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BOARD MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

CENTRAL VALLEY AUDITORIUM

SACRAMENTO, CALIFORNIA

TUESDAY, SEPTEMBER 16, 2003

9:30 A.M.

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

BOARD MEMBERS

Steven R. Jones

Jose Medina

Linda Moulton-Patterson

Cheryl Peace

Michael Paparian

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Michael Bledsoe, Acting Chief Counsel

Elliot Block, Legal Office

Trisha Broddrick, Director, Office of Environmental Education

Jim La Tanner

Jim Lee, Deputy Director

Phil Moralez

Bill Orr, Recycling Technologies Branch

Rubia Packard

Pat Schiavo, Deputy Director

Steve Uselton

Sharon Waddell, Board Secretary

Patty Wohl, Deputy Director

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APPEARANCES CONTINUED

ALSO PRESENT

Kristin Aldana-Taday, Pacoima Beautiful

Terry Bedell, The Clorox Company

Councilman Steven Bradford, City of Gardena

Ted Griswold, Pala Mission Indian Tribe

Mitch Lansdell, City of Gardena, City Manager

Steve Lautze, California Association of RMDZs

Edward Lee, City of Gardena, City Attorney

John Mataka, Grayson Neighborhood Council

Leroy Miranda, Pala Mission Indian Tribe

Greg Moriarity, Trans Western Polymers, Inc.

Laurie Nelson, The Clorox Company

Ned Pendleton, Pactiv

Rachael Rosner, VOC, Santa Cruz

Scott Smithline, Californians Against Waste

Lenore Volturno, Pala Mission Indian Tribe

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PROCEEDINGS

CHAIRPERSON MOULTON-PATTERSON: Good morning, and welcome to our September meeting. We're going to go ahead and get started.

Will the secretary please call the roll.

SECRETARY WADDELL: Jones?

BOARD MEMBER JONES: Here.

SECRETARY WADDELL: Medina?

BOARD MEMBER MEDINA: Here.

SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: Here.

SECRETARY WADDELL: Peace?

BOARD MEMBER PEACE: Here.

SECRETARY WADDELL: Moulton-Patterson?

CHAIRPERSON MOULTON-PATTERSON: Here.

And Mr. Washington will be here shortly. But we're going to go ahead and start.

Will you please join me in the pledge of allegiance.

(Thereupon the Pledge of Allegiance was recited in unison.)

CHAIRPERSON MOULTON-PATTERSON: Thank you very much. We do have a quorum. And I ask that you please turn off your cell phones and pagers.

We at the Waste Board conserve energy and reduce

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1 waste by only publishing a limited amount of agenda. They
2 are on the back table. And we also have speaker slips and
3 for those of you that would like to speak on an item,
4 please fill it out and give it to Ms. Waddell, who's over
5 here, and we'll be happy to hear you speak at the time of
6 your item.
7 Ex partes?
8 Mr. Jones.
9 BOARD MEMBER JONES: I'm up to date, Madam Chair.
10 CHAIRPERSON MOULTON-PATTERSON: Thank you.
11 Ms. Peace.
12 COMMITTEE MEMBER PEACE: I'm up to date.
13 CHAIRPERSON MOULTON-PATTERSON: I'm up to date.
14 And Mr. Medina.
15 BOARD MEMBER MEDINA: I'm up to date as well. I
16 just want to report a correspondence from Steve Lautze
17 regarding the items.
18 CHAIRPERSON MOULTON-PATTERSON: Yes, we have.
19 Thank you.
20 Mr. Paparian.
21 BOARD MEMBER PAPARIAN: Yeah, thank you.
22 I spoke with John Cupps about electronic waste
23 issues on the Board. I also talked to Mark Murray about
24 the same topic. And I also talked to Mark Murray from
25 Californians Against Waste about Item Number 5, the

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plastic trash bags.

CHAIRPERSON MOULTON-PATTERSON: Okay.

Mr. Medina.

BOARD MEMBER MEDINA: Yes. I also wanted to report I talked to Chuck White regarding the C&D regs.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Washington.

COMMITTEE MEMBER WASHINGTON: Yes, Madam Chair.

I just talk with Mark Murray about the Item Number 5.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Reports.

Mr. Jones.

BOARD MEMBER JONES: Just really quickly, Madam Chair.

I had a couple of opportunities to talk about tires. One in particular down in San Diego, the RPA seminar, which tagged on to the American Public Works Association, which this Board was a sponsor of. They had about, I think, almost 75 engineers from all over talking about rubberized asphalt. It was a good day, and I was glad to be able to participate.

Obviously, the tire conference, and I'll leave that for others.

But I was down in Fresno for the MOLO training

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last week after our Committee meetings; 40 attendees, six LEAs. And just for the record, one of the LEAs who's had permits in front of us quite a few times -- it was their second day of the training and I asked him what he thought, and his answer was we ought to have everybody in the state take this course.

So I felt good about that, because he saw real value, and six LEAs out of 40 people was a good turnout by the LEAs. So that was a good day.

CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr. Chairman. We appreciate your comments and report.

Ms. Peace.

COMMITTEE MEMBER PEACE: On August 20th I had a site visit to Universal Refuse Removal and Transfer Station in El Cajon.

On August 26, I attended the Californians Against Waste reception honoring Governor Gray Davis, Senator Kuehl, and Assemblywoman Hannah-Beth Jackson.

September 8th, I attended the League of Cities Conference.

On September 2nd, I attended the Tire Conference. I thought this was very good. I particularly found the presentation on tire-derived fuel very interesting. I was disappointed, though, that I didn't see any recycling bins or waste prevention principles at work.

1 Many of the pages in our binder were
2 single-sided. The contractors didn't appear to use
3 recycled paper. And the binders were larger than
4 necessary.
5 I know it may seem a little picky, but I think we
6 should be walking the walk to be taken seriously about our
7 zero waste philosophy. I'm concerned on a larger level if
8 we aren't thinking to incorporate the principles of
9 recycling and waste prevention in the very public work
10 that we do.
11 Mr. Leary, do you know offhand if there's any
12 sort of provision in our Board contract that stipulates
13 the contractor should provide recycling and use recycled
14 content products when possible at Board-sponsored events?
15 EXECUTIVE DIRECTOR LEARY: That's a great
16 question, Member Peace. And I believe I have been part of
17 several discussions among the Board members about making
18 that happen, at least on a case-by-case basis. I don't
19 know that it's a boilerplate in our standard contracts.
20 But to the extent it is -- I'm getting affirmative nods
21 from some of my staff who are much more knowledgeable in
22 this area than I am. My better answer is yes, it has been
23 and if it wasn't in this case, we certainly will work to
24 correct that.
25 COMMITTEE MEMBER PEACE: I know the Board isn't

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1 scheduled here to hear the draft communication plan until
2 next month, but the education public outreach committee
3 strongly supports staff's recommendations in the draft
4 report that anything the Board pays for, whether it's
5 grants or contracts or whatever, it should promote zero
6 waste philosophy.
7 So, just a heads up, this is going to be an issue
8 I'm going to be pushing and watching very closely.
9 Thank you.
10 CHAIRPERSON MOULTON-PATTERSON: Thank you,
11 Ms. Peace. We appreciate that.
12 Mr. Medina.
13 BOARD MEMBER MEDINA: Thank you, Madam Chair.
14 I also attended the Tire Conference, the fifth
15 Waste Tire Management Conference held in Sacramento. And
16 there were a lot of outstanding panels and outstanding
17 panelists, and a lot of very good information that was
18 exchanged.
19 This was the first year that the conference
20 included a session on border issues where I participated
21 as a panel member.
22 We also had, for the first time, the Director of
23 Ecology for Baja, California, where he gave us a detailed
24 presentation in regard to the waste tire problem in
25 Tijuana and Baja, California.

1 So overall the conference from my perspective was
2 very successful. Your participation of a lot of internal
3 and external stakeholders, so I generally commend the
4 staff for that.
5 And I also want to take this occasion to wish
6 everyone a happy Mexican independence day. Today is the
7 day Mexico got its independence from Spain, not to be
8 confused with the Cinco de Mayo, which is a big drinking
9 holiday here in the U.S. And that's where the Mexican
10 army defeated the French in the battle of Pueblo. But in
11 Mexico, this is the important holiday today.
12 So again, for Mexican citizens and
13 Mexican-Americans on this side and everybody else, happy
14 Mexican independence day. And I'm sure there's a lot of
15 celebrations going on around town.
16 CHAIRPERSON MOULTON-PATTERSON: Thank you,
17 Mr. Medina.
18 Mr. Paparian.
19 Before Mr. Paparian starts, I just want to say
20 thank you on behalf of the whole Board. As I'm sure most
21 of you know, SB 20, the e-waste bill, was passed by the
22 Legislature, and we're hoping the Governor is going to be
23 signing it. And Mr. Paparian and his staff, Kit Cole, his
24 entire staff, have worked so hard on this. And I just
25 want to say thank you. It's really appreciated. And we

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1 know that you were a big part in getting this through the
2 Legislature. So thank you, Mike.
3 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
4 Yeah. It is very, very gratifying to see that
5 SB 20 did make it through the Legislature. And made it to
6 the Governor's desk. I think that our Legislative staff,
7 Caroll Mortenson, Pat Chartrand, Elizabeth McMillan,
8 worked really long hours on -- over the last few weeks and
9 on weekends, and just way above and beyond the call to
10 make sure that we had our input that was really necessary
11 in the crafting of the bill to ensure that it would do
12 what the authors and the proponents intended it to do.
13 So I think that Caroll, Pat and Elizabeth
14 especially deserve a lot of thanks for their work on the
15 bill.
16 You know, the bill, like all legislation, didn't
17 have everything that we wanted, but I think it's a
18 tremendous step in terms of dealing with the problematic
19 waste stream, something that we want to keep out of the
20 landfills and something that we want to establish good
21 recycling programs for.
22 It's going to be real hard work over the next few
23 months, assuming the Governor signs it, for us to begin
24 the implementation. I know that Mark Leary is already
25 starting to think about how to implement this program.

1 But it will be a fairly huge program, involving as much as
2 $60 or $70 million being collected and floating through
3 the Board and then out to recyclers for the programs
4 intended by the bill.
5 I wanted to mention a couple of other things. I,
6 too, attended the CAW reception. It was a very good time.
7 CAW puts on a great party.
8 I also attended the Tire Conference that was
9 mentioned. I had the opportunity to pull together a panel
10 on the product stewardship issues involving tires, and we
11 had a good and lively discussion with Mark Murray of
12 Californians Against Waste; Scott Cassel, the Product
13 Stewardship Institute; and Michael Blumenthal of the
14 Manufacturers Association.
15 I'd like to thank Diane Nordstrom of the tire
16 staff for her help in helping us put together that panel
17 and making that a success.
18 Yesterday, with Mark Leary, Julie Nauman, a
19 number of the P&E staff, Patty Wohl was there, I
20 participated in a meeting with United States Environmental
21 Protection Agency on a variety of issues, including their
22 resource conservation challenge.
23 And what they're doing is looking at a number of
24 product categories, including paper, C&D, tire, e-waste, a
25 number of other product categories, to really see what

they can do to push industry to do more to promote source reduction and recycling in those areas. And I think it offers us an opportunity to partner with US EPA where our interest overlaps with theirs.

And finally, I'd like to thank Scott Walker and Mark de Bie, and I'm not sure -- I think, Michael, you might have been down there, too. I understand that there was quite a long hearing that the Regional Water Board had on Sunshine Canyon last Thursday. And they had been asked to go down and be available to provide comments in terms of what the Waste Board's role in that facility is and what our decision had been regarding that facility. And I think our staff, as I understand it, very ably represented us at that Regional Water Board meeting.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Just on that note, Michael, I hope when our staff's down there, when you're down there, you will let everyone know our frustration that we had to weigh in on that before everything was in. I mean, it was very -- the way it works, you know, our hands were tied.

And now I read about, you know, the Regional Water Board holding things up because of some real problems, and I just think this needs to be pointed out again that this is very frustrating for us to be asked to make a decision when there's so many unanswered questions.

1 So I appreciate you conveying that too, for
2 whatever it's worth, our frustration, because I know we
3 agonized over this decision, many of us.
4 Thank you, Mr. Paparian.
5 Mr. Washington.
6 COMMITTEE MEMBER WASHINGTON: Very briefly.
7 Thank you, Madam Chair.
8 Let me first -- I'm remiss to an ex parte.
9 Councilman Steve Bradford from the City of Gardena. And
10 the late conversation I had with him yesterday regarding
11 their item that's on our agenda.
12 And let me just say I finally had an opportunity
13 to visit with Looney Bins. They're doing an excellent job
14 out there. I tell you, they have really stepped up to the
15 plate in terms of meeting the requirements that were set
16 forth by this Board as related to C&D regs and things of
17 that nature. They've really done a good job. So I'm glad
18 I had an opportunity to visit with Looney Bins.
19 And then I did a sneak peek over to Bradley
20 Landfill while I was down there. I didn't actually to get
21 to talk to anyone, when the guys, when I was walking
22 through there -- when I told them who I was, they started
23 throwing hats and stuff to me, but I told -- I was just
24 stopping by to say hello to them. So that was pretty
25 unique in itself.

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1 And then finally, Madam Chair, let me thank --
2 Board Member Jones and I attended the golf tournament. I
3 want to tell you guys I beat him. That's not true, he
4 couldn't even get me to play. I kind of rolled around and
5 harassed everybody.
6 It was for the Martin Luther King Junior
7 Hospital, which is in Watts. It's a hospital that's a
8 County facility that's always underfunded. So we were
9 able this year to raise about $150,000 for them at the
10 golf tournament.
11 And I thank Mr. Jones and, I mean, we just had an
12 excellent turnout for the golf tournament. And we really,
13 really appreciate him coming out and being a part of our
14 golf tournament.
15 He's a good player, too. I watched him hit that
16 ball. Man, I tell you, he does a pretty good job.
17 So with that, Madam Chair, I want to thank you
18 again, Mr. Jones, for participating. We really appreciate
19 it down in our neck of the woods helping out.
20 Thank you very much.
21 CHAIRPERSON MOULTON-PATTERSON: Thank you,
22 Mr. Washington.
23 My report will be pretty short. I attended at
24 the Governor's office, along with Mr. Leary, an emergency
25 meeting on the bark beetle problem. And we'll be hearing

1 from the Department of Forestry about that tomorrow at
2 9:30. This is something that touches practically all the
3 agencies in government.
4 Jeff Morales, Caltrans is involved. The CHP is
5 involved. Energy is involved. Dallas Jones' office of
6 Emergency Services are all involved because of the
7 potential threat.
8 And, you know, I certainly won't go into all the
9 details, because they will be giving us a very
10 comprehensive report in the morning, but I think this is
11 something we should all be aware of and want to do
12 everything we can to help out in this possible emergency
13 with the bark beetle in Southern California in the Lake
14 Arrowhead area.
15 And on a lighter note, I took my vacation to
16 Ireland and had a wonderful time. And I just did a lot
17 of, even though I was not there on official business, I
18 had to visit Guinness Brewery and the Jamison Distillery
19 and check out the recycling.
20 And I want to tell you, they're doing a great job
21 over there. They really, really take recycling seriously.
22 We just had a great time and a wonderful visit, and I feel
23 really relaxed, and it's good to be back.
24 So with that, I'll turn it over to Mr. Leary.
25 EXECUTIVE DIRECTOR LEARY: Thank you, Madam

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1 Chair. Good morning, Members.
2 Couple of items today. I'd like to continue to
3 report, as we have in the last couple of months, about our
4 great progress in regards to the Crippen cleanup.
5 The cleanup of Crippen Site continue to proceed
6 successfully. More than 94,000 tons have been removed and
7 staff now expects to complete the project by the end of
8 this week.
9 With the determination last week by the Fresno
10 Fire Department that the remaining risk of catastrophic
11 fire at the site is now negligible, we will be releasing
12 the $1 million contingency approved by the Board.
13 Our engineers project the final cost to the Board
14 will be in the neighborhood of $2.1 million, approximately
15 $500,000 less than what the Board allocated back in June.
16 The challenge of this project has been obvious,
17 and I'd like to take just a second to compliment our hard
18 working staff in completion of this effort led by Wes
19 Mindermann and See Chuan Lee for their personal efforts,
20 as well as the performance of our contractors, Guinn
21 Construction and the Brian A. Stirrat & Associates
22 company.
23 Another tire project, of course, the Sonoma --
24 not tire project, but another cleanup project -- the
25 Sonoma tire project, continues to move along. Cleanup and

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1 abatement orders have been issued to all Group 1, 2, and 3
2 tire project sites.
3 The five Group 1 landowners are making progress
4 in selecting a contractor to handle biological assessments
5 on their property, a necessary first step in the
6 compliance in completing the initial studies for CEQA
7 compliance in a critical path component for the cleanup
8 time schedule.
9 Board staff and the Southern Sonoma Resource
10 Conservation District will be holding discussions this
11 week with Sonoma County Planning Agency, assuming lead
12 agency for the purposes of completing CEQA.
13 Also, the Board staff have led the complete
14 cleanup of the Yulupa School project that the Board is
15 familiar with. As you recall, a tire playground -- tire
16 chip playground, was started on fire by an arsonist and
17 was put out successfully within an hour or so. But there
18 were the burnt tire chips to be cleaned up, and we have
19 successfully completed that cleanup. In fact, I think the
20 members were the recipients of a nice letter from
21 Dr. Field of the school district thanking us.
22 I wanted to follow up, though, Dr. Field
23 mentioned in her letter that there was -- she had heard a
24 passing comment by one of the fire department staff about
25 outlawing or issuing an advisory preventing the use of

1 tire chips in playgrounds.

2 We followed up with the management of the fire

3 department there and had some conversations with those

4 folks. And that truly was just a passing comment that

5 Dr. Field was passing on to us in writing. And in fact,

6 the fire department does not intend to issue any advisory

7 or prohibition about tire chips.

8 That problem was not a function of the playground

9 materials. It was a function of the fact that probably

10 had a young arsonist with too much time on his hands and

11 started that fire. So I want to make you aware that,

12 despite Dr. Field's brief mention of that in her letter,

13 it is not the intention of the fire department, at this

14 point, to issue the advisory.

15 CHAIRPERSON MOULTON-PATTERSON: I appreciate you

16 looking into that, because it was kind of alarming to read

17 that.

18 EXECUTIVE DIRECTOR LEARY: Absolutely.

19 I want to thank many of the members' comments in

20 regards to the tire conference, and especially Member

21 Peace and the observations you made about compliance with

22 our own principles and walking the talk.

23 Just in a few moments here since you made that

24 comment our legal staff have brought to me the terms of

25 our contracts and grants, and in fact there are four major

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1 provisions requiring waste minimization and recycled
2 product procurement and reduction of waste at conferences.
3 So we'll need to look into the specifics of that issue.
4 But in fact, that Board has endorsed these kinds of
5 concepts in all of our grants and contracts. But I
6 appreciate you bringing that to our attention.
7 I also want to thank, of course, our tire staff.
8 First of all, I want to thank the members who directly
9 participated either by their attendance or members of
10 panels. I, too, found the conference very stimulating,
11 the breadth and depth of subjects involved at the
12 conference I thought was very well done.
13 And I want to thank Jim and the tire staff for
14 putting together a stimulating three-day event. I think
15 it says much about this Board's commitments to the
16 management of waste tires when we bring the caliber of
17 people we brought to that discussion and create the
18 discussions that we had among the participants.
19 Another successful event that occurred over the
20 last couple months is seven of our school districts that
21 are participating in the environmental pilot project have
22 taken part in three implementation institutes that have
23 occurred in Los Angeles, Sacramento, and La Quinta led by
24 our staff.
25 The institutes were very successful, and I'd like

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to share some of the highlights from those institutes.

All of the districts participating had a wide mix of members. Teams included not only teachers from a variety of grade and subject areas from each district, but also principals, superintendents, custodial and facilities personnel, food service personnel, a librarian, yard duty staff, home school coordinators, curriculum coordinators, as well as local resource partners that include representatives from local jurisdictions, a hauler, a representative from a recycling center, and others.

Each team from each district worked together toward the common goal of having the presentation ready by the last day of the institute that reflected an integrated multi-disciplinary action-oriented plan they would take back to the district and share with their colleagues. These draft plans will continued to be refined and expanded and are considered the framework that ultimately will change and grow as the projects build momentum at these schools and eventually throughout the districts.

Staff observed some interesting things at the institute during the time they spent with their teams. They include the Warner School District out in San Diego team confirmed that the waste assessment and assistance provided by our staff has been very valuable to them as they pursue planning of an anaerobic digester for pig

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1 waste for an extensive composting, verma composting,
2 program at that school site.
3 Also, community partners are diving in to help.
4 For example, the City of Fresno is providing the Fresno
5 Unified School District with over 600 recycling bins via a
6 grant from the Department of Conservation.
7 Burbank Unified School District in L.A. County
8 has a strong network of community partners that have
9 expressed an interest in supporting the ambassadors to
10 ensure it becomes sustainable.
11 The district teams are also learning from each
12 other. For example, one of the science teachers from the
13 Humboldt team is interested in connecting with a Fresno
14 Unified School District science teacher regarding the
15 water-related projects.
16 The breadth of districts represented have been
17 amazing, and the huge districts like Fresno and San Juan,
18 with close to 90 schools, to small one or two school
19 districts like Warner and Oak Grove.
20 The interactions of these institutes have been
21 beneficial in both directions. Our staff have had the
22 opportunity to work with teachers who brought to the
23 institutes their enthusiasm, creativity, values,
24 professionalism and compassion. We look to build on these
25 institutes to a successful implementation of 373.

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1 And second lastly, an item really more for our
2 stakeholders. Our Administration of Finance Division is
3 currently working on with Southwest Bell Corporation to
4 develop an automated call directly system for the Board.
5 It is scheduled to go on-line about mid-October
6 and have the following features. The staff directory
7 feature that will allow callers to enter the first few
8 letters of the Board staff member's last name and be
9 connected to that person's telephone number. Eighty
10 percent of all of our calls coming into the Board
11 currently have been this kind of referral.
12 It also will allow connection to five to seven
13 programs which generate the highest volume of calls, such
14 as waste tires, used oil and solid waste facilities.
15 There will always be operator options stakeholders to use
16 when they have questions or menu options are not what they
17 are seeking, they will always be able to get to an
18 operator.
19 The program features were developed based on
20 analysis of incoming calls over the past several months
21 and call pipes to the current Board receptionist and
22 others involved in answering the Board's general number,
23 as well as options provided by SBC. The Board has the
24 ability to change specific topic and menu selections and
25 options as the program needs dictate.

1 And then lastly, building again on successful
2 meetings, I had a good discussion along with
3 representatives of our waste prevention staff and our
4 diversion staff with the University of California Office
5 of the President yesterday.
6 We were hoping to initiate new programs with UC
7 in regards to expanding their waste diversion efforts, as
8 well as the product stewardship efforts. So we look to
9 build on that new alliance.
10 So with that, members, if there are any
11 questions, I'd be happy to answer them. And that
12 concludes my report.
13 CHAIRPERSON MOULTON-PATTERSON: Thank you,
14 Mr. Leary. I don't see any questions.
15 I did want to add one thing to my report. As
16 several of the other members mentioned, the Californians
17 Against Waste reception we attended where the honorees
18 were Governor Davis, Senator Kuehl, and Assemblywoman
19 Hannah-Beth Jackson, and all very, very well-deserved
20 honors, since they've been very good to the environment.
21 But I did want to mention that Governor Davis was
22 unable to attend because he was in San Francisco at a town
23 hall meeting. So Secretary Hickox attended and
24 represented him on the Governor's behalf. And I sent out
25 an e-mail, but I went to tell you personally, Secretary

1 Hickox had some wonderful things to say about the
2 California Integrated Waste Management Board and how hard
3 our staff works and what strides we've made.
4 And I'm just so proud, as I'm sure the other
5 Board members, Ms. Peace and Mr. Paparian, that were there
6 with me, we were just really, really proud that we were a
7 part of this organization. And I just want to mention
8 this again publicly, because he just went on and on about
9 what a great job we're doing. And it's all due to our
10 staff. So thank you.
11 With that, we'll go right into the management of
12 our agenda today and tomorrow. This is a two-day meeting.
13 Item 14 has been pulled from the agenda.
14 Items 13, 15, 22, 23, 26, and 27 were heard at
15 the Committee level only.
16 Items 1, 3, 6 through 11, 17, 24 revised and 25
17 revised are on the proposed consent agenda, which we'll
18 take up in just a moment or two.
19 Items 2, 4, 5, 12, 16, 18, 19, 20 revised, 21
20 revised, 28, 29, and 30 will be heard by the full Board.
21 And we have a few time-certain items. Item 30,
22 which is a presentation on the methods to increase public
23 and community participation at Board meetings, will be
24 heard today at 1:30, I believe. And Ms. Packard, you'll
25 be leading that up. That's a really important one to all

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of us.

Item 29, as I mentioned on the Southern California tree mortality due to bark beetle infestation and related wood waste issues will be presented to us by the Department of Forestry tomorrow morning at 9:30, first thing tomorrow morning.

Item 28, consideration of the adoption of negative declaration. This is the C&D item, will be heard on day two, probably in the morning of our Board meeting. So it will be heard, C&D will be heard tomorrow.

There will be a closed session, which I'll talk to the members and see what's convenient for them, but we'll have our closed session on personnel issues tomorrow.

And I intend to get through the entire agenda today, with the exception of Items 29 and 28. And we're going to be doing those tomorrow in the closed session. But my intent is to get through everything else. So people know what to expect and what agenda item will be on what day.

And with that, again I will read the items that are proposed for consent, and we'll see if any member would like to pull an item and ask for a motion. It's Item 1, 3, 6 through 11, 17, 24 revised, and 25 revised. Are there any members that wish to pull an item? I don't

1 see any.

2 Mr. Jones.

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

4 adoption of the consent calendar as read.

5 BOARD MEMBER MEDINA: Second.

6 CHAIRPERSON MOULTON-PATTERSON: We have a motion

7 by Mr. Jones, seconded by Mr. Medina to approve to consent

8 agenda as read. Please recall the roll.

9 SECRETARY WADDELL: Jones?

10 BOARD MEMBER JONES: Aye.

11 SECRETARY WADDELL: Medina?

12 BOARD MEMBER MEDINA: Aye.

13 SECRETARY WADDELL: Paparian?

14 BOARD MEMBER PAPARIAN: Aye.

15 SECRETARY WADDELL: Peace?

16 BOARD MEMBER PEACE: Aye.

17 SECRETARY WADDELL: Moulton-Patterson?

18 CHAIRPERSON PEACE: Aye.

19 The consent agenda is approved.

20 That brings us to new business items. Before we

21 begin our agenda, Mr. Washington, would you like to give

22 an update of your committee? I know you asked Mr. Medina

23 to chair it. And I didn't know if you wanted to make a

24 comment or not.

25 COMMITTEE MEMBER WASHINGTON: Yeah. Mr. Medina

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is welcome.

CHAIRPERSON MOULTON-PATTERSON: Okay, great. Mr. Medina acted as chair.

Mr. Medina.

BOARD MEMBER MEDINA: Thank you, Madam Chair.

I'd like to report on the following in regards to Item 2, joint offering of the reuse assistant grants for fiscal year 2002/2003 and 2003/2004, enjoyed fiscal consensus of the Committee.

Item 16, consideration of grant awards for the household hazardous waste grant program, also enjoyed fiscal consensus.

Item 18, scope of work and contractor for increased use of RAC, also enjoyed fiscal consensus.

That concludes the 2, from the Budget and Admin Committee.

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

Ms. Peace, did you have any other update on your committee?

COMMITTEE MEMBER PEACE: Something very minor. Trisha Broddrick gave an update on AB 1548, the bill that requires the State Board of Education to consider including environmental education standard into the school curriculum, amongst other items. The bill has passed, and

it's on the Governor's desk ready for signature.

The committee also discussed the draft communication strategy. And the committee was in general agreement with the draft strategy. So we'll bring that up before the full Board next month, hopefully for adoption.

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

Mr. Paparian, your committee has one item to hear this month, the C&D regs. Would you like to give your report now or tomorrow when it's being heard?

BOARD MEMBER PAPARIAN: What time tomorrow?

CHAIRPERSON MOULTON-PATTERSON: Great. As I say, my intention today is to hear everything, except Items 29 and 28.

With that, we go to Sustainability and Market Development, and the chair of that committee is Mr. Jones.

Mr. Jones, your report.

BOARD MEMBER JONES: Thank you, Madam Chair.

We held our meeting on the 9th. We heard 11 items, 8 of those items were on consent. One was on fiscal consensus. There were two items that were forwarded to the full Board that we're going to hear today.

One of them is on the loan guarantee program. There was some confusion that I probably created. I

1 offered a resolution different than the staff proposal.
2 And I'm prepared to stay with that.
3 And then we have the trash bag self exemptions,
4 which is a critical item, I think, about our mandatory
5 recycled content. As members probably know, we had
6 questioned the self-exemption compliance issue a month
7 ago. The work that's been done by staff looking at
8 suppliers, as well as hearing testimony from the bag
9 manufacturers has, I think, offered some light that there,
10 in fact, are some suppliers out there that want this
11 business desperately. But I think we need to make sure
12 that our standards for melt index and some of the other
13 issues need to maybe be fine tuned so everybody knows
14 where we're at and we can move this material into the
15 marketplace.
16 That also went to the full Board, because I
17 offered a little compromise, which would require a
18 workshop with stakeholders on both sides, which I don't
19 think anybody objected to. But I was willing to deal with
20 the self-exemptions a little differently.
21 Ms. Peace offered a substitute motion which more
22 closely held to the staff recommendation, and I have asked
23 her if she would include the requirement to have that
24 working group as part of that resolution, so we can fine
25 tune those things. So I mean, I'm prepared to go along

with Ms. Peace.

So that's our report.

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

That brings us to number two, which was on fiscal consent. Ms. Wohl, you have an abbreviated report?

DEPUTY DIRECTOR WOHL: Sure.

Good morning, Madam Chair, Board members.

Agenda Item 2 is consideration of additional awards from a joint offering of the reuse assistance grant for the fiscal year 2002/2003 and 2003/2004. This item received fiscal consensus in both the sustainability and market development committee, as well as the budget and admin committee.

Staff recommends the Board approve Option 1 and adopt resolution 2003-451, which awards $250,000 for reuse grants to the passing applicants identified on the second page of the resolution.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Ms. Peace.

COMMITTEE MEMBER PEACE: I'd like to move resolution number 2003-four five one, consideration of the issuing awards for the joint offering of the reuse assistance grants for fiscal year 2002/2003 and 2003/2004.

BOARD MEMBER PAPARIAN: Second.

1 CHAIRPERSON MOULTON-PATTERSON: We have a motion
2 by Ms. Peace, second by Mr. Paparian, to approve
3 Resolution 2003-451. Without objection, please substitute
4 the previous roll call.
5 Number 4, consideration of feasibility of the
6 loan guarantee leveraging strategy and a contract concept
7 to implement such strategy using funds from the RNDV
8 revolving loan program.
9 Ms. Wohl.
10 DEPUTY DIRECTOR WOHL: Yes. As Steve Jones
11 mentioned, we did have a presentation at the committee and
12 they recommended we bring it to the full Board. So with
13 that, I'll turn it over to Jim La Tanner, who will give
14 you a brief presentation.
15 CHAIRPERSON MOULTON-PATTERSON: Mr. La Tanner.
16 (Thereupon an overhead presentation was
17 presented as follows.)
18 MR. LA TANNER: Good morning, Board members. The
19 Power Point has been revised since the Committee and
20 there's six slides that I hope to get through pretty
21 quickly.
22 Just as a summary, we're proposing to leverage
23 the loan guarantee program, because the funds in the
24 program are depleting, and we want to continue to make
25 some funds available to recycling businesses.

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We're proposing to partner with the State Loan Guarantee Program and there's a couple differences between the two. Right now, the RMDZ direct program does not leverage. We lend dollar for dollar.

Beginning November 12th we'll be charging the prime rate, but it will be fixed for the term of the loan, which are currently 10 to 15 years.

With the State Loan Guarantee Program the leverage factor is one to four, because the bank is going to make a loan and we only have to reserve 25 percent of the loan amount in the loan loss account. The bank loans are prime rate floating generally 2 to 4 percent over prime, which is currently four percent. The term of the bank loan generally is three to seven years, depending upon the useful life of the collateral. Banks do have the advantage they can take residential property as collateral, which our program does not currently allow, and banks can also have the staffing expertise to do construction projects, which we currently do not have.

--o0o--

MR. LA TANNER: We're proposing to utilize 2,250,000 of Board funds, leveraged four times would allow $9 million in guaranteed portion of bank loans, plus banks would have a unguaranteed portion of a million, so this option would make 10 million available to recycling

1 businesses using only 2.25 of the loan funds.

2 --o0o--

3 MR. LA TANNER: There's three options that were

4 sort of discussed at the committee. Option 1 is staff's

5 recommendation to continue to try to make 10 million

6 available. Of that 10 million allocated for this year,

7 the Board has already approved 5,657,000 at the August

8 board meeting, which leaves 4,342,000 available today. Of

9 that, staff's recommendation is to use a million eight,

10 plus 500,000 of that we believe is available in a C&P line

11 item.

12 So if we implemented the strategy under staff's

13 recommendation, there would only remain two million four

14 available for loans this year.

15 Another option is we have an interagency

16 agreement with the Treasurer's office on a leveraging

17 opportunity for a loan default insurance program. We gave

18 the Treasurer's office $500,000 that's in a savings

19 account that has a current balance of 525,000. That

20 occurred in the year 2000.

21 There's only been two instances where a recycling

22 business has taken advantage of that leveraging

23 opportunity. We do have the option with the 30- or

24 60-days' notice to pull the money back if the Board

25 decides to cancel that contract. If we did bring it back,

that would make two million nine available for direct loans this year.

The third option was discussed in committee of the four million three currently available to fund all of it out of the 10 billion that we have. But at committee, then, that would leave a million nine for direct loans. The committee direction was, perhaps, cap the loans at a million three.

--o0o--

MR. LA TANNER: We do have in the RMDZ sub-account a line item for C&P services. In statute 42023.1 pretty much directs the funds be used for RMDZ uses.

--o0o--

MR. LA TANNER: In that C&P line item in the state budget there's allocated a million thirty-four. This is a summary of existing and proposed contract concepts for direct RMDZ uses, which would leave 67,000 available if the Board decided to pull 500,000 out of that line.

--o0o--

MR. LA TANNER: The staff's recommendation is to approve a revised resolution to have us go forward and do regs. Approve a contract concept to allocate the money for the item, and item C is we would revise the resolution

1 and we have sample language for three different ways. It
2 depends upon how the Board wants to fund the item if it
3 passes today.
4 That concludes my presentation. I would open up
5 to Board questions.
6 CHAIRPERSON MOULTON-PATTERSON: Any questions
7 before we have a speaker? Any questions? Okay.
8 Thank you, Mr. La Tanner -- I'm sorry. See, when
9 I'm looking at my screen, I don't see your questions. I
10 apologize, because I like you to use that.
11 Mr. Paparian.
12 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
13 Just a couple quick things.
14 The staff recommendation -- I did sit in the
15 audience at the committee hearing to try to understand
16 this. The staff recommendation is still to take 500,000
17 from our contracting and professional service.
18 MR. LA TANNER: That is correct.
19 BOARD MEMBER PAPARIAN: Because I know some of
20 the committee members that the point, I think, raised some
21 questions about that, and I have a question also. But
22 kind of jumping the gun on C&P before we see the whole
23 picture about what might be available and what we might
24 want to spend C&P on.
25 My other question, we have correspondence from

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1 the zone administrators -- we're probably going to hear
2 from them in a second. It sounds like you haven't yet
3 come to a meeting of the minds on this proposal. Is
4 that --
5 MR. LA TANNER: That is correct.
6 BOARD MEMBER PAPARIAN: What would you say is the
7 major difference between our staff and the RMDZ zone
8 administrators at this point?
9 MR. LA TANNER: The agenda items are not made
10 public to the -- and so, like four days before the
11 committee. So for them to poll 40 zone administrators and
12 get a consensus as to which direction you want to go,
13 there was not sufficient time.
14 The other concern is whether you want to make
15 direct loans, which we currently have four million three
16 available at the current rate of 1.9, or do you want to
17 reserve part of that money and make 10 million available
18 in bank loans?
19 It is a pretty complicated leveraging option and
20 it's difficult to understand, and what's not in the agenda
21 item is the larger picture of what's the future of the
22 loan program. Perhaps with the bulk loan sale or forward
23 loan sale that have not been brought forth to the Board
24 yet.
25 BOARD MEMBER PAPARIAN: You're still having

1 ongoing -- I after the committee meeting you were having
2 an intense conversation with the zone administrators --
3 are you still having conversations with them about how
4 this is all working and what the difference are?
5 MR. LA TANNER: Yeah. But there wasn't much time
6 after the committee until now.
7 Steve Lautze, the head of the CA RMDZ is here to
8 speak on that.
9 CHAIRPERSON MOULTON-PATTERSON: Thank you.
10 Mr. Jones.
11 BOARD MEMBER JONES: Madam Chair, just a couple
12 of things.
13 This proposal has been part of a three-piece
14 proposal that this Board actually heard and agreed to.
15 We're looking at individual loan sales, which
16 hasn't happened yet. We're looking at a bulk loan sale,
17 which we had discussion about, as far as raising $30
18 million that could be used, not only in loan guarantees,
19 but in some other leveraging options.
20 The issue came up, we were pretty straightforward
21 about it. We're worried about a sweep. We've had
22 discussions with the Governor's office to see what the
23 likelihood would be and we're pretty -- it was pretty
24 clear that would not be where we would get attacked from.
25 It was the Legislature.

1 So I think that part of the letter from RMDZ --
2 CA RMDZ misunderstood that. We do have the opportunity, I
3 think, to think through how we could do the major loan
4 sale, but we need these three pieces. There are
5 unbankable folks out there that are having a hard time,
6 and bankable folks that with our guarantee they have the
7 opportunity to borrow money, and there's $10 million
8 available through this. That's why I think it makes
9 sense.
10 I did make the -- I have no problem with cutting
11 loose the 500,000 on C&P as part of that. I did have a
12 major problem with that coming out of the blue at a
13 committee meeting, because I think that our executive
14 director and the Board needs to know. I mean, this C&P
15 money is money that we direct as a Board as to where it
16 needs to go.
17 Now there are certain prohibitions on those
18 dollars that they can only go to certain things. So, you
19 know, I probably am going to have a problem with using C&P
20 as part of this, but I still want to limit the amount of
21 loans. We've given almost $6 million in loans this year.
22 We have the ability to do another 10. I was suggesting we
23 cap it at 1.3 million for the rest of this year in direct
24 loans. That will leave some money for next year, and it
25 also leaves some money if we're able to do the loan sale.

1 So as far as the concerns and the requests to
2 delay, these discussions have been flushed out by me and
3 others with CA RMDZ. We don't agree, and that's part have
4 life, you know. But I think it's clear that these three
5 options have always been what's been on the table. And
6 what is previously been approved by this Board.
7 CHAIRPERSON PEACE: Thank you, Mr. Jones.
8 Mr. Steve Lautze of the California Association of
9 RMDZs. Good morning.
10 Thank you, Madam Chair. Good morning to you and
11 to members of the Waste Board.
12 I'm Steve Lautze, the President of the California
13 Association of RMDZs. We are 40 zones around the state
14 that are in the field implementing the program in tandem
15 with the staff in Sacramento, including the loan program
16 but also other types of business assistance to recycled
17 manufacturers and processors.
18 I trust that you got my letter. It only came in
19 yesterday from the Association, and I know that at least
20 three of the other members of our association have
21 communicated with you all on this matter and their
22 differences from staff recommendation.
23 One year ago at the September 2002 Board meeting
24 this Board directed staff to execute a bulk loan sale to
25 recapitalize the RMDZ loan fund and to report back to this

1 Board on legality and feasibility of the loan guarantee
2 program.
3 Since then, in our minds, inconsistent with the
4 Board September '02 directive, Board and staff have
5 instead apparently reached a collective conclusion that a
6 bulk loan sale is not feasible. And in the item before
7 you today, staff propose to aggressively implement a loan
8 guarantee program without, in our minds, sufficiently
9 assessing its feasibility.
10 That is what we are asking the Board to discuss
11 and correct today, or if you choose to continue the item
12 to next month's Board meeting to defer until October.
13 We think our proposed alternative that's
14 contained in our letter -- proposed alternative
15 implementation plan for the loan guarantee element is
16 superior to the staff proposal. Number one, it allows the
17 same amount of time to develop the necessary regulations
18 which staff said at the Committee will take a minimum of
19 four months. And I know you all know it could take longer
20 than that.
21 Unlike the staff proposal, our proposal would not
22 disrupt current direct loan activities. The modest delay
23 in the RMDZ maintains the credibility of the Board and the
24 effected zones on roughly $4 1/2 million worth of pending
25 direct loan applications. We are fully aware that in this

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1 scenario the direct loan fund may well run out of funds
2 before the end of this fiscal year, but we feel it's
3 critical rather than jump into the loan guarantee at this
4 point that we continue to maintain and offer the funds
5 allocated this fiscal year for direct loans for that
6 purpose.
7 Number three, our alternative allows more time
8 for coordinated marketing activities of the FDC's. The
9 financial development corporations to the private banks
10 and between FDC's own administrators and board staff to
11 recycling-based businesses.
12 Finally, it allows a slightly longer but
13 strategically critical amount of time for the CA RMDZ to
14 work with key members of the Legislature to protect
15 proceeds of a bulk loan sale from confiscation, so that
16 such funds can be used to recapitalize the RMDZ's direct
17 loan fund over the two fiscal years before the current
18 statutory sunset dates of 6/30/06.
19 Simultaneous with this effort to execute a bulk
20 loan sale and protect the proceeds, the CA RMDZ will be
21 working on legislation to secure longer-term funding for
22 the program and extend the sunset.
23 Critical to our thesis here is that the loan
24 guarantee will be much better for the program if it is
25 truly a secondary option to a well-funded and continuing

1 direct loan program, compared to the scenario in the staff
2 report, which effectively replaces the direct loan program
3 with the loan guarantee within two years.
4 We're convinced the latter strategy will
5 virtually kill the program, since the relatively small
6 universe of past and prospective borrowers will look at
7 the terms of the loan guarantee and walk away, and they
8 will tell others that the program is on life support.
9 At the heart of this is really the comparison
10 between the loan products. Right now we're offering a
11 maximum of $2 million for up to ten years, or 15 years on
12 real estate through the direct loan program, funding 75
13 percent of the project.
14 Under the loan guarantee, the maximum would go
15 from 2 million to 500,000. It would go -- the term of the
16 loans would go from 10 to 3 to 7 years. That term would
17 effectively eliminate real estate loans. So it would be a
18 very different look to the program on a very quick
19 turnaround, if you act today.
20 Also, before the Board commits to a particular
21 dollar level of investment in the loan guarantee, the CA
22 RMDZ feels there should be a formal assessment of the
23 demand for this type of product, since it will be quite
24 different than the product offered in the direct loan
25 program.

1 It may also surprise the Board that the CA RMDZ's
2 position is that, if we are faced with the choice of
3 running the program for only two more years at capacity or
4 quote un quote stretching remaining dollars at lower
5 levels over more years, we vastly prefer the former,
6 loaning more via the direct loan program over fewer years,
7 because we feel that as we're working with the
8 entrepreneurs we will remain consistent and we will have
9 continuity.
10 I'm wrapping up.
11 Of course, our overall preference is to secure
12 long-term funding to keep the program alive and well
13 beyond the current sunset date of June 30th, 2006.
14 In closing, the CA RMDZ and the ZAs around the
15 state are critical partners in the program. We are united
16 and feel strongly on this issue that choosing the option
17 in the staff report is not feasible, and would actually do
18 damage to the loan program. We ask the Board instead to
19 select the comprehensive alternative we have proposed.
20 If the Board is uncertain which of the options to
21 choose, we ask that the item be continued until the
22 October meeting.
23 Thank you, Mr. Lautze.
24 Any questions for Mr. Lautze?
25 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

1 COMMITTEE MEMBER WASHINGTON: Not so much for
2 Mr. Lautze, Madam Chair, but for the Board.
3 CHAIRPERSON MOULTON-PATTERSON: Thank you.
4 COMMITTEE MEMBER WASHINGTON: I think that the
5 administrators raise a great point here. They are
6 partnered in this program.
7 I guess the first question to staff will be do we
8 have to take this up today? Where is Mr. La Tanner? Is
9 this something that we have to do today?
10 MR. LA TANNER: No. It's not something that we
11 have to do today. It could be deferred.
12 You know, we started this last September. The
13 FDC's are all excited about this leveraging option.
14 They're sort of dismayed it has taken a year to get to
15 this point and it's still another month or so to be
16 raised.
17 COMMITTEE MEMBER WASHINGTON: The reason I raise
18 that concern, I think a great comment you made about the
19 zone administrator's concern as it relates to having
20 enough time to prepare themselves to address these issues
21 that come before the Board.
22 They're given four days before a Board meeting
23 when the item is coming up. Things of that nature, I
24 think, are important issues when you're talking about
25 stakeholders and partners in a program like this. And to

1 take it up with the type of issues that the chairman,
2 president, whatever his title may be, and I apologize for
3 not knowing the exact title.
4 I think it is a critical concern and a number of
5 issues, Madam Chair, that they have raised. I just want
6 to make sure we're giving them every opportunity. And I
7 know you guys have been working on it since September, on
8 this particular item. But there have been a number of
9 items I see come before this Board that you've been
10 working years on.
11 So for me, just to get enough opportunity to try
12 to bring their minds together to address these concerns, I
13 don't believe it would hurt, if this is not an issue that
14 has to be raised. That's my concern, Madam Chair, as it
15 relates to this particular issue.
16 CHAIRPERSON MOULTON-PATTERSON: Thank you,
17 Mr. Washington.
18 DEPUTY DIRECTOR WOHL: Madam Chair, may I make a
19 comment?
20 CHAIRPERSON MOULTON-PATTERSON: Ms. Wohl.
21 DEPUTY DIRECTOR WOHL: I'd just like to add a
22 couple things. We have been working with the zone
23 administrators for some time on this issue. The issue of
24 availability was the actual item, you know, we'd like to
25 make sure that the Board members see that item before it's

given out.

That doesn't mean we haven't been talking to them about our recommendations or where we're heading in that item, but we did not give them the actual item.

COMMITTEE MEMBER WASHINGTON: So you have been talking to them about this issue.

DEPUTY DIRECTOR WOHL: There's been a lot of cross talk. Here's my only issue you should be aware of. If you hold this over, there's the potential for more loans to be approved and come forward, and then that money starts to diminish. And, as you know, last month we brought in, or the month before, $5.6 million.

So there is the potential that there's $4.3 million left in that account, and that at one point in time all of those loan applications could become complete and be approved and we'd bring them to the Board, and therefore that money would not be available for this option.

So you just need to be aware that's the risk you take.

COMMITTEE MEMBER WASHINGTON: I appreciate that, Madam Chair. Again, I raised that because I didn't know there had been communication regarding these particular issues. I thought we come up with an idea, and four days before the Board meeting that the zone administrators get

1 this particular item, and they just -- well, we don't have
2 enough time to respond to it, and that's why I raise the
3 level of concern I had.
4 If that's not the case, then I think we should
5 move forward.
6 CHAIRPERSON MOULTON-PATTERSON: Thank you,
7 Mr. Washington.
8 Mr. Jones.
9 And thank you, Ms. Wohl, for clarifying that.
10 BOARD MEMBER JONES: Thank you, Madam Chair.
11 Just to further clarify it. The Chair and I were
12 asked by the Board to work on all these issues. This
13 group, our zone administrators have been at the table the
14 whole time. They didn't agree with what we want to do.
15 But we're looking it as the total program, because the
16 option that they're asking for, the loan, all the money
17 means once we loan that 4 million, we don't have any more
18 money.
19 We get $5 million next year in interest payments
20 and principle and that's it. What this option does is
21 allows us to take a portion of that money and have the
22 ability to lend $10 million, and what we'll continue to do
23 is work on the individual loan sale.
24 We have always wanted to do a bulk loan sale and
25 I've reported to all the Board members the fear of how we

do that so it didn't get swept, because that would kill the program. We haven't abandoned that. You know as well as I do, I mean, I reported at the meeting.

We're trying to figure out a way -- I talked to the members, I don't know, Madam Chair, what -- about when the budget issues start hitting real hard that we needed to hold off on the loan sale at that point until we had a clearer picture, because we could have gone out that day with Board approval and done a loan sale. And had that $30 million swept, and we would have zero program today.

So, while this isn't the best of all worlds, it is a piece of three pieces that are critical to the ultimate livelihood of this program, and it is an important program.

I think everybody got a copy of the article in the L.A. Times from one of our recipients who was discouraged about certain issues within the state of California, but talked about how one shining light was the Integrated Waste Management Board, its staff, and what they did through the RMDZ program.

I mean that was -- it turned that whole article to a positive. So, you know, clearly between the zone administrators and our staff, and I think, truth be known, I think the majority of the loan leads are probably cultivated through calls to the Integrated Waste

1 Management Board that are turned over to zone
2 administrators.
3 Irregardless of where the loan comes from, it's a
4 collaborative measure. These folks work hard. Some are
5 successful in getting loans. Others, you know, it's the
6 last of 30 jobs they do.
7 This program is going to help us keep this thing
8 alive. So -- and this is not a new program to this group.
9 They've been part of these discussions for two years.
10 CHAIRPERSON MOULTON-PATTERSON: Thank you,
11 Mr. Jones.
12 Ms. Peace, and then Mr. Medina, and then
13 Mr. Paparian.
14 COMMITTEE MEMBER PEACE: We do need to keep -- we
15 do need this loan leveraging plan to keep our lending
16 program going. Our staff has done an excellent job of
17 assessing the feasibility of this plan.
18 I think staff's recommendation will have the
19 least disruption to the current loan activities and be
20 able to keep loaning the amount of money we'd like to loan
21 in the future and keep this going.
22 Mr. Lautze's concern that there might not be
23 enough demand for this new product, from what I
24 understand, if that's the case, we can pull some of the
25 money back; is that correct?

1 DEPUTY DIRECTOR WOHL: That's correct.
2 COMMITTEE MEMBER PEACE: Thank you.
3 CHAIRPERSON MOULTON-PATTERSON: Thank you.
4 Mr. Medina.
5 BOARD MEMBER MEDINA: Thank you, Madam Chair.
6 My question was also based in regard to the issue
7 of whether there would be adequate demand for the loan
8 guarantee program, so I'd like to ask Mr. Lautze to
9 address their concerns in regard to whether there would be
10 an adequate demand.
11 MR. LAUTZE: Thank you.
12 The central point there is how different the
13 products are and how quickly the loan guarantee program
14 would first, come equal, and then basically take over for
15 the direct loan program.
16 The parameters that have been in the field for
17 these loans for years have been direct loans from the
18 Board, up to 75 percent of a project can be funded.
19 Typically, a 10-year term, 15 years for real estate, and
20 also a very patient attitude towards working capital.
21 Forty percent of the portfolio for RMDZ loans for
22 40 percent of the loans or 40 percent of the uses of the
23 loans in the portfolio is for working capital that
24 effectively can be financed over 10 years.
25 The product for the loan guarantee through the

1 FDC's by comparison would be maximum loan $500,000. Term
2 instead of 10 or 15 years, 3 to 7. Maximum loan on
3 working capital, one year versus 10.
4 So you see that -- and then you have to go
5 through a bank, rather than through the loan committee,
6 which at this agency would just focus on and has technical
7 expertise in recycling-based businesses.
8 So, in our opinion the difference between the
9 product, and we're not going to be marketing these
10 products to a whole new set of customers. The set of
11 customers for RMDZ, recycling-based manufacturers, is a
12 relatively small universe in California. So they're going
13 to look at this product as coming on the product in
14 spring and say, "This changes everything. It's a totally
15 different program. Why did they do that?"
16 That is why we are not saying do not do the loan
17 guarantee. We are talking about when you do it and how
18 you do it in tandem with the direct loan program, and
19 suggesting that doing it July 1st would be better.
20 CHAIRPERSON MOULTON-PATTERSON: Thank you,
21 Mr. Lautze.
22 Mr. Paparian.
23 BOARD MEMBER PAPARIAN: Yeah. Thank you, Madam
24 Chair.
25 First of all, I don't want to lose sight of the

1 contracting professional services item. As I understand
2 it, we have not yet allocated our contracting professional
3 services for the range of programs across all the visions
4 in the Board yet this year. And that you probably can
5 anticipate my question, but I'm going to ask if you could
6 just give me a ballpark figure of what the overall pool
7 will be for contracting professional services.
8 DEPUTY DIRECTOR JORDAN: Terry Jordan with the
9 Administration and Finance Division.
10 Yes, Mr. Paparian, as I reported at the Budget
11 and Administration Committee meeting last week, we have
12 not solicited for contract concepts through the normal
13 annual process, simply because of our, for lack of a
14 better word, lag with regards to what we are anticipating
15 as a deficit this year. We're looking at all aspects and
16 how to make up that deficit.
17 With regards to the RMDZ, typically we bring
18 forward to the Board Integrate Waste Management account
19 concepts. And in this package it will contain mandatory
20 services contracts, and we do an analysis of what actual
21 costs should be and is there anything left in the previous
22 year's contracts so that the current year could be a
23 lesser cost, therefore putting more money into the
24 discretionary area.
25 Also, we look at the direct implementation for

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1 the recycling market development zone loan program. There
2 is a statute in the ERC that requires that the
3 administrative costs be funded through the appropriation
4 prior to 1998 that was set at 1,034,000. It precedes
5 myself and my staff. We don't know how that number came
6 about.
7 However, those funds have always been reported
8 within the package for IWMA. The Board has more or less
9 approved the entire package when they approved the
10 concepts, so the things that come forward from the one
11 million thirty-four to the Board have been something
12 outside of the mandatory.
13 Jim -- Mr. La Tanner had put up a chart that
14 reflected several different contracts, and of those three
15 of those contracts were mandatory. The remaining
16 contracts, there were four that were discretionary and the
17 Board has previously approved three of those.
18 One is for the recycled product trade show, one
19 is for economic gardening, and one is for the outside loan
20 servicing. The current -- the fourth one is the current
21 leveraging contract piece for $500,000.
22 There are two other areas in there called the
23 administrative services for 30,000. That is costs that
24 are not contractual that are daily costs that support the
25 program. And, in addition to that, there is the

1 unallocated balance, which is 67,000.

2 So as far as a package coming forward to the

3 Board that includes this RMDZ, they have typically brought

4 forward the individual ones out of a million thirty-four,

5 because the other ones had been either approved by the

6 Board or in mandatory.

7 As far as the IWMA is concerned, this year we

8 have a budget of approximately $272,000. And the reason

9 we have not brought it forward yet is simply for the fact

10 that we have been awaiting word from the administration on

11 the 12 percent issues, because we're looking at trying to

12 offset costs where we can. Obviously, we reported we've

13 been trying to mitigate layoffs.

14 We also have a lot of OE&E that we're going to

15 need to redirect to help make up for costs if the

16 administration takes the funds back to July 1st, which has

17 been what their direction has been thus far. We're hoping

18 that they don't do that.

19 BOARD MEMBER PAPARIAN: So, to be clear on this

20 500,000, I'm not sure -- let me see if this is correct. I

21 think what you're saying is it doesn't compete with other

22 contracting and professional services dollars.

23 DEPUTY DIRECTOR JORDAN: No, it doesn't. The

24 IWMA is separate. These come forward in that package.

25 BOARD MEMBER PAPARIAN: So normally this would

1 come forward in a package of items related to RMDZ --
2 DEPUTY DIRECTOR JORDAN: Within the IWMA
3 concepts.
4 BOARD MEMBER PAPARIAN: -- RMDZ concept. So we
5 would be jumping the gun a little bit in terms of using
6 RMDZ contract concepts. Normally we would get it as a
7 package. Here it might be considered more of a piecemeal.
8 DEPUTY DIRECTOR JORDAN: I guess my reaction to
9 that would be that when it comes to you in the package for
10 IWMA, it comes as informational, because it's always been
11 considered that PRC was very specific to the
12 administrative cost of the loan program. Where they
13 weren't mandatory contracts, they were brought forward on
14 an individual basis. They were shown as proposed, but
15 brought to you on an individual basis.
16 BOARD MEMBER PAPARIAN: Thanks.
17 My other -- again, Madam Chair, my other concern
18 is that the RMDZ administrators are our critical partners
19 in this program. I'm concerned that we have such a
20 departure from consensus here. And maybe, Mr. Lautze, if
21 you could just -- I mean, it was suggested that this is
22 just a difference of opinion, that you have been involved
23 in the development of all of this and there's a difference
24 of opinion. And that maybe it's insurmountable difference
25 of opinion, or is there something where more discussion

1 would actually help over the next month if we gave you an
2 extra month?
3 MR. LAUTZE: I think that it's a significant
4 difference of opinion. I don't think it's an
5 insurmountable difference of opinion, and I would like to
6 just affirm, clarify that we have been involved in
7 discussion of leveraging options. I'm not disputing that
8 with Mr. Jones in any way.
9 And, as our letter to the committee said, we are
10 not opposing the idea of instituting a loan guarantee
11 program. What we are opposing is how and when. And it is
12 accurate, it's precisely accurate to say we had four days
13 to evaluate this precise proposal.
14 We had a workshop with staff in April of this
15 year. It was a very productive workshop, with
16 Jim La Tanner and his staff talking about the loan
17 guarantee among the range of various options.
18 We requested and received nothing in writing
19 since April until four days before the hearing about how
20 specifically the loan guarantee would be implemented. And
21 that really is all we're arguing with in our position is
22 how and when it is implemented, not whether or not the
23 loan guarantee is utilized.
24 CHAIRPERSON PEACE: Thank you, Mr. Lautze.
25 BOARD MEMBER PAPARIAN: Madam Chair, I'm sorry.

1 If we gave -- just for our staff -- if we gave an
2 extra month, could there be more of a meeting of the minds
3 on that issue, or are you feeling pretty strongly -- I'm
4 asking our staff -- are you feeling pretty strongly that
5 we would see the exact same proposal in a month?
6 MR. LA TANNER: If we waited one more month, what
7 could happen is a discussion between staff and the CA
8 RMDZ. This agenda item presents more of the details as
9 how we plan to implement it than the ZAs were aware of.
10 They were not aware of last April.
11 I would say though, that last year in August and
12 September we brought forth two leveraging agenda items
13 which spelled out a lot of the detail as to how much money
14 we were going to put into this program. Last year I
15 proposed 3.5 million to put into the loan leveraging and
16 I backed down to 2.25.
17 But what -- if you defer this, what the Board has
18 to consider is how much do you want available for the
19 next, for the loans that we're currently processing. You
20 have to make that decision today, because we have three
21 aps in house that may or may not come to the Board. They
22 will probably come to the October Board meeting, and to be
23 fair to those applicants, we'd like to tell them either
24 there's 4.2 million available or there's 1.3 or some other
25 figure.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you,
2 Mr. La Tanner. I just want to say in my four years on the
3 Board we have strongly supported the RMDZ program and I
4 certainly want to continue so. However, I support the
5 staff recommendation. I support moving on it today.
6 And I'll be looking for a motion, Mr. Jones.
7 BOARD MEMBER JONES: Madam Chair, I appreciate
8 that. And I do appreciate all your work on this very
9 complicated issue. I don't think it's a matter of time
10 healing anything. There's nothing to heal. This is a
11 timely issue about when we have money available and when
12 we don't.
13 I want to a move adoption of Resolution 2000 --
14 COMMITTEE MEMBER WASHINGTON: Madam Chair, just
15 before Mr. Jones do his motion, the comment was again just
16 made by staff that, yeah, we had discussions in April, but
17 the zone administrator didn't know about this particular
18 item in the information -- the staff just said it,
19 Mr. Jones.
20 BOARD MEMBER JONES: No, he said we had to
21 complete discussion about the whole thing. It was the
22 actual printup of this they didn't get until four days
23 ago.
24 COMMITTEE MEMBER WASHINGTON: Mr. La Tanner, can
25 you come back to the mic?

1 BOARD MEMBER JONES: He didn't get until four
2 days ago.
3 COMMITTEE MEMBER WASHINGTON: Did the zone
4 administrators know about this item prior to the four days
5 of them receiving it?
6 MR. LA TANNER: Yes, we -- at the April 4 --
7 April 8th workshop we discussed this item and most of this
8 content was in the agenda item last year.
9 COMMITTEE MEMBER WASHINGTON: But the form of the
10 agenda item, did they know prior to the four days that
11 this would be on the agenda?
12 MR. LA TANNER: No, agenda items are not
13 available to the public until four days before this
14 committee.
15 COMMITTEE MEMBER WASHINGTON: Again, I just raise
16 the concern -- these are supposed to be partners of ours,
17 that's what I'm trying to get to. If they're supposed to
18 be partners of ours, then they should be provided this
19 information saying this is the item that will be going
20 before our Board. I mean, they can know prior to coming
21 before the Board; is that correct?
22 MR. LA TANNER: We've had discussions with them,
23 but the agenda --
24 COMMITTEE MEMBER WASHINGTON: It was in April;
25 right?

1 MR. LA TANNER: Most of this information was
2 presented in April, but not this level of detail.
3 CHAIRPERSON MOULTON-PATTERSON: Thank you,
4 Mr. Washington.
5 Mr. Jones.
6 BOARD MEMBER JONES: Madam Chair, I'll move
7 adoption of Resolution 2003-454, consideration of the
8 feasibility of the loan guarantee leveraging strategy and
9 contract concept to implement such a strategy using funds
10 from the RMDZ revolving loan program, revised to include
11 Option 1. But instead of C&P, can we use the Cal Cap
12 dollars.
13 Somebody?
14 DEPUTY DIRECTOR WOHL: Sure. That's an option.
15 We'd have to cancel that contract and --
16 BOARD MEMBER JONES: Okay. C&P then, that's
17 fine. We'll go with staff recommendation.
18 CHAIRPERSON MOULTON-PATTERSON: Go ahead,
19 Ms. Peace.
20 COMMITTEE MEMBER PEACE: Second.
21 CHAIRPERSON MOULTON-PATTERSON: We have a motion
22 by Mr. Jones, seconded by Ms. Peace, to approve Resolution
23 2003-454.
24 Please call the roll.
25 SECRETARY WADDELL: Jones?

COMMITTEE MEMBER JONES: Aye.

SECRETARY WADDELL: Medina?

BOARD MEMBER MEDINA: I haven't voted yet.

And I have to vote no, only because I feel that when you do have a partnership with the recycling market development zone, even though I found Board Member Jones and Patty Wohl's remarks to be very valid, very germane.

Nonetheless, when you do have -- when you are working in collaboration with the California recycling market development zones, I feel the least we can do is to give them extra time if they so require. And I don't think a month is particularly unreasonable.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Continue.

SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: I'm going to pass for right now.

SECRETARY WADDELL: Washington?

COMMITTEE MEMBER WASHINGTON: No.

SECRETARY WADDELL: Moulton-Patterson?

CHAIRPERSON MOULTON-PATTERSON: Aye.

SECRETARY WADDELL: Peace?

COMMITTEE MEMBER PEACE: Aye.

BOARD MEMBER PAPARIAN: Madam Chair, I wonder if we could continue this until after the break. I would

like to get some information from both the parties before I cast my vote.

CHAIRPERSON MOULTON-PATTERSON: Well, I wasn't really planning on having a break right now. But if you're not willing to vote.

BOARD MEMBER PAPARIAN: Can we put this on call for a little bit?

CHAIRPERSON MOULTON-PATTERSON: Okay. I'll put it on call, but I do hope that we can get our completed vote today.

Okay. Next item.

We're going to be moving along, because we're going to finish these items today.

Number 5.

DEPUTY DIRECTOR WOHL: Agenda Item 5, consideration of plastic trash bag manufacturers' request for exemption for inability to obtain sufficient quality or quantity of recycled plastic postconsumer material to demonstrate compliance with the plastic trash bag law for the 2002 reporting period for the following companies: Pactiv Corporation, Poly-America, LP, The Clorox Company, and Trans Western Polymers, Inc.

And Mike Leaon will present.

MR. LEAON: Thank you, Patty.

CHAIRPERSON MOULTON-PATTERSON: Good morning.

(Thereupon an overhead presentation was presented as follows.)

MR. LEAON: Good morning, Madam Chair and Board members.

To begin with, I'll talk about what is the basis for an exemption.

What we require from the trash bag manufacturers when they request recycled content of the law is that they demonstrate that there was a lack of actual postconsumer material available that met specified quality standards.

In addition, they also need to demonstrate that they made reasonable efforts to find suppliers, obtain samples from those suppliers, talk to suppliers about their quality standards, test those samples submitted by the suppliers, follow up with those suppliers if there are problems with that quality of that material and attempt to resolve those quality problems, and then fully document that they had established a working relationship with those suppliers.

--o0o--

MR. LEAON: For 2002, we had four exemption requests from Clorox, Trans Western Polymers, Poly-America, and Pactiv Corporation.

At its August 2002 meeting the board directed staff to confirm that indeed manufacturers had made those

1 reasonable efforts to obtain postconsumer material.

2 --o0o--

3 MR. LEAON: In talking with the trash bag

4 manufacturers, they cited a number of reasons why they

5 were not able to obtain the material. These being that

6 there were fewer suppliers in business in 2002, that the

7 Board's published supplier list on our website, which they

8 were relying upon, was out of date.

9 In addition, that there was insufficient

10 collection of the linear low density polyethylene

11 feedstock they use in the manufacture of trash bags. And

12 furthermore, available supplies of LLDPE were going to

13 other markets, principally plastic, lumber and export.

14 In addition, they said that suppliers lacked

15 capacity to meet their orders. And furthermore, that

16 their customer specifications, their end users, the

17 retailers were setting specifications for color and

18 strength that were making it more difficult for them to

19 use postconsumer material and meet those specifications.

20 --o0o--

21 MR. LEAON: Staff wanted to follow up with the

22 suppliers to substantiate what the manufacturers had

23 reported, and what we found out from suppliers when we

24 talked to them was that, first of all, that the price for

25 their material had to come under the price of virgin

1 resin, and due to price fluctuations in virgin resin, it
2 may or may not be under that price. That's not always the
3 case.
4 In addition, which concerned staff greatly,
5 suppliers have reported to us that they were not getting
6 their phone calls returned when they contacted
7 manufacturers about samples they had submitted. They
8 couldn't get feedback on the quality standards and how
9 their material had failed to meet those quality standards.
10 And furthermore, when it looked like the material would be
11 acceptable, potential purchase orders either did not
12 materialize or were not completed. So I think what this
13 substantiates is that there was insufficient feedback from
14 the manufacturers, and they didn't establish an effective
15 working relationship with suppliers.
16 --o0o--
17 MR. LEAON: I did also want to respond to some
18 issues that were raised at the Committee hearing.
19 The first two bullets there are somewhat
20 interrelated. We heard testimony that staff is holding
21 the manufacturers to a new standard of review this year
22 and that they were not given adequate notice that we were
23 going to be doing this.
24 I have to report that it is not a new standard of
25 review. We are holding the trash bag manufacturers to

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1 what is the law, what is required in statute and
2 regulation, and we reviewed their request for an exemption
3 against those requirements.
4 In addition, in looking at the exemptions -- we
5 had four this year as opposed to years past where we only
6 had two -- and looking at the amount of materials that
7 those manufacturers have been using it has been steadily
8 on the decline, and we felt there was an a additional
9 reason to make sure those exemption met the legal
10 standards for being approved by the Board.
11 Talking more to the issue on the notice, the
12 notice for this, which was mailed last or early January,
13 made it clear that we would be reviewing all
14 certifications and that we required complete
15 certifications to be submitted. That includes exemption
16 that would have to fully comply with what was required
17 under the law.
18 We also heard testimony that interested parties
19 meetings there was discussion on the white paper issue,
20 and how perhaps there's better ways of achieving recycled
21 content in plastics rather than through these laws.
22 But staff made it very clear through these
23 meetings that until this law was replaced and as long as
24 this law was on the books, we would be enforcing the
25 requirements under our program.

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1 Concerning suppliers not contacting
2 manufacturers -- again we heard from suppliers that they
3 have attempted to contact suppliers. Often their calls
4 aren't returned. When they did succeed in getting samples
5 submitted, they weren't given adequate followup concerning
6 quality problems with their material. And also that when
7 it appeared that their material did meet quality
8 standards, the expected purchase orders did not
9 materialize.
10 Concerning the issue that there is no material
11 available -- some of the suppliers we talked to indicated
12 they were more than willing to increase production
13 capacity and had the ability to do that. But they were
14 looking for a commitment from the manufacturers to use the
15 material, and a commitment from the manufacturers to make
16 a real effort at resolving quality issues.
17 In fact, in the certifications that we had
18 received, several of the suppliers were able to provide a
19 thousand tons of materials for manufacturers that are in
20 compliance with the law.
21 Finally on the outdated Board suppliers list --
22 staff did an excellent job on reviewing that list,
23 contacting the companies. We now have a current list that
24 identifies 25 suppliers with linear low density
25 polyethylene, and an additional eight suppliers with low

1 density polyethylene. And we have a printout of that
2 database available today, and that data is also now
3 available on our web page.
4 --o0o--
5 MR. LEAON: Some of the specifics for each of the
6 four companies that requested an exemption. For the
7 amount of material that they used, looking at the trends
8 since 1998, Clorox used approximately 1700 tons of
9 material in 1998. That use sharply fell in 1999 and
10 steadily declined to 2002, where they used no material.
11 For Trans Western Polymers, their use was fairly
12 steady through 2000. It declined in 2001 and used a
13 negligible amount of material in 2002.
14 For Poly-America, we see their use was fairly
15 steady and actually increased in 2002 over 2001.
16 And Pactiv corporation shows a fairly steep
17 decline through 2000, slight increase for 2001, then
18 further decline in 2002.
19 --o0o--
20 MR. LEAON: Regarding Poly-America and their
21 request for an exemption, they had received an exemption
22 previously in 1999, 2000, and 2001. For 2002, they used
23 842 tons of material, achieved a 4.1 recycle content in
24 their trash bag. Poly-America went out and purchased
25 either bailed or loose material, processed that material

1 into pellets at their own facility and supplied receipted
2 documenting their purchases of material to Board staff.
3 And on that basis, staff is recommending that
4 Poly-America's exemption be approved.
5 --o0o--
6 MR. LEAON: For Pactiv Corporation, similar to
7 Poly-America, they went out and purchased bailed or loose
8 material, processed that into pellets, supplied receipts
9 documenting their purchases of material. They used 357
10 tons of postconsumer resin material in 2002 and achieved a
11 7.5 percent recycled content in their trash bags.
12 And this is the first year they have requested an
13 exemption, and on that basis staff is recommending
14 Pactiv's exemption be approved.
15 --o0o--
16 MR. LEAON: Regarding Clorox, Clorox received
17 exemptions in '99, 2000, and 2001. It did not purchase or
18 did not use material in 2002 in their regulated trash
19 bags. They did test five samples from three suppliers and
20 reported that none of those suppliers were able to provide
21 a product that met their quality standards.
22 I did want to note that two of those suppliers
23 did provide product to two compliant manufacturers. In
24 addition, Clorox could not document that they established
25 effective communication with suppliers to resolve quality

1 problems.

2 What we found with Clorox is that yes, they

3 tested some material, found it didn't meet their

4 standards, but could not document they took the extra step

5 and worked with their potential suppliers to attempt to

6 resolve those quality problems. So in not establishing

7 that effective working relationship, staff did not feel

8 that just taking material and testing it and indicating it

9 doesn't work for us goes far enough to meet what

10 reasonable efforts should be done.

11 --o0o--

12 MR. LEAON: Regarding Trans Western Polymers,

13 they were exempted in 2001. They used 32.5 tons of

14 material in 2002, achieved only one percent recycled

15 content in the regulated trash bag. However, Trans

16 Western was relying on material they had purchased in 2001

17 for compliance in 2002. And they had attempted to make

18 some improvements in their machinery in order to use that

19 material, and unfortunately that strategy did not work for

20 them.

21 Subsequently, they made no a attempt to contact

22 new suppliers to obtain better quality material. They

23 could not document that they had gone back to their 2001

24 suppliers in an effort to resolve their quality problems

25 in the hopes of using that material from that supplier.

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1 And on that basis, staff did not feel that Trans Western
2 had made reasonable efforts.
3 --o0o--
4 MR. LEAON: In conclusion, staff is recommending
5 that for Poly-America and Pactiv that the Board select
6 Option 1 and approve their exemptions for 2002.
7 However, in regard to Clorox and Trans Western
8 Polymers, staff is recommending the Board select Option 2
9 and disapprove their exemptions.
10 I did also want to welcome the opportunity to
11 work with both suppliers and manufacturers at this
12 workshop. We have some preliminary ideas of when we'd
13 like to do that. We have October 27th plastics
14 roundtable. We'd like to piggy-back off of that event,
15 hold a workshop the following day on the 28th.
16 We'd like to include our researcher on the
17 quality assurance, quality control contract, U.C. Chico,
18 in that process. And we'd also like to involve some local
19 government recycling coordinators in that workshop to help
20 close the loop on sourcing material and getting that
21 material to a processor and getting a quality product to
22 manufacturers that they can use.
23 This concludes my remarks. I'd be happy to
24 answer any questions you might have.
25 CHAIRPERSON MOULTON-PATTERSON: Thank you,

Mr. Leaon.

We might have some Board questions, but we do have a lot of speaker slips. And I think we'll be taking a ten-minute break right now and then we'll come back and see if we have any questions for you before we go to the speakers.

Thank you.

(Thereupon a recess was taken.)

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

Mr. Jones, do you have any ex partes?

BOARD MEMBER JONES: Just John Cupps on our timing issues of agenda items.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Ms. Peace.

COMMITTEE MEMBER PEACE: I have none.

CHAIRPERSON MOULTON-PATTERSON: I have none.

Mr. Medina.

BOARD MEMBER MEDINA: None to report.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Paparian.

BOARD MEMBER PAPARIAN: Well, none. But I talked to our staff about the RMDZ item as I'll explain a little later.

CHAIRPERSON MOULTON-PATTERSON: We'll call on you

for your vote after this item if you have your questions answered.

Mr. Washington.

COMMITTEE MEMBER WASHINGTON: Jim Wise, and Mitch Lansdell with the City of Gardena.

CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay. Mr. Medina we had -- just a second. Mr. Leaon, am I pronouncing that right?

MR. LEAON: Yes, ma'am.

CHAIRPERSON MOULTON-PATTERSON: Thank you. Mr. Medina wanted to ask you a question, and then we have Ms. Peace.

BOARD MEMBER MEDINA: No. I don't have a question.

I'm just prepared to listen to the speakers and I'm prepared to make a motion in this regard after we listen to the speakers.

CHAIRPERSON MOULTON-PATTERSON: Fine. Ms. Peace.

COMMITTEE MEMBER PEACE: I had one general question first.

It says they can comply with this trash bag law if they use 30 percent postconsumer material in their other plastic products. Did any of these companies seem to try to do that?

MR. LEAON: We asked them if that was an option

1 for them and they indicated they could not achieve the 30
2 percent.
3 COMMITTEE MEMBER PEACE: Thank you.
4 I would like to say that I do agree with staff to
5 disapprove the request for exemptions by Clorox and Trans
6 Western Polymers.
7 My thought is what would this mean to all the
8 companies who complied if we let those who didn't off the
9 hook? That's not to say I don't have reservations about a
10 law that requires recycled content in a product that's
11 headed for the landfill after one use. But that is the
12 law. That's the way the law is right now and the law does
13 permit manufacturers who cannot satisfy the postconsumer
14 material mandate to comply through a demonstration there
15 was a lack of postconsumer material that met the board
16 adopted quality standards.
17 And I believe all that staff is saying that
18 Clorox and Trans Western Polymers did not even make a
19 diligent effort to demonstrate there was a lack of quality
20 postconsumer material.
21 So I'd say again I agree with staff's
22 recommendation, plus also having the workshop with
23 suppliers and manufacturers, because I believe when
24 suppliers are saying they have the capability to produce
25 enough postconsumer materials, but manufacturers are

1 saying they can't find enough of it that there is a
2 disconnect somewhere and I hope that a workshop can help
3 answer some of those questions.
4 Thank you.
5 CHAIRPERSON MOULTON-PATTERSON: Thank you,
6 Ms. Peace.
7 Mr. Jones.
8 BOARD MEMBER JONES: Thank you, Madam Chair.
9 Just quickly.
10 As a result of this item, we've gotten contacted
11 by an awful lot of suppliers. They have said that they
12 thought that they were getting a little more entry into
13 some of these manufacturers.
14 I did talk to one, though, that had a product
15 that would work, but he was told that they would only
16 purchase it at 13 cents a pound. The material today
17 virgin sells for about 40, I think. It's pretty
18 expensive.
19 When one of the requirements is -- or one of the
20 ways to get out of this issue is by undercutting or making
21 a price lower than anything around, it's pretty hard for a
22 supplier of this product to be able to comply. That's why
23 I think it's important that we continue this discussion.
24 I will say, I've thought an awful lot about Ms.
25 Peace's substitute motion, and I'm going to agree with it.

1 I do want to say, though, that I've met with all of these
2 folks, with the exception of one, Trans Western. I think
3 the gentleman that's representing -- or that's working now
4 to try to fix the problem is probably -- I had a good hour
5 and a half meeting with him. I think they're trying, and
6 I think this is a classic case of somebody who's coming in
7 trying to clean up somebody else's mess, because they did
8 make some efforts. He's made some efforts, but I'm not
9 sure he created the problem. But you know, I still think
10 we need to honor what the law says. So thank you.
11 CHAIRPERSON MOULTON-PATTERSON: Thank you.
12 Mr. Washington.
13 BOARD MEMBER WASHINGTON: Just, Mike, in terms of
14 this list you talk about, a current list that is available
15 now, how long has that list been available?
16 MR. LEAON: We just published it on our website
17 yesterday. We had been working on it some time to remove
18 companies that either were no longer in business or the
19 phone was disconnected. So we now have a current list.
20 BOARD MEMBER WASHINGTON: So when Clorox and
21 Trans Western talked about this list at our Committee
22 meetings, they were then right that this list wasn't
23 current and that they had a very difficult time trying to
24 reach certain manufacturers, suppliers, whatever they're
25 trying to make happen to address these issues that we

1 raised beforehand?

2 MR. LEAON: We had removed companies that were no

3 longer in business. However, the companies that remain on

4 the list that are in business and available to supply

5 material were on the other list as well.

6 And in addition, I do think I need to say that

7 relying solely on the Board's published list I don't think

8 is sufficient justification for saying you can't source

9 material.

10 BOARD MEMBER WASHINGTON: It's certainly a list

11 that people use. And I think people take in regards lists

12 that we put together for them to use to help meet their

13 criteria on regs that we set forward. It's certainly an

14 important list to have available for them. Myself, if I

15 was a company, I would certainly rely on the Integrated

16 Waste Board list to help me get where I need to be. And I

17 think that was the concern I raised in our Committee about

18 this particular issue. So the current list is current

19 now, and it's been current since yesterday?

20 MR. LEAON: That is correct. Yes.

21 BOARD MEMBER WASHINGTON: Thank you.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you,

23 Mr. Washington.

24 And we do have some public speakers. Before the

25 vote, though, I'd like to see the graph that showed the

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1 line. If I could just -- yeah. I wanted to look at that
2 again. But I think at this point I'll go on since we have
3 quite a few speakers. Thank you.
4 Terry Bedell, The Clorox Company in Oakland, and
5 also Laurie Nelson. Are you guys going to do a joint
6 presentation?
7 MS. NELSON: Madam Chair, members, Laurie Nelson
8 on behalf of The Clorox Company located in Oakland,
9 California. And thank you for putting that list back up
10 there because we did want to address that. You will
11 notice there is a big drop in 1999 in the Clorox number.
12 That is when our supplier went out of business. And then
13 the further drop after that is that we sold our
14 polyethylene line which was HDPE, which is an easier
15 material to find and recover. So with those two changes,
16 that's what brought us down to the zero in 2002.
17 So just to continue -- and some of this was
18 presented to the Subcommittee, but I think it's important
19 to get this on the record and for the rest of the Board
20 members. Clorox takes this very seriously, this
21 recommendation of noncompliance. As we mentioned earlier,
22 we have been at the forefront of environmental issues,
23 whether it pesticides with no exposure of the users, plant
24 safety, VOC reductions below what the ARB requires. We're
25 a community leader. All we want to do is know the rules

1 and we will comply. We are not trying to get out of this
2 law in any way, shape, or form.
3 Our issue and challenge with finding enough PCR
4 is not a new, sudden, or unexpected problem. We have
5 written numerous letters starting in September of 2001,
6 another one in November of 2001. We had numerous
7 communications with your new point group in 2002 and
8 another letter to the Board in 2002 saying, "We cannot
9 find PCR. Can you help us?" We received no communication
10 back from the Board or your staff that our efforts were
11 insufficient.
12 We met numerous times with your staff, as we
13 said, talking about our frustrations, our concerns. And
14 we did participate in every interested parties meeting,
15 talking about the white paper. The workshop that was held
16 in 2002 with suppliers and manufacturers and this staff
17 where everyone was in agreement that there's a major
18 supply issue, that the material cannot be found that's
19 linear low density that goes into our trash bags, and
20 there was a higher better use found in plastic lumber and
21 elsewhere where they didn't require it to be quite as
22 clean or the quality to be quite as high.
23 Now, the statute requires that a manufacturer
24 must make a reasonable effort to identify supplies of
25 material. The company must meet the 10 percent recycled

1 content level or apply to the Board for self-exemption,
2 which is what the Clorox Company is doing. There is no
3 provision in the statute for a 7 percent, a 5 percent, or
4 even a 3 percent number of recycled content. It must be
5 10 percent.
6 So our reasonable effort to contact suppliers
7 goes back to 2001. We showed you the letters. We've been
8 in contact with the Board. We were also given that list
9 of suppliers that Mr. Washington referenced. That list of
10 suppliers, which we contacted every single person and
11 supplier on that list in 2001 and in 2002, was pretty much
12 useless. They did not sell the linear low density we
13 needed. They had HDPE. They were competitors. They
14 weren't in business any more, et cetera. There was a
15 total of one lead, which we had identified on our own
16 time. These efforts are again detailed in the letter to
17 the Board and to the new point group.
18 At the Subcommittee, all four companies got up
19 and expressed their frustration trying to locate PCR to
20 meet this law. Bear in mind, though, that Clorox is a
21 little unique from two of those companies in that we
22 aren't able to source any of our material. We have to go
23 outside to suppliers for all of our material. And in
24 addition to complying with the law, which is first and
25 foremost our goal, the other is the PCR price is much less

1 right now. We would have saved up to $3 million if we had
2 been able to put PCR into our trash bags. So every
3 incentive is there for us to comply.
4 As to establishing working relationships working
5 with our suppliers, as we said, we had ordered supplies.
6 We would get a small amount. Even when it didn't meet our
7 standards, we would order 1,000 pounds of material and try
8 to blow film, try to create trash bags. It just wouldn't
9 work. The quality wasn't there.
10 Now, the regulations by the Board state that, "If
11 a company determines they won't meet the 10 percent
12 requirement, they must contact the Board, and the Board
13 will supply you with information regarding additional
14 lists of suppliers." Okay. That never happened, although
15 we had verbal and written contact with the Board and the
16 staff.
17 And in fact, Madam Chair, we do have a letter
18 from you dated October 15th, 2001, saying your "staff is
19 working hard to compile new information on resin supplies
20 and will be providing that information to you soon."
21 That's October 15th, 2001. And the list was posted on the
22 website yesterday.
23 So again, in June of this year, there was the
24 recommendation to require additional documentation. That
25 had been somewhat problematic in 2003 to say what you want

1 specifically in 2002. But we do have letters from a
2 couple of our suppliers saying that yes, indeed, we do
3 work in partnership. They say, "Thanks for your continued
4 efforts in using PCR." That's Syncot Plastics. And also
5 we have letter from Delta Plastics which we passed out at
6 the Subcommittee, and I'd be pleased to pass it out to the
7 full Board as well.
8 We're also told that there are suppliers saying
9 they have capacity to meet demand, but we were never put
10 in touch or given the contact names for these suppliers
11 because we certainly are unable to find them on our own,
12 and that includes searching the Internet, Plastic News,
13 and the Board's own list.
14 So we are here today requesting that you do not
15 accept the staff's recommendation to single out this
16 company. We believe we've met the spirit of the law.
17 We've spent considerable time and resources to make every
18 reasonable effort to comply. We have gone beyond some
19 companies which you are approving for exemptions in
20 working with our suppliers. We have made extensive
21 efforts to locate PCR. We have four previous years, and
22 as you've noted, it has gone down for the reasons we
23 stated. There was an audit in 1999 where there was no
24 questions or complaints on this company. And we think
25 that, again, we've shown a reasonable effort.

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1 There's a major disconnect between what some of
2 the Board members are hearing is out there from suppliers
3 and what we're able to find. We would welcome the
4 opportunity to work with the Board on that issue. We did
5 participate in every single available venue to us in that,
6 including the previous workshop.
7 Thank you for your time.
8 CHAIRPERSON MOULTON-PATTERSON: I know Mr. Jones
9 has a question, but I also have a question. You know,
10 have you worked with the Legislature? I mean, if this law
11 is just impossible to, you know, achieve, have you been
12 over at the Legislature trying to get it changed?
13 MS. NELSON: There were discussions with
14 legislative staff this year when the issue was before the
15 Board earlier as to whether you should increase the
16 recycled content because there was a report due from the
17 Board to the Legislature on this issue. And at that time
18 we said to the staff, "Would you mind if we delayed this?
19 We're continuing the discussions with the Board and
20 staff." And certainly that will be before us next year.
21 CHAIRPERSON MOULTON-PATTERSON: Because, you
22 know, it kind of puts us in a bad position if this is the
23 law and we're supposed to implement it.
24 MS. NELSON: I understand. And the statue is 10
25 percent. And if no one can meet the 10 percent, then the

1 regs are that we have to work with our suppliers. And my
2 point today is we believe we've met that standard.
3 CHAIRPERSON MOULTON-PATTERSON: Thank you.
4 Mr. Jones.
5 BOARD MEMBER JONES: Just a couple of questions,
6 Ms. Nelson. We've got letters that came in from you
7 talking about your suppliers but also from suppliers, one
8 that you identified in your testimony that you use that
9 tells us that they can do 500,000 pounds a month of
10 product. Another letter from another one. Both indicated
11 that there wasn't a whole lot -- they were very happy with
12 a woman in Oakland, I guess, who's been working with them,
13 but both indicated to me via telephone that there was no
14 back and forth communication.
15 And I have a problem with the testimony that
16 somebody from your company gave at our Committee meeting
17 that said this material didn't meet the melt test. And
18 when I asked the supplier of the product, they said
19 because the melt test is .5 to 2.5, this material
20 consistently melts at .8, which is clearly within the
21 range. And if it's an issue of setting a price and saying
22 we're not going to pay more than this for the product and
23 it's artificially low, is that one of the reasons that you
24 can't get PCR?
25 MS. NELSON: Sure.

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1 MR. BEDELL: Madam Chair, Board members, thank
2 you for offering us this opportunity to talk this morning.
3 I'm Terry Bedell. I currently am a research
4 fellow for the Clorox Company at our technical center in
5 Pleasanton. My prior assignment before that was about
6 ten years in helping to manage environmental issues for
7 the company. And prior to that, I was in procurement for
8 five years. So I think I can speak with some authority on
9 a number of the issues that Mr. Jones raises.
10 But I'd like to give you -- kind of put this in a
11 little bit of perspective as well. Our history with
12 working with the Board and Board staff is not one that
13 started in 1998 or 1995 or 1992. It goes back to the late
14 '80s. And I think we've had a pretty rich history of
15 working through issues and getting to resolutions on
16 things like this.
17 And frankly, I'm coming in this kind of late. I
18 haven't been in the middle of this particular effort over
19 the past few years in my current assignment. I'm
20 continuing to look at how technology is evolving to allow
21 more and better use of recycled materials. But when it
22 comes to actually what we can do in our manufacturing
23 operations for the films for trash bags, I'm leaving that
24 to other people whose expertise is actually far better
25 than mine.

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1 If I can just put our record, you know, in front
2 of the Board, you know, one more time, I think you have
3 some familiarity with it. The Board has actually
4 recognized the Clorox Company a number of times, three in
5 the WRAP award program. We've been very pleased to be
6 able to participate in that. We have consistently
7 attempted to reduce waste in every part of our operation,
8 particularly our packaging materials. In packaging today
9 we're using well over 100 million pounds of recycled
10 material a year. We're certainly interested in getting
11 materials out of the waste stream that can be used
12 productively.
13 I know what our purchasing policies are, having
14 spent five years in that organization, and I can assure
15 you that Clorox is well known in every industry segment
16 that we participate in as having the highest ethical
17 standards of any company that suppliers work with. I have
18 never heard any supplier allege that we have stated that
19 we won't buy something at or below or above a given price.
20 That would be totally counter to our policies and
21 procurement, and I would be extremely, extremely
22 surprised, you know, to have anybody allege that.
23 We also have a pretty good history of being
24 pretty resourceful in finding supplies of materials. And
25 I can tell you that I personally have been involved in

1 this one in prior years, not in the last few. But I know
2 we do track the recycling industry, plastics recycling in
3 particular, and it has just not been a pretty picture in
4 the past few years. And the quality standards that we
5 have for the plastic resin that's going to go into our
6 film operations is pretty stringent, but it is reasonably
7 consistent with the Board standards.
8 And to the best of my knowledge, we've never
9 rejected a sample that's been submitted to us purely on
10 the basis of melt index. That's one factor.
11 Overwhelmingly more important than that is how clean is
12 the material and what kind of heat history has it been
13 through in terms of, you know, forming gel slugs and other
14 imperfections in the melt of the linear low density
15 polyethylene that make it impossible to sustain a
16 manufacturing process at the scale we have to run at to be
17 cost effective.
18 So I'd be happy to answer any further questions
19 about procurement.
20 CHAIRPERSON PEACE: Thank you, Mr. Bedell.
21 Any questions?
22 MS. NELSON: Just to answer Mr. Jones' question
23 about the melt index. Submitted with our 2002
24 certification from Delta Plastics -- remember, it's from
25 .5 to 2.0, and Delta Plastics had a .13 and a .23, and

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1 Syncot had a .51, 2002.

2 CHAIRPERSON MOULTON-PATTERSON: Thank you.

3 BOARD MEMBER JONES: Madam Chair.

4 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: I think Mr. Bedell -- he's

6 worked on a lot of things at this Board, and I have an

7 incredible amount of appreciation for his efforts. It was

8 actually me that raised the question if you were still

9 involved with the program, because when you were involved,

10 things happened.

11 MR. BEDELL: Thank you.

12 BOARD MEMBER JONES: But you're not involved

13 right now?

14 MR. BEDELL: I'm involved peripherally. The

15 group I lead today is a center of expertise group in

16 packaging and materials technologies, and we're in

17 constant dialog basically with all of our divisions. And

18 we have input on this issue, but I'm not as intimately

19 involved with it as I used to be.

20 BOARD MEMBER JONES: Appreciate it.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 We have more speakers. And I've lost my speaker

23 slips. Here they are. Sorry. Greg Moriarity, Trans

24 Western Polymers of Livermore, who will be followed by Ned

25 Pendleton.

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1 MR. MORIARITY: Good morning, Madam Chair and
2 Board members. My name is Greg Moriarity. I'm technical
3 film coordinator for Trans Western Polymers. We feel
4 there's only one question regarding our self-exemption
5 certification application for 2002 that's before the Board
6 this morning. And that is, is the Board going to
7 supercede the authority of the staff in giving direction
8 to manufacturers seeking to comply when we're not able to
9 meet the 10 percent recycled content requirement of the
10 regulations?
11 For about the past 20 months approximately going
12 into this reporting year, we had been working with the
13 staff who had been giving us approval on all the steps
14 we've been taking geared towards increasing our ability to
15 use the RPPM materials we're able to obtain on the market
16 in the volume the large manufacturers need to be able to
17 sustain usage. The staff had been giving us approval for
18 all of these steps that we've been taking through 2002.
19 And only in the last month since the last August
20 Committee meeting has the attitude of the staff changed in
21 terms of what is required to constitute due diligence.
22 The staff had been giving us approval based on the fact
23 that not every manufacturer is serving the same market
24 segment in creating and manufacturing trash bags. We
25 serve the high-strength thin-gauge market, which has the

1 highest performance specifications than any segment in the
2 trash bag market. Because of that, we are inherently
3 limited in our opportunity for usage based on these source
4 supply of the RPPM materials that are available.
5 The staff was aware of this. And through 2002,
6 all of the efforts that we had been making and through
7 on -- continuing in 2003 had been geared toward creating a
8 processing platform that would sustain usage of these
9 materials because of the inherent problems which had been
10 documented with the Board and the staff for the last
11 several years.
12 Now, the staff was aware of everything that we
13 were doing because we are not able to go to a number of
14 suppliers and try to find materials that are going to meet
15 these kinds of performance specifications. Our previous
16 testing has verified that. The testing and the work with
17 the other manufacturers that have also been working on
18 this problem has also sustained this, and we are frankly
19 required to hit higher performance specifications than
20 some of these other manufacturers who are also struggling.
21 Therefore, we took the approach that we would try to
22 improve our equipment, our processing procedures, and
23 training to allow us to sustain a much higher usage than
24 we've been able to so far, considering the fact that a
25 number of the suppliers that used to be previously

1 available are no longer selling material.
2 This has become a source supply problem. It's
3 not an outlet supply problem. Recycling success is not
4 geared towards having an outlet for the materials that
5 you're making, so much as it is in having a sustainable
6 consistent feedstock supply. And that's the problem that
7 we are all facing, and for Trans Western in particular,
8 because we have to meet the highest performance
9 specifications.
10 Because of this, we had discussed all these
11 things with the staff in 2002. The current staff in 2003
12 are not the same members that we were dealing with in
13 2002. In 2002, the staff members had been giving approval
14 to all the steps that we were taking. And at no point did
15 we hear any indication that any of the steps we were
16 taking would not constitute due diligence, and that they
17 recognized the reason that we needed to take a different
18 strategy towards implementing usage of these materials if
19 we were going to be successful.
20 If we had simply gone to the regulations language
21 and tested, rejected, sourced out new materials, tested,
22 potentially rejected, we could have been in compliance.
23 And instead, we had taken the strategy that we would try
24 to find ways to actually make the problems -- to resolve
25 the problems and make the materials work. The staff felt

1 that this was a good faith effort, and this was all of the
2 direction that we were receiving was directed towards
3 being able to sustain this by improving the factors that
4 we can control. And up until last month's meeting, we had
5 heard no indication from any of the staff we were dealing
6 with that this would not be acceptable and we would,
7 therefore, be disapproved.
8 The staff was fully aware we were not following
9 the strict interpretation of the regulatory language that
10 would require companies to outsource and continue testing
11 and continue trying to outsource new materials if they're
12 not able to meet the 10 percent recycled content required.
13 The staff's authority is derived from the Board.
14 And if the Board is going to supercede the staff's
15 directions for manufacturers after the fact, then the
16 staff has no credibility for manufacturers seeking to
17 comply with these regulations as we get further into the
18 problem of source supply. Therefore, we feel that the
19 staff's recommendations and the staff's approval of all
20 the steps we were taking in 2002 would require the Board
21 to approve our exemption for 2002 based on the fact that
22 the staff was fully aware of all the steps we were taking.
23 They were aware they were not strictly called-for steps in
24 the regulatory language, and the staff had not indicated
25 they would present a problem.

1 This is now nine months into the 2003 reporting
2 period, and the attitude of the Board and the staff has
3 changed. We feel that this is grossly unfair, if we are
4 being given direction from the staff that everything we
5 were doing was appropriate.
6 At the close of discussion at last month's
7 Committee meeting, Board Member Washington raised the
8 question whether it would be appropriate for the Board to
9 penalize Trans Western at this point for having followed
10 the directives of the staff. We agree with Mr.
11 Washington. We feel it would be grossly unfair. Because
12 the staff's authority derives from the Board, if the staff
13 is going to tell us one thing, we feel it is inappropriate
14 for the Board to then after the fact tell us something
15 different.
16 We have to take our direction from the staff.
17 And if the staff is telling us that what we're doing is
18 satisfying their requirement or they feel it could satisfy
19 the requirement we're going to be held to, then the Board
20 has to approve our application based on that fact. The
21 staff does not report to us. The staff reports to the
22 Board. And if the staff is going to tell us that what
23 we're doing is acceptable, then the Board has to approve
24 this.
25 Now, we are dealing with different staff members

1 in 2002. And up until 2003, up until the August Committee
2 meeting, there was no indication from any of the staff
3 that we would be held to a strict interpretation of the
4 regulatory requirements. That's a relatively recent
5 development. And that's the problem that we're facing.
6 CHAIRPERSON MOULTON-PATTERSON: I think it might
7 be a little premature of you to say the Board. The Board
8 hasn't taken a vote on this yet.
9 MR. MORIARITY: Excuse me. But that's -- the
10 reading we're getting is that the Board's attitude is that
11 they're more used to -- or would be more inclined to
12 accept the resolution offered by the staff. And that's
13 what concerns us, is that the staff's recommendation is
14 contrary to what we have been hearing from the staff up to
15 this point.
16 CHAIRPERSON MOULTON-PATTERSON: Okay. But that's
17 precisely why we have public hearings.
18 Ms. Peace.
19 BOARD MEMBER PEACE: I would like to have staff
20 address that assertion that we've led them on through
21 2002.
22 CHAIRPERSON MOULTON-PATTERSON: Thank you,
23 Mr. Moriarity.
24 Mr. Orr.
25 MR. ORR: Bill Orr with the Recycling

1 Technologies Branch. I thought it might be appropriate
2 for me to address the question since it's sort of -- there
3 was a transition that Mr. Moriarity mentioned over the
4 last couple of years with program and supervisory staff.
5 I gave sort of a brief introduction at the
6 Committee meeting. There are a couple of -- I think
7 there's a couple of issues that are being overlaid on top
8 of this particular thing. The first thing, several people
9 have mentioned a workshop that was held in January of 2002
10 regarding the trash bag survey report. That was not about
11 the compliance certification directly. That was looking
12 at it more long-term in terms of the law.
13 And I don't think there were any assurances given
14 at that meeting that the Board staff would not be pursuing
15 the law as it was currently written. In fact, it was
16 reported through -- I believe it was the Plastics News
17 that staff cautioned that basically the manufacturers
18 needed to comply with the law as was written until such
19 time it was changed, that the Board had not even acted on
20 the discussions that were occurring at that time.
21 The second thing I think Mr. Moriarity mentioned,
22 are conversations with staff that were actually in
23 reference to last year's certification, not this year's.
24 So when he was talking about having conversations and
25 having assurances, those were all in reference to the 2001

1 compliance year, not this year. And I think we made it
2 very clear from the outset that we were very unhappy with
3 the completeness of the certifications as submitted, and
4 in particular the documentation that was provided on the
5 exemptions.
6 So this year when we sent out the certification
7 package, as Mike mentioned earlier in the presentation, we
8 made a concerted effort to make it clear that we needed to
9 receive complete certifications. So I think that there's
10 some sort of apples and oranges going on here that there
11 really hasn't been a change of direction in the last one
12 month, but that since January of 2002 we've been looking
13 at the exemptions. We basically decided that there're
14 adequate authority already under the law to consider
15 individual requests, and that's why we're here today, and
16 that a lot of the comments that Mr. Moriarity is
17 mentioning actually require last year's certification and
18 not this year's certification.
19 If there's any other question, I'd be happy to
20 answer it.
21 BOARD MEMBER PEACE: How many companies have
22 complied?
23 MR. ORR: Approximately 20. We actually have the
24 list from last month's Board meeting. These are some of
25 the larger companies, but there are over 20 companies that

1 were on the agenda last month.

2 BOARD MEMBER PEACE: Thank you.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Orr, what do

4 they do to comply that these others don't? I don't get

5 it.

6 MR. ORR: Well, it actually was a point that

7 Mr. Leaon made in the Committee meeting. There's a

8 variety of factors. As part of the efforts to pursue this

9 item this month, we actually did poll several of the

10 suppliers and also the compliant companies to find out

11 what some of their keys to success were. I think a couple

12 of the items that came up, first of all, was not just

13 relying on one supplier. I think a number of folks that

14 were successful were able to contact multiple suppliers

15 and establish working relationships with more than --

16 basically not putting all of their eggs in one basket and

17 not expecting they were going to get all of their sourced

18 material from one company.

19 I think another related issue was to basically

20 establish an ongoing relationship with your suppliers so

21 you basically had sort of a dialog back and forth. In

22 some instances, there were some location issues relative

23 to where the manufacturer was relative to the suppliers.

24 And then finally, as you can see in the slide that was

25 just brought up, that one of the provisions under the law

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is to get an additional 20 percent credit for using California postconsumer content. And that was also a factor with the compliant companies to be able to get the extra credit for using California resin.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

Mr. Washington.

BOARD MEMBER WASHINGTON: Mr. Orr, in terms of the certification, does the certification criteria change each year?

MR. ORR: No, it does not. Basically we compile a certification packet, and then basically those certification forms are updated each year. There's basically a cover letter that describes the process and when it's required to be submitted. And I think that in that cover letter you try to build on maybe problems that have been encountered in previous years so you can get better information pursuant to the current requirements. But the forms and the certifications and the regulations have not changed for several years.

BOARD MEMBER WASHINGTON: So when you talk about Trans Western using his ideas of what happened last year, why wouldn't he believe that same help doesn't apply for this year?

MR. ORR: Well, I'm not sure. I think one of the things that was a factor in Trans Western's case -- okay.

1 Mike indicated that he'd like to respond to that one.
2 MR. LEAON: It's my understanding that staff
3 spoke directly with Mr. Moriarity last November and
4 informed him over the phone that the 2001 certification,
5 which was incomplete, was unacceptable and that we would
6 expect a complete certification packet for 2002, which
7 would include substantiating the basis for a request for
8 an exemption.
9 BOARD MEMBER WASHINGTON: So he wasn't in
10 communication with staff as time went by? He just
11 asserted that he's been in contact with staff. Staff has
12 constantly told him that, "You're on the right track.
13 You're on the right track." And all of a sudden he comes
14 to the Board meeting and finds he's put on this list where
15 he would be out of compliance. I'm missing something.
16 MR. LEAON: I don't think that accurately
17 characterizes the situation. Again, staff tells me that
18 they spoke directly with Mr. Moriarity last November
19 regarding the 2002 certification explaining the 2001
20 certification, which they submitted, was incomplete and we
21 would not accept an incomplete certification for 2002, and
22 that their request for an exemption would have to be fully
23 substantiated.
24 In addition, I should say after we received the
25 exemptions -- they were due in March -- we began the

1 process of reviewing them. We contacted each manufacturer
2 in June and told them we would be reviewing their
3 exemptions and that we would require additional
4 documentation from them to fully substantiate the basis of
5 their exemption. And we started conducting phone calls in
6 July. We had conference calls. We had e-mail
7 communication. We reviewed additional documentation they
8 had submitted. So I think all of the manufacturers were
9 notified and received adequate notice that we would be
10 fully -- we expected a full and complete certification and
11 that we would be reviewing them to confirm that.
12 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
13 Washington.
14 MR. MORIARITY: Madam Chair, can I rebut that for
15 a moment, please?
16 CHAIRPERSON MOULTON-PATTERSON: Yes, for a
17 moment.
18 MR. MORIARITY: There's a couple of statements
19 that are partially inaccurate. Yes, it is true I was in
20 contact with staff in November and was told we would have
21 to have a much more complete certification because our
22 2001 certification was incomplete. That's true. That's
23 accurate.
24 But at that point we were not told that what we
25 had been told as a strategy that we could adopt in 2002 --

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1 and I'm referring to the 2002 cycle. I'm not referring to
2 2001. We were told in 2002, because of the problems with
3 material we had bought in 2001, if we continued to try to
4 find ways to make it work, because it is a supply volume
5 that will meet our requirements, that the staff was
6 consistently approving the fact that we were going to be
7 implementing a number of different things trying to make
8 that work. So as far as the incompleteness of the
9 application, yes, we were told we would have to supply a
10 good deal more documentation. We've done that with the
11 2002 reporting cycle and currently into 2003.
12 I'd also like to point out in July when the staff
13 was in contact with us, the year was half over at that
14 point. And yes, it was made aware -- we were made aware
15 we would have to do more in terms of what reporting we
16 would have to have and what documentation we would have to
17 have. But at no point did anyone say that the strategy
18 that the staff had initially approved in terms of finding
19 ways to make our supply work, that that would be
20 inappropriate.
21 And we did contact our supplier. And we had been
22 working with our supplier. But our supplier had told us
23 because of the feedstock of the material, that material
24 was what it was. That's the expression they used, "It is
25 what it is." They can't change it. They have done a much

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1 better job cleaning the particulate contamination that
2 knocks the bubbles down that we have to be able to
3 maintain our process with. But the source of the material
4 has not changed. It is still the same. And the
5 variability within the source of that material is the
6 problem that all of manufacturers face, and specifically
7 the ones with the highest performance specifications.
8 Companies that are able to be compliant are able
9 to be compliant because they need far less in volume and
10 also because their specifications are not as stringent.
11 The segment of the market that we serve that is highest
12 performance specifications. These are set by our
13 customers. They're our own label. This is something that
14 we are constrained to produce in order to supply to these
15 customers. So this is one of the problems we face, and
16 that is the reason why we took a different strategy
17 towards trying to maintain one source of supply.
18 Consistency in the process dictates we have to
19 have a consistant source of supply, and that's the
20 problem. So much of the supply has been diverted to other
21 markets. That's why we have maintained a relationship
22 with a single supplier that can meet the volume and
23 because their source consistency is actually maintained.
24 It's not very good material in terms of application for
25 our process, but at least it's consistent. If it's

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1 consistent, we can then work on process engineering and
2 manufacturing engineering that will allow us to sustain
3 the process at least at the highest level we can. That's
4 the strategy we took, and at some point did staff indicate
5 that was not something that would constitute due
6 diligence.
7 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.
8 BOARD MEMBER WASHINGTON: And to staff -- or
9 Mike, if you come forward. It's a yes or no question. In
10 terms of the response he just gave, was that the direction
11 that staff had given him as it relates to June of 2002
12 that he spoke about?
13 MR. MORIARITY: Earlier.
14 BOARD MEMBER WASHINGTON: Earlier than 2002. Did
15 that conversation take place?
16 MR. LEAON: I'm not clear on the conversation
17 you're referring to.
18 BOARD MEMBER WASHINGTON: That's fine.
19 CHAIRPERSON MOULTON-PATTERSON: Okay. I might
20 just note we have, you know, more speakers. We're going
21 to finish this item before lunch. I will say for anybody
22 here for Gardena, we're going to take that up after lunch.
23 But we're going to finish this item.
24 I will say, you know, we have six full-time Board
25 members here. And you know, I really wish some of these

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1 things would have come to the Board members if they, you
2 know, are true concerns -- you know, he says, she says
3 phone conversations. And Ms. Nelson mentions a letter
4 from me October 15th, 2001, you know, please let us know
5 about this.
6 Ned Pendleton, Pactiv, followed by Scott
7 Smithline, Californians Against Waste.
8 MR. PENDLETON: Thank you, Madam Chair. My name
9 is Ned Pendleton. I'm the manufacturing manager for
10 Pactiv Corporation, the manufacturer of Hefty bags and
11 Kordite consumer use products. Members of the Board,
12 staff, I appreciate this opportunity to address you and to
13 help explain some of your concerns.
14 During the course of the last few years, we have
15 been working with the Waste Board and specifically with
16 the workshop that was held in January of 2002. During
17 that workshop, I believe I was fairly vociferous in my
18 concerns about being able to meet the 2002 standards
19 because I was alarmed that I was getting the responses
20 from suppliers I was.
21 In the past if you look at the chart that Mike
22 had prepared, it shows back to '98 that we were actually
23 doing a fairly good job. If you look before '98 from '93
24 to '98, we were doing an extremely good job. We had no
25 problem finding the material.

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1 The availability of material is one of the
2 reasons we reluctantly filed for an exemption. This is
3 the first time that Pactiv has filed for an exemption.
4 We've always been able to meet the spirit and the letter
5 of the law in the past, and we are very conscious of our
6 environmental record, as well as our safety and health
7 record. We consider ourselves exemplary corporate
8 citizens, and we will try our very best to meet the
9 requirements of doing business in the state of California.
10 However, the availability and the quality of the
11 materials are a significant concern to us going through
12 the future. In the Committee meeting I addressed the
13 Committee, and I said there's very little likelihood of
14 our being able to meet even a 5 percent standard for 2003.
15 As you know, we're well through the year of 2003. We're
16 continuing to contact suppliers we've never contacted
17 before.
18 I did take a look at the list that the staff had
19 supplied as of yesterday. I was pleased to see that many
20 of our suppliers were on that list, and we are achieving
21 conversations with the same people that the state has
22 found available.
23 My third point is that the waste bag market is
24 changing. In the past five years the number of waste bags
25 that are made in the far east is growing steadily, and

it's log arithmetic. When we began looking at our reuse and recycling legislation, it was with some fear that we looked at the lower gauge requirement and what that impact would have on our business. It does appear that the international community is responding with the lower gauge material, and it's finding its way into the marketplace. Unfortunately, it's supplanting those materials that are made in the USA.

Finally, Madam Chair, I'd like to congratulate the staff on putting together a date. I must, however, in advance decline to attend the workshop because that is my 29th wedding anniversary, and my wife makes exceptions for no one. Thank you very much.

CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay.

Scott Smithline, Californians Against Waste, is the last speaker.

MR. SMITHLINE: Chair, Board members, thank you. I'm Scott Smithline from Californians Against Waste. We recognize this is an imperfect law, yet we think it's a perfect law, nonetheless, the purpose of which is obviously to include more postconsumer resin in plastic trash bags sold in California.

We are concerned about this issue. And I was reviewing last month's Board agenda, and the staff's presentation for last month included a slide that said

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1 these four exemptions account for 55 percent of the trash
2 bags sold in the state of California. I think if the
3 Board does not go with the staff recommendation, we're
4 very dangerously close to creating a situation where the
5 exemption swallows the rule. And I think that would be a
6 difficult situation to explain to the plastic trash bag
7 manufacturers who are actually in compliance with this
8 law.
9 Last week and again this week we heard extensive
10 testimony. It seems like the staff has gone to great
11 lengths to contact the manufacturers, to contact the
12 suppliers. And the thing that is surprising to us is that
13 the suppliers seem willing, ready, and able to make these
14 materials available if the manufacturers are willing to
15 enter into long-term contracts. There seems to be a lack
16 of willingness for that to happen.
17 The other thing that is interesting is there
18 doesn't seem to be any discussion on the alternate method
19 of complying with this law, which is the 30 percent
20 method. I'd be interested to hear testimony on whether
21 these companies just don't produce products other than
22 plastic trash bags. But I haven't heard any testimony to
23 that effect.
24 So in general, we're here to support the staff
25 recommendation and approve the exemption for the two

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1 companies that have done the due diligence and at least
2 included a substantial amount of postconsumer resin in the
3 trash bags, and not approve the exemption for the
4 companies that have not complied with the law. Thank you.
5 CHAIRPERSON MOULTON-PATTERSON: Thank you very
6 much.
7 MR. PENDLETON: The question has come up several
8 times --
9 CHAIRPERSON MOULTON-PATTERSON: Please state your
10 name again.
11 MR. PENDLETON: My name is Ned Pendleton with
12 Pactiv Corporation.
13 The question has come up about the 30 percent
14 input. As regards to Pactiv Corporation, most of the
15 other products that we make, such as One Zip and baggies
16 and plates, are food-grade products, and therefore we
17 cannot put the 30 percent into the majority of the
18 products, most of the products that we make. Just a point
19 of clarification for that.
20 CHAIRPERSON MOULTON-PATTERSON: Thank you.
21 Mr. Medina.
22 BOARD MEMBER MEDINA: Thank you, Madam Chair.
23 I've been taking in testimony from all parties.
24 I have to say that I have found staff's recommendation to
25 be persuasive. I have confidence in our staff's ability

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to be able to work through issues.

And in that regard, I would like to move Option 1 and Resolution 2003-455 and Resolution 2003-456. In regard to Resolution 2003-455, consideration of plastic trash bags manufacturers' request for exemption from recycled content compliance option with the plastic trash bag law for the 2002 reporting period, Public Resources Code Section 42297B for Pactiv Corporation and 456 the same for Poly-America, LP.

CHAIRPERSON MOULTON-PATTERSON: Okay. So your motion is to approve Resolutions 2003-455 and 456?

BOARD MEMBER MEDINA: That's correct.

CHAIRPERSON MOULTON-PATTERSON: Do we have a second?

Mr. Jones.

BOARD MEMBER JONES: Madam Chair, is the maker of the motion going to include the other two motions -- I mean, the other two resolutions or come up with that later, 457 and 458?

BOARD MEMBER MEDINA: 457 would be -- if those are a no, yes, I would include those also.

CHAIRPERSON MOULTON-PATTERSON: So you want to make your motion with 457 and 458, all four of them?

BOARD MEMBER MEDINA: Yes, I would. The first two were for approval. The second two, 457, 458 for

1 disapproval of Clorox and Trans Western Polymers. Thanks.
2 BOARD MEMBER JONES: Yes. To the maker of
3 motion, are you willing to include language of the
4 workshop that would look at those standards again so both
5 sides have a better --
6 BOARD MEMBER MEDINA: I would be willing to
7 include that.
8 CHAIRPERSON MOULTON-PATTERSON: Okay. Do we have
9 a second?
10 Ms. Peace.
11 BOARD MEMBER PEACE: I'd second that.
12 CHAIRPERSON MOULTON-PATTERSON: We have a motion
13 by Mr. Medina, seconded by Ms. Peace for resolutions
14 2003-455, 456, 457, and 458.
15 Please call the roll.
16 BOARD MEMBER WASHINGTON: Madam Chair.
17 CHAIRPERSON MOULTON-PATTERSON: Yes,
18 Mr. Washington.
19 BOARD MEMBER WASHINGTON: On those resolutions
20 I'm not -- would you do them separately?
21 CHAIRPERSON MOULTON-PATTERSON: Yes. Let's do
22 Resolutions 2003-455 and 456.
23 Please call the roll on those.
24 SECRETARY WADDELL: Jones?
25 BOARD MEMBER JONES: Aye.

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1 SECRETARY WADDELL: Medina?
2 BOARD MEMBER MEDINA: Aye.
3 SECRETARY WADDELL: Paparian?
4 BOARD MEMBER PAPARIAN: Aye.
5 SECRETARY WADDELL: Peace?
6 BOARD MEMBER PEACE: Aye.
7 SECRETARY WADDELL: Washington?
8 BOARD MEMBER WASHINGTON: I'm sorry. These are
9 the two for -- I'm sorry, Madam Chair.
10 CHAIRPERSON MOULTON-PATTERSON: Approved.
11 BOARD MEMBER WASHINGTON: This is for
12 Poly-America and --
13 CHAIRPERSON MOULTON-PATTERSON: Pactiv.
14 BOARD MEMBER WASHINGTON: To be part of the
15 exemption. These two Resolutions include them in the
16 exemption. Is that correct?
17 CHAIRPERSON MOULTON-PATTERSON: Yes.
18 BOARD MEMBER WASHINGTON: Aye.
19 CHAIRPERSON MOULTON-PATTERSON: Okay. Go ahead.
20 SECRETARY WADDELL: Moutlon-Patterson?
21 CHAIRPERSON MOULTON-PATTERSON: Aye.
22 And I believe Mr. Medina moved 2003-457 and 458.
23 And Ms. Peace, you seconded those.
24 Please call the roll on those two.
25 SECRETARY WADDELL: Jones?

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BOARD MEMBER JONES: Aye.

SECRETARY WADDELL: Medina?

BOARD MEMBER MEDINA: Aye.

SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: Aye.

SECRETARY WADDELL: Peace?

BOARD MEMBER PEACE: Aye.

SECRETARY WADDELL: Washington?

BOARD MEMBER WASHINGTON: No.

CHAIRPERSON MOULTON-PATTERSON: The Board will now take their lunch break and return at 1:30.

(Thereupon a lunch recess was taken.)

CHAIRPERSON MOULTON-PATTERSON: I'd like to call our meeting back to order. Thank you.

Ex partes, Mr. Jones.

BOARD MEMBER JONES: Evan Edgar.

CHAIRPERSON MOULTON-PATTERSON: Thank you. Ms. Peace.

BOARD MEMBER PEACE: I have none.

CHAIRPERSON MOULTON-PATTERSON: I have none. Mr. Medina.

BOARD MEMBER MEDINA: None to report.

CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

BOARD MEMBER PAPARIAN: Yeah. Mark Aprea, just sort of general issues. And Yvonne Hunter from the League

of Cities regarding C&D and e-waste.

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you. And we did have the vote on item number 4, the RMDZ item open for Mr. Paparian. Are you ready for us to take that vote, Mr. Paparian?

BOARD MEMBER PAPARIAN: Yes. Thank you, Madam Chair. And I just want to just thank the Board for their indulgence for letting me clarify a couple things with staff.

I did talk to Patty Wohl, and my main concern was that after this item, since there appears to be some pretty strong feelings both on our staff's part and on the RMDZ administrators' part, those RMDZ administrators are like an extension of our staff. They're partners. They're people we really need to work with. And I wanted to get some assurance from Ms. Wohl that she would make sure that she does what's necessary to make sure that we maintain our good relationships there and that we not let this item interfere with those relationships.

I was also advised by Mr. Bledsoe that I needed to be clear about what I talked about under the Rules of Procedure we're operating under. So I hope, Mr. Bledsoe, I gave a clear enough explanation of my conversation.

MR. BLEDSOE: Yes.

BOARD MEMBER PAPARIAN: So with those assurances

1 from Ms. Wohl that she will work to make sure the
2 relationships aren't adversely effected by this item, I'll
3 be ready to vote for it. So my vote will be aye.
4 CHAIRPERSON MOULTON-PATTERSON: Okay. We'll
5 record aye on that. That was Item Number 4, Resolution
6 2003-454. So the motion does pass.
7 BOARD MEMBER MEDINA: Madam Chair.
8 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.
9 BOARD MEMBER MEDINA: Board Member Washington,
10 along with myself, was one of the no votes, and he's not
11 here to hear Mr. Paparian's rationale. So I'd like to
12 defer the vote until such time as he is hear and he can
13 hear Mr. Paparian's rationale for his vote on this.
14 CHAIRPERSON MOULTON-PATTERSON: Okay. When is he
15 going to be here, do you know?
16 BOARD MEMBER MEDINA: That I could not tell you.
17 Perhaps one of his staff --
18 CHAIRPERSON MOULTON-PATTERSON: Okay. This
19 brings us to Item 30 that was time certain for 1:30 today.
20 And this is a presentation on methods to increase public
21 and community participation in Board processes. And this
22 is something we're really all very interested in.
23 And Ms. Packard, I'm going to turn it over to you
24 at this time.
25 MS. PACKARD: Thank you, Madam Chair.

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1 Good afternoon, Board members. Rubia Packard
2 with the Policy Office. This is the first in what we hope
3 will be a series of presentations by the contractor that
4 we have for the contract that the Board approved in June
5 of 2002, as you said, on methods to increase public and
6 community participation in Board processes.
7 We have with us today Rachael Rosner, who is from
8 the Center for Justice, Tolerance, and Community. And she
9 is the project lead on this project for U.C. Santa Cruz
10 and this center. She has brought with her several
11 speakers today that wish to address you as part of the
12 scope of work for this project. They planned to make some
13 presentations on environmental priorities and concerns
14 related to Board decisions, programs, and activities from
15 some community-based environmental organizations. And as
16 I said, we hope this will be the first in several
17 presentations.
18 So I'm going to let Rachael introduce the
19 speakers, and then we'll get through the presentations.
20 Thank you.
21 CHAIRPERSON MOULTON-PATTERSON: Thank you.
22 Welcome, Ms. Rosner; right?
23 MS. ROSNER: Rosner.
24 CHAIRPERSON MOULTON-PATTERSON: Sorry. Thank
25 you.

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MS. ROSNER: So the presentation is popping up. While it comes on the screen, I'll go ahead and start. Good afternoon. Again, my name is Rachael Rosner. I'm a research associate with the Center for Justice, Tolerance, and Community.

We're here today -- it's actually our second presentation to the Board. Our first presentation in April, you might remember, we focused on some of the data and talked about what this contract was going to be with the Waste Management Board.

Today our focus is going to be on community participation in decision making at the Board. We're going to start off by reviewing the content and the purpose of the meeting. We're going to talk -- I'm going to talk a little bit about our process, how this presentation was organized, how we got everybody to get here and interested in presenting to you all. And then the bulk of the presentation will be from the presenters from the community themselves. So I'm just going to give you just the framework and lay it out, and we'll hear from the community folks directly.

(Thereupon an overhead presentation was presented as follows.)

MS. ROSNER: So the purpose of today's session, and I'm not sure -- there it goes okay. If you can

1 advance it, I think it's two slides, please. Got it.
2 Thank you.
3 So the purpose of today's session is, as I
4 mentioned, to review our outreach process to organize this
5 presentation, to provide a context for the community
6 participation analysis, and to share experiences relating
7 to community participation when they're interacting with
8 this Board and the local enforcement agencies. This will
9 give us a chance to sort of update you on our work for the
10 contract.
11 --o0o--
12 MS. ROSNER: So just to remind us, quickly,
13 environmental justice versus environmental equity demands
14 more than mere exposure equity. It must incorporate
15 democratic participation in the production decision
16 itself. That's what we're trying to encourage here today.
17 --o0o--
18 MS. ROSNER: So we worked hard to pull this
19 presentation together. While we have worked with many
20 environmental justice groups and we are connected with
21 many networks, we really had to identify those groups that
22 are working specifically around waste issues. So this
23 meant that we had to tap into our resources to develop a
24 more specialized list.
25 It also meant calling people for the first time

and asking them if they would be willing to talk with us first and then if they'd be willing to travel up here to present. While people were very open to talking, they were more tentative about travelling up here, whether it would be worth their while if they could find the time. It meant a lot of discussing and talking. We spent much of the past few months really talking to people on one-on-one interviews throughout the state. And the three groups that are represented here today are really representative of a much larger group of a database that we are creating.

We also spent time on the Internet and looking through periodicals and newspapers to try to identify who would be the best people to invite.

And finally, we attended two community meetings, one in Santa Cruz where there's a proposed incinerator to be located in the Moss Landing area and one in the San Fernando area and Pacoima down in Southern California. And that was really a chance for us to collect information from community and also make people aware of this project, that it's going on. We were happy to have two of the CalEPA staff present, and we got some really good feedback on this presentation.

--o0o--

MS. ROSNER: The questions that we posed really

were, what makes for effective community participation? And what alternatives would you offer from what you've been seeing already?

--o0o--

MS. ROSNER: What information and data do communities need to participate fully in decision-making processes?

--o0o--

MS. ROSNER: And what else would you like to know about this topic or to add to the discussion?

So our speakers today will touch upon much of the feedback that we've been collecting over the past months. I hope to touch on that now. It will also be incorporated in our final report at the end of this contract when we give you a written product at the end.

--o0o--

MS. ROSNER: So while those questions were really much more broadly looking at community participation, there were also some other key issues that were raised by communities during our conversation. And I'm just going to really quickly go through this.

Folks were, you know, aware that there was the state mandate about addressing environmental justice at the CalEPA, but they weren't sure how it was being put into practice.

1 There was a great awareness about the EJ Advisory
2 Committee, and those four areas that are bulletted there.
3 We were happy to see public participation was one of the
4 goals and areas that people were focusing on as well.
5 And then, of course, the concept of cumulative
6 exposure and the precautionary approach resonated strongly
7 with community, as they have directly felt the effects of
8 seeing different facilities pop up in their neighborhoods.
9 --o0o--
10 MS. ROSNER: So environmental equity is a problem
11 that's recognized by Californians. That was a message
12 that we got.
13 This graph here shows you -- it's from the Public
14 Policy Institute of California. And it shows you that
15 whites and Latinos alike recognize it as a problem. And
16 you can see that it's a large majority measured by the
17 likelihood of toxic waste being located in a minority
18 community and the likelihood that a park would not be
19 located in community of color.
20 --o0o--
21 MS. ROSNER: And the recognition has a real
22 basis. There's an established pattern of inequity by race
23 and income for the various environmental negatives in
24 California.
25 --o0o--

1 MS. ROSNER: And you'll recall from our last
2 presentation that we downloaded the solid waste
3 information system database, and we found that there are
4 potential issues with waste facilities.
5 --o0o--
6 MS. ROSNER: And the conclusions that we came
7 from that -- just to refresh you all just from the last
8 presentation -- was that further analysis needs to be done
9 and could be done, the notion that there is inequitable
10 proximity finds support in the data. And even where
11 support in the data is weaker, the data suggests why
12 perceptions of inequitable proximity would exist and
13 persists.
14 This calls for better outreach and improved
15 education and community voice that could help with both
16 these realities and these perceptions.
17 --o0o--
18 MS. ROSNER: So that brings us to the focus of
19 today's meeting which is really the process for building
20 authentic community participation.
21 --o0o--
22 MS. ROSNER: We see it as kind of building blocks
23 and beginning with awareness and trust building. And this
24 was a message we got very strongly in our meeting in
25 Southern California, was -- and again, we're talking about

this generally speaking. It's very difficult to trust working with folks when there have been promises that have been made that you would listen, but it's not acknowledged that in some way that feedback was listened to, that it has been considered. And I say that not necessarily that the result changed dramatically, but even that it has been acknowledged.

So with the intention of moving forward, addressing and acknowledging previous policies and decisions that did not seek out sufficient community input or where there were difficulties. So just basically acknowledging what happened in the past with the intention of moving forward in a positive direction.

--o0o--

MS. ROSNER: Effective communication through educating and listening. This is another building block for authentic community participation. Obviously, you need to share knowledge and goals in an accessible and genuine way. You need to listen and recognize the value of community concerns. At the same time, community needs to invest their time and energy. They need to learn about the issues, and they need to be prepared.

--o0o--

MS. ROSNER: Mechanisms for community input. There are definitely structural issues that were brought

1 up by different people. There was a strong expression for
2 a more comprehensive approach, that there's many different
3 agencies, many different levels. There's a lot of
4 confusion about how the different parts of the institution
5 work with each other.
6 These complexities are also reflected in the
7 policy. And so community wants to know, has their
8 involvement actually effected policy?
9 And finally for communities to be well informed,
10 it means effective outreach. And one of the issues that
11 was raised was the outreach measure, is it going through
12 the motion, or is it really -- is the goal really
13 effective outreach?
14 --o0o--
15 MS. ROSNER: In terms of institutional support
16 and recognition, we all know that community-based
17 organizations are overburdened and underresourced and
18 volunteer groups are even more so. So you in order to
19 have the capacity to participate and to use opportunities,
20 you have to have that capacity. For communities to be at
21 the table, the space, which includes location, time,
22 language, including jargon and tone, must be really
23 inviting and accessible and comfortable.
24 --o0o--
25 MS. ROSNER: However, being invited to the table

in and of itself isn't enough. Actions must be taken to reaffirm community's roles. You can't assume apathy if there's low anticipation. If people don't see any impact, they may withdraw from the process. In order to maintain a balanced dialogue, community must see concrete results that they endorse to stay involved.

--o0o--

MS. ROSNER: So what we learned so far from our community meeting in Southern California was that people are desperate for information. People want to learn. They want it presented honestly and completely, unvarnished. And they also need a positive tone, a comfortable setting, and an open style of facilitation to really feel a part of what's happening.

--o0o--

MS. ROSNER: And we learned just from working with the system that a little participation -- sort of more of the same old mechanisms that are being used really gets old. Whereas, when there's quality participation in a way that really is inclusive, it gets very interesting.

And so we hope these next presentations will be very interesting to you. We have three speakers today -- well, actually three groups. And first actually, John Mataka from the Grayson Neighborhood Council will be speaking with us, then Kristin Taday from Pacoima

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1 Beautiful, and then several people from the Pala Mission
2 Indian Tribe. And they will introduce themselves.
3 CHAIRPERSON MOULTON-PATTERSON: Thank you.
4 MR. MATAKA: Good afternoon. My name is John
5 Mataka, and I am with Grayson Neighborhood Council, which
6 is a grassroots neighborhood group in the community of
7 Grayson.
8 And just to paint a picture so that folks on the
9 Board know a little bit about where I'm coming from,
10 Grayson is a community of 1,000 people located 20 miles
11 West of Modesto in Stanislaus County. We are primarily a
12 Latino community, about 80 percent Latino Spanish-speaking
13 community. As you go a mile up the road is the community
14 of Westly, which is where our elementary school is
15 located. There is a community of 500 people primarily,
16 I'd say, 80 percent or better Latino migrant farm workers.
17 And as you move up Highway 33 is the community of
18 Patterson, which is roughly around 12,000, probably around
19 60 percent or better Latino. And as you go to Newman,
20 it's the same picture, only a little less population,
21 10,000.
22 I think why it's important for you to understand
23 that is because I'm here to talk about the landfill
24 situation that happened in our particular community in
25 Patterson, the Fink Road Landfill expansion proposal, that

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1 was headed toward this Board. And I think it's important
2 for you to know the makeup of our community so you have a
3 better understanding of what we were facing when that
4 whole issue came to be.
5 Basically, I think it's important for you to
6 understand, too, what we've been through in our community.
7 And I don't want to linger on that, but I think it's
8 important for you to understand that. We are home to the
9 Westly Tire Incinerator, the only one in California
10 located off in the foothills off of I-5, which everybody
11 knows from the Westly fire; right? And millions of -- 7
12 to 9 million tires that burned for 34 days where basically
13 14,000 people had health problems as a result.
14 As we move down the road from Westly, we also are
15 home to one of the three incinerators in California at
16 this time. My understanding is there's many more on the
17 chopping block are looking to be proposed. But we're also
18 home to the Covanta Waste Energy Plant where over 800 tons
19 a day of garbage is burned in the Fink Road Landfill site.
20 In the year 1999, there was a proposal -- well,
21 actually in the year 1999 Stanislaus County bought over
22 2,000 acres to make -- with the idea basically of bringing
23 in enormous amounts of outside garbage to our community.
24 Okay. It started out with a proposal in 2001 to bring
25 medical waste from the site -- the IES incinerator located

1 in Oakland. For those of you that are familiar with that
2 area on High Street, they're in a very young community of
3 color neighborhood where there are over approximately
4 20-something schools located within a couple of miles.
5 Well, our county had made like -- I call it a
6 back door deal because, you know, none of the community
7 knew what was going on. But basically they were going to
8 bring all that medical waste and burn it down in our
9 incinerator down in Stanislaus County. So we luckily got
10 word of that, and we were able to notify folks and get the
11 word out. And that was shut down because of public
12 outcry.
13 So what happened in the year 2002 -- and I'll
14 bring you up to date. What happened in the year 2002 was
15 the Board came back with a plan because they had this over
16 all these acres. And they came up with a plan to expand
17 the 219 acre Fink Road land site by 1,050 acres after
18 purchasing those 2,000 acres for $14 million with funds
19 from the enterprise fund, which is supposed to be only for
20 landfill operations.
21 So again, what happened was basically through
22 luck -- and I will say luck, and our group basically
23 keeping tabs on what was happening, we were able to -- is
24 that me?
25 CHAIRPERSON MOULTON-PATTERSON: Excuse me. We'll

1 try to get some help here. I think they turned it off for
2 a minute. Sorry about that.
3 BOARD MEMBER WASHINGTON: I can sing a song if
4 you'd like.
5 CHAIRPERSON MOULTON-PATTERSON: Just while we're
6 waiting, Mr. Washington has arrived, and arrived quite
7 some time ago.
8 Do you have any ex partes for the record?
9 BOARD MEMBER WASHINGTON: Yes. Bruce Roberson.
10 CHAIRPERSON MOULTON-PATTERSON: Thank you. Okay.
11 Hopefully this won't give you any more trouble.
12 MR. MATAK: Okay. That's fine.
13 So again, to kind of paint you a picture, in May
14 of 2002 the plan came back to import medical waste. And
15 the plan at this time -- in the community we knew what was
16 going on, you know, although it had all been done in
17 secrecy. There had been meetings of the Board of
18 Supervisors of the Planning Commission held in the daytime
19 at 9:00 in the morning when none of the community has
20 access to even if they wanted to go because of their work
21 schedule, which is a whole other issue.
22 We found out about it. Basically the plan was to
23 make a mega-dump landfill out there in our area, which
24 already has problems. And they were going to bring in
25 garbage and toxic contaminated sewage sludge from across

1 the state, possibly other locations, other states. And
2 the majority of that garbage was going to be from outside
3 of our county. And the proposal was the dump would be one
4 square mile in size and up to 650 feet high.
5 Now for those of us that live in the Modesto
6 area, just so you get an image, is you would be able to
7 see this mountain of garbage from Modesto, which is
8 approximately 15 to 20 miles away. That's what we were
9 talking about. Over 100 million tons of garbage is what
10 they were projecting for that.
11 Now, we knew that the reason why that was being
12 pushed through in secrecy -- and I'll just be very
13 blunt -- was because there's big money in waste
14 management. And we knew where it was headed was to sell
15 it to a private waste management company, and the county
16 would make hundreds of millions of dollars in the process
17 and be out of the landfill business. Okay.
18 So we started throwing that out there to the
19 public. And I'm going to wrap this up because I don't
20 want to go on and on. But to make a long story short,
21 everything that our small community has said came out to
22 be exactly true. And it all came out. I don't know how
23 many of you read the Modesto Bee. But it came out the CEO
24 of the county resigned. It came out with, you know,
25 conflicts of interest with consultants all around waste

1 issues concerning medical waste, the landfill, the tire
2 incinerator. So basically our worst nightmare was proven
3 to be true. That's exactly what was happening.
4 So I want to get to what is really important I
5 believe. And I just want to say that the grand jury --
6 and whatever folks' view on grand juries are, they
7 basically said a couple of things that I think are
8 important before I come up with some positive things that
9 I think could help the process. What they had said was
10 that the Supervisors did not thoroughly investigate the
11 question or the need to acquire that land before voting on
12 it, and that they wasted $2 million on the EIR because it
13 was not necessary for the landfills' needs. In other
14 words, they didn't need that property because they didn't
15 need that landfill.
16 They also said that the 1997 purchase of 354
17 acres that they had satisfied all the county's landfill
18 disposal capacity needs through the year of 2076, if they
19 only took in garbage from our county, provided by the 1995
20 siting element.
21 And this is the really key that -- it goes to the
22 root of why I'm here today, is they said that they
23 chastised the Board of Supervisors for not fully disposing
24 their plans on the landfill projects. In other words, so
25 much of what was happening to our community was done

1 behind closed doors, was done in quick meetings when there
2 was no community input, where we did not have access. We
3 live 20 miles from Modesto. The meetings were held in
4 Modesto at times that, you know, we couldn't get there,
5 and for our community in a language that most of our
6 community does not understand, English.
7 So what I'm here today -- and I'm going to wrap
8 it up. What I'm here today to suggest is three things.
9 Number one, that any time -- this is my opinion. And you
10 know, everybody has their opinions. But number one is
11 that prior to any new landfill being given a permit or
12 permission or prior to any expansion of a landfill, I
13 believe that a minimum of two public hearings need to be
14 provided in the communities most effected and the closest
15 to the proposed sites. Okay. That doesn't happen. You
16 know, why have a public hearing in Modesto when it's
17 effecting people 20 miles away in another community? I
18 believe that there should be a minimum of two public
19 meetings on all expansions and all new proposed sites in
20 the community where they're most effected, along with
21 proper information in at least a minimum what the proposal
22 is about in the language that's appropriate for that
23 particular area.
24 The other issue is that I really believe that
25 there needs to be -- that this Board needs to do some kind

1 of an environmental review of current sites in proposed
2 areas. In other words, like our area. You know, we had
3 an incinerator. We have a waste energy plant already. So
4 I believe that there needs to be an assessment on current
5 landfills, incinerators, toxic sites. And that
6 information needs to be provided at those two public
7 meetings in the community where that proposed expansion or
8 new site is going to be. That's all pertinent information
9 that should be shared with the community, and it's all
10 relevant.
11 And I already talked about the transportation and
12 the language barriers. So in conclusion, you know, I want
13 to say that if our small group -- and I do mean small.
14 I'm talking about five people. If we had not led the
15 charge for our community and brought that to a bigger mass
16 in the community of Modesto, you know, we would have
17 really been -- had one more operation out there that was
18 effecting the quality of life in our community and the
19 surrounding communities in a low-income community of
20 color. And we all know that, you know, things like
21 environmental racism exist. Although we hate to say that
22 word, the reality is that they do. And I think it's time
23 we started addressing that, and it's time to pull the
24 cover off of that. Thank you very much.
25 CHAIRPERSON MOULTON-PATTERSON: Thank you for

taking the time to testify today. We appreciate it.

MS. TAKAY: Good afternoon. My name is Kristin Aldana-Taday. I'm actually going to read a letter first from another community group that was unable to make it, and then I'll go on with my Power Point presentation.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

MS. TAKAY: "The East Valley Coalition, a local citizens action group committed to changing the environment of our community to a healthy, beautiful place to live and raise our children. We represent a disenfranchised community with a predominantly low income and Latino population.

"The specific purpose of the EVC is to engage in educational, scientific, and charitable pursuits to protect, defend, and/or restore the natural and historic heritage of the Sun Valley area, preserve its watershed lands, and create a community which reflects these values through innovative planning and sound stewardship.

"We welcome the opportunity to comment to the Board. The East Valley Coalition applauds the analysis and presentation by Manual Pastor and Rachael Rosner. We are gratified that analysis finally reveals what we have known anecdotally and intuitively all along, that there is, indeed,

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an unequal distribution of waste facilities and burden placed on low-income neighborhoods and communities of color. In other words, those least likely to be vocal about the injustice visit upon them and their families.

"However, things are changing. These communities are becoming more vocal, more involved. We need a Board that is responsible and responsive to the needs and concerns of these communities. We are not interested in a Board that seems to go through the steps of a process in order to say they have addressed the environmental justice issues, then return to business as usual.

"This presentation makes it very clear that the rumblings that have begun are just the beginning of a roar that will continue to be heard. There's no going back now.

"We request a Board not weighted in the interest of the waste industry, but one responsible to a constituency. We want an elected Board. In addition, we want to change the regulations to those with teeth that protect families, instead of risking them. Stop representing the limited interest of the waste

industry that makes multiple tens of millions at the risk of family's health.

"In the meantime, if this Board really wishes to address these issues, you will need to go to these communities and listen and visit with parents whose children are, one, breaking out in hives; two, can't breathe due to asthma attacks; three, have nose bleeds. Actually breathe the air. Drink the water. Talk to the teachers and children in these neighborhoods. Then try to make the argument that there's nothing that you can do.

"Now you have the evidence in front of you. You can no longer ignore it or write it off as a few disgruntled low-income minority neighbors who simply don't want a polluting industry in their neighborhood. It's time for a real change.

"Respectfully, Carol Ziehler, East Valley Coalition."

CHAIRPERSON MOULTON-PATTERSON: Thank you.

(Thereupon an overhead presentation was presented as follows.)

MS. TAKAY: Okay. Now onto me. Hi, my name is Kristin Aldana-Takay. I am the Director of Administration with Pacoima Beautiful. Our non-profit organization's

1 mission is to provide environmental education, leadership,
2 development, and advocacy to create a clean, healthy, and
3 safe environment to improve the quality of life for the
4 residents of Pacoima.
5 I had an opportunity to review the vision,
6 mission, and values from the 2001 CIWMB strategic plan
7 from the website --
8 --o0o--
9 MS. TAKAY: -- and have found in the case of
10 Bradley Landfill in Sun Valley, our neighboring community,
11 the missions and values have yet to be fulfilled. The
12 mission mentions partnership with all Californians, as
13 underlined there. The commitment to the environment,
14 public health, and safety mentions, "reducing and
15 controlling adverse public health and environmental
16 impacts associated with faculties under the Board's
17 jurisdiction."
18 The commitment to environmental justice explains,
19 "appreciating the state's diversity, reaching out to
20 California's diverse communities, providing assistance and
21 support to communities; committed to reducing or
22 eliminating any disproportionate impacts of pollution."
23 And the commitment to partnership and service
24 says, "We are committed to problem solving; considers the
25 interest of all parties."

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--o0o--

MS. TAKAY: So with the mission and values, what happened with Bradley Landfill located in Sun Valley? One, at the scoping meeting in which the applicant was to present its case for another 43 feet of trash, not all voices were heard. In fact, appreciating the state's diversity meant an English monolingual speaker, no translation equipment. And it was dependent on notices from the city that were only in English and only reached some families.

Number two, this first chance to reach out was next to impossible, as the city's facilitator lacked presence, was unable to contain the crowd, and did not explain the procedures.

Number three, at the next meeting located at an elementary school, more people were informed about this meeting and attended, but again no translation equipment available. In fact, a woman was able to provide a Power Point with her suggestions of what should be done with the Bradley Landfill, which was great. But there was no acknowledgement from the CWIMB to the public as to whether it was actually considered as an interest of all parties. Along the way, CWIMB did not acknowledge, show research, or divulge any information of the "effects" of the work they do, considering that many residents during this

1 process tried to explain the physical effects they were
2 enduring from the landfill, from asthma to nose bleeds and
3 more.
4 So what does this mean for the CWIMB?
5 --o0o--
6 MS. TAKAY: Our suggestions go like this. One,
7 the CWIMB must go beyond any city's requirements in the
8 state. As a state agency involved with hot topic issues
9 such as landfills and often underserved and low-income
10 communities, there is a responsibility even within your
11 commitment to environmental justice that you must go the
12 extra mile. Consider sending out your own notices in
13 multiple languages, providing translation equipment,
14 having a strong third-party facilitator that would ensure
15 that all people would have a right to speak and understand
16 the process in which they are partaking.
17 Number two, the Board must recognize that a
18 relationship needs to be created with the residents, local
19 associations, and CBOs. And this needs to include
20 creating trust and being as transparent as possible. Have
21 focus groups before a major decision to ensure that all
22 voices are heard and really are part of problem solving.
23 The Board must also acknowledge and make public
24 whether they accept or reject whatever suggestions have
25 been made. If people are not acknowledged, one does not

feel they ever have been included in the process.

Number four, if committed to reducing and controlling adverse public health and environmental justice impacts, share what you know. That has been the case in any of your landfills. Nowhere along the way did a Waste Management person even mention any health research done in the area. And any mention of sickness attained from school children or families by the residents was brushed off. We need to bridge this gap.

Number five, recognize that you are dealing with lay people. Regulations, laws, the Waste Management's perspectives, and their limitations are difficult for us to understand and are often confusing. Understand that and create simpler language and share it and make sure folks understand it.

Right now environmental justice, cautionary principle, and cumulative impacts are buzz words. But they're reality for the residents that are living next door to these facilities. We ask that the Board takes greater steps to making their mission and commitments a reality. This is only a first step for the Board to hear people's stories. It is now in your court to begin a relationship directly with the people that are being affected.

Thank you.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.
2 BOARD MEMBER WASHINGTON: Madam Chair, are you
3 going -- and I want to know what street we're going down
4 here. Are we going to be able to respond too? I don't
5 want --
6 CHAIRPERSON MOULTON-PATTERSON: Yes. At any
7 time.
8 BOARD MEMBER WASHINGTON: -- to interrupt her
9 when she was talking about what this Board did or didn't
10 do.
11 CHAIRPERSON MOULTON-PATTERSON: I didn't see any
12 lights. I'd be happy to recognize you.
13 BOARD MEMBER WASHINGTON: I didn't turn my light
14 on because I didn't know if you just wanted them to speak.
15 And I don't want to take up a bunch of the Board's time.
16 If you read the statue of what we're responsible
17 to do, anything she said had nothing to do with us. So to
18 just let her come in here and voice off her concern that
19 the Board didn't do this and the Board needs to do that,
20 maybe she needs to read what the Board's responsibility is
21 first because you come in here and tell us what our job is
22 to do.
23 And I'm the one who's the advocate for public
24 being involved. But I think it's important that people
25 understand that this Board had no -- we had no -- we

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1 didn't even have to hold a hearing out in Sun Valley
2 during the time. We did that because I made a request of
3 this Board that we go to the community and hear their
4 concerns.
5 It was your local City Council members. It was
6 your Mayor who put this before this Board, when now in a
7 political time and during the time when they want to run
8 for re-election, they want to turn and say that the Board
9 can stop this thing. At some point you got to become more
10 educated in terms of how do it gets to this Board and how
11 you stop it from getting to this Board. Because at some
12 point when it gets here, we're by law and by statue
13 required to address the concerns that are raised on the
14 CEQA and other things.
15 If you want to change something, you go to the
16 Legislature and tell them to give us more authority to do
17 something about this stuff. And coming to this Board and
18 dancing and jumping up and down saying to the Board now
19 it's in your court and all don't mean a hill of beans
20 here, because at the end of the day, we operate according
21 to what the statute say we're responsible for doing. It's
22 that simple. You can bring 50 people, 100 people from
23 down in Pacoima. It doesn't matter.
24 MS. ROSNER: We were going to have actually the
25 presentation and then have questions and answers

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1 afterwards, but we can continue this afterwards. Okay.
2 BOARD MEMBER WASHINGTON: That's fine. But if I
3 hear something that's not appropriate, I will interrupt
4 them.
5 MR. GRISWOLD: Can you switch over the --
6 CHAIRPERSON MOULTON-PATTERSON: Could you state
7 your name for the record.
8 MR. GRISWOLD: Yes. Absolutely. Good afternoon.
9 Thank you very much for the time to address this Board.
10 My name is Ted Griswold. I'm environmental counsel for
11 the Palo Band of Mission Indians. I have with me the Pala
12 Band of Mission Indians EPA Director, Lenore Volturno, and
13 their Secretary, Stan McGarr.
14 Lenore and I will both be part of the
15 presentation today addressing the case study of Gregory
16 Canyon. And in particular, I wanted to address it in the
17 format that I was requested to through this process.
18 We've been asked to provide a presentation in the format
19 of, what is the problem? What is the opportunity? And
20 what is the solution? And that's exactly what I'd like to
21 provide to you right here regarding community
22 participation and environmental justice issues.
23 In our instance, what is the problem? Well, as
24 you know, the Board in its statewide solid waste landfill
25 problem is directed to consider in a comprehensive manner

1 community input in the signing, permitting, operation,
2 expansion, and ultimately the closure of landfills.
3 You're assisting in that process on behalf of CalEPA.
4 This comprehensive program incorporates the needs of a
5 region, environmental concerns, cultural concerns, and
6 most recently legislatively-mandated environmental justice
7 principles.
8 As you're no doubt aware, just last week the
9 public comment process or period closed for the CalEPA's
10 interagency working group on environmental justice. They
11 had some recommendations that were set out there. And as
12 Rachael noted in her presentation, actually goal number
13 one in that was to ensure meaningful public participation
14 and promote community building to allow communities to be
15 effective participants in environmental decision-making
16 processes. That's a great goal, and hopefully that will
17 be followed through.
18 However, the problem I'm here to address you
19 about is that there is a method by which this Board
20 doesn't get to be involved in a portion of that process,
21 nor do the LEAs. Landfill siting and procedures do
22 involve community participation and do involve the
23 application of environmental justice principles -- can be
24 circumvented through the initiative process.
25 What I'm asking you here today is to take a look

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at those types of projects that may get appealed to you, and give direction down to your local enforcement agencies to look at these very, very closely and ensure that the environmental justice principles that would apply in the siting process -- if the siting occurs through the initiative process, apply with the permit process. Because that way these concerns do not get circumvented.

Let me give you a case example. It's the Gregory Canyon Landfill. What you have before you is a map of the Gregory Canyon area. Lenore is going to point out a few areas for me. The large mountain in the center of the picture is Gregory Mountain, also know as Cokla. Cokla will is a sacred mountain of the Indians. It is one of three mountains which create a part of their ancient sacred religion.

At the very base of the mountain is the second sacred site, right there. And that's called Medicine Rock, also known as Painted Rock, with very intricate petroglyths and rock art on it. This is known as the healing rock in part of their religion as well.

Proposed right now is the Gregory Canyon Landfill, a private landfill which will fill -- can you point out where Gregory Canyon is? In that area right in there. 1,600 acre landfill ultimately that expands out from that canyon. That canyon would be hollowed out in

the proposed landfill process.

Winding down in front of the landfill is the San Luis Rey River. Why don't you go the entire length so you can see where it goes. San Luis Rey River is the sole water source for the Pala Band of Mission Indians and most of the agriculture in this area.

It's a scarcely populated area, as you can tell. The Indian reservation splits about the middle of the mountain, with everything to the left of that, as you can see, that's part of the Pala Indian reservation. The landfill will be immediately adjacent to the reservation. Will entail the hollowing out of a significant portion of the Gregory Mountain, and also will include a lot of facilities out in the front closer to where those ponds are out. Those are sand mining ponds.

Also at the base of Gregory Mountain, just to orient you, is the Pala Rey Youth Camp, which is a sensitive receptor there in that area.

The tribe itself is home to 1200 residents, 800 of which are the tribal members. They've been involved in this process regarding the siting of the Gregory Canyon Landfill since 1986 when it was first proposed.

What I'd be willing to do is I'd like to take you for a little walk through that process as a demonstration of what our concerns are in that chronology and then

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1 demonstrate where things went wrong. I name these in
2 three different processes.
3 The first process occurred in 1986. 1986, the
4 county of San Diego was looking for new landfill sites in
5 the north San Diego County due to a closure of a trashed
6 energy plant. They engaged a consultant group, the Endara
7 Group, to locate candidate sites, and the Endara Group
8 located 18 candidate sites for possible landfills in north
9 San Diego County. Of those, none of them -- Gregory
10 Canyon not among those. It was not seen as fit to match
11 the 18.
12 Shortly after that, a citizen's task force was
13 convened. Public hearings were held. And that group of
14 18 was narrowed down to six and ultimately to three
15 potential landfill sites, none of which included Gregory
16 Canyon. The result was Gregory Canyon was not considered
17 a candidate landfill site as of June -- excuse me -- late
18 1986.
19 Without explanation in 1987 that process was
20 restarted with a new consultant by the county, and this
21 was process two. This new expanded north county landfill
22 siting study included 168 sites initially. The new county
23 consultant, SCS Engineers, again went out to the public,
24 gained public participation. In this instance, in the 168
25 sites in north county, Gregory Canyon was included as one

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of the options. Archeologists reported during that process of the location of Cokla or Gregory Canyon as a sacred site as well as the -- I don't want to set this thing off again. Are we okay?

Or as Medicine Rock -- the presence of Medicine Rock as well and strongly suggested that there would be significant unmitigable impacts on both those sacred sites and the surrounding residents on the reservation.

Gregory Canyon does not survive the first round of review and was eliminated in the first round of review for these siting processes. The Board --

CHAIRPERSON MOULTON-PATTERSON: Excuse me. Just a moment.

MR. GRISWOLD: Do you want me to wait?

CHAIRPERSON MOULTON-PATTERSON: If you wouldn't mind. I guess we're -- is it just something that's going to come and go?

MR. GRISWOLD: Can you hear me now?

CHAIRPERSON MOULTON-PATTERSON: Hopefully somebody can fix it. I apologize.

MR. GRISWOLD: That's okay. I'm patient.

CHAIRPERSON MOULTON-PATTERSON: I think we'll take a very short break since we can't get the audio. Take a five-minute break.

(Thereupon a recess was taken.)

CHAIRPERSON MOULTON-PATTERSON: Again, I'm sorry for these technical difficulties. I think hopefully you're okay. If you would resume your testimony, we'd appreciate it.

And it's Mr. Griswold.

MR. GRISWOLD: Yes. And by the way, it's G-r-i-s-w-o-l-d. For the purposes of consistency, I'm happy to provide you a written version of my comments today for future reference to the Board.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

MR. GRISWOLD: I was talking about the process to the 1987, '88 processing of the siting of the Gregory Canyon Landfill when we were interrupted. As I indicated, 168 sites were in the initial siting study done by SCS Engineers. That was narrowed down to six ultimately. Gregory Canyon didn't make it past the first cut. That was further narrowed down by the Board of Supervisors to three sites again --

CHAIRPERSON MOULTON-PATTERSON: Just continue.

MR. GRISWOLD: I'll talk over it.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

MR. GRISWOLD: The Board of Supervisors considered it in open hearing. And after public comment, those six individual sites narrowed it down to three. Again, Gregory Canyon was excluded from the process. As a

1 matter of fact, in 1987 -- excuse me -- 1988 at the
2 hearing that this was actually taking place at, they also
3 adopted a resolution stating that they would not consider
4 any other sites than those three at the time. That was
5 the end of process two, and it looked like Gregory Canyon
6 was not going to be a landfill site.
7 Shortly after that, about three months after that
8 activity, Gregory Canyon was purchased by private
9 interests for the amount of about a million dollars. At
10 that point in time things started getting kind of strange.
11 We had gone through two public process in siting the
12 landfill. It's been dismissed in both public processes.
13 In December 1988, SCS was in the process of
14 looking again through its final six and looking at what
15 environmental analyses would have to be completed for
16 those three that were selected by the Board of
17 Supervisors. At the proponent's request, Gregory Canyon
18 Landfill -- private proponent's request and without any
19 public input or hearing, Gregory Canyon was suddenly added
20 to the list of three. This was in 1988. And it was now
21 going to be going through the final selection process.
22 1989, the SCS evaluation determined that of those
23 that were left, Gregory Canyon was the least likely to be
24 a viable landfill.
25 CHAIRPERSON MOULTON-PATTERSON: Mr. Griswold, I

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1 just have a question of our legal staff, since
2 specifically Gregory Canyon was not -- you know, I
3 understand what you're doing. You're going through the
4 process, and we're here to find out how we can involve the
5 community more. But since this is getting a little
6 specific to Gregory Canyon, this was not noticed. Is
7 there a problem?
8 MR. BLEDSOE: No. I think it's reasonable for
9 them to describe the projects they've been working on
10 through the study and giving the history they're giving.
11 So we don't have a notice problem.
12 CHAIRPERSON MOULTON-PATTERSON: Fine. Thank you.
13 I'm sorry to interrupt.
14 MR. GRISWOLD: No. That's totally understandable.
15 This is just a case example. I don't think there's any
16 decision before you on this project at this point in time.
17 The Board of Supervisors in 1989 authorized an
18 environmental impact report to be conducted on the siting
19 of a landfill. In this instance, they allowed three sites
20 to be looked at in this EIR. Gregory Canyon was not
21 included.
22 Four months later, suddenly it was re-included at
23 the cost of the private landfill owners' request. DPLU
24 about two months after that recommended that county stop
25 considering Gregory Canyon because of significant and

1 unmitigable impacts. Department of Fish and Game chimed
2 in, also recommended that Gregory Canyon not be considered
3 because of endangered species habitat and the cultural
4 effects. Federal Bureau of Land Management also
5 recommended that because of the cultural resources and the
6 effect on the Indian reservation -- BLM wasn't governing
7 the Indian reservation, but that was part of their
8 recommendation that Gregory Canyon not be considered a
9 potential landfill.
10 Community groups in the area voted unanimously
11 after public hearing in the area to reject Gregory Canyon
12 as a possible location. As you can see, there was a lot
13 of public hearings. There was a lot of public -- a lot of
14 public input through this period from 1989 through 1990
15 where this was a hot topic, and there was a lot of input
16 that was brought to the decision makers regarding the
17 status of this landfill, all of which resulted in
18 recommendations against it.
19 Finally, in June 1990, the Department of Planning
20 and Land Use prepared a report that again officially
21 recommended no Gregory Canyon Landfill. The Planning
22 Commission in September 1990 voted no Gregory Canyon
23 Landfill.
24 1990-91, there was at the request of the County
25 Board of Supervisors, there was a grand jury investigation

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1 of the proponents of the Gregory Canyon Landfill and their
2 influence on local elected officials. That was followed
3 up incidentally in 1992 by a DA investigation in the same
4 manner, all of which found that there was -- I don't want
5 to state the wrong terms -- undue influence occurring in
6 between hearings on the landfill that kept putting it back
7 into the process, and that the county should be very
8 careful in the way they're handling the proponents to the
9 landfill.
10 December 1990, finally, it came before the Board
11 of Supervisors one final time for certifying an EIR for a
12 general plan amendment on the siting of the landfill. And
13 Gregory Canyon was excluded from the process. County
14 rejects the bid in early 1991 to have it reinserted into
15 the certification of the EIR. Now it's been about five
16 rejections by the county of San Diego and through these
17 public processes.
18 Finally, in 1991 the proponents withdrew their
19 application for the private solid waste landfill going
20 through the county for land use approvals. Yet, three
21 months later they were back at the county asking for the
22 county to enter into a partnership for the same landfill
23 that they had just removed their application for.
24 Finally, in 1994 -- excuse me -- 1993, request
25 from the Board and from the Department of Public Works and

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1 the county declared Gregory Canyon as a dead landfill.
2 Two months later, the Country Registrar of Voters received
3 a recycling and solid waste disposal initiative, also
4 known as Prop. C, from the Citizens for Environmental
5 Solutions. Citizens for Environmental Solutions were the
6 project proponents for the Gregory Canyon Landfill. The
7 Gregory Canyon Landfill proponents invested about a
8 million dollars in a countywide initiative to site the
9 landfill at the Gregory Canyon site, which passed in
10 November 1994 by a 68 percent margin.
11 Most of the media campaign that was being
12 conducted at this time focused on the south county and
13 concerns there was going to be a landfill in their
14 backyard. You better vote for this one up in the north
15 county, which was located immediately adjacent to the Pala
16 reservation.
17 The Board of Supervisors had issued a report at
18 that time which indicated their concerns regarding the
19 lack of public involvement if you site landfills by
20 initiative process. And they actually made that public in
21 August 1994, a few months before the initiative actually
22 went to vote. However, it didn't get a whole heck of a
23 lot of publicity. And as I said, the initiative passed.
24 We're now in the process -- we're now in the
25 process of -- the project is now in the process of being

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1 permitted. The only thing that was approved by Prop. C
2 was a general plan amendment allowing for a landfill at
3 that location. Now what we are asking you to do is to
4 realize that it's really not too late to insert
5 environmental justice principles. I'm going to have
6 Lenore talk for just a few moments about the effects of a
7 landfill on the Pala EPA program, some of which this Board
8 has funded. And we do appreciate that funding. But they
9 are going to be frustrated by the imposition of a landfill
10 immediately adjacent to the reservation. And then I'll
11 close with my recommendations to you.
12 MS. VOLTURNO: Good afternoon. The tribe would
13 like to thank you for having us here. We really do
14 appreciate the chance to have some input on these
15 processes.
16 CHAIRPERSON MOULTON-PATTERSON: Thank you for
17 being here.
18 MS. VOLTURNO: And on behalf of Pala EPA, I'd
19 just like to ask that the Integrated Waste Management
20 Board assist the tribe in protecting its reservation and
21 the environment. We've come a long way in our program.
22 We've developed a water pollution program, a non-point
23 source pollution prevention program, air quality
24 monitoring. We monitor pesticides on the reservation.
25 And we've made quite a bit of progress in all of those

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1 programs.
2 As Ted had mentioned, a lot of the impacts of the
3 Gregory Canyon landfill would be unmitigable, and those
4 things are very important to us. And as the Environmental
5 Director for the Pala Band of Mission Indians and on
6 behalf of the Native American Community of Pala, we'd like
7 to ask that if there is any decision that comes before
8 this Board that you would promote environmental justice by
9 opposing the Gregory Canyon Landfill in any capacity that
10 you can. Thank you.
11 CHAIRPERSON MOULTON-PATTERSON: Thank you.
12 MR. GRISWOLD: Last couple of comments here. I
13 want to take you back in time when this whole process was
14 going on because it's important to get perspective. This
15 was all activity in opposition of the landfill. And the
16 initial proposal of this landfill occurred back well
17 before Indian gaming and Indian reservations were on the
18 front pages of every newspaper.
19 Back in 1988, the reservation was, indeed,
20 largely uneducated and impoverished. It was a
21 marginalized people, the people that are supposed to be
22 protected through environmental justice principles. They
23 largely remain that way. But I think a lot of people have
24 a different image of Native American tribes today than
25 they certainly had at that point in time.

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1 The Gregory Canyon proponents took advantage of a
2 loophole in the process of siting a landfill without
3 having to really adhere to these environmental justice
4 principles. And in fact, they overrode when those
5 principles were being implemented and utilized.
6 What we're asking you to do is not just for
7 Gregory Canyon Landfill but for other instances when this
8 comes up. Look deep into the process of how a permit
9 decision comes to you. Because when you have a permit
10 decision, you can still exercise your environmental
11 justice principles. You're not reliant upon decisions
12 made before you got there if they didn't, in fact,
13 implement the principles that your state mandate does
14 require you to take.
15 In this instance, we ask that you direct also the
16 local enforcement agencies that are going to be
17 considering the permit before it ever gets appealed to
18 you, if it ever gets appealed to you, direct them also to
19 please consider the path that the process came before it
20 got to them. And again, implement those same principles,
21 the environmental justice principles, and look at the
22 public participation in the permitting process, if not in
23 the siting process, because that seems to have been
24 circumvented in this case.
25 On a final note, the public participation process

1 became more antagonistic this past year, and I wanted to
2 make you aware of that as well. The EIR on this project
3 was certified in January of this year without a project
4 description or a completed project application. It was
5 done apparently for business reasons known only to the
6 project proponent. It was an unusual move because it was
7 a CEQA certification, but there was no notice of decision
8 and there was no basis on which there was going to be an
9 immediate agency action.
10 So on that basis, the Pala Band and another
11 environmental group had actually requested from the LEA,
12 how do we appeal this decision? This is an unusual
13 decision. And normally under CEQA you would appeal to the
14 next decision-making body. They were not provided
15 guidance on that. And as a matter of fact, they were
16 told, "You don't appeal to the Board of Supervisors
17 because they don't have discretion over the LEA, but you
18 may need to appeal to some other body. And if you fail to
19 exhaust your administrative remedies, we will hold you to
20 that. But we're not going to give you any direction on
21 that."
22 We were concerned about that response so we
23 provided the same response to this Board, and we didn't
24 get any further clarification. Shortly after, we had not
25 gotten any further communication, which I guess meant

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we've got to appeal to everybody, neither the Pala Band nor the environmental group, which was River Watch, took any action, yet was sued by the project proponents with the county name as real party in interest or the LEA as the real party in interest in a declaratory relief action, which while the Pala Band was able to get out of because of sovereignty issues, the environmental group is continuing to fight and accrue a lot of attorneys fees.

The reason why this is a community participation issue is the project proponent in filing the lawsuit and bringing the LEA into the process stated clearly in the paper in his interview that this is a Bush preemptive strike on this type of participation. We've had enough people fighting this landfill.

That is both an environmental justice and a community participation issue that I think this Board should be aware of and should be addressing because these types of lawsuits, which clearly are slap suits, are doing nothing but intimidating community participation.

I appreciate the time today. I'm happy to answer any questions for you. And again, I'm happy to provide you written copies of my comments.

CHAIRPERSON MOULTON-PATTERSON: Thank you. We appreciate your time.

I just want -- for the record this Board has been

very interested in environmental justices, and we're working very, very hard. Sometimes we get frustrated because we don't have as much jurisdiction as we would like to. But I do want to make it very clear Congressman Solis is a good friend of mine. We've had many conversations, and we're working hard in this area.

MS. ROSNER: Thank you.

I want to thank our presenters again for sharing their time and their ideas with us. I hope that we've met the purpose of today's session to review our outreach process to pull this presentation together for you, to provide the context for community participation analysis, and for folks in the community to share their experience relating to their participation when interacting with the Board. And yes, it can get difficult. But we are also committed to facilitating this process and working through it with you.

CHAIRPERSON MOULTON-PATTERSON: Thank you. We appreciate that. And I know we have some questions and comments.

Mr. Paparian.

BOARD MEMBER PAPARIAN: Thank you, Madam Chair. I think we heard from three situations today. One where -- they're all sort of interesting and instructive. One where we are the LEA, the Stanislaus County, the Board

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is the LEA and has a lot of responsibility therefore for decision making involving things going on in that community. We heard about a concern where we made a decision involving the Bradley Landfill. And we heard about a facility that we might see at some point in the future.

Three kind of unique -- but these areas have some things in common, and I think the things that I heard that were in common were that for various reasons the communities feel disenfranchised from the decision-making process. They feel impacted in various ways by the facilities that are either proposed or are sited. And they want a forum to be heard during which their concerns can be heard and addressed.

And I think that, you know, in the past we've certainly heard that there are many steps in getting these sorts of permits, but there isn't really the overarching hearing where people can really get their concerns heard. And I think that is a potential problem with the whole process.

When we looked at this issue a year and a half, two years ago, when we looked at the environmental justice angle of it, one of the very interesting things that came out -- there was actually a law review article that specifically called out the Waste Board and instructed the

1 Waste Board how we might incorporate environmental justice
2 into our decision-making process under existing law
3 without getting any additional legislation.
4 We had a spirited decision about that law review
5 article at one Board meeting. I don't think we did
6 anything about it. I think part of the things that we
7 did -- actually, we did two things. We said let's wait
8 and hear from CalEPA and what they do on environmental
9 justice. I know that work is just wrapping up. And we
10 also decided to go forward with this contract so we could
11 hear directly from impacted communities kind of the
12 unvarnished view of what's really happening in the
13 community and how communities feel about our
14 decision-making process. And I think that's a lot of what
15 we heard today.
16 And as difficult as some of it is to deal with,
17 as tempting as it is really to go into the nuances of our
18 law, I think the big picture is that communities that we
19 heard from have concerns. They're feeling impacted, and
20 they're feeling somewhat disenfranchised. I think that's
21 all instructive to us as we try to move forward and come
22 up with some ways to deal with environmental justice in
23 response to what CalEPA does and how we might incorporate
24 public participation more in our decision-making process.
25 CHAIRPERSON MOULTON-PATTERSON: Thank you,

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1 Mr. Paparian.
2 I see no other lights. I did want again -- well,
3 all of a sudden I'm seeing a bunch of lights. And I will
4 call on you.
5 Just one of the things that I would really
6 encourage is, yes, come to the state, but act locally.
7 And I know you're doing that. And I know it's
8 discouraging. I know it's hard, coming from local
9 government. It really, really is hard. But getting
10 involved in the early stages is really important.
11 Now we have Mr. Washington and then Mr. Medina.
12 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
13 Just very briefly. And again to all the
14 presenters, and certainly to Kristin Taday -- I don't know
15 how you say her last name. Taday. Let me offer to you --
16 let me offer to you my apologies. Staff just informed me
17 that you probably didn't know what you were walking into,
18 and the situation was probably presented to you unfairly.
19 But that is a frustration at this Board because
20 we did go out of our way. The public knows it. Everyone
21 knows it now. And the reporters have written about it.
22 This Board had no authority to hold a public hearing, and
23 we did. We went to Pacoima. I represented in the
24 Legislature all of Watts, Compton. And you know where I'm
25 talking about. That whole disenfranchised neighborhood

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1 for six years in the State Assembly. I've always thought
2 we've been the last one to hear about anything that took
3 place and whatever was going on. We're the last ones to
4 hear about our representative -- every project down there
5 in that area.
6 So for someone to come to us and say that we
7 didn't do something, and I know for a fact we did do it,
8 it was a bit frustrating. So I want to apologize to you.
9 And it wasn't directly to you. I had the same type of
10 discussion with the East Valley Coalition. That's
11 probably why they didn't come today and they sent you down
12 here. And I know -- it's not funny. I did. I had the
13 same conversation with the lady -- the president of your
14 coalition, standing right here, the exact same way.
15 Because I told her we went out of our way to come and to
16 address the concerns that the community had because there
17 was no other public forum for you to do it in.
18 Your legislators can do forums every single day
19 on particular issues like this. I talked to Cindy
20 Montanez about this. I talked to Richard Alarcon about
21 these types of hearings. They need to have these hearings
22 all the time. Because at some forum you figure that
23 either we need to have our Legislature to address the
24 whole idea of CEQA, which is supposed to be the public
25 hearings piece for where you get an audience.

1 And the gentleman just said that their form of a
2 public hearing is 9:00 in the morning when everybody's at
3 work. And I argued against that at this Board and said,
4 "No, we need to go down at 7:00." Every Board member
5 stayed there Pacoima. It was 12:00 midnight when some of
6 us went home because we wanted to give the community the
7 forum to discuss these type of issues.
8 And one of the things I raised down there is you
9 guys need to make your legislators -- which Cindy and
10 Richard Alarcon was sitting there, they need to be held
11 accountable for making sure the public hears about what's
12 going on down there. Because if you go and you read the
13 statue according to what we're responsible for, it limited
14 us. And by the time it gets to us, we are very limited in
15 our response to some of these things.
16 I got frustrated when I came to this Board in
17 December because I'm saying, "No, let's drop the hammers
18 and stop this from happening." And they say, "Carl, you
19 can't do that. It don't work like that."
20 So I shared the same frustration. And I just
21 want you to know this wasn't an attack on you. If you
22 felt that way, I apologize. But I have to address those
23 issues because this Board is going out of our way to
24 address the whole idea of public hearings, community
25 outreach.

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1 And we said to these folks, both public and
2 private landfill owners, that if you are going to open a
3 landfill, if you're going to expand a landfill, we want to
4 see how you're going to do that. We want to see that the
5 people who this really affects that they get a chance and
6 an opportunity to know there's a public hearing. We want
7 you to do it in good faith. Because I will go to the
8 Legislature and get legislation and says, "No. You have
9 to do it at a certain time." We've said in our regs -- I
10 believe it says if you're going to do this, we want to see
11 your hearings take place after 7:00 or sometime where it
12 makes sense where people working can be there to voice
13 their concerns and their opinions about this. We've said
14 that. And we're standing by that.
15 But I don't want you to leave here thinking that
16 this Board is obsolete in addressing issues of
17 environmental justice because that's the top of our
18 priority on this Board. We want to make sure those are
19 issues we address.
20 So again, I just want to apologize to you, that
21 it wasn't a personal attack on you. It was not. And I
22 would never do that to you. But it is a personal attack
23 against the folks and individuals who want to make it seem
24 as though this Board is obsolete when it comes to making
25 decisions that affect the communities, when they've been

through a whole process and none of the elected officials on the local levels has tried to address these. Because one, it's probably politically unsafe for them to do it. And then secondly, they're up for re-election, and they want to make sure they don't get caught out there in a situation to where they have to vote on something and take some stands on some of the harder issues. It's unfortunate that it becomes a political issue. But at the end of the day that's exactly what it boils down to. The politicians don't want to make the tough decisions. And when they're in a political re-election, they want to seem as though they're standing up for these types of issues.

So I apologize again to you.

And Madam Chair, I thank you for the opportunity to apologize to her.

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

Mr. Medina.

MS. TADAY: I just wanted to say thank you for the apology. If it had been explained in that way the first time around, I don't think there would have been this kind of reaction, number one.

Number two, I understand that and I -- believe me, we do talk to our legislators. We talk to Montenez often. We try to contact Alarcon as much as possible.

But if you do see in terms of my suggestions, they did relate back to your own strategic plan. So it's very heated, and your perception and my perception and many residents' perceptions are very skewed at this point. But this only magnifies the fact that residents and organizations have such a disconnect with any boards or state agencies. So however this conversation played out, at least as Mr. Paparian had mentioned, the bigger picture is there is a disconnect. And I recognize and our organization recognizes that you cannot handle all the issues. But it's just being brought up, and the suggestions have been made. Thank you.

CHAIRPERSON MOULTON-PATTERSON: Thank you very much.

Mr. Medina.

BOARD MEMBER MEDINA: Thank you, Madam Chair.

Let me say I'm very empathetic and sympathetic with the presenters in regards to the issues that they presented. And having gotten my own start as a community organizer and having worked around the country as an organizer to ensure there is a public participation and input into the political process, I can appreciate other points of view.

Having said that, however, I have concerns in regard to today's presentation. That as I understood it,

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1 we were to have a presentation on methods to increase
2 public and community participation in Board processes. So
3 first of all you have to start out, what are the Board
4 processes? We have Board meetings. I think those are the
5 most important. And as I understood, the contract concept
6 for this was how to improve public participation at our
7 Board meetings. Because all too often we hear from the
8 persons that are here to represent a given waste company
9 on some specific issue, but we have not had the level of
10 public participation that we really would have liked to
11 have at these Board meetings. We've taken some steps to
12 improve that in that we did, when the budget allowed it,
13 move our Board meetings out to various communities so we
14 could hear the input directly from those communities.
15 Committee meetings are very important. I know
16 having served on the Board of Supervisors that this is the
17 community for the public to come in at the Committee
18 meeting and really present their case. At some point in
19 the future, possibly we could hold Committee meetings
20 because that's the first line where you present your input
21 on a given issue. And that's where we first tackle the
22 issues is at the Committee meeting. So sometime in the
23 future, if, again, the budget allows it, we may move
24 Committee hearings around.
25 We also have workshops for stakeholders. And

1 again, this is a very important process because, again, we
2 discuss policies, procedures. We discuss programs. We
3 discuss a lot of matters that would be pertinent to a
4 local community. And if the local community or the public
5 participation is not adequate, then we really miss out.
6 As you mentioned the strategic plan. I'm glad
7 that you mentioned that, because again, that's one of the
8 directives to the staff to go out and ensure that we have
9 adequate external stakeholder input into the strategic
10 plan.
11 Conferences. Again, if there's a conference,
12 such as the waste tire conference, or a conference on any
13 other issue, in some cases in order to ensure
14 participation we have subsidized some people, paid their
15 enrollment, possibly paid their travel or something just
16 to make sure we have adequate representation at this
17 conference.
18 In regard to environmental justice, we've taken
19 great pains to make environmental justice part of our
20 policies and procedures here at the Board. I think
21 there's a deep commitment here with the Board members in
22 regard to environmental justices, and we have raised it on
23 a number of occasions. I know that I raise it in the
24 issue of a solid waste facility that was expanding located
25 near the El Viso community where the notice had been given

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1 during daytime and only in English. And there are other
2 examples like that.
3 The city of El Monte came in and asked for an
4 extension -- a 393 extension because they could not meet
5 their 50 percent goal. In their problem statement they
6 stated that they could not successfully implement their
7 program because they could not reach their diverse
8 community. They had 80 percent diversity in their
9 community, but yet lacked adequate staffing and resources
10 dedicated to that community. So we did a study called
11 "Minority Communities and the Waste Stream."
12 We incorporated tribal concerns into our loan and
13 grant programs and into our funding eligibility so we
14 could do work directly with tribal governments. We've had
15 a number of successful partnerships with tribal government
16 in that regard.
17 And, not least, but I think that it's always
18 important when the decision-making body, such as ours,
19 reflects diversity. The chair and myself, we both were
20 appointed by the Governor to represent the public. I have
21 a long-time involvement with the Latino community. We
22 have representation from the black community, and we have
23 the industry and environmental representation. I don't
24 think there's any other body in the state government that
25 has this kind of diversity that is present on that

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1 particular body.
2 So we are sympathetic, and we're aware of a lot
3 of the issues that you have raised. And we are very
4 committed to addressing those issues. And so we look
5 forward to working with you.
6 I think that the Waste Board is one of the best
7 kept secrets in state government because a lot of people
8 really don't know what we do. They really don't know what
9 our mandate is and what we are allowed to do legally. And
10 to that end, you know, we have given our Department of
11 Public Affairs the directive to go out and develop a plan
12 that will do better outreach and make the public better
13 aware of what we do. And that's not to mention the number
14 of public -- the number of visits that every Board member
15 on here has gone out to all of the communities to visit
16 recycling centers, to visit landfills, to talk to the
17 local communities. Up until our travel budget became
18 restricted, there wasn't a week or day that some Board
19 member wasn't out talking directly to various communities.
20 So we're very supportive of this process. We're
21 very supportive of this particular grant that we made.
22 And we look forward to -- and we will measure our own
23 effectiveness, as you will measure us in terms of how
24 effective we are, at increasing public participation at
25 all levels of this Waste Board.

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1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
2 Medina.
3 And again, thank you. We sincerely appreciate
4 you sharing your experience with us.
5 Yes.
6 MR. MATAKA: I want to thank you again for being
7 able to speak in front of you. But I just had to share
8 this with you before I left because --
9 CHAIRPERSON MOULTON-PATTERSON: If you wouldn't
10 mind, please state your name for the record.
11 MR. MATAKA: John Mataka with the Grayson
12 Neighborhood Council. Again, I want to thank you for
13 allowing us to come today. But before I leave, I have to
14 leave here with a good feeling. Okay. And I need to say
15 this for what it's worth.
16 You know, I think we're here today to talk about
17 public participation in the process. When I come to your
18 house, if I'm greeted well, then there's a likelihood I
19 will come back. If I'm treated bad, chances are I won't.
20 That's just the reality.
21 I appreciate Mr. Washington's apologizing to
22 Kristin. But I just want to share the fact that whether
23 we come here knowing what's really going on or not is no
24 reason to belittle. Okay. And the fact that another
25 group probably didn't come today, as Mr. Washington was

saying, because they were spoken to in the exact same manner, to me, is an issue. And it's something that this Board needs to look at.

And I thank you for giving me the opportunity to say that because we're all human and we all make mistakes. I understand that. I've made plenty of them myself. But I just needed to say that because it's important. If you really truly want participation, then treat me like I'm coming to your house.

CHAIRPERSON MOULTON-PATTERSON: Thank you very much.

Before we go on to our next item on the city of Gardena, I did want to say a real special thank you to somebody who's very important to all of us here. And I don't know if you're aware of it, but Ruben, this is his last Board meeting with us. And Ruben is moving with his family to Miami, Florida.

And Ruben, I just can't tell you how much we appreciate everything you've done. You've been so friendly and professional. And at times when it's been a little testy around here, and you've just been wonderful. We appreciate it. We want to wish you the very best of luck. Thank you so much.

(Applause)

CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

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1 And also Item 4, Mr. Paparian cast his vote. And Mr.
2 Medina wanted Mr. Washington to hear his rationale for
3 that vote since he wasn't in the room. So if you wouldn't
4 mind, Mr. Paparian, if you'll go over it again.
5 BOARD MEMBER PAPARIAN: Again, this was the RMDZ
6 item. And I wanted to talk to staff because I was very
7 concerned about the apparent rift between our staff and
8 the RMDZ administrators who I view as an extension of our
9 staff. Kind of a different situation than with applicants
10 for a project, that there are people who are promoting our
11 programs and so forth. I felt I got the commitment from
12 Patty Wohl that she would do her best to bring the RMDZ
13 administrators and her staff together, to not let this
14 issue tarnish what ought to be a very good working
15 relationship. So with that commitment, I did vote for
16 this item.
17 CHAIRPERSON MOULTON-PATTERSON: Thank you,
18 Mr. Paparian, for restating that for us. He voted aye on
19 the motion.
20 BOARD MEMBER PAPARIAN: I think I voted aye
21 before. But if there's any doubt, I'm voting aye on the
22 item.
23 CHAIRPERSON MOULTON-PATTERSON: So the motion
24 passes 4-2. Thank you.
25 At this time we're going to move to the city of

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Gardena.

DEPUTY DIRECTOR SCHIAVO: Madam Chair, may we have just a moment? For the swearing in process and testimony it might be more convenient if we have the city up here with us.

CHAIRPERSON MOULTON-PATTERSON: Okay. If they'd come on up, and I'll swear them in.

Are we all comfortable?

We're going to be holding a public hearing on whether or not to impose penalties on the city of Gardena for failure to implement its source reduction and recycling element.

This hearing will be a little more structured than our typical agenda item hearings, and the process is laid out in Attachment 1 on the item. In a moment I'm going to ask every one that plans on testifying in this hearing to raise and be sworn in as a group.

After that, our staff will make a presentation during which the Board members may ask questions. Representatives of the city of Gardena will then make a presentation, during which Board members may also ask questions. Both staff and city will then have an opportunity for a brief rebuttal.

After the presentations are concluded, members of the public may make comments. Those comments are not

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1 considered to be evidence. The Board will then go into
2 closed session to deliberate on a decision.
3 Unless any Board members have any questions
4 before I begin, I'd like to go ahead and swear in people
5 that will be testifying.
6 Mr. Washington.
7 BOARD MEMBER WASHINGTON: Just a question to the
8 city. Is the City Councilman coming or something took
9 place, he's not going to be here?
10 MR. LANSDELL: He was delayed in route.
11 CHAIRPERSON MOULTON-PATTERSON: Okay. So anyone
12 that plans on testifying, if you'd please stand. Do we
13 need to stand?
14 (Thereupon all prospective witnesses were sworn.)
15 CHAIRPERSON MOULTON-PATTERSON: Thank you very
16 much.
17 At this time turn it over to -- is it Mr. Block
18 or Mr. Schiavo that's going to start off?
19 DEPUTY DIRECTOR SCHIAVO: Mr. Block will start
20 off and then Phil Moralez will go from there.
21 CHAIRPERSON MOULTON-PATTERSON: Thank you.
22 Mr. Block.
23 (Thereupon an overhead presentation was
24 presented as follows.)
25 STAFF COUNSEL BLOCK: Elliot Block from the Waste

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1 Board's Legal Office. I'm going to just briefly go
2 through the legal framework that brings us today for this
3 hearing. And then Phil Moralez is going to start talking
4 about some of the factual details as part of our
5 presentation.
6 Very briefly, Public Resources Code Section 41825
7 provides that after the Board holds a public hearing and
8 makes a determination that a jurisdiction has failed to
9 implement its SRRE, that it is to issue an order of
10 compliance that includes a schedule for achieving
11 compliance. And that schedule for achieving compliance
12 shall include those conditions necessary to complete in
13 order to implement the SRRE. In the case of Gardena, that
14 order was issued in January of this year, January 2003.
15 --o0o--
16 STAFF COUNSEL BLOCK: Public Resources Code
17 Section 41850 then provides after these things have
18 occurred, after a public hearing in which an order of
19 compliance has been issued, that if the Board finds that
20 the jurisdiction has failed to make a good faith effort
21 and implement its SRRE, that the Board may impose
22 penalties of up to $10,000 per day until that's
23 implemented. In this particular case, the compliance
24 order included a condition that the city and Board were to
25 come to agreement on a local assistance plan by June 30th

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of this year.

--o0o--

STAFF COUNSEL BLOCK: I'm not going to read this for you. But briefly, you know, any penalties that might be imposed in a hearing of this type go into a special fund that's designed specifically to assist local jurisdictions in meeting the requirements of the act.

--o0o--

STAFF COUNSEL BLOCK: So the issues that are before the Board today that you'll be asked to decide after the presentation is done are twofold. Number one, did Gardena fail to meet the conditions of the compliance order? And then if so, what is the appropriate penalty to be issued for this failure?

Before Mr. Moralez makes his presentation, we're just going to make this easier in terms for the record, enter a couple of items into the record. Phil is going to hand those over. Basically this includes a binder which you've all been provided a copy of, and the city has been provided a copy of, which is essentially the agenda item and it also includes copies of letters and e-mails that are referenced in one of the attachments to that item. And essentially to save paper and expense, we did include those all on BOD's website. As well, he's provided a copy for the record of both the notice of the hearing for today

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and proof that that was served on the city, and also proof that this binder was served on the city last week.

Now I'll turn it over to Mr. Moralez, unless you have any questions about that. But hopefully all the technical, legal part's done.

--o0o--

CHAIRPERSON MOULTON-PATTERSON: Just one moment. I see no questions from the Board.

BRANCH MANAGER MORALEZ: Good afternoon, Madam Chair and Board members. On October 20th, 1999, the Board issued the first of two compliance orders for the city of Gardena. Compliance Order IWMA BR99-86 was issued for the correction of the city's base year measurement and to correct program gaps preventing the city from achieving diversion requirements. During the term of this compliance order, the city requested three time extensions that were granted.

On January 14th, 2003, the Board approved the city's new 2000 base year study and resolved that the city had completed Compliance Order IWMA BR99-86 relative to the completion of a new base year. However, on that same day, the Board issued the second Compliance Order, IWMA BR03-02, for failure to implement the diversion programs identified in is SRRE and for not meeting the 50 percent diversion requirement. One of the requirements of the

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1 second Compliance Order was for the city to agree to a
2 local assistance plan by June 30th, 2003.
3 --o0o--
4 BRANCH MANAGER MORALEZ: On February 26th and on
5 April 7th, 2003, Board staff met with the city staff to
6 identify program implementation gaps and to assist the
7 city in the development of a local assistance plan
8 outlining new and expanded programs. The key element of
9 the local assistance plan with the city's effort to
10 identify new commercial services that would be identified
11 through a Request For Proposals that the city initiated in
12 August 2002.
13 On May 29th, 2003, Board staff transmitted the
14 completed local assistance plan to the city for their
15 review and signature.
16 On June 24th, 2003, the city manager signed the
17 local assistance plan. However, on the same day the
18 Gardena City Council approved a preliminary agreement for
19 the city to enter in a joint venture with a private firm
20 to provide commercial solid waste collection services
21 pending negotiation and subsequent approval by the City
22 Council at a later date.
23 In order for the Board staff to approve the LAP
24 that was signed by the city manager on June 24th, the LAP
25 needed to accurately reflect the city's time frame for

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implementing necessary diversion programs. The City Council's action on June 24th to extend current commercial waste franchise agreements through October 31st, 2003, was in conflict with the LAP that existed on June 24th.

--o0o--

BRANCH MANAGER MORALEZ: On June 25th, 2003, Board staff contacted the city to request a meeting to discuss the City Council's actions to form a public/private partnership and the impact that decision had on the schedule provided in the LAP.

On July 1st, 2003, Board staff met with the city noting the delay in agreeing to a LAP was contrary to the requirements of the city's Compliance Order, and that it was necessary for the city to confirm its intent to implement the programs identified in the LAP.

At this meeting, city staff was unable to confirm program implementation start dates or when the City Council would complete review of the joint venture, establish a contract, and implement services. Board staff advised city staff that if they were unable to determine when programs would begin because of the action taken by the Council, the city should consider asking for a time extension.

On July 10th, 2003, Board staff received an e-mail response from the city restating it could not

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1 provide any firm dates as to when their programs would be
2 scheduled for implementation, should the partnership be
3 approved by the City Council.
4 --o0o--
5 BRANCH MANAGER MORALEZ: On July 16th, 2003,
6 Board staff e-mailed the city reiterating the need for a
7 schedule and that Board staff would bring this issue as a
8 discussion item to the Board in August informing them of
9 the delays and that a penalty hearing would be scheduled
10 in September.
11 On July 24th, 2003, Board staff met with the city
12 manager to discuss the city's plan for the joint
13 partnership and for a written schedule regarding program
14 implementation. At this meeting the city indicates that
15 it would request a time extension to the June 30th due
16 date for the submittal of an LAP with a new program
17 implementation schedule that reflected the City Council's
18 actions with a public/private partnership.
19 --o0o--
20 BRANCH MANAGER MORALEZ: On August 1st, 2003,
21 Board staff mailed a letter to Mayor Terauchi notifying
22 him that the Board had scheduled a hearing to consider the
23 imposition of administrator civil penalties for
24 noncompliance of AB 939.
25 On August 1st, 2003, the Office of the Board

Chair received a letter submitted by the city dated July 30th, 2003, requesting an extension and noting the city's commitment to implement programs.

--o0o--

BRANCH MANAGER MORALEZ: On August 7th, Board staff met with the city to discuss specific revisions to the LAP to reflect the city's planned actions.

On August 11th, a revised LAP was drafted by the Board staff and provided for city review.

On August 18th Board staff received a signed local assistance plan from the city that addressed the schedule for the implementation of programs based on the City Council's direction to go forward with the implementation of the joint venture.

On August 26th, 2003, the city of Gardena approved the joint venture with Waste Resources of Gardena, WRG, for the collection of the city's commercial waste. I would like to note that for 2000 the city of Gardena's approved diversion rate is 13 percent. For 2001, the rate is not calculated because of disposal reporting issues that need to be resolved.

--o0o--

BRANCH MANAGER MORALEZ: Given this historical perspective, I'd like to go back to the slide presented by Staff Counsel Elliot Block that identifies the issues

before the Board. One, did Gardena fail to meet the conditions of the Compliance Order?

I believe that there is no dispute that the June 30th, 2003, due date for an agreed-to local assistance plan was not met. Actions taken by the City Council impacted the schedule for implementation of programs that must be addressed if the city is to achieve the mandates of AB 939.

That being the case, then the second issue outlined in the slide needs to be addressed. If so, what is the appropriate penalty to be imposed for this failure? In the agenda item, staff notes several options that the Board may consider.

--o0o--

BRANCH MANAGER MORALEZ: Option 1, impose a daily-based penalty amount taking into consideration different beginning and ending dates for imposition of penalties.

Option 2, which will be used with Option 1, is to assess a penalty in accordance with the Board's Countywide Integrated Waste Management Plan Enforcement Policy, Part II, using the moderate penalty range of $1,000 to $5,000 per day. Based on the Board's evaluation of mitigating factors, recommended per day amount range from 730 to $3650 per day.

1 Option 3, impose no penalty based upon the city's
2 request for a time extension dated July 30th, 2003, the
3 information provided in this item and the information
4 presented at the public hearing.
5 And Option 4, impose a penalty and suspend the
6 fine based upon testimony provided at today's hearing.
7 Board staff, in determining what penalty should
8 be considered, look at the penalty criteria identified in
9 statute.
10 Excuse me a second, here. Apologize for that.
11 --o0o--
12 BRANCH MANAGER MORALEZ: The following slide
13 identifies the factors the Board may consider in
14 determining penalties. Of those factors lists, staff
15 focused its review on the good faith effort.
16 --o0o--
17 BRANCH MANAGER MORALEZ: In summary, there are
18 five critical elements that warrant staff recommendation
19 for the imposition of fines.
20 One, the first Compliance Order issued on October
21 20th, 1999.
22 Second, during the term of this compliance order,
23 the city was also late in providing a local assistance
24 plan and had requested three time extensions.
25 Third, the approved base year for 2000 identified

1 a diversion rated of 13 percent. And delays and failures
2 to implement critical programs would only further impact
3 diversion efforts.
4 Four, with the issuance of a second Compliance
5 Order on January 14th, 2003, the city still had not shown
6 a good faith effort.
7 And finally, with the delay of the city to submit
8 a second local assistance plan, the ability for the city
9 to address concerns addressed in both Compliance Orders
10 was further impacted.
11 For those reasons staff recommends the Board
12 selects Option 1 and 2. Option 1 describes a time period
13 for which the penalty would be imposed, and Option 2
14 defines the amount of the daily penalty. In determining
15 Option 1, the Board may consider the following.
16 --o0o--
17 BRANCH MANAGER MORALEZ: Date the Compliance
18 Order issued through penalty hearing.
19 The date the Compliance Order was issued through
20 the date the local assistance plan was signed.
21 The date the local assistance plan was due to the
22 date of the hearing.
23 The date the local assistance plan was due
24 through the date it was signed by the city.
25 The date the city received notice for the penalty

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1 hearing to the date of the hearing.
2 And other alternative dates the Board may feel
3 appropriate based on the testimony given.
4 In records to Option 2, in determining the amount
5 of the fine to be assessed on a per day basis, the Board
6 may consider the following.
7 --o0o--
8 BRANCH MANAGER MORALEZ: The maximum penalty of
9 $10,000 per day. However, the Board's enforcement policy
10 provides three ranges for potential penalties.
11 A serious range, no less than $5,000 per day up
12 to $10,000 per day for failure to implement without reason
13 or justification.
14 A moderate range, no less than $1,000 per day up
15 to $5,000 per day for failure due to mitigating
16 circumstances.
17 A minor range, up to one $1,000 per day for
18 failure to meet requirements to some extent.
19 Based on the information presented in this item,
20 staff recommends the moderate range for the imposition of
21 penalties.
22 Based on the previous penalty actions taken,
23 considered by the Board, staff recommends additional
24 factors when determining an actual penalty amount. Staff
25 selected three factors that related to the impact the

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1 penalty might have on the jurisdiction and the relative
2 impact of the jurisdiction's waste disposal on statewide
3 disposal reduction. The three factors are population,
4 taxable sales, and waste disposal. Most specifically,
5 staff reviewed the relative ranks and the jurisdiction in
6 these three areas in comparison to other cities.
7 --o0o--
8 BRANCH MANAGER MORALEZ: As you can see from the
9 slide, when you take into consideration the city's
10 percentile and these three factors as compared with other
11 jurisdictions, the average modifier would be 73 percent.
12 Staff is recommending that this percentage be
13 applied to the base penalty if the Board determines that a
14 penalty is justified. Thus, if the lower end of the
15 moderate penalty range is used, the penalty would be
16 assessed at 73 percent of $1,000, or $730 a day.
17 For the record, I would like to acknowledge that
18 late yesterday I received a copy of a letter addressed to
19 Mark Leary, Executive Director, requesting a postponement
20 of this Hearing. This request is based on a belief there
21 is new information that could address Board staff's
22 recommendation on this item. The information referenced
23 in their letter is in regards to DRS reporting
24 irregularities. The information and irregularities are
25 not new to staff. Staff have been working with the city

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to verify the information provided and determine what the allocated amount of disposal should be for this city.

However, this hearing is about programs, not disposal. If the information proved to be accurate, the city's diversion rate with corrections would still be in the low or the mid 20 percent diversion rate for 2001. The need for programs would still remain critical.

This concludes staff's presentation. Representatives of the city are present. Are there any questions?

CHAIRPERSON MOULTON-PATTERSON: I see no questions from Board member.

Oh, Mr. Jones.

BOARD MEMBER JONES: Thanks, Madam Chair. The Compliance Order BR99-86 was in response to the first part of the mandate, the 25 percent?

BRANCH MANAGER MORALEZ: That is correct.

BOARD MEMBER JONES: And then that Compliance Order, not only to straighten out the numbers but to identify the programs that were going to get them to 25 and then 50?

BRANCH MANAGER MORALEZ: That is correct.

BOARD MEMBER JONES: And then that one got delayed or got -- we gave them some extensions on that.

BRANCH MANAGER MORALEZ: There were three

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extensions requested during that compliance order period.

BOARD MEMBER JONES: But we got the information. And was there a follow-up on our part if they did any of the programs that they identified in that first compliance order?

MR. USELTON: There was a --

CHAIRPERSON MOULTON-PATTERSON: Please state your name for the record.

MR. USELTON: Steve Uselton. There was a public hearing for the Board to consider the city's new base year that was submitted for 2000. Also it considered the program implementation to date that the city had done, and it was determined that additional program implementation was necessary. And that was the reason why the second Compliance Order was issued, specifically for program issues.

BOARD MEMBER JONES: And the second Compliance Order was for the year 2000 mandate.

MR. USELTON: That's correct.

BOARD MEMBER JONES: With the 50 percent.

MR. USELTON: That's correct.

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

Mr. Paparian.

BOARD MEMBER PAPARIAN: Just to clarify what our

1 options are. You laid out the four options. The fourth
2 one was imposing a penalty and then suspending the fine.
3 My understanding is that we could impose a penalty and
4 suspend part of the penalty. We don't have to suspend all
5 the penalty. Okay. Thank you.
6 CHAIRPERSON MOULTON-PATTERSON: Any other
7 questions? I don't see any.
8 I have three speaker slips from the city,
9 Councilman Steven Bradford -- if you want to change the
10 order, that's fine with me. Mitch Lansdell and Edward
11 Lee.
12 MR. LANSDELL: Madam Chair, Mitch Lansdell, city
13 manager, city of Gardena, California. First, on behalf of
14 the Councilman Bradford, it was his full intent to be
15 here, as this is a very important issue to the Councilman
16 as a former coordinator in the city adjacent to us.
17 Unfortunately, due to a work commitment he was not able to
18 make his flight up here and will not be here today. So
19 with that, I pick up his piece to present to the Board
20 this morning. I guess it's afternoon now.
21 Madam Chair, members of the Board, the city of
22 Gardena, a very unique community of approximately 60,000
23 in Los Angeles County, a very diverse community as noted
24 by your own staff of 87 percent minority with 15 percent
25 below the poverty level. We are a community that knows

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1 our own diversity issues and requirements.
2 Also a city that just five years ago was on the
3 verge of bankruptcy. And on January 30th, 2003, posted
4 for the first time in seven years a positive general fund
5 balance, only to see that wiped out with the state budget
6 situation and motor vehicles' fees be taken away. So we
7 take very seriously this action that's before the Board
8 today, and the city's efforts relative to compliance and
9 our good faith effort.
10 Going back to and reiterating some of the points
11 that staff made, we have been working with the staff for a
12 number of months. We worked with staff on the first
13 Compliance Order to come to a point of becoming in
14 compliance on January of this year, 2003, when a new
15 Compliance Order was issued with one of those requirements
16 that the city enter into a local assistance plan as part
17 of the condition of that Compliance Order.
18 I executed that on June 24th, which I believe is
19 before June 30th, with the full intent to implement that.
20 We later did request an extension of time to implement
21 provision. And primarily the provision that relates to --
22 within the coordinated work plan, the commercial sector
23 diversion improvements. If you look at the two compliance
24 work plans, the local assistance plan signed by me on June
25 24th, the one later signed by me on August 12th, the only

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1 difference in the work plan -- the only difference relates
2 to the implementation by the hauler of when the specific
3 programs will be implemented to assist us to get to the
4 50 percent level. In the original plan it was by
5 September 31st. In the plan that was signed by me and by
6 Board staff, it is now December 31st.
7 There are 43 days between the day of my original
8 execution of the local assistance plan and the one that
9 was later signed in August. And I think Board staff has
10 adequately described the methodology that has gone over
11 for a good period of time. And if you look at the period
12 of January through when it was executed by the city in
13 June, the number of meetings, the discussions between the
14 city staff and Board staff to come up with a plan, I think
15 there was a good faith effort by the city to come into
16 compliance and put in place the necessary programs to
17 bring us to that 50 percent diversion level.
18 Part of the issue, part of the delay on behalf of
19 the city -- 1995 city had an open city, 38 haulers. To
20 keep track of 38 haulers and where they're going, to later
21 in the year 2000 go to 16, and in 2001 go to 10 haulers
22 franchised within the city. Still a number that, in
23 agreement with Board staff, is difficult for the city to
24 keep track of where the waste is going.
25 One of the work plan elements is the DRS, the

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1 disposal reporting system, study that's currently
2 underway. We believe we've identified in the year 2001
3 46,000 tons that were misallocated to city of Gardena and
4 70,000 in the year 2002. Why does that come about? City
5 of Gardena is six square miles. And unfortunately, in
6 this case I have boundaries that expand my borders by ZIP
7 code and by city. In the city of Carson, you can have a
8 Gardena mailing address. In the city of Torrance, you can
9 have a city of Gardena mailing address. In the city of
10 Los Angeles, you can have a city of Gardena mailing
11 address.
12 And as we're now finding out more and more when
13 people go to those landfills and otherwise, and they say
14 Gardena with a commingled load, it ends up on my sheet and
15 not on those other places. Something that we're working
16 hard to identify what process we can to go back through to
17 verify and present this data to you. However, it's a
18 significant challenge for a city of our size to take that
19 on.
20 And in fact, if you go back to January this year,
21 something that has been a discussion point regarding the
22 rationalization, and I know this misallocation is not only
23 my issue. There are other cities with it, but I'm here
24 today -- that the regional agency concept is something
25 that was borne out of that, trying to come together so we

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can better keep track of who's going where, what's being disposed of, and in what kind and manner, and where did it rightfully belong.

This week we presented to Board staff a binder which shows the city's efforts relative to the local assistance plan that was signed August 12th. I provide to the Board three pages of that, which are actually the coordinated work plan with only that one section that I mentioned earlier as being a time-sensitive change from the one that was executed in June. As I go through that work plan, had we not taken this seriously, had we not been implementing the things that we've been doing to come into compliance and put those programs in place, the fact that some of those items are now 95 percent complete or completed, that we've done contact with businesses -- when it said 40, we contacted 70. We've not been able to show that.

We've taken this seriously, and we are about complying with the Board's request in making those efforts and putting in place the programs necessary to do that, which is going to the City Council, selecting a single hauler. We believe that beginning November the 1st, under that structure, the city will have greater control, a better understanding of what's going on in the commercial sector, certainly a say-so in directing and ensure that

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1 programs are met.
2 I've had ten haulers for the last two years who
3 have not assisted the city. While they may have put some
4 programs in place, I'm not at the 50 percent level or I
5 would not be here today. So we have gone through a
6 process now where through franchises they've executed and
7 saying, "We will put into place those things that you're
8 required to do and assist you in doing that." And we'll
9 make part of the record, as appropriate, a copy of the
10 Waste Resources/Gardena agreement which incorporates this
11 work plan fully, as well as every program that was
12 recommended by Board staff for implementation through the
13 commercial sector. We believe that this is a show of good
14 faith. We believe that working on this assistance plan
15 from the time of the initial discussions through now,
16 through when we executed it in August shows that the city
17 intended to comply in our intent and that we have provided
18 a good faith effort.
19 Those lists of tasks are there. And while some
20 are in progress, some have been completed ahead of
21 schedule. And based on that track record, based on the
22 new hauler having an agreement with me that says they will
23 have things in place by the December date, that I am a
24 part of that Board, that I will ensure before this Board
25 that if, when we have this discussion again, that those

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1 things that are indicated there, the diversion of at least
2 30 percent, 10 percent to go to waste and energy will, in
3 fact, happen prior to the due date of that coordinated
4 work plan.
5 CHAIRPERSON MOULTON-PATTERSON: Are you finished?
6 Thank you.
7 Mr. Edward Lee, city of Gardena.
8 MR. LEE: Madam Chair, members of the Board. My
9 name is Edward Lee. I'm the city attorney for the city of
10 Gardena. My purpose here really is just to underscore to
11 the Board the statutory requirement, which is that you
12 must find that we have failed to act in good faith to
13 implement.
14 I think the statements and testimony from
15 Mr. Lansdell, the information that we have provided to the
16 Board shows quite the contrary, that in point of fact the
17 city of Gardena has exercised all good faith and due
18 diligence to try to comply with the Board's requirements.
19 Not only did it complete the first order of compliance --
20 and there was, in fact, a resolution by the Board that we
21 had completed that. But with respect to the second order,
22 which was only issued in January of this year, I think the
23 efforts of the city are well documented in terms of
24 working with the Board staff to meet the requirements of
25 that Compliance Order. As indicated in the work plan that

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1 you have received, the city has moved forward
2 notwithstanding Board staff's refusal to sign the local
3 assistance plan, which was executed by the city on June
4 24th, well before the stated deadline that was initially
5 set.
6 With respect to these reporting errors that we
7 had noted, I don't dispute that staff was aware of the
8 issue, but what I don't believe staff was aware of was the
9 significant level of reporting errors that have come to
10 light. And on that basis, we had asked for a continuance
11 because we believe that is significant in terms of the
12 determination of whether or not the city over the years,
13 in fact, is acting in good faith, try to come into
14 compliance with the act for diversion.
15 My conclusion, I would just respectfully request
16 that the Board take an action to postpone any decision on
17 the merits of this matter until those numbers have been
18 verified, until we can accurately determine what the
19 diversion rate for the city has been in 2001 and 2002.
20 However the Board decides to move forward, I
21 would put to the Board that, in fact, your staff has not
22 met its burden to indicate or show how the city of Gardena
23 has not acted or failed to act in good faith to implement
24 and comply with your orders. I believe the documentation
25 and the testimony that we have provided clearly indicate

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that we have and continue to act in good faith to comply with this Board's requirement and the requirements of the act. Thank you.

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

Mr. Washington.

BOARD MEMBER WASHINGTON: Yeah, just briefly to Mr. Lansdell, the City Manager. I'm looking in the binder here, the chronology of events with the city of Gardena starting at 10-99 and it just goes on and on up until this present -- August 18th, it looks like on the particular sheet.

What I wanted to ask you, Mr. Lansdell, in terms of -- you say back in '99 how many haulers did you have, do you know the number of how many --

MR. LANSDELL: In 1999 we had 16 haulers.

BOARD MEMBER WASHINGTON: 16. Okay. Within those 16 haulers -- and we're talking about meeting a 50 percent diversion -- 50 percent diversion rate for the state of California. 50 percent of your waste, the state says we want to divert it from landfills. Within those 16 haulers in '99, was there any track of keeping up or -- and you just tell me no, yes, or whatever to save you some time. But were there any mechanisms put in place to track those 16 haulers to see how much of that trash was going

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toward the 50 percent reduction?

Because -- let me tell you why I'm asking that. It seems to me something has been missing in this whole discussion as to whether the city -- and I know that the City Council and those folks make decisions on the Council that had put the staff in a very difficult position as it relates to who would be doing the actual work for the city, and that you were going to your own joint venture and things of that nature. But here talking about 1999, and I think that just took effect a week or two ago where they make this decision.

Is there something that you can give to this Board -- back in 1999 I represented you as a state legislator, so I wasn't privy to be involved in the details of this magnitude of this information.

MR. LANSDELL: In addition to information that is submitted as required to the landfills, the hauling companies were required to submit information to the city of Gardena relative to diversion and total tonnage. So we have a record.

And part of what we found in the RFP process we just went through was not all the haulers told the truth. There was information out there that based on what they reported to us and what was reported to the landfills that we couldn't correlate. And until we got down to the

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number of ten, it was hard for us to chase after that many people to say, "XYZ company says they did 100 tons at the local transfer station, and the local transfer station took a load that was 120," that we couldn't get down to that level because we couldn't match up the data submitted by the haulers that then comes at a very much later time from the disposal reporting system. Just the coordination of those things is a difficult pass.

CHAIRPERSON MOULTON-PATTERSON: Thank you. Do we have any rebuttal from the staff at this time? I don't see any other lights.

Oh, Mr. Jones, do you want to go ahead and then we'll go to staff.

BOARD MEMBER JONES: I'll do this quickly. I'd like to ask a few questions so I can try to get this figured out in my own mind.

One of the issues -- now, when we issued a Compliance Order in January, it was supposed to be signed by June 30th. The issue came to us in September -- or in August, I guess. August. When did you guys sign your -- part of the issue was you said, "Here, we've got our plan," because you staff said you were working pretty good. And then all of a sudden, the direction went a totally different way which -- you know, when you've got somebody that doesn't even own trucks or have a yard or

1 have a MRF, we have a little due diligence to do, too. I
2 mean, it's all -- this wasn't predicated on who the hauler
3 would be, but we had a sense prior to that, that you guys
4 were making steps to identify where your problems are.
5 Clearly, you've got problems in the fact that
6 your haulers -- I don't know what system -- I didn't hear
7 the answer that I thought I'd hear towards Mr. Washington
8 as far as a mechanism for these folks to respond with
9 accurate data so that you've got some kind of an idea. In
10 '99 you're on a Compliance Order for lack of not only
11 having bad numbers, but lack of programs. And the
12 arguments that I'm hearing or some of the things I'm
13 hearing are because of misallocation of waste -- which I
14 don't think has been verified yet.
15 And I always get a little nervous when Carson and
16 other cities are involved just because who knows what --
17 who knows whose waste it is. Clearly, somebody took
18 credit for that, you know, as diversion. If it got
19 assigned to you as waste, another jurisdiction took credit
20 for it as diversion. So that is a process that we're
21 going to have to even verify the fact that one person --
22 and I don't -- I'm not doubting what you guys are saying
23 because that was information that was given to you.
24 There's going to be a whole lot more information that has
25 to be validated before it can ever be a consideration

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1 here.

2 But it doesn't take away from the issue that this

3 law is about numbers and programs. And you know, we're

4 talking about numbers so much in this thing. Numbers are

5 an indicator for us. It's the program implementation and

6 was clearly part of what the LAP was, how are you going to

7 do the programs? It was an issue in the first Compliance

8 Order. You know, what's your plan and how you're going to

9 do programs. And now the second order was you're still

10 not getting it. What are the programs going -- where are

11 you going to attack this thing, programs to be able to

12 boost diversion.

13 And while I understand that's a tough thing, when

14 that agreement that you signed there would have been a

15 reliance that -- not to forget the dates that there would

16 have been the ability for somebody to perform those

17 activities. Part of the concern of the subcommittee, the

18 Planning Committee when we heard that they wanted more

19 extensions and stuff like that after we had already given

20 you three, I think, was a hauler who has no trucks, no

21 containers, no office -- I don't know if you've got an

22 office or not -- but not even a facility, how do we say,

23 "Okay, your plan of attack is going to work?"

24 Because we have an obligation to you to kind of

25 look at that program to see if, in fact, it will work. I

1 mean, I would think that you want a reliance on us to say,
2 "Yeah, this is probably going to work" or "no, it isn't,"
3 because that's exactly what we're charged with, to see if
4 those plans will work. So the fact that those things
5 change so rapidly create a problem for this Board.
6 Because we were in August. We were already two months
7 past the original -- I mean, past the deadline. And we
8 weren't even close to getting a signature at that point.
9 So that creates a problem, for this Board member, anyway.
10 Because I still haven't heard anything about the program
11 implementation. I mean, I don't have any idea of what
12 programs are being done, you know, in that city.
13 CHAIRPERSON MOULTON-PATTERSON: Thank you,
14 Mr. Jones.
15 Staff.
16 DEPUTY DIRECTOR SCHIAVO: I'll go ahead and start
17 off. Pat Schiavo, Diversion, Planning, and Local
18 Assistance. I'll just touch on a couple of the issues.
19 The first one regarding the delays and the plan
20 ultimately looking the same as what was assigned on June
21 24th, well we didn't know what the plan was going to look
22 like. The city didn't know what the plan was going to
23 look like. And the document they submitted it to us when
24 we asked them if they're going to have a new hauler, is
25 that hauler going to maintain the same plan, they didn't

1 know. They didn't know when the plan was going to be
2 implemented, nor any of the specifics at that time because
3 we had been successful in shepherding 449 jurisdictions
4 through this process without any -- coming to this point,
5 we were very nervous about that and kept trying -- you
6 know, as you see in the log, we kept trying to get them to
7 come forward for an extension because we didn't want to
8 get to this point.
9 So I just want to let you know, even though the
10 plan ultimately looks similar though delayed, nobody knew
11 that. It was delayed quite a while until we did know.
12 There was significance to that, especially when you're
13 changing haulers, and then we have a different approach on
14 how they want to do things.
15 Regarding the disposal reporting information, we
16 knew their disposal reporting issues. In fact, that
17 language was even put into the Compliance Order. So we
18 recognize that. And then on August 14th, we got an e-mail
19 from a representative of the jurisdiction saying, "We
20 found all these tons." And based on the 46,000 tons for
21 2001, the diversion rate is 13 percent. If you bump that
22 up -- and that's without being verified. We haven't had
23 an opportunity to verify the information. But even in the
24 best-case scenario, they're still at 13 percent. Even if
25 we bump that up significantly, they're still going to end

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1 up being well below 13 percent, no matter what you do with
2 disposal reporting. And while it's an issue and it does
3 assist two things -- one is it doesn't get them to the
4 threshold; and two, this is about program implementation.
5 Regarding the regional agency, we applaud their
6 efforts in joining the regional agency to ultimately try
7 to clean up disposal reporting. However, the way the
8 regional agency is being proposed at this point in time,
9 it is not going to clean up disposal because of all the
10 gaps in the jurisdictions. It was acknowledged by the
11 regional agency administrator herself that the plan is to
12 fill in the gaps over time. So we're still a ways off
13 before we can see that.
14 So those are -- I just wanted to mention a couple
15 of those comments. And I don't know if Phil or Steve or
16 Elliot have anything else they'd like to add.
17 BRANCH MANAGER MORALEZ: Phil Moralez, Branch
18 Manager.
19 I just wanted to add, when you take a look at the
20 coordination work plan provided by the city of Gardena and
21 why the staff brought forward this item, is that key to
22 all the components of this plan is who is the hauler?
23 Without knowledge who the hauler is, then the programs are
24 really not complete.
25 For example, you can go out and audit all the

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about businesses you want, but if they don't know who's going to pick up their trash and what the recycling services are going to be, you don't have a problem program. So it was critical to staff -- and the reason we brought this issue to the city was without a hauler you can do everything else, but until you know who's going to do what and how they're going to do it, you don't have an effective commercial recycling program. And that was one of the major components and one of the reasons why we brought this forward. I just wanted to clear that up.

I applaud the city for some of the things they've done, and staff has done that. But without a specific hauler at the time the plan was to be developed, there was no way to know how the services would be provided.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Jones.

BOARD MEMBER JONES: Thank you, Madam Chair. Just a quick follow up.

Is this -- the coordination work plan for the city of Gardena, this is a work plan that the city had developed to give to the Waste Board, or in conjunction with the Waste Board staff?

MR. LANSDELL: This document represents the attachment to the local assistance plan signed by Waste Board and city.

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BOARD MEMBER JONES: So it includes input from both?

MR. LANSDELL: That's correct. This was a plan that was jointly developed and outlines the programs that we were to implement primarily in that what we're talking about -- and I understand the program issues regarding the commercial diversion in that section one. And that was jointly done with Board staff and city, and now that we have a hauler -- and placed on them to implement in a time frame that's within that document.

BOARD MEMBER JONES: Is there something in the agreement in the Compliance Order that talks about -- you know, right here we're talking about an awful lot about identifying, you know, who the biggest generators are, what their waste stream is, evaluating the waste stream. And I know it says, "Direct to haulers to divert 30 percent of the total material collected." Is that just a blanket -- whatever recoverable waste streams are identified through these surveys of the generators, is it a general requirement on the hauler or any hauler or whoever the hauler is to divert 30 percent of that and that's the plan to -- I mean, other than the other pieces, that's how you're going to attack that part of the commercial waste stream?

MR. LANSDELL: That's correct, as outlined here.

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1 That's a requirement that was put in the agreement with
2 WRG, the local assistance plan in particular. This work
3 document as it relates to those programs and things that
4 are going to have to be identified for them to put in
5 place to meet the 50 percent have been made a part of
6 their agreement to implement.
7 BOARD MEMBER JONES: And the existing
8 situation -- the situation that existed when it was
9 determined by this Board that you were not in compliance
10 and were issued a Compliance Order and were at the last
11 stages of that, the requirement on the haulers that
12 existed at that time, 2, 10, 20, whatever the number was,
13 was to report to you their diversion activity?
14 MR. LANSDELL: As part of those franchise
15 agreements and as part of the original request for
16 proposal that brought us to the level of ten, they were
17 required to provide us with and identify programs that
18 would help them to achieve those diversion rates and
19 report them to them. They all wrote really nice
20 consultant books and all, but I guess there are two that
21 are in technical compliance with 50 percent. The other
22 eight aren't even close.
23 BOARD MEMBER JONES: So what I'm trying to get
24 at -- I'm trying to get at, how do I make a decision that
25 you're in compliance? And I'm working towards that, so

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bear with me. I'm not sure we're going to get there, but we're working on it. What mechanism, other than their original proposal -- what did the city do to ensure based on the fact -- and you've got to have an idea that you've already been put on one Compliance Order -- that there is a requirement, I would think, that the city would make sure that these haulers were doing programs and stuff. I mean, was there a mechanism in place for that?

MR. LANSDELL: The mechanism that was in place was, of course, their reporting to us quarterly of their numbers as well as the programs. Unfortunately, based on my staffing level and my financial situation, we did not audit them to do that. And only through the request for proposal process that we just went through where they all said we've been doing these wonderful things and we spent the time and energy to look at what they've done, did we make that determination that we got a lot of nice words but no programs.

BOARD MEMBER JONES: Okay.

MR. LANSDELL: Which is what led us to the process to reduce the number so it would be easier for us to, A, identify and work with those haulers on specific proposals and programs. And then, of course, when we got to one would make it very easy for us to do that.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

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1 Mr. Washington.
2 BOARD MEMBER WASHINGTON: I, too, like Mr. Jones
3 am trying to find in terms of how we got to this point.
4 And I just heard our Branch Manager say that there was no
5 plan in place because there was no one hauler that they
6 had selected; is that correct?
7 BRANCH MANAGER MORALEZ: I think what I said was
8 that the significance of who the hauler would be was
9 significant to the implementation of the program.
10 BOARD MEMBER WASHINGTON: So my question would
11 be, prior to them selecting Waste Resources, they had ten
12 companies in place. There was no requirement for those
13 ten companies to still meet the diversion, whether it was
14 one person or ten companies? Do you understand my
15 question? I mean, I'm looking at you, but whoever wants
16 to answer.
17 MR. LANSDELL: Madam Chair, if I might respond to
18 that. The current franchisees had a requirement in their
19 franchise agreement to meet all conditions imposed by the
20 city, by this Board, and/or any other Board. So they were
21 under that. They, as part of their original proposals to
22 us, outlined programs that would help them to get there.
23 BOARD MEMBER WASHINGTON: How long had these ten
24 franchises been in place in the city of Gardena?
25 MR. LANSDELL: The current ten franchisees were

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1 issued franchises in 2001. Most of those ten were also
2 franchisees in 1995.
3 BOARD MEMBER WASHINGTON: So they've been there
4 some time.
5 MR. LANSDELL: Yes, they have.
6 BOARD MEMBER WASHINGTON: And I guess again for
7 me, it raises a concern as to where has staff been in
8 terms of working -- if you're telling me someone's been in
9 place since 1995, where has -- I mean, how did we not
10 know? And when I say "we," I'm talking about the city of
11 Gardena and Management. How did you not know that these
12 franchises who have been in place since 1995 wasn't
13 meeting the diversion rate? How did you not know that, is
14 my question to you. If they've been there since 1995, at
15 some point did you have a mechanism in place that says --
16 a red flag go up or something that says you guys are not
17 there?
18 MR. LANSDELL: Well, that was why we went from
19 the 38 to 16, to try to get the better controls into those
20 agreements regarding reporting and auditing and program
21 requirement. Back when we -- city of Gardena was an open
22 city prior to 1995. And all you had to do was come and
23 pay a business license for $35 and you could pick up trash
24 in town.
25 CHAIRPERSON MOULTON-PATTERSON: Thank you.

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1 Were there any members of the public that wish to
2 testify?
3 STAFF COUNSEL BLOCK: Madam Chair.
4 CHAIRPERSON MOULTON-PATTERSON: Yes.
5 STAFF COUNSEL BLOCK: If I could add one thing.
6 Just one more thing. I wanted to add -- and I think it's
7 important. It shows the importance of the dates. And to
8 a certain extent what triggered this hearing is that the
9 June 30th date got missed. And in the realm of what we're
10 dealing with, that might sound as if it's not as serious
11 as some other things, but it does become very important,
12 particularly when you look at the context of what we've
13 been dealing with for a number of years with the
14 jurisdiction.
15 As you know, we had a discussion item at the
16 August meeting -- August 5th, Planning Committee meeting
17 and there was a representative of the city there. And the
18 sheet that we essentially got -- apparently we were
19 delivered a copy of this yesterday that shows the program
20 implementation that's been going on, apparently. None of
21 that was discussed at the August 5th meeting, at which
22 point the hearing notice had already gone out. And of
23 course, since we just got this yesterday, we obviously
24 haven't had a chance to go and verify what's been
25 provided.

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1 So not to suggest that you ought to put off what
2 you're doing here today, but what it does is it points out
3 the difficulty that at the staff level that we have, we
4 have certain dates that we're working towards a certain
5 goal. And at a certain point if those dates keep getting
6 missed -- in this case the signed agreement, although it
7 ended up being fairly close. It was another seven weeks
8 past that date. It's fairly close, but actually it does
9 have implementation a number of months later than what we
10 thought we were going to be in June. We're talking about
11 a compliance order issued for not meeting 50 percent
12 implementing programs for the year 2000. And we're now
13 going out towards the end of 2003.
14 It's not to say what the city has provided isn't
15 heartening. In fact, that's great if, in fact, we've got
16 that. But it puts us always in a difficult position of
17 being sort of behind what's going on and really wish we
18 heard some of this information a couple of months ago.
19 CHAIRPERSON MOULTON-PATTERSON: Thank you.
20 Mr. Paparian.
21 BOARD MEMBER PAPARIAN: I'm not sure if this is
22 for Mr. Block, or whoever from our staff wants to answer
23 it. For purposes of our deliberations, could you explain
24 the difference between the January 14th date and the June
25 30th date?

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1 STAFF COUNSEL BLOCK: In terms of calculating the
2 days for a penalty?
3 BOARD MEMBER PAPARIAN: If we were to move in
4 that direction, what would be the difference between those
5 two dates?
6 STAFF COUNSEL BLOCK: The January 14th date is
7 the date that the Board issued, adopted the Compliance
8 Order, the Compliance Order for the year 2000. So
9 theoretically, if the Board wanted to -- on that date the
10 Board determined that the city had not implemented in good
11 faith effort its SRRE for the year 2000 to meet the
12 50 percent goal. So theoretically, you could start from
13 that date if you would like.
14 The June 30th date is essentially -- if you will,
15 the Compliance Order in some ways almost acts as an
16 extension, if you want to view it that way. So if the
17 Board felt that was more appropriate, since there was
18 communication going on between the Board and the city
19 within the interim five months -- in a sense what
20 triggered the hearing was missing that June 30th date, so
21 you could use that as a starting date for imposing a fine,
22 if you would want to do that. That's the distinction.
23 BOARD MEMBER PAPARIAN: Is either date more
24 consistent with what we did -- the Board did before I came
25 here with the other four jurisdictions?

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1 STAFF COUNSEL BLOCK: That is a slightly
2 difficult question to answer because the context was a
3 little bit different. With those four jurisdictions, the
4 Board used the date of the hearing notice. In this case
5 that would be August 1st. And the logic we used in that
6 case was at that point in time sort of the die had been
7 cast. Once we served the notice, then there's a certain
8 of amount of work that goes into putting the hearing
9 together. We had to put the binder together, make copies,
10 and do a chronology. There's a certain of amount of extra
11 work essentially staff had to put out, and the Board, in
12 dealing with this because these dates were missed. So
13 that's another date.
14 Theoretically, if we had received the signed
15 local plan, assistance plan, you know, a week before that,
16 the notice hadn't gone out yet. So perhaps it would have
17 been a different discussion going on. But at that point
18 in time, the hearing had already been noticed. So we
19 needed to go through the process. That was the logic five
20 years ago. Certainly, you could view this the same way.
21 That would be the August 1st date.
22 BOARD MEMBER PAPARIAN: Thank you.
23 CHAIRPERSON MOULTON-PATTERSON: Thank you.
24 Mr. Jones.
25 BOARD MEMBER JONES: Madam Chair, just a follow

1 up on what Elliot was saying. Those hearings, when we
2 dealt with those four jurisdictions, were for the first
3 part of the mandate, the 25 percent. And they actually
4 dealt with jurisdictions that hadn't even put their plans
5 in, had not even submitted their SRREs. The entire state
6 did, except those four jurisdictions, including Gardena,
7 sent theirs in. You may have gotten an extension, but you
8 sent them in.
9 And we honored that effort by penalizing those
10 four. This one is a little different because now we're
11 talking about program implementation, the actual -- not
12 the plan, but the program implementation and that order.
13 So I think there is a difference in my mind as to the two
14 sets. But I'm glad that Mr. Paparian brought it up
15 because I think it's critical to the timing.
16 I do wish that sometimes -- I feel bad for the
17 city manager because my reports were that you guys were
18 just about ready to sign something, and all of a sudden
19 the world turned 180 degrees. And that's life in the big
20 city. But Mr. Block is right, that work progress thing
21 would have been helpful at our Committee meeting. Real
22 helpful.
23 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.
24 BOARD MEMBER PEACE: Mr. Lee mentioned that the
25 DRG reporting irregularities were a problem, but as

1 Mr. Schiavo said, even with the possible correction that
2 the diversion rate for Gardena would only be 13 to 20
3 percent at the most.
4 There are 526 jurisdictions in this state. Many,
5 many of them a lot poorer than Gardena, and they have all
6 managed to implement the programs and get the diversion
7 rate that 939 required. So I guess I have to say I don't
8 have a lot of sympathy. From what I understand, you
9 entered into a contract with Waste Resources to form a
10 for-profit private/public commercial trash company.
11 COMMITTEE MEMBER JONES: Correct.
12 BOARD MEMBER PEACE: I also understand that has
13 drawn some fire as a potential violation of several laws,
14 including Proposition 218 that prohibits from making money
15 on public services. Do you see this as a possible setback
16 for you if the lawsuit regarding this materializes?
17 MR. LEE: Legal issues -- to address that
18 question, legal issues have been raised by current haulers
19 with respect to the city entering into this joint venture
20 agreement. The city would not have entered into it if we
21 had thought that there was no legal basis or foundation
22 either under the Integrated Waste Management Act or if we
23 had thought there was a violation of Proposition 218 with
24 respect to the structure of the agreement and the city's
25 participation in it.

1 Again, because we believe that there is a legal
2 foundation for it, we believed that the City Council could
3 take its action to reduce the number of haulers down to
4 this single hauler in the structure of this joint venture
5 agreement.
6 I hope that answers your question in that we
7 don't believe that there is a prohibition or that there is
8 a violation of Proposition 218. So we don't believe there
9 is a setback. In point in fact, this hauler, Waste
10 Resources of Gardena, has a contractual obligation to meet
11 these program requirements. It is built into the
12 contract. It is part of their obligations, and they have
13 a start date to meet -- start meeting those obligations.
14 In the meantime, the waste stream will be and is
15 continuing to be picked up by the current haulers under
16 our current franchise agreements. So there isn't any lack
17 of service being provided.
18 BOARD MEMBER PEACE: Thank you.
19 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
20 Mr. Jones.
21 BOARD MEMBER JONES: Madam Chair, I'm sorry, but
22 I need to follow that up.
23 CHAIRPERSON MOULTON-PATTERSON: Because we
24 need -- I was trying to --
25 BOARD MEMBER JONES: I'm sorry.

1 CHAIRPERSON MOULTON-PATTERSON: Go ahead.
2 BOARD MEMBER JONES: The agreements that you've
3 entered into with WDS have drop-dead dates for diversion
4 programs, since you're a partner?
5 MR. LANSDELL: Yes, they do.
6 BOARD MEMBER JONES: Do we have copies of those?
7 Are they part of whatever you guys submitted to us?
8 MR. LANSDELL: We can make the current
9 agreement -- I thought that the current agreement had been
10 provided to staff. If it's not, then we will make it a
11 part of the record.
12 BOARD MEMBER JONES: One of the -- okay. Thank
13 you.
14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
15 Jones.
16 I see no other lights at this time. I see no one
17 from the public that wishes to comment. So it's my
18 understanding, Mr. Block, that the Board will go into
19 closed session to deliberate; is that correct?
20 STAFF COUNSEL BLOCK: Yes.
21 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
22 (Thereupon the Board entered into closed
23 session.)
24 CHAIRPERSON MOULTON-PATTERSON: The Board has
25 reached a decision, and it will be announced in just a few

moments. Our attorney is crafting the wording of it. So in the interest of time, Mr. Lee, I know we have someone that can only be here today. And how would you like to proceed? So if you would like to make yourselves comfortable. I mean, you can stay there, if you want. It's fine with me. But we're going to go ahead on our special waste portion of our agenda.

Mr. Washington, do you have any ex partes?

BOARD MEMBER WASHINGTON: No, Madam Chair. I'm up to date.

CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian, any ex partes?

BOARD MEMBER PAPARIAN: No.

CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

BOARD MEMBER MEDINA: None to report.

CHAIRPERSON MOULTON-PATTERSON: I have none.

Ms. Peace.

BOARD MEMBER PEACE: I have none.

CHAIRPERSON MOULTON-PATTERSON: Mr. Lee.

DEPUTY DIRECTOR LEE: Thank you, Madam Chair. With your permission and the Board's indulgence, I'd like to move directly to Board Item 19 to give our contractor who's been waiting patiently today a chance to discuss his report before the Board. Board Item 19 is consideration of the draft final report entitled "Extending the Tire

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1 Lifespan of Tires," final report, tire recycling
2 management fund, fiscal year 2001-2002.
3 This report recommends that promotion of an auto
4 inflate tire system in conjunction with the tire
5 maintenance education program --
6 BOARD MEMBER MEDINA: Excuse me. Before we go
7 ahead on this report, Madam Chair, I would like to issue
8 my Special Waste Committee report.
9 CHAIRPERSON MOULTON-PATTERSON: Okay. Go ahead.
10 BOARD MEMBER MEDINA: I'd like to report on the
11 following. The Special Waste Committee heard six items,
12 and this is the outcome.
13 Regarding Item 16, grant awards for the household
14 hazardous waste program for fiscal year 2003-2004 was
15 voted by the Committee and has fiscal consensus. And the
16 Board will hear a brief presentation of the item.
17 In regard to Item 17, priority rank and criteria
18 and evaluation process for local government waste tire
19 cleanup. This was also placed on the consent calendar.
20 Item 18, consideration of scope of work and
21 contractor for the Department of Transportation Caltrans
22 support interagency agreement was heard. Scope of work is
23 to increase the use of RAC on California's highways. The
24 scope of work and the proposal for the contractor will be
25 briefly discussed, as it also enjoyed fiscal consensus.

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1 Item 19, consideration of the draft final report
2 on extending the tire lifespan of tires was heard. Due to
3 the nature of questions and concerns, it was moved to the
4 full Board for further discussion.
5 Regarding Item 20, consideration of a joint
6 offering for fiscal year 2003-2004, 2004-2005 eligibility
7 criteria for the rubberized asphalt concrete grant, this
8 matter was heard. Staff is proposing an eligibility
9 criteria not yet implemented. There were discussions on
10 the change of criteria. As a result, the item was moved
11 to the full Board for discussion.
12 Finally, Item 21 consideration of applicant
13 eligibility for a joint offering of fiscal years
14 2003-2004, 2004-2005 was heard. Due to issues of concern,
15 the item was moved to the entire Board.
16 And that concludes my report for Special Waste
17 Committee.
18 CHAIRPERSON MOULTON-PATTERSON: Thank you,
19 Mr. Medina.
20 Mr. Jones, did you have any ex partes?
21 BOARD MEMBER JONES: No. Thank you.
22 CHAIRPERSON MOULTON-PATTERSON: Great. So we'll
23 go to Item 19.
24 DEPUTY DIRECTOR LEE: Thank you, Madam Chair. As
25 I was saying, this particular report, the life span of

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1 tire report, recommends proposing of an auto inflate
2 system in conjunction with a tire maintenance education
3 program as the most cost-effective way to increase the
4 life of tires, and thereby reduce waste tire generation
5 and also to increase fuel efficiency.
6 As Board Member Medina mentioned, the Special
7 Waste Committee heard this item and decided to hold it
8 over for consideration by the full Board.
9 I'd like to comment. The staff's recommendation
10 is approve the report, but I'd like to clarify exactly
11 what are some of the Board's options with regards to that.
12 The Board may adopt the report, approving payment to the
13 contractor as fulfilling his obligations pursuant to the
14 scope of work, and publish with an endorsement of the
15 report recommendations; or two, accept the report
16 approving the contractor for payment, but not necessarily
17 endorsing the report's conclusions and recommendations.
18 The report would be published with the Board's disclaimer
19 language, which basically says, "The statements and
20 conclusions of this report are those of the contractor,
21 and not necessarily those of the California Integrated
22 Waste Management Board, its employees, or the state of
23 California, and should not be sited or quoted as official
24 Board policy or direction."
25 With that overview, I'd like to turn this over to

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Bob Fujii, who will introduce our contractor, Mr. Shmuel Weissman of Symplectic Engineering Corporation, to make the presentation.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

SPECIAL WASTE DIVISION SUPERVISOR FUJII: Thanks, Jim. Good afternoon, Madam Chair, and members of the Board.

As you recall on the five-year plan for the waste tire recycling management five-year plan, the Board allocated 200,000 for investigating ways to extend life of tires and hopefully thereby reducing the number of tires remaining in the waste stream.

In April 2002, the Board approved contractor IWMC 0139 with Symplectic Engineering to conduct this investigation into ways to increase the life span of tires. The findings of this requested investigation are contained in the report that you've read or have been available for you entitled "Extending the Lifespan of Tires, Final Report."

Also like to mention that we have been coordinating closely with the California Energy Commission on this effort as well as their tire fuel efficiency program, and we have incorporated their comments into this report. And with that overview, I would like to introduce Shmuel Weissman who will present a brief overview of the

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final report.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Thank you for your patience, and we're looking forward the a brief presentation.

MR. WEISSMAN: Thank you, Madam Chair, Board members. I'm Dr. Shmuel Weissman. I'll present "Extending the Lifespan of Tires," just a brief overview. I'll begin by introducing my co-authors, Professor Sackmen, Gillen, and Monismith.

A brief overview, just a quick motivations. And if we want to extend --

--o0o--

MR. WEISSMAN: -- the tire life, we have to know what reduces them. So that will be factors contributing to tire life. And then a little review of some of the proposed strategies.

--o0o--

MR. WEISSMAN: So we want to extend tire life because hopefully that will reduce the number of scrap tires entering into the waste stream. And that's the best approach because then we consume less resource in the first place, and then we have to contend with less tires entering the waste stream.

It happens to be also the largest contributor to reducing the number of scrap tires. According to your

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1 annual report -- 2001 annual report, you had 33 million
2 tires generated in California, scrap tires. And the
3 largest single contributor to diversion from landfills was
4 crumb rubber with 7.7 million.
5 If, for example, you continued to use 1981
6 technology tires, you'd have had about 50 million tires
7 instead of 33. In other words, 17 million tires more.
8 That accounts for improvement of tire life as noted in the
9 report.
10 --o0o--
11 MR. WEISSMAN: Now the problem with this, if it's
12 so great, is why are we here? Well, in the last few years
13 this improvement in tire life is kind of slowing down.
14 And the reason for that is that we have completed the
15 conversion from to radio tires. We are now above 99
16 percent radial tires. And we also improve -- not we --
17 the industry has improved the compounds that are used, and
18 so the tire system is fairly optimized at this point.
19 --o0o--
20 MR. WEISSMAN: So what we needed to do is
21 identify other ways beyond the traditional ways of a
22 little bit of improving the compound here and there to
23 extend tire life, and I think that's what we achieved.
24 --o0o--
25 MR. WEISSMAN: So let us look at what contribute

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1 to reduced tire life. Just a few of them, maintenance, OE
2 tires, road condition and design, high performance tires,
3 budget tires. There are more in the report. Today I'm
4 going to focus only on maintenance.
5 --o0o--
6 MR. WEISSMAN: Why are we so interested in
7 maintenance? This is chart provided to us by Michelin.
8 This represents their review of scrap tires between '92
9 and '99, and to our understanding not just Michelin tires.
10 I should say this is light-duty tires. As can you see,
11 50 percent of the tires were removed because of abnormal
12 wear, which is primarily due to poor maintenance. An
13 additional 10 percent because of oxidation and separation
14 processes that are accelerated by poor maintenance.
15 So we have a significant potential to increase
16 tire life as a point of interest. Only 19 percent of
17 tires removed that Michelin examined were removed because
18 of normal wear, which means they achieved their normal
19 life potential. That's pretty low.
20 --o0o--
21 MR. WEISSMAN: So what is tire maintenance? It
22 consists of three components, alignment, rotation, tire
23 inflation pressure. Today we'll focus on the third one.
24 I'll direct you to the report for the first two.
25 --o0o--

1 MR. WEISSMAN: Why are we so interested? Let's
2 see what industry says about it. For example, the RMA
3 says, "Underinflation is tire's number one enemy."
4 Michelin, "Air pressure, nothing else is more important."
5 Bridgestone-Firestone, "Improper inflation pressure may
6 result in rapid or irregular wear." You can find similar
7 comments on sites like Ford or many consumer sites that
8 advocate proper maintenance.
9 --o0o--
10 MR. WEISSMAN: So why are we so interested?
11 Let's see what the current condition is. Fortunately
12 NHTSA, the National Highway and Traffic Safety
13 Administration, conducted in February 2001 as part of the
14 TPMS study, that's nationwide survey, found on the average
15 tires are inflated to 6.1 PSI below placard. This is for
16 passenger cars. For light trucks and SUVs, it's slightly
17 worse.
18 What is placard? Placard is the inflation
19 pressure to which you should be inflating your tires.
20 This is the determined by the auto maker and is found in
21 the vehicle manual. For example, it is different in what
22 you can read on the tire, which is called maximum allowed
23 pressure. If I can give my tires as an example. The
24 placard for the front wheels is 30 PSI, whereas the
25 maximum allowed is 44. Very different.

1 Now, one more thing about tires. The placard
2 value is that it is intended as the cold inflation
3 pressure. That means that the temperature in the tire is
4 the same as the ambient temperature. If you, especially a
5 cold day -- and recall that the study was done in
6 February -- would start driving your car, after just a few
7 miles, the temperature in the tire would go up, and with
8 it the pressure on the cold day, according to NHTSA, by 4
9 to 5 PSI.
10 Now, NHTSA studied vehicles that were stopped out
11 door at gas stations. Somehow they got there, so they
12 must have been driven just prior to being examined. So
13 they were hot tires. And they compared them to placard.
14 As a result, we concluded that tires are actually inflated
15 on the average to about 10 PSI below placard. Okay. What
16 does it mean to tire life?
17 --o0o--
18 MR. WEISSMAN: Well, we need some more
19 information. Fortunately, Good Year provided this
20 information. And according to them, for each PSI below
21 placard, tires lose about 1.78 percent of their tread
22 life.
23 Let's see what it means for an example. Suppose
24 you have a brand-new car which you maintain perfectly and
25 you decide to replace the OE tires with long life tires

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which comes with 80,000 miles limited warranty, but you want to conduct an experiment and you run your tires at 10 PSI below placard cold inflation pressure, you would lose about 14,000 miles of the tread life. According to the RMA, the improvement between 1981 to 2001 was 15,000 miles on the average tire life. So 14,000 is quite important, quite a lot. So we like this, and we like to improve maintenance.

--o0o--

MR. WEISSMAN: In our study, we evaluated four different strategies to extend tire life. These are technology auto inflate systems, public education, corporate average tire life, and ad-valorem tire disposal tax rebate. I'm going to talk about the first two today because they address directly the maintenance issue.

--o0o--

MR. WEISSMAN: First, education. There are two types of education that we examined or we considered. One is to better maintain tires. The second one is to purchase longer life tires. I will focus only on the first one today.

The advantage of educating the public is that this is a relatively inexpensive strategy relative to what the cost of the next strategy that we are going to look at also, that you'll see in a minute, relative to the benefit

1 this strategy can produce. It will generate little
2 opposition. In fact, we predict no opposition, because,
3 for example, this year the RMA is focusing on
4 California -- educating people in California to better
5 maintain their tires.
6 Last year Shell Oil ran TV advertisement to this
7 effect, and this year the U.S. EPA and something called
8 safety.com ran TV advertisement to this effect. So no
9 objection forecasted. It also addresses existing
10 vehicles, which our next strategy will not.
11 These are the pluses. What are the negatives?
12 In our estimate, it is not a very effective strategy to
13 extend tire life. We say that based on three parts, three
14 arguments. One is the results of the NHTSA survey. If
15 you look in our report, you will see this survey was done
16 in February 2001, six months after the Firestone recall of
17 14-plus-million tires. And this was at the time of
18 heightened awareness among the public to the importance of
19 properly maintaining tire pressure to their safety. This
20 is why Congress mandated NHTSA in November to come up with
21 the TPMS rule, and they told them to do it in two years,
22 which is an unprecedented time frame for NHTSA according
23 to NHTSA.
24 --o0o--
25 MR. WEISSMAN: Now, this table, which represents

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1 the reduction that we foresee for this strategy in terms
2 of number of PTEs entering the waste stream, should be
3 fairly familiar. It's based on your annual report -- the
4 table in your annual report, but some of the assumptions
5 that we make. First, the base strategy to which we
6 compare the results of this strategy is not what NHTSA
7 found, which is -- would be 10 PSI below placard. But
8 assuming that on December 31st, 2001, all vehicles were
9 converted to include indirect TPMS, which is the minimum
10 requirement of the TPMS rule by NHTSA.
11 If you look into our assumption, you would see
12 that it roughly assumes -- according to our assumption,
13 about 5 PSI below placard, which is significantly improved
14 as to what NHTSA found. Nevertheless, we predict a
15 reduction in 2002 of 340,000 PTEs and in 2012, 430,000
16 PTEs. I should also say in this improvement, we only
17 included 36 percent of the potential of the strategy -- or
18 any strategy to reduce the number of PTEs entering the
19 waste stream. The reason for this -- I'll just give you
20 one example. If you have, because of some reason, road
21 hazards, let's say, you have to replace a tire, many
22 people replace two tires and sometimes even all four.
23 Therefore, you can not assume that all the potential
24 strategy will be actually realized. Our analysis showed
25 only 36 percent will be realized.

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1 --o0o--

2 MR. WEISSMAN: Now, we achieve for this strategy
3 a 1.6 billion benefit present value over this 11 years
4 that we analyzed under these assumptions. But when we did
5 the reliability analysis, we found only 5 percent
6 probability of meeting or exceeding the projected benefit.
7 Our conclusion is that it should be pursued, but in
8 conjunction with other strategies. In fact, we recommend
9 in our report that although we present all the four
10 strategies as stand-alone strategies, you think about them
11 as working together.

12 --o0o--

13 MR. WEISSMAN: Our next strategy is the auto
14 inflate system. This intends to provide a technological
15 answer to this problem. So automatically maintain
16 pressure at placard level adjusted for temperature. We
17 assume this would introduce only as OE with new vehicle.
18 The reason for this -- this is a cousin of the direct TPMS
19 which NHTSA mandated, one of the options. And it's
20 basically direct TPMS plus an air supply system. And the
21 direct TPMS have been available for a number of years, but
22 until now very few cars have them. So we think it will
23 come only with new vehicles.

24 There are many advantages to this approach. It's
25 a reliable way to maintain proper tire pressure and as a

1 result maximize tire life. It improves safety. Two
2 examples; one, according to NHTSA, if your tire pressure
3 is below placard, your braking distances increase. So
4 it's safer to have tires inflated to placard. Also if you
5 are significantly below placard, as some of the drivers of
6 the Explorer found in 2000 or before, tires may blow out,
7 and there is a result you may roll over. So there is some
8 improvements if you will always be at placard safety.
9 Also you will improve fuel economy according to
10 NHTSA. .3 and .4 percent each PSI below placard, you lose
11 fuel efficiency. So if we improve from what NHTSA
12 detected to placard, which was 10 PSI, we'll get an
13 improvement of about 3 to 4 percent improvement in the
14 effective fuel economy of vehicles. This is OE and
15 after-market tires.
16 Now, if you consume less fuel, you also pollute
17 less. That's another benefit. It is also applicable to
18 both light- and heavy-duty vehicles. It is already
19 implemented in some 3 or 4 percent of heavy-duty trailers,
20 and seems to be people who have it are very happy with it,
21 as we quote in our report. It is not available at the
22 moment on any vehicle that we know of. It has been
23 featured on one concept vehicle, an SUV. But it remains
24 to be seen if it will be appearing in the production line
25 version.

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--o0o--

MR. WEISSMAN: Disadvantages, increases up-front cost. For a passenger cars, we expect this system will cost about $175 OE. This is about $105 more than NHTSA estimates the cost of direct TPMS alone. That may cause some objections. It requires maintenance. Most importantly, there is replacing batteries that come with direct TPMS. However, there are ready devices that are battery-less.

Now, if you will review the TPMS rule, you will find there is an extensive section there dedicated to objection posed by the auto makers to the inclusion of direct TPMS. They were pressuring for inclusion of indirect TPMS. And I recommend that you review it because if you want to pursue this strategy, it may be very relevant as these systems are related.

--o0o--

CHAIRPERSON MOULTON-PATTERSON: Mr. Weissman, we do have the report. If you could come to your conclusion because --

MR. WEISSMAN: I'm about two slides away.

CHAIRPERSON MOULTON-PATTERSON: Because we only have this room for a certain amount of time. Thank you.

MR. WEISSMAN: In terms of the -- Under the same assumptions, but this time for purposes just -- just this

1 analysis, benefit cost analysis, all vehicles are assumed
2 to be converted to auto inflate on December 31st, 2001.
3 In 2002, for example, we see 1 1/4 million PTEs reduction
4 compared to the same assumption as before for the
5 education system.
6 --o0o--
7 MR. WEISSMAN: The benefit cost ratio is 124.
8 Above 1, we like it. And that present benefit of 1
9 billion, and we see a 60 percent probability of meeting or
10 exceeding the projected MPV. So we like this strategy.
11 We think it is a win-win condition, and I'll conclude
12 here.
13 CHAIRPERSON MOULTON-PATTERSON: Thank you very
14 much, and we appreciate your patience.
15 Mr. Paparian.
16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
17 In the interest of time, I'll try to be very brief with my
18 concerns.
19 CHAIRPERSON MOULTON-PATTERSON: Thank you.
20 BOARD MEMBER PAPARIAN: I don't believe this
21 report is ready for approval. That's why I'm going to be
22 voting against the resolution if it goes forward.
23 There's two basic problems I have with it. One
24 is that I don't believe if fulfills the terms of our
25 contract. Our contract called for, among other things,

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that solutions be gone into on areas like consumer education, how to educate the consumers on purchasing tires with increased life span. Instead of going into that solution, the report basically dismissed that solution.

Another solution that we called for in our contract was a discussion of increased use of longer life span tires by fleet administrators through procurement policies. This is the kind of standard thing we do on recycled products and preferable products as we turn to fleet managers usually starting with the state. That was something we called for in the contract, and something which I really don't see in any detail in the report.

The second area that I wanted to go into is there's some substantive problems with the report, and I'll just mention one. I started to go into this with the contractor at the Committee meeting, and that is that the report says, among other things, that there are safety issues with longer life tires, that tires that are out there today with longer warranties are less safe. If we start promoting longer warranty tires, we'll wind up with more tires in the waste stream because not only are they heavier, they're less safe. There'll be more car accidents. There'll be more tires coming out of these car accident vehicles, so forth.

1 Well, I just passed out information from the
2 National Highway Traffic Safety Association. I was very
3 concerned about this. And as someone who has a background
4 in looking and re-analyzing things, I was willing to
5 relook at whether longer life span tires are, in fact,
6 less safe than shorter life span tires. And not only did
7 I not find that the case in looking at the National
8 Highway Traffic Safety Administration information, I found
9 the opposite to be the case. There's some examples here
10 on what I just handed out.
11 The way NHTSA looks at this is they rate tires
12 for traction with A being the best traction, and traction
13 is related to the braking distance of the tires. What I
14 found in looking through their numbers is that -- and just
15 randomly picking some of the tire brands. Tires that
16 lasted longer tended to be better, not worse. The
17 opposite conclusion from the report.
18 So I won't go into other issues I see with the
19 report. This is a glaring example of a problem I see in
20 the report. And the other problem I see is that it
21 doesn't fulfill the terms of the contract. And for those
22 reasons, I'm opposed to approving it at this time, unless
23 the report can be further modified.
24 CHAIRPERSON MOULTON-PATTERSON: So you'd like to
25 see more time to work with those involved?

BOARD MEMBER PAPARIAN: I'd be willing to do that, yes.

CHAIRPERSON MOULTON-PATTERSON: Any other comments, Board members?

BOARD MEMBER JONES: Madam Chair.

CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

BOARD MEMBER JONES: I appreciate the report and some of Mr. Paparian's comments, but I do think that the report gives us some options to work on. And I think that we need to at least acknowledge that this report has been delivered. I know that the contractor hasn't been paid for quite a while. I don't know if it was over a dispute over these issues, if they couldn't be done, if it was even brought to his attention. But I think that the resolution that says that we will accept the report -- I'd be willing to move that resolution.

So I'm going to move adoption of Resolution 2003-403, consideration of the draft final report entitled "Extending the Lifespan of Tires, Final Report," fiscal year 2001/02, and now revised so the "now therefore be it resolved" that the Board accepts the report "Extending the Tire Life" as a completion of that contract.

CHAIRPERSON MOULTON-PATTERSON: We have a motion on the floor. I don't hear a second.

BOARD MEMBER WASHINGTON: Second.

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1 CHAIRPERSON MOULTON-PATTERSON: Excuse me?
2 BOARD MEMBER WASHINGTON: Second.
3 CHAIRPERSON MOULTON-PATTERSON: We have a motion
4 by Mr. Jones, seconded by Mr. Washington to accept the
5 report.
6 Now Mr. Lee, I have a question before I vote. If
7 we accept it, what does this mean? I mean, that doesn't
8 mean we concur with it, or can you give me some help here?
9 DEPUTY DIRECTOR LEE: Yes, I can. We've already
10 had our legal department kind of look at this. And
11 basically by accepting the report, you're not necessarily
12 endorsing the findings. And the acceptance can include a
13 disclaimer which basically acknowledges that fact. As I
14 read in my earlier remarks that report can be accepted and
15 include a disclaimer statement that says, "The statements
16 and the conclusions of the report are those of the
17 contractor and not necessarily those of the California
18 Integrated Waste Management Board, it employees, or the
19 state of California, and should not be sited or quoted as
20 official Board policy or direction."
21 I'd also, if I could just take a minute here,
22 Madam Chair, to try to address some of Mr. Paparian's --
23 CHAIRPERSON MOULTON-PATTERSON: Before do you,
24 Mr. Medina had a comment.
25 BOARD MEMBER MEDINA: The only comment I had,

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1 Madam Chair, was that Mr. Paparian raised two issues.
2 First issue had to do with whether the contractor had
3 fulfilled the terms of the contract. The second issue had
4 to do with the content itself. I found a problem with the
5 contractor having fulfilled his end of it. As to whether
6 we agree with it or not, that's another matter.
7 CHAIRPERSON MOULTON-PATTERSON: Okay. So you
8 have no problem with accepting it, is that what you said?
9 I just want to be clear here.
10 BOARD MEMBER MEDINA: In regard to the issue of
11 whether the contractor has fulfilled his end of the
12 bargain, he's produced a report. He's handed in a report.
13 So in that regard, from my perspective, he would be due
14 payment for having delivered the report. Now, I may not
15 necessarily agree with all the contents of the report, but
16 that's a different matter.
17 CHAIRPERSON MOULTON-PATTERSON: Okay. I have no
18 problem with going ahead and accepting it. However, I
19 would hope that the Special Waste Committee could, you
20 know, grapple with some of these concerns and, you know,
21 study it. And so I mean, I don't want my vote to be
22 interpreted as I'm agreeing with necessarily the report.
23 I would -- I think that's up to the Special Waste
24 Committee. And will you be taking another look at this
25 or -- I mean, you know, we accept the report. I want our

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contractor to be paid. No problem with that.

BOARD MEMBER MEDINA: If the Chair so directs, we will take another look at this.

CHAIRPERSON MOULTON-PATTERSON: Thank you. We have a motion on the floor by Mr. Jones and seconded by Mr. Washington to approve Resolution 2003-403 to accept the draft report entitled "Extending the Life Span of Tires, Final Report."

Please call the roll.

SECRETARY WADDELL: Jones?

BOARD MEMBER JONES: Aye.

SECRETARY WADDELL: Medina?

BOARD MEMBER MEDINA: Aye.

SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: No.

SECRETARY WADDELL: Peace?

BOARD MEMBER PEACE: No.

SECRETARY WADDELL: Washington.

BOARD MEMBER WASHINGTON: Aye.

SECRETARY WADDELL: Moulton-Patterson?

CHAIRPERSON MOULTON-PATTERSON: Aye. Okay.

Is Mr. Bledsoe here? No, okay.

DEPUTY DIRECTOR LEE: Madam Chair, we have two items on fiscal consent we can hopefully dispense with fairly shortly.

CHAIRPERSON MOULTON-PATTERSON: Go on with Item 16 briefly.

DEPUTY DIRECTOR LEE: Thank you, Madam Chair. Board Item 16 is consideration of the grant awards for household hazardous waste grant program for fiscal year 2003/2004.

BOARD MEMBER JONES: Madam Chair.

BOARD MEMBER JONES: I don't know if it's appropriate, but I know both committees approved this on unanimous votes. I'd like to move adoption of Resolution 2003-432, consideration of the grant awards for the household hazardous waste grant program for fiscal year 2003/04.

BOARD MEMBER MEDINA: Second.

BOARD MEMBER PAPARIAN: Second.

CHAIRPERSON MOULTON-PATTERSON: Okay. Please call the roll. Motion by Jones, seconded by a number of people, Mr. Medina and Mr. Paparian.

Please call the roll.

SECRETARY WADDELL: Jones?

BOARD MEMBER JONES: Aye.

SECRETARY WADDELL: Medina.

BOARD MEMBER MEDINA: Aye?

SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: Aye.

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1 SECRETARY WADDELL: Peace?
2 BOARD MEMBER PEACE: Aye.
3 SECRETARY WADDELL: Washington?
4 BOARD MEMBER WASHINGTON: Aye.
5 SECRETARY WADDELL: Moulton-Patterson?
6 CHAIRPERSON MOULTON-PATTERSON: Aye.
7 Number 18, this was also approved, was it not,
8 Mr. Medina?
9 BOARD MEMBER MEDINA: It was, and I'd like to
10 move this.
11 DEPUTY DIRECTOR LEE: Madam Chair, one quick note
12 on that. There was some additional questions that were
13 raised by the Special Waste Committee that were put to the
14 Caltrans contractor, but they are in attendance and
15 perhaps can respond to some of those issues with regards
16 to Caltrans' perceived policy of not being able to
17 restrict use of rubber to California tires only.
18 BOARD MEMBER JONES: Madam Chair.
19 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.
20 BOARD MEMBER JONES: Can I ask a follow-up
21 question on that? This is the grant for the testing and
22 stuff. And while we had a discussion about how to treat
23 that because of NAFTA and other things, anything that goes
24 into one of our grants, if they're going to lay down
25 pavement right --

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1 DEPUTY DIRECTOR LEE: Yeah.
2 BOARD MEMBER JONES: -- with this grant, we've
3 always made it a condition it be California-only on our
4 grants. That's not restricted by any policy?
5 DEPUTY DIRECTOR LEE: That's correct.
6 BOARD MEMBER JONES: Does Caltrans have a problem
7 with that on this grant?
8 UNIDENTIFIED SPEAKER: No.
9 CHAIRPERSON MOULTON-PATTERSON: Who made the
10 motion?
11 Mr. Medina.
12 BOARD MEMBER MEDINA: Madam Chair, I'd like to
13 move Resolution 2003-445, consideration of the California
14 Department of Transportation as contractor for the
15 Department of Transportation support interagency
16 agreement, tire recycling management fund for year
17 2003/2004 and 2004/2005.
18 BOARD MEMBER JONES: Second.
19 CHAIRPERSON MOULTON-PATTERSON: Okay. Without
20 objection, substitute the previous roll call.
21 We have some speakers on 20 and 21, or at least
22 one speaker, so I want to go back to Item 12.
23 BOARD MEMBER JONES: I think there's two
24 resolutions, Madam Chair.
25 CHAIRPERSON MOULTON-PATTERSON: Go ahead.

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1 BOARD MEMBER JONES: I don't know if it should be
2 included in both.
3 CHAIRPERSON MOULTON-PATTERSON: Was that for both
4 resolutions?
5 BOARD MEMBER MEDINA: It was 444 and 445.
6 BOARD MEMBER JONES: Sorry. I didn't hear that.
7 I apologize.
8 CHAIRPERSON MOULTON-PATTERSON: I appreciate it.
9 Keep us on our toes here.
10 We're going to go back to Item Number 12 which
11 was the public hearing and consideration and position of
12 penalty against the city of Gardena pursuant to Compliance
13 Order. And I wanted to read our decision on a 5-1 vote.
14 Member Washington opposed. And based on evidence
15 presented in today's hearing, the Board determined that
16 the city of Gardena failed to comply with the Board's
17 Compliance Order Number IWMA BR 03-02 and failed to make a
18 good faith effort to implement its source reduction and
19 recycling element.
20 Accordingly, the Board determined to impose
21 penalties in the following amounts pursuant to Public
22 Resources Code Section 41850: $70,000 immediately due and
23 payable; contingent penalty due in the event that the city
24 of Gardena fails to achieve by January 1st, 2004, the
25 requirement in the city's joint venture agreement between

1 the city of Gardena and Waste Resources of Gardena, Inc.,
2 joint venture agreement dated August 28th, 2003, that --
3 and I'm quoting -- "diversion services must be fully
4 functioning by January 1st, 2004." And that's Item 1(a)4
5 of the coordination work plan, city of Gardena, local
6 assistance plan for the city of Gardena, incorporated by
7 reference. And the joint venture agreement identifies the
8 diversion services that must be functioning by
9 January 1st, 2004.
10 The Executive Director of the CIWMB shall
11 determine whether the city of Gardena shall have achieved
12 this requirement in a timely manner. Penalty for
13 non-compliance, $1460 a day for each day of non-compliance
14 on and after January 1st, 2004, for up to 60 days, plus
15 $2190 per day for each day of non-compliance thereafter.
16 And if there are any questions by the city of
17 Gardena, Mr. Bledsoe is here. Right here. And I will let
18 him answer any questions that you have. And thank you.
19 I'm sorry you had to wait for that decision.
20 Did you wish to comment?
21 MR. LANSDELL: Madam Chair and members of the
22 Board. Thank you for this opportunity. We'd just like to
23 have a copy of the written statement for us. And with
24 that, you can count on by January 1st us being here to
25 deal with the other.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you. We
2 appreciate that. And Mr. Bledsoe will provide you with a
3 copy of that.
4 CHAIRPERSON MOULTON-PATTERSON: That brings us
5 back to Item 20.
6 Mr. Lee.
7 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.
8 Board Item 20 is consideration of the joint offering for
9 fiscal years 2003/2004, 2004/2005 eligibility criteria,
10 evaluation process, and priority categories for the
11 rubberized asphalt concrete grant.
12 This item was heard by the Special Waste
13 Committee and the decision was made to hold it for over
14 for consideration by the full Board and consider several
15 issues of revisions at the Board. Among the revisions
16 made by staff is a reduction in the maximum per
17 jurisdiction award of 250,000 to 150,000, to potentially
18 increase the number of grant recipients; a requirement of
19 submission of evidence of a compliance with recycled
20 content policy, has made a completion of grant application
21 awards; and three, a set-aside of 10 percent of the
22 available grant award amounts for rural jurisdictions
23 that's established.
24 Nate Gauff of the Tire Branch will provide
25 additional detail and context for these changes in his

presentation.

(Thereupon an overhead presentation was presented as follows.)

MR. GAUFF: Good afternoon, Madam Chair and Board members. I'm Nate Gauff with the Special Waste Division. I apologize if you had to pass over this item because of me. I was at my desk listening, waiting for the --

CHAIRPERSON MOULTON-PATTERSON: No. That's fine.

MR. GAUFF: Waiting for you to come back from closed session.

CHAIRPERSON MOULTON-PATTERSON: You're on time.

MR. GAUFF: Okay. This program the Board allocated through the five-year plan 1.1 million for 2003/2004, and 1.2 million for 2004/2005. The eligibility criteria was pretty much established in the statute that it's local agencies, cities, counties, districts that do public works projects. This item is to really consider the evaluation and ranking process. And I would like to remind the Board that this process will apply to both fiscal years worth of funding, at least as it stands right now.

--o0o--

MR. GAUFF: As I said, the eligibility was at the local agencies. The projects must be between 2500 and 20,000 tons of rubberized asphalt, and projects must use a

minimum of 20 pounds of crumb rubber per ton of rack.

--o0o--

MR. GAUFF: As Mr. Lee mentioned, we did add the requirement of the applicant submitting a copy of the recycled content purchasing policy. In addition, we have more the standard type of application process where they will have to certify that they will comply with environmental justice. They also have to certify they will use California rubber in their projects. And then we'll have a signed resolution from the governing body.

--o0o--

MR. GAUFF: However, what we would like to do -- what staff would recommend is that we don't disqualify the applicant if they exclude any of those materials initially. However, the applicant would not be able to enter into an agreement with the Board until all those materials are received. And that's to try to make sure that we don't undersubscribe the program by disqualifying applicants. However, once again, they will not be able to enter into any type of agreement until they submit all the required materials.

--o0o--

MR. GAUFF: The ranking process is a little different from the normal process for scoring grants. What we're asking for is a waiver of the general grant

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criteria. And really that was a result of, I think, a suggestion by the Board itself in the five-year plan process because we were looking to streamline the application process to encourage participation.

So what we came up with is a three criteria system looking at a ranking of all the projects in one list, not separating them, but just ranking them from top to bottom. The primary category and the first cut would be established by the amount of rubberized asphalt would be used. The higher projects will use the higher consideration.

Second criteria, which was used to differentiate and help break ties, would be the amount of crumb rubber used in the project.

And the third criteria which would also help to break ties would be the readiness status of the project. The projects that have been bid but not constructed would receive higher priority than the projects that are still to go out to bid.

--o0o--

MR. GAUFF: Some of the funding issues -- and Mr. Lee also mentioned this -- is that to spread the money around, what we're proposing is there be a 150,000 per jurisdiction funding limit, and that 10 percent of each fiscal year's funding allocation be reserved for rural

1 entities. And just for the rural entities only there be a
2 limit of $10,000 per grant. Now this comes from a
3 recommendation or from an e-mail that I got from the
4 ESJPA, Mr. Jimmy Hemminger. And I had communicated --
5 well, he communicated his concerns about the criteria that
6 stood. He made the suggestion on behalf of his rural
7 constituency, like we said, we set aside 10 percent and
8 that the maximum grant award be limited to $10,000, and we
9 adopted those suggestions as we're presenting it to you
10 today.
11 -o0o--
12 MR. GAUFF: So with that, I'd like to ask if
13 there are any questions.
14 CHAIRPERSON MOULTON-PATTERSON: Thank you. I see
15 none, so we'll go right to Larry Sweetser representing
16 rural counties.
17 MR. SWEETSER: It's almost good evening, Board
18 members. My name is Larry Sweetser, on behalf the Rural
19 Counties Joint Powers authority. And we want to support
20 Waste Board's effort, and we do appreciate what staff has
21 done with the program in putting the rural set aside. I
22 think that will greatly help some of the smaller projects
23 out there.
24 One question on the criteria that -- in terms of
25 having it the same for rural projects as for larger

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1 projects where it's still based on the maximum amount of
2 tires used, I'm just not sure how that will work in
3 reality with some of the programs. The $10,000 limit
4 mentioned, Jim and I did not discuss that. And not being
5 an engineer, I'm not sure this how that will work in terms
6 of a public works project. But I'm sure many of them will
7 be able to fit the smaller projects under that amount.
8 So with that, we just support the Board's efforts
9 on the program and keep it quick given the hour. Thank
10 you very much.
11 CHAIRPERSON MOULTON-PATTERSON: Thank you.
12 Mr. Medina.
13 BOARD MEMBER MEDINA: Madam Chair, I wanted to
14 move this item. Before I do, however, I did want to speak
15 to the need in regards to rural counties. It is my
16 experience as Director of Caltrans as I traveled
17 throughout the state that the rural counties' roads and
18 highways were the ones that were in the poorest condition
19 of any in the state. And so certainly the rural counties
20 need all the resources that they can get to improve and
21 maintain their rural roads.
22 MR. GAUFF: Before the Board acts, I'd just like
23 to add, we did revise the resolutions for this item to
24 reflect the 10 percent set aside for the rural counties.
25 However, we did not include the 150,000 per jurisdiction

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limit, but we will add that to the resolution after the Board's acted upon it.

CHAIRPERSON MOULTON-PATTERSON: Okay. So we have -- did you want to read it or -- go ahead.

BOARD MEMBER MEDINA: Thank you, Madam Chair. With that I'd like to move Resolution 2003-434, revised, consideration of a joint offering for fiscal years 2003/2004, 2004/2005 of the eligibility criteria evaluation process and priority categories for the rubberized asphalt concrete grant program with a revision of the $150,000 amount.

CHAIRPERSON MOULTON-PATTERSON: I'd second that. So we have a motion by Mr. Medina, seconded by Moulton-Patterson to approve Resolution 2003-434 revised.

Please call the roll.

SECRETARY WADDELL: Jones?

BOARD MEMBER JONES: Aye.

SECRETARY WADDELL: Medina?

BOARD MEMBER MEDINA: Aye.

SECRETARY WADDELL: Paparian?

BOARD MEMBER PAPARIAN: Aye.

SECRETARY WADDELL: Peace?

BOARD MEMBER PEACE: Aye.

SECRETARY WADDELL: Washington?

BOARD MEMBER WASHINGTON: Aye.

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1 SECRETARY WADDELL: Moulton-Patterson?
2 CHAIRPERSON MOULTON-PATTERSON: Aye. That brings
3 us to our last item, Number 21.
4 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.
5 Board Item 21 is consideration of proposed applicant
6 eligibility, project eligibility scoring criteria and
7 evaluation process for a joint offering for fiscal years
8 2003/04 and 2004/05 for the tire product commercialization
9 and applied technology grants.
10 This item was heard before the Special Waste
11 Committee and was recommended be brought back for
12 consideration of revisions including the following: One,
13 a change in the proposed joint offering utilizing 2003/04
14 and 2004/05 funds to a one-year offering utilizing
15 2003/2004 funds only; two, changes in the proposed
16 individual grant funding maximum from 400,000 to 250,000.
17 In addition to proposed prohibitions on pyrolysis,
18 gasification, and liquefaction, and devulcanization
19 technology projects to acknowledge the ineligibility for
20 funding of projects involving tire incineration pursuant
21 to trailer bill languages in the budget act. Four, to
22 prohibit multiple grants to what can be considered to be
23 the same or related business entity.
24 Jesse Adams of the tire branch will discuss these
25 proposed revisions in more detail.

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1 MR. ADAMS: Jesse Adams, Tire Diversion Section
2 of Special Waste. Thanks, Jim. Mr. Lee's just about
3 covered it all. I can quickly go through the six issues
4 with a little additional discussion if you'd like.
5 The item is for a joint offering. And staff has
6 been, as I'm sure you're well aware, struggling with
7 increasing grant program workloads and loss of program
8 staff. And I'll be one of those leaving shortly so it's
9 going to get even more critical. I think critical mass is
10 a good term. But the resolution does reflect the removal
11 of that recommendation.
12 Mr. Lee covered the proposed increase from 250 to
13 $400,000. Staff included recommendation that the
14 pyrolysis, gasification, and liquefaction projects and
15 applications for devulcanization projects be ineligible
16 until the Board's had the opportunity to review the
17 reports the Board's commissioned.
18 This was included in the item because of Solid
19 Waste Committee discussion from the December hearings.
20 And the Board staff, of course, heard some concerns from
21 the members regarding discussion undertaken whether the
22 Board would be spending its money wisely without the
23 assistance of these reports. But there's a number of ways
24 we can work with that.
25 He covered the legislative direction covered by

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1 the trailer bill which prohibits incineration of tires for
2 grant funding.
3 Our legal department has provided us with
4 language which is in the item and covers the one company
5 rule that is being proposed. And we're recommending some
6 minor adjustments to the points available for several of
7 the scoring criteria and the addition of a criteria number
8 11 which would provide points support for projects which
9 locate two or are located in RMDZs. The total points, of
10 course, would remain at 100. Total points for the general
11 criteria would remain at 55, and for the program criteria
12 of 45.
13 The proposed adjustments -- if you'll refer to
14 Attachment 1 -- would be to change criteria in 1, need, to
15 15 points. Change criteria in 5, budget, to 10 points.
16 Change criteria in 8 to 15 points. And to add new
17 criteria in 11, RMDZ, worth 5 points.
18 Based upon Special Waste Committee input, staff
19 also proposes that the wording in criteria 9, market
20 potential, be modified as shown on Attachment 1. This
21 modification would remove the lower four passenger tire
22 equivalent requirement to better serve small businesses or
23 enterprises and consolidate the points available into
24 three categories.
25 I'd like to make a correction to the wording in

1 this section in order to keep it consistent with Part II
2 of criteria 9 and include the words "up to" before each of
3 the numbers that indicates point availability. In other
4 words, "up to 10 points, up to 15 points." I would also
5 to correct the same wording on page 21 of the agenda where
6 the change is indicated.
7 That basically covers it. The administration of
8 the grants would pretty much be the same as the last
9 cycle. I've got a little information of that. There are
10 four options for the Board to consider. Option 1 would be
11 to adopt the joint offering with a grant maximum of either
12 400 or 250,000. Option 2 would be to adopt the joint
13 offering with specific revisions. Option 3 would be to
14 adopt a one-year fiscal year program with either a 400 or
15 $20,00 option. Or disapprove and direct staff as to
16 further action.
17 If you have any questions --
18 CHAIRPERSON MOULTON-PATTERSON: Thank you. I
19 understand this is your last Board meeting and that you're
20 retiring. You're going to be really missed.
21 MR. ADAMS: One would certainly hope it is one's
22 last Board meeting sometimes.
23 CHAIRPERSON MOULTON-PATTERSON: Well, we're going
24 really miss you. And I understand you're moving to
25 San Diego.

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1 MR. ADAMS: Yes, I am.
2 CHAIRPERSON MOULTON-PATTERSON: We wish you the
3 very, very best.
4 MR. ADAMS: Next month will be 24 years here.
5 CHAIRPERSON MOULTON-PATTERSON: 24 years, thank
6 you.
7 Mr. Paparian.
8 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
9 I think we had a very good discussion about this at the
10 Committee and I think staff has done a very good job of
11 capturing the agreements that we had in the Committee and
12 then calling out the one issue that really remains is
13 whether it should be 250,000 or 400,000.
14 Just one typo before I get into that. In the
15 revised resolution in the second line you missed one of
16 the 04/05 things to cross out.
17 MR. ADAMS: Thank you.
18 BOARD MEMBER PAPARIAN: In terms of the -- I
19 argued for 250,000. Mr. Jones can speak for himself. He
20 argued for 400,000. The reason I was arguing for 250,000,
21 that's how much it has been in the past. There's only 1.6
22 million available. These are grants. We are giving away
23 the money for this purpose. It's a very good purpose.
24 And it's my belief that we ought to make more grants
25 available and encourage especially smaller businesses.

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1 And I think smaller businesses would come in at lower
2 amounts. So I argued for the 250, which is, again,
3 consistent with the amounts we've had over the last few
4 years. And even at 250,000, we had many, many more
5 applications than we had money available for.
6 CHAIRPERSON MOULTON-PATTERSON: Thank you.
7 Mr. Jones.
8 BOARD MEMBER JONES: Madam Chair, I had no
9 problem with the 250. I was going to go 400,000 because
10 we're doing this as a joint offering where somebody may
11 have only gotten one grant for a two-year period. And it
12 would make more sense for them to do it a capital
13 expenditure -- a bigger capital expenditure. But the fact
14 that we cut it down to one year so that we can look at
15 pyrolysis, gasification, and liquefaction next year, I
16 have no problem with the 250,000. I think it's
17 consistent.
18 My whole issue was we were doubling up. We were
19 going to do two-year cycles. So give somebody the
20 opportunity to do a bigger project because they've only
21 got one shot at it. The fact that we're at one, I'm fine
22 with 250,000. For that, how about if I move?
23 CHAIRPERSON MOULTON-PATTERSON: Just one moment.
24 We do have one speaker, and then I'll call on you.
25 Tom Faust, Redwood Rubber.

1 BOARD MEMBER MEDINA: Madam Chair, a number of us
2 did receive a communication from Redwood Rubber.
3 CHAIRPERSON MOULTON-PATTERSON: Yes. That's been
4 ex parted.
5 MR. FAUST: Good afternoon, Board members. Tom
6 Faust here from Redwood Rubber. I have some comments on
7 the grading. I'm in disagreement, and I urge my final --
8 after you hear what I have to say, I hope that you vote
9 against Option 1, 2, and 3, and direct them to go back and
10 come up with a better scoring result.
11 This project is being used as a discriminatory
12 tool to restrict new technology. It's just protecting
13 obsolete technology. And in so doing, what -- it's
14 anti-competitive just protecting an obsolete technology
15 basis that has proven not to work. Just a few minutes ago
16 you heard reported that California's only turning into the
17 crumb rubber 7 million tires a year. Well, that
18 translates down into 20 percent of the tires. Actually,
19 it's less if you convert it into passenger tire
20 equivalents.
21 The reason it's anti-competitive is Dr. Abram
22 Ashai has published 14 papers on ultrasonic tire
23 devulcanization. None of those papers has any negative
24 information. In addition to the 14 papers that was funded
25 by a $600,000 grant from the National Science Foundation,

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1 you have that published material. You also have the Army
2 Tank Command gave a million -- $1.2 million grant to a
3 Palmer Company back in Ohio. And the results of that
4 are -- while not published, I have a copy of them. And if
5 the Board is interested in reading that -- it's further
6 evidence of a successful pilot plant at the level of 350
7 pounds an hour. And once again, they were given over $1
8 million grant from the army, and they put up a large match
9 too.
10 So here you have all this published research.
11 You have further federal government grant evidence that
12 its successful, and you want to sit back and massage
13 something and block progress in an industry that has
14 proven that it doesn't have any -- if you're only batting
15 20 percent and you have 80 percent as your goal, and
16 you've spent over the last ten years, $110 million and
17 only have 20 percent to show as a success record,
18 something's wrong. So you have to change.
19 CHAIRPERSON MOULTON-PATTERSON: Please conclude,
20 Mr. Faust.
21 MR. FAUST: Yep. Well, further, you have an
22 indictment of Atlas Rubber, who has failed. Okay.
23 So let's move on to the definition of grading
24 should be content with the intent of the program. I urge
25 that the Board adopt a new grading policy for greenhouse

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gasses. Governor Davis signed important legislation last year mandating that the automotive sector is to factor in reduction in greenhouse gasses. Well, the amount of tires -- every single year California tires generate the way they're manufactured and disposed nearly 3 billion pounds of greenhouse gasses. And those gasses go up and are stored in our atmosphere for 100 years. And what those gasses are doing --

CHAIRPERSON MOULTON-PATTERSON: Mr. Faust, please summarize and conclude.

MR. FAUST: Well, okay. I want greenhouse gasses included in the scoring criteria.

And also the program criteria should include zero points for any of the other alternatives. Public Resource Code 40051 mandates that recycling back into the original form is the highest goal. So you should not be giving credits for chips or TDF or any of those others. It should be either it goes back in a molded product or nothing.

CHAIRPERSON MOULTON-PATTERSON: Thank you.

Mr. Jones and Mr. Washington.

MR. FAUST: I have ten more seconds, please.

CHAIRPERSON MOULTON-PATTERSON: Okay. I've asked twice.

MR. FAUST: Okay. I have contacted three

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1 academic institutions that -- and Stanford University, who
2 has $100 million greenhouse grant. Professor Lucy has
3 volunteered to grade public grants for his department. So
4 you know, I have maintained that there hasn't been an
5 objective review on grants. And I found an institution
6 that is probably rated the highest in the whole state, and
7 they will do it on a pro bono basis.
8 So anyway -- so I have a -- let's go back to --
9 CHAIRPERSON MOULTON-PATTERSON: Thank you,
10 Mr. Faust. Your time is up.
11 Mr. Jones.
12 BOARD MEMBER JONES: Thanks, Madam Chair.
13 CHAIRPERSON MOULTON-PATTERSON: And then followed
14 by Mr. Washington.
15 BOARD MEMBER JONES: I'm going make a motion.
16 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington,
17 did you have a comment? Because Mr. Jones is going to
18 make a motion.
19 BOARD MEMBER WASHINGTON: I have a question for
20 staff on this particular item. Is Mr. Faust the only one
21 doing the devulcanized rubber? Do you know of anyone
22 doing it?
23 MR. ADAMS: No. I'm really not the one to ask on
24 that, but no, he's not.
25 BOARD MEMBER WASHINGTON: Whoever I can ask --

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1 MR. ADAMS: There are probably several hundred
2 papers on the subject and maybe as many as, you know, 50
3 or more patents for various processes that address
4 devulcanization. And there's many different methods of
5 doing it, chemical, mechanical. He mentioned ultrasonic.
6 Microwave is another one.
7 BOARD MEMBER WASHINGTON: Okay. The Board
8 approved the scope of work for evaluating the waste tire
9 technologies. Since the report will be due, I understand,
10 to the Board in 2004, why aren't these technologies
11 considered innocent until proven guilty?
12 MR. ADAMS: That was based upon Committee
13 comment. They expressed some concern that they couldn't
14 really make a really good decision on whether to spend
15 money on the technology without the report. In other
16 words, use the report as a tool, so that they would be
17 properly expending the state's money.
18 DEPUTY DIRECTOR LEE: Mr. Washington, one of the
19 reasons we put out the contract concept is basically to
20 examine the feasibility and the cost effectiveness of this
21 particular technology. As we stated in the agenda item,
22 that's one reason why we want to postpone consideration of
23 eligibility for these types of projects until we get some
24 more definitive information with regards to whether or not
25 it's a good idea to continue pursuing this line of

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research.

BOARD MEMBER WASHINGTON: And I guess my only concern is if we wait for a report to come back as to the effectiveness of the devulcanization technology, why would we, you know, say again -- it's almost like a pronouncing they're guilty until we prove they're innocent or the opposite, that we're saying they're guilty until they prove themselves innocent. I guess I'm just trying to figure out why we're -- there's a rush to judgment on this.

DEPUTY DIRECTOR LEE: Well, I wouldn't view it as a rush to judgment. We feel we're trying to be prudent stewards of the state's money here. You know, basically what we have seen to date is there is some serious question again about the cost effectiveness and the feasibility of the devulcanization process. And we think that it makes good sense again to try to get a little more definitive information before we start funding a lot of other projects with questionable prospects for success.

BOARD MEMBER WASHINGTON: Well, my final comment. I just think that if there was more than just Mr. Faust who raised this issue -- since I've been on this Board, he's the only one that I know that's been dealing with this particular issue. And I certainly don't want to undermine his ability to use his expertise in this area.

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1 He's only one that I know that's doing it. It just seems
2 to me that we're just trying to, you know, take him out of
3 the game as it relates to this particular issue. That's
4 just my personal thoughts.
5 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
6 Washington.
7 Mr. Paparian. Then Mr. Jones.
8 BOARD MEMBER PAPARIAN: Thanks, Madam Chair.
9 I think Mr. Washington's comments are -- I think
10 are well taken. Just to speak to what happened in the
11 Committee, though, it started out as a two-year grant
12 cycle. And there were some concerns, not just about this
13 technology, but I think more specifically to some other
14 technologies that we may know more about in the next year.
15 And I think that was a large part of the reason we went
16 from a two-year grant cycle to a one-year grant cycle so
17 that we can then evaluate next year whether we want to add
18 more eligible types of projects to the mix.
19 And I know I'm going to be looking carefully at
20 the devulcanization issue myself to see whether I want to
21 argue for that being in the mix next year. I think
22 Mr. Faust in his written comments provided some
23 interesting suggestions which we may want to take a close
24 look at with regards to the scoring criteria. But again,
25 at this point I would look at it for the 04/05 criteria.

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1 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
2 Paparian.
3 Mr. Jones.
4 BOARD MEMBER JONES: Madam Chair, I want to move
5 adoption of Resolution 2003-435 revised, consideration of
6 proposed applicant eligibility, project eligibility
7 scoring criteria and evaluation process for the offering
8 of fiscal year 2003/2004, the tire product
9 commercialization and applied technology grants.
10 BOARD MEMBER MEDINA: Second.
11 CHAIRPERSON MOULTON-PATTERSON: We have a motion
12 by Mr. Jones, seconded by Mr. Medina to approve Resolution
13 2003-435, revised.
14 Please call the roll.
15 SECRETARY WADDELL: Jones?
16 BOARD MEMBER JONES: Aye.
17 SECRETARY WADDELL: Medina?
18 BOARD MEMBER MEDINA: Aye.
19 SECRETARY WADDELL: Paparian?
20 BOARD MEMBER PAPARIAN: Aye.
21 SECRETARY WADDELL: Peace?
22 BOARD MEMBER PEACE: Aye.
23 SECRETARY WADDELL: Washington?
24 BOARD MEMBER WASHINGTON: No.
25 SECRETARY WADDELL: Moulton-Patterson?

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CHAIRPERSON MOULTON-PATTERSON: Aye.

Thank you very much. Sorry it was such a late one. We'll see you again at 9:30 in the morning.

(Thereupon the California Integrated Waste Management Board, Board of Administration adjourned at 6:12 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 29th day of September, 2003.
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