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COMMITTEE MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

SIERRA HEARING ROOM

SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 3, 2003

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TIFFANY C. KRAFT, CSR, RPR
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Susan Kumpulainien, Committee Secretary

Brian Larimore, Organic Materials Management Section

Howard Levenson, Deputy Director

Sue Markie

Carla Repucci

Virginia Rosales

Scott Walker, Permitting and Enforcement Division

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APPEARANCES CONTINUED

ALSO PRESENT

Susan Bassein, Greenaction for Health and Environmental Justice

Bernie Bingum, Chesapeake Environmental Group, Nursery Products

Evan Edgar, California Refuse Removal Council

Jennifer Edge, City of L.A. Department of Water and Power

Gebrehawiat

Randy Howard, City of L.A. Department of Water and Power

Gary Liss, Gary Liss and Associates

Patricia Mathews, Siskiyou County Planning Department

John Schneider, EDCO Recovery

Scott Smithline, Californians Against Waste

Michael Theroux, Theroux Environmental

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PROCEEDINGS

CHAIRPERSON PAPARIAN: Good afternoon, everybody. Welcome. This is the Permitting and Enforcement Committee of the Integrated Waste Management Board. I'm Mike Paparian, Chair of the Committee.

We'll get started with a roll call. Secretary, please call the roll.

SECRETARY KUMPULAINIEN: Jones?

COMMITTEE MEMBER JONES: Here.

SECRETARY KUMPULAINIEN: Peace?

COMMITTEE MEMBER PEACE: Here.

SECRETARY KUMPULAINIEN: Paparian?

CHAIRPERSON PAPARIAN: Here.

Just as a reminder, if you have a cell phone or a pager, if you could just turn it to the vibrate mode or turn it off so it doesn't interrupt us during this hearing.

If you want to speak on any item, there are speaker slips in the back of the room. Fill one out and give it to Ms. Kumpulainien here in the front of the room.

Board members, do you have any ex partes?

Mr. Jones.

COMMITTEE MEMBER JONES: No. I'm current.

CHAIRPERSON PAPARIAN: Ms. Peace.

COMMITTEE MEMBER PEACE: I'm up to date.

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CHAIRPERSON PAPARIAN: And I'm up to date.

I think we can just dive right into the Deputy Director's report.

Mr. Levenson.

DEPUTY DIRECTOR LEVENSON: Thank you, Mr. Chair. Good afternoon, Board members.

I have a rather lengthy report with a lot of information on things that are happening around the state, so if you'll bear with me while I put my glasses on. Howard Levenson, Deputy Director, Permitting and Enforcement.

First of all, I want to mention all of the workshops and meetings that we've had last week and this week. On the 30th, last week, we had a workshop on the applicability of the new requirements within the C&D Phase One regulations to other regulatory packages. We'll be coming back most likely in January with an item that summarizes the info from that workshop and the last workshop and provides staff recommendations.

On the 27th, we had a field trip at the Yolo County Central Landfill bioreactor project. We had a tour, and lunch was provided by the county. And we had a very good discussion. It got fairly healthy in the afternoon between various panel members and the audience. And Mr. Jones and Mr. Paparian were able to attend, and

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Ms. Peace I know was planning to be able but was unable to because of fire impacts on airline travel.

We had about 75 attendees, and I want to especially thank Scott Walker and Rameen Yazdani of the county for all the work they did to put that together. It was quite an undertaking, I think very well appreciated by everybody.

We had a workshop this morning on post-closure maintenance and financial assurances. We have another one on Friday on -- the informal workshop on long-term gas violation regulations that you directed us to begin work on. This will be an informal workshop Friday. And that's the end of the workshops for this week.

But I am happy to announce that the 7th Annual LEA Waste Board partnership conference will be held -- we finally have an official date -- on March 10th through 12th at the Holiday Inn here in downtown Sacramento. And there will be a lot more information coming out on that. I will just for -- to let you know, we're thinking about some of the messages that the Board has put forth recently. We will put forward the zero waste logo. We don't have a lot of paper. We've been trying to minimize paper at that conference for a long time. We will include it. We're working with the contractor and the hotel to minimize waste generation. And lastly, we will be tying

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in some field trips over the Recycled Content Trade Show for the LEAs. So I think it will be a good event.

I'd like to give you an update on aggregate recycling, aka, La Montana. As you know, this has been a major enforcement problem since the mid '90s. And it's got approximately 200,000 tons of Type A inerts on the site that were generated from damage to the 405 freeway during the North Ridge quake. The operator abandoned the site, and the property owner is now attempting cleanup in response to a court order, but the court order for compliance for complete removal has passed.

Scott Walker visited the site on the 17th of October with the LEA and reports that there's significant new activity and movement of material off site. There's a renewed sense of optimism that this site will be cleaned up in the future. They have orders for almost half of the processed material in place, and that material is anticipated to be removed within the next couple weeks. This was from Scott's report on the 17th.

There's still a large amount of material needing markets. There's about 20,000 cubic yards of aggregate and another 30,000 cubic yards of uncrushed material. And Scott is working with L.A. County San Districts to see if they can use some of that material at Puente Hills and other landfills. And we're also working with the Waste

Prevention and Market Development Division, through CalMax, and the zone administrators to see if we can locate some other markets for that. As Chair Moulton-Patterson directed, I think it was last month, we were supposed to provide an update to the Board in January. And hopefully at that time we'll be able to say that the site is fully cleaned up. So that's good news on that front.

In December, you, the P&E Committee, requested that we evaluate the Merced County LEA. We have done so and concluded that evaluation in September. I can provide you some more details in writing. But I wanted to let you know that we did find the LEA to be inconsistent in some areas, specifically in failing or causing to be prepared permits and permit revisions, failing to take appropriate enforcement actions, and failing to comply or take some actions that are inconsistent with regulations. However, the Merced LEA has no current permits or enforcement actions to bring forward. So there's no outstanding individual compliance tasks to focus on.

As a result, we met with them in early September. They submitted an evaluation work plan in late September, and that plan was approved by staff on October 1st with some of the following corrective measures already having taken place. The LEA has replaced the lead LEA staff

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person effective immediately. They are submitting a revised enforcement program plan to us in November that will include a lot more details. They are also submitting in November a training program for new staff and the supervisor. The director will review each facility inspection report for the next year so he makes sure they're submitted on time and are accurate. And the new staff person and the supervisor will jointly inspect all facilities within the next six months. I can provide you more info, but we have been working with them to try to remedy some of the past problems to make sure they don't happen in the future.

The last thing that I'd like to tell you about today is what's happening with the Southern California fires. And we're getting information as I speak, so I've kind of got a couple pieces of paper to shuffle here. Obviously, this tragedy has affected thousands of people, and I think all of our prayers and thoughts go out to those folks down there.

We've been participating in a CalEPA response under the osmosis of OES. On Thursday afternoon Bernie Vlach and I participated in a conference call to coordinate the state response to local questions. That call included CalEPA, OES, all the BDOs, some COPAs, and some LEAs. So for the biggest issues raised by locals

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that would affect us are the management and disposal of mixed debris -- that is solid waste that may have some hazardous materials in it -- and whether that can be sent to Class 3 landfills; the management and disposal of clearly identifiable household hazardous waste; and then the availability of FEMA funding for cleanup and collection. There were a number of other issues that included dead animal disposal, how to avoid contractor fraud by cleanup companies, the processes for waivers of permit terms and conditions and others.

We issued an all LEA letter on Friday that reiterates the process for emergency waivers and included information on disaster management plans. Also we included a request from DPLA to have LEAs remind operators to track the jurisdiction of origin of incoming fire debris so no local jurisdictions are unduly penalized for having improperly counted debris from their areas.

On Friday we were requested to provide an ongoing presence at the disaster field office in Pasadena beginning today. And I wanted to acknowledge Bernie Vlach volunteered to go down. He's there this morning. Bill Marciniak, who, I believe, lives in northern San Diego but is in our Southern Cal office is also at the field office in Pasadena and we will be having an ongoing presence there for at least the next couple of weeks. I also

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wanted to acknowledge Mitch Delmage who put in a stint at the State Operations Center at Mather and has been coordinating a lot of this internally.

We do have a web page. I think it is live or about to go live. That's been a coordinated effort of DPLA, P&E, and Public Affairs and we'll continue to add to that.

Waste Prevention and Market Development is providing information to OES to get to local assistance centers on how to rebuild green. There's a lot of information going on out there.

I raised the issue of mixed debris. And whether the disposal of mixed debris in Class 3 landfills is acceptable is up to the regional water boards and Toxics, DTSC. DTSC did meet Friday morning and issued a determination that general mixed fire debris can go into lined Class 3 landfills. So we're getting that information out to LEAs and Public Works folks. Folks do need to identify and segregate very obvious hazardous waste of materials. But otherwise, it's okay to go into lined Class 3 landfills.

Now, we've been in contact with LEAs to ascertain whether any landfills and transfer stations have been directly hit by the fires and to make sure that the emergency waiver process is being implemented. And Bob

Holmes has been collating this from our staff, and we know of four facilities that have had some damage. Sycamore Landfill in the city of San Diego, wild fire burned brush and burned through a gas header line. Looked fairly minor. West Miramar, wild fire burned brush on some of the closed inactive portions, a little bit of damage to the gas collection system. A lot of these things are not fully ascertained yet. There'll be people doing damage reports. Simi Valley Landfill and Recycling Center in Ventura County was the hardest hit that we know of. There's an estimated $500,000 in damage to drainage systems, other infrastructure, perhaps gas and water wells. In another facility in Ventura, the Peach Hills Organic Recycling Facility, the fire burned through there. They lost a skip loader, and the compost piles are currently burning. So at least four facilities that we know of. There may be others as well.

Now speaking just in summary, the last thing I want to mention is regarding the waiver process. As you know, an operator can request an emergency waiver of permit terms and conditions. And once the LEA issues a waiver, our executive director can condition, limit, suspend, or terminate it if necessary, but otherwise the Executive Director will report on the issuance of those waivers at the next scheduled Board meeting.

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And we'll prepare that information for you, Mark.

But as of now -- and this changed half an hour ago -- but we are aware of 16 waivers having been granted by LEAs; six for landfills and ten for transfer stations, with one pending for one more landfill. And we have this information available to you, if you would like it in more detail.

With that, I'll end my report and be happy to try to answer any questions that I can.

CHAIRPERSON PAPARIAN: Questions, members?

Mr. Jones.

COMMITTEE MEMBER JONES: Thank you, Mr. Paparian.

I know Bernie and Marciniak are down south. Is there a single contact person if somebody was to call this Board to ask information? Do you have somebody --

DEPUTY DIRECTOR LEVENSON: It could be me or Mitch.

COMMITTEE MEMBER JONES: Okay. All right.

DEPUTY DIRECTOR LEVENSON: Mitch is really handling more of the HHW, and he's been the more general contact with CalEPA. He's shipping stuff to us. But if it's P&E related, you can certainly direct it to me.

CHAIRPERSON PAPARIAN: The waivers that you're saying, tonnage, hours, that kind of stuff?

DEPUTY DIRECTOR LEVENSON: I'm guessing -- I know

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for Prima Deshecha -- if I'm pronouncing it right -- the waiver is the tonnage limit and increase the operating hours by one hour. It seems like it's all tonnage and hours. EDCO has an increase in traffic as part of their request. It looks like that's the general -- traffic, hours, and tonnage. At this point, that's what we know of.

CHAIRPERSON PAPARIAN: Okay. Do you have anything Ms. Peace?

I did have -- as we go into the regular agenda, I did just have a request from somebody who wanted to speak on Item 8, the conversion technology item, is in traffic on the way here, and so requested that if we could hold on that for another 20 minutes or so. So if that's all right, we'll take -- if we can just move on to the next ones and then come back to that. I'm not sure how long the other ones will take. We'll come back to that in probably about 20 minutes or half an hour.

DEPUTY DIRECTOR LEVENSON: I know of one that may take a while. Okay. If that's the case, then Bridget, are you ready to jump in? You're next on the line. We'll go the Agenda Item 9, that's the Board agenda. That's the public hearing and consideration of adoption of the proposed landfill closure loan program regulations.

CHAIRPERSON PAPARIAN: Before you jump into that,

I have a speaker slip on Item 7. And just to be very clear on that -- Mr. Edgar, I'm looking for you. Where are you? He may not even be in the room right now.

Just to be clear on Item 7, that's a full Board item only. That's one of the series of reports on landfills. So we won't be hearing that here today. That will be at the full Board meeting. I'm sorry. Go ahead.

MS. BROWN: Good afternoon Chairman Paparian and Committee members. I'm Bridget Brown with the Facilities Operations Branch.

This is a public hearing and request for consideration of adoption of the proposed landfill closure loan program regulations. In 2001, California State Auditor's report recommended that the Board seek legislation that would allow it to offer loans or grants to landfill operators in need of financial assistance to close landfills.

On September 15th 2002, the Governor approved AB 467, establishing the landfill closure loan program. It's purpose is to provide loans to help operators of unlined older technology landfills close early to avoid or mitigate potential environmental problems caused by continued operation.

Public Resources Code Section 48204 requires the Board to adopt regulations to implement the loan program.

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Loans are zero interest and are limited to $500,000 per closure project. All loans are to be repaid within ten years. A total amount of funds available for the program will be determined annually. No funds have been designated for this fiscal year. Priority will be given to small rural landfills.

Staff utilized a focus group and held a public workshop to review the proposed regulations. We received no comments during the 45-day formal comment period. Board staff determined that the proposed regulations are exempt from the California Environmental Quality Act and request direction to complete the rule making process with the Office of Administrative Law.

This concludes my presentation.

CHAIRPERSON PAPARIAN: Thank you.

Any questions, Members?

Ms. Peace.

COMMITTEE MEMBER PEACE: Yes. I guess I -- if they're already using a trust fund as a financial assurance mechanism to close the landfill, why do they need a loan?

MS. BROWN: If they're already using a trust fund?

COMMITTEE MEMBER PEACE: It says here to be eligible, they have to be using a trust fund or enterprise

fund as a financial assurance mechanism to fund landfill closure, and such mechanism shall be in compliance with the current required level of funding to meet all other requirements provided.

I thought permitted landfills also already had to have some sort of financial mechanism in place for closure. So what do they need this loan program for?

MS. BROWN: Let me get some assistance.

MS. MARKIE: Hi. Sue Markie.

Basically this is for early closures. They don't have enough money in their fund. So they would apply for this loan to get additional money so they could close. They have the trust fund. That's a prerequisite, but there's not enough money because they thought perhaps they'd be open longer so they'd have more time to put money in the fund. So they may apply for a loan from us to augment that amount of money.

COMMITTEE MEMBER PEACE: They won't have enough money for the post-closure maintenance?

MS. MARKIE: Well, this is pretty much just for more the closure of it. The post-closure maintenance, that is a different scenario. And I don't know if Garth is here for the post-closure funds, but for the closure?

COMMITTEE MEMBER PEACE: This is only for the closure, not for the post-closure maintenance?

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MS. MARKIE: Correct.

COMMITTEE MEMBER PEACE: Do you have any idea how many people would be applying -- how many rural landfills would be applying?

MS. MARKIE: When we did our survey early on, I think we had 12 to 16 potential interested parties.

COMMITTEE MEMBER PEACE: Do you have any idea -- I guess the maximum amount is 500,000?

MS. MARKIE: Yes.

COMMITTEE MEMBER PEACE: Do you have any idea about the average cost to close these rural landfills? Is it about 500,000?

MS. MARKIE: No. It can typically be a huge range. Scott had a figure on how much per acre, and I can't remember what it was. But closure could be all over the place. It depends on where it is.

Can you remember, Scott? You had something per acre on, like, potential closure.

MR. WALKER: Most depends upon the final cover --

CHAIRPERSON PAPARIAN: You better come to the mic.

DEPUTY DIRECTOR LEVENSON: While Scott is coming up, I'll indicate one of the intents of the regulation was to avoid trickling landfills in the small rural areas so that we made sure they were closed properly, they had

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sufficient funding so they could be closed properly instead of just extending out indefinitely.

COMMITTEE MEMBER PEACE: 500,000 would be a sufficient amount to close.

DEPUTY DIRECTOR LEVENSON: I'm going to let Scott speak to that.

MR. WALKER: Scott Walker, Permitting and Enforcement Division.

The typical -- the average costs of closure depend upon the final cover system. But if you take a fairly straightforward earthen type compacted clay system, which most rurals would likely be able to utilize, you're talking about approximately 50,000 -- between 50 and $100,000 per foot per an acre of the landfill. If you have a typical ten-acre landfill, then that's on the order of $500,000 for a ten-acre -- between 500,000 and $1 million. And many of the rural landfills are even smaller than that. They're a few acres.

COMMITTEE MEMBER PEACE: Okay. So no money has been put into this program. I guess that will be decided at budget time. So other Board programs would be affected, we'd have to cut something somewhere else to fund this?

DEPUTY DIRECTOR LEVENSON: Those decisions would have to be made as part of the next budget cycle.

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COMMITTEE MEMBER PEACE: Okay.

CHAIRPERSON PAPARIAN: Okay. Any other questions on this item?

Is there a motion, Mr. Jones?

COMMITTEE MEMBER JONES: Thank you, Mr. Chair.

I'll move adoption of Resolution 2003-40, public hearing and consideration of adoption of proposed landfill closure loan program regulations.

COMMITTEE MEMBER PEACE: I think I'd like to see this one go to the full Board.

CHAIRPERSON PAPARIAN: Okay. I'm going to second it.

And then -- I'm sorry. Ms. Peace, you'd like it to go to the full Board for discussion?

COMMITTEE MEMBER PEACE: Yeah. Not be put on consent.

CHAIRPERSON PAPARIAN: We do have the choice. If -- I'm not anticipating the vote, whether it be one way or another -- if we were to vote 3-0, we can still keep it off of the consent. That doesn't mandate that we put it on consent. So however the vote comes out, Ms. Peace would like it to go to the full Board, so it will.

I think with that, we'll call the roll.

SECRETARY KUMPULAINIEN: Jones?

COMMITTEE MEMBER JONES: Aye.

SECRETARY KUMPULAINIEN: Peace?

COMMITTEE MEMBER PEACE: Aye.

SECRETARY KUMPULAINIEN: Paparian?

CHAIRPERSON PAPARIAN: Aye.

So again, even though a 3-0 vote, keep it off of consent.

DEPUTY DIRECTOR LEVENSON: Can I ask if there's any additional information that the Committee would like prior to the Board meeting or as part of the presentation at the Board meeting on that item?

COMMITTEE MEMBER PEACE: No.

CHAIRPERSON PAPARIAN: No. If anything -- Mr. Jones.

COMMITTEE MEMBER JONES: I think I'd like to see a list. I think this is an outcropping of what had been happening statewide where small rural jurisdictions were forced to keep rural unlined landfills open throughout most of Northern California because they could not afford closure. So by keeping it open and taking up to a yard of garbage twice a year, they were allowed to keep that landfill as an active landfill, therefore putting off any requirement to put cover on. And the problem in rural landfill, especially in Northern California, is if you don't have a good intermediate cover, then the rainfall is going to leach through that material and start polluting.

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So as a result of that concern, we started a process three years ago -- I think it was three years ago -- where we identified that problem and tried to figure out what was a reasonable expectation since local government has the ability to do a pledge of revenue for their closure activities. They were cut short, some of them. Some of them just didn't have enough funding.

These regulations are a direct result of that activity. So I think that I would like to see all of the Board members and their offices get a date calendar of, you know, when the issue came up, the fact that the Board voted to try to mitigate problems with these landfills by coming up with this program so that some of the cash-strapped jurisdictions could, in fact, have some availability to get money because a lot of them were forced to export their waste to other places.

So if you could come up with a chronology of how the Board arrived at this point -- and these regulations actually went through two iterations because prior to the regulations being in this state, we wanted to make sure that it wasn't a windfall. There was an awful lot of work done to get it so you'd have a formula to follow. So I think that would be valuable for me so I can recall some of those things as well as the other members.

CHAIRPERSON PAPARIAN: I think that was good

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practice for the discussion at the Board meeting, but I just want one caution. Staff I know is stretched pretty thin right now trying to divert some folks to assist with the obvious issues in Southern California. So I wouldn't want this to take a whole lot of time.

I think that the argument you just made, Mr. Jones, I think Ms. Peace, you know, heard that argument. And I certainly was part of a number of those discussions that you've referenced over the past few years, and I'm familiar with it. So I don't, myself, feel a need for a whole lot of background, especially if it's going to take up staff time putting that together over the next couple weeks. So maybe if you could do it in kind of a quick summary fashion, maybe work with Mr. Jones in terms of what it is he's looking for.

COMMITTEE MEMBER JONES: I'm just looking to educate the advisors and the analysts so --

DEPUTY DIRECTOR LEVENSON: We'll be able to put together a chronology with no problem.

CHAIRPERSON PAPARIAN: Provide that to Mr. Dunn if that's what is being looked for. Thank you.

COMMITTEE MEMBER PEACE: Excuse me. Does this address things -- say it's going to cost them $300,000 to do an early closure. Is this addressing that we give them the whole 100 percent to do that or 50 percent to do that

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so that some of their money is going into it? Is that addressed?

DEPUTY DIRECTOR LEVENSON: Is this a matching loan? I believe it's a full loan.

MS. MARKIE: Can you repeat the question?

COMMITTEE MEMBER PEACE: If it's going to cost them $300,000 to close, is this loan to give them the full amount, or do we expect the landfill owner/operator to put some in fund towards that closure?

MS. MARKIE: They would definitely be putting in some funds towards the closure. Say they have $250,000 and they need 300,000, so they could get 50,000 or they can get up to 500,000 --

COMMITTEE MEMBER PEACE: Okay. So they'll be putting in some money themselves?

MS. MARKIE: What we'll do is we'll be looking at what they have in their financial assurance accounts with our financial assurances section and seeing if they're eligible, how much they have. We don't want to give them money if they're not ready to close.

COMMITTEE MEMBER PEACE: Okay. Thank you.

DEPUTY DIRECTOR LEVENSON: But I think there is a distinction between the RMDZ loans where we only provide a certain percentage of the loan and they have to secure moneys from other sources, and this loan, the loan moneys

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would be fully from our fund. There would be other moneys that the rural entity is putting forth to deal with the closure activities. We'll have a chronology in short order for you.

Should we go on to Item 10, or do you want to go back to --

CHAIRPERSON PAPARIAN: No. Go on to that item.

DEPUTY DIRECTOR LEVENSON: Item 10 is consideration of the grant awards for the farm and ranch solid waste cleanup and abatement grant program, FY 2003/04. Carla Repucci will be presenting that. But before she does, I do want to just indicate that we're very pleased to be bringing this item before you. We've had an undersubscription in the past to this program, and this is a significant achievement to get this many grant applications for this amount of money. And I think it's a credit to staff for the work they've done on outreach and talking to the various applicants for this program.

(Thereupon an overhead presentation was presented as follows.)

MS. REPUCCI: Good afternoon, Mr. Chairman and Committee members. My name is Carla Repucci, and I will present Committee Agenda Item E for the consideration of seven applications for farm and ranch solid waste cleanup and abatement grants.

There is $929,000 available for fiscal year 2003/2004. The amount requested in these seven applications is $747,963 and represent the first award of this fiscal year. Approval of these applications as recommended would leave $181,037 in the fund. The applications have been reviewed for eligibility, scored, and are being recommended for approval today.

--o0o--

MS. REPUCCI: The purpose of the farm and ranch grant program is to cleanup illegal disposal sites on farm and ranch property where the owner has stipulated he or she did not authorize the deposition of the waste. A property owner eligible for cleanup through this program is not required to pay back the funds.

--o0o--

MS. REPUCCI: To be eligible for cleanup through this program, a site must be an illegal disposal site; be on farm or ranch property; have waste that was deposited by a person who cannot be identified, located, or pay for timely cleanup; and the site must require remedial action to protect the public health, safety, and/or the environment.

--o0o--

MS. REPUCCI: In December 2002, the Board approved revised scoring criteria for the program. In

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addition to the Board-approved general scoring criteria, three program criteria were added to give preference to those applications that encompassed the priorities identified in the enabling statute and regulations.

Additional points are awarded to those applicants that have an innovative and cost-effective program in place to discourage illegal disposal; request cleanup of property that is currently used for farm or ranch activities; and if they're requesting grant funds for the cleanup of an illegal disposal site on private property.

--o0o--

MS. REPUCCI: AB 1328 became effective January 1st of this year allowing Resource Conservation Districts and Native American tribes to apply for farm and ranch grants. Outreach was done to these groups in the form of newsletters, website postings, and workshop presentations. The Board's Office of Public Affairs has been instrumental in assisting staff in getting the word out to these groups. The results of this outreach is that five of the seven applications received for this quarter are from these newly eligible groups.

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MS. REPUCCI: This chart shows a quick look at what was requested by the seven applicants and what is being recommended for approval by the Board. The budgets

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were reduced in five of the applications due to ineligible costs, math errors, and because one site was disallowed. The site was disallowed because it does not fit the definition of farm and ranch property as defined in regulation.

Staff worked with all the applicants to revise the budgets, and all applicants are aware of the final recommended grant amounts. In addition, there are two sites within the Siskiyou County application that have interesting circumstances staff have not seen before. The sited are not precluded from grant funding by either the statute or the regulations. However, because they are somewhat different, staff wanted to explain the specific situations. The first involves a site inherited by a minor child. The second is a site occupied by a disabled tenant who has not been taking care of her garbage but piling it on the property.

Both of these sites are presently eligible for grant funding, and staff feel it is appropriate to recommend approval. However, since the applications seem to be coming in on a more steady basis for this program, staff is considering options for tightening up the eligibility requirements through the application and the affidavit.

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MS. REPUCCI: Agenda Item E is for the consideration of seven grant applications for farm and ranch solid waste cleanup and abatement grants. All seven applications meet the eligibility requirements set forth by the statute. Therefore, staff recommends the Board adopt Resolution 2003-494 authorizing the award of up to $747,963 for the grant applications from the counties of Siskiyou and Imperial, the Resource Conservation Districts of Tulare, Excelsior, Kings, upper San Luis Rey, and Solano and the Hoopa Valley Environmental Protection Agency and directing staff to develop and execute grant agreements.

I would be happy to answer any questions.

CHAIRPERSON PAPARIAN: Any questions, Members?

We do have one public speaker. Okay. Patricia Mathews from the Siskiyou County Planning Department.

MS. MATHEWS: Thank you, Committee members. I just wanted to --

CHAIRPERSON PAPARIAN: Could you identify yourself again for the record.

MS. MATHEWS: My name is Patricia Mathews. I'm a code enforcement officer in the Planning Department for Siskiyou County.

I just wanted to mention that code enforcement, particularly from a land use point of view, is a very new

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concept to Siskiyou County. It's been just two years that they've had a specific code enforcement position. So this whole concept is being, I'm happy to say, slowly embraced by everyone.

The little green light is on. Is that better?

I'm here to answer any questions just to supplement the presentation that Carla has made and also to compliment this staff, particularly Carla, for the responsiveness and the absolutely forthcoming excellent job to assist.

CHAIRPERSON PAPARIAN: I have do have a question. In reading through the agenda item, it seemed like several of these properties were bought site unseen and the problems were created by prior owners. And then somehow -- at least a couple of these properties came into county hands presumably through a tax lean or something, and then the county sold it at an on-line auction. The new owner bought it, didn't know what the property looked like. So obviously they want it cleaned up and so forth.

Are you doing anything, or are we encouraging you to do anything to ensure there's fuller disclosure in the future if the county is involved in the sale of properties like this?

MS. MATHEWS: When properties are for sale, there is always -- there's always the encouragement from the tax

folks for any potential buyer to check out what they're buying, the caveat emptor.

Also you mentioned that the previous owner created problems. That's not necessarily so. Sometimes you'll see this and people -- this meaning the tires and the pile of wood and the abandoned vehicle and so on. And then other people come along, and pretty soon you have a problem that's way out of control that may or may not have been from a previous owner, per se. It's just this is out in the country, dirt roads, no pavement anywhere. So your question as to whether there's going to be fuller disclosure --

CHAIRPERSON PAPARIAN: It seemed like there was several of the properties where the county was the one selling it on line.

MS. MATHEWS: Correct.

CHAIRPERSON PAPARIAN: And yet we're coming in -- and I don't have a problem with us coming in and paying for the cleanup of the properties, but it seems like if we're going to step in to cleanup properties in the future, perhaps the county -- and I don't mean to single out your county. This may be happening elsewhere too. But it seems like the local governments ought to disclose that so that is factored into the people who are purchasing the property so we're not then stuck with

spending state funds to cleanup something that the owner -- the new owner didn't know about and could have known about if --

MS. MATHEWS: Understood. Two things here. One is that I'll be happy to pass that on that maybe there can be a couple on line photos. I'll be happy to pass that suggestion on. The second is that the citizens who live around these places are becoming more aware, much more interested in cleaning them up. And should this grant application be successful, it would be part of a larger cleanup of much smaller scale. But still, you know, people coming from out of everywhere to keep these places cleaned up. So you have a really increased level of vigilance from this point on also.

CHAIRPERSON PAPARIAN: Does staff have any response to the general issue of -- have you seen this elsewhere, other local governments involved in --

MR. WALKER: Scott Walker, Permitting and Enforcement Division.

The tax lien auction, we haven't really seen that before. But in review of these applications, they meet all the requirements. With the affidavit and all that were signed by the property owners, it does meet the requirements.

I think one thing that we would be looking at, as

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we would all aspects of the program, is that we would periodically come back with the scoring process and application, bring it before you to reevaluate and where we look at tightening up in certain areas, whether it's scoring or whether it's in the affidavit. And so we will continue to look at this and bring it back to you and see if there's areas that we might want to, you know, tighten up or what have you with the scoring process. It's a continual reevaluation and adjustment.

In this particular case on the tax lien, right now we don't really see any specific problems, although we certainly would be looking at reevaluating it the next time we bring it back to you for the scoring process. There's other areas that we're already looking at with regard to the tenant situation and also, you know, where you have an inheritance type situation. We're looking at the affidavit to make some more immediate changes to tighten it up a little better or also make it consistent with our local government waste tire grant program. So that's kind of what we're looking at right now doing. And we could see the need to continue to reevaluate.

These grants, we're fine with these grants. We think they're appropriate. And then the next time we come back with scoring criteria, we will bring these issues for and you see where we need to adjust.

CHAIRPERSON PAPARIAN: Other questions?

Thank you very much. Thank you for coming all the way here.

MS. MATHEWS: Sure.

CHAIRPERSON PAPARIAN: I had one other question on a different county. The Kings Resource Conservation District, one of the items -- I think it was site two -- discussed how the owner has been unsuccessful in deterring dumping. Will we -- or I guess more appropriately the LEA -- be doing anything to assure that there's some deterrence for future dumping at the same site? I think what we've seen on a number of sites is that once identified as a place for dumping, it just seems to continue even after you clean it up.

MS. REPUCCI: We do ask in the application that they address in the application how they will deter future dumping. And it could be handled through fencing, signage, increased surveillance. I don't recall off the top of my head what this applicant was proposing. But we do ask that they address that in the application.

CHAIRPERSON PAPARIAN: Okay. Anything else, members?

Is there a motion?

Ms. Peace.

COMMITTEE MEMBER PEACE: Yes. I would like to

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move Resolution 2003-494 consideration of the grant awards for the farm and ranch solid waste cleanup and abatement program, fiscal year 2003/2004.

COMMITTEE MEMBER JONES: I'll second.

CHAIRPERSON PAPARIAN: There's a motion and a second.

Secretary, call the roll.

SECRETARY KUMPULAINIEN: Jones?

COMMITTEE MEMBER JONES: Aye.

SECRETARY KUMPULAINIEN: Peace?

COMMITTEE MEMBER PEACE: Aye.

SECRETARY KUMPULAINIEN: Paparian?

CHAIRPERSON PAPARIAN: Aye.

So that one, I believe, goes to the Budget Committee. Our recommendation would be fiscal consensus.

I think we may be ready to take up the item that we postponed, the conversion technology item. I think Mr. Liss arrived. There he is. Okay. Good.

DEPUTY DIRECTOR LEVENSON: This is Committee item C, Board Agenda Item 8. And it's a long title. Discussion and request for rule making direction to formally notice proposed amendments to the transfer/processing operations and facilities regulatory requirements regulations to address conversion technology operations and facilities.

Thank Elliot for that title, I believe.

(Laughter)

DEPUTY DIRECTOR LEVENSON: And Brian Larimore is going to make this presentation.

MR. LARIMORE: Good afternoon, Mr. Chairman, Committee members. I'm Brian Larimore, and I work in the Waste Prevention and Market Development Division's Organic Materials Management Section.

According to the Board's 1999 waste characterization study, if paper and plastics are included, approximately 80 percent of the material landfilled annually is organic. Conversion technology facilities could potentially convert a large fraction of this material into a wide variety of marketable products, including fuels, solvents, lubricants, paints, and plastics.

The Board directed staff at its February 19th, 2002, meeting to initiate a rule making to revise the transfer station processing operations and facilities regulatory requirements to specify that conversion technologies that handle solid waste residuals as feedstock, whether or not the technologies are specifically included in the statutory definition of transfer station, are subject to these regulations.

In this rule making, several steps have been

taken to ensure participation by interested parties. An initial workshop was held in January 2002 to seek stakeholder guidance on regulation of conversion technology sites. A focus group of representatives from industry, CIWMB, environmental organizations, and LEAs was formed in early 2003 and teleconferences were held. Regulations were drafted and circulated at a workshop held August 1st, 2003. Approximately 40 stakeholders attended the workshop. Board staff has received written comments from stakeholders and communicated by phone and e-mail.

The issues bought forward by stakeholders during the informal process include the preference by some to be considered a manufacturer rather than a recycling center. This would exclude conversion technology sites from these regulations, even when the three part test was not passed. A request that permit tonnages be higher for conversion technology sites than transfer processing sites.

There are several issue outside the scope of the regulations, including whether diversion credits should be allowed for material diverted to a conversion technology site and whether CT sites should be required to remove recyclables prior to Conversion. The proposed language requires to the maximum extent possible all recyclable materials and marketable green waste compostable materials have been removed prior to the conversion process. And

the owner or operator of the facility certifies those materials will be recycled or composted.

This language was taken from PRC 40117, the most recent statute addressing the removal of recyclables from a conversion technology facility. Some stakeholders believe the proposed language would be cost-prohibitive, requiring conversion technology facilities to remove more recyclables from the feedstock prior to the conversion process than currently required in their jurisdiction. Others think language is not strong enough.

One other thing I need to point out on this issue, the language on front end recycling will need to be removed from the definition of conversion technology to a separate section to close a loophole that placing it in this definition inadvertently creates.

Board direction and stakeholder input has been considered in drafting these regulations. The formal rule making will allow for further stakeholder input, but some in the audience today may wish to expand on these and other issues at the conclusion of this presentation.

The current draft of the regulations is Attachment 1 of this item. To summarize the proposed regulations, conversion technology operations and facilities will be regulated under the transfer processing operations and facilities regulatory requirements as

directed by the Board at its February 2002 meeting. Conversion technology sites will be slotted into the same tiers and be subject to the same minimum standards as transfer processing sites. Also the proposed regulations would define conversion technology to include catalytic cracking, distillation, gasification, hydrolysis, and pyrolysis. It would not include incineration, biomass conversion or composting, which would include anaerobic digestion. It would require the removal of recyclable materials, marketable green waste compostable materials prior to conversion. The Board at its April 16th, 2002, meeting approved a policy recommendation requiring the removal of recyclable materials.

It would also exclude sites that pass the three-part test. It would exclude very small conversion technology activities conducted in a closed environment and not require a permit for a conversion technology research operation but an EA notification for a maximum of 15 tons of material. And it would change the name of the full permit to conversion technology facility permit from facility subject to a full permit.

The Board may decide to direct staff to notice the proposed amended regulations for a 45-day public review and comment period or direct staff to revise the proposed regulations and notice the proposed regulations

for a 45-day public review and comment period or direct staff to gather additional stakeholder input regarding the proposed regulations. Staff recommends the Board direct staff to notice the proposed amended regulations for a 45-day public review and comment period.

I'd be happy to answer any questions at this time, including anything on the recent letters that have arrived.

CHAIRPERSON PAPARIAN: Any questions before we hear public comment? We have several speaker slips.

Do you want to provide any general response to the letters before we hear comments?

MR. LARIMORE: I could, sure, if you'd like me to do that.

CHAIRPERSON PAPARIAN: Why don't you go ahead.

MR. LARIMORE: Let me get those out. You want me to name them by the person who sent them?

CHAIRPERSON PAPARIAN: Sure.

MR. LARIMORE: The one by Mike Mohajer stated that, "Why should the proposal as written be more restrictive of those requirements specified in 40117 as far as the language for removing recycled?"

It's exactly the exact language out of 40117. So it wouldn't be any more so.

He also said, "Why does the proposed

definition" -- well, let me see. Where is it? He says that, "gasification process facility is eligible for diversion credit. Why should the proposal as written be more restrictive than those requirements?"

Well actually, gasification is not eligible for diversion credit. I mean, we received a letter from Matthew's office stating that to be the case. So I think that's just -- he misinterpreted that statute.

And the part B is pretty much a similar thing as far as the diversion credit. I think that's -- they tell me I'm going into too much detail here.

The letter from Mel Finstein, he wanted to add some language as far as what conversion technology includes, and he wanted to include non-biological gasification. I think that's because the firm that he represents, they use anaerobic digestion to produce methane. I think he wanted his outfit to be excluded. Basically we have left anaerobic digestion under the composting regulations. We thought it would be a little difficult to try to break it out for the LEAs into whether they were primarily producing methane or primarily producing compost. So all composting has been left in the composting regulations.

There's a lot of issues in this one of Gary Liss'. And I'll try to address them.

CHAIRPERSON PAPARIAN: I think Gary Liss is here --

MR. LISS: With up-dated letter.

CHAIRPERSON PAPARIAN: -- to speak for himself. Maybe you want to hold that until after you hear his comments and respond to everything that he's got to bring up.

So I think we're ready to jump into the public comments. I have Evan Edgar, followed by Susan Bassein, followed by Gary Liss.

MR. EDGAR: Good afternoon, Committee members. My name is Evan Edgar, Edgar Associates, on behalf --

CHAIRPERSON PAPARIAN: Is that on? We've been having problems with that microphone all day. Is that on? Make sure it's pointed right towards you.

MR. EDGAR: Evan Edgar, Edgar Associates. I'm an engineer for California Refuse Removal Council.

We support noticing the regulations today. A lot of work has been put into them. We support the regulatory concept in place following the TPR regulations, the transfer processing regulations. It makes sense. We support the MRF first policy, whereby MSW needs to go through an MRF before it goes to a conversion technology. We're not really competing against all the different types of composting facilities out there. I think we're

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competing against the 25 million tons of organics that are going to the landfills today.

Conversion technologies need to be commercialized and we need regulatory framework as certainty. Conversion technology is new. A lot of people don't know what they are. With these regulatory frameworks in place sooner than later, the industry can move forward in order to permit them and commercialize them. We don't need to delay any further. We believe that conversion technologies are a framework for energy product fuels.

And we have a great hope within the new administration where we want to get renewable energies up to 20 percent by 2010 and 33 percent by 2020. The new administration has an aggressive program in order to promote renewable energies and the way that conversion technology is going to be permitted. And the way they're looking today, they would be eligible for renewable resources and linkages to the California Energy Commission. They would be qualified for renewable energy as they should be.

What we're not talking about today -- and it's premature -- is AB 939 diversion credits. That's a heated debate. We get nowhere with that today because that's over at the Legislature. There's nothing here today to talk about AB 939, but we're here to talk about renewal

energy and how the conversion technology sets a framework for tomorrow.

Out of conversion technology, some of the things we can do is add organics. We can gasify and make an ethanol fuel to replace MTBE. It's visionary, but it's hopeful and it's near. It can be commercialized soon out of plastics 3 through 7, catalytic cracking. We can make low sulfur diesel, clean fuels. Out of fats, greases, and renderings, we are already making biodiesel fuels. These are happening today. Clean fuels for our fleets to have clean air. We go in front of the California Air Resource Control Board in order to phase out our heavy diesel. We need low sulfur diesel. We need alternative fuels. We need to get rid of MTBE.

Looking at your multi-media CalEPA solutions, looking at the CARB, looking at the California Energy Commission and conversion technologies, this is a great regulatory framework to launch into the new echo industrial complex of clean fuels, clean air using waste byproducts.

We support these regulations and urge you to move forward with them as part of this regulatory package. Thank you.

CHAIRPERSON PAPARIAN: Thank you, Mr. Edgar.

Ms. -- I'm sorry I couldn't understand your name.

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Come up to the microphone. Do you want Gary Liss to go first?

MS. BASSEIN: Yes, please.

CHAIRPERSON PAPARIAN: She's deferring to you.

Gary Liss.

MR. LISS: Mr. Paparian, members of the Committee, first of all, thank you for holding this over. I apologize for running late. We had some last minute changes to the letter that we're presenting to you today. And this is different than what was sent to you last week as a draft.

First of all, the major message is please don't put the cart before the horse. Don't put the regs before the studies. You have a $400,000 comprehensive study that hopefully would be a pioneering work for the industry highlighting what are the impacts of the different types of technologies that are being proposed in a way that can enhance the dialogue and discussion of what makes sense to go forward within California, to set forward for circulation regulations that are supposed to protect us from the impacts of technologies before having the impacts defined in the studies just doesn't make sense.

We're particularly concerned on Page 8-3 of the staff report where staff said they're planning to get these regs out. And then maybe in a couple of years,

we'll get around to adding additional standards to address other things after facilities are built. That is the wrong time. Once the horse is out of the stable is the wrong time to start thinking about what are the problems with these technologies. You've recognized as the Legislature did, there are impacts of different technologies. Not all of these conversion technologies are the same. The technologies that are good and support a carbohydrate economy are ones we would support. But we do not support high temperature technologies that by their design volatilize heavy metals, create toxic gasses out of those, and can create dioxins and furans, some of the most God awful chemicals that have been created on earth.

We also are concerned that the emphasis on these black box solutions will divert the focus and priority of the Board and other agencies throughout the state away from product stewardship issues, product bans, material bans. Black box, end-of-the-pipe solution is not the way we're going to get to zero waste in this state. We're going to get there by holding producers responsible for their products and packaging.

As far as the couple of key points on PVC. Conversion technologies should not be allowed to consume PVC. We keep hearing of this technology that's going to use number 3 through 7 plastics. Number 3 is PVC. That

is the source of dioxins and furans. Don't let PCV go into any conversion technology system, particularly if it's operating above life temperatures. And residue from MRFs to be used in conversion technologies must certify they do not contain any PVC. Instead, the state should take steps to replace PVC with safer alternatives in all applications.

The permits once issued by the Waste Board should require that these black box solutions are also not a way that producers get out from under their responsibility to more appropriately redesign their product to minimize waste and to reuse, recycle, and compost their products and packaging. So we ask that permits have stipulations that document that manufacturers of products going into the technologies already pay for effective collection and processing infrastructure in the service area of the project that keep the majority of those materials from being landfilled.

In a special issue on research operations, rather than taking the approach that staff took, we recommend that research operations attain a registration style permit, an option that was not discussed in the regulations but should have been. Operators should be required to comply with protections for the same issues addressed by all the conversion technologies in permits in

a registration tier system.

Finally, as far as program and long-term impacts, we believe staff has dramatically underestimated the concern that exists in the environmental community from the launching of these new technologies. Major grassroot efforts are under way to oppose specific projects throughout the state. And we ask the Waste Board to provide clear guidance now of what is acceptable and unacceptable technologies or we're going to have the types of huge public outcry that characterized this industry in the early 1980s in California when incineration projects were proposed throughout the state. Most of these were defeated, and appropriately so.

The Board could recognize and it could avoid much of those problems by omitting high temperature technologies from consideration and proceeding cautiously and only after completions of the studies that you've undertaken and that scientific analyses are generally accepted by both industry, environmental groups as being accurate.

Thank you for the opportunity to present here today. I'd be happy to answer any questions or respond to staff's response to these comments that they're prepared to address.

CHAIRPERSON PAPARIAN: Any questions?

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Ms. Peace.

COMMITTEE MEMBER PEACE: Yes. When you mention the dioxins, et cetera, that would be emitted from the conversion technologies, aren't these regulated by the Air Board? Would the Air Board have their regulations?

MR. LARIMORE: Yes. They are regulated by the Air Board and the air districts. We're looking at that as outside of our authority, per AB 1220.

COMMITTEE MEMBER PEACE: Thank you.

CHAIRPERSON PAPARIAN: Mr. Jones.

COMMITTEE MEMBER JONES: Gary, I don't remember if it was you or not. I remember when we were talking about the studies, there was opposition to the studies because it was theoretical. Now there seems to be a reliance on the studies before we do regulations that are put in place to at least manage when one of these comes down the road. And I'm having a hard time reconciling that. I don't understand how we could be opposed to the theory when we did a study because it was only theoretical. And now we're saying don't do these because we ought to wait for those same studies. It was a question to you.

MR. LISS: If I may. I was one of the people that were speaking about using only commercial scale data for the studies. We weren't opposed to the studies. We

were just saying use real data, not theoretical data, and don't fill in the gaps in data by extrapolating information.

And what we also suggested in the August 1 focus group meetings was that the Waste Board would do everyone a service by helping define what's outside of your regulation because that, in California, should be where the technologies get developed. If we don't have the technologies in the state, let's develop them on clearly identifiable feedstocks so we can track the emissions -- the air and ash emissions from materials that we know and see how they work in this state with those type of feedstocks as industrial projects.

That was the whole focus of the late '70s, early '80s biomass to energy projects. These projects focused on specific types of biomass, wood chips, almond shells, walnut shells, and fire. And these combustion systems are really funny animals. When you put stuff into it that you know what the composition is, you can more or less project what's going to come out the stack. But when you put in mixed materials -- our whole point is, don't put in mixed stuff unless you're damn sure of what's going to come out the stack. If you're putting in stuff that has PCV and other materials mixed in with it, there's a good likelihood that you're going to have the types of problems

that other communities have and that bankrupted other communities.

COMMITTEE MEMBER JONES: I'm a little familiar with that because we actually did some real money into those.

MR. LISS: Right.

COMMITTEE MEMBER JONES: The full commercial operations that you're talking about of existing conversion technologies -- we're not talking mass burn incineration. That is not what these are about. It's very clear in our regs that's not what this is about. Where do they exist for us to go get that data? You've identified that's what we should do as a course of action. So where are they?

MR. LISS: We understand your consultants are some of the best in the industry and know where those are and have been charged. And they indicated in the focus groups that they knew where those were and they were going to report back to us. I haven't been paid $400,000 to come up with those answers. I don't have that answer off the top of my head. And in our comments, what we said is if it is not commercial scale, don't accept it until it proves itself in the commercial scale sector with industrial feedstock.

COMMITTEE MEMBER JONES: Okay. That's what I'm

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getting at, Gary. You're saying there aren't any around. All these regs do is put a place holder to make sure that when one comes in, they can live within a regulatory scheme on the issues that deal with us. And those issues that we're concerned about are the storage of the feedstock municipal solid waste and what the categories are. Very similar to any material recovery facility or transfer station in the state of California that could, already being permitted, attach something to the end of it -- whether they're making plastic lumber or doing whatever they're doing -- as an ancillary part of an operation. We're putting into place where that doesn't exist at least the chance to make sure that health and safety is protected. So, you know, I mean, this isn't saying go build them and bring them.

MR. LISS: But staff did recognize in the report that you're saying regulate them like transfer and processing facilities. Your staff said you could do that today. You have the authority -- or you may have the authority to do that today. So what is the urgency? What projects are being proposed that this -- another month or two delay in integrating these studies' results into the regulations -- what's the problem? Why not use the transfer processing regulations currently for any projects that are imminent and urgent?

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COMMITTEE MEMBER JONES: It's --

MS. FRIEDMAN: First of all, I just wanted to -- Judy Friedman, Waste Prevention and Market Development Division.

I wanted to say that we're starting the process. This would give us the authority to start the clock. There will be ample time for comments to be raised and vetted and analyzed and presented back to the Board with detailed recommendations associated with them. So we're starting the clock.

We all have experience of regulations taking quite a bit of time. We want to make sure that we start the process so we can establish the clear authority that Mr. Jones was speaking about, that it's clear to all, that isn't a gray area, that there's certainty as to the Board's purview and authority with regard to solid waste management, handling, and storage aspects of any conversion technology process that ultimately may get permitted. So I just wanted to establish that. I don't know if Elliot Block wants to add anything to that or any others. But that's something that is clear, any delay is another month delay in starting that process.

STAFF COUNSEL BLOCK: Okay. I guess I'll add something.

CHAIRPERSON PAPARIAN: Identify yourself, Elliot.

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STAFF COUNSEL BLOCK: Elliot Block from the Legal Office.

I'm not sure I'm going to say anything different than I think has been said. But what these regulations do is they provide some clarity which we have heard from numerous folks is not there. While we're essentially regulating the handling of solid waste, the things that are within our jurisdiction consistently with the way we're doing that with other facilities that handle solid waste, there are a lot of questions out there.

And a number of the Board members have heard these at various workshops from folks that, "I do X. Where do I fit?" If you look at the current regulations the way they are now, there is no mention. And you'll see in these regulations, frankly, half the regulatory package is definitions. It's saying who's what and where they fit. There is certainly a significant amount of clarity this brings without changing the standards.

I do also want to add there's a reference in Mr. Liss' letter to the staff report, reference to anticipating additional standards. That's really essentially a catch-all. All we were saying with that was if it turns out as we see some of these facilities, there's additional things that we do need to take care of. We have the ability to deal with that. But frankly, these

regulations and the Board's jurisdiction is focused on the handling of solid waste before it goes into, as Gary mentioned, the black box. Emissions, air effects, all those sort of things are things that are covered by other agencies' permits.

And these regulations won't stop the fact that any facility that wants to come forward is going to have to get air permits and all those sort of things. They're going to have to go through whatever local land use approvals they're going to have to do. And to the extent they're in our full permit if something comes in that process, whether it's the CEQA process or otherwise, the permits are going to have specific terms and conditions, if those are appropriate.

For instance, there are three, as you know, transformation facilities in California right now that we permit. Those are permitted through our transfer processing regulations. They have specific terms and conditions that came out as individual facilities move forward. These regulations don't permit any facilities. They just set up a framework so those can then move forward in the process.

CHAIRPERSON PAPARIAN: I think you might have just scared Mr. Liss more than he was a minute ago. Let me try to grapple with this just for a second.

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The question of what happens right now if a facility proposal comes forward. If we had a facility proposed somewhere in the state, I think what I hear the staff saying is they believe they have the authority to regulate that facility under our existing scheme, but they're not quite 100 percent certain, that someone could potentially challenge that. And we would do our best to defend that. We think we'd probably win, but we might not.

STAFF COUNSEL BLOCK: That's true.

CHAIRPERSON PAPARIAN: There's that on one end.

STAFF COUNSEL BLOCK: In addition to that, we're also hearing from folks who potentially want to bring these facilities forward. They can't get past go. I don't know if there's any --

CHAIRPERSON PAPARIAN: Because they don't know where they fit?

STAFF COUNSEL BLOCK: When they go to get financing or when they're talking to whoever they're talking to to bring their facility forward, they don't fit anywhere. They can't point to a piece of paper and say, "This is what kinds of permits I need to get." If you look at our transfer processing regulatory requirements regulations now, you don't see any of these facilities listed anywhere. And what we're hearing from folks -- and

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we've been hearing this for the last two or three years -- that we have trouble getting past go for that reason. Because you have trouble getting financing when nobody knows what you might or might not have to be required to do down the road.

CHAIRPERSON PAPARIAN: So then another issue that Mr. Liss raised is that we're going to be finding out more about potential impacts of these facilities. Sometime in the near future we're going to start getting some of these studies back. Mr. Liss' point, as I understand it, is that based on those studies, we may want to regulate these facilities differently. We may want new state minimum standards. We might want -- we can't anticipate what those might be because we haven't seen the results of the studies. But there might be something in those studies that informs us in a way that would lead us to believe that we should regulate these facilities in a slightly different way.

And that's why I think he's concerned when he reads several years in the agenda item before we address those kinds of concerns, or perhaps even more indefinitely as I just heard. And I think that's part of the concern that he's raising, is that there may be items identified in this study that we're paying for, yet we don't have clarity those are going to be addressed very quickly or

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addressed at the same time we're doing this regulatory process.

MS. FRIEDMAN: Perhaps I can take a stab at that. There's nothing in the study that really will change, from our understanding, the solid waste management handling, you know, storage aspects of this. The studies are looking at the technologies. Those issues that you're concerned about, Mr. Liss is concerned about, would be purview of another regulatory agency, whether it's the local agency, whether it's the State Water Board, the Air Board, the local air districts. Those kinds of issues, the emissions and all that sort of stuff, would not be this Board's permitting authority. What we're trying to do is establish the clear path that relates to our authority. And so the results of the study would not change that.

CHAIRPERSON PAPARIAN: I mean, for myself, I mean, I'm not sure that's the case. I think we do in the case of landfills put some restrictions on materials that are regulated by other agencies going into landfills. I think we put some restrictions on materials going into the three solid waste incinerators in the state. So others may regulate the output, but we have some say over the input.

STAFF COUNSEL BLOCK: You know, I'm not

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specifically familiar with all the terms and conditions of those three permits. But certainly, as we do with landfills, we prohibit them from accepting -- in the case of the transformation facilities, burning hazardous waste. You know, we do that here in these regulations. To the extent I suppose that this study would find out that certain types of materials can't go to certain types of facilities, I suppose we can deal with those.

But primarily my understanding is the way those facilities are dealt with, the concern is the emissions. And they're handled essentially for the most part at the back end in terms of how those are measured and controlled. And these regulations wouldn't change the fact that those kinds of controls would be put on primarily through an air permit.

MR. LISS: Mr. Chair, but that's a great example. The PVC is a great example of something that could be regulated by the Waste Board as saying, "We don't want these facilities to take PVC as an input." There may be different definitions. The studies underway are looking at what is the range of the technologies? There may be very different types of technologies that are coming forward through the studies that will affect the definitions. And there may be different ways of classifying things as some being more hazardous than

others in terms of what they will be generating and how they will be handling materials.

So the suggestion that this $400,000 study won't have an impact on these regulations and there's no linkage between the two seems like, one, a waste of money. That you're spending all this money to figure out the impacts and then it won't input on your regulatory authority. But most importantly, there will be things that in the scoping of that project we spent a whole lot of time for weeks working through the methodology for that study to make sure that all these issues of impacts that were in your responsibility were considered.

And in the scope of work, there are all these methodologies that you have outlined to address those things in your authority and then at the end said -- and there were other issues raised by the focus group that are outside your authority. So you've already dealt with that, but you've got pages and pages of scope in your methodology for your studies saying these are things that we need to look at to make sure we understand the impacts for us, the Waste Board.

DEPUTY DIRECTOR LEVENSON: May I speak? Howard Levenson, Permitting and Enforcement.

As Deputy for Permitting and Enforcement, I'm concerned about having proposals come to us for the

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handling of solid waste where we don't really know where to place those in a regulatory framework. And I think that there are really two different issues here. I think it's a consistent message you're hearing from staff that there is a concern about making sure that there is a consistent framework for regulating facilities that handle solid waste so we avoid storage problems, fire, vectors, things like that. And then there is a subsequent or corollary set of permitting and procedural and permitting procedures and permits that are handled at the local level and by the AQMDs and so on that address these issues.

And I think in terms of the life cycle environmental impacts part of the study, if any of that information showed that there were exceedances of current ambient air standards or hazardous air standards, then it would be incumbent on us to evaluate those in a couple of ways. One is to get that information out to the AQMDs and whatever the relevant regulatory authority is so they can incorporate that into their regulation. But this's an if. I haven't seen the result of the studies. I don't know what we're going to say yet.

If there was something that indicated increased dioxins and furans as a result of some of these technologies, then I think at that point we should look at whether we should put additional prohibitions on the

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incoming feedstock. But I don't think that's something we can't do fairly quickly and come back to you if those results so indicate.

CHAIRPERSON PAPARIAN: I think that's part of the heart of Mr. Liss' concern when he saw several years for addressing something like that. And Mr. Block suggested somewhat indefinitely.

I don't know that you really meant to say it in that way.

But I think that what I'm hearing from Mr. Liss is we may find out some of this information in the next few months, yet he's hearing that we're not going to really address it for several years. At the same time, we put the regulatory scheme in place for siting these facilities.

DEPUTY DIRECTOR LEVENSON: We probably should ask Judy or Fernando what the timing of the studies is. But I think that realistically if we get your approval today to go out for a 45-day comment period, we still have to prep the packages. This is going to be several months before we even have the initial hearings. If we have -- if the timing is such that the --

CHAIRPERSON PAPARIAN: Why don't we hear -- when are we expecting these studies?

DEPUTY DIRECTOR LEVENSON: I would say we can

always then revise the regulations and go out for 15-day comment. And we can put a hold on it in that time frame.

CHAIRPERSON PAPARIAN: Ms. Friedman, go ahead.

MS. FRIEDMAN: Thank you. Judy Friedman again.

The study draft information should be the January/February time frame.

CHAIRPERSON PAPARIAN: Okay.

STAFF COUNSEL BLOCK: I'm now wondering what words I said that made somebody think years because I don't remember using that phrase. But just in terms of regulatorily how these things work, if the Board Committee directs us to go start the formal process now, we are probably -- in looking at holidays and the like -- two, three, four months before doing the actual formal notice. There's a fiscal impact statement that has to be done. There's a number of different -- initial statement of reasoning and the like. We're not sure exactly how long the fiscal impact statement will take to get signed off on just because of the change in the administration. Realistically, we're not noticing anyway before January/February. That's the beginning of the 45-day comment period.

So one of the things in bringing this forward now does is gets the process started. It will not be done by any stretch of the imagination before we have at least the

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preliminary results of the study. And I apologize. I wasn't aware the study was coming back quite that soon. So the timing will work. Of course, it always comes back to the Committee and then Board. So if there is information that's coming out that is an indication that we need to take a time out and stop and reevaluate because there's information we didn't expect to see, you know, we can certainly always deal with it at that point in time.

CHAIRPERSON PAPARIAN: Would we be precluded at that point from considering -- let me put it another way. There's certain language in this regulation right now, certain definitions and so forth. If information came out in a different area related to conversion technologies, would we have a problem inserting that during a 15-day comment period? Or would we have to start the clock again?

STAFF COUNSEL BLOCK: It would depend on -- I'll give you the lawyer answer. It will depend on exactly what the information is. But the bottom line is if it's the wish of the Committee to insert some additional language, your worst case scenario in that example is you'd have to do a 45-day comment instead of a 15-day comment period.

CHAIRPERSON PAPARIAN: You don't have to start the whole clock again?

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STAFF COUNSEL BLOCK: Right. So you would have the -- assuming it's within the Board's jurisdiction in the first place and it's related to these regulations, you could get it in. It's just a question of whether it's 15 or 45 days. And it would have to be very different from most of what's in here to actually even take the 45-day comment period. I mean, the 15-day comment period is fairly loose if it's related to the same basic topic.

CHAIRPERSON PAPARIAN: I think Ms. Peace had something.

COMMITTEE MEMBER PEACE: I was just going to say if we go ahead and send these out for 45-day public review, that's not going to keep us from incorporating some of the things that might be in the study, incorporating those into the regulations if we found it necessary.

MS. FRIEDMAN: That's correct. If there was something that actually related to the scope of these regulations that came out of the study, we would be able to incorporate that. It might result in a 15 day or, as Mr. Block said, at the worst case another 45 day review if necessary.

MR. LARIMORE: And actually, I plan on starting the 45-day in March, by my schedule that I've got.

CHAIRPERSON PAPARIAN: Is there anything else for

Mr. Liss? I have a couple of other speakers. Okay.

Thank you, Mr. Liss.

Susan, if you could help me with your last name.

MS. BASSEIN: I'm Susan Bassein, and I'm representing Greenaction for Health and Environmental Justice. We're a grassroots direct action group which helps communities mobilize opposition to incinerators and incinerator-type technologies and other sources of pollution. We helped the folks in East Oakland shut down the IES incinerators. And in fact, we helped the folks in West Oakland shut down the U.S. EPA -- not the CalEPA -- incinerator that they had claimed was emitting salt and steam, but it turned out was emitting dioxin.

This is my first time in a meeting like this, so if I stumble over myself, please excuse me.

I heard a number of things here that people said, some of which filled me with joy, and others with fear. The idea that these facilities can't get past go was the one with joy because that means we won't have to work so hard to shut them down when the pollution that they produce is discovered.

The fear is the faith that I've heard in Air Quality Management Districts. I've worked with the Bay Area Air Quality Management District, and their record is absolutely awful with regard to regulating air quality.

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We have had to take over their meetings because they are not running them properly. They will regularly permit polluting sources. The most recent one I was involved with was the Red Star East Factory in West Oakland where the facility was failing its source tests. It was generating unacceptable stink in the neighborhood, and the Air Quality Management District was just blithely sailing through renewing permits. So I don't have such faith in the Air Quality Management Districts. Perhaps others are better, but the Bay Area one is terrible.

So those were not part of my prepared remarks.

First of all, I don't think I can add anything technical to what Mr. Liss said. I'm just going to give the Greenaction perspective. We are concerned about public health, and we always want the safest technology used. And no level of dioxin or toxic metals is acceptable. Pyrolysis or gasification are simply incinerators in disguise. We want industries and communities to move towards zero waste. We don't want new technologies for processing waste that produce new toxics.

And what we're looking for is more reduction and recycling. I want to give two examples of where we're currently working in California. The first is in the city of Alameda. And Alameda Power and Telecom is considering a waste to energy gasification plant. They are saying to

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the public that there will be no toxic emissions, zero. However, the report by their consultants sites a company, Bright Star Environmental, that uses this technology in Australia. And I visited the Bright Star website, and lo and behold they emit dioxin and mercury. Apparently to Alameda and Telecom, this is not toxic emissions.

So another example of where we're working on this is Chowchilla in the Central Valley. North American Power Company is proposing to treat medical waste. And although they intend to treat a broad range of waste by pyrolysis, they claim there will be no toxic emissions. And we believe that is scientifically and technically impossible.

Thank you.

CHAIRPERSON PAPARIAN: Okay. Thank you very much.

Scott Smithline, followed by Michael Theroux.

MR. SMITHLINE: Chairman Paparian, Board members, I'm Scott Smithline with Californians Against Waste.

Is this on?

CHAIRPERSON PAPARIAN: Yes.

MR. SMITHLINE: Californians Against Waste has a keen interest in these emerging conversion technologies. At this time we don't support or oppose this regulatory package. Notwithstanding, we don't oppose moving this package along. We're interested in, you know, being

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involved with this package, but we think it's premature to -- we don't think it's premature to start the process, keeping in mind that there will be the results from the LCA study, other studies that might come up, and any new information that might come from the permitting process from any facilities that become permitted or -- yeah -- in that permitting process. Essentially our biggest concern as usual is that no diversion credit be granted for these technologies until such time, if ever, that there's some sort of clear direction from the Legislature.

That's all. Thank you.

CHAIRPERSON PAPARIAN: Thank you. Michael Theroux.

MR. THEROUX: Good afternoon, Board members, staff. Michael Theroux, Theroux Environmental.

CHAIRPERSON PAPARIAN: If you would lift up that microphone so it points a little more -- there you go.

MR. THEROUX: There we go. How's that working?

First, I'd like to applaud the efforts of the staff in the development of this package of regulations and the concurrent work to start the process of the difficult and complex studies that are approaching these.

By way of a moment of introduction, I am, indeed, involved in the furthering, if you would, of a high-end

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waste conversion to energy process that does fit within this very narrow window that the regulations have allowed. Very closely defined technologic methodology this allows us to consider, at least, permitting a certain kind of waste to energy process that is certainly not incineration. When these -- and I've been involved with Mr. Levenson and staff for a number of these now in the development of the understanding of these technologies.

When this became apparent that we could move things forward, I had identified a series of technical reports by an international company, Juniper, and brought these to the attention of staff. And they have incorporated a vast amount of best available technology assessment into the beginnings of the program. I did this in context of our own global assessment for technologies that we would believe would be ultra clean for the conversion of waste to energy. And although we do not support any particular vendor -- we're not a vendor of technologies -- we settled on one of the very high temperature conversion, non-combustion thermal conversion technologies. In this case, that technology of plasma gasification developed by, in this case, Westinghouse and furthered by the Hitachi Metals Corporation.

Board Member Jones, you asked if there's something we can go to. Yes, there certainly is. Not in

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the United States. As so often is the case, the better U.S. technologies we first see implemented somewhere else in the globe. Right now, Japan has multiple fully commercial plasma gasification technologies on line. They found themselves in a situation that we certainly can understand with over 200 incinerators that they depended upon for their waste management and their energy generation. And the stringency of the air standards were being violated daily.

In 1997, the Japanese government pushed Hitachi towards Westinghouse Plasma Corporation to ask if, indeed, the high-end technologies could both convert the waste to a sin gas, and instead of flaring it off, to use that sin gas without any emission to create a fuel for energy generation in, and that started something called the Hitachi plant, the first on line.

Japan feels that the implementation of this particular kind of technology -- it isn't the only one they're working with right now -- dropped their dioxin and furan levels 100 times below what they had on the same incineration, on the same feedstock. Extremely low.

The technology that we are attempting to bring into California at this time is repowering an existing incinerator. And we certainly have a number of them in the state. Our biomass plants are permitted through the

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Energy Commission, not the Waste Board, very clearly and specifically so they don't use waste. Those few things we might consider waste are controlled by the Ag Department or some other area. The portions of C&D they can take are extremely closely watched. And yet in order for those incinerators to be cleaned up, they're going to probably end up having to repower, just as the have Japanese done. This is a sector that is critical to the industry itself.

We're not promoting incineration. We're promoting the next step. It is not one specific technology to do this, but a very narrowly defined type of technology that there is data on, that there are commercial facilities on. I'm working on a trade mission right now with the Department of Commerce whereby we might be able to pick up select regulators and legislatures, perhaps associates within the environmental field as well and carry them first to the Westinghouse facilities in Pennsylvania and run the tests on the specific chosen waste stream, take that hard core data, go to Japan, and watch these things in operation. I know it is a big load to take on to move to Japan to see these things work, but that is where they happen to be fully scaled and operational.

We have offered to the U.C. Riverside component of the Waste Board's current technology assessment team

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that our operations be simply completely transparent. And we would offer the same to the Board, we have to the staff, that as these developments move forward and as we try to find our path through this process of permitting, we are not looking for exemption. We are not looking for anything other than full permitting, full CEQA assessment, and compliance. And intending all the way through the process to take the most stringent path of assessment of actual waste to provide the data that's necessary. And in so doing, to integrate that directly into the assessment studies that are being pursued at this time.

So I would offer to Mr. Liss, to the Board, to the staff, and anyone that's interested that we have an open process. We are working with the Sierra Club directly. We are working with any agency that would like to look over our shoulder. We believe that we have a very small opportunity, very one time opportunity to bring ultra clean waste conversion into the state. And in so doing, supplant much of what we have done in the past. I am at your disposal.

CHAIRPERSON PAPARIAN: Thank you.

Any further questions, Members?

Ms. Peace.

COMMITTEE MEMBER PEACE: I have a question of staff. A couple of months ago, didn't we give a loan to a

plastics conversion technology facility in Hanford?

MS. FRIEDMAN: Yes.

COMMITTEE MEMBER PEACE: And how is that facility being regulated?

MR. BERTON: Fernando Berton for the Waste Board.

At this point that's an open question. The plastic energy LLC facility would be taking 3 through 7 plastic. And they're of the opinion that they would pass the three-part test that's within this regulatory package and I believe, therefore, would be exempt from a solid waste facility permit. So that doesn't mean to say they wouldn't need their own local permits from Kings County or wherever. But as far as the Waste Board's concerned --

MS. FRIEDMAN: They would have to have all the local land use permits and all the environmental review that goes with that, whatever air districts permits are associated with that. And I don't know whether or not that results in other state agency permits, whether it's Water Board permit or an ARB permit. But certainly they'd have to go through all the local land use permits.

COMMITTEE MEMBER PEACE: But because they passed the three-part test, they don't have any permit that we give them from the Waste Board?

MS. FRIEDMAN: If they pass the three-part test. It's their opinion that they do and that still needs to be

determined, I believe.

COMMITTEE MEMBER PEACE: Can I ask another question? On page 8-3 under "excluded activities" it says, "conversion activities that use coal and petroleum products would be excluded." Are plastics considered petroleum products?

MR. BERTON: I don't know. It's a product from a petroleum distillate, I suppose. But whether it's an actual petroleum product --

COMMITTEE MEMBER PEACE: Does that make it then confusing here that if we say they're excluded -- things that use petroleum products are excluded -- because over here it says that plastics are included.

MR. LARIMORE: Actually, let me jump on this one. I changed the language in the regulations, which may clarify it a little bit. It's changed to "an operation that processes coal or petroleum waste through conversion technologies excluded." So we're thinking mainly sites that gasify those types of waste should not be regulated by us. I don't know if that's clear.

COMMITTEE MEMBER PEACE: What shouldn't be regulated? That still didn't make it clear to me.

MR. LARIMORE: They would not be regulated by us. It wouldn't be plastics. We could change the language if this is, you know, not clear to people. But now it says

"processes coal or petroleum waste." Slightly different than the other language in the agenda item text.

COMMITTEE MEMBER PEACE: Plastics wouldn't be considered petroleum waste?

MR. LARIMORE: Correct.

MS. FRIEDMAN: Correct.

COMMITTEE MEMBER PEACE: So it's petroleum waste.

Also the only other question I had was on number 7 -- again page 8-3 number 7, will they want to have a conversion technology facility permit? I just wonder why that's different from, like, the composting or the C&D. Composting doesn't have a composting facility permit or a C&D facility permit?

MR. LARIMORE: I think for composting didn't we end up with that in there, Elliot?

STAFF COUNSEL BLOCK: Yeah. The composting regulations have a similar provision where we basically name it. It's compostable materials handling facility permit.

And this is not so much a regulatory kind of a provision as we have over the years with these kinds of regulations had folks concerned that if the permit they get is called a solid waste facilities permit, it gives the impression that they're one type of facility versus something else. So we have on a couple of rule making

passages gone ahead and called them something else. Technically under the statute it is still a solid waste facilities permit, but we've gone ahead and given it another name to be responsive to that concern that's been raised.

COMMITTEE MEMBER PEACE: Okay. Because if you look on Agenda Item 14, it says, "consideration of a new full solid waste facilities permit" and then "compostable handling" in parentheses. So that is still called a "full solid waste facilities permit compostable materials," where this is being called a "full solid waste facilities permit conversion technology." This is totally different, it seems to me.

DEPUTY DIRECTOR LEVENSON: Our standard practice on the agenda item title is to say "full solid waste facilities permit." This would still -- if a facility came in under these regulations, we'd have to talk to Elliot, but probably we'd probably say "full solid waste facilities permit," (conversion technology).

COMMITTEE MEMBER PEACE: These would not be handled any differently -- okay.

STAFF COUNSEL BLOCK: If you were to look at that permit, it would say "compostable materials facilities permit."

COMMITTEE MEMBER PEACE: Okay. Thank you.

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CHAIRPERSON PAPARIAN: Okay. Members, we're a bit overdue for our break. I'd like to try to work over the break and try to see if I can come up with something that would work on this in terms of moving it forward. So if it's all right with you, I'd like to take our break and come back and finish this item right after the break.

No problem with that. We'll take a little over a ten-minute break. We'll come back right at 3:00. Thanks.

(Thereupon a recess was taken.)

CHAIRPERSON PAPARIAN: Members, any ex partes?

COMMITTEE MEMBER JONES: John Cupps and Larry Sweetser on solid waste issues.

CHAIRPERSON PAPARIAN: And I spoke with Gary Liss and Michael Theroux about this last agenda item. And just a meet and greet conversation with Mark Aprea and with Kathy Van Austin.

Ms. Peace.

COMMITTEE MEMBER PEACE: I spoke with Michael Theroux from Theroux Environmental.

CHAIRPERSON PAPARIAN: We're finishing up that last item. And Members, I talked to a couple of the parties over the break as well as our staff, and here's what I'd like to suggest as a possible way to move forward. That we move forward with putting the item out for the 45-day comment on the time line that staff

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indicated. It's going to be a few months before they're able to get it ready to go out. But at the same time, that we direct staff to look at the results of the studies as they come forward and make sure as appropriate they look to possible changes to the regulation proposal based on those studies, and at the same time they report back to us on a very regular basis, both on the regulations process and on those studies so if necessary we can give direction. And also at the same time that in their regular reporting back to us, alert us to any issues where some direction or further direction might be necessary as an example of something like that.

Mr. Liss brought up whether the feedstock should be regulated to determine whether enough recycling was done before it reached a facility or not. That would be an example of something I imagine would be somewhat controversial that maybe some further discussion and direction might be necessary if we were to move forward on something like that.

So, again, the basic proposal is to go out for the 45 days, that the staff will look at the results of the studies as they come forward, that if they believe appropriate to move forward to adopt things into the regulations, that they propose that, that staff also regularly talk to the Committee as to further direction

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that might be necessary as well as updates on the regulations and updates on these reports.

MS. FRIEDMAN: Mr. Chair, may I just clarify one thing? Regular updates is fine. We had a plan to regularly update the Sustainability and Market Development Committee on the study itself. Anything that relates to certainly these regulations and any potential change that might come as a result of those we could bring to the Permitting and Enforcement Committee. I don't know if that would meet with your needs, but that is something that we had planned to do.

CHAIRPERSON PAPARIAN: Certainly in terms of direction as it might relate to these regulations, that's more in this Committee. Since I don't sit on that other Committee and -- let me put it another way. Obviously you're going to be updating that Committee on the status of the studies. You probably also need to update this Committee to the extent there are items that could be affected by the regulations.

MS. FRIEDMAN: That's fine with staff.

CHAIRPERSON PAPARIAN: Members, are you comfortable with that?

Mr. Jones.

COMMITTEE MEMBER JONES: I'm comfortable with it. I do have one question. When we talk about Mr. Liss' idea

with the recycling rate, some of these technologies are going to actually enhance recycling because they're going to offer an alternative where one doesn't exist through the normal marketplace. Is that -- you know, like when you get a warehouse full of number 4, 5, 6, and 7 plastics and no market to send it to, are you asking for an analysis of how hard they try to find a marketplace or --

CHAIRPERSON PAPARIAN: I think you're jumping ahead on some of the discussions that we'll probably be having about this. But I wanted to use that as an example of the sort of thing that we ought to discuss in order to determine whether we want to give direction for it to be included in the regulations in some way or not. In other words, we're not predetermining here today that we are going to include something like that in the regulations. We're not predetermining that we're not going to include something like that in the regulations. But I'm saying that this is an example of the sort of issue that we should have some further discussion on to determine whether we need to give some direction to staff with regards to inclusion in the regulations.

COMMITTEE MEMBER JONES: Okay. Maybe it could be further clarified at some further point because we always reference back to the original either scope of work or the request of staff to do certain things. And I just want to

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make sure I clearly understand what that expectation is so I don't get into a conversation at some point that you meant one thing and everybody else meant something else.

CHAIRPERSON PAPARIAN: Let me try another way. We're telling staff to go ahead with the process that will lead to the 45-day comment period. We're also telling them that the language that we have before us in the draft that was presented here today is not necessarily the universe of issues that we want to have addressed in the regulations. We might want other things addressed as a result of the studies that are coming forward. There might also be other issues outside the studies that we want to include.

But we're going to need to have some debate about those issues before direction is given. And as an example of the sort issue -- it's the one that we just talked about it. The idea that we might want to regulate the feedstock in some way with regards to whether it was adequately recycled before it got to the facility. I'm not making a predetermination on that. I'm not suggesting we have to include it in the regulations. But I'm saying that's the sort of issue that this Committee will need to take a look at with regards to whether to give staff some direction to include in the regulation package. So the regulation package as we have it before us today might

wind up as the universe of issues, but we're also saying that there may be other issues out there that we want to give staff direction on.

Mr. Theroux, you had --

MR. THEROUX: Clarification.

CHAIRPERSON PAPARIAN: Will you step to the microphone?

MR. THEROUX: Michael Theroux, Theroux Environmental.

Specifically to this last point, Senator Sher's office passed and had signed SB 183. The Board is aware of this. Staff is aware of this. It's come in late in the package. But one of the things it did is split into two pieces the manner in which the Board would approve certain kinds of processes. One that, yes, it's appropriate as a non-combustion thermal conversion technology. And then two, that, indeed, the feedstock itself had been appropriately monitored if there was a separate finding from the Board required, at least for those facilities that would go to the Energy Commission within renewable portfolio standard mechanism.

And staff got this late. It's recently signed. But yes, indeed, Senator Sher's office recognizes this as well and made it clear that there's a separate Board finding required for that particular issue.

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CHAIRPERSON PAPARIAN: Okay. So that may be -- that certainly would be something we would want to look at to determine if and how we would include that in this regulatory package or whether to include it in a different regulatory package. And I'm sure we'll be looking at that.

So again are we clear enough on how to proceed? Okay. I think we're ready for the next item.

DEPUTY DIRECTOR LEVENSON: Okay. Thank you. We have four items left, three permits and one other item. The other item, Agenda Item F, Board Item 11 is a discussion. And this is for the Committee only. Discussion of the Committee request to review the duties and responsibilities of the Board serving as the enforcement agency. And Sue Markie is going to make that presentation.

CHAIRPERSON PAPARIAN: Did anybody come from out of town for this agenda item? I hate to bounce the agenda around, but I know we have several people from out of town for several other agenda items. I wonder if we might just make it more convenient for them by doing this one last.

DEPUTY DIRECTOR LEVENSON: Thank you, Sue.

CHAIRPERSON PAPARIAN: I know you were really anxious to get out of here, but we'll accommodate some of the stakeholders. We'll come back to this item.

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DEPUTY DIRECTOR LEVENSON: Good catch. I think folks will appreciate that.

We'll go to Number 13, which is Item H, consideration of the revised full solid waste facilities permit transfer/processing station for the EDCO Recovery and Transfer Station in San Diego County. And I believe, just before Tad gets going, this is one of the facilities that a waiver request will be granted for in relation to the fire.

MR. GEBREHAWARIAT: Good afternoon. The proposed revised permit is to allow the following changes: Increase the permitted maximum daily tonnage from 750 to 1,500 tons; increase the permitted maximum traffic volume from 160 vehicles per day to 1,506 passenger car equivalent vehicles per day.

As we have indicated in the table on page 13-3 of the Board's November agenda item, all of the requirements for the proposed revised permit have been met. Therefore, staff recommend that the Board adopt solid waste facility permit decision Number 2003-482 concurring with the issuance of solid waste facility permit number 37AA-0105.

Ms. Rebecca La Frenier, the LEA, and Mr. John Schneider, the general manager of the facility are here to answer any questions you may have. This concludes my report.

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CHAIRPERSON PAPARIAN: Ms. Peace.

COMMITTEE MEMBER PEACE: I have a question. This, I know, is a very nicely run facility. I have no problems with it. I notice that their permitted tonnage they're taking in is doubling, but yet their hours of operation are the same. And I was just wondering how they're going to process double that material. Are they hiring more people? Are they getting more equipment?

MR. GEBREHAWARIAT: All of the above I think.

COMMITTEE MEMBER PEACE: The size of the operation is still the same, and the hours of operation are still the same.

MR. GEBREHAWARIAT: They worked the -- since the 1999 permit, the worked -- the facility expanded. And I believe they've added equipment and manpower. But the general manager could probably expound better as to that.

MR. SCHNEIDER: John Schneider, General Manager of EDCO. The answer is equipment. Not necessarily more personnel, but it's equipment. More transfer trucks to process the waste.

COMMITTEE MEMBER PEACE: Do you have more conveyer belts and more stuff, or does it go through faster or --

MR. SCHNEIDER: No. Just conveyer just with our loader operators on a schedule, and it's more trucks. So

that's why the increase in the traffic.

COMMITTEE MEMBER PEACE: And when it comes to the increase in the traffic, are there any residences nearby?

MR. SCHNEIDER: There are residences in the area.

COMMITTEE MEMBER PEACE: And how will all this extra traffic affect --

MR. SCHNEIDER: Excuse me?

COMMITTEE MEMBER PEACE: How will all the extra traffic affect them?

MR. SCHNEIDER: I can't say it's not going to affect them, but we've got support from the neighbors in the area. They've written letters in support of this expansion.

COMMITTEE MEMBER PEACE: Okay. Thank you.

CHAIRPERSON PAPARIAN: One more quick question for you. Just curiosity or maybe for somebody else. You're going from 160 vehicles today, per day -- 160 vehicles per day to 1,506 passenger cars equivalent vehicles per day. What's a passenger car equivalent?

MR. SCHNEIDER: That's a good question. I don't know if I can answer that. We had a traffic study done. And it has to do with passenger car equating to two trucks and so many passenger cars equating to the type of trucks they are.

COMMITTEE MEMBER PEACE: A big trash truck is

worth like four passenger car equivalents.

DEPUTY DIRECTOR LEVENSON: That's exactly right. Page 13-4, a transfer truck is equivalent to four. You got it right on the button.

COMMITTEE MEMBER PEACE: I just got my newest Environmental Times from EDCO. You do such a nice newsletter here. I want to thank them. And they also have -- anybody can see down at the bottom it says "zero waste, you make it happen." Thank you for that.

DEPUTY DIRECTOR LEVENSON: If you did the math on this -- I'm sorry, Mr. Paparian. If you did the math on the traffic and everything was transfer trucks, you'd be talking about 300 or 400 transfer trucks. So you're not talking 1500 transfer trucks coming through.

CHAIRPERSON PAPARIAN: Go ahead.

COMMITTEE MEMBER PEACE: With that, I'd like to move Resolution Number 2003-482, consideration of a revised full solid waste facilities permit transfer/processing station for the EDCO Recovery and Transfer Station, San Diego County.

COMMITTEE MEMBER JONES: I'll second.

CHAIRPERSON PAPARIAN: There's a motion and a second.

Secretary, call the roll.

SECRETARY KUMPULAINIEN: Jones?

COMMITTEE MEMBER JONES: Aye.

SECRETARY KUMPULAINIEN: Peace?

COMMITTEE MEMBER PEACE: Aye.

SECRETARY KUMPULAINIEN: Paparian?

CHAIRPERSON PAPARIAN: Aye.

I think this is a candidate for consent.

Next item.

DEPUTY DIRECTOR LEVENSON: Thank you.

Agenda Item I, Board Item 14, consideration of a new full solid waste facilities permit compost materials handling facility for the Kochergen Farms Composting Facility in Kings County.

Virginia Rosales is going the make this presentation.

MS. ROSALES: Good afternoon, Mr. Chair and Committee members.

DEPUTY DIRECTOR LEVENSON: You need to get closer to the mike.

MS. ROSALES: How's that? Okay.

The proposed permit is for the revision of the April 2000 solid waste facilities permit for the Kochergen Farms Composting Facility. The facility is owned and operated by Kochergen Farms Composting, Incorporated. The proposed permit will allow for the following changes: An expansion of the facility size from 30 acres to 60 acres;

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an increase in traffic from 20 trucks to 40 trucks per day; the addition of untreated wood waste as a feedstock; an increase in the maximum daily volume of material from 500 tons per day to 1,000 tons per day; an increase in the design capacity from 37,000 cubic yards of active compost and 3,000 cubic yards of additives to a total of 208,000 tons of material inclusive of all material on site at any given time; a change in the facility hours from 8:00 a.m. to 5:00 p.m. Monday through Friday to 5:00 a.m. to 8:00 p.m. Monday through Saturday.

Board staff have reviewed the proposed permit and supporting documentation and have determined all the requirements for the proposed permits have been fulfilled.

In conclusion, Board staff recommends concurrence in the issuance of the proposed permit number 16AA-002 and the adoption of Resolution Number 2003-483.

Mr. Lewis Flores representing the LEA, Mr. Mike Kochergen, the owner operator along with the facility manager, Mr. Eric Espinolla, and the city of Adelanto planning director are all here to answer any questions you may have.

CHAIRPERSON PAPARIAN: Any questions members?

Mr. Jones.

COMMITTEE MEMBER JONES: Thank you, Mr. Chair.

I'll move adoption of Resolution 2003-483,

consideration of a new full solid waste facilities permit, compostable materials handling for the Kochergen Farms Composting Facility, Kings County.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON PAPARIAN: There's been a motion and a second.

Secretary, call the roll.

SECRETARY KUMPULAINIEN: Jones?

COMMITTEE MEMBER JONES: Aye.

SECRETARY KUMPULAINIEN: Peace?

COMMITTEE MEMBER PEACE: Aye.

SECRETARY KUMPULAINIEN: Paparian?

CHAIRPERSON PAPARIAN: Aye.

This will be a candidate for consent. Thank you all for coming up.

Next item.

DEPUTY DIRECTOR LEVENSON: Committee Item J, Board Item 15 is consideration of a new full solid waste facilities permit, compostable material handling facility for the Nursery Products LLC, San Bernardino County.

Virginia is also going to give you an update on the status of this permit application.

MS. ROSALES: Well, the revised report of composting site information was received on October 29th. The changes to the RCSI are in the owner impact

minimization plan which staff are still reviewing. And a revised proposed permit was received on October 31st. You should have a copy of that before you now. And copies are on the back table for anyone interested. The Board's website will be updated soon.

The changes in proposed permit are on page 5 and 6 in the LEA conditions. In summary, most of the changes were made for clarity. Some of the conditions in the previous proposed permit were moved under a category of odor, vector, dust, or litter. New conditions have been added which establish the conditions by category. The new conditions are R, S, T, U, and V. A new bullet that appears under each these new conditions that I just mentioned, except for V, reads as follows: "Provide a community outreach program to include periodic stakeholder meetings." Based on this submittal of the revised proposed permit on October 31st, the last day the Board may act is December 30th, 2003.

During the period of October 14th through October 24th, Board staff have received a few faxes and telephone messages from surrounding businesses and neighbors of Nursery Products opposing the proposed permit.

On October 24th, 2003, Board staff and the local enforcement agency went to Nursery Products for a site visit. The purpose of the site visit was to observe the

composting operations. No excessive flies, dust, odors, or litter were identified on or off site during their visit.

On October 29th, Board staff received word from the city of Adelanto attorney, Ms. Battersby, that a public meeting between the city, Nursery Products, and concerned citizens was scheduled for that night. However, because of the fire, the meeting was canceled and has been rescheduled to November 5th.

On October 30th, Board staff spoke with Ms. Jennifer Edge of the Los Angeles Department of Water and Power and made another request for the Department to provide us with documentation and/or data to substantiate their complaints and concerns regarding the impacts or potential impacts that the operation of the composting facility have or may have on the converter station.

On October 31st, Board staff spoke with Randy Howard, an electrical engineer with the Department of Water and Power regarding our request for data. Did notice people from the Department here, and I'm not sure if Mr. Howard is here or Ms. Edge. They may be able to provide an update on our request.

Board staff are updating the agenda item to reflect this information that has been provided to the Committee today, and it will be posted on our website

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soon. Board staff is still reviewing the revised proposed permit and the CEQA record and therefore do not have a recommendation at this time.

This concludes staff's presentation. The LEA was not able to make it up today due to the fires, so they are not here. And I'm not sure if the operator is here today.

CHAIRPERSON PAPARIAN: Can I just clarify on the process here? We do have some folks wanting to testify today. We'll take that and take any comments from the Committee members. But I'm hearing that the staff isn't ready with their recommendation yet because of the revisions. Is it the intention to have this come up at the November Board meeting?

DEPUTY DIRECTOR LEVENSON: As of this time, yes.

CHAIRPERSON PAPARIAN: Okay. And our expectation is that if necessary the LEA would be available?

DEPUTY DIRECTOR LEVENSON: Yes.

CHAIRPERSON PAPARIAN: Okay. Any questions of staff?

Ms. Peace.

COMMITTEE MEMBER PEACE: The only question is you did mention that they put in here they have periodic community outreach programs and stakeholder meetings. Is there anything that says what periodic is? Is that monthly? Yearly? Every five years?

MS. ROSALES: I don't know. I don't have that information. This is my first time looking at this proposed permit today, so I have not had the opportunity to speak with the LEA on that.

CHAIRPERSON PAPARIAN: That would be then a question to clarify with the LEA if they're not available. I'm seeing a gentleman in the back raising his hand, the operator. Why don't we just finish with a couple questions, and then if you can help clarify some of those we'll get to you.

Did you have some others, Ms. Peace?

Let me just ask, you mentioned the November 5th meeting. Who is facilitating that meeting again?

MS. ROSALES: The city of Adelanto.

CHAIRPERSON PAPARIAN: The city of Adelanto. It's not a hearing. It's a public --

MS. ROSALES: Public hearing. It's my understanding maybe --

MR. De BIE: Mr. Chair, if I may. Mark De Bie with Permitting and Inspection.

I've spoken with the city attorney. She called us and was seeking information about our process and what was occurring up here at the state level. In the course of that conversation, she shared with me that there was, I believe, a City Council meeting that is scheduled for the

5th. All the City Council members have been noticed to be there. Whether they're there or not, I'm not sure, given the fire situation still.

The intent of that meeting is to provide a forum for the community to express their concerns relative to Nursery Products. She indicated that in the previous City Council meeting, 75 or more citizens did appear and gave testimony during the public testimony period of that regular meeting. It wasn't agendized, but during that public testimony, they did take an opportunity. So based on that, they decided to have an additional forum.

It's my understanding that after that testimony and staff report to the City Council that the City Council will direct their staff to take some action one way or the other relative to either the use permit they've issued Nursery Products and/or the CEQA documentation related to that waiver. That's staff's understanding, again, based on a conversation with the city attorney what the intent of that meeting might be.

CHAIRPERSON PAPARIAN: Okay. Thank you.

I don't know your name, but did you want to just answer her question? Or if you want to speak more generally, I'll put you -- you just want to answer the question. Okay. Come on up. And if you can identify yourself for the record too.

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MR. BINGUM: Bernie Bingum, Chesapeake Environmental Group representing Nursery Products.

Periodic was discussed with the LEA and with Waste Board staff at a meeting a week ago Friday at the facility in Victorville. The same question came up as to what does periodic mean. And we recognize that it means as often as is necessary. We agreed at that time that when we reached submittal for the odor plan that it would be a dynamic document. And based on conversations after this coming Wednesday at that meeting where the Nursery Products proprietor/owner will be there, we'll be able to fill in more details. But it's a work in progress.

CHAIRPERSON PAPARIAN: Thank you very much.

I have two speakers, Randy Howard and Jennifer Edge, whatever order you want to go in. Both with the Los Angeles Department of Water and Power.

MR. HOWARD: Good afternoon, Mr. Chairman and Commissioners. My name is Randy Howard. I'm a registered electrical engineer for the Los Angeles Department of Water and Power. I've been with L.A. DWP for approximately 15 years, and during this period, I've worked in oversight for the high voltage testing and testing activities related to insulators, flash overs, conductivity studies for facilities, including the Adelanto converter station.

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Today it's my understanding you've already been briefed on the importance of this facility, so I'm not going to dwell on that as to the importance in Los Angeles and the Southern California region for this facility. But this facility is quite unique. There's probably about ten or less of these facilities in the nation where you convert high voltage direct current into alternating current. And I hope to speak a little bit on some of those complexities and the technical issues that we have with the proximity of this facility to our operations.

So from my experience in working with insulators, flash overs, transient voltages, I'm going to try not to get too technical here, but we can answer any questions you might have. Typically, with insulators and electrical equipment we try to have what we call voltage gaps, and we would say about an inch is about 10,000 volts. So if you had an electrical wire that was energized and you had it ground about one inch, 10,000 volts, it would flash over in error. We're talking a station with 500,000 volts. So that kind of gives you an idea of what we try to have as a gap for the electrical equipment to be insulated.

We're very conservative there because, you know, of a lot of other conditions that would take place. In the construction of this facility, we designed -- created the specifications, constructed the facility based on the

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environmental conditions that we knew existed, and that would take into consideration desert dust. That would take into consideration the wind, moisture, humidity, and the type of activities that would be going on.

The proximity of the Nursery Products facility next to us has changed those conditions such that our equipment is certainly at risk for flash over, for transients. Some of the examples of what's going on take just the trash, the activity that's going on with trash. We're getting a lot of trash coming into our facility being caught near our equipment. An example would be a mylar balloon. You're all aware these balloons get up near the high voltage lines. They hit the high voltage lines. We have electrical flash overs, failures, and the power grid goes down.

It's very similar. You have some of this trash that comes over into our facility. And if it gets near the insulators, that spacing that we need -- that 50-plus inches that we have to have to keep things flashing over. Every contaminate we get in there reduces that spacing.

I have some photos that were taken just the other day, October 30th, as to some of the trash that is coming onto the fence and into that facility. That's a great concern for us. These things come up against our equipment, and there is the potential for flash over.

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The other issue we have is related to the airborne materials. We get the airborne materials from their operations coming onto our equipment. And what will happen is this --

CHAIRPERSON PAPARIAN: Hold on. We're getting distracted by your photos. Are they all different, or are they sets of the same?

MR. HOWARD: They are I believe a little bit different. They're of the same day, same fence line.

CHAIRPERSON PAPARIAN: We'll pass them around. Thanks. You can keep going.

MR. HOWARD: So the airborne materials that are coming over from the mulching activity are collecting on the equipment. And we have the risk then of moisture getting into it and then material flashing over, reducing the resistance of those insulators. Being this equipment is very unique, if we had a failure in that equipment, it's very challenging for us to replace it and get that equipment back in operation. It's quite cumbersome.

Kind of an example of what's been going on with some of the dust is last week as we were having the Santa Ana winds, very high winds, warm winds coming into Southern California fueling the fires, it's picking up some of this material coming into the station. We were having record electrical usage loads on our system for

this time of year, so this facility was critical.

And then we were getting this material coming in, and we couldn't do much about it in the way of cleaning. We can't clean our equipment while it's energized for this high voltage DC equipment. We have to de-energize it. Obviously, we're unable to do that at will.

So we had this situation going on with the Santa Ana winds. We had the fire going on through the Cajon Pass. The fire caused several circuits to relay for Southern California Edison, also for DWP. The fire is -- what caused it to relay was the smoke and the contamination going up on the insulators of the towers, very similar to what's going on in our station from the neighboring Nursery Products facility.

So from a technical side of the house, we were trying to look at how we could mitigate this activity. And again, one way you might mitigate dust coming into your facility is you would wash or clean more frequently. Because of this facility, the way it was constructed and because of the high voltage, we are unable to do the washing to the frequency that might be needed to reduce that risk.

The other problem with the flying debris, the things coming up to the fence line and jumping the fence line, obviously greater containment there might assist us

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in mitigating the risk of that coming into our station flash over or a transient that might occur. So there might be some things they can do with the trash with the dust and the particles. We don't at this time have a solution available to us.

Our air handling equipment, we have what's called a large thyristor valve in the facility for the conversion process. And if you go into the room there, it's almost like a medical operating room where we try to keep it quite clean. We've had to change the air handling equipment double the frequency since their facility came into operation due to the dust activity. We're also having to clean our relay room every month, whereas it used to be every six months due to the dust activity going on.

So from a technical perspective in trying to keep that facility in operation, we do not believe that we have a compatible use due to the proximity of the Nursery Products facility.

And with that, I'm willing to answer any questions you might have.

CHAIRPERSON PAPARIAN: Any questions?

Mr. Jones.

COMMITTEE MEMBER JONES: Just a couple. Thank you.

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These pictures, the fence is actually -- whose fence is that? This one, that's catching all the litter.

MR. HOWARD: I believe that fence is our fence.

COMMITTEE MEMBER JONES: Because there's piles of compost behind it. So you took this picture from their property into your property?

MR. HOWARD: That picture is taken from our yard.

COMMITTEE MEMBER JONES: So it goes out?

MR. HOWARD: Correct.

COMMITTEE MEMBER JONES: So is the fence their fence, their litter fence?

MR. HOWARD: I believe that particular fence is our fence. There's two different fences that you might see in the photographs.

COMMITTEE MEMBER JONES: Because I was at the site for quite a while. And you know, I mean if it's --

CHAIRPERSON PAPARIAN: Just to help clarify, as I was looking at the pictures, there were two fences. One had barbed wire on top; one did not. Are both of those your fences or just the barbed wire one?

MR. HOWARD: The barbed wire fence is our fence. I believe the other fence is their collection fence.

COMMITTEE MEMBER JONES: So this is a litter fence. This is a litter fence. So it is actually doing what it is intended to do because there's no litter on the

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other side. The litter stopped at the fence.

MR. HOWARD: That is not quite correct. We have been finding -- and we do collect daily litter on our side.

COMMITTEE MEMBER JONES: I'm sure there is. But the picture shows a litter fence doing its job and no litter from the fence into your property. And I think that's important.

Now just so you know, I went down after the hearing. My truck broke down as I got there. So I was able to spend three-and-a-half-hours at this site, which gave me a real firsthand opportunity to investigate all of the concerns. Had two biosolid trucks show up. One of them I asked them where they were from because they smelled like soap. It didn't even smell like biosalt. We used to haul it so I have a pretty good idea of how rank that can be.

But the one thing that I need to know is your site is here and their site is here for the sake of this conversation. Tell me where north is. If their site is here, your site is here, which direction is north?

MS. EDGE: We're due north of their site.

COMMITTEE MEMBER JONES: One of the issues -- because I am sympathetic to this being done right. Okay. But I want to look for myself. But in driving to this

site I was hoping to smell something so I could find it. I know where your place was, but I was having a hard time down some dirt road which probably did break my truck anyway. But I couldn't smell it. I couldn't even smell it really until I was on the site. But I did smell the organic at about 7:30, 8:00 at night as it started to cool down.

The one thing I saw both days was a wind direction coming out of the north to the south from your facility into my face as I stood on the berm. Meaning, coming at me this way. So I wasn't sure if that was constant or, you know -- I mean I've run some landfills with Santa Ana winds. And God only knows where the wind comes in those cases.

But I went to the airport and tried to get the prevailing wind. The prevailing winds seems to be present the north to the south. And so with the prevailing wind going from the north to the south, that sort of begs the question exactly how is the dust -- the wind doesn't go that high anyway most of the time. And I'm sure there's some east and northeast, and it did change one day completely. But the dust that you're seeing on an average day down there with the wind traveling from your facility to the composting facility, how do you think that dust is getting there? I mean, that's problematic for me to try

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to figure out knowing those conditions exist. I mean, could it be coming from another site north of you?

MR. HOWARD: I'll probably turn that question over to the environmental folks. One of the things we hope to do very soon because of coming through the summer months and just up into the end of October here with some really high temperatures, we have not been able to take some of the equipment out of service that we plan on taking out. And we'll do some actual testing there with some swabs and get some samples that -- what we will verify where it's coming from and the make up of that dust.

You know, all we can speak to is we have been out there. I think we were building that facility in 1984. We've been out there and operational for a long period of time. The conditions that we're seeing today are different than what we saw prior to the operation come into place. And based on the products and what they're doing in their operation and the proximity to our facility, I'm very concerned on the technical aspects of flash over. We did not design that facility with the reductions in the resistance on those insulators. That's what I'm concerned about.

COMMITTEE MEMBER JONES: Okay. All right. And that's a reasonable concern. But I'm trying to figure

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out, you know, based on the prevailing wind and things like that if, in fact, it's coming from there or what they can do in mitigation, you know, to try to ensure -- I mean, clearly I'm glad they've got this because it's not on your property because --

MR. HOWARD: We are having to -- we have staff daily going out and collecting trash on our property. That is still a problem. I think the fence is doing a great job. But they still are having to go out and pick up trash.

CHAIRPERSON PAPARIAN: I had the same question when I looked at the pictures. But the pictures to me, if your facility is north and they're south, the pictures would indicate to me the winds are blowing from the south to the north, at least on the day those pictures were taken --

MR. HOWARD: Because it's up against --

CHAIRPERSON PAPARIAN: -- because of the trash against the litter fence. It did appear to me there was some debris on your side of the litter fence, if that's where the pictures were taken. It did look -- I could see some plastic bags and other items over there. But certainly the bulk of it was being caught by the litter fence, but it appeared to me that's not 100 percent.

COMMITTEE MEMBER JONES: Right. And these were

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taken how long ago?

MR. HOWARD: Those were October 30th.

COMMITTEE MEMBER JONES: Okay. So just five days ago.

MR. HOWARD: Correct.

COMMITTEE MEMBER JONES: During the Santa Anas.

MR. HOWARD: Correct.

COMMITTEE MEMBER JONES: Which has a tendency to change, you know, but that's cool. All I'm trying to figure out is if the fences weren't working, then there would be a problem. But anything in the Santa Anas -- I've seen garbage bags that weigh 30 pounds fly through the air as they came to hit me.

MR. HOWARD: I guess what I'm trying to explain is we don't have that ability to quickly react when the wind changes to get out there and somehow mitigate this against our facility and keep it in operation.

COMMITTEE MEMBER JONES: Right. I understand that. That's what the permit could do.

MR. HOWARD: Thank you.

COMMITTEE MEMBER PEACE: Can I ask a question?

CHAIRPERSON PAPARIAN: Yes. Ms. Peace.

COMMITTEE MEMBER PEACE: In terms of insulators on the transmission lines, do you have porcelain or polymer?

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COMMITTEE MEMBER PEACE: We have both, I believe, within that station.

COMMITTEE MEMBER PEACE: You have both?

MR. HOWARD: Correct.

COMMITTEE MEMBER PEACE: Is it true that you have reduced exposure to flash overs with the polymer?

MR. HOWARD: That is correct.

COMMITTEE MEMBER PEACE: Also in your opinion is there anything that Nursery Products can do to mitigate your concerns, or do you think they just need to be relocated?

MR. HOWARD: Well, we have met with them, and they have made attempts to mitigate some of this activity. Probably based on the results of their mitigation to date, I would probably say recommend that they would need to relocate because the proximity is not going to be compatible.

COMMITTEE MEMBER PEACE: And maybe our staff knows this. Who decides if facilities are compatible? Is that done at the local level?

DEPUTY DIRECTOR LEVENSON: That's strictly a local land use planning issue and decision.

COMMITTEE MEMBER PEACE: Thank you.

CHAIRPERSON PAPARIAN: I did a quick little Internet search on flash overs, and I found there was a

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flash over in Seattle about a month and a half ago involving dust. How common are outages due to dust and dirt? Is that an unusual circumstance that I happened upon when I looked for it? Or do they happen quite a bit around the country?

MR. HOWARD: Well, that's certainly one of the items that we work on constantly to keep the reliability high. And that's keeping the insulators and pieces of equipment clean, as well as keeping trees and other things away from them so when the winds do come up. An example was last Friday in the Cajon Pass due to a fire. I mean, the fire when you have a lot of the smoke with contaminants in the smoke, that's enough to cause a flash over to occur. So it's like having a dust storm and collecting. And it almost caused a very significant outage in Southern California because of that fire and the smoke.

CHAIRPERSON PAPARIAN: Okay. Thank you.

COMMITTEE MEMBER PEACE: I understand you will be at the City Council meeting on November 5th?

MR. HOWARD: I personally will not be, but I'm sure a representative of Los Angeles Department of Water and Power will be.

COMMITTEE MEMBER PEACE: Somebody will be there to voice your concern.

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CHAIRPERSON PAPARIAN: Thank you.

Ms. Edge.

MS. EDGE: Jennifer Edge, Los Angeles Department of Water and Power.

I want to address some of the CEQA issues. Because of the substantial changes of the project, the city of Los Angeles is requesting that a subsequent environmental impact report be prepared as is required under Section 21166 of the Public Resources Code and the CEQA guidelines 15162.

The current operations have resulted in significant environmental impacts that weren't evaluated in the original EIR including dust, vectors, and odors. In the proposed permit, finding 13e states that the EIR described and supports the operation which will be authorized by the issuance of this permit.

In reviewing the project EIR, they evaluated traffic of 200 trucks per day. The proposed permit is allowing up to 2,000 trucks per day. That is a 900 percent increase.

The tonnage in the EIR was evaluated at 6,000 tons per month. The proposed permit is 4,000 tons per day. That is a 1500 percent increase.

The original throughput for the facility was 96,000 cubic yards per year. The proposed permit is 249

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cubic yards allowed on site at any one time. That is a 250 percent increase.

And the stated hours of operation are 7:00 a.m. to 5:00 p.m. However, there's a condition conditioned in which would allow them to operate 24 hours a day, if necessary. That would be a substantial increase.

Finding 13d of the proposed permit states that the city of Adelanto Fire Department has determined that the facility is in conformance with applicable standards. There currently is not a city of Adelanto Fire Department. It should be the county of San Bernardino Fire Department.

The Board report indicates that the major equipment on site on the on-site structures at the L.A. DWP station were clean. L.A. DWP is not aware of any Board staff touring our facility. We know they were at our administrative building but not touring the yard. We would be more than happy to have people come out and tour the facility to actually see the equipment and how it has been impacted by the dust.

And the odor plan submitted by the operator dated October 27th indicates that since green waste has been delivered on site and on an as-needed basis, there have been no green waste odors observed. That hasn't been the case. Our facility has continued to be impacted by the green waste odors.

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That's all I have. Available for questions.

CHAIRPERSON PAPARIAN: Thank you very much.

Now, Ms. Edge has raised some issues regarding CEQA. As I read our agenda item, staff is still reviewing CEQA related issues. Are you ready to report on those, or do you need to look at them in light of the revisions to the permit and come back to us on that?

MR. De BIE: We need to continue looking at the issues. And Ms. Edge has summarized the group of issues that we continue to look at.

CHAIRPERSON PAPARIAN: Okay. Our staff -- I think you indicated you needed some questions answered. You were hoping they'd be answered by DWP when they testified. Do you feel that you got what you needed or --

MR. De BIE: I think the testimony from Mr. Howard was the character of what we were looking for. If you recall from previous testimony, there were -- I don't want to call them allegations. But there were statements made that weren't necessarily supportable. I think information about frequency of the maintenance and those sorts of things are the character of the kind of data, the kind of specific impacts that we were seeking.

Certainly, we'll encourage Mr. Howard and others to provide us with additional information, photographs, you know, when they go out and pick up litter and the

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frequency of that, anything that would help us understand the specifics of the impacts to their site. Because part of what we're grappling with here is trying to define the extent of the problem that Water and Power is trying to portray to us so that we can match that to what our understanding of the site and the operation and the mitigations that the site has in place to see where there might be any gaps or issues that need to be addressed. So we'll continue to encourage them to give us as much data as they can so we can make those comparisons.

CHAIRPERSON PAPARIAN: Okay. Thank you. Anything else for this witness? Okay. So thank you very much.

The staff has indicated to us that they're still reviewing these items, that they aren't prepared because of this review to give us a recommendation at this point. But we'll have it in time for the Board meeting in two weeks. So my thought is that we -- and I think certainly we would have to hear this again at the Board meeting in any event. But that we move this to the Board without a recommendation since we're still awaiting the staff recommendation on this.

Does that seem okay, Members?

Okay. That's what we'll do. So sorry you're traveling back and forth so much. But we'll be having

another hearing again, unless you hear otherwise, at our Board meeting in two weeks.

MR. De BIE: Mr. Chair, I forget if Virginia noticed this in her comments, but at that meeting on the 5th, we will be providing a written public notice of the Board meeting so the community will be more aware of the activities here in Sacramento. So we made an effort to outreach to the community about this process.

CHAIRPERSON PAPARIAN: Do we have somebody from the staff who is going to sit in on that meeting? Or no?

MR. De BIE: I'm willing to if so directed.

CHAIRPERSON PAPARIAN: I'm not going to direct you to do that. I'll leave that up to the staff whether they feel it --

MR. De BIE: I think staff feels it's important to hear the discussion between the community and the city and the operator firsthand. So we'd be willing to attend as observers, anything.

CHAIRPERSON PAPARIAN: Okay. I want to note that I really appreciate -- I'm sure all the Committee members do -- the amount of effort the staff has put into looking into this permit and the issues around it. I know Jeff Watson has spent quite a bit of time with the LEA and at the facility looking at what's going on and trying to, you know, assure that our job is as good as it can be. So I

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want to thank you, Mr. Levenson, and Jeff Watson. I'm sure there's others involved as well. Thank you.

DEPUTY DIRECTOR LEVENSON: Mr. Chair, we have one item left, and that is the discussion on the Board serving as the enforcement agency.

MS. MARKIE: Good afternoon, members of the Committee. The Permitting and Enforcement Committee has requested staff provide information on the duties and responsibilities of the Board when serving as the enforcement agency in lieu of a local enforcement agency.

DEPUTY DIRECTOR LEVENSON: Excuse me, Sue. Can you identify yourself for the record?

MS. MARKIE: I'm sorry. Sue Markie.

I'm going to be using some acronyms. LEA is for local enforcement agency.

So today I'll be updating you on the role of the Board serving as the enforcement agency. The other acronym is EA for enforcement agency. The enforcement philosophy, enforcement action, and the public notice process.

So how does the Board become the EA? Basically, there are four ways: If there is no LEA designated and certified by the Board; if the local governing body withdraws its designation and does not designate an alternative LEA, such as an adjacent county; if the Board

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withdraws approval of the designation and the local governing body does not designate an alternative; and also the Board can assume partial responsibility for specific duties, such as enforcement, permitting, or inspection for a specific site or situation.

In June 1993 the EA section was created within the Permitting and Enforcement Division. And we do the day to day oversight in the jurisdiction where we serve as the EA. And as a result, the section is charged with all the primary responsibility for carrying out all required duties and responsibilities. And we follow the same laws and time frames as any LEA. Currently, the Board serves as EA in the following jurisdictions: The counties of Santa Cruz and Stanislaus, the cities of Paso Robles Berkeley, and Stockton. We're responsible for 30 facilities and operations in 28 closed, illegal, and abandoned sites. This is outlined in Attachment 1.

A little bit about the enforcement philosophy. We have an enforcement program plan just like any LEA does. And in it is outlined everything, all of our permitting, our enforcement, our inspections. Any procedure that we've come across so far is in this little manual. And our goal is to ensure the protection of the public health and safety of the environment. And we pursue enforcement by all available means.

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So enforcement action levels are based on the seriousness of any issue. And our goal is to ensure compliance in as short a time as possible. So basically each enforcement level builds on itself to address the specific issue. And an issue may go directly from an enforcement inspection right into a notice of order depending on the situation. In the agenda item we've outlined the levels A through D. And I didn't know how much you wanted me to go through those, but basically it starts with inspection, either a monthly per our requirements, or we can be following up on a complaint, or just someone's concern. We'll go out and check it out, figure it out, do a written inspection, talk it over with the operator, if it's a permitted facility, or we'll try to get ahold of the landowner if it's an unpermitted illegal dumping sort of activity.

Basically, if it's an illegal activity, it will go right to a cease and desist. We only even schedule anything else within the other levels. We'll go right to that, address the illegal dumping, and tell them they need to stop doing what they're doing and correct what they've done. So there's solid waste on the site, and then they depress to remove it. Otherwise, with our permitted facilities, we always meet with the operator upon the exit interview, let them know what we've seen. If it's a

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violation, we'll tell them what's wrong and when we want it corrected by. If we need to go a little further we'll have a meeting. May need to involve the Water Board or the Air Board or the local CEQA people. Then we'll schedule a meeting so all parties can be involved.

Action level B goes into the 90-day notice of intent. If a facility has a violation for two months, we'll let the facility know that they will be listed on the inventory if they do not correct the violation. That third month we go out and if the violation still there, then they do go on the inventory list.

Action level C identifies all the notice and orders. Basically a notice and order is a legal document identifying what's wrong at a facility and steps to correct it by a certain time line. And in it there is cease and desist orders. There's corrective action orders, and there's compliant orders. Basically it's the same thing. It's just a notice and order. The stipulated notice and order is the same thing. You're working with the operator. It's signed by both the operator and the Board saying it's going to take over 90 days. Let's look at what we need to do. Like for a gas instance, it's kind of more of a working document, more of a team identifying the problems.

Action level D, we have not used this avenue yet,

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but we do have the steps in place. We've always been able to have compliance within the notice and order, cease and desist levels. If we had to be to action level D, we have it outlined to be working through our legal. And our legal reviews all of our notices and orders prior, before going out.

Since 1993 we've issued 25 enforcement orders. And I've attached that as Attachment 2. And basically there's seven notice of intents to list; six that actually got listed on the inventory; ten notice and orders; and two cease and desists. And the majority of the notices and orders have been for landfill gas issues. And typically that happens because even though the facility may actually have the system installed, there'll still be migration at the boundaries. It takes a lot to tweak a system. Sometimes because it's in, it doesn't mean they're pulling too hard on one end or another. It's really quite the science in talking to the folks at the landfills.

Sometimes it will come up and they'll have violations and they get listed on an inventory, but it doesn't mean they don't already have the system in place. It's just they're having problems, and we, as the EA, need to address that. Some of them are paperwork, such as permits. You can see in the attachment we kind of listed

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out what the problem was. But all in all, I would like to state that operators and owners we deal with in our permitted facilities have been very forthcoming on correcting any problems.

The other thing is the public notice process. The EA section is striving to respond to community concerns as soon as possible. And we maintain a current list of all pending solid waste facility permit applications, and we'll mail written notices of application to every person who is requested to be put on that list.

And although a request may not be given to us, we still will meet one of the following methods of speaking with the public. That's we'll publish what's happening, whether it's a revised permit coming up or new permit in the local paper. We post notices in the local area, and we've done direct mailing to the neighborhood community that's most affected by the changes.

And for the California Environmental Quality Act purposes, the public notice times are dependance upon that document prepared for the project. And this goes through the same public review. Once a CEQA document establishes 45-day comment period in which we would be commenting to as the responsible agency. And usually the public hearing is at the local level. Of course, effective January 1st,

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2004, AB 1497 will require additional public hearings. And currently we're revising our procedures to accommodate those new laws.

And we're also aware of public concerns surrounding the proposed expansion at the Fink Road Landfill in Stanislaus County. And we're currently working with the local community group establishing setting up some meetings. Right now the EA section, we don't have any legal responsibility over this proposed project. But once it does come out, then we will have responsibility to review the CEQA documents and work towards a permitting process. But what our hope is to go meet with the community and explain to them exactly what our role is and how the permitting process works so they're informed.

And I'm available to answer any of your questions. And I also extend the invitation if any of you or your staff wants to come out and do a local tour. Stanislaus County is pretty close. We'd be happy to take you out and about.

CHAIRPERSON PAPARIAN: Any questions, Members?

I have a quick question. In terms of public notice, you said that you let people know, who have expressed an interest about a facility, you let them know what's coming up in terms of permitting and so forth. How

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does someone know they could get on such a list? Do you just add people who have attended meetings and expressed an interest or --

MS. MARKIE: Pretty much we always let the people know -- like in Santa Cruz County there's one road that leads up into the landfill. We work with those neighbors so they know. And the city and/or the county also puts notices in the paper. So I mean, we do it above and beyond what's happening at the local level. But I mean, that is a really good question. And people may not know. We try to put the word out there. But usually it's the people that are concerned or have been following a particular issue that are the ones noticed.

CHAIRPERSON PAPARIAN: Okay. Thanks.

Ms. Peace.

COMMITTEE MEMBER PEACE: I just have a general question. On AB 1497 and the public hearings, in that bill is it spelled out exactly how to handle the public hearings? Like how far away people have to be noticed, or is that something that we at the Board will --

DEPUTY DIRECTOR LEVENSON: It does have a number of prescriptions on the distance and how you notice and several other requirements. Certainly we can go beyond that. I don't have the details.

CHAIRPERSON PAPARIAN: I mean, this came up in

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the workshop on Friday as well, some -- not necessarily issues, but some interest in what 1497 is going to require and how it's going to work. I think maybe we need to hear a brief presentation.

DEPUTY DIRECTOR LEVENSON: We certainly could. We were going to do that in a couple of different ways. One is the agenda item that comes back in January with respect to the C&D requirements as a -- one of those is public noticing. And 1497 differs from the current requirements in the C&D Phase One. I think C&D Phase One may be a little bit more restrictive. So we were going to compare and contrast. And certainly we're going to have to look at revising the regulations to conform to 1497 in general anyway. We would be stricter. But we could come in December -- I could give you the Deputy's report and update, or I could get you a memo out sooner than that in terms of what 1497 calls for.

CHAIRPERSON PAPARIAN: I think we heard it on Friday that you're going to be providing something to LEAs fairly soon, giving them guidance. I think the law says basically you can operate under the law as it ought to be or that we have the authority to adopt regulations. So I think, yeah, coming back in December -- since it takes effect on January 1st, coming back in December and letting us know at least what you're telling the LEAs and how you

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think it's going to be implemented would be a good thing. And I'll leave it to you and legal staff to determine whether that should be an agenda item or whether we can do that as part of your report.

DEPUTY DIRECTOR LEVENSON: If you would like a little bit more -- Sharon just handed me the draft that we're developing for the LEA advisory. If you want me to run though a couple of the points now, I can, regarding the public hearing.

CHAIRPERSON PAPARIAN: Do you want to hear some of that now or hold off until December? Ms. Peace indicates she wants to hear it now.

DEPUTY DIRECTOR LEVENSON: It's just a few of the key provisions. It requires EAs to hold a public hearing before making a determination on an application for a revised permit. And this speaks to revisions of permits. Authorizes -- well, let's see. It doesn't have the details on the distances.

COMMITTEE MEMBER PEACE: That's what I was wondering. It says it requires public hearings and a revision, but I was wondering, does it go into more detail?

DEPUTY DIRECTOR LEVENSON: It does, and we don't have that detailed information in this.

COMMITTEE MEMBER PEACE: So it's something that

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is spelled out more specifically in the bill itself?

DEPUTY DIRECTOR LEVENSON: To some extent.

CHAIRPERSON PAPARIAN: So I think coming back in December with a little bit more on that would be useful for the Committee.

Ms. Jones.

COMMITTEE MEMBER JONES: For information purposes or for guidance?

CHAIRPERSON PAPARIAN: Mr. Jones is asking for information purposes or for guidance. I think in December for information purposes, but that might lead to us needing an agenda item for guidance.

I was going to say, again, at the meeting on last Friday -- the workshop on Friday, it seemed there were some issues involving implementation of the legislation where some clarification through regulation would be appropriate. That will likely require some direction from the Board to the staff.

But I think that for the December time frame just hearing what the legislation requires and what we're telling the LEAs at that point is good. But I think we may fairly quickly need to follow-up with an agenda item to provide you some guidance for regulation. But I think we need the foundation first. So this would be the foundation, just what does it say and what are we telling

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the LEAs.

DEPUTY DIRECTOR LEVENSON: And we actually will provide you with an agenda item that serves as a vehicle in January. Because when we bring back the discussion on the C&D requirements, one provision is public noticing. We also are trying to juggle other provisions of 1497. And also in January we'll be bringing the rule making calendar. So we have to try to coordinate all the different rule makings that might be possible in response to 1497 and in response to the charge to look at the C&D requirements and try to figure out which ones we can do, which ones need to be done, and then how to coordinate those all. So I think January will be a good time to get all this out and coordinated.

CHAIRPERSON PAPARIAN: Okay. Anything else?

Mr. Jones.

COMMITTEE MEMBER JONES: Just a question for Ms. Markie. I couldn't let her go out, you know, giving her a little bit of a hard time. In your report or in your writing, you show level A which is based on the inspection report at the time of inspection. That as part of the guidance, it is that you've identified the issue and then you've also asked for a compliance date for it to be rectified and then it's signed. And I have had a longstanding issue with the fact that some of those

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compliance dates -- right -- should be something for further discussion. But because they're written on an inspection report, the operator never has the chance to appeal.

So I'm wondering how in your own write up where it says it actually calls for a compliance date for it to be fixed, how, where you've both identified the issue and the remedy, how that can't be something that's appealable, if it's arbitrary on the point of the LEA or in this case EA staff.

CHAIRPERSON PAPARIAN: I think our legal staff may want to jump in on that one.

COMMITTEE MEMBER JONES: That's who it was addressed to. Thank you, Sue. I appreciate that it was in there.

ACTING CHIEF COUNSEL BLEDSOE: Michael Bledsoe from the legal office.

I thought your question was for Sue.

COMMITTEE MEMBER JONES: It was through Sue.

ACTING CHIEF COUNSEL BLEDSOE: It seems to me you're describing a situation where EA acting in their discretion has decided an activity constitutes a violation. And so effectively they give a notice of violation by the form of an inspection report, but they chose not to go the next step which is to issue an

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enforcement order.

COMMITTEE MEMBER JONES: But they've asked for a completion date. They asked for a compliance date.

ACTING CHIEF COUNSEL BLEDSOE: Right. I understand that. I think it's a good question you're raising. But if they fail to meet that compliance date, I think the EA would have at that point to make the decision, do we give them an enforcement order or do we just give them another notice of violation, which is the same as any other EA does.

COMMITTEE MEMBER JONES: But if's an arbitrary issue that the operator has no option -- and that's the way it's been addressed today -- to get in front of any body to protest them. It seems to me that you're asking or you're saying that you not only had to violate it once, but you've got to have multiple violations for them to be able to appeal what had originally been just one issue. And now you're able to label that operator as somebody who has repeatedly broken that violation because we're not giving them the ability to have due recourse the first time that it was written up.

ACTING CHIEF COUNSEL BLEDSOE: Right. But really, this is just the same situation as any other enforcement agency has. You know, until the point is reached in that enforcement agency's mind that the only

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way they're going to get this operator to comply is by issuing a notice and order, that's what they do. And the operator can appeal it if they want.

But I see what Sue is describing is a situation where you have a positive working relationship with the operator and for the most part they want to comply so, you know, they put some time frame in there that I guess the EA thinks is reasonable for them to achieve compliance. But if they don't like it, the operator can simply refuse to comply and ultimately wait for that notice and order, and they can then appeal.

COMMITTEE MEMBER JONES: But this was a twist on all the arguments -- not your side of it. But all the way it's been described, it was only a notice through an inspection. This really kind of validates what I've always argued is that, you know, it's not just an inspection. It's the basis for an awful lot of stuff. So I think you need to think about the idea -- and rightfully so. I'm not getting you in trouble, believe me. Rightfully so you are asking for compliance and you're setting a date. That goes further than just noting something on an inspection report to be used for further -- and I think it's appropriate, but I think at some point we need to get into a position to allow people all of due process. So just --

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CHAIRPERSON PAPARIAN: If we go there, I think we may want to look at how some of our sister agencies, Water Board, Toxics, Air Board, handles similar sorts of situations.

MS. MARKIE: A lot of times the date is in conjunction with the operator. Like if we're waiting on the reorganization plan or we'll say, "When is it coming in?" It's almost like a little history. We'll put down "operator stated," you know, "new landfill system will be started by" blank. Or they're late in paperwork so we say, "please submit required paperwork by" a date. So --

COMMITTEE MEMBER JONES: Works for me.

CHAIRPERSON PAPARIAN: Okay. Thank you.

COMMITTEE MEMBER PEACE: So if on the inspection report they write up something that the landfill operator doesn't agree with, instead of saying, you know, "fix this by such and such a date," the operator can say, "I don't agree with this. Write me up a notice and order so I can appeal."

ACTING CHIEF COUNSEL BLEDSOE: Ms. Peace, that's really the issue that Mr. Jones is raising. And the practice is --

COMMITTEE MEMBER PEACE: They wouldn't have to wait until that compliance? They have to wait --

COMMITTEE MEMBER JONES: They do. That's the

problem. They have to wait until they become a chronic violator --

COMMITTEE MEMBER PEACE: There's no way for them to say, "I don't agree with this. Just write me up a notice and order right now so I can appeal it."

CHAIRPERSON PAPARIAN: And you get into also then a situation where the operator has a write of appeal -- the public ought to have a right of appeal if they don't agree with what's going on there as well.

COMMITTEE MEMBER JONES: And I agree because that's --

COMMITTEE MEMBER PEACE: With Florin-Perkins, you can see that doesn't happen.

CHAIRPERSON PAPARIAN: But I think we may be getting beyond the scope of this agenda item of the Board serving as an LEA.

COMMITTEE MEMBER JONES: We are. But you make a good point. The public today has the right to challenge any LEA in the state on any given inspection that they are not doing their job. And they get to come to this Board -- well, first they go through the local hearing panel and then to this Board on that one inspection. The operator doesn't have this ability. So I think you're right, Mr. Paparian.

CHAIRPERSON PAPARIAN: I'm not sure that's

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exactly the process in situations like this, but --

COMMITTEE MEMBER JONES: That is exactly the process.

CHAIRPERSON PAPARIAN: Okay. Anything else to come before the Committee?

Any public comment?

Okay. Thank you very much, everybody. This meeting is adjourned.

(Thereupon the California Integrated Waste Management Board, Permitting and Enforcement Committee adjourned at 4:19 p.m.)

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CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of November, 2003.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277