of loans probably eight or nine months ago from some very well-healed companies that could have get gotten a loan from anybody, but came to us because the money was like 2 percent. And they drained about 8 million bucks out of -- 6 or 8 million bucks out of the fund, which they had every right to do. But we've got to be judicious about how we keep this program going because it is important.

Mr. Lautze. Thanks members for allowing me to --

MR. LAUTZE: Thank you, Mr. Jones, and Jim. Again, I am Steve Lautze, President of the California Association of RMDZs, 40 zones around the state that are implementing this program at the local level. We like to refer to ourselves as the local sales force. We work hand in glove with staff at the Waste Board, including the loan

1 staff and the program staff and, of course, with Mr. Jones
2 on trying to figure out how to sustain this program into
3 the future.
4 A lot of zones you've heard are coming and
5 renewing their zones for another decade. We're trying to
6 figure out how it will keep going for a decade because it
7 is a great business development plan as well as diversion
8 program.
9 As I said in my letters to the members, our main
10 concern here is the item on use of primary homes as
11 collateral. This was a policy that was changed in October
12 of '99, and we were not even present at the meeting it was
13 changed. So we are trying to take this shot to raise this
14 issue and discuss it. We know it is not without
15 controversy. But as the staff report does state itself,
16 about a quarter of the portfolio at that time had used
17 this provision. That is, had used their primary home as
18 collateral in the deals, 13 out of 54 of the active deals
19 when the policy was changed.
20 Mr. La Tanner suggested there have been no
21 similar deals since then. The reality from our standpoint
22 is that we've been telling folks they cannot use this
23 provision. So that's why there haven't been any deals
24 that have requested to use collateral.
25 We're going to raise the interest rate. We are

1 supportive of that. We say a wait-and-see attitude
2 towards that. But, you know, that is going to
3 certainly -- 1.9 percent may be too easy. But if it goes
4 to prime rate at 9 1/2 percent, which it was as recently
5 as January of '01, we're concerned with what effect that
6 will have on the program.
7 Flipping back to this collateral issue. This is
8 the tool we have in the field and that entrepreneurs can
9 have to put deals together and make deals happen. As Jim
10 kind of alluded to, recycling projects can be very
11 challenging. And so a lot of times these entrepreneurs,
12 that's the only asset or the best asset they have to
13 collateralize the deal.
14 I would also point out there was one bad deal in
15 over 125 or so loans that have come through this program,
16 which overall gets great press and great political play.
17 So we do want to try to keep this alive into next week's
18 meeting. We know we may have an uphill battle. But we
19 ask for your consideration.
20 Let's see. I think I'm ready to go to the other
21 two issues. Oh, the other thing that was a little glitch
22 was that the draft staff report for this hearing that was
23 drafted in May actually had a recommendation to go back to
24 accepting homes as collateral. It was only last Tuesday
25 we got the staff report that stated the recommendation

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1 would be to not -- or keep the current policy, not accept
2 them. That's why we got the flurry of e-mails on this
3 topic.
4 On the other two --
5 COMMITTEE MEMBER WASHINGTON: Steve, did I hear
6 you correctly? I'm sorry? Did you say that the reason
7 why there hasn't been a number of people using the
8 personal home as collateral is because you advised them
9 not to?
10 MR. LAUTZE: Right.
11 COMMITTEE MEMBER WASHINGTON: But I understand
12 that. But you support the idea they can use their
13 personal homes?
14 MR. LAUTZE: That's right. We would like to be
15 able to have that tool in packaging deals that we bring to
16 the Board. We do not want -- obviously, a lot of people
17 will not choose to put their house on the line. But some
18 may choose to do that, and we want to have that tool
19 available to the entrepreneur and to the zone
20 administrator in the field. Whereas, this policy says you
21 cannot use that tool, period. End of story.
22 On the other two -- quickly, on the other two
23 items. On the change in the interest rate, again, we
24 agree 1.9 percent is not going to help sustain, nor is it
25 required to operate the program. We have a couple things

1 that we would like to ask: That there be a 6 percent cap
2 at least for a certain period of time, if that's workable
3 in the index. Because as I mentioned, as recently as
4 January of '01, the prime rate was 9.5 percent. The rate
5 that's been given out for RMDZ loans has never gotten
6 higher than 6 1/2 percent in the history of the program.
7 We'd like to look at having a cap.
8 The other thing that Ms. Wohl mentioned in her
9 intro perspectively was for the change in interest rate to
10 happen in 90 days. We would like to request that that be
11 made, if there is a change, on January 1 rather than in 90
12 days because that is when the zone administrators are
13 telling the entrepreneurs, again, that the interest rate
14 will change. It has been changed at the six-month point,
15 July 1st and January 1st, on a regular basis. And we feel
16 if it's changed 90 days out, that would be an unnecessary
17 confusion, especially for deals that are in the pipeline.
18 I'm going to have a big finish and will take
19 questions after that. On the green building provision
20 documenting green building, we have two points of
21 clarification from staff we would like to request. Number
22 one is on 25 percent of the announcement on what? Is it
23 the construction budget, or is it the materials budget for
24 construction? Because if it is the construction budget,
25 25 percent can actually be all the materials since most of

1 the construction budget is labor. So please clarify, is
2 it the construction materials budget?
3 And then the final comment I have is in
4 implementing that provision, does 25 percent recycled
5 content count the same as 100 percent and what have you?
6 Is there any kind of extra credit for doing more recycled
7 content?
8 And that concludes my comments.
9 CHAIRPERSON JONES: Extra credit in the form of?
10 MR. LAUTZE: It's more or less just if you have
11 100 percent recycled content on an item, do you get three
12 times as much credit versus the 25 percent standards or
13 what have you?
14 CHAIRPERSON JONES: Okay.
15 MR. LAUTZE: Just clarify the standards.
16 CHAIRPERSON JONES: Gotcha.
17 Any questions, members?
18 DEPUTY DIRECTOR WOHL: Do you want me to respond
19 to his questions?
20 CHAIRPERSON JONES: Sure.
21 DEPUTY DIRECTOR WOHL: You know, our intent is to
22 focus on the materials they're purchasing. I think we
23 tried to keep it to home improvements and working capital
24 as they relate to things they would purchase. We did try
25 to be kind of flexible in the fact we would talk about low

1 energy electrical or things of that that were
2 conservation -- may not be recycled content, but could fit
3 that product category. That's really our focus.
4 Now, typically with the SABRC program you can't
5 say you bought 100 percent steel piece of equipment and
6 therefore nothing else you have to by needs to be recycled
7 content. Because equipment, which is the majority of what
8 they are purchasing, would be 100 percent recyclable.
9 So we're talking about a 25 percent minimum on
10 those recycled products you purchase. And really it's an
11 effort again to leverage our dollars. We're trying to do
12 it with state government. This is our money we're lending
13 out, and it actually benefits the loan recipient because
14 it's their products that are being purchased. So we feel
15 like it's got a symbiotic thing going for it so --
16 CHAIRPERSON JONES: I want to let Mr. La Tanner
17 talk to that 6 percent. But my thought would be, Steve,
18 while I don't have a problem with having a discussion
19 about some kind of a trigger, I think we make a mistake by
20 putting in a cap. How often can we -- we can look at that
21 criteria as often was we need to; right? We ought to
22 probably think about putting in some triggers, because
23 you're right. I mean, it could go through the roof. But
24 there's a couple things that have to happen. You know it
25 as well as I do. We've got to make sure that we really --

we haven't not done the loan sale because we haven't wanted to. We haven't done the loan sale because of a sense of uncertainty.

MR. LAUTZE: I know that.

CHAIRPERSON JONES: Okay. Depending upon how that gets resolved or if it gets resolved, there would be the potential to have the discussion with all the Board members again about a cap. But short of not having the ability to fund loans that were capped at some percentage, if it were to be different and we were doing loan sales, we could really mess ourselves up. So I think your ideas -- and I'll embrace the idea that we need to trigger. Let's say we trigger at 5 1/2 percent, that we start talking about what are we going to do in the next stages and bring it to the Board.

MR. LAUTZE: That's reasonable.

CHAIRPERSON JONES: Does that make sense? Okay. So it doesn't get away from us. But I think a cap could put us in a bad situation if we're selling loans, we may have a hard time -- if they know we're going to cap at 6, they're going to sell at 6, maybe we can get it at 5 1/2. Let's keep our options open, if that's cool. Will that work for you?

MR. LAUTZE: We know it has to change, and we're not opposing that in any way. But, yeah, we're concerned

about the scenario about low interest rates which we've lived under now for three years, they go the other direction.

CHAIRPERSON JONES: That would make sense. We'll put a trigger into the staff.

Members, that work for you? Okay. All right.

MR. LAUTZE: And the parting caution I would say to the Committee is that we have another item next month, so we are working the loan guarantee. I will be back to talk to you then. Thanks for your attention.

CHAIRPERSON JONES: I don't have any other speaker slips on this item.

Members, questions? Comments?

COMMITTEE MEMBER WASHINGTON: Mr. Chair, rather than vote on this, I would like to see this just go to the Board for a vote.

CHAIRPERSON JONES: Okay. Ms. Peace? All right. Do we have any issues of major concern other than the collateral that we need to let the Board know?

COMMITTEE MEMBER WASHINGTON: That was the only issue I had.

CHAIRPERSON JONES: Okay. All right. We know there's an issue on the residence. We'll bring this forward to the Board without a vote. There is a concern, obviously, on the personal property guarantee. So I

1 think, you know, that way the members will know what the
2 Committee was concerned about. There may be other issues
3 but we know that's one of the major issues. And then
4 we'll hear it at the Board meeting.
5 Just so members know, the one loan that we had
6 that had personal residents put up for it was a tire loan
7 that when the equipment was -- they could never make the
8 equipment work right to be a viable enterprise. When it
9 got foreclosed on and it was sold to somebody else in the
10 tire business, they turned the knife hammers around to be
11 in the right direction. The machine hums. All right.
12 This guy never would have lost his house if he knew which
13 way the hammers went in the machine. So sometimes it can
14 be that simple. And that's unfortunate. Because that was
15 just a set of hammers that were put in the wrong way.
16 So -- all right. Next item. Do we need to --
17 DEPUTY DIRECTOR WOHL: We're on agenda item --
18 CHAIRPERSON JONES: 12.
19 DEPUTY DIRECTOR WOHL: 12. This is --
20 CHAIRPERSON JONES: With plastic now.
21 DEPUTY DIRECTOR WOHL: -- consideration of
22 completion of the 1997/99 -- actually, I think we decided
23 we were holding this one over to the full Board.
24 CHAIRPERSON JONES: Oh, yeah. We did. Okay.
25 Sorry about that, folks. Item 12 is going to be brought

1 forward to the full Board.

2 Item 13.

3 DEPUTY DIRECTOR WOHL: Request for approval to

4 notice for 45-day comment period proposed regulations

5 regarding assessment of administrative civil penalties

6 against product manufacturers for non-compliance with the

7 rigid plastic packaging container law. And Michelle

8 Marlowe will present.

9 MS. MARLOWE: Good afternoon, Board members. I'm

10 Michelle Marlowe with the Plastics Recycling Technology

11 Section. And I'm having technical difficulties. I don't

12 need those up quite yet.

13 We're just going to give you a brief history on

14 this subject matter. This is a request to notice for

15 45-day public comment period regulations regarding the

16 assessment of administrative civil penalties against

17 product manufacturers out of compliance with the RPPC law.

18 And you might remember that staff was here in April with

19 this issue and requested permission to file emergency

20 regulations, which we did. And this is just the next step

21 really in that process in terms of formalizing those

22 emergency regulations.

23 We're doing this for a variety of reasons, mostly

24 in preparation for upcoming public hearings and stipulated

25 settlement negotiations. And our past history has shown

1 us really that we needed -- while the statute gives
2 permission for the Board to penalize and fine up to a
3 maximum amount of $50,000 dollars per violation and
4 $100,000 per calendar year, we felt we needed more
5 specific penalty criteria and an associated range of
6 penalties. So that's what we've tried to do in these
7 regulations is specify some specific violations.
8 And we've focused on five of the more common
9 violations that we've seen in our certification cycles.
10 So we used that experience to help develop the penalty
11 criteria and the associated range of penalties that are
12 included in this item as part of the text of the
13 regulations. And we -- I wasn't going to go over all five
14 of them, but Jerry, if you would just bring up the
15 overheads, we're just going to talk about two.
16 (Thereupon an overhead presentation was
17 presented as follows.)
18 MS. MARLOWE: Just the biggest violation would be
19 for product manufacturers that are out of compliance
20 basically. And what we're saying is there's a range of
21 penalties based on a number of things, but beginning at a
22 $5,000 penalty range and moving up to the full maximum
23 depending on how far out of compliance the company is and
24 some other criteria about the company itself.
25 COMMITTEE MEMBER WASHINGTON: Can you give me a

1 for instance in terms of what would be considered a
2 penalty determined by non-compliance that you would fine
3 them 5,000 versus 50,000?
4 MS. MARLOWE: Depending on how cooperative they
5 were. Some companies respond immediately and let us know
6 they're out of compliance and work with us to maybe come
7 into compliance. And then there are other companies that
8 don't respond. And when they do respond, they give us
9 incomplete information or inaccurate information. And
10 there would be a whole series of kinds of dings that would
11 get to the $50,000 mark.
12 COMMITTEE MEMBER WASHINGTON: Thank you.
13 MS. MARLOWE: Thanks. And the next slide, Jerry.
14 CHAIRPERSON JONES: Can I ask a question? The
15 criteria -- you just made me real nervous. The criteria
16 is somebody makes a mistake or didn't get it in right
17 away, and it's five grand. I can live with that. But
18 somebody gives you a little bit of grief about turning it
19 in, and it could be 50 grand.
20 MR. LEAON: Mike Leaon, Supervisor of the Plastic
21 Technology Recycling Section. Just to elaborate on what
22 Michelle said, this particular penalty is based on degree
23 of non-compliance. For the post-consumer recycled content
24 requirement, they have to demonstrate 10 percent. And
25 this sliding scale will actually allow companies to reduce

1 their penalty from 50,000 -- if they have zero percent,
2 the maximum would be 50,000. But we do allow them to
3 reduce that penalty based on their degree of compliance.
4 CHAIRPERSON JONES: So that'll go backwards. So
5 it's not -- you know, because a guy like me, I can be
6 pretty argumentative.
7 COMMITTEE MEMBER WASHINGTON: No.
8 CHAIRPERSON JONES: So I would hate if there was
9 somebody else in the world like me they'd automatically be
10 fined 50 grand for questioning authority.
11 MR. LEAON: No, sir.
12 --o0o--
13 MS. MARLOWE: No, Jerry, that isn't the one I
14 wanted, but -- okay. Here we go.
15 This is one of the more common violations that
16 we've seen during our certification cycle thus far. I
17 think we're in certification cycle number four. But
18 product manufacturers that don't submit their
19 certifications by a specific due date have -- you know,
20 have strung out certifications to some degree, and staff
21 would like to put some structure into the process so that
22 maybe we get a more timely response from some companies by
23 putting this regulation in and making it certain that if
24 you don't respond to the request, there's going to be a
25 fine involved. And we think that will help speed up any

1 future certificate cycles as well as deal with some out of
2 compliance manufacturers that we're going to be taking
3 possibly to public hearing in the fall.
4 --o0o--
5 MS. MARLOWE: And just a little more information
6 about that, because I knew Steve was going to ask this
7 question. We do have a graduated structure in place for
8 how late their response is and an associate penalty. So
9 no questions about that? It seems pretty straightforward.
10 --o0o--
11 MS. MARLOWE: So this -- oh, about complete
12 forms. Again, one of the bigger issues is that takes a
13 lot of time that we go back and forth and back and forth
14 to companies with. So in future certificate cycles it
15 will be helpful to have this structure in place, and
16 that's why that language is there.
17 Thanks, Jerry.
18 We believe that the more specific penalty
19 structure is crucial to assist the administrative law
20 judge and the Board and to ensure that violators have fair
21 and equal treatment with regard to administrative civil
22 penalties being imposed.
23 And with that, I'd like to ask for approval to
24 publicly notice the regulations for 45-day comment period
25 as necessary.

1 CHAIRPERSON JONES: Okay. I see a couple of
2 stakeholder representatives in the audience. I don't have
3 any speaker slips on this item. So I'm assuming that
4 nobody has an issue with this. I mean, because normally
5 they would be here screaming. So -- all right. This has
6 to go out for 45 days. And all you need is direction from
7 this Committee to do that?
8 MS. MARLOWE: Approval to go to AOL.
9 CHAIRPERSON JONES: Members, send it out for 45
10 days with your approval. All right. Go ahead.
11 MS. MARLOWE: Thank you.
12 CHAIRPERSON JONES: All right. Item 14, plastic
13 trash bags.
14 DEPUTY DIRECTOR WOHL: This is consideration of
15 plastic bag manufacturers and wholesalers compliance with
16 the plastic trash bag law for the 2002 reporting period,
17 Public Resources Code Section 42997(b).
18 And Mike Leaon will present.
19 MR. LEAON: Thank you, Patty. Pull up the
20 presentation.
21 (Thereupon an overhead presentation was
22 presented as follows.)
23 MR. LEAON: As Patty stated, this is
24 consideration of the plastic trash bag manufacturers and
25 wholesalers compliance with the plastic trash bag law for

1 the 2002 reporting period.

2 --o0o--

3 MR. LEAON: I'd like to begin by providing the

4 Committee with some background information. Regarding

5 statutory requirements, the Board is required to annually

6 publish a compliance list, and non-compliance companies on

7 that list cannot contract with the state and will remain

8 ineligible until the Board determines they are in

9 compliance with the law. In addition, other state

10 agencies do rely on the Board published list. For

11 example, Department of General Services will use our list

12 to screen companies which are bidding for award of

13 contract. And in addition, through the state agency buy

14 recycled campaign, state agencies will rely on our list

15 for the same purpose, screening companies that are bidding

16 for contract.

17 --o0o--

18 MR. LEAON: Concerning the wholesalers'

19 certification requirements, wholesalers are required to

20 certify the name of each trash bag manufacturer from whom

21 the wholesaler purchased trash bags, and also the physical

22 location from which trash bags were shipped that were

23 intended for sale or distribution in California.

24 --o0o--

25 MR. LEAON: Regarding manufacturer certification

1 requirements, trash bag manufacturers are required to
2 certify that they meet one of two post-consumers content
3 requirements, either a 10 percent in regulated trash bags
4 or 30 percent in all plastic products that they
5 manufacture. Additionally, manufacturers may also certify
6 to the Board or demonstrate through their certification
7 that there was an insufficient supply of post-consumer
8 material that met Board quality standards.
9 --o0o--
10 MR. LEAON: Okay. For the wholesalers for the
11 2002 reporting period, we sent certifications to 292
12 potential wholesalers. We determined that 183 of those
13 were in compliance. None were actually not in compliance.
14 Forty-eight were not regulated, and there were 61 that did
15 not respond to the certification.
16 And staff will be following up with those
17 companies to determine the regulatory status if, indeed,
18 they are not regulated, or if they are regulated, we will
19 include them in a future certification.
20 --o0o--
21 MR. LEAON: Regarding the manufacturer
22 certification, certifications were sent to 40 trash bag
23 manufacturers. Twenty-two demonstrated compliance through
24 the 10 percent recycled content. Two were determined not
25 to be in compliance based on that requirement. Again, we

had 12 that did not respond, and we will be following up with those companies. In addition, four applied for an exemption.

--o0o--

MR. LEAON: To summarize the four companies. Those companies did count for 55 percent of regulated plastic trash bag tonnage sold in California, or 37,000 tons, but only accounted for 13 percent of the tonnage post-consumer material reported in the 2002 certification, or a little over 1,000 tons.

--o0o--

MR. LEAON: The four companies were TransWestern, Pactiv, PolyAmerica, and Clorox. To provide you a little background on those four companies. Starting with TransWestern, for the regulated trash bags they sold into the state were only able to achieve 1 percent post-consumer content in those trash bags. However, I should point out that TransWestern did purchase a large amount of post-consumer material in 2001, continued to work through that material in 2002.

And for all other trash bags, which included regulated and non-regulated, they did manage to achieve 5 percent. But for the purposes of our regulations and what's required in our regulated trash bags, they can only report one. They represent or account for 5 percent of

1 the regulated trash bag market in California. In
2 addition, through our work with TransWestern on their
3 exemption, they've demonstrated that they are actively
4 working with supplies to try and achieve the 30 percent
5 compliance option through all their plastic products for
6 next year.
7 Regarding Pactiv, they were able to achieve 7.5
8 percent compliance of the regulated trash bags for
9 post-consumer content. They represent or account for 7
10 percent of the regulated trash bag market in California.
11 Pactiv encountered difficulty in finding a supplier of
12 post-consumer material, so it took the initiative to
13 purchase post-consumer film on their own and process that
14 material at one of their plants which had a washing
15 facility, produced their own pallets, and use that
16 material in an effort to comply.
17 Regarding PolyAmerica, PolyAmerica achieved a
18 4.1 percent post-consumer content in their regulated
19 trash bags. PolyAmerica is the biggest single
20 manufacturer selling bags into the California market
21 representing 29 percent of that market.
22 PolyAmerica reported that they did not test
23 samples in 2002 -- post-consumer resin samples. And their
24 rationale for this was that they didn't identify any new
25 suppliers that they worked in 2001. They had done testing

1 in 2001 and found that that material didn't meet their
2 quality specifications. And in failing to identify a new
3 supplier, determined not to do any testing for 2002.
4 Regarding Clorox, Clorox did not achieve any --
5 or did not use any post-consumer material in the bags they
6 sold into California. Clorox represents 14 percent of the
7 regulated trash bag market. Clorox did document that they
8 tested five samples or shipments of material from three
9 separate resin suppliers -- post-consumers' resin supplies
10 in 2002 and found mixed results with those samples, those
11 samples failing to meet their specifications across the
12 Board. There's problems with each shipment. However,
13 Clorox wasn't very aggressive in following up with those
14 companies based on the documentation they submitted.
15 So that's a brief summary of the companies that
16 have requested an exemption based on lack of availability
17 of quality and quantity of post-consumer material.
18 And I would like to end my presentation here and
19 open it up for your questions. Thank you.
20 CHAIRPERSON JONES: Questions, members? We have
21 three speakers. TransWestern, what is its trade name
22 product?
23 MR. LEAON: TransWestern, the bags they ship into
24 California are under private label. They do sell bags to
25 Costco. I believe the brand name there is Kirkland. Also

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1 Safeway, Longs, and Smart and Final, I'm not sure about
2 the brand names there. They do sell bags under their
3 brand name, Iron Clad to one retail outlet. I believe
4 it's Orchard.
5 CHAIRPERSON JONES: So -- okay. And they were
6 able to do all of 1 percent.
7 PolyAmerica?
8 MR. LEAON: Brand name for PolyAmerica is Husky.
9 The retail outlets for them -- I'd have to defer --
10 CHAIRPERSON JONES: That's fine. Just the name
11 is good.
12 Pactiv?
13 MR. LEAON: Pactiv is Hefty and Cordite.
14 CHAIRPERSON JONES: And Clorox is --
15 MR. LEAON: Is Glad.
16 CHAIRPERSON JONES: Okay. We're going to open
17 this up to questions. But I've got a real problem with
18 these self-exemptions.
19 Questions, members, before we hear from anybody?
20 All right. Thanks, Mike.
21 Pete Price.
22 MR. PRICE: Mr. Chairman, Pete Price with
23 PolyAmerica. Did you want to -- I'm curious what your
24 questions are. I don't know if you'd like me to present
25 now or --

1 CHAIRPERSON JONES: You've got a speaker slip.
2 Go ahead and speak. I didn't have any questions.
3 MR. PRICE: All right. Well, with PolyAmerica
4 Mr. Chairman, Board members, let me say first, I just
5 discovered last week that this is the second year that we
6 have -- last year we were listed in compliance when, as a
7 matter of fact, we were forced to go to the self-exemption
8 route for failure to be able to attain adequate amounts of
9 material that was of the quality we needed to meet the
10 customer specifications. This year we were listed not in
11 compliance and had once again filed for self-exemption.
12 So I understand that's now been corrected, and I
13 appreciate that.
14 I would like to speak a little bit to why
15 PolyAmerica, anyway, finds the need to self-comply. It
16 wasn't always that way. PolyAmerica, since before the
17 trash bag law was enacted about 12 years ago now, I think,
18 has -- it's business model was to use all the recycled
19 material it could. In the early 90s, PolyAmerica
20 established -- frankly, with some of their big customers,
21 they would deliver big truckloads of trash bags to their
22 customers at distribution centers and noticed all of the
23 plastic shrink wrap that was being disposed of. And they
24 entered into contracts with those suppliers, like Costco
25 and Target, to take back on a back-hall basis all of that

1 shrink wrap.

2 PolyAmerica historically has manufactured its own

3 RPP -- it's own pallets, not gone to others. And they did

4 it with all of that shrink wrap, feed stock, and other

5 things they were getting in back haul. I will also say in

6 the past PolyAmerica took a significant amount of ag film

7 out of California, which I've never understood frankly

8 economically how it worked for them to take ag film all

9 the way from California back to Dallas. But that's what

10 they were doing.

11 And we were complying with this law until, I

12 believe, the year 2000. As a matter of fact, when the

13 Riney bill was enacted in the late 90s, it was PolyAmerica

14 that proposed what is now the second way you can meet the

15 requirements in this law, which is you can't put 10

16 percent recycled material in your trash bags. Maybe you

17 can meet the law by putting 30 percent recycled material

18 in all of your plastic product. And I think one year we

19 actually met that standard. But that tells you -- that

20 should say something to you right there. It is much more

21 difficult to put recycled material into a plastic trash

22 bag in a thin film product whose purpose is not to

23 puncture or tear. And that's the problem that you do face

24 unavoidably when you use a certain amount of recycled

25 material, particularly if it doesn't meet quality

1 standards.

2 We were meeting those requirements until the year

3 2000. We lost all of our contracts with the big

4 retailers, Costco and Walmart. We lost our contract to

5 take the California ag film. They all went to the

6 composite lumber market. Believe me, we're not throwing

7 out composite lumber as a way to avoid our obligations.

8 The fact is they can take this material less expensively

9 than we can. They can use it in a way that's much better

10 in their product than in ours. That's where our supply

11 has gone.

12 And I'll respond as well because I saw you

13 acknowledging when Mike pointed out that PolyAmerica did

14 not test samples in 2002. We've submitted the long list

15 of suppliers that we call every year, and we went to great

16 lengths in 2001 to contact them all.

17 Let me tell you what happens when we contact

18 supplies. First of all, it's noted on the list. A

19 surprising number of them no longer exist. The list is

20 out of date. The businesses don't exist. They don't

21 answer the phone. They're not there. When we do get a

22 response, the first thing we hear from a number of them

23 is, "We don't produce recycled material for thin film."

24 These folks understand the different requirements for thin

25 films. They don't produce it for that.

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1 If they do for produce thin films, we ask, "How
2 much do you have? We need a lot." They laugh. They
3 don't have anywhere near that much. If they do have that
4 much, then we talk about the quality. They send the
5 samples. That's what we did in 2001. We test a number of
6 those samples. And the letter we sent dated just
7 yesterday identifies some of the ASTMs test we conducted.
8 It doesn't meet the requirements for the bags we need to
9 produce. There were no new suppliers listed by the Waste
10 Board in 2002. We knew those didn't work. We called them
11 again. We got the same answers. We did not test in 2002
12 because of the results we had in 2001.
13 We're finding it very difficult -- impossible to
14 meet -- to find enough supply of adequate quality to meet
15 these standards, notwithstanding the fact that PolyAmerica
16 I believe has always been the most aggressive user of
17 recycled plastic of any trash bag maker in the country.
18 So that's the situation we face.
19 CHAIRPERSON JONES: Questions? All right.
20 Thank you.
21 MR. PRICE: Thank you.
22 CHAIRPERSON JONES: Robin Gentz.
23 MS. GENTZ: My name is Robin Gentz, I'm the
24 Government Affairs Issues Manager for the Clorox Company
25 in Oakland. And I would echo Mr. Price's comments in

1 terms of our efforts to find PCR for our trash bags. We
2 have provided lots of detailed information to the Board,
3 to the staff about the difficulties that we've had and our
4 process. And we've chased down -- I've talked to our
5 procurement and our technical folks. We've chased down
6 more than 100 potential leads and even repeated requests
7 to those companies just to find out if their situations
8 have changed.
9 And we're open to new thoughts and ideas about
10 how to find this, but frankly, we don't know where it is.
11 We don't know how to get our hands on it. Within the
12 month I'm told that we are going to, again, conduct new
13 trials on our blown film line in Willowbrook, Illinois,
14 and using materials from three suppliers that we found.
15 None of the suppliers are located in California. And one
16 of the suppliers only has materials available on an
17 occasional basis. So we would appreciate any guidance
18 that the Waste Board can provide us in trying to correct
19 the situation. Thank you.
20 CHAIRPERSON JONES: Thank you. Laurie Hansen.
21 MS. HANSEN: Thank you, Mr. Chair. I'm Laurie
22 Hansen. I represent the National Film and Bag Federation.
23 I'm here today on behalf of Pactiv who received their call
24 late Friday afternoon. So they were not able to send
25 someone out. They didn't get the message until yesterday.

1 This is the first time in ten years that Pactiv
2 has not been in full compliance and is going through the
3 self-certification process. And I would again echo the
4 two previous speakers. They have been going out and
5 looking for supply wherever they can find it. In fact, in
6 discussions this morning, a gentleman that's in charge of
7 this program was clear in Seattle just two weeks ago and
8 purchased a great deal of plastic film that he was taking
9 back to the plant back east to be washed, and it was not
10 the correct plastic film to be put back into their trash
11 bags. That was a supply he sought out and it did not come
12 through.
13 Pactiv did provide the staff with detailed
14 information that they thought was detailed information
15 back on July 25th. And because this is the first time
16 they've gone through the self-certification process after
17 having been in compliance for the previous nine years, we
18 were not aware of the additional information that would
19 assist you in providing this self-exemption.
20 I would like to suggest that this Committee -- I
21 know, we've had enough workshops. God only knows we've
22 had enough workshops on all of this, but to enable the
23 trash bag manufacturers in a very organized approach to
24 give you information on what's going on with supply out
25 there. I know you've dealt with this over and over and

1 over. But I think it may be timely to talk about supply
2 and what's going on and what are the Board's standards for
3 the post-consumer content and to go forward with a little
4 bit more time to work on this issue. Thank you.
5 CHAIRPERSON JONES: Any questions for Ms. Hansen?
6 I appreciate that suggestion because in talking
7 with some of the representatives from the bag company,
8 there is a difference between what their specifications
9 are and what our range is. And sometimes our range might
10 be a little bit too wide for what they need as far as
11 their product goes. I think that this range, if I'm not
12 mistaken, was made to accommodate one of the big
13 companies, or at least to consider what their products
14 were back quite a few years ago. And now I guess they've
15 changed the type of material they used or something.
16 But my issue with this self-exemption was, when I
17 was asking staff about how that process worked, it was
18 almost like a check the box. And you know when nobody's
19 testing the next year and -- but yet we've got suppliers
20 of pallets telling us that -- telling our staff that they
21 have furnished samples but never got a call back. That
22 doesn't make a whole lot of sense to me. There's a
23 breakdown here somewhere between what is the effort
24 required by somebody that sells that many bags in the
25 state of California.

1 I'm not a -- you know, I'm not opposed to moving
2 the agenda item and the resolution dealing with the
3 non-complying and the ones that have 10 percent. But I
4 want to hold off on the self exemptions out of this
5 resolution, and I want them to spend some time with our
6 staff. I want our staff -- I don't think there was enough
7 due diligence done. And I don't, you know -- I think it's
8 too easy to say that the supply is not available. When we
9 have suppliers that are saying they never got calls back
10 from these bag companies, that creates a problem for me.
11 Now if they're wrong, then that's fine. Then I
12 don't have a problem with that. I mean I do have a
13 problem with that. If they didn't give our staff the
14 right information that, in fact, there weren't follow-up
15 phone calls, there was just simply a lack of much effort,
16 then, you know, we'll go ahead with the self-exemption.
17 But I'm not prepared to support that piece of it
18 for the self-exemption. There's too much at stake here.
19 You know, it may only be trash bags, but it's a law in the
20 state of California that they require recycled content.
21 And you know, I appreciate somebody's past
22 reputation and commitment, but one of the excuses we heard
23 was that the price of virgin resin was so cheap that it
24 doesn't make it, you know, all that attractive. So you
25 know, somebody's efforts may vary because of my friends

1 that always seem to drop the price every time we do a
2 program for virgin.
3 But if members have questions, you know, somebody
4 wants to make a motion. I would like us, if the members
5 don't mind, to hold out this piece Attachment 2, the
6 self-exemptions, Pactiv, Clorox, TransWestern, and
7 PolyAmerica, and with the instructions to staff that a
8 conversation take place as to what the due diligence was
9 on the company's part.
10 The piece I'm missing is -- just to make this
11 very clear. And maybe our questions are wrong. You know,
12 I don't know what questions are asked in that piece. If
13 they've asked for a sample, they get a sample, and there's
14 no response after that, to me, that's not a completed
15 transaction. That's not due diligence. If they're
16 looking for quantity, what did the manufacturers say about
17 the quantity that was available if it matched the sample?
18 If there was just never a follow-up phone call, I don't
19 think it goes into the realm of a self-exemption. So I'd
20 like to see that.
21 I'd also like to see a copy to all the Board
22 members maybe before the Board meeting of what the
23 questions are that are part of the self-exemption so in
24 case we have to fine tune that a little bit.
25 But I'm just getting real tired of having laws on

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1 the book that require recycled content that seem to get
2 blown off, you know, whenever. So --
3 COMMITTEE MEMBER WASHINGTON: Just a question,
4 Mr. Chair. So the action we're taking to exempt those
5 four companies, what does that do in terms of them
6 continuing to sell products that don't it have the
7 recycled contents in them?
8 CHAIRPERSON JONES: What I'm proposing to do is
9 to continue these guys for one month.
10 COMMITTEE MEMBER WASHINGTON: One month.
11 CHAIRPERSON JONES: Just so we can get this
12 information answered in a way -- I don't feel from what
13 I've heard from staff that there was enough due diligence
14 done. So I don't want to put them --
15 COMMITTEE MEMBER WASHINGTON: Towards them.
16 CHAIRPERSON JONES: From them.
17 COMMITTEE MEMBER WASHINGTON: Oh, from them.
18 CHAIRPERSON JONES: So the resolution approving
19 all the rest of them, except Attachment 2, and then
20 continue this item with this number to include Attachment
21 2, continue it for one month until we have more
22 information about the amount of due diligence that went
23 into this self-exemption. I mean, these companies sell 60
24 percent of the bags in the state of California. And we're
25 just saying, "Okay, no problem."

1 COMMITTEE MEMBER WASHINGTON: So Mr. Chair, in
2 terms of the exemption, they were coming to ask to be
3 exempt from --
4 CHAIRPERSON JONES: From our law because they're
5 saying they can't get product. And I'm saying the
6 discussion staff have had with those that sell that
7 product, those pallets, they offered samples but didn't
8 get follow-up calls or there wasn't a whole lot more
9 communication, let's find out what the level of
10 communication is. Maybe we need to tweak something. But
11 60 percent of the bags in the state of California to just
12 say, "No, we're going to do it with 100 percent virgin,"
13 that flies in the face of the law. So I'll leave it up to
14 you folks. Are you okay with that?
15 COMMITTEE MEMBER PEACE: Yeah.
16 CHAIRPERSON JONES: Carl?
17 COMMITTEE MEMBER WASHINGTON: Yeah. I want to
18 make sure --
19 MR. LEAON: Perhaps I could clarify,
20 Mr. Chairman. For Mr. Washington's questions, what we'd
21 be doing is adopting the other list so we can proceed with
22 the publishing of those lists and posting them on the web
23 page. However, the list of the companies that have
24 applied for the exemption, we would hold that list over
25 for your reconsideration next month.

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1 COMMITTEE MEMBER WASHINGTON: That's the four on
2 this list.
3 DEPUTY DIRECTOR WOHL: And what they can't do is
4 sell to the state. So that's the recourse in this.
5 COMMITTEE MEMBER WASHINGTON: So in a month it
6 won't put Clorox out of business?
7 DEPUTY DIRECTOR WOHL: I'm not sure how much of
8 their sales are state sales.
9 COMMITTEE MEMBER WASHINGTON: I don't want to get
10 a phone call saying --
11 CHAIRPERSON JONES: Just say it's pending. We
12 just need some more clarification.
13 COMMITTEE MEMBER WASHINGTON: That's exactly what
14 I wanted to have, some clarification.
15 DEPUTY DIRECTOR WOHL: I think it's sort of a
16 non-issue because the state -- it's my understanding the
17 state specification for trash bags requires it have
18 recycled content in it. So if they're not meeting that,
19 they would have trouble bidding for that contract anyway.
20 So --
21 COMMITTEE MEMBER WASHINGTON: Mr. Chair.
22 CHAIRPERSON JONES: Mr. Washington.
23 COMMITTEE MEMBER WASHINGTON: Mr. Chair, I'd like
24 to move adoption of Resolution 2003-394, revised
25 consideration of plastic trash bag manufacturing and

1 wholesale compliance with the plastic trash bag law for
2 2002, reporting period Public Resource Section 42997(b)
3 with the exclusion of four manufacturing companies that
4 you talked about Clorox, TransWestern, PolyAmerica, and
5 Pactiv.
6 COMMITTEE MEMBER PEACE: Second.
7 CHAIRPERSON JONES: Okay. And we'll bring those
8 self-exemptions back next month after clarification as
9 part of your motion.
10 COMMITTEE MEMBER WASHINGTON: That's correct.
11 CHAIRPERSON JONES: All right. Any questions?
12 All right.
13 Call the roll.
14 SECRETARY BAKULICH: Peace?
15 COMMITTEE MEMBER PEACE: Aye.
16 SECRETARY BAKULICH: Washington?
17 COMMITTEE MEMBER WASHINGTON: Aye.
18 SECRETARY BAKULICH: Jones?
19 CHAIRPERSON JONES: Aye.
20 We'll put this on consent. I'll give a
21 description to the Board members at a meeting, and they
22 may want to pull it and talk about it. And Mike and
23 Patty, if you guys could circulate to all Board members
24 that self-exemption questionnaire prior to the Board
25 meeting, please, so that if we have any questions, they

1 can be addressed at the Board meeting prior to your doing
2 it.
3 And I'm not trying to hurt these companies. I
4 just want more information about the amount of due
5 diligence. And they can come back in a month.
6 We are going to take about a 10 minute break, and
7 then when we return for more fun and games.
8 (Thereupon a recess was taken.)
9 CHAIRPERSON JONES: Okay. We're back from our
10 break.
11 Members, any ex partes?
12 Ms. Peace.
13 COMMITTEE MEMBER PEACE: No. I have none.
14 CHAIRPERSON JONES: Mr. Washington.
15 COMMITTEE MEMBER WASHINGTON: Mark Aprea,
16 greetings.
17 CHAIRPERSON JONES: And I just was able to greet
18 Mr. Aprea, as well as Denise Delmatier and John Cupps.
19 All right.
20 Now we are getting into our planning section.
21 Mr. Schiavo, Deputy Director's report.
22 DEPUTY DIRECTOR SCHIAVO: I think because of the
23 length of time of some our items, I'll go ahead and
24 present that next month and give us more detail. We have
25 some substantive items this month.

1 So, Pat Schiavo, Diversion, Planning, and Local
2 Assistance Division. And our first item is Item Number
3 15, and that's consideration of the amended
4 multi-jurisdictional nondisposal facility element for the
5 city of Santa Barbara, Santa Barbara County.
6 And Tabetha Willmon will present.
7 MS. WILLMON: Good afternoon.
8 The city of Santa Barbara has amended its
9 multi-jurisdictional nondisposal facility element by
10 identifying and describing the MarBorg C&D recycling and
11 transfer facility, which is a new facility. It will serve
12 the county of Santa Barbara and all the cities within the
13 county. The Permits and Enforcement Division will be
14 presenting an agenda item for the proposed permit for this
15 facility at this month's Committee and Board meetings.
16 The city submitted all the required
17 documentation, and Board staff, therefore, recommends
18 approval of the amendment to the city of Santa Barbara's
19 nondisposal facility element. This concludes my
20 presentation.
21 CHAIRPERSON JONES: Members, just so you know
22 yesterday at the Permitting and Inspection and Enforcement
23 Committee, we did have the MarBorg facility in front of us
24 which was conditionally approved based on this item. All
25 right.

1 Questions?
2 Ms. Peace.
3 COMMITTEE MEMBER PEACE: Nope. I would like to
4 move resolution 2003-426, consideration of the amended
5 multi-jurisdictional nondisposal facility element for the
6 city of Santa Barbara, Santa Barbara County.
7 COMMITTEE MEMBER WASHINGTON: Second.
8 CHAIRPERSON JONES: We've got a motion by Ms.
9 Peace, a second by Mr. Washington.
10 Geannine, could you call the roll.
11 SECRETARY BAKULICH: Peace?
12 COMMITTEE MEMBER PEACE: Aye.
13 SECRETARY BAKULICH: Washington?
14 COMMITTEE MEMBER WASHINGTON: Aye.
15 SECRETARY BAKULICH: Jones?
16 CHAIRPERSON JONES: Aye.
17 Consent, Members. Thank you. That will be on
18 consent. And that mirrors the permit was put on consent
19 based on this.
20 Item 16, P.
21 DEPUTY DIRECTOR SCHIAVO: This is consideration
22 of the source reduction and recycling element, household
23 hazardous waste element and nondisposal facility element
24 for the newly incorporated city of Laguna Woods, Orange
25 County.

1 And Melissa Vargas will present.

2 MS. VARGAS: Good afternoon, Committee members.

3 The city of Laguna Woods incorporated in March

4 1999 and submitted their SRRE, HHWE, and NDFE to the Board

5 and established their base year for the 2000 reporting

6 year. As part of the SRRE, HHWE, and NDFE review, the

7 city submitted a waste characterization study using Laguna

8 Hills' 1990 study as a viable comparison. Based on the

9 SWGS criteria, the study did not initially meet the

10 criteria since the study was older than five years. By

11 using the Board's statewide characterization study, staff

12 was able to update the city of Laguna Woods waste

13 characterization study to 2002.

14 Board staff is recommending the city use the city

15 of Laguna Hills' 2002 waste characterization data, and the

16 city concurs. In addition, as part of the base year study

17 review, Board staff conducted site visits. As a result,

18 deductions and additions were made to diversion amounts

19 for the city. The site visit verification results can be

20 viewed in detail by referring to Attachment 3 of the

21 agenda item packets. No extrapolation was used to

22 calculate diversion amounts.

23 The city submittal of a SRRE, HHWE, and NDFE is

24 documented and generally consistent with Board standards

25 for accuracy. Therefore, staff recommends the Board

1 approve the city's SRRE, HHWE, and NDFE with staff's
2 and/or Board's suggested modifications.
3 This concludes my presentation. A representative
4 for the city of Laguna Woods is present to answer your
5 questions.
6 CHAIRPERSON JONES: Okay. We do have Mr. Douglas
7 Reilly who is the assistant city manager.
8 COMMITTEE MEMBER WASHINGTON: While he's coming
9 up, Mr. Chair, as you remember last year I presented the
10 WRAP award to the city. And I have never been so
11 fascinated with a city of communities' seniors who are or
12 doing an absolutely excellent job. I believe their
13 diversion rate was like 55, 57 percent or something like
14 that. They recycled -- I mean, they make sure they do
15 away with everything and they keep it out of the
16 landfills. They have done an excellent job out there. I
17 think the youngest on the City Council down there is 60
18 years old, I believe, or something.
19 MR. REILLY: Older than that. I think like 67.
20 COMMITTEE MEMBER WASHINGTON: I was talking about
21 the youngest. But I do want to be fair so when I go back
22 there they'll be nice to me. But I do want to say they
23 are a model of a community who has done an absolutely
24 fabulous job. And I commend them as I did when I
25 presented the WRAP award to them for doing such a great

job.

CHAIRPERSON JONES: Thank you, Mr. Washington.

Mr. Reilly.

MR. REILLY: Mr. Chairman, again, Doug Reilly with the city of Laguna Woods. We're very pleased to be before you this afternoon. It's taken a little while to get to this point, so I just wanted to thank the members of the staff for helping us get to this point.

I want to point out a couple of things. First of all, as a new city you probably know that we had to issue notices to the waste haulers in our city -- five-year notice. So we actually have no franchises that the city has issued. All the franchises are franchises that we took over from the County of Orange when we became a city. We actually issued a franchise in May of 2000 approximately.

And as part of issuing that franchise, we are intending on looking at how we can improve the additional recycling, cans, containers, bottles, other kinds of CRT -- CRV that could be picked up and recycled. And so we'll be updating you as we go through our annual updates.

Additionally, we've implemented a free business recycling program where we provide, through an existing hauler, free pickup of mixed paper and cans and so forth to the businesses in our city. We have a household

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1 hazardous waste program that picks up household hazardous
2 waste at your door for free. And we recently adopted a
3 program to add sharps to that, where we pick up, you know,
4 needles and things of that nature. So that they don't go
5 into the landfill and then end up down at the beach.
6 This coming September, next month actually, we'll
7 be looking at adopting -- adding that program for e-waste.
8 So we do expect our City Council to approve adding e-waste
9 to that, which means gray tubes and monitors and
10 televisions and things of that nature.
11 What else? I will also note that on the plus and
12 minus side -- and we do appreciate the plaudits for the
13 composting facility that we have. But that accounts for
14 about 23 percent of our 55 percent. And so if that ever
15 went away for some reason -- not that it will, but if it
16 ever did, we'd be in real trouble. So certainly being the
17 kind of community that we are, Leisure World is a
18 closed-end system where they have a large landscaping work
19 force that picks up all this material and sends it to its
20 own mulching facility. So that really helps us. But we
21 want to make sure that facility stays in existence and
22 that we do whatever we can to make sure that we adopt
23 other measures that significantly add to our existing
24 waste diversion.
25 And with that, I can answer any questions.

CHAIRPERSON JONES: Just a couple things, Mr. Reilly. The South Coast Air District has got some new requirements on chipping and grinding operations as well as mulching and composting. Just be aware. Keep your folks aware.

MR. REILLY: We are aware. I don't think they apply to us. I think the size of our facility is such that it falls --

CHAIRPERSON JONES: Outside.

MR. REILLY: -- outside that. Significantly outside that. But thank you. Appreciate that.

CHAIRPERSON JONES: But stay aware. We were pretty involved in that issue. All right.

Mr. Washington.

COMMITTEE MEMBER WASHINGTON: Just before, Mr. Chair, I wanted to make sure. I was talking to one of the Council members, and I was looking for an apartment down there. He hasn't got back to me to tell me if I can move into Leisure World or not but --

MR. REILLY: You don't look 55.

COMMITTEE MEMBER WASHINGTON: I mean, it is a great place. Let me tell you, Julie, instead of going to 24 Hour Fitness, go visit Leisure World. You'll see what I'm talking about.

Mr. Chair, I'd like to move adoption of

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Resolution 2003-427, consideration of the source reduction and recycling element, household hazardous element and nondisposal facility element for the newly incorporated city of Laguna Woods, Orange County.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON JONES: We have a motion by Mr. Washington and a second by Ms. Peace. Substitute the previous roll. On consent. Thank you, Members.

Thank you, Mr. Reilly.

MR. REILLY: Thank you.

DEPUTY DIRECTOR SCHIAVO: Item 17 is discussion and request for direction regarding disposal reports and disposal allocations to jurisdiction at Potrero Hills Landfill in Solano County.

And Trisha Knight will present this item.

(Thereupon an overhead presentation was presented as follows.)

MS. KNIGHT: Good afternoon, Committee members. My name is Trisha Knight from the Disposal Reporting Section of a Waste Analysis Branch. I will be giving the presentation on the issues related to the disposal reports and accuracy of disposal allocation at Potrero Hills Landfill in Solano County.

--o0o--

MS. KNIGHT: Under the current disposal reporting

1 regulations, haulers must report jurisdiction of origin on
2 all loads delivered to permitted facilities during the
3 quarterly survey week. Facilities compile a quarterly
4 jurisdiction of origin summary report and submit the
5 report to the host regional agency or county. The host
6 regional agency or county then compiles information from
7 all facilities with its boundaries and submits a disposal
8 report to the Board and to all the affected jurisdictions.
9 Jurisdictions use the disposal data to calculate
10 diversion rates and annual reports sent to the Board.
11 --o0o--
12 MS. KNIGHT: The issues with the accuracy of the
13 disposal allocations for 2001 at Potrero Hills Landfill
14 began when jurisdictions started raising concerns
15 regarding the data to Solano County and Board staff.
16 Solano County was allocated a significant tonnage of
17 unidentified host-assigned waste, which is shown in
18 Attachment 1 of the agenda item, and some jurisdictions,
19 such as Fort Bragg, were not allocated their appropriate
20 amount of tonnage, which is shown in Attachment 2.
21 Solano County staff began investigating and
22 identified some problems with the Potrero Hills data.
23 Board staff met with Potrero Hills Landfill staff and
24 determined more problems with the data. Over the past ten
25 months, Board staff has met with Potrero Hills Landfill

staff and Solano County six times to assist in correcting the disposal data for 2001. Board staff has also contacted Potrero Hills Landfill staff at least 40 times by phone and e-mail, and this is detailed in Attachment 3.

--o0o--

MS. KNIGHT: Solano County has submitted six revised disposal reports for 2001, which all still contain allocation errors. In April of this year, Board staff gave a presentation at the DPLA Committee meeting regarding the inaccuracies with the disposal data. The Board directed staff to continue working with Potrero Hills Landfill in Solano County to resolve the issues.

Potrero Hills Landfill discovered more data errors, which were due to some computer issues. Board staff advised Potrero Hills Landfill to revise all quarters of 2001 and to submit them in May and submit all quarters of 2002 in June.

--o0o--

MS. KNIGHT: On July 18th, Potrero Hills Landfill submitted revised disposal reports for all quarters of 2001 to Solano County. Yesterday, Solano County approved the revised data and will be submitting the 2001 disposal report to the Board.

--o0o--

MS. KNIGHT: Most of the issues in the 2001

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1 disposal data were due to incomplete jurisdiction
2 information. Tonnages for several transfer stations were
3 not allocated to the jurisdictions. The reports included
4 transfer station names that were not identified in the
5 Board's SWIS database. Tonnage from regional haulers was
6 not allocated to the proper jurisdictions, and districts
7 were listed on the report as jurisdictions.
8 --o0o--
9 MS. KNIGHT: Also there's been a turnover in the
10 landfill staff that prepares the disposal reports, and
11 some computer issues were found to have caused some
12 problems when reports were compiled. Board staff has
13 spent a significant amount of time contacting and
14 discussing these issues with the county, the landfill, and
15 jurisdictions. Incorrect disposal data can potentially
16 impact diversion rates of jurisdictions disposing at
17 Potrero Hills Landfill.
18 --o0o--
19 MS. KNIGHT: This is a list of the counties that
20 have disposed at Potrero Hills Landfill in 2001. For most
21 jurisdictions there is expected to be little impact. For
22 some there may be a large impact. Since Board staff has
23 not seen the finalized report from Solano County, we do
24 not know which will be most impacted.
25 --o0o--

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1 MS. KNIGHT: In July, Potrero Hills had submitted
2 the revised reports for 2001 to Solano County. Solano
3 County has reviewed the reports and has found no
4 significant discrepancies and will submit the 2001
5 disposal reports to the Board. Potrero Hills Landfill
6 still needs to complete and submit 2002 DRS data to Solano
7 County, as some of the same issues from 2001 may apply.
8 --o0o--
9 MS. KNIGHT: Because we were recently notified
10 that Solano County found no significant discrepancies in
11 the 2001 data, the staff recommendations have changed
12 slightly since the agenda item was written. Staff will
13 revise the agenda item prior to the Board meeting. Staff
14 recommends to continue to work the Solano County and
15 Potrero Hills Landfill staff to complete and submit
16 disposal reports for 2002 by August 31st; notify all
17 potentially impacted jurisdictions when data is corrected
18 in the disposal reporting system and post information on
19 the Board's website; develop web pages to publicize future
20 parties in noncompliance with the disposal reporting
21 system requirements.
22 Since there's no enforcement authority currently
23 in the disposal reporting regulations to assist staff in
24 receiving disposal reports correctly in a timely manner,
25 Board staff suggests publicizing facilities in

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1 noncompliance. The most efficient and cost-effective way
2 to accomplish this is to develop a web page on the Board's
3 website.
4 Staff also recommends to direct staff to post
5 Potrero Hills Landfill on the newly-created web page if
6 2002 disposal data is not received by August 31st, and
7 also any additional task you may have for us.
8 This concludes my presentation. Do you have any
9 questions for me? And there is also a representative from
10 the landfill here today.
11 CHAIRPERSON JONES: Any questions, members?
12 Ms. Peace.
13 COMMITTEE MEMBER PEACE: I guess I'd like to know
14 how come it's been such a hard time for the landfill to
15 get these records straight.
16 MS. VARGAS: I'll let them answer that.
17 MR. HOWARD: Good afternoon. My name is Bryce
18 Howard. I'm the general manager of Potrero Hills Landfill
19 for Republic Services.
20 I think it was probably well stated that we've
21 had a little bit of turnover in staff due to the
22 acquisition of the previous company. 2001 was the year
23 that we, Republic Service, purchased that company. And so
24 halfway through that, there was a new system put in place
25 and employees had some turn over. That's not really an

1 excuse. That's sort of the fact of what took place.
2 When we took a look at our databases that we had
3 at our landfill and sort of comparing it to the
4 information that was submitted to the state in 2001, we
5 found a lot of discrepancies ourselves. Doesn't mean that
6 was right. Doesn't mean it was wrong. It was just the
7 database we had available to us at the landfill was
8 different than what was submitted. So we went back
9 through, compared all that data, and we've resubmitted now
10 what we think is appropriate.
11 As you can see maybe in the report, there are
12 maybe -- I can't -- it's something like 30 or 40
13 jurisdictions. We went through every ticket, every tag of
14 every transaction. We're talking about a lot of data. We
15 feel very confident that the data we submitted now in 2001
16 and in 2002 is something that's reproducible. So in the
17 future if there's a question about it, we can reproduce
18 those findings; whereas in the past it was tough to
19 reproduce that based on an older system that was not in
20 place that could create that sort of accuracy for us.
21 I'm not sure if that answers your question or
22 not.
23 COMMITTEE MEMBER PEACE: Does the staff now have
24 what they need to move us along?
25 DEPUTY DIRECTOR SCHIAVO: Well, we just recently

1 received the 2001 reports. We still have not received the
2 2002. So --
3 COMMITTEE MEMBER WASHINGTON: Will you be able to
4 meet the August 31st deadline?
5 MR. HOWARD: Yes.
6 CHAIRPERSON JONES: Okay. The this is one of
7 those cases where Richmond Sanitary sold to Republic. One
8 system didn't mesh with the other system. Is that
9 basically what we're talking about, Lorraine?
10 MS. VAN KEKERIZ: I think they definitely had
11 issues when the one company took over the other, and it's
12 just taken a long time and a lot of effort to try to get
13 it resolved.
14 CHAIRPERSON JONES: Okay. All right. So the
15 staff recommendation is with -- this is your most current
16 recommendation. You're going to give us a new sheet, to
17 continue to work with the county to make sure you get this
18 by 2002, to notify those jurisdictions.
19 Now, a jurisdiction that may get assessed or
20 assigned a large chunk of waste because of this new thing,
21 do they have a vehicle to discuss this? Let's say that
22 Placer County ends up with 50,000 tons that they don't
23 think it's accurate, is that -- 2002 being reporting
24 year --
25 DEPUTY DIRECTOR SCHIAVO: Right. That'd be part

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of the process. In fact, the 2001 and 2002 data would be used for the biannual review process we can go through, and we haven't started that yet. So there's still plenty of time.

CHAIRPERSON JONES: That notification of those jurisdictions is not just here's what your waste is, but take a look at it.

DEPUTY DIRECTOR SCHIAVO: They need to reconcile that. If it is that significant of an impact, we need to look at, you know, if it is realistically their waste or not. If it is, then they have to make adjustments, possibly the program implementation efforts.

CHAIRPERSON JONES: Okay. Be interesting to see how many have new base years that have to redo them because of reassignment of waste. All right.

What's the pleasure here? Is there a resolution? I don't have one.

DEPUTY DIRECTOR SCHIAVO: No. This is not a consideration item.

CHAIRPERSON JONES: So this would be direction. Are we comfortable with that direction?

COMMITTEE MEMBER WASHINGTON: With staff recommendation.

COMMITTEE MEMBER PEACE: Yeah.

CHAIRPERSON JONES: All right. So that's the

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1 direction. All right. Thank you.

2 Item R.

3 DEPUTY DIRECTOR SCHIAVO: Item Number 18 is a

4 discussion and request for direction concerning delays in

5 developing a local assistance plan and associated work

6 plan as required by compliance order for the city of

7 Gardena, Los Angeles County.

8 And Steve Uselton will present this item.

9 MR. USELTON: Good afternoon, Board members.

10 As a result of the 1999/2000 biannual review, the

11 California Integrated Waste Management Board at its

12 January 2003 meeting issued a compliance order to the city

13 of Gardena for not sufficiently implementing the diversion

14 programs identified in the source reduction and recycling

15 element and not meeting the 50 percent diversion

16 requirements.

17 One of the requirements for the compliance order

18 was for the city to agree to a program implementation work

19 plan by June 30th of 2003. On June 24th, 2003, the city

20 of Gardena City Council approved an agreement for the city

21 to enter into a public/private partnership with Waste

22 Resources of Gardena to provide commercial solid waste and

23 recycling service. The City Council's approval is pending

24 negotiation of a revised proposal from Waste Resources of

25 Gardena. The public/private partnership structure and its

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1 schedule for implementation was not discussed by the city
2 with staff in its meetings until after the City Council
3 meeting on June 24th.
4 There exists an example of potential conflict
5 between the draft work plan that existed on June 24th and
6 the City Council's recent action to extend the commercial
7 solid waste franchise agreement to October 31st, 2003.
8 The draft work plan schedule indicates the city will
9 implement new commercial diversion services by the end of
10 September 2003. In addition, staff needs confirmation
11 from the city on how much time will actually be needed for
12 the partnership if approved by the City Council to
13 organize and become capable of providing improved
14 diversion services that are necessary to achieve diversion
15 requirements.
16 Recognizing that the existing draft work plans
17 description of programs and schedule for implementation
18 may not accurately reflect the city's proposed shift in
19 service provision structure, Board staff cannot sign the
20 work plan until it is revised to reflect any changes in
21 program or schedule resulting from the city's pending
22 actions.
23 Staff have requested information necessary to
24 complete the work plan from the city. However, the city
25 did not provide all the requested information, including a

1 date by which the commercial diversion services would be
2 implemented as prescribed by any pending agreement the
3 City Council would authorize.
4 Late this morning Board staff did receive a
5 letter from the city requesting an extension until
6 November 1st to complete the work plan -- the development
7 of the work plan. The letter also indicates that the City
8 Council will consider a commercial service agreement at
9 its meeting on August the 12th, 2003, and commercial
10 diversion programs would be implemented by November 1st.
11 On August 1st, the Board staff did mail a notice
12 to the city that the Board has scheduled a hearing for
13 September 16th, 2003, to consider penalties for failure to
14 meet the mandates of AB 939. Staff will review the city's
15 extension letter that it received late this morning and
16 bring a separate item to the Board in September to
17 consider the additional time requested by the city for
18 development of the work plan.
19 Mr. Tony Vieira, Assistant to the City Manager,
20 is at today's meeting and is available to answer questions
21 from the Board on the delays in signing the work plan.
22 That concludes my presentation.
23 CHAIRPERSON JONES: Questions, members?
24 COMMITTEE MEMBER WASHINGTON: Yeah, Mr. Chair,
25 you said Tony -- is Tony Vieira here?

1 MR. VIEIRA: Tony Vieira with the city of
2 Gardena.
3 COMMITTEE MEMBER WASHINGTON: Thank you for
4 coming. The first question I have, Tony, I represented
5 the city of Gardena for six year as its Assemblyman. So I
6 have a special place for Gardena in my heart.
7 But you know, I'm looking at this and I'm trying
8 to find the letter that Mitch said was July 30th asking
9 for the extension from June 30, what happened in that
10 month period of time? Why we got this letter a month
11 after the extension was supposed to be over?
12 MR. VIEIRA: The --
13 COMMITTEE MEMBER WASHINGTON: You understand my
14 question? The letter is dated July 30th, and he made a
15 request for an extension from June 30. It came a month
16 later after the extension was -- was he on vacation or
17 something?
18 MR. VIEIRA: He was on vacation, actually. No.
19 Staff was caught unprepared with the Council's decision to
20 go with the public/private venture. We had anticipated
21 them going a different direction. The proposal came in
22 along with 13 other responses to the RFP and had been
23 evaluated by the consultant. And we had a subcommittee
24 from the Council who could not agree as to the direction
25 to go. And finally it was put on the agenda, and that's

when it came out. But staff was unprepared for that, unexpected to us.

COMMITTEE MEMBER WASHINGTON: Based on the letter -- and I just received this. I'm sorry. It was upstairs. Mitch believed that you guys can get this done by November the 1st, and you haven't -- what process are you in in selecting your -- I heard staff -- Steve just told us that you guys are looking at August or --

MR. VIEIRA: On the 24th of -- I believe it was June 24th, the Council directed that we enter into the agreement and directed staff to work out the holes that existed in the agreement. There was a number of issues that had to be addressed relative to the rate structure, relative to the organization of the joint private partnership, as well as a number of legal questions that were raised by the haulers that were not selected.

COMMITTEE MEMBER WASHINGTON: I'll turn it back over to the Board. I just have -- I mean, there's a lot of dates here that doesn't make any sense to me. For instance, you're saying that the water resource of Gardena, a joint venture partnership, will be up and operating on November the 1st and then -- but you still have the current haulers that will be under extension until October?

MR. VIEIRA: The haulers are currently under

1 extension until October 31st. The new hauler has
2 indicated they will be ready to take over effective
3 November 1st.
4 COMMITTEE MEMBER WASHINGTON: With the new
5 haulers, you guys can get this accomplished -- well,
6 that's the same day you'll be prepared to submit your
7 information to our staff.
8 MR. VIEIRA: Our information position is that
9 they have to implement the performance standards that will
10 be included as part of the franchise agreement on
11 November 1st as well. We have moved ahead with all of the
12 other items in the LAP -- the draft LAP that we actually
13 did sign on June 24th and moved forward and kept staff
14 abreast of that. But the portion that we're not able to
15 complete at this time that we're asking for the extension
16 on is on the commercial diversion improvements which
17 include performance standards within the contracts as well
18 as a number of other issues dealing with increasing the
19 commercial diversion rate.
20 COMMITTEE MEMBER WASHINGTON: Thank you,
21 Mr. Chair.
22 CHAIRPERSON JONES: What's the LAP?
23 MR. VIEIRA: Local action plan.
24 CHAIRPERSON JONES: Okay. Because there was a
25 work plan due June 30th --

1 MR. VIEIRA: Yes.
2 CHAIRPERSON JONES: -- that had been, I thought,
3 negotiated and then not signed because of the action of
4 the City Council.
5 DEPUTY DIRECTOR SCHIAVO: That's correct.
6 CHAIRPERSON JONES: So we don't have -- the city
7 of Gardena was at 13 percent, but not so bad that they
8 were at 13 percent, they didn't have any programs to
9 substantiate compliance with AB 939. So this Board put
10 them on a compliance plan, which is that first step before
11 the penalties. And the very first threshold was to have a
12 work plan in place by June 30th. That didn't happen.
13 So I don't know how we have any choice -- we've
14 set a date already for September 16th to have a hearing
15 for penalties. I don't think the extensions make a whole
16 lot of sense to me, not when it took from January to June
17 24th or June 30th just to put a plan together. I mean, it
18 took six months just to try to develop a plan to help you
19 get into compliance. And then that plan still hasn't been
20 signed and we're at August 5th. That doesn't make any
21 sense to me.
22 That's not what this program is supposed to be
23 about. I mean, we try awfully hard to work with the
24 jurisdictions to get them to comply. But you know, six
25 months to get a plan together, and we're still two months

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after that, and you don't have anything.

MR. VIEIRA: I believe the plan was presented to us in May.

MR. USELTON: That was correct.

CHAIRPERSON JONES: But it was part of a negotiation.

MR. USELTON: We worked with the city for several months to identify the tasks that would be included in that plan.

CHAIRPERSON JONES: So after the several months it was May that we --

MR. USELTON: Turned it over in May to the city for signature.

CHAIRPERSON JONES: Okay. May and June, and now we're looking for an extension to November.

MR. VIEIRA: Well, we're looking for an extension on that part of the plan, sir, that dealt with the commercial diversion that ties in with that contract.

CHAIRPERSON JONES: But we don't even have -- it sounds like he thinks there's two documents. There's one document for the work plan; right?

DEPUTY DIRECTOR SCHIAVO: Yes. There's -- I think there's two elements that we requested from them. One was the work plan itself. And then two was the implementation of the commercial sector program which was

one of the first programs to come on line. And the concern was that -- and I don't remember the exact date. I think it was October 1st it was to come on line. But we asked if you could do that so quickly having the new hauler approved August 12th. So apparently what the letter that we just received this morning reads is that the local assistance plan and the commercial program, that they wanted the extension for both of those elements for November 1st, at least that's the way I read the letter.

CHAIRPERSON JONES: I'll go ahead and give you some time to say whatever you'd like.

MR. VIEIRA: I won't disagree with staff. It's just that the work plan we did sign on the 24th. We were informed that a meeting with staff subsequent to that, that they were not going to execute it because of the action of the Council that took place on June 24th. And I fully understand that because it interferes with that work plan and the implementation of the commercial diversion portion of it. However, we continue to work with that plan, moving forward the portion that we cannot implement until November 1st would be the commercial enhancement, which are the performance standards.

COMMITTEE MEMBER WASHINGTON: Just so I'm hearing you correct, the staff, Gardena staff, was working in sync with your plan to move forward. And then all of a sudden

1 the City Council gave dual direction. Am I hearing you
2 correct?
3 MR. VIEIRA: Absolutely sir.
4 COMMITTEE MEMBER WASHINGTON: That sounds like
5 Gardena. Yeah.
6 CHAIRPERSON JONES: Mr. Chair -- I mean, Mr.
7 Washington. I'm sorry. I know you're chair of something.
8 We all are.
9 I've got -- you know, I mean, I understand that
10 there's a problem down in Gardena, but they're at 13
11 percent diversion. They don't have programs in place. We
12 put them on a compliance order. They were supposed to
13 have a work plan. We've set the date of September 16th
14 for the hearing. And you know, my recommendation is that
15 we have the hearing on September 16th to assign penalties.
16 And that's the only way I think we can live -- that we can
17 honor AB 939 in what we do here. Because we have to honor
18 546 other jurisdictions that comply with the law.
19 And I'm not putting this on staff. I'm really
20 not -- you'll be the one that has to do all the work and
21 get yelled at. But this Board, for as long as I've been
22 on it and before I ever got here, has worked tirelessly to
23 honor the investment and the commitment of jurisdictions
24 to comply with the law. And none of us -- none of us want
25 to fine jurisdictions. But there is a requirement in the

1 law, and the law makes it clear that people have got to
2 comply with this law.
3 So I would suggest, members, that we honor the
4 date of September 16th for a hearing for the city of
5 Gardena.
6 COMMITTEE MEMBER PEACE: I agree with that. I
7 think our staff has worked long and hard with the city of
8 Gardena, and I think it's time now to really send a
9 message to your City Council. So I am going to agree with
10 Mr. Jones that we go ahead and put this on the September
11 agenda for consideration of penalties.
12 CHAIRPERSON JONES: This obviously has been an
13 issue when we look at the Los Angeles regional agency, the
14 jurisdiction of Gardena, and the jurisdiction of Lynwood,
15 and the jurisdiction of Torrance. I remember. You know,
16 we've got some problems with -- or I have some problems
17 with that agency formation, especially the assignment of
18 waste. We'll deal with that later. I mean, that's been
19 continued to the Board meeting. But clearly, I think this
20 Gardena issue has got to be taken care of.
21 So -- Mr. Washington.
22 COMMITTEE MEMBER WASHINGTON: You know, it's sad
23 because of the political mess that takes place down there
24 when Council members come in and give staff directions
25 like that, you know, city manager can't tell the City

1 Council, "No, we're not going to go this way." They'll
2 fire them tomorrow, same as they did at the Council
3 meeting. It's a tough situation down there, and I really
4 don't think -- and, again, Ms. Peace is absolutely right.
5 At some point we have to send a message to those guys.
6 I'm willing to come down there and talk to them.
7 I think any Board member would be glad to come down there
8 and let them know this is serious business. And to me, it
9 seems like no one down there is really taking this thing
10 seriously. And I might be off. I haven't been at the
11 Council meetings. Steve's probably been at the Council
12 meetings -- in terms of this discussion, Steve has
13 probably been there more than I have.
14 You know, I just don't know what else we can do
15 to let them know that, you know, they have to come into
16 compliance. And they're not doing that. And going off
17 and, you know, going on these tangents, and there are City
18 Councils that are elected by the city of people down
19 there. You know, there are consequences when you just
20 come in and say, "No, we don't want to go that way. We
21 want to go this route."
22 I don't know what I can do to help them
23 understand that this is serious, other than, you know,
24 allowing this Board to set the date and then perhaps maybe
25 they'll really understand this is serious business and

they have to give you guys the ability to fix these things without having to worry who's going to be the hauler tomorrow or who's going to come in and get the contract. You know, it can't work like that. They have to make decisions. They have to stand by those decisions. And they have to meet AB 939. I know -- I just don't know what I could say to you.

And certainly, again, I know it's not staff. I know every one of those counsel members down there, and I know how they operate. And it's an unfortunate situation. And hopefully at some point I can come to a Council meeting and let them know this is serious business and they need to make this a top priority for the city and to get this job done.

CHAIRPERSON JONES: Okay. Thank you.

DEPUTY DIRECTOR SCHIAVO: The last item today is Item Number 19, and that's discussion and request for direction regarding location identification for the purposes of Public Resources Code Section 50001.

Initially in this process we undertook an expensive public process to come up with the term "location identification." We finally did through a lot of public input, and over the last couple of years we've been able to implement the conformance finding process using location identification. However, now we're

1 starting to hear some potential issues that may be coming
2 to the Board as well as we're aware of many counties that
3 are updating their five-year plans. As a result, what we
4 would -- you know, legal staff and staff of the Diversion,
5 Planning and Local Assistance have worked closely together
6 to develop this presentation that Elliot Block is going to
7 make today to further define location identification. So
8 Elliot.
9 STAFF COUNSEL BLOCK: Thanks, Pat. And probably
10 the worst case scenario for talking about performance
11 findings is to start about ten after 4:00. It's such a
12 fun topic for everybody. I'm going to ask you to bear
13 with me.
14 There's a lot of information. We have a number
15 of slides. And there is a number of them I'm going to
16 potentially either skip are go through very quickly. If
17 there's something I jump over too quickly for you, feel
18 free to stop me and ask a question. But we'll see how we
19 can do here on time.
20 (Thereupon an overhead presentation was
21 presented as follows.)
22 STAFF COUNSEL BLOCK: Just very quickly up there
23 on the Board, and it's in the item, this is the basic
24 requirement we're dealing with in terms of conformance
25 findings, the location of a facility be identified in the

1 section that's in front of you as relates to the siting
2 elements. There's similar language for the nondisposal
3 facility element in order for a permit to be concurred in
4 by this Board.
5 --o0o--
6 STAFF COUNSEL BLOCK: As Pat mentioned, after a
7 couple years we had a number of workshops and discussions
8 to try to determine what that language meant. And the
9 focus of those discussions was really on a subset of
10 issues which was, did the conformance-finding requirement
11 require the description -- the operational description of
12 the siting element be consistent with the proposed permit
13 coming forward, or is it just the site identification?
14 And the termination was that it be the site
15 identification.
16 --o0o--
17 STAFF COUNSEL BLOCK: But as a result of the
18 five-year reviews that we're starting to get through and
19 we're -- I don't know the exact number, but we're
20 somewhere around a fifth of the way through those in terms
21 of what's come before the Board. We have a new set of
22 issues we're seeing emerging, and we really want to bring
23 this issue to the Board as soon as we could to get some
24 clarity here because there's some decisions that counties
25 are needing to make as we go forward.

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1 The slide in front you is more specific to the
2 siting element, as opposed to the nondisposal facility
3 element. But one of the big issues that comes up in that
4 five-year review of siting elements is whether there is
5 still 15 years of disposal capacity in the county. And so
6 some jurisdictions are starting to look at that issue.
7 And in the process of doing so, they're looking at
8 potential expansions of landfills. And there are some
9 issues that are coming up as to what amendments they may
10 or may not have to make to that siting element.
11 --o0o--
12 STAFF COUNSEL BLOCK: The importance of
13 discussing this issue now is in terms of a siting element,
14 there is a realistic possibility, depending on the size of
15 the county and number of cities, that it could take
16 anywhere between six months to a year.
17 I'm sure I'll hear from at least one speaker in
18 the audience today, it's more than a year, again depending
19 on the number of cities in the county to amend that
20 document. So what we don't want to do is put anybody in a
21 situation where they don't think they need to amend that
22 siting element to have a revised permit. The permit comes
23 before the Board at that point in time, we're deciding,
24 wait a second, you need to go back and revise your siting
25 element before you bring the permit forward. And we'd

like -- and it makes sense -- to have these things go through at the same time as they're moving through the process.

--o0o--

STAFF COUNSEL BLOCK: I'm just skipping really quickly over the nondisposal facility element, although if you've got questions, I can talk about those.

Just a little bit of background for some of the other issues we're going to discuss today. There are requirements in the Board's regulations regarding maps in both the siting element and the nondisposal facility element. It's very clear that existing facilities need to be identified in a map.

--o0o--

STAFF COUNSEL BLOCK: There is -- I did say I'd be skipping through some of these.

There is some feedback that I've received over the last few months that it's a little less clear when we're talking about proposed expansions. And that's somewhat understandable because oftentimes in terms of talking about proposed expansions, the lines on a map may be less clear, obviously, than an existing facility. So there's been some potential confusion about that. But the regulations are certainly also clear that some specific description needs to be provided for both existing and

1 proposed expansions, both of landfills and the siting
2 element. And that's what's on the monitors in front of
3 you, and as well as for nondisposal facilities.
4 --o0o--
5 STAFF COUNSEL BLOCK: So in terms of bringing
6 this item before you for discussion and some direction,
7 we've looked at what the discussions that went on over the
8 course of the two years leading up to the last Board
9 determination about this, and also some subsequent
10 discussions at various -- as various permits have come up
11 over time.
12 And we think that while the issue of boundaries
13 was not expressly addressed in some of those earlier
14 discussions -- it was discussed. And in looking at the
15 issues and the purpose of performance finding
16 requirements, public notice, opportunity for public input,
17 that sort of thing, we have some recommended direction
18 that we'd like the Board to discuss and give some guidance
19 to us that we think is consistent with the discussions
20 that have been going on for the last three, four, five
21 years, but we have not maybe made them as explicit as we
22 had in the past because, again, those issues weren't
23 perhaps directly in front of us.
24 So the staff's recommendation -- and they are
25 also contained on page -- excuse me -- 19-5 of the item --

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--o0o--

STAFF COUNSEL BLOCK: -- is affirm what staff believes the Board direction has been, is that an expansion beyond the boundaries indicating a siting element for a nondisposal facility element would not be in conformance, and that would require revision of the document.

And then secondly -- and this gets to the issue of a map -- in determining what those boundaries are on the siting element or the nondisposal facility element, using either a map or if, for some reason, a map was not included for those proposed expansions, we could rely on a description, as long as that description was detailed enough using landmarks, parcel boundaries, or some sort of other information that provides a specific enough description that there's some comfort level that the public was informed as to what that site would be.

--o0o--

STAFF COUNSEL BLOCK: And then if for some reason there's still some question about what the actual description is or what those boundaries are, we would be looking in those situations to come before the Board for some determination probably earlier -- presumably earlier than a permit situation. In other words, as soon as we found out about the issue. And, of course, as always with

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anything we do here at the Board, there's always the option -- there's always the example that we never thought of that always comes up. So obviously we would be bringing those before the Board for case-by-case determinations. As you know, no matter how hard we try to set up some general rules or guidance, there's always something that's not quite there.

I'm going to very quickly go through -- they're not in the item. We have some pictures of some of the scenarios that are discussed in the item starting on Page 19-5. And again, stop me if you have any questions about these.

But we discussed just a number of potential things we're looking at in terms of this issue, and I'll discuss briefly what the staff recommendation would mean for those.

--o0o--

STAFF COUNSEL BLOCK: We see the possibility of a siting element/a proposed permit coming forward where the siting element describes a 200 acre permitted boundary for existing and/or expansions. And then what's coming before us is some additional expansion that's outside the lines on that map or outside the lines of that description. The example of this 1A is the idea it's insignificant. Maybe the landfill size is 200 acres and the additional

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1 expansion is maybe only a few acres outside the lines on
2 the map.
3 --o0o--
4 STAFF COUNSEL BLOCK: And of course, there's the
5 other example that goes along with that, which is, of
6 course, a significant expansion outside the lines of the
7 map. Say there's a 200-acre permitted boundary indicated
8 in the siting element and now the discussion is about
9 adding another 200 acres.
10 In both of these scenarios, the staff
11 recommendation that's before you would find them both to
12 be out of conformance and require a siting element
13 revision. One of the reasons we have started at that
14 point is the difficulty we have in making that
15 determination as to what is significant. A couple of
16 acres in, as was mentioned earlier today, Alturas County,
17 may not the same as a couple of acres in Los Angeles
18 County. And then it gets more complicated than that
19 because it obviously depends on who's located near that
20 expanded area.
21 --o0o--
22 STAFF COUNSEL BLOCK: We have a couple of other
23 scenarios that are just getting to the idea. We had some
24 issues come up about some additional expansion outside the
25 lines on the map that are somehow connected to the site

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that was identified in the siting element with the idea being that additional expansion is somehow connected with what's going on. But again, in this scenario, we're still talking about the additional expansion being something that was never identified. It's outside the lines. And so again, the staff recommendations would say whether they're connected or not, these are something that we would require revision of a siting element.

--o0o--

STAFF COUNSEL BLOCK: And again, the other reason that staff is not at this point talking about doing anything further than that is the difficulty in determining when those -- that additional expansion outside the lines of the map is somehow connected or integral with the existing operation.

CHAIRPERSON JONES: Just a quick question on the last one, because I agree with everything you've said so far. I think anything that is outside of what's been identified that is that boundary in the element, when you go outside that boundary, then you need to amend. I mean, that's what we all agreed to when we did the -- when we had the discussion before.

If, though -- can you flip back one -- thank you. If an existing siting element showed the existing site and the proposed site with a map -- okay -- then they came

1 forward with their expansion -- you know, with their
2 expansion to get into this new cell development, it's been
3 identified in the siting element. It would meet the
4 conformance standard. The way that -- you know what I'm
5 saying? If that was mapped out like that, identified with
6 landmarks, obviously it can't just say, "We're going to
7 build to the west." I mean, you know, San Francisco is to
8 the west of here. So you know, I mean -- but if they drew
9 this out and they said, you know, it's going to be on this
10 plot of land. Here's the number. And that was identified
11 as proposed, then because the siting element goes through
12 CEQA, that would have been identified as a proposed area
13 and would have had discussion. Right?
14 STAFF COUNSEL BLOCK: Correct. I'm glad you
15 asked that question because it's always -- in this area
16 everything bares making sure that we're as clear as
17 possible.
18 The scenario that's on the screen in front of you
19 now includes the ideas that the only thing that was in the
20 siting element --
21 CHAIRPERSON JONES: Is existing.
22 STAFF COUNSEL BLOCK: -- is the box that says
23 "existing." The proposed box was not either described or
24 on a map. If both of those boxes -- for lack of a better
25 way to discuss it -- were in the original siting element,

that would be in conformance, and that's where the expansion is. That would be in conformance. That wouldn't require a revision.

--o0o--

STAFF COUNSEL BLOCK: These last two scenarios get into the issue of description versus map, which I've mentioned earlier, which is -- the picture is not helping here much. But basically, we're just getting to the idea where although the map may have shown -- not shown the proposed box that's in front of you, there was a description along with it saying, "We're looking to expand within those lines that are on the map, but maybe the map didn't identify specifically that expansion area." And again, that would be in this case where it's within or even without. Again, the same sort of idea. As long as the original siting element had a description that had sufficient landmarks or boundaries so people could know where it was, staff at this point is not recommending that just because the proposed expansion wasn't on a map that would on its own require a revision to the element.

--o0o--

STAFF COUNSEL BLOCK: Obviously, the last two scenarios are more along the lines of the latter couple of recommendations where as we get into these, I think we're going to have a lot of details and there's going to be

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some potential issues as to what is or isn't a sufficient description. We hope, if we even ever have to deal with some of these issues, that they're relatively straightforward. But I've learned never to assume anything around here.

--o0o--

STAFF COUNSEL BLOCK: One other thing I think I need to mention because I've had a question come from staff who is looking at this. At this point in time in terms of the scenarios that we've been talking about and the recommendations before you, we are talking -- everything we were talking about in terms of lines on the map and the like, we're talking about permitted boundaries, not the footprint. So we're looking at simply the outside lines on the map.

The question that came up was, well, what if -- actually, it might be easier to go back and show a picture. What if -- maybe not -- what if we had a proposed expansion of a landfill site and -- and I'm going to -- this may be a little confusing.

Assume for a minute what's shown as proposed on the screen in front of you actually was the existing site -- the existing footprint. And then the proposed revision to come was going to be expanding the permitted boundary to that larger square. But the footprint was

still staying the same for now. We haven't actually addressed this issue at this point. What we have in terms of our recommendation would say that would still require a revision because the permitted boundaries were expanding beyond the line on the map.

It's a new issue, frankly. It just got raised to me about two days ago. And it's a little bit difficult because the problem is if we say that doesn't require a revision now because the footprint is still not changing just the permitted boundaries, two years from now if the footprint changes, well, the footprint is within the boundaries.

So what's before you today -- I wanted to raise that as an issue in case that's of concern. What's before you now doesn't actually directly address, per se, that, whether you wanted to make any distinctions between the footprint identification versus the permitted boundaries. We're working off the permitted boundaries. So I thought it was important to raise.

CHAIRPERSON JONES: So back up.

STAFF COUNSEL BLOCK: Sorry.

CHAIRPERSON JONES: You got me thoroughly confused now. The dotted line that says "proposed" --

STAFF COUNSEL BLOCK: Right.

CHAIRPERSON JONES: -- that was what was in the

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existing siting element?

STAFF COUNSEL BLOCK: Well, obviously these lines are just not the one that's potentially coming. But if you assume for the minute that the smaller box is the permitted boundaries that's shown in the siting element and the footprint is somewhere within that smaller box right now, and the discussion is coming forward to expand the permitted boundaries of the landfill to the larger box, although the footprint is not going to change. There's either buffer area or something along. They bought some more property they want to add to the permitted boundary. They're not expanding the footprint outside the lines.

CHAIRPERSON JONES: But they're expanding the boundary of the landfill?

STAFF COUNSEL BLOCK: The boundary of the landfill.

CHAIRPERSON JONES: If it's permitted boundary in the landfill, two Board generations from today, you could have an item coming forward that proposes to build it where it says "existing" --

STAFF COUNSEL BLOCK: Right.

CHAIRPERSON JONES: -- the new cell. And it would be in compliance only because -- if we allowed it to go in. This doesn't make sense to me because, I mean,

1 if -- the dotted line, irregardless if that's the cell or
2 whatever, that's all that was in the siting element, then
3 any expansion above that has got to be addressed in a new
4 item.
5 STAFF COUNSEL BLOCK: Right. And that's the way
6 the staff recommendations work right now, we're working
7 off of permitted boundaries. This issue was raised to me.
8 I want to make sure we identify it --
9 CHAIRPERSON JONES: Because it's boundaries.
10 STAFF COUNSEL BLOCK: Right. If the Board wanted
11 us to look at that issue, we would need to get a little
12 bit more detailed, obviously, and start having to talk
13 about being more specific. Just wanted to mention that
14 that was an issue out there, in case that was something
15 that was of concern.
16 That concludes the presentation I had. I don't
17 know if you had any more questions for me. I'm assuming
18 you have a number of speakers because they've all been
19 trying to speak to me during the break.
20 CHAIRPERSON JONES: Okay. We've got a lot of
21 speakers. Jack Doering from Stanislaus County.
22 MR. DOERING: Good afternoon. My name is Jack
23 Doering. I'm the Assistant County Counsel for Stanislaus
24 County. And I appreciate the opportunity to speak with
25 you at this late hour to, I guess, express some concerns

1 or in particular some issues that may relate to our
2 particular county.
3 First of all, I want to preface this by saying we
4 do support staff's recommendations. We think that there
5 does need to be clarification in the siting element that
6 specifically identifies or clearly identifies where future
7 expansion may occur. We still are a little confused,
8 however, with a few of the recommendations. But it's
9 important, I think, to recognize what I think is brought
10 out very well in the staff report in that this starts with
11 an understanding that the Board's prior direction on this
12 required only that there would be more expansion areas or
13 for facilities to identify the address or general location
14 on a map. And that stems from the statute and the
15 implementing regulations themselves, where the statute is
16 silent as far as any map requirements. And the
17 regulations are, as brought out in your staff report,
18 unclear as to what's exactly required to identify the
19 location of a particular facility.
20 With that in mind, in 1995 when our particular
21 county had its siting element adopted, there was no
22 particular requirement or specificity. And our concern is
23 that by adopting a requirement for specificity today, it
24 may not fit with the understanding of the parties, the
25 jurisdictions that approved the siting element including

1 the Waste Board staff back in 1995, especially when in our
2 case there is at least one expansion project that is being
3 brought forward -- in the semi-near future will be before
4 your Board for a consistency finding.
5 I think it's important to recognize in the staff
6 report, again, points out one of the reasons why that may
7 have been omitted from the regulations in terms of the
8 definition was that the exact area for an expansion
9 project may not have been known at the particular time
10 that the siting element was adopted or being approved.
11 And the analogy that we use, at least in the county, that
12 comes to mind is the general plan analogy. Indeed, the
13 siting element is an element of general plan. It's a
14 large visionary document that describes what the county
15 wants to see in terms of land use development and proper
16 planning, how that should occur.
17 So in that sense, the siting element is used to
18 identify where landfills or other disposal-type facilities
19 might be located. And in other words, that allows the
20 public to identify exactly where -- not exactly where --
21 generally where we're going to put these type of uses in
22 this area. So for example, a land use general plan might
23 have a land use designation of business, part development.
24 Now it might be agricultural use as existing, but it's a
25 general plan for some kind of business development. That

1 may or may not ever happen or it may take ten years. It
2 may occur in five years. It depends on a whole lot of
3 factors. But that's dependent on a particular project.
4 So we view the siting element as more of a general
5 guidance document as to where those types of projects, in
6 this case a landfill or some kind of a disposal project,
7 may be located.
8 With that in mind, we think that a more
9 generalized definition of where those might be located
10 fits the idea of and the consistency with the general plan
11 in the way the counties currently adopt and use the
12 general plan.
13 Moving along, we do agree with staff's
14 recommendation that there needs to be more specificity.
15 What we're asking is that you understand and recognize at
16 least in some of the recommendations in the -- that are
17 proposed by staff is that there are case-by-case scenarios
18 which need to be addressed individually by your Board,
19 that there are projects in the work, and there's a lot of
20 investment-backed expectation, if you will, that went into
21 purchases of land, proposals for a particular expansion
22 project, and that may not -- under the current standards
23 that you're now identifying may not exactly fit because
24 it's not as clear. It's not as specific.
25 And with that in mind, I think it's important to

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1 understand the difference between an expansion project and
2 an expansion idea of where you want to have a particular
3 landfill or disposal facility located. What is more
4 specific -- and that's important because ultimately your
5 Board also then makes the determination of whether or not
6 that particular disposal facility will be permitted.
7 We're not talking about a disposal site permit right now.
8 What we're talking about is generally where will future
9 sites be permitted and is that consistent with the siting
10 element.
11 One comment I would make about the -- there was
12 -- one of the scenarios depicted a road that came off of
13 an existing facility to a proposed facility -- proposed
14 new facility or expansion, however you want to call that.
15 One of the things to be mindful of, and I'm sure that you
16 are, is that the physical limitations of a landfill
17 development means that oftentimes you cannot physically
18 locate the landfill cells or one particular part of a
19 project immediately adjacent to the other due to
20 topographical variations, due to land boundaries, property
21 ownership changes, those types of things. They may need
22 to be separated by some distance and connected by a road.
23 But we do agree that generally the siting element
24 needs to describe where that area is, where future
25 disposal facilities might be located simply to make sure

1 that the public, as you point out, is aware of the fact
2 that that's where landfill will occur.
3 So anyway, we do agree with the staff's
4 recommendations. We think some consideration needs to be
5 made or built into these proposals that make the
6 application of this new standard prospective. In other
7 words, allow us to update our siting elements so that they
8 are more specific as staff is recommending we go to, and
9 then we make sure that the siting elements -- proposals --
10 specific project proposals for expansions or new proposals
11 are consistent with that updated proposal. But recognize
12 that the existing state of many of these plans is they did
13 not include a lot of specificity back in 1995 when they
14 were written. But we do agree to work with the staff to
15 make sure that any current amendments or revisions to the
16 siting element do bring in that specificity as identified
17 by the staff.
18 And happy to answer any questions. And if you
19 don't have any, that's all I have.
20 CHAIRPERSON JONES: Any questions from members?
21 You know we do -- there are a couple of things.
22 We've had -- I'm sure all the members have gotten a flurry
23 of letters on issues within your county on this expansion.
24 But just to sort of set the record straight from my
25 standpoint on one issue, this is not a new development in

1 the siting element. We had a debate a couple of years ago
2 because some of the members felt that expansion meant --
3 which they wanted to go through CEQA each time -- meant if
4 a landfill -- if a transfer station or a landfill went
5 from 100 tons a days to 120 tons a day, that was an
6 expansion. That's what the debate was about three years
7 ago. What was -- two years ago, I guess.
8 What was agreed upon was that the siting
9 elements, which had been due for a long time -- I mean,
10 prior to 1995. I mean, you know, it was part of AB 939 --
11 that siting elements were, for lack of a better word, done
12 on map. Meaning, this is where it's located. At that
13 meeting -- at those series of meetings it was -- if you
14 said this 200 acres was the site that any expansion out of
15 that that had not been declared needed to go through the
16 process again.
17 So this is not new. This is a reconfirmation of
18 existing Board policy on how we dealt with that. So I
19 just want to -- I don't think it's fair for you to leave
20 thinking this is new.
21 MR. DOERING: We don't believe so either. But as
22 your staff has capably brought forward to you is, what is
23 the definition of a boundary? What's the boundary? How
24 do you identify the location of that boundary?
25 CHAIRPERSON JONES: How we do or how lawyers do?

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1 MR. DOERING: Well, hopefully both. But
2 ultimately how you define it. Once we understand clearly
3 how that is, then we will work with your staff to make
4 sure that our siting element conforms with the
5 requirements that you set forth.
6 Right now our vision is different than some
7 others in our particular jurisdiction as to where that
8 boundary and where these projects can be sited. We feel
9 that we are in conformance, but obviously that's a
10 different issue. We don't want to necessarily go there
11 right now. But just to be clear, as long as you brought
12 it up, clearly our Board has given us clear direction to
13 not develop a so-called mega-landfill proposal. And it
14 will be limited to -- that particular project will be
15 limited to 129-acre footprint of just the cell size
16 itself. And whether or not that's consistent with the
17 siting element, we'll work with your staff to make sure
18 that ultimately it works out.
19 The real question, though, at least in our minds,
20 is where is the boundary of what was intended by all the
21 jurisdictions within our county when it approved the 1995
22 siting element? And to the extent we can clarify that
23 through an update or revision, that's our intent as well.
24 CHAIRPERSON JONES: Thanks. Any questions?
25 Thank you. Appreciate it. Okay this was a "want to

listen to discussion and address Committee if necessary." Ms. Reed. She finds it necessary. Come on up.

MS. REED: Jocelyn Reed, the city of Modesto Solid Waste Manager. It's interesting that I'm hearing the discussion, and we also agree with staff's recommendation -- board staff's recommendation. But we're coming, I think, from an entirely different perspective.

We do generally concur with the Board staff's recommendation. I want to qualify a few issues. We think the requirement for a map for both the new facilities and for expansions of facility was clear in the statute. The Code does not say that a map is just required for proposed new facilities. It just says proposed facilities. It doesn't exclude existing facilities, the expansion of those facilities.

To make sure that the public is clearly informed on what's being proposed by siting element, we believe a map is necessary. We included a map with our 1995 siting element. That map showed a specific expansion area. It also included a description, and that description matches the map. So we don't think there's any conflict in our siting element. But we do believe that the map is a clear tool.

If the Board does choose to allow a description as an option, we think that should be something like a

1 legal description where it says starting from point X on
2 the map you go so many degrees west. That would be
3 something that I think would protect the public's interest
4 in terms of future expansions.
5 If the map in a siting element and the general
6 description conflict, we believe the map should prevail in
7 determining the boundaries of the facility. If it's
8 there, it's there for a reason. And I know from personal
9 experience that we voted on a map and that map showed the
10 boundaries. Anything else is not what we voted on. We
11 also support Board staff's recommendation that if there
12 are expansions of the existing facilities beyond the
13 boundaries, that that require a revision of the document.
14 That's all I have to say.
15 CHAIRPERSON JONES: Any questions, members?
16 All right. Shari Afshari. I know I said it
17 wrong, but I'll learn it. I promise you I'll learn it.
18 MS. AFSHARI: Good afternoon. I'm Shari Afshari,
19 and I'm representing Los Angeles County. I will be brief
20 since you're somewhat familiar with county's position with
21 respect to this issue. I believe in the past there has
22 been some comments and discussion on that.
23 CHAIRPERSON JONES: Lengthy.
24 MS. AFSHARI: I'm just reminding.
25 But very we're glad to see that this staff is

1 taking steps towards addressing this issue because it's
2 something we had concern with. And we want to see where
3 we're going to go with this, and part of the process is
4 going to be working in the future.
5 However, we're concerned about staff's proposal
6 because of what it would mean for jurisdictions such as
7 L.A. County. You know, we are 89 jurisdictions, and it's
8 a little bit different than small cities and jurisdictions
9 that they might have an easier way to address this issue
10 with siting element.
11 The proposal recommends -- the proposal
12 recommended by staff would be very costly for L.A. County.
13 As indicated in staff report, deciding element amendment
14 process would be lengthy and resource-intensive for some
15 jurisdictions or some counties that have lots of
16 jurisdictions. Definitely that's one of -- our county
17 would fall into the category. Every time we go to an
18 event, the siting element is going to cost at least
19 $150,000 and over two years. And imagine with all the
20 expansions that we have to go through -- yeah, that's a
21 costly thing to go through. And with the expansions we're
22 anticipating to have -- right now we have handful of,
23 like, requests and discussions and expansions that's
24 coming to. And if each time we need to go and amend the
25 siting element, it's going to take two years to do that.

1 So I would think it's going to be -- this policy would
2 have a significant adverse impact on Los Angeles County's
3 ability to develop and disposal capacity required to meet
4 all of 89 jurisdictions' needs.
5 In L.A. County we have always advocated
6 continuing the finding of conformance process as a mean of
7 streamlining the procedure for amending the county-wide
8 siting element, while at the same time ensuring compliance
9 with local requirements such as the siting criteria. We
10 still think that should be considered to be a process that
11 we can use to handle the revisions as it comes to because
12 it's just going to be not practical to revise that
13 document and to go to all 89 jurisdictions and get the
14 majority of approval. Imagine, like, every city has to go
15 through their City Council to get approval after public
16 hearing to be able to get approval to amend the document.
17 It's not that easy to go through 89 jurisdictions and 89
18 City Councils.
19 We would like to encourage the Waste Board to
20 seek statutory changes that would permit the process to
21 address this problem. I don't know how it can be done,
22 but we encourage you to look into that, that this process
23 can stay in. Or if the Waste Board determines it has the
24 authority to modify its interpretation of Public Resources
25 Code Section 50001, that interpretation should require to

be included as an option for the amendment.

I don't know if -- I'm sure that you're aware that this interpretation has precedent in that the former Waste Board had authorized the use of majority process as a process to amend the siting element.

But basically I just wanted to repeat or touch on these issues because we still think that since we are a bigger jurisdiction with large number of cities that we have to deal with has to be somewhat considered. We don't need to go through amendment and changes or revisions to that document every time expansion comes through.

Thank you.

CHAIRPERSON JONES: Any questions of Ms. Afshari?

I think one thing that is almost mind-boggling -- because when the L.A. County plan went through, that provision in the law that allowed you guys to make these revisions in the siting element disappeared, although there are some don't think that really happened. It became a bone of contention every time we talk about an issue. So I think that you bring a very positive attitude to the task that I think requires us to figure out a way to try to work -- I would hate to think that an amendment to a siting element would cost $250,000. I understand you guys all make a lot of money, but we should be able to figure out a way to get majority without doing it, and it

1 probably ought to be something that we can think about.
2 STAFF COUNSEL BLOCK: We can look into that. I
3 can see what that would or wouldn't require to make that
4 done.
5 I also just want to clarify, too, just in terms
6 of talking about Los Angeles because you mention
7 expansions that you're looking at doing. I just want to
8 reiterate what we're talking about here, if the expansion
9 that you're talking about are increases in tonnage or
10 hours or those sorts of things or height that are not
11 increasing the boundaries on the map, that wouldn't
12 require a revision. It would only be if you're expanding
13 outside the boundaries. So I don't know if that helps or
14 not, but I wanted to make sure to clarify. That and we
15 can also look at the statutory issues as well.
16 CHAIRPERSON JONES: I mean, if it's okay with the
17 rest of the members. I know that our colleague in the
18 back of the room has been attacked on numerous occasions
19 on this -- or at least a few occasions on this issue, so I
20 don't think he would mind trying to figure out a less
21 abrasive way of dealing with it.
22 MS. AFSHARI: Well, I appreciate it. By the way,
23 that estimate is not far off. We actually made that
24 estimate for our Board of Supervisors a couple weeks ago
25 for one specific issue of removing some item out, and that

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1 would require siting element revisions. So $250,000 is a
2 realistic number. Sounds high.
3 CHAIRPERSON JONES: I'm moving down there. Okay.
4 Thank you.
5 Chuck White. We're going to -- we got to move on
6 this item. So, folks, when you come up and testify, I'm
7 going to keep quiet, just -- you know, we need to move.
8 Chuck White.
9 MR. WHITE: Thank you, Mr. Chair, members of the
10 Committee. Chuck White with Waste Management.
11 I have to admit I'm sitting here listening to
12 this like I have been in a different place for the last
13 three years in what I'm hearing. When we participated in
14 2000 and we thought this issue was last resolved, we
15 thought that this expansion issue was, in fact, resolved
16 and that a dot on a map, if you have an existing facility,
17 whether you're keeping that facility the same, whether
18 you're expanding it vertically, whether you're expanding
19 it horizontally, it's still the same dot on the map, and
20 it still is adequate with respect to the findings of
21 conformance.
22 That's the real issue is the requirements of this
23 Board in making a finding of conformance when the permit
24 comes up for action through 44009. And if you can't make
25 a finding of conformance because somehow the siting

1 element has to be revised and we have to go through a
2 two-year, $250,000 process, I don't think that's what the
3 Legislature intended. There was a clear change in the
4 legislative language between the -- from the pre-gap or
5 during the gap to the post-gap, there was clearly a period
6 of time for which there had to be a location and a
7 description of the facility clearly articulated. But that
8 changed in the post-gap period once these Integrated Waste
9 Management plans were adopted. And it says simply "a
10 location." And we believe this Board said it's a dot on
11 a map. And if you have an existing facility that's a dot
12 on the map, you can continue to expand that facility
13 without changing the dot on the map or without triggering
14 a revision that would be subject to a finding of
15 conformance by this Board prior to a permit action.
16 And I'm just -- I'm just kind of flabbergasted
17 here to hear this is somehow -- that there is a feeling of
18 indifference. I mean, we have a letter -- and I think
19 Sean has brought copies and he'll provide letter testimony
20 later on -- signed by Allied, by Waste Management, Refuse
21 Removal Council. It was our clear understanding that the
22 legislature sought to delink the permitting process from
23 the solid waste planning process. There's adequate
24 planning being done at the local level through CEQA.
25 There was a desire in the Legislature to back off the

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1 solid waste permitting process and delink it from the
2 permitting process, such that you wouldn't be stumbling
3 over this process and you can rely on an existing facility
4 or an expansion of an existing facility as being the same
5 dot on a map.
6 And so if -- I mean, that's the kind of position
7 we're at and this is our understanding of what existing
8 law is. And guess we're going to have -- I would urge you
9 to have -- let's have a broader discussion on this thing
10 before any final action is taken because this has kind of
11 caught me by surprise to hear this discussion that is sort
12 of a fete complete. If you expand beyond your mapped
13 boundaries, somehow that requires a revision of the siting
14 element with the implication that it triggers a finding of
15 conformance that you can't move forward a permit. We
16 believe the Legislature intended to delink the permitting
17 process from the planning process.
18 You can site nuclear power point. You can site
19 oil refineries. You can site any other kind of industrial
20 activity in the state of California without going through
21 a multiple planning process, and we believe the
22 Legislature intended to back off through AB 939 and delink
23 the permitting the planning process.
24 So we'd be happy to talk about this further, but
25 this has really got me just absolutely -- my mind is

1 spinning from what I'm hearing today.

2 COMMITTEE MEMBER WASHINGTON: Chuck, are you

3 saying if you were approved for a certain area and now

4 you're saying that -- I'm missing your point in terms

5 of -- I'm hearing two things from you.

6 MR. WHITE: My understanding, if you've got an

7 existing facility and it is identified in your siting

8 element, whether it's address or a dot on the map, you can

9 go ahead and expand that facility any way you want, and

10 it's still the same dot on the map. It doesn't trigger a

11 new process that costs a quarter-million-dollars and takes

12 two years to do.

13 The point was -- I mean, you had to do those more

14 extensive things before the Integrated Waste Management

15 plans were put in place. But in exchange for having

16 jurisdictions be responsible for $10,000-a-day fines,

17 coming up with adequate recycling, the deal was to back

18 off on some of the specific planning requirements and rely

19 on the local land use process that every other kind of

20 industrialized activity in California relies on day in,

21 day out.

22 COMMITTEE MEMBER WASHINGTON: What he's saying --

23 is he correct in terms of -- because it sounds like to me

24 he has an issue in terms of if you've been approved for a

25 certain amount and now if he wants to expand within that

1 certain amount, he has to come and get a --

2 CHAIRPERSON JONES: Not within.

3 DEPUTY DIRECTOR SCHIAVO: Not within. What we're

4 saying is if it goes beyond the boundaries. What we're

5 doing with so-called dot on the map is identifying what

6 that dot is. You have to have some kind of location of

7 what the dot is defined as because part of the whole

8 conformance process or the siting element process is to

9 inform all the residents of the county as to what your

10 plans are for disposal. So it's incumbent upon us to

11 define what that proposed area may be. And within the

12 boundaries you can expand as far as you want, as long as

13 it's within the boundaries.

14 MR. WHITE: See, our view is completely

15 different. A dot on the map could be a small dot, a big

16 dot. It's the same dot. All you have to do is identify a

17 facility was there, regardless of size, regardless of

18 extent. And once everybody knows the facility is there,

19 then it's the local land use process. It's the solid

20 waste facility permitting process that dictates the exact

21 size and operation of facility.

22 And to somehow throw L.A. County, every single

23 change beyond a boundary requires a

24 quarter-million-dollars and a two-year process is just --

25 I can't imagine how it's going to work. It's going to

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shut -- you're not going to be able to expand facilities or meet the need of -- and Los Angeles of all places in the state is probably the one that is most urgently in need of making sure there's adequate capacity.

CHAIRPERSON JONES: Well --

MR. WHITE: I'm --

CHAIRPERSON JONES: I'm shocked that you're shocked because I have a pretty good memory of what we negotiated that day. And while it didn't make everybody happy, it seemed to me like everybody walked out understanding the difference between an expansion being -- a change in tonnage would trigger an expansion, that's what argument was about. And we said no. It is that facility, that dot on the map, and that boundary, and that when it went outside that boundary, it triggered the next thing. That's -- I'm shocked to hear that you didn't understand. I knew you were there.

MR. WHITE: The facility address -- well, you can have an address and can have all sizes of facilities. An address doesn't control -- this is your resolution you adopted three years ago. "Either by facility address or the general location on a map" and "shall not review facilities conformance to description set forth to these documents for purpose of the finding." I mean, I'm reading it completely different than you.

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CHAIRPERSON JONES: So you're telling me -- I don't want to get into it right now because -- the questions I'm going to ask you, you're telling me that you've got -- you've gone through the CEQA in Placer County, and you've identified a 2,000-acre facility of which you're going to put a 1,000-acre solid waste facility on, that's what you've told the public. Okay.

MR. WHITE: Fine.

CHAIRPERSON JONES: So you go through CEQA and you go through whole process and you get the 1,000 acres approved through CEQA.

MR. WHITE: Right.

CHAIRPERSON JONES: It comes to the Board with a finding of conformance, and it is permitted. And this Board says, "Anything that happens within that 1,000 acres, you're in conformance." But then you decide that you want to build out that 2,000 acres without ever talking to anybody else in the public?

MR. WHITE: You have to talk -- you have to go through CEQA. You've got to go through local land use process. The point is getting rid of redundant planning processes so you don't have to go through multiple planning processes. There's already a planning process out there that's good enough for nuclear reactors --

CHAIRPERSON JONES: Chuck, your plan said that of

a 2,000-acre facility you are only going to build on 1,000 acres. That's what your plan says. So you're saying that you want to be able to build on the 2,000 without having to go back to the public.

MR. WHITE: I don't have any problem with amending the plan at some point in time. But don't hold up the permitting process.

CHAIRPERSON JONES: That's what we're saying -- why? If you know that you're going to move in, you -- that doesn't happen overnight. You're not going to say, "You know what? I think I'm going to build another cell, and it's going to be 500 acres." You know that that is a planned out system.

I think my frustration is the memory has to be on what expansion had been viewed by some of the members on this Board. An expansion when we had this debate was the difference between 100 tons a day and 150 having to go through this process.

MR. WHITE: And again, you know, I wish we weren't disagreeing on this, but I'm afraid our understanding was if it's a dot on the map, you have to make sure that facility is at least identified. But you don't hold up the permitting process for a change in the size of that until such time as a finding of conformance it made. It's -- dot on the map can be any size of dot as

1 long as the facility is identified. And that's been our
2 understanding -- quite frankly, we thought that was
3 reflected in our comments in the year 2000. We thought
4 that it was reflected in the resolution this Board adopted
5 in 2000. And you know, my apologies if we've been
6 mistaken. But that's certainly our understanding.
7 CHAIRPERSON JONES: There's no need to apologize.
8 I love having these debates.
9 MR. WHITE: So do I, actually.
10 CHAIRPERSON JONES: But it is interesting.
11 MR. WHITE: Thank you.
12 CHAIRPERSON JONES: All right. Next, Sean Edgar.
13 MR. EDGAR: Good afternoon, Chairman Jones and
14 Committee members. I'll make my comments brief. Sean
15 Edgar, representing the California Refuse Removal Counsel.
16 Very briefly, we are not in a position today that
17 we can support the recommendations that your staff has
18 brought forward, although you do have our commitment to
19 try to work through some of the thorny issues. I
20 appreciate Mr. Block's discussion of the legislative
21 parameters that faced the Board today.
22 I did pass out a letter from the year 2000, the
23 Refuse Removal Counsel and League of Cities and CSAC and
24 other organizations felt that the general location
25 information was really the thrust of the legislative

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1 intent, and Mr. Block spoke about briefly earlier.
2 Just my brief comments -- I know there is some
3 sentiment at the Board I've seen coming forward on permits
4 over the last three years or so that the plan is more
5 important than the permit and to some extent just to
6 separate a little bit the siting elements and nondisposal
7 facility element, that is a plan that, yes, was required
8 many years ago that spoke about the general need of a --
9 or the specific need of jurisdictions to identify to the
10 state of California in general where the -- where the
11 facilities are and what those facilities would be doing,
12 understanding that the permit process when it comes down
13 in one of your staff recommendations talked about small
14 Item B, talked about needing to go through a more detailed
15 description that uses landmarks and parcel boundaries to
16 ensure the public was fully informed about the potential
17 expansion.
18 Arguably the CEQA type of parameters and as an
19 example, new CDI facilities -- Mr. Washington -- and that
20 regulatory package where we talked about an additional
21 public hearing, our feeling is that the permit process,
22 which is separate from this conformance finding process ,
23 adequately addresses the public notification as new
24 facilities are developed.
25 I realize that after Mr. White's discussion with

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1 Chairman Jones that the small letter A with regard to
2 expansion beyond the boundaries -- I suppose we could
3 speak ad infinitum about what the boundaries used to be or
4 what could be in the future. However, what -- our
5 commitment to work in resolving this issue, although many
6 of our folks had thought it was resolved a few years
7 back -- we look out at the landscape and we see an example
8 of the conversion technology facilities. We had a good
9 meeting and workshop earlier this week. And staff is
10 discussing the legal gymnastics that require definitions
11 of conversion technologies happen to be transformation
12 facilities.
13 These waste-to-ethanol facilities we'd like to
14 build -- I have a project in the Central Valley right now.
15 It's adjacent to a closing landfill. It happens to be a
16 separate parcel. The landfill dot on the map is -- I
17 don't know how specific. I'm going to go check the
18 document when I get back to my office. But we're in a
19 position where our client in that area is considering
20 putting a conversion technology facility directly adjacent
21 although on a separate partial, and this transformation --
22 this would be defined as a transformation facility and
23 therefore would need to go through the siting element
24 process once again. You heard L.A. County say that's very
25 cumbersome.

In short, you have our commitment to work toward a successful resolution, we hope. But we're not in a position, as I say, where we can support your staff recommendations today. Happy to take any questions or just sit down and wrap it up.

CHAIRPERSON JONES: Questions? Okay.

Denise Delmatier.

MS. DELMATIER: Good late afternoon, Board Chairman and members. I think the new Board members are getting a little taste today of how contentious this item's been. I've been working on this item since 1990 when we had what was called the gap bill and the post-gap bill that set up this entire process. And seems like this issue just never goes away. We fought the battle every year since 1990 and thought it was over, but here we're back.

Couple of questions of clarification of staff. If the expansion is identified in the siting element, then conformance would be mute. Correct? Now, if as Board Member Jones just previously had discussion with my colleagues in the third house, if the expansion is identified as 2,000 acre as opposed to the 1,000 acre, I assume conformance would be mute. Is that --

CHAIRPERSON JONES: Yeah.

MS. DELMATIER: Okay. Another question, it was

1 confusing for me in reading the analysis, the NDFE, for
2 nondisposal recycling facility element for recycling
3 facilities. And I think we had some discussion in the
4 hallway, Mr. Elliot, but I want to make sure that the
5 Board members understand that nondisposal facility element
6 is not required to go through this major majority approval
7 process and is only subject to the host jurisdiction
8 approval alone. So I think we need to separate and make
9 clear that while the siting element is required to go
10 through this major majority approval process, the
11 nondisposal facility element expansion is not and is only
12 subject to the approval of the post-jurisdiction. Do I
13 state that correctly?
14 STAFF COUNSEL BLOCK: Yes.
15 MS. DELMATIER: We'd obviously prefer to see the
16 insignificant expansion not subject to the majority
17 approval process under the siting element as proposed by
18 staff.
19 That concludes my comments. Any questions?
20 CHAIRPERSON JONES: Any questions? Members.
21 I think we all need to wish Denise Delmatier a
22 happy birthday. It's going to happen in another day or
23 two. Happy birthday, Denise.
24 MS. DELMATIER: Okay. Okay. Everybody knows
25 now.

CHAIRPERSON JONES: I didn't tell them how old you're going to be.

MS. DELMATIER: I'm turning 50 tomorrow. It's the big one.

CHAIRPERSON JONES: Happy birthday. All right.

Chuck Helget. That's my last speaker slip. So I hear applause.

MR. HELGET: Chuck Helget representing Allied Waste. I guess I would just very quickly say that I reiterate some of the concerns of my colleagues that testified just ahead of me. It's -- memory is a terrible thing to waste. I think recalling back three years and the discussions, Mr. Jones, I am recalling some of the discussions about expansions. So I'll have to go back, and I think, check our notes and go back through that process. It was long and painful, and I think maybe some of us pushed some of those memories out of our mind.

But I think the bottom line is that I agree with what Denise was suggesting. As an example, a facility purchased buffer lands for very good reasons. If you change the boundaries of your facility, now you've triggered the process if you come back for any kind of modification in your permit that you're out of conformance, and you have to go through the conformance process simply because you purchased buffer lands. So I

1 think there are some situations like this we need to
2 discuss. And hopefully in this discussion process we'll
3 get to another reasonable solution on this.
4 CHAIRPERSON JONES: Quick question, Chuck. On
5 the buffer land issue, if under Option Number 1 where it
6 says there are -- you know, there's always going to be
7 some case-by-case issues, that rather than go through the
8 local process on an issue like that, that would -- help me
9 understand, Elliot. Let's say they did buy buffer as part
10 of their thing and they were going to do whatever
11 insignificant or something like that, what would the
12 process look like? What could it look like?
13 STAFF COUNSEL BLOCK: There's a couple of
14 different possibilities. If they wanted to do -- after
15 purchasing the buffer lands, if they wanted to include
16 them as part of the permitting boundary, then at the
17 moment is the way the staff recommendation is worded, that
18 would require a revision, assuming the buffer lands
19 weren't identified in the original siting element. So
20 it's a little bit about -- like that discussion we were
21 talking about, the footprint versus something else.
22 There's two possibilities. Number one, I don't
23 think there's necessarily a requirement, although it's
24 going to obviously depend case by case, that the buffer
25 lands necessarily be part of the permitted boundary.

1 That's one potential way of dealing with that. That
2 wouldn't -- just because the land's purchased doesn't mean
3 it has to be identified.
4 If there was a need to do something more than
5 that, that's a place, if that was your direction, we could
6 look at setting up some more detailed ways of doing this.
7 Perhaps, for instance, if the siting element was set up so
8 that it identified those as buffer lands rather than
9 landfill expansion area, that sort of thing, I mean,
10 there's ways to deal with that issue. But then we do have
11 to start getting some more specifics and start to look at
12 things.
13 But correct, I mean, at the moment it's plainly
14 stated for right now, adding buffer lands that then --
15 you're trying to add that to the permit, that would
16 require a revision. So if that's not where the Board
17 wants to see this going, we need to do a little bit more
18 work on that.
19 CHAIRPERSON JONES: Okay.
20 MR. HELGET: We look forward to working with the
21 Board.
22 CHAIRPERSON JONES: Thanks, Mr. Helget. Okay,
23 members.
24 Ms. Peace, anything?
25 COMMITTEE MEMBER PEACE: No.

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1 CHAIRPERSON JONES: We can -- I think we can do a
2 couple of things here, if the members will bear with me.
3 I think, obviously, this is going to take a little bit of
4 time to work through. There's some issues legitimately
5 that some of the stakeholders have brought up. My memory
6 may not be perfect, but it is pretty damn good when I get
7 into battles with former Senators about issues and had to
8 fight these battles. But we'll see, because I thought it
9 was a pretty good resolution to what was a very convoluted
10 issue.
11 So I would think that giving the staff the
12 direction to go with recommendation number one, which
13 you've asked for -- I think that's Option 1 -- makes
14 sense. But I do think we need to keep this window open
15 that if there are some issues that we weren't, you know,
16 aware of then we could -- because I mean, this isn't going
17 into law right now. This is clearly a re-affirmation of
18 what had been an existing policy.
19 STAFF COUNSEL BLOCK: That's how we're viewing
20 this. The option for the Board basically talks about
21 taking this -- directing us to take the recommendations
22 that we've talked about before and then come back with an
23 item to formalize that in a resolution. And obviously
24 that's going to be another opportunity for some more of
25 this discussion to occur. I mean, we purposely set this

1 up as a discussion item, not a consideration item right up
2 front because there is, unfortunately, lots of fun issues
3 to discuss. So that opportunity will be there to play
4 with certain issues, if that's the Board's pleasure.
5 CHAIRPERSON JONES: And I want to ask the
6 Committee if they would be willing to -- because I think
7 we need to go with Option 1. But I do also think that if
8 enough comments come forward that show that, in fact, in
9 years past we had come up with a different resolution,
10 that we have a workshop that this Committee could host
11 prior to that thing, just kind of flush those out if we
12 need to. And if we don't, we'll have the item at a Board
13 meeting or a Committee meeting.
14 I'm guess I'm looking for an option if we need to
15 have one more meeting, then maybe you folks will join me
16 or ask any member to join us and we could go over any
17 special issues. If we don't come forward, we'll just wait
18 until staff brings forward.
19 COMMITTEE MEMBER WASHINGTON: For me, Mr. Chair,
20 in terms of the past history of this, I certainly want to
21 sit down with staff as well as the stakeholders and really
22 understand this dot on the map issue, what does it really
23 mean, so I will certainly support that. I think that it
24 would give us some time to get a clear understanding of
25 what happened in the past and where we're going in terms

of the future as it relates to this issue to try to bring it to some kind of closure in terms of what we really mean as it relates to the location identification. I think that's a critical piece here.

CHAIRPERSON JONES: Okay. Ms. Peace.

COMMITTEE MEMBER PEACE: I'll go along with that. But I feel regardless of what happened in the past, if you have a facility and you're going outside the boundaries, that siting element is going to need to be changed.

CHAIRPERSON JONES: Okay. And I agree. We're always here to continue the dialogue, it seems like. So is that reasonable? I'm not saying there's going to be a workshop. But if we need one, you guys can let us know and we can have a workshop.

EXECUTIVE DIRECTOR NAUMAN: I think we'll work with your offices and have some discussion with staff. I think we're probably headed that direction. It would probably be useful.

CHAIRPERSON JONES: It just made sense to put it on the table. Okay.

COMMITTEE MEMBER PEACE: Like you mentioned, the L.A. County person would look at some things to make it easier, less expensive for jurisdictions to do this.

CHAIRPERSON JONES: If that's going to be a whole other Elliot briefing, Elliot would be more than happy to

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1 come in and talk to both of you about what that has
2 included over the years just so you have a flavor for
3 that. And I'm serious. There's a lot of stuff around
4 that. But you know --
5 COMMITTEE MEMBER WASHINGTON: There's a lot of
6 stuff around here.
7 CHAIRPERSON JONES: There is a lot of stuff
8 around here.
9 Is there anything else from the members?
10 I want to thank both of the members and all the
11 staff again for a great job. We got a lot of work done
12 today.
13 This is the time of the meeting if you're member
14 of the public and you want the say something that wasn't
15 necessarily on this agenda, knock yourselves out. Nobody.
16 All right. We're adjourned.
17 (Thereupon the California Integrated Waste
18 Management Board, Sustainability and Market
19 Development Committee adjourned at 5:15 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 15th day of August, 2003.

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