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MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
CENTRAL VALLEY AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, OCTOBER 13, 2004

9:30 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Rosario Marin, Chairperson

Linda Moulton-Patterson

Rosalie Mulé

Michael Papanian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Marie Carter, Chief Counsel

Jim Lee, Deputy Director

Howard Levenson, Deputy Director

Joanne Vorhies, Assistant Director

Patty Wohl, Deputy Director

Sue Happersberger

Jim LaTanner

Georgianne Turner

Susan Villa

ALSO PRESENT

Sean Edgar, California Refuse Removal Council

Chuck Helget, Allied Waste/BFI

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iii

APPEARANCES CONTINUED

ALSO PRESENT

Doug Hodell, Boutin Dentino

Gary Hormquest, Community Investment Fund

Steve Lautze, California Association of RMDZs

George Savage, Cal Recovery

Rick Wayne, Capital Crossing Bank

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iv

INDEX

	PAGE
I. CALL TO ORDER	1
II. ROLL CALL AND DECLARATION OF QUORUM	1
Pledge Of Allegiance	1
III. OPENING REMARKS	2
IV. REPORTS AND PRESENTATIONS	13
V. PUBLIC COMMENT	
VI. CONSENT AGENDA	31
VII. CONTINUED BUSINESS AGENDA ITEMS	
1. Consideration Of Applicant Eligibility And Program Criteria, And Evaluation Process For The Waste Tire Enforcement Grant Program For FY 2004/2005)	33
Motion	45
Vote	46
VIII. NEW BUSINESS AGENDA ITEMS	
Permitting And Enforcement	
2. Consideration Of A Revised Full Solid Waste Facilities Permit (Disposal Facility) For The Sycamore Landfill, San Diego County -- (October Committee Item B)	31
3. Consideration Of A Revised Full Solid Waste Facilities Permit For Yreka Landfill (Disposal Facility), Siskiyou County -- (October Committee Item D)	31
4. Consideration Of A Revised Full Solid Waste Facilities Permit (Transfer/Processing Station) For The McCourtney Road Transfer Station, Nevada County -- (October Committee Item E)	31
5. Semi-Annual Update And Publication Of The Inventory Of Solid Waste Facilities Which Violate State Minimum Standards -- (October Committee Item F)	32

INDEX CONTINUED

	PAGE
6. Consideration Of Augmentation For The Environmental Services Contracts For Landfill And Disposal Site Remediation (IWM03015A and IWM03015B) -- (October Committee Item G)	46
Motion	48
Vote	48
Special Waste	
7. Presentation And Discussion Of The Draft Report Entitled, "Evaluation Of Waste Tire Devulcanization Technologies" (Tire Recycling Management Fund FY 2002/2003, IWM-C2048X) -- (October Committee Item B)	32
8. Consideration Of Approval Of New Sites For Remediation Under The Waste Tire Stabilization And Abatement Program -- (October Committee Item C)	50
Motion	51
Vote	51
9. Consideration Of Scope Of Work For The Waste Tire Short Term Remediation Contract (Tire Recycling Management Fund, FYs 2004/2005 And 2005/2006) -- (October Committee Item D)	31
10. PULLED Consideration Of The Memorandum Of Understanding Between The State Of Baja California Of The United Mexican States, Through The Direction General De Ecologia And The State Of California, Through The California Environmental Protection Agency (Cal/EPA) And The California Integrated Waste Management Board -- (October Committee Item E)	32
11. Item Deleted	32
Education And Public Outreach	
12. PULLED Update To The Committee On The School Energy Efficiency (SEE) Program Goals And Objectives -- (October Committee Item D)	32

INDEX CONTINUED

PAGE

Sustainability And Market Development

13. Consideration Of Application To Expand and Renew The Chino Valley Recycling Market Development Zone Designation -- (October Committee Item B)	31
14. Consideration Of The 2004 Waste Reduction Awards Program's "WRAP of the Year (WOTY)" Winners -- (October Committee Item C)	31
15. Consideration Of Bulk Sale Of Recycling Market Development Revolving Loan Program Loans -- (October Committee Item D)	54
Motion	122
Vote	123
16. Consideration Of The Adequacy Of The Amended Nondisposal Facility Element For The Unincorporated Area Of Orange County -- (October Committee Item F)	31
17. PULLED Consideration Of The Adequacy Of The Amended Nondisposal Facility Element For The City Of Los Angeles, Los Angeles County -- (October Committee Item G)	32
18. Consideration Of The Adequacy Of The Five-Year Review Report Of The Countywide Integrated Waste Management Plan For The County Of Stanislaus -- (October Committee Item H)	31
19. Consideration Of The 2001/2002 Biennial Review Findings For The Source Reduction And Recycling Element And Household Hazardous Waste Element For The Following Jurisdiction: Lassen County: Lassen Regional Solid Waste Management Authority -- (October Committee Item I)	31
20. Consideration Of The 2001/2002 Biennial Review Findings For The Source Reduction And Recycling Element And Household Hazardous Waste Element For The Tehama County Sanitary Landfill Regional Agency -- (October Committee Item J)	31

Please note: These transcripts are not individually reviewed and approved for accuracy.

vii

INDEX CONTINUED

PAGE

21. Consideration Of A Request To Change The Base Year To 2000 For The Previously Approved Source Reduction And Recycling Element For The City Of Sacramento, Sacramento County -- (October Committee Item K)	31
22. Discussion And Request For Direction Regarding: Compliance With Disposal Reporting System; Site Surveys; And, The Survey Record Of The South Tahoe Refuse Transfer Station SWIS #09-AA-0002 -- (October Committee Item L)	32
23. Discussion Of Historical Progress And Current Achievement Of Diversion Goals -- (October Committee Item M)	32
IX. BOARD MEMBERS COMMENT	124
X. ADJOURNMENT	125
Reporter's Certificate	126

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1 PROCEEDINGS

2 CHAIRPERSON MARIN: Welcome, everybody, to the --
3 it's October -- the October Board meeting of the
4 California Integrated Waste Management Board. Toni, would
5 you please call the roll.

6 SECRETARY JIMENEZ: Moulton-Patterson?
7 Mulé?

8 BOARD MEMBER MULÉ: Here.

9 SECRETARY JIMENEZ: Papanian?

10 BOARD MEMBER PAPANIAN: Here.

11 SECRETARY JIMENEZ: Peace?

12 BOARD MEMBER PEACE: Here.

13 SECRETARY JIMENEZ: Washington?

14 Marin?

15 CHAIRPERSON MARIN: Here.

16 Well, we do have a quorum and we're going to
17 start. I know Ms. Moulton-Patterson will be coming in any
18 second now. But we're going to go ahead with the pledge
19 of Allegiance.

20 And Rosalie -- our Board Member Mulé has agreed
21 to do that for us.

22 (Thereupon the Pledge of Allegiance was
23 Recited in unison.)

24 CHAIRPERSON MARIN: Thank you, Ms. Mulé.

25 Okay. We're going to have -- Oh, Mr. Washington,

1 thank you for joining us.

2 Let the record show that he is here now.

3 We are going to start with opening remarks. And

4 I'm just going to call on to Ms. Peace to my left.

5 BOARD MEMBER PEACE: Are we doing our opening
6 presentations?

7 CHAIRPERSON MARIN: Yes.

8 BOARD MEMBER PEACE: Okay. Actually there's a
9 lot that's been happening in the tire world these days.

10 On the manifest system. Several months -- after
11 several months of meetings it looks like we are finally
12 coming to some resolution on how to simplify it, kind of
13 make it less burdensome for the regulating community as
14 well as for the Board. We should have an agenda item on
15 the proposed changes by December; maybe even as soon as
16 November if we're lucky.

17 I am so pleased that Rubia Packard will be
18 assisting our tire staff in this effort. So thank you,
19 Rubia, in advance. I know you will do a great job.

20 Since the last Board meeting the Special Waste
21 Committee had a workshop on the five-year tire plan.
22 Thank you, Mitch Delmage and Sally French for heading up
23 that effort.

24 We heard many suggestions, but the common theme
25 though was the five-year plan should concentrate on the

1 big ticket items like RAC and civil engineering uses where
2 we can get rid of the most tires in the most
3 cost-efficient way. And there should be less money spent
4 on studies to stop reinventing the wheel.

5 The next workshop will be held in Diamond Bar on
6 October 27th. If you would like to tell us what changes
7 you'd like to see in the Board's five-year tire plan, this
8 would be the perfect time to voice your opinion.

9 I will also be meeting with all of the Board
10 members as well to get their ideas.

11 I also attended our tire staff's roundtable
12 discussion of the RAC technical centers which was held in
13 Alhambra. And thank you, Nate Gauff and Bob Fujii, for
14 all of your work. Everyone was pretty much in agreement
15 that we need an effective outreach program to promote the
16 use of RAC to local public works personnel as well as to
17 the local elected officials. Another idea was to fund the
18 development of a continuing education course for engineers
19 on the use of RAC through UC Berkeley.

20 There was a question of whether or not we want to
21 expand the scope of the work the RAC technical centers to
22 include the promotion of civil engineering applications as
23 well as RAC.

24 And there is the question of how to handle the
25 public relations and the technical assistance work that

1 the RAC centers are doing. Do we bring some parts of that
2 in-house and make that and in-house effort, do we contract
3 out other parts, or do we leave things the way they are?
4 Our staff along with the tech -- RAC tech centers and the
5 Rubber Pavements Association all need to work together to
6 promote the benefits of using RAC. And as part of the
7 five-year plan we'll be deciding what will be the best way
8 to do this.

9 Actually it was during the RAC technical center
10 workshop that we got word that the Governor had vetoed
11 Levine's RAC bill AB 338. I would be remiss if I did not
12 make a brief comment concerning my disappointment over the
13 Governor's unexpected veto. The RAC bill was a top
14 priority for the Board, and in my view should have been a
15 top priority for the Administration as well. The bill
16 required CalTrans to use crumb rubber generated from U.S.
17 tires and specified minimum percentages of its total
18 asphalt usage.

19 I am encouraged, however, by the fact that the
20 Governor in his veto message said that he was supportive
21 of the overall policy of the bill, but was concerned that
22 by limiting the crumb rubber to that of U.S. origin only
23 that it might violate various trade agreements.

24 The Governor goes on to say that he encourages
25 the author to revisit the issue next legislative session

1 and to work with the Secretary of the State Consumer
2 Services Agency and the Secretary of Business,
3 Transportation and Housing Agency to find appropriate
4 language that will alleviate any possible legal challenge
5 which would invalidate otherwise good public policy.

6 I certainly do not claim any expertise in
7 international law. But maybe if we look at how the drug
8 bill that prohibits the importation of cheaper
9 prescription drugs from Canada was crafted, maybe we might
10 find our answer on how to craft a bill that would prohibit
11 the importation of cheaper Canadian crumb rubber. I know
12 that I will be doing everything I can do to help Lloyd
13 Levine in his efforts to hopefully produce a stronger
14 version of the RAC bill next year for the Governor's
15 consideration because laying RAC is good public policy.

16 And that's the end of my report.

17 CHAIRPERSON MARIN: Thank you, Ms. Peace.

18 And now that everybody else is here, let me just
19 go back to see if there are any ex partes that need to be
20 reported.

21 Good morning.

22 BOARD MEMBER MOULTON-PATTERSON: I'm up to date.

23 Thank you.

24 CHAIRPERSON MARIN: Okay. Ms. Peace?

25 BOARD MEMBER PEACE: I'm also up to date.

1 CHAIRPERSON MARIN: Ms. Mulé?

2 BOARD MEMBER MULÉ: Up to date.

3 CHAIRPERSON MARIN: Mr. Papanian.

4 BOARD MEMBER PAPANIAN: Yeah, on the way in here
5 I spoke with Terry Leveille and Scott Smithline about tire
6 related issues.

7 CHAIRPERSON MARIN: Okay. And Mr. Washington?

8 BOARD MEMBER WASHINGTON: I'm up to date.

9 CHAIRPERSON MARIN: Excellent. So am I.

10 Thank you.

11 Okay. We're in opening remarks.

12 Ms. Moulton-Patterson, would you like to share
13 any with the Board?

14 BOARD MEMBER MOULTON-PATTERSON: I think Ms.
15 Peace covered it adequately. I did attend the tire
16 workshop concerning the five-year plan. And we also had
17 one in Diamond Bar I believe for southern California
18 input. And it was very interesting. I think this is
19 really important.

20 I really want to publicly applaud Ms. Peace for
21 the way she's taken up being Chair of Special Waste
22 Committee and being a real advocate. And I agree with her
23 that we've got to do everything we can to make sure that
24 Senator Levine's bill is a success next year. And I think
25 your idea about checking into the Canadian drug situation

1 is excellent. They were able to do that.

2 So thank you. That's all my report for today.

3 CHAIRPERSON MARIN: Thank you, Ms.

4 Moulton-Patterson.

5 Ms. Mulé?

6 BOARD MEMBER MULÉ: Thank you, Madam Chair.

7 I had another busy few weeks. You and I both
8 went to Phoenix for SWANA's Waste Conference on September
9 23rd.

10 On September 24th I met with the Pala Indian
11 Tribe regarding Gregory Canyon landfill.

12 September 27th I gave closing remarks to the
13 Unified Education Strategy Institute, the AB 1548 work
14 group.

15 And on the 30th I was a keynote speaker at the
16 Association of Compost Producers workshop in Chino.

17 Then we joined again on October 6th for our tour
18 of Evergreen Oil in Newark, California.

19 On October 5th, I was here for workshop on
20 diversion programs.

21 On the 7th of October I went to Nevada County and
22 toured their facilities and learned a lot about the
23 programs that they're working on in Nevada County to meet
24 their 50 percent diversion goal.

25 And last but not least, yesterday I attended a

1 meeting that staff had put together, an excellent meeting
2 I thought with the plastics industry folks and processors,
3 just to talk about how we can -- what we can do to improve
4 collection systems for various types of plastics.

5 And that is my report.

6 Thank you, Madam Chair.

7 CHAIRPERSON MARIN: Pretty busy.

8 Mr. Papanian.

9 BOARD MEMBER PAPANIAN: Yeah, thank Madam Chair.

10 I attended the public workshop on AB 1497
11 implementation actually -- board Member Mulé was there
12 also -- on the issue of improving public participation and
13 possible related modifications to the solid waste facility
14 permit process. I think the staff did an excellent job of
15 pulling that workshop together and soliciting input from
16 stakeholders.

17 On September 29th, together with you, Madam
18 Chair, I attended the green lodging event in San
19 Francisco. It was an outstanding event. I think we may
20 hear a little bit more about it later. I know the Public
21 Affairs Office put a lot of effort into that, as did our
22 Waste Prevention and Market Development staff. Patty
23 Wohl's group -- Bill Orr and Roberta Kunisaki, in
24 particular -- did a great job working with the hotels and
25 helping pull together the 26 initial hotels and motels who

1 had the honor of being green and being listed on our
2 website and on the state procurement website as being
3 green hotels where we will encourage state employees to
4 stay and others as well.

5 And I might also note that there are hotels in
6 all price categories, from Econo lodges on up. So, you
7 know, we can stay well within our state per diem and
8 participate in the green lodging program.

9 There was a workshop on October 5th to discuss
10 improvements to the AB 939 diversion compliance system. I
11 think staff may talk about this a little bit later. This
12 was a -- it was a very well attended workshop. The
13 participants and the staff really provided some very
14 substantive input. And there will be more opportunities
15 for stakeholder input. I think their workshop's scheduled
16 for November 30th in southern California and December 2nd
17 here in Sacramento.

18 And I think we'll talk more about the substance
19 of that later.

20 On October 7th we had an E-waste stakeholders
21 workshop, again a very well attended workshop, to go over
22 the latest emergency regulations that will be before the
23 Board in November, first at the Sustainability and Market
24 Development Committee on November 3rd, and then the full
25 Board on November 9th.

1 The E-waste program is going into effect January
2 1st. I think we'll -- the staff is doing a great job
3 ramping up, getting ready for that. But, you know, fasten
4 your seat belts. We're going to be doing a lot of stuff
5 on E-waste and probably have a lot of questions about the
6 E-waste program over the coming months.

7 On the EMS effort for the building I wanted to
8 single out Susan Villa and Renee Lawver for special
9 thanks. They've been doing a really good job of pulling
10 together creative approaches to assuring that we can put
11 100 percent post-consumer recycled content paper
12 throughout the building. Of course we don't want to use
13 paper where we can avoid it. But to the extent we need to
14 use paper, having the 100 percent recycled paper has been
15 a challenge given some of the state procurement rules and
16 practices, and Susan Villa especially has really come
17 forward and come up with some creative ways in working
18 with the Department of General Services and the other
19 BDO's in this building to assure that we get that recycled
20 content paper.

21 And then, finally, I wanted to mention that I
22 have talked to Gary A-K about improving our web broadcasts
23 from our Board meetings in particular, trying to figure
24 out some way to allow those listening in on the web
25 broadcasts to see the PowerPoints and other slides that

1 come up that we see here in this room. And Gary has a
2 couple ideas on that. I've talked to Mark Leary about
3 this as well. And hopefully there will be at least a
4 quick and simple way to do that sometime in the coming
5 months.

6 CHAIRPERSON MARIN: Excellent, Mr. Papanian. I'm
7 sure Mr. Leary will follow your lead on that.

8 Mr. Washington.

9 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.
10 Just a couple of things.

11 I had a few meetings down in district with -- I
12 also met with the Pala Indians regarding Gregory Canyon
13 landfill once again.

14 And then I met with the County of Los Angeles
15 folks. And hopefully at some point we'll get to talk
16 about some of the things that they are taking a proactive
17 approach on addressing some of the playground stuff that's
18 going on across the State of California in the County of
19 Los Angeles.

20 As well as I want to attach my comments to those
21 of Chair Moulton-Patterson as to the job that Ms. Peace is
22 doing with our Special Waste. And I too think she is
23 doing an absolutely wonderful job getting on top of the
24 issues that are before our Committee.

25 BOARD MEMBER MOULTON-PATTERSON: I understand,

1 Mr. Washington, she even dreams about tires.

2 (Laughter.)

3 BOARD MEMBER WASHINGTON: Well, that's what
4 happens when you really get into it.

5 (Laughter.)

6 BOARD MEMBER WASHINGTON: And then, Madam Chair
7 and Board members, I was prepared to give a report on my
8 trip to Peru. But I just went up and I was -- I spoke
9 very briefly to Secretary Tamminen. And I'll meet with
10 him before I give my report, because I might have to forgo
11 my report because it might not be work related. So I'll
12 meet with the Secretary first and then we'll figure out if
13 we can give our report at a later date.

14 Thank you.

15 CHAIRPERSON MARIN: Thank you, Mr. Washington.

16 Okay. I just want to let everybody know that,
17 yes, in fact I attended the SWANA conference. I was able
18 to give a speech about where we're going in California
19 regarding that. And we had a great time, Ms. Mulé, in
20 looking at everything that is going on throughout the
21 nation.

22 We met -- I met with people from the Pala Band of
23 Mission Indians as well as with representatives from River
24 Watch on September 24th. And we had a great time at the
25 Hotel Triton with Mr. Papanian and all staff.

1 Congratulations, Mr. Leary. It's so wonderful to see so
2 many great articles about what we're doing and how we have
3 been the force that leads that. Mr. Jon Myers, thank you
4 for great work on that.

5 And then we attended Evergreen in Newark on
6 October 6th. That was a remarkable -- it's a remarkable
7 company that is recycling, I want to say -- re-refining
8 motor oil, but the quantities are just staggering. I'm
9 probably going to say the wrong amounts, so I better not
10 say it. But it's a very remarkable company. And as one
11 point in time I'm sure we'll bring them over to the Board
12 for -- to see exactly what they're doing, how they're
13 doing. And what a remarkable success as a company they
14 are.

15 So with that, the next item is reports and
16 presentations.

17 Mr. Leary, you're going to -- you have a few
18 comments.

19 EXECUTIVE DIRECTOR LEARY: Yes, Madam Chair.
20 Thank you. And good morning, members. And count me among
21 the many people in this room who dream about tires.

22 (Laughter.)

23 EXECUTIVE DIRECTOR LEARY: Thanks for your
24 positive comments on the work the staff have done. As
25 always, we really appreciate that feedback.

1 I've Got about five brief items to report on this
2 morning. Several are holdovers and information I know you
3 want to be updated on.

4 First of all, good ol' La Montana, which is
5 becoming my regular kickoff for my Executive's report
6 every month. I wanted to keep the Board abreast of
7 developments and plans related to the cleanup of the
8 aggregate recycling system site in Huntington Park. Staff
9 has been working with the court-appointed receiver and the
10 City of Huntington Park to obtain the final authorization
11 to proceed with the project. A court hearing is scheduled
12 at a 1:30 this afternoon to consider the receiver's report
13 and a certificate to grant the authorization. We're
14 optimistic that we'll get this final approval needed to
15 initiate the cleanup that this community so justly
16 deserves.

17 In anticipation of a positive outcome at this
18 afternoon's hearing, we are tentatively scheduling a
19 public meeting at the Westside Community Center in
20 Huntington Park on Thursday evening, November 4th. The
21 city and Communities for Better Environment will assist us
22 in issuing a public notice for the meeting.

23 We expect to mobilize equipment and start debris
24 removal within one or two weeks following the public
25 meeting. And that cleanup will take approximately 12

1 weeks to complete.

2 We will inform you later today possibly about the
3 outcome of today's court hearing.

4 Two of our staff members, Shirley Willd-Wagner
5 and Glenn Gallagher, attended the fourth in a series of
6 dialogs hosted by the Product Stewardship Institute to
7 discuss leftover paint management issues. The dialog has
8 been highly successful in bringing key stakeholders,
9 including paint manufacturers, recyclers, retailers, and
10 federal, state and local government representatives,
11 together to develop a plan to reduce the costs of managing
12 leftover paint. The group has agreed to a memorandum of
13 understanding, accompanied by a portfolio of projects to
14 be undertaken over the next 18 months.

15 Shortly you will be provided a package containing
16 the MOU, the list of projects and funding sources, and
17 plans to continue the dialog over the next two years.
18 Secretary Tamminen will be asked to signed the MOU for the
19 State of California.

20 Thirdly, in light of the festivities Last month,
21 I decided to hold this item over till this months. It's
22 both a cautionary tale and a great example of getting
23 rewarded for doing the right thing, which you might get as
24 much of the credit for as anybody, as the Board members
25 played the major role.

1 Apparently prior to 2002 the Board has not
2 submitted its annual vehicle accident report until Carol
3 Baker with our Admin and Finance Division took it upon
4 herself to do so. You all know Carol. She's the one that
5 never stops smiling. The bad news here is that we do have
6 vehicle accidents to report each year. The good news,
7 which I'm happy to report, is that from 2002 to 2003, our
8 accident rate declined. Since each of you travels
9 throughout the state quite extensively, let me be the
10 first to thank you all for being so careful.

11 Since our second report showed the greatest
12 improvement of all state agencies with fewer than a
13 million miles driven, the Department of General Services
14 honored each of you and all of our employees with this
15 elegant nonsustainable harvested walnut plaque.

16 Madam Chair, with your permission, I'd like to
17 add this to the Board trophy case, which will soon be
18 located to the 24th floor.

19 CHAIRPERSON MARIN: Absolutely.

20 EXECUTIVE DIRECTOR LEARY: And then a couple of
21 kind of continuing news and maybe something I've been a
22 little bit recalcitrant reporting upon. Executive staff
23 continues to make great progress on the suggestion box
24 suggestions that we receive. What we have lacked is, with
25 the departure of Sheridan Merritt, a staff person to kind

1 of help us facilitate the management of that electronic
2 suggestion box.

3 We have addressed a number of issues in the
4 suggestion box. The BAWDS management -- the management of
5 agenda items. We've developed an improved system in
6 response to the staff suggestions in that regard. We've
7 talked about state travel and car rentals. We're ready to
8 update the suggestion box in that regard. As well as you
9 might have seen my offer of a job rotation opportunity at
10 Cal EPA working on environmental justice that was very
11 favorably responded to by staff and this organization. I
12 see that as kind of a fallout from the staff suggestion
13 about enhancing their professional development.

14 So I want to reaffirm my commitment to responding
15 to the staff suggestions. Again, what we've lacked is the
16 ability to input those responses. Through Julie's help
17 we've acquired -- or kind of reaffirmed or reset Jill
18 Jones' priorities a little bit. And she will be helping
19 us to update that suggestion box. And you'll see in the
20 next couple of days actual updates on the suggestion box.
21 And that -- I reaffirm that commitment in our staff as
22 well.

23 And then, lastly, I wanted to update the Board,
24 since we have a shorter agenda, for a few minutes on what
25 I've been involved in and what I know about in regards to

1 the California Performance Review, CPR.

2 Since the release of the CPR back in early August
3 much effort has gone into seeking California's
4 perspectives on the recommendations. These efforts as far
5 as I know have been on three fronts: One has been the CPR
6 commission and its formal input-gathering efforts; two is
7 the Secretary Tamminen's public listening sessions that
8 he's held; and then, thirdly, there's been an executive
9 working group team that I've been part of here at Cal EPA
10 to help assist Secretary Tamminen in the analysis of the
11 CPR report.

12 In regards to the first, the CPR Commission, you
13 all know there's 21 members were appointed at the CPR
14 Commission. They've conducted seven meetings around the
15 state and have one more in Irvine a week from today. Over
16 the course of these meetings they have been focused on
17 individual sections of the report and have taken testimony
18 from a multitude of California citizens. In Fresno they
19 discussed environmental protection and they heard from the
20 Sierra Club, WSPA, Burtec, In-planning Conservation
21 League.

22 In Davis a couple weeks ago they discussed a
23 Governor reorg and the government model of boards and
24 commissions versus departments. And they heard from the
25 League of Conservation voters and the California Chamber

1 of Commerce. They've taken a lot of input.

2 My understanding is that next week in Irvine they
3 will talk among themselves -- they will not take public
4 testimony at that point -- talk among themselves about all
5 they've heard and what they ultimately will put forward
6 for the Governor's consideration.

7 I've heard kind of via the rumor mill that in
8 addition to all the recommendations in CPR, they now have
9 another 3,000 or so to deal with as a result of some of
10 this testimony that's come in in response to CPR. So
11 obviously there's a lot of people out there thinking about
12 how California government operates and are offering a lot
13 of input.

14 Secondly, Secretary Tamminen's listening
15 sessions. He's had focused listening sessions among many
16 of the Cal EPA stakeholders. He had a special session
17 with environmental groups, another session with the
18 industry, another session with local government, with
19 agriculture, and then a joint session with Secretary
20 Chrisman on some of the overlap issues with resources.

21 I can't tell you today that I've sat in on every
22 one of them. I've sat in on a couple of them. The
23 dialogue has been very diverse. A number of perspectives
24 offered in support of a board versus department. A number
25 of suggestions offered in support of some of the

1 recommendations in CPR, others opposing recommendations.
2 They've virtually, as you might expect, given the
3 diversity of stakeholders, been all over the map in terms
4 of the recommendations to Secretary Tamminen.

5 And then thirdly and finally is the executive
6 working group that I've participated in. It's a smaller
7 group, consisting of the executives of Cal EPA BDO's.
8 I've sought some of the assistance of Board staff and
9 giving a refined analysis some of the recommendations.
10 Again, there's been diverse discussions about many of the
11 recommendations in the CPR. The discussion has been much
12 about analysis and not so much about taking perspectives
13 or supporting recommendations or opposing them; trying to
14 assist Terry Tamminen in his thinking about whether the
15 CPR analysis is incomplete, has it failed to recognize
16 certain things? Is it short in some areas or
17 overemphasizes other things in some recommendations?

18 A good example is the Resources Agency -- or
19 Resources Section Recommendation No. 23, which recommends
20 the elimination of the Waste Board and the provision of --
21 and the decisions on waste facility permits. We've
22 offered a lot of thoughts in regards to that
23 recommendation and -- because we felt that the CPR report
24 underappreciated the value of the Waste Board's
25 participation in solid waste facility permitting.

1 We offer a standard protocol for all of the
2 California agencies to go by. We do just a lot of
3 analysis provided in that regard. And that's how we've
4 been assisting Secretary Tamminen on the executive working
5 group.

6 And in closing I thought you'd enjoy some
7 testimony offered by Tom Adams at the CPR League of -- at
8 the CPR Commission hearing. Tom Adams, as you know,
9 represents the League of Conservation Voters. And he
10 testified in the whole discussion about boards versus
11 departments. And I thought you'd get a kick out of how he
12 framed the -- as he closed his testimony.

13 He said:

14 "For those seeking maximum efficiency in
15 government there's little doubt that board and commission
16 process seems cumbersome and slow. Yet it allows
17 democracy to function and it gives legitimacy to
18 government decisions. I wish to close by reminding the
19 Commission of a famous quotation from our own
20 revolutionary war period. 'A monarchy is like a merchant
21 man. You get to ride on board and ride the winds and tide
22 in safety and elation. But by and by you strike a reef
23 and go down. Democracy is like a raft. You never sink
24 but, damn it, your feet are always in the water.'"

25 (Laughter.)

1 EXECUTIVE DIRECTOR LEARY: So with that, Madam
2 Chair, I close my Executive Director's Report.

3 CHAIRPERSON MARIN: Your feet are in the water or
4 you're higher. Either way.

5 Yes.

6 BOARD MEMBER PEACE: Can I just make one comment?

7 Mr. Leary mentioned that the CPR group had heard
8 from Burtec. They are also EDCO in San Diego. And that
9 they were in support of elimination of the Board. And I
10 just find this very interesting in light of the fact that
11 when we going through C&D regulations they lobbied me hard
12 as well as all the other Board members. They lobbied us
13 hard to get the lower limits, much lower limits in the C&D
14 regulations than what staff had recommended. So I just
15 find that very interesting that now they think that we
16 could be eliminated.

17 CHAIRPERSON MARIN: Okay. Anybody else? Any
18 questions?

19 Is this thing working?

20 BOARD MEMBER MOULTON-PATTERSON: I don't know if
21 I'm hitting this right.

22 CHAIRPERSON MARIN: It's not working?

23 BOARD MEMBER MOULTON-PATTERSON: Is my name up
24 there?

25 CHAIRPERSON MARIN: No.

1 BOARD MEMBER MOULTON-PATTERSON: Anyway, if I
2 might, Madam Chair.

3 CHAIRPERSON MARIN: Okay. Go ahead.

4 BOARD MEMBER MOULTON-PATTERSON: Maybe I'm not
5 punching the right button. I'll work on that.

6 Two things. Just wanted to tag on to what Ms.
7 Peace said. I was very disappointed to see Bertech's
8 comments on behalf of CRRC. And Mr. Edgar's here today.
9 I know he's involved in that group. And I think he knows
10 how beneficial this Board has been and how we've listened
11 to CRRC's comments. And what a slap in the face to read
12 that from your -- is it your president -- or whoever that
13 spoke to the committee or the commission. And so --
14 because I know we've done everything we possibly can to
15 listen and to be fair on that.

16 So if you could convey that back, that we were
17 very surprised to read that in our Inside Cal EPA.

18 Secondly, I just want -- that's wonderful news
19 about our lack of accidents. But I too would like to
20 remind the Board, as I did six months ago, after I took
21 it, that anyone who drives a state car is to take the
22 defensive driving training and have a card on file. And
23 it really, really was -- I took it, you know, kicking and
24 screaming and all that. I didn't want to take a half day
25 to do it. But I did it, as Ms. Bruce did. And you really

1 learn a lot about if you do have an accident, you know,
2 what you're supposed to say, what you're supposed to do.
3 And it was very, very beneficial.

4 So I know nobody wants to really sign up for it
5 and take, but it's well worth the time. And we are
6 required to do it if you drive a state car.

7 So thank you.

8 CHAIRPERSON MARIN: Thank you, Ms.
9 Moulton-Patterson.

10 I want to take that driving -- I did not know I
11 had to take it.

12 BOARD MEMBER MOULTON-PATTERSON: I'm not sure --
13 see, I didn't know about it for a long time either.

14 CHAIRPERSON MARIN: I will take it. Somebody
15 sign me up for that, Mr. Leary. Okay.

16 (Laughter.)

17 CHAIRPERSON MARIN: Sign us all.

18 (Laughter.)

19 CHAIRPERSON MARIN: No. Sign -- I can only speak
20 for myself.

21 But thank you, Ms. Moulton-Patterson.

22 Let's see. Any further questions? Any other
23 comments from up here.

24 Okay. What we're attempting to do, for those of
25 you who see the agenda every day or every month, we're

1 going to make a little switch from now on. And we're
2 going to have public input at the beginning of the meeting
3 instead of being the last item on the agendas. It's going
4 to take a little bit to get used to that, I am sure. But
5 we want it if -- for people that wish to address the Board
6 on items that are not on the agenda, you will have the
7 opportunity to address the Board at the very, very
8 beginning of the meeting. I understand that there were
9 sometimes people that wanted to address the Board and they
10 would have to wait one or two days and at the very end.
11 And this, hopefully, would allow or enable people from the
12 public to address the Board at the very, very beginning.
13 And we want you to know that your comments will be
14 welcome.

15 Of course if you have a comment regarding an item
16 on the agenda, then we'd appreciate if you'd just wait
17 till that item is presented.

18 But we just wanted to make this Board very open
19 and free. We'd like to listen to what California wants to
20 say and has to say. I want to assure you that we will
21 listen to your comments very, very carefully, as this
22 Board has always done. We'll give you an opportunity
23 to do it at the very beginning of the meeting. And I know
24 this is the first time it appears here. If anybody wishes
25 to address the Board on any items not related to the

1 agenda, then you may do so at this time.

2 And if you do address the Board, we just want you
3 to fill out a form and give it to the Board Secretary,
4 Toni, and we will listen to you. I'm sure there probably
5 won't be anybody. Oh, maybe there is somebody.

6 Is there somebody?

7 Wow, how neat.

8 The speaker forms are in the back.

9 I'm so excited. We have one client. We have
10 one.

11 So we will do that. And we think that this
12 will -- this will open the Board to more and more people
13 wanting to access the Board.

14 MR. EDGAR: Madam Chair, Board members, good
15 morning. If I may write and chat at the same time.

16 CHAIRPERSON MARIN: Sure, go ahead, go ahead.
17 This is the first time we're doing this this way, so you
18 can do that.

19 MR. EDGAR: Great. I appreciate having the
20 opportunity to address you briefly this morning. Sean
21 Edgar on behalf of the California Refuse Removal Council.
22 And I appreciate the comments and observations of the
23 Board members relative to the article that was presented
24 in Inside Cal EPA.

25 And although I know the transcripts were lengthy

1 with regard to the Fresno hearing, I was in attendance,
2 and maybe I can provide a little bit of additional detail
3 on what Mr. Herbert for Burtec was indicating in his
4 testimony. And a tremendous volume of material that CRRC
5 and other organizations tried to digest in the form of a
6 2500 page report.

7 And our discussion really centered around what
8 does CPR represent to perhaps change the status quo. I
9 think -- I don't know that anybody in the State of
10 California is believing that the status quo is really
11 delivering what we all might need. And so our comments in
12 terms of formulating what we would like to see out of CPR,
13 if you may note in Mr. Herbert's comments, he mentioned
14 that, first of all, there always has to be a venue for
15 stakeholder input on development of regulations and in
16 furthering the cause of recycling.

17 So with regard to the option that was presented,
18 I'm not sure that I would characterize CRRC's position as
19 personal or we don't like a six-member board or -- I would
20 characterize CRRC's position as streamlining can have some
21 positive outcomes and streamlining has to be done in the
22 context where we have a venue for stakeholders to come and
23 interact. And whether that venue is referred to as a
24 board, commission, what is important to us is that at the
25 end of the day we're able to further the cause of resource

1 conservation, that we have a mechanism to come in front of
2 a group, a panel of experts such as yours and resolve the
3 issues that are important to the business -- to our
4 business and to the customers that we serve.

5 So just to put a little bit of point on it, the
6 options -- there was a little bit of what I'll call -- the
7 report itself was light on details, and it seemed to say,
8 "Well, eliminate this but add this, add some expert
9 advisory capacity." And so where we tried to pick up the
10 ball is to say, "Hey, we can believe that streamlining has
11 some advantages to us, but here's what we know we need.
12 We need a group of experts. You're a group of experts, so
13 we need that venue."

14 And so I wanted to provide that little bit of
15 context for you. And thank you for your continuing work.
16 And I'm hopeful that over the next several months we'll
17 see, by virtue of the public -- the additional public
18 input that's been presented, that we'll actually see some
19 more detail start to come together and we'll actually end
20 up with a better pollution prevention and waste management
21 function than we have today. So I wanted to have that
22 opportunity to share with you. And thank you very much.

23 CHAIRPERSON MARIN: Thank you for your comments.

24 Mr. Paparian.

25 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam

1 Chair.

2 I mean, Sean, the way you're describing it -- I
3 actually read the transcript and read the testimony. It
4 did sound a little bit different than the way you just
5 expressed it. Is there a change or is it -- I mean I
6 think the transcript and the testimony were pretty clear
7 that there were options other than the type of board that
8 we have right now that the group was supporting --

9 MR. EDGAR: Well, as I recall --

10 BOARD MEMBER PAPARIAN: -- involving, you know,
11 staff hearing the direct input from the stakeholders and
12 perhaps a very, very small appellate body of some sort.

13 MR. EDGAR: If I may through the Chair. I
14 believe that there were 24 separate recommendations under
15 the resource conversation side. And we took a -- CRRC
16 went through methodically. And Mr. Herbert testified I
17 believe on about -- he expanded on about 4 of those items
18 and lent support to about 12 of those items, I believe.
19 So with regard to the -- I would say that, no, there's no
20 change in position.

21 But what I'm attempting to do this morning is to
22 clarify what items he may not have expanded on there. And
23 what I'm explaining to you is that stakeholder access,
24 expert advisory capacity and some sort of appellate
25 function are highly critical to CRRC and the other folks

1 in the waste management industry. And those are the
2 things that we'd like to see. And it's still not enough
3 specificity whether that is a six-member panel or whatever
4 other version may come.

5 I don't know if that helps answer your question.

6 BOARD MEMBER PAPARIAN: Maybe in a different
7 context you and I can sit down and go over it. Because,
8 as I say, I have read the testimony and the transcript,
9 and my impressions are a little bit different. But, you
10 know, we can talk about that.

11 MR. EDGAR: Absolutely. Be happy to spend time
12 with any or all of you at your pleasure.

13 Thank you.

14 CHAIRPERSON MARIN: Thank you.

15 You know, communication is something really,
16 really difficult. Sometimes you say something and what we
17 hear might be something different. And we all have our
18 reasons to feel somewhat on the defensive. So I'm sure
19 clarification is necessary. If three Board members have
20 the same perception, then it's -- that needs to be
21 clarified.

22 Thank you for your comments though.

23 Chuck Helget.

24 MR. HELGET: Madam Chair, members of the Board.
25 Chuck Helget representing Allied Waste.

1 Lest -- I hesitate to testify. But as members of
2 CRRC, I want to make sure that we're distinguishing our
3 position from the one that they have taken at the Fresno
4 hearing.

5 Allied Waste cosigned a letter with Waste
6 Management in full support of the Board. And I want to
7 make sure that the Board members are aware of that. And
8 we will continue to support the Board. We did acknowledge
9 in our letter that we thought there might be some need for
10 review of redundancies in the permitting process and in
11 CEQA, but unequivocally support the Board.

12 Thank you.

13 CHAIRPERSON MARIN: Thank you, Mr. Helget.

14 Okay. Well, thank you.

15 The next item is the consent agenda. And let's
16 see. For your information, we have quite few items on
17 consent.

18 Before I do that, I want to ask -- oh, no. let
19 me tell you items on consent. Item No. 2, Item No. 3, No.
20 4, No. 9, 13, 14, 16, 18, 19, 20, and 21.

21 I'll ask this rhetorical question: Does anybody
22 wish to remove any items from the consent calendar?

23 Okay. Is there a motion to approve the consent
24 calendar?

25 BOARD MEMBER MULÉ: Move approval.

1 BOARD MEMBER PAPARIAN: Second.

2 CHAIRPERSON MARIN: Moved by Ms. Mulé and
3 seconded by Mr. Paparian to approve the consent calendar.

4 Please call the roll, Ms. Jimenez.

5 SECRETARY JIMENEZ: Moulton-Patterson?

6 BOARD MEMBER MOULTON-PATTERSON: Aye.

7 SECRETARY JIMENEZ. Mulé?

8 BOARD MEMBER MULÉ: Aye.

9 SECRETARY JIMENEZ: Peace?

10 BOARD MEMBER PEACE: Aye.

11 SECRETARY JIMENEZ: Paparian?

12 BOARD MEMBER PAPARIAN: Aye.

13 SECRETARY JIMENEZ: Washington?

14 BOARD MEMBER WASHINGTON: Aye.

15 SECRETARY JIMENEZ: Marin?

16 CHAIRPERSON MARIN: Aye.

17 Okay. Let me just go over a couple of things
18 that have happened on the agenda. Just for your
19 information, there were items that are Committee only, and
20 that was Item No. 5, so we're not going to listen that,
21 Item No. 7, Item No. 22 and Item No. 23.

22 Items that were pulled or deleted was Item No.
23 10, No. 11, 12, and 17.

24 So with that, we're going to listen to the first
25 item, which is actually Item No. 1.

1 Mr. Lee.

2 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

3 And good morning, Board members. My name is Jim Lee with
4 the Special Waste Division.

5 Item No. 1 is consideration of applicant
6 eligibility and program criteria and evaluation process
7 for the Waste Tire Enforcement Grant Program for Fiscal
8 Year 2004-2005.

9 This item was continued from the September Board
10 meeting. There were issues and concerns that were raised
11 by stakeholders such as the League of California Cities,
12 and some questions that were raised by the Board members.
13 Some of the issues that came up during that discussion
14 were on applicant eligibility and how to apportion
15 available grant funds in the event of program
16 oversubscription, among others.

17 I've asked Sue Happersberger of my staff to give
18 a brief recap of the changes and revisions that the
19 Board -- that the staff has made in the item to address
20 these concerns.

21 Sue.

22 (Thereupon an overhead presentation was
23 Presented as follows.)

24 MS. HAPPERSBERGER: Good morning. Sue
25 Happersberger with the Board's Waste Tire Enforcement

1 Program.

2 The following revisions have been made to the
3 continued items since our September Board meeting last
4 month.

5 First, cities meeting the applicant eligibility
6 criteria that are already covered by a grantee, that is,
7 the county LEA, may apply if they demonstrate that their
8 city is not being adequately served by the county LEA
9 grantee. Yvonne Hunter from the League of Cities has
10 reviewed and approved the new city eligibility language.

11 Second, staff clarified that there is flexibility
12 in the maximum number of inspections conducted, one
13 routine inspection and two reinspections to resolve a
14 compliance issue, if additional inspections are warranted
15 and approved by the grant manager.

16 Third, staff added language, reviewed and
17 approved by Yvonne Hunter, that grantees that purchased
18 vehicles with grant funds will be required to consider the
19 guidelines included in the State Department of General
20 Services management memo related to vehicle purchase and
21 lease policy issued July 6th, 2004. Grantees will be
22 strongly encouraged to meet the requirements of the DGS
23 memo for any vehicle purchased with grant funds. The
24 grantee will be asked to provide a brief explanation if
25 it's not possible, feasible or practical to meet the

1 criteria.

2 In addition, staff added a new requirement for
3 grantees that purchase or lease to own vehicles with grant
4 funds to execute required documents to give the Board a
5 security interest in the vehicle for up to five years.

6 Fourth, staff added some additional grantee
7 performance criteria including grantee participation and
8 joint inspections and training with Board staff and a
9 field staff's assessment of grantee performance.

10 Fifth, if the grant program is oversubscribed,
11 Board staff will consider a county's population, total
12 number of priority sites, and any known threats to public
13 health, safety or the environment to modify grant requests
14 as necessary.

15 --o0o--

16 MS. HAPPERSBERGER: If the grant becomes
17 oversubscribed, staff will assess necessary modifications
18 of an applicant's grant request using the following
19 criteria: County population, total number of sites,
20 staff's assessment of the jurisdiction's need from
21 complaints and referrals, illegal dumping, enforcement and
22 surveillance activities needed.

23 And staff's assessment will also include looking
24 at existing grantee performance in the following areas:
25 Grant funds used or unused, number of inspections

1 conducted, and enforcement and surveillance activities.

2 --o0o--

3 MS. HAPPERSBERGER: Staff will initially consider
4 the overall county population to set up a potential base
5 grant award as follows in the table before you. This
6 criteria was added because some grantees expressed concern
7 about potential oversubscription cuts and their ability to
8 continue to fund existing tire staff. This criteria gives
9 them some idea as to where staff will start in estimating
10 each jurisdiction's potential funding.

11 These potential minimum grant awards are based on
12 the minimum amounts that could be currently given to each
13 county based on annual grant program funding and current
14 county population figures from the California Department
15 of Finance.

16 However, these base amounts and any additional
17 funding must also be supported by the total number of
18 priority sites in the county and priority site criteria
19 and applicable performance criteria as described
20 previously.

21 This concludes my presentation.

22 Any questions?

23 CHAIRPERSON MARIN: Thank you, Rose.

24 Let's see.

25 Okay. Whose on first? Mulé.

1 Okay. Go ahead.

2 Okay, there it is. Now it's working.

3 Ms. Peace.

4 BOARD MEMBER PEACE: If you have some
5 questions -- if you have questions, go ahead and ask
6 questions. I just had some comments to make.

7 Anybody have any questions.

8 CHAIRPERSON MARIN: She has questions.

9 Ms. Mulé.

10 BOARD MEMBER MULÉ: Thank you, Madam Chair.

11 Jim, I do have a question on page 1-8, the over
12 subscription criteria. I do not recall last month us
13 using population as an initial consideration. And I was
14 just wondering how -- when did that change take place?
15 And how did we come about changing it so that population
16 is an initial consideration rather than the other
17 criteria, the total number of sites, the need, et cetera.

18 Thank you.

19 DEPUTY DIRECTOR LEE: Thank you, Ms. Mulé.

20 This is one of the things that -- you know, that
21 the staff is committed to kind of this ongoing evaluation
22 of a process. And there may not have been specific
23 questions that came up during the Board discussion. But
24 in our discussions with the League of California Cities,
25 among other stakeholders, some of the grantees again had

1 indicated, as Sue mentioned in her remarks, had indicated
2 a concern with regards to the oversubscription criteria.

3 So this is one of the things where we were, you
4 know, attempting -- since the item was continued, to
5 attempt to address all of the various things that have
6 been brought to our attention, you know, during this time
7 period.

8 We believe what we've -- the changes we made
9 here, you know, they are an accommodation. The
10 population -- I think we've expressed previously there are
11 problems with just using population per se to apportion
12 the grant dollars. That is why again, you know, those
13 were only the starting place for the staff's deliberations
14 on the recommendations that we'll make on the grant
15 awards, you know, for various competing jurisdictions.

16 BOARD MEMBER MULÉ: Okay. Well, my concern with
17 that is that -- as we all know, the problems are not
18 necessarily where the population resides. I mean the
19 tires are being generated in obviously populated areas,
20 but the problems seem to be in more rural areas. And so I
21 was just wondering if staff has ever done an analysis
22 of -- in the past of where this grant money has gone and
23 where those sites actually are. Because, again, I know
24 from my experience in the Inland Empire that, you know, a
25 lot of those tire -- illegal tire piles are in unpopulated

1 areas.

2 And so, again, I think that we should focus on
3 where the need is as opposed strictly to population.
4 That's just my thoughts on that.

5 DEPUTY DIRECTOR LEE: I guess just one last
6 comment. And then I'll ask my staff, you know, to
7 embellish on this. But, you know, originally, you know,
8 the program was a competitive grant program which was
9 based almost exclusively on the need that the grant
10 applicants demonstrated, you know, for the proposed grant
11 dollars. Participation in the program was very poor, you
12 know, under those criteria. So we went to the
13 noncompetitive in a means to at least jump start the
14 program, you know, to get some people out in the field
15 with the idea that, again as part of our ongoing efforts
16 at evaluation of the program, you know, we would make
17 changes in the program as time went on.

18 I think what we're proposing this -- you know,
19 with this agenda item is to do just that. We're kind of
20 walking the line, you know, by kind of re-imposing some
21 criteria here that, you know, pushes us back in the
22 competitive grant area. And, again, there's, you know,
23 pros and cons to that particular approach. I think -- you
24 know, I understand the reservations that you're
25 expressing.

1 I think what staff would still like to recommend
2 though is that -- you know, we see how it works this year.
3 And, again, as part of this ongoing evaluation process, if
4 we need to make changes in subsequent years, grant
5 criteria, then at least we'll have some knowledge base
6 with regards to do that.

7 And let me just ask Sue if she has anything else
8 that she wants to add on that particular point.

9 MS. HAPPERSBERGER: I just wanted to say that
10 staff agree with you, Board Member Mulé. And that's why
11 population is just a place to start and just one criteria.
12 And --

13 BOARD MEMBER MULÉ: But it's the initial
14 criteria. And that's what's bothering me about this whole
15 thing, is that I think that we should -- the initial
16 criteria should be based on need as opposed to population.
17 And, again, it wasn't included in the September agenda
18 item. So, you know, again, I'm just -- I'm just trying to
19 work through it myself. I'm trying to understand how we
20 came about this change.

21 MS. TURNER: Georgianne Turner, for the record.

22 I just wanted to maybe add a little
23 clarification. And I understand your concern because this
24 is kind of at the last minute. During our efforts to kind
25 of discuss this items with stakeholders and the Board, you

1 know, several suggestions have -- came up on how we deal
2 with this oversubscription issue. And knowing that people
3 weren't very fond of this -- just this straight cut, which
4 would make of course our job really easy, so one of the
5 suggestions was to address some sort of baseline
6 population to give the grantee some security on, if they
7 were already in the program, what their baseline -- what
8 they could expect if we were oversubscribed. And then
9 that means like every county, you know, came in for a
10 grant, which is unlikely to happen this next cycle.

11 So this was one way that we could address that
12 security of funding that the statute requires us to do and
13 the grantees' concerns in this area.

14 So I do want to clarify though that if a
15 jurisdiction comes in and they cannot justify their need
16 for those amount of funds in that chart, they will not get
17 it. So if it's a -- let's say it's a small county and
18 they don't have the number of sites to justify that
19 \$70,000, they will not get the \$70,000.

20 So I don't know if that helps any or not, but...

21 CHAIRPERSON MARIN: Thank you.

22 BOARD MEMBER MULÉ: Thank you.

23 CHAIRPERSON MARIN: So were you proposing that we
24 switch the criteria so that population is still being
25 considered but after need is considered? Is that --

1 BOARD MEMBER MULÉ: Well, at first I was just
2 trying to understand how this all came about. Because,
3 again, it's different from what we -- I thought from what
4 we had discussed back in September.

5 So I mean in the interests of moving this
6 forward -- I mean I had a discussion with Jim about this
7 this morning. And, you know, I don't want to hold it up
8 again. But, again, I'm just concerned about how we came
9 about this basically whole new criteria, when we really
10 hadn't discussed it or considered it back in September.

11 So I just want to get that on the record.

12 Thank you, Madam Chair.

13 CHAIRPERSON MARIN: Okay. Ms. Peace and then Mr.
14 Papanian.

15 BOARD MEMBER PEACE: I just wanted to say, even
16 though we really -- you know, the illegal dumping does
17 happen in rural areas. But the generation and, hence, the
18 inspection need happens in the higher population centers.
19 I mean I do have some concerns that Ms. Mulé brought up.
20 But, again, the population is just kind of one base
21 criteria. They're still taking need and stuff into
22 consideration.

23 And we need to realize that this is a fairly new
24 program. We're still trying to get jurisdictions to come
25 on board with this. And that we will be looking for ways

1 to improve upon it in the future as the program matures.

2 Did you have any other questions?

3 You know, I did want to say thank you to Sue
4 Happersberger and Georgianne Turner. I think they did an
5 excellent job of incorporating the changes that we had
6 asked for.

7 I did also ask staff if they would put together
8 some sort of a tracking system for our grantees so that we
9 know what grantees and when, say, they purchased cars,
10 when they purchased computers, when they purchased
11 surveillance equipment, copiers; so that all those costs
12 don't just get buried in the total grantee amount. So it
13 will make it easier to track.

14 You know, I'd also like to track, you know, total
15 inspection costs and total surveillance costs. Like we
16 could just have, say, an EXCEL sheet or something with the
17 grantees across the top and all the costs down the side
18 like total inspection costs, total surveillance costs, and
19 then equipment costs, whether it's cars or, you know, like
20 I said, surveillance equipment, copiers. That way we have
21 it at a glance when we go -- when each year when we do
22 these we'll see at a glance how much money was spent in
23 those areas and who already had purchased a car or a
24 copier.

25 And kind of in that same line of thinking, I did

1 ask staff to look into, maybe for next year, that, you
2 know, since the jurisdictions are concerned about a stable
3 source of funding, that maybe we need to have kind of two
4 pots of money. So maybe we'd have 1.75 in the grant
5 program to provide that stable source of funding. And
6 that would be for your base inspections and surveillance
7 costs. And that would be a noncompetitive grant.

8 And then you'd have, say, \$250,000 in a
9 competitive pot of money that -- and that would be for the
10 computers and the cars and all the other equipment. So
11 that's just something maybe think about for next year.

12 So those are my comments. Does anybody else have
13 any?

14 CHAIRPERSON MARIN: Yeah, Mr. Paparian has some
15 comments.

16 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
17 Chair.

18 The question of population versus need, I mean
19 it's a difficult one and I think that, you know, maybe
20 it's one we ought to look at in the five-year plan and in
21 the next evaluations -- or next cycle of this grant
22 program too. But I think the staff needs to start from
23 somewhere if they're oversubscribed. And, you know, it's
24 a starting place I think for now. Maybe we need to relook
25 at it in the future.

1 And I think in the five-year plan I'd also
2 suggest, you know, looking at whether \$6 million is the
3 right amount, you know. It still feels to me like a lot
4 of money when you look at it statewide for the nature of
5 the problem. But, yeah, you know, maybe it is the right
6 amount. But I'd urge the Committee that's looking at the
7 five-year plan to take a look at that.

8 CHAIRPERSON MARIN: Excellent.

9 I -- Ms. Peace, do you want to say more?

10 I'm ready for a motion. I believe that you guys
11 have done an incredible job. I want to thank everybody
12 and the certainly Committee Chair for allowing all of this
13 discussion to take place and have one more month to do it.

14 I do agree that our next big task is the
15 five-year plan. And some of these things that need the
16 attention will have that attention given on that five-year
17 plan.

18 So with that I'm ready for a motion.

19 Ms. Peace.

20 BOARD MEMBER PEACE: Okay. I'd like to move
21 Resolution 2004-252, revised: Consideration of the
22 applicant eligibility and program criteria and evaluation
23 process for the Waste Tire Enforcement Grant Program,
24 Fiscal Year 2004-2005.

25 BOARD MEMBER MOULTON-PATTERSON: Second.

1 CHAIRPERSON MARIN: Okay. Moved by Ms. Peace and
2 seconded by Moulton-Patterson.

3 Without objection, then just substitute the
4 previous roll call.

5 Okay. The next item will be Item No. 6.

6 But before we do that, Ms. Mulé, you have a
7 Committee report.

8 BOARD MEMBER MULÉ: Thank you, Madam Chair.

9 Yes --

10 CHAIRPERSON MARIN: And congratulations on your
11 chairing the Committee, Permitting and Enforcement.

12 BOARD MEMBER MULÉ: Thank you very much. It was
13 a fun first meeting.

14 At our Committee meeting, Permitting and
15 Enforcement Committee meeting, which was held on October
16 4th, we heard five items. Three items were for revised
17 solid waste facility permits. One item is on fiscal
18 consent, which was the augmentation for environmental
19 services contracts for landfill and disposal site
20 remediation. And then there was one other item, which was
21 the update on the inventory of solid waste facilities
22 which violate state minimum standards. And that item was
23 heard in committee only.

24 And that concludes my report.

25 CHAIRPERSON MARIN: Thank you.

1 That leads us to Item No. 6.

2 Howard Levenson, are you going to make a report
3 on that?

4 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
5 Chair. And good morning, Board members. I'm Howard
6 Levenson, Deputy Director for Permitting and Enforcement.

7 As Ms. Mulé indicated, this was an fiscal
8 consent, so I'll just make a very short presentation. And
9 then if you have any other questions, we can answer those.

10 The Solid Waste Cleanup Program currently uses
11 two contractors to remediate threats to public health and
12 safety and the environment at eligible sites. However,
13 the estimated costs of the projects that the Board's
14 already approved, along with anticipated costs for the
15 clean up of La Montana, exceed the available funding in
16 both of those contracts.

17 So in order to complete previously approved
18 projects and allow the Board flexibility to consider new
19 ones, which we have some coming before you in the next few
20 months, staff is proposing to augment contract IWM 03015A
21 by \$1 million for future projects and contract IWM 03015B
22 by \$1.1 million to cover the total estimated costs to
23 remediate the La Montana site.

24 With that, staff recommends Option 1, that you
25 approve the recommended augmentation and adopt Resolution

1 2004-208.

2 Thank you.

3 CHAIRPERSON MARIN: Okay. Would somebody like to
4 move that?

5 BOARD MEMBER MULÉ: I would like to move approval
6 of Resolution 2004-208.

7 BOARD MEMBER PEACE: Second.

8 CHAIRPERSON MARIN: Okay. Moved and seconded by
9 Mulé and Peace.

10 Without objection, then we will substitute the
11 previous roll call.

12 Okay. Special Waste. Ms. Peace.

13 BOARD MEMBER PEACE: Okay. We heard three items
14 in the Special Waste Committee this month.

15 Agenda Item 7 was a presentation and discussion
16 of the draft report on the evaluation of the waste tire
17 devulcanization technologies. Boxing Cheng from our tire
18 staff presented the items. So thank you, Boxing, for all
19 of your work on this report.

20 We then heard a summary report from George Savage
21 of Cal Recovery, who produced the report. Basically the
22 Cal Recovery study said that even though the current
23 adherence of devulcanization tend to be very proprietary
24 in their information and that there are limited number of
25 technology researchers to get information from, that this

1 is what they found:

2 That the best technology for devulcanization
3 today is the ultrasonic technology versus, say, the
4 chemical, biological, or the microwave processes.

5 However, the cost to devulcanize rubber is still not cost
6 effective at this time. The cost of virgin rubber is
7 still much cheaper.

8 And devulcanization of a single rubber produces a
9 higher quality product than devulcanization of tires that
10 are composed of multiple rubbers.

11 Also, markets for devulcanized rubber are scarce.
12 Tracy Norberg of the Rubber Manufacturers Association said
13 that devulcanized rubber because of the quality would not
14 be useful in the manufacture of tires or any other product
15 where safety needed to be insured.

16 You know, if the price of devulcanized rubber
17 does come down to or below the price of virgin rubber in
18 the future, who knows, maybe the tire manufacturers would
19 change their outlook.

20 Mr. Faust of Redwood Rubber also had a few words
21 to say about the findings in the study, stating that in
22 some cases the findings were biased and not accurate. Mr.
23 Savage, however, stood by his findings. Mr. Faust
24 presented a copy of the devulcanization report with the
25 corrections he had made to it. And his version will also

1 be part of the public record.

2 The Special Waste Committee will continue to keep
3 an eye on the progress of devulcanized rubber technologies
4 and report back to the Board when there are changes.

5 Agenda Item 8 was approval of new sites for
6 remediation under the Waste Tire Stabilization and
7 Abatement Program. This is a fiscal item you'll hear in a
8 moment. And it had full Committee support.

9 Agenda Item 9, consideration of the scope of work
10 for the Waste Tire Short Term Remediation Contract was
11 placed on consent.

12 And that concludes my report.

13 CHAIRPERSON MARIN: Thank you, Ms. Peace.

14 So that leads us to Item No. 8.

15 Jim, you're going to present that?

16 DEPUTY DIRECTOR LEE: Yes, ma'am.

17 Thank you, Madam Chair.

18 Item 8 is consideration of approval of the new
19 sites for remediation under the Waste Tire Stabilization
20 and Abatement Program. As Ms. Peace indicated, the item
21 did receive the Committee's support and recommendation for
22 fiscal consent.

23 Basically we're asking the Board to approve the
24 use of \$210,000 from the Short Term Remediation Contract
25 for clean up of three identified sites.

1 Pursuant to direction from the Special Waste
2 Committee, staff made a revision to the resolution to
3 reflect the fact that the Board is indicating its desire
4 to waive costs recovery for the one site, the San Joaquin
5 River waste tire site, because again it is a public
6 property administered by the State Lands Commission.

7 With that, Madam Chair, staff recommends the
8 Board approve Resolution 2004-270 as revised.

9 CHAIRPERSON MARIN: Okay. Do you want to make a
10 motion?

11 BOARD MEMBER PEACE: If there are no questions,
12 I'll make a motion. I'd like to move Resolution 2004-270
13 revised, consideration of the approval of new sites for
14 remediation under the Waste Tire Stabilization and
15 Abatement Program.

16 BOARD MEMBER MOULTON-PATTERSON: Second.

17 CHAIRPERSON MARIN: Moved and seconded.

18 CHAIRPERSON MARIN: Without objection, we will
19 substitute the previous roll call.

20 Okay. That leads us to Mr. Papanian,
21 Sustainability and Market Development. Your report.

22 BOARD MEMBER PAPANIAN: Thank you, Madam Chair.

23 We heard ten items in the Committee. Seven of
24 them we have approved on consent. One is going to come up
25 to the full Board in just a minute. And then two were in

1 committee -- heard in committee only.

2 One of those two was the discussion and request
3 for direction regarding the disposal reporting system site
4 surveys, what to do in the event that facilities are not
5 accurately reporting information or taking in information.
6 There was a specific facility at South Tahoe where there
7 had been some issues. That facility has made some very
8 strong commitments to change an improvement. And so we --
9 the Committee gave direction to not pursue further action
10 involving that facility in terms of posting their
11 information about their violations. But I think -- you
12 know, staff will let us know if they start deviating at
13 all from those commitments.

14 However, in the future, if facilities do not
15 comply with the disposal reporting requirements for three
16 consecutive quarterly survey week site visits, the
17 facility's name and information will appear on our
18 enforcement web page. So that will be the direction from
19 this point forward.

20 Now, I know we're going to hear the RMDZ loan
21 item in a minute. But we did also talk generally about
22 the RMDZ program at the Committee. And I think that there
23 was, you know, strong commitment to the RMDZ program
24 overall as a shining example of how the economy and the
25 environment work hand in hand.

1 I think we've had a lot of examples of successes
2 of the program and the loans that have been provided
3 through the program. And not just the loans provided
4 through the program, but the opportunities for help and
5 assistance through our RMDZ administrators and our RMDZ
6 program that been provided to businesses throughout the
7 state even when they don't receive a loan; when they
8 receive other types of assistance in finding markets for
9 their products or provided knowledge about other
10 opportunities for financing or financial assistance other
11 than our RMDZ program. So I think there was -- there's a
12 lot of support for the program overall.

13 So regardless of the discussion I think that's
14 about to take place, I think I speak for all the Board
15 members when I say we, you know, we love the RMDZ program,
16 we love the RMDZ administrators, and we want to see this
17 program really, really succeed.

18 CHAIRPERSON MARIN: Thank you, Mr. Papanian.
19 Thank you for your leadership in that. And thank you for
20 having a good heart with that other organization. We
21 won't talk about that. We had a very nice laugh during
22 the Committee meeting.

23 Anyways -- well, with that, I think that's a good
24 segue into the next item, which would be Item No. 15.

25 Patty, are you going to make that presentation?

1 DEPUTY DIRECTOR WOHL: Yes.

2 CHAIRPERSON MARIN: Would you be so kind.

3 (Thereupon an overhead presentation was
4 Presented as follows.)

5 DEPUTY DIRECTOR WOHL: Good morning, Madam Chair
6 and Board members. Patty Wohl with the Waste Prevention
7 and Market Development Division.

8 Maybe just to piggyback a little bit on Mike's
9 comments. Just to remind the Board that we've actually
10 processed \$77 million in loans in this program. But more
11 importantly, I think we have some real numbers in what
12 that translated to, which was over 5 million tons diverted
13 and over 3,700 jobs created. So I think when Mike's
14 talking about the environment and the economy, I think you
15 can see that this program really has made the tie between
16 those two.

17 As he mentioned, we did discuss this item in
18 Committee. The Committee did not make a determination and
19 wanted to bring it to the full Board, because they felt
20 like it was, you know, a policy decision on this program
21 and we had a lot of discussion and wanted to take that
22 forward to the full Board.

23 With that, I'll introduce the item.
24 Consideration of a bulk loan -- a bulk sale of Recycling
25 Market Development Revolving Loan Program loans. This is

1 Agenda Item 15.

2 And Jim La Tanner will present.

3 MR. LaTANNER: Good morning, Chair and Board
4 members. We have a short PowerPoint here to maybe cover
5 some of the questions that came up after the committees.

6 Next slide.

7 --o0o--

8 MR. LaTANNER: The decision is to: Do you want
9 to sell the loans or not? And if so, to which of two
10 bidders?

11 If the Board decides to sell, there's more
12 up-front dollars to make new loans. We can go beyond the
13 10 million target that we've had each year, and we should
14 to get more diversion. The risk of bad loans is
15 significantly lessened and transferred to those -- one of
16 the parties that would buy the loans. And you get more
17 diversion and more jobs quicker to help the local
18 jurisdictions meet the mandate to get into compliance.

19 Next slide.

20 --o0o--

21 MR. LaTANNER: If you choose not to sell, the
22 reason is because it would hurt the long-term stability of
23 the fund because there's a discount because most of the
24 loans are issued at below-market interest rates. There
25 would be more reliance on IWMA transfers in the out-years

1 if we were to continue with the 10 million target. There
2 would be an additional legal cost from outside counsel to
3 help negotiate and finalize the loan sale. And more staff
4 resources would be required to exceed the 10 million.

5 Next slide.

6 --o0o--

7 MR. LaTANNER: There were two bidders that
8 responded to the solicitation.

9 Capital Crossing Bank, their bid offers more
10 dollars up front, they're offering to purchase all 50
11 loans, have a lower default reserve, and no additional bid
12 conditions. That's a clean deal.

13 Next slide.

14 --o0o--

15 MR. LaTANNER: The other bid came in from
16 Community Reinvestment Fund. The advantage to that is
17 it's a lower discount rate. It requires 500,000 less in
18 IWMA transfers in the out years to maintain the level of
19 10 million per year. And the residual would come back in
20 the out years between years 2012 and 18, depending upon
21 how much defaults there are or aren't.

22 Next slide.

23 --o0o--

24 MR. LaTANNER: A question came up recently of:
25 What is the actual demand? Currently staff has 5

1 applications in-house that we are processing. The total
2 is just over \$5 million. Since January, we have mailed
3 out 24 applications to businesses that we've talked to on
4 the phone that have an interest in applying that need some
5 type of funding.

6 In addition, there's another 20 businesses out
7 there that we are currently talking with that have an
8 interest in expanding or starting up to get more
9 diversion.

10 So there's 44 businesses right there we're
11 working with.

12 But the number of applications that actually
13 comes in depends upon how much time staff actually puts
14 into this. If we go out and do site visits and visit
15 them, we get a better feeling for it and the owners, you
16 know, see our commitment to it, and we know what the
17 project is and we can explain the application process and
18 how the loan works.

19 If we also go out there or talk more with them
20 over the phone, we can help them fill out the forms and
21 actually apply.

22 It's quite a process to get a loan. You know,
23 it's just like going to a bank. But we have more relaxed
24 terms. We're willing to take second position, longer
25 maturities, and so forth. But there's a direct relation.

1 When we get toward the 10 million cap, staff generally
2 pulls back a little bit and work with the applications.
3 Right now we've pulled back. And generally what happens
4 is the businesses that really can't find money somewhere
5 else are the ones that actually go through the process and
6 call and contact us.

7 We do a lot of work up front before we actually
8 ask them to mail the application in, to give them a sense
9 as to whether the project is eligible, they're in a zone,
10 and the business would qualify. We don't want them to go
11 through a lot of paperwork and then not get it. So we try
12 to work up and -- that's why there's very few declines,
13 because we try to do most of it up front. We may have
14 them send in part of the application up front just to
15 understand that part and give them a read on that.

16 But if it looks feasible, then, yeah, go ahead
17 and send the application in.

18 As for hitting the \$10 million cap, last year we
19 actually almost did. We had 10 million. We pulled a
20 million eight aside for another leveraging option. We had
21 the rest committed in loans. And one of those actually
22 were funded this year.

23 So staff stopped soliciting more applications.
24 We still responded to everybody that wanted an application
25 and asked them to apply. And we could come forth this

1 year with it. But the interest rate changed on the
2 program from 1.9 up to the current prime, which is 4.25.

3 The ZA's -- the easy way to sell a business to
4 incorporate recycled materials into a product is the
5 incremental cost, is only 4.25 percent. So it makes it
6 really feasible to that.

7 The other alternative is for the company to go to
8 a bank, and they're going to get a prime rate floating
9 plus 2 to 4, which is like 6 or 8 percent. And that's a
10 floating rate on a shorter term. So there's a real
11 advantage to come here.

12 Most projects do not get all the funding from the
13 RMDZ program. We only finance up to 75 percent or 2
14 million, whichever is less. So they're reliant upon their
15 own cash flow, bank financing, leasing some of the
16 equipment. But it does help make the project more
17 feasible.

18 That concludes my presentation.

19 CHAIRPERSON MARIN: Thank you, Jim -- Mr. La
20 Tanner.

21 There were quite a few questions, and I thank you
22 so very much for answering all of them. We did receive
23 some letters from people. And hopefully my colleagues
24 will engage in the discussion. But before we do that, I
25 know there's quite a few people that would like to speak.

1 First of all let me ask: Are there any questions
2 from staff?

3 Okay. Mr. Washington.

4 BOARD MEMBER WASHINGTON: Albert, in terms of the
5 two bidders that have come forward, have they indicated
6 that they're willing to do the same thing with the
7 applicants that we've done with them in terms of the
8 application process, helping them -- before they have to
9 go through all of this paperwork, try to avoid that? Have
10 we got any indication that they're willing to help out
11 with that?

12 MR. LaTANNER: Well if they purchased the loans,
13 their role is they would do their own servicing. They do
14 monthly billing statements and collect the loans. And if
15 a loan goes into default, they would work with the
16 companies to collect the funds or restructure.

17 They're not taking on new loans at this point.
18 They're only buying the existing ones.

19 BOARD MEMBER WASHINGTON: Oh, they're just buying
20 the existing ones?

21 MR. LaTANNER: Right.

22 BOARD MEMBER WASHINGTON: So they won't have to
23 deal with that?

24 MR. LaTANNER: Right.

25 DEPUTY DIRECTOR WOHL: Can I just comment?

1 There is the issue of, if a business is
2 struggling, we do take quite a bit of time to kind of
3 shore that up and have some resources to help them through
4 that. Now, I would assume a bank would also do that --
5 they can testify to that -- because they want that
6 payment.

7 But the difference is there is this loan default
8 out there. So there's a portion, I would say, that maybe
9 is -- that have less an incentive to resolve until they
10 get to that cap. And then I would think they would have
11 more incentive to resolve.

12 So I'd be curious to hear their comment on that
13 really.

14 BOARD MEMBER WASHINGTON: And then are there any
15 other negative effects that these loans could have on the
16 recipients, Albert?

17 MR. LaTANNER: Actually the name's Jim, but --

18 BOARD MEMBER WASHINGTON: Jim. I'm sorry.

19 MR. LaTANNER: We did a loan -- the Board did a
20 loan sale in '96-'97.

21 BOARD MEMBER WASHINGTON: Albert, Jim, what's the
22 difference.

23 MR. LaTANNER: We sold 17 loans to Community
24 Reinvestment Fund. All of those applicants paid, as
25 agreed, on or before the due date. A number of them paid

1 early. And there were no defaults with it.

2 Staff's not aware of any issues from those
3 borrowers. The loans were serviced in a proper manner.
4 So I don't see any issues that the borrowers would have by
5 changing lenders.

6 CHAIRPERSON MARIN: Mr. Paparian.

7 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
8 Chair.

9 You said that you're getting -- you think you're
10 going to get close to the 10 million -- was it this year
11 or last year?

12 MR. LaTANNER: Last year the target was 10
13 million. Of that 10, we set 1,850,000 aside in an effort
14 to have funds available if we went with a state loan
15 guarantee leveraging option.

16 The remainders of the funds, the Board did
17 approve enough loans to encumber that. However, Envision
18 Plastic wasn't able to actually fund last year and get
19 control of the collateral, so that decreased the amount by
20 2 million. But it has subsequently been funded this year.

21 BOARD MEMBER PAPARIAN: I guess -- I don't know,
22 this may be partly for the person from RMDZ administrators
23 too. But the question that's in my mind is if we go
24 forward with the loan sale, we're going to have a big
25 chunk of money. And the idea is you'd have that big chunk

1 of money to put out the door and get more people funded
2 more quickly.

3 Do we have the capacity to loan that much money?
4 Are we going to be able to loan -- I mean looking --
5 historically we haven't really hit 10 million. We've hit
6 much less than it quite a few years. If we suddenly have
7 20 million or so, are we going to be able to get that
8 money out the door?

9 DEPUTY DIRECTOR WOHL: Maybe I can comment again.

10 We actually have been looking at this because of
11 the issue of the tire fund money and the discussion about
12 the five-year plan and whether we could support an
13 increase in shifting money into tire loans. And at that
14 time we kind of looked through our staffing levels and
15 felt like, you know, managing the same type of program
16 with our current staff, which I believe I've indicated is
17 three and a half loan officers, that we thought we could
18 get to 15 million without, you know, having to increase
19 that staffing capacity.

20 But, yeah, if you're talking about having 25 or
21 30 million in there, we feel like we do have a lid based
22 on the number of resources we have to make that.

23 BOARD MEMBER PAPARIAN: Okay. So that's like
24 half the equation is: Do we have capacity in-house to
25 actually push the loans out the door if we had that much

1 money? And then there's also the question of -- you know,
2 I'm not sure that we've not funded loans over the last few
3 years that have qualified and we've been available. Is
4 there going to be enough demand from loan recipients to
5 absorb that much money? Are we seeing something to
6 indicate that we will have -- you know, I'd love it if
7 there is, but historically we haven't had that much
8 demand.

9 DEPUTY DIRECTOR WOHL: Well, that's correct. I
10 think that's why we kind of showed you these figures.
11 This is sort of our best guess at what's out there. When
12 we say 24 applications have been sent, typically we found
13 we get about a 10 percent return on those. So you're
14 talking about two to three applications coming in via that
15 process. And then we have these 20 active prospects that
16 we're just now talking to. We haven't even sent them an
17 application yet.

18 So I think there have been two or three years
19 where we have gone beyond -- two year we've gone beyond
20 the 10 million and maybe one year where I remember
21 somebody coming in in May and we were out of money and
22 couldn't fund it until July. And only out of money based
23 on that cap, not truly out.

24 So, you know, my feeling is we've probably been
25 hovering around this mark and on average it's been about

1 6.3 million. So, yeah, whether we can really go beyond,
2 I'm not sure.

3 CHAIRPERSON MARIN: But if I recall -- and I know
4 we're going to be hearing from other people -- from what I
5 have read from people having some input on this, is like
6 who -- which comes first, the chicken or the egg, you
7 know. Because there were questions as to whether even the
8 Board was really supportive of this program; then the
9 marketing of the program was not as strong as it could
10 have been. Therefore, the demand. If people don't know
11 that there is this available, they're not going to come
12 in. Now, if they know that there is, it would seem to me,
13 at least appear from what I have read, that the demand
14 would be created. And then that raises the questions as
15 to whether we have enough staff or not for that. That
16 raises another question as to whether we should actually
17 ask some other state agency that actually does this for a
18 living to take at least some of that work.

19 But we'll answer those questions as they come.

20 Ms. Peace, you feel --

21 BOARD MEMBER PEACE: I just had a question.
22 Where it says staff is reviewing five applications
23 in-house right now. How much does that total?

24 MR. LaTANNER: It's just over \$5 million.

25 BOARD MEMBER PEACE: Okay.

1 CHAIRPERSON MARIN: Okay. Any further comments
2 or questions?

3 Okay. I'm going to be calling people in the
4 order that I received them.

5 Steve Lautze from the California Association of
6 RMDZ's.

7 MR. LAUTZE: Good morning, Chairperson Marin and
8 Board members. I am Steve Lautze. I'm the President of
9 the California Association of RMDZ's. Even a bigger
10 mouthful than RMDZ itself. We are -- basically it's an
11 association of the 39 zone administrators who are working
12 all over the state to advance this program.

13 I'm going to find my notes here.

14 I'm also the zone administrator from the
15 Oakland-Berkeley zone.

16 We do feel the love, by the way, from the staff
17 and from the Board, including the Committee, for our
18 program. And so we are very respectfully coming today and
19 demurring on the staff recommendation not to do the loan
20 sale, because we do feel it is crucial. But I'm actually
21 working with Jim La Tanner and one of his staff on a loan
22 right now. They're very helpful. We work with them on an
23 everyday basis on this program.

24 We also appreciate the Committee having sent it
25 to the Board without recommendation, because we feel it's

1 a crucial issue.

2 I presume that you all got our letter yesterday
3 and were able to review that. We would have liked to have
4 met with you individually on this. I know you've had
5 briefings on the program. Some of you are fairly new.
6 Some of you have visited our workshops and so on. But the
7 letter kind of did crystallize the issues for us, so I'm
8 not going to give you long testimony but try to hit the
9 high points. And certainly ready to answer any questions
10 on that letter.

11 We've been working on this issue for four long
12 years. And we tried to bring that out in the letter, that
13 the history is such that it was back in the fall of 2000
14 that the issue first really came up of we may not be able
15 to meet the demand for these loans. Of course that was
16 during the heyday economy, the "dot com" economy, which
17 had the spin-off to our businesses as well.

18 And on this issue of demand, I would also suggest
19 that certainly the loan program is cyclical and all loan
20 programs are cyclical with the economy. But I think the
21 history of the loan program shows that when we started out
22 we had a statutory provision that provided lots of money
23 and we didn't have that much demand in the grand scheme of
24 things. And that it makes some sense that as the cities
25 and counties have diverted close to 50 percent all over

1 this state, that market development would be something
2 that would follow. And yet it really anchors the process,
3 because when you send some recyclables to a manufacturing
4 or a processing facility, then it's kind of
5 institutionalized diversion. It's not just redoing your
6 numbers or, you know, doing a new collection program or
7 something that rides with the economy so much.

8 So there is cyclical -- it's a cyclical nature.
9 Yes, that was a heyday. But we believe that market
10 development is something that's here to stay and should
11 grow. And it's also natural that it's kind of stressed
12 out the IWMA, that it may not be that easy to do it again,
13 which is, again, why we think we want you to look at this
14 loan sale as an option.

15 And so we are asking you to take some sort of
16 positive actions to pick one of the two bids before you
17 today and execute the loan sale. This is also important
18 because it appears that this opportunity is waning. As
19 the presentations from the bankers will show you, interest
20 rates are going up, and so this opportunity may not just
21 be there whenever we want it.

22 The other thing, on demand, is that since 2000
23 there has really been an undercurrent of uncertainty of
24 the availability of funds. I'm not going to say that that
25 has governed the whole process. We've done a lot of loans

1 in that period. It was a down economic period. You'll
2 see a valley right after 2001 where we didn't do that many
3 loans.

4 But the zone administrators are out there doing
5 this almost exclusively as part of their job. And if
6 there is a sense that the funds are not available or they
7 may not be available or the applicant if we tell them,
8 "Well, the funds are going to be available till December
9 for sure or January, but we're not sure about after, and
10 then you'll have to call back in July," that's a huge
11 handicap to the program. So this is a way we can have
12 certainty at least for two or three years. And in the
13 greatest scenario, we would go back to the loan sale and
14 do it over and over and go above \$10 million.

15 But we see \$10 million statewide as really a
16 minimum number we'd like to work on. That's 40 zones,
17 \$400,000 dollars per zone, it's really not that much
18 money.

19 So unless of course there's some other way that
20 there can be a concrete commitment to this program, either
21 via the IWMA or some other creative strategy -- certainly
22 we're open to that. But, as I said, this is an
23 opportunity in the hand right now that we really want your
24 Board to consider carefully.

25 I could go over the bullet points of the letter,

1 but I think they speak for themselves.

2 I do want to highlight the issue that was brought
3 up in the staff report about the 1 million plus in funds
4 that are leaking from this program every year. Since it's
5 a loan fund, the way it's supposed to work is the loans go
6 out, the money comes back in. But there's over a million
7 dollars going to other programs, and that's been happening
8 since at least 1999. So that's \$6 million right there
9 that has been reallocated away from our program.

10 And I know that's not the issue before you today,
11 but I do want to highlight that to you.

12 The prospect in Committee -- I was able to listen
13 through my computer. I wasn't present at the Committee.
14 So I was, yeah, feeling the love through the audio
15 headphones. But the prospect of having a workshop, a
16 Board workshop on this issue, on this program, on the long
17 range -- medium to long range future is something we are
18 very much in favor of. And perhaps the Committee could
19 take the lead on that. And we certainly also invite you
20 to come to our periodic training events as well.

21 I'm happy to answer any of your questions.

22 There's another advantage for some of you who
23 have been here a long time, like Mr. Papanian and Ms.
24 Moulton-Patterson. If you execute the loan sale today you
25 will not be hearing from us on this issue for at least a

1 couple years.

2 (Laughter.)

3 MR. LAUTZE: So I think that's it for me.

4 CHAIRPERSON MARIN: Thank you, Mr. Lautze.

5 And I don't know if there are any questions from
6 the Board regarding his presentation.

7 I do want to say something, because I was really
8 struck by the thoroughness of your letter. And I will
9 tell you this: I want to take everything that you wrote
10 in here as being the absolute truth and nothing but the
11 truth. And I asked people around: Is there anything that
12 someone could say that is contrary to what you have
13 written? Because you're representing a very significant
14 group of people. And I will take your comments extremely
15 serious. So make sure that everything you wrote here is
16 truth and nothing but the truth, because I am basing my
17 vote, a lot of it on your recommendations.

18 MR. LAUTZE: Well, I'm flattered. And I can just
19 tell you that it was vetted with my board, which is 8 of
20 the 39 members. Some of the more longstanding and more
21 active zones are represented on my board of directors.
22 And I think the only thing I can think of in there is this
23 question about whether the money could be swept. And
24 that's not something that's fact or not. It's something
25 that's over my head politically.

1 But I'll try to own up to that.

2 CHAIRPERSON MARIN: Okay. The next person that
3 I'm going to call is Gary Hormquest from Community
4 Reinvestment Fund.

5 MR. HORMQUEST: Morning. It's Hormquest -- Gary
6 Hormquest. Close though.

7 CHAIRPERSON MARIN: You know, with my glasses,
8 without my glasses. I'm sorry.

9 Thank you.

10 MR. HORMQUEST: The only point I want to
11 reiterate, which I made last week, was the point on
12 mission. And Community Reinvestment's experience in
13 dealing with economic developers, we deal solely with
14 governmental and economic development nonprofit lenders.
15 We bought loans from over 100 of them, over \$350 million
16 worth of economic development loans. In virtually every
17 case, the dollars that are available to lend in any
18 particular year are typically lent out. So if a lender
19 has a million dollars, they will typically lend a million
20 dollars out in that year. If it's 10, they'll lend out 10
21 million. And the point being, you know, especially
22 with -- you know, the point that Mr. Lautze made, you've
23 got a great marketing staff throughout the state to get
24 the dollars out. If they know they have \$20 million worth
25 of dollars available, you'll get that money out and you'll

1 get it out sooner.

2 And, you know, you've got to consider the
3 mission. The mission of Integrated Waste Management is to
4 get dollars out to reduce -- or to increase the amount of
5 recycling done within the state.

6 You know, so that's just the point I want to
7 make.

8 CHAIRPERSON MARIN: Thank you, Gary Hormquest.

9 The next one is Jeb Schaefer from Capital
10 Crossing Bank.

11

12 MR. WAYNE: Madam Chair, other Board members, I'm
13 Rick Wayne. I work with Jeb Schaefer from Capital
14 Crossing Bank. And I'm here with Nick Lazares, my partner
15 as well.

16 And I want to try and, quickly I know, make a few
17 points and in my presentation try and respond to some of
18 the points that Mr. La Tanner has made and some of the
19 questions that you have raised.

20 We on Friday at the request of the Chair sent by
21 E-mail a PowerPoint presentation followed up by a hard
22 copy. And my question is: Does everyone -- has everyone
23 had a chance to look at that?

24 Good. Thank you.

25 Few introductory points. One, we agree

1 wholeheartedly with all of the reasons that Mr. La Tanner
2 suggested that you should sell. We agree with those.

3 With respect to some of the reasons that he
4 suggested that a sale may not be appropriate, I want to
5 try and just add a little bit of color to a few of those.
6 And I don't have those memorized, so I'm not hitting all
7 of those points.

8 One is with respect to the discount that you're
9 talking because you're selling those in an interest rate
10 environment that changed, that is true. I would add to
11 that though, you'll have an opportunity to reinvest those
12 at a higher rate. So, therefore, some of that -- and I
13 haven't quantified it to the penny -- but some of that
14 money that you're losing, so to speak, or realizing, you
15 know, on the sale you will recover by reinvesting it at a
16 higher rate.

17 Secondly, with respect to the legal fees. With
18 respect to our transaction, as Mr. La Tanner indicated in
19 the summary of ours, it's a very simple transaction. It
20 simply requires an execution of a loan sale agreement,
21 which as I understand it has been mostly negotiated, and
22 assignment of documents. The legal fees should be very
23 small. And we have offered as part of this to actually
24 pay all of those legal fees on a go-forward basis so there
25 would be no more additional expense to the Board.

1 Thirdly, with respect to allocation of staff,
2 that is true that there would be some reallocation if it
3 turned out that you decided to be in the origination
4 business, which is where we think that you should be, and
5 not in the servicing business.

6 I was very pleased to hear that this program,
7 which has put out \$70 million, has created 3700 jobs since
8 it started. Without the benefit of calculator, it seems
9 to me that says for every million dollars that the Board
10 puts out, you're creating 50 jobs if that were linear.
11 That's really outstanding. As well as -- and I'd lost the
12 number on the amount of material that's getting recycled,
13 but it was a very large number as well. That would
14 suggest that there's every reason in the world to try and
15 have this lending program continue and increase.

16 We have three -- three or four main points that I
17 want to make. One is: Why should you do the loan bulk
18 sale?

19 The first reason is that to the extent you do a
20 bulk loan sale, with less appropriation, you'll have more
21 dollars to put out in loans. And we have some -- and I
22 won't walk you through those numbers other than to make
23 that conclusion. But we have some schedules attached to
24 our PowerPoint presentation which indicate that.

25 Furthermore, if on a going-forward basis you do

1 more sales, the amount that you can actually put out is
2 only limited by the demand and your ability to allocate
3 resources to make those loans, because you will be having
4 the outside capital markets essentially providing the
5 financing for this.

6 Thirdly -- or secondly -- excuse me -- you know,
7 this Board is not a bank. It is very unusual for
8 government agencies to portfolio loans. It comes with at
9 least two or three sets of risks. One is credit risk. If
10 you have a portfolio and you hold it and it gets large
11 enough, it is entirely within the realm of possibility
12 that you could have some trouble with those loans. And at
13 some point somebody may say to you you have a -- you know,
14 to just project out -- you have a \$80 million loan
15 portfolio and 20 or 25 percent of those are nonperforming.
16 You have loss. And at some later point this Board or some
17 other Board is going to have to explain why, you know, \$20
18 million, \$25 million, you know, is troubled.

19 It's not out of the question -- as I think all of
20 the Board members know, the sale that was put forth was
21 about \$22 million. Thirteen million dollars of the loans
22 are not put forth because they were deemed to be not as
23 bankable. I would imagine the day they were booked they
24 were considered to be bankable. It's a fact of credit
25 life that over time credit can deteriorate,

1 notwithstanding the excellent job I'm sure Mr. La Tanner
2 and his staff does. I'm not suggesting otherwise. It's
3 just these are not CD's. They're U.S. Government
4 obligations. They run into some level of risk.

5 And I would also add to that, this is a time to
6 transfer the risk to the buyer.

7 Second point. If you decided to sell, why should
8 you sell now? There are two or three reasons why you
9 should do that. You have this deal priced from us, and
10 our number is firm, in a lower interest rate market.
11 That's good for you, not quite as good for us, but we're
12 going to stick with the number that we have offered. What
13 we tried to demonstrate to make this point is that if you
14 were to take a look at a U.S. Treasury Bond, that carries
15 with it no credit risk, and interest rates go up 2
16 percentage points, your portfolio just by virtue of the
17 adjustment to interest rates will have devalued by 7
18 percent. Or to say it another way, an increase in
19 interest rates of 2 percent will cost the value of the
20 portfolio of a million four.

21 I don't know this number exactly. My guess is if
22 you had sold this portfolio a year ago, you would have
23 gotten a million dollars more than you're getting now.
24 Interest rates have gone up. We have a slide that
25 demonstrates that.

1 Second reason why I think that you should -- and
2 you probably -- well, you don't need to sell. Obviously
3 you can do whatever you want. But the reason that you
4 should sell is a credibility issue for this Board to the
5 extent they want to sell, you know, going forward. You
6 know, there was an offer for sale. There were 12 people
7 that were solicited. Two bid. I can tell you -- and as I
8 said to this subcommittee last week, it's not that you're
9 legally bound to sell to us. I'm not suggesting that.
10 However, based on that and reliance on that, we spent a
11 lot of time and resources. We underwrote every single one
12 of the 50 loans. We've incurred more than \$50,000 of
13 outside costs to do that, as well as numerous trips.
14 Which is what we do as part of our business.

15 We did believe though if we had the best bid,
16 which I'm going to attempt to convince you of in a second,
17 that we would be awarded the bid, not that there would be
18 a reconsideration that maybe we shouldn't sell. The
19 reason that is something you need to think about if you
20 decide not to sell now and you want to go back to the
21 market another time, you know, that will be a factor in
22 how people decide to allocate limited resources on the buy
23 side. Something for you to think about.

24 To the extent this was meaningful to you and you
25 awarded the bid to us, we're ready, willing and able to

1 close with cash probably next week. It shouldn't take
2 time. And if it was the Board's preference because of
3 some sweeping of the funds issues or otherwise, you know,
4 we'd be happy to, you know, structure a payment that works
5 for you in terms of, you know, how that gets paid to the
6 Board with obviously, you know, secured by U.S. Government
7 obligations.

8 I want to just try and address one or two points
9 that were appropriately raised about what does this
10 mean -- I think you did, Mr. Washington. You said, "What
11 does this mean for the borrowers if the loans are sold?"
12 It's very important that when you think about a buyer --
13 and this is one of the sales pitches that we make all the
14 time when we sell to when we buy -- is we're kind to
15 borrowers. We have the ability as a bank to portfolio the
16 loan. Which means we're not taking the loan to resell it
17 to somebody else. We are taking the loan to hold on to
18 it, to service it, to have a customer. So it's meaningful
19 to us.

20 We are very experienced buyers in this area.
21 We've bought roughly \$500 million of loans made by the SBA
22 under the Disaster Recovery Program that look exactly like
23 these loans. These are loans that have low interest
24 rates, that are made as a way to facilitate financing for
25 a borrower that's incurred some kind of disaster, a

1 hurricane, et cetera, et cetera, et cetera, you know, New
2 York 9/11, those things. We're very experienced in this
3 area.

4 And we also are very familiar with California --

5 BOARD MEMBER WASHINGTON: But you do have the
6 ability to sell them if you wanted to?

7 MR. WAYNE: Yes, we're not bound not to. But
8 that's not what we do in the normal course. In the normal
9 course we like to keep the loans. That's why we're buying
10 them, so we can make some spread --

11 BOARD MEMBER PEACE: So would you also say then
12 if the business did start to struggle, that you would work
13 with them as we do instead of just, you know, foreclosing
14 on it?

15 MR. WAYNE: Well, our -- you know, when we buy
16 loans at a discount -- and our desire is not -- we, you
17 know, from time to time, to be perfectly -- we're a bank.
18 We have to -- if a borrower is both unwilling and unable
19 to pay us, we also have to report to our stakeholders,
20 namely, you know, the FDIC and our stockholders and have
21 to act appropriately. In the normal course we try to work
22 with borrowers. And we could take a loan -- I think I
23 mentioned this in our meeting yesterday, that if a loan
24 was for a million dollars and, let's say, you know, we
25 bought it at some kind of discount, it may be possible to

1 restructure with the borrower where, you know, part of it
2 pays interest and part of it accrues interest.

3 Those are the kinds of things that we have done,
4 will do, and like to do because we want to hold on to
5 the -- and we also want to be, you know, credible --
6 talking about credibility issues, we want to continue to
7 be credible buyers of loans as well.

8 Finally, I want to just make the pitch that we
9 think this is the very best offer. And so if we go back.
10 Should you sell? We think yes. Should you sell now?
11 Yes. And now I want to try and convince you that you
12 should sell to us. And then I'll be happy to sit down,
13 because you probably want me to.

14 We have on page 6 of the PowerPoint presentation
15 a comparison of the bids. And I just want to highlight
16 some of those for you. One, with our bid you get more
17 dollars at closing, almost \$20 million -- 19.8 million.
18 And from the Community Reinvestment Fund, who elected not
19 to buy as many loans, you get \$17.4 million.

20 Our bid is structured as a loan sale. Theirs is
21 structured as a financing. And, therefore, Mr. La
22 Tanner's thought on the level of legal fees and the
23 complexity of the transaction and the fact that the Board
24 is going to then have the residual risk at the end of the
25 bond structuring is accurate. We think ours is much

1 more -- ours is much simpler, our reserve number is lower
2 at five and a half percent. And as I say, we are ready,
3 willing, able and have closed these kinds of transactions
4 quickly.

5 I just want to take one pass to see if I have any
6 other comments.

7 I do not. I want to thank though Mr. La Tanner
8 and the entire staff of the Waste Management Board for
9 working with us. I want to thank you for listening to us
10 two times, once last week at the Committee report and this
11 time. I have promised my wife that I will not fly out
12 here again next week for a sale. So if you have any
13 interest in not only creating jobs but protecting my
14 marriage, we'll try and resolve this thing today.

15 Thank you very much.

16 (Laughter.)

17 CHAIRPERSON MARIN: Okay. Thank you very much.

18 We have a couple of people --

19 BOARD MEMBER PAPARIAN: Madam Chair.

20 CHAIRPERSON MARIN: -- to ask some questions.

21 You took all the time, right? I'm not going to
22 be calling on your other two partners, right?

23 MR. WAYNE: I don't think they can add to that
24 great presentation.

25 (Laughter.)

1 CHAIRPERSON MARIN: Okay. We do have some
2 questions from Mr. Paparian and then Ms. Peace.

3 BOARD MEMBER PAPARIAN: Yeah, I did want to just
4 make sure I understand the PowerPoint that we received.

5 You provided three tables in there of what would
6 happen over a seven year period if we sold the loans, if
7 we didn't sell the loans -- if we sold them once, if we
8 didn't sell them at all, and then if we sold them on a
9 fairly regular basis.

10 MR. WAYNE: Yes, sir.

11 BOARD MEMBER PAPARIAN: And as I'm reading it,
12 your analysis is if we don't sell the loans, over a
13 seven-year period we would have about \$48 million
14 available for loans.

15 MR. WAYNE: Yes.

16 BOARD MEMBER PAPARIAN: If we sold them only
17 once, we'd have a little over \$51 million.

18 MR. WAYNE: Almost 52, yes, sir.

19 BOARD MEMBER PAPARIAN: Yeah, almost 52 million
20 available. So three or four million dollars more.

21 MR. WAYNE: Yes.

22 BOARD MEMBER PAPARIAN: But then if we sold them
23 very regularly and could put the money out the door, we
24 could have as much as 190 million?

25 MR. WAYNE: You could have more. I mean that is

1 a model that simply makes this very narrow point: If the
2 Board is not confined in making loans by the amount of
3 allocations or appropriations but instead relies on the
4 capital markets just as HUD does and Fannie Mae and other
5 agencies, the SBA, for example, if you do that there is no
6 limitation on the amount of loans that you can make
7 because of funding limitations. There may be for credit
8 and other, you know, practical processing. I'm not
9 predicting that you'll actually make 190. You may make
10 more, you may make less. But you won't be constrained by
11 capital. That's really the point of this.

12 BOARD MEMBER PAPARIAN: Okay. And does our staff
13 agree with the basic premises and numbers in here, the
14 basic -- I mean if we don't sell them at all, we get
15 about, you know, maybe 48 million in the next seven years,
16 if we sell them once we get about 52 million? Is there
17 any reason to doubt these numbers? Does it seem pretty
18 accurate?

19 DEPUTY DIRECTOR WOHL: Well, one thing is we
20 don't have the latest PowerPoint. We were not given that.
21 So I don't have the one that talks about the 190 million
22 and how he got there. If we're talking about what he gave
23 out at the Committee meeting, I think, as I stated there,
24 there were just some flaws in that like it was based on a
25 4.75 percent. We actually have a 4.25. There's no

1 expenses in this. So what happens is not only has he not
2 pulled out expenses, but he's projected interest on those
3 expenses of money we don't even have.

4 So I haven't seen the latest. But if -- I'm
5 looking. Those were just some of the kind of things that
6 stood out really clearly that showed that -- and I don't
7 know where he is with the tire money. We've pulled the
8 tire money out because we clearly know that the tire loans
9 goes into the tire fund, does not go into the RMDZ. So of
10 those 17 loans we left out, 7 of those were actually tire
11 loans. And so it did not help the RMDZ account, and so we
12 did not even put that into the mix. So that's just
13 another thing I'm not sure about.

14 BOARD MEMBER PAPARIAN: Maybe I'm asking -- you
15 know, maybe if we're not sure if we're looking at the same
16 chart or not, just the basic idea, that if we sell the
17 loans once now versus if we don't sell the loans, do we
18 come out a little bit ahead in seven years, comparable, in
19 terms of the amount of money out the door?

20 MR. LaTANNER: Right, you do come out. One of
21 the concepts they're presenting is doing more loans sales
22 down the road. Another leveraging option that we're not
23 discussing today that was mentioned in the Milken report,
24 both the bidders have regular programs set up to buy loans
25 one on one. So as we get applications in and we come to

1 the Board for approval, we could pre-establish an
2 agreement with one of these bidders -- or both -- to buy
3 the loans one on one as we go forward. The difference in
4 that structure would be if we hit our 10 million cap, then
5 loans over that we could just automatically sell and you
6 just charge a market rate of interest. And then you
7 eliminate this discount and at least we break even on the
8 principal.

9 One of our goals -- there are several leveraging
10 strategies with this program. One was a loan guarantee
11 program. There's bulk loan sale. And once this process
12 is done today, then the next effort's a forward loan sale,
13 selling them one on one. It can be done. And then that's
14 how you get to that 100 million mark. Right now we're
15 waiting 10, 12 years to collect the money back. But if
16 you sell the loan, you get it back all up front. And you
17 can continue to make more loans sooner is what they're
18 getting at.

19 MR. WAYNE: Mr. Papanian, perhaps I could just
20 respond -- if I could, just to the theory, without
21 getting -- because we just set up a model. It is true we
22 don't know what your expenses are, we don't know how you
23 allocate money. But this is, as a basic economic model,
24 is accurate; which is, if you sell the loans and you get
25 \$20 million today, it gives you \$20 million more than you

1 can -- that you can loan without additional appropriation.

2 You know, that's obvious.

3 Secondly, if you take the money, and although
4 you're getting a discount from what you're selling it, and
5 reinvest it at a higher rate -- and the reason we used
6 four seventy-five rather than four and a quarter, we were
7 under the impression, and perhaps mistakenly, they were
8 done at prime. Prime has gone up since this model
9 started, and that's why we used that number. But whether
10 it's four and a quarter or four seventy-five, it's a
11 higher rate than you're getting now on the portfolio.
12 And, you know -- so, you know, we stand by these numbers.
13 Again, it wasn't intended to be a budget for this Board.
14 We don't have that information. It was just simply a way
15 to provide a model supporting what we had in our
16 presentation.

17 BOARD MEMBER PAPARIAN: Okay. Thank you.

18 CHAIRPERSON MARIN: Ms. Marie Carter.

19 CHIEF COUNSEL CARTER: Thank you, Madam Chair.

20 In the audience is Mr. Doug Hodell, who has been
21 representing the Board in this bulk sale. And I think he
22 might be able to provide some insight on a couple of the
23 matters that have been raised.

24 CHAIRPERSON MARIN: Okay. Would you like to come
25 and maybe expand upon some of the questions that have been

1 raised?

2 Thank you, Marie.

3 MR. HODELL: I'm Doug Hodell. I'm with the firm
4 of Boutin Dentino. And I represent the Board as outside
5 counsel in connection with this sale.

6 And just for information purposes, I represented
7 the Board in connection with the sale in '96 and I
8 represented the Board in connection with the design and
9 implementation of the program on the legal side at the
10 inception. So I am very familiar with the loans, the
11 portfolio process and the bulk sale process of Board
12 loans.

13 I think there were a couple of items that there
14 were some questions about that the last presenter, Mr.
15 Wayne, raised. One had to do with the timing of the
16 closing.

17 We would love to try to close this in a week if
18 we could. But I think that's probably unrealistic. We
19 had anticipated it could take as long as 60 days, given
20 availability of staff resources and time available to
21 focus and the transfer process and closing process of the
22 portfolio.

23 A realistic timeframe, given the simplicity of
24 the structure, is probably 30 days. We might be able to
25 do it faster. It again depends on the ability of staff to

1 have the resources available to focus on it within a fast
2 track timeframe. Certainly we're able to devote the time
3 to it and I'm sure the buyer's able to. So if we balance
4 that, I think more realistically you're looking at 30 days
5 to finish negotiations, sign contracts, and go through a
6 closing process. And it could take longer than that,
7 depending on any complexities that come up.

8 I think, secondly, in terms of paying outside
9 counsel fees, that's a terrific offer. We would still
10 because of the attorney-client relationship submit our
11 bills to the Board for review and for their approval prior
12 to any payment. And that arrangement would, I think --
13 because of the confidentiality even of that and of the
14 potential for conflict, the Board would simply have to
15 submit the bill or the amount to the buyer to pay it.

16 We would not be -- I would be uncomfortable
17 trying to negotiate a fee payment agreement or structure
18 with the buyer and would prefer not to do that. I think
19 it compromises our independence and our representation of
20 the Board.

21 But I think those were the two item I was asked
22 to address, unless you have other questions.

23 BOARD MEMBER PEACE: So what do you think the
24 costs are going to be to close out this deal?

25 MR. HODELL: Well, so far they've been

1 significantly less than we anticipated they could be up
2 front. If the structure of the deal gets renegotiated so
3 that there are installment components, obviously the fees
4 will be higher. The tricky part of this from our
5 standpoint is to make sure that there's been adequate
6 transfer of all of the 50 different loans. They each have
7 unique collateral structures. There's -- you know, it's a
8 review and processing item that can be done at a fairly
9 low cost level. But, you know, to finalize the process,
10 to go to the end of it, probably -- I would anticipate at
11 this point it could be under 75 to 100,000. If we are
12 heavily involved and not getting the kind of support that
13 we might hope for from the buyer's side, for example, or
14 if it became very complicated and adversarial -- I don't
15 anticipate that. You know, all of our estimates on
16 costs -- and I think there are some in the agenda item --
17 have been high side assuming it's a deal that tends to
18 become difficult, go sideways and develops significant
19 complexities in the closing or transfer process.

20 We're under half of our budget to date in terms
21 of amount spent. So --

22 BOARD MEMBER PEACE: So we're talking about the
23 same thing here our staff is saying it's going to cost --
24 in their item here it's going to cost about \$200,000 for
25 outside legal costs --

1 MR. HODELL: It's not going to cost --

2 BOARD MEMBER PEACE: -- yet CCB says it's going
3 to be 10,000 and you're saying it's going to be 75,000?

4 MR. HODELL: Well, I think 10,000 is completely
5 unrealistic. And I've done a lot of these and I've done
6 them over a lot of time. And to make sure that the Board
7 gets the service it needs and to negotiate the final
8 contracts to do the transfers of the 50 loans, I mean
9 10,000 is simply not possible. I mean even if the
10 Board -- even if the buyer did all of the work itself, we
11 would be obligated to protect the Board and to review
12 that. And it's simply unrealistic from the complexity of
13 the process.

14 BOARD MEMBER PEACE: So when CCB was saying that
15 they would pay the legal costs, are you still going to pay
16 them if they're \$75,000?

17 MR. WAYNE: We will --

18 BOARD MEMBER PEACE: Or is that only if they're
19 under \$10,000?

20 MR. WAYNE: You know, as a former attorney, I'm
21 very sympathetic that legal fees can get higher.

22 We will pay the legal fees. That's our offer.
23 We would want to try and do it as efficiently as possible,
24 with the Board getting all the protection this they're
25 able counsel determines that they need. But, you know, we

1 have six lawyers in our bank that do nothing than this,
2 and I think we can help facilitate it. Whether the
3 number's 10,000 or 75,000, whatever that number is, we've
4 offered as part of our deal to pay them and we will.

5 BOARD MEMBER PEACE: Okay. Thank you.

6 DEPUTY DIRECTOR WOHL: Madam Chair?

7 CHAIRPERSON MARIN: Yes, Pat Wohl.

8 DEPUTY DIRECTOR WOHL: Just to clarify. We
9 really had very little familiarity with this. So what we
10 did is we based the costs on what it cost last time to do
11 it. So that's really where we got that figure. I'm
12 assuming that our loan files are just in a lot better
13 shape this year, which is great.

14 Can I just also make a comment in regard to
15 Capital Crossing? I think one of the comments was that
16 the reason to sell is because you can get -- you know, you
17 have many of these loans at a low interest rate and you
18 can put them back out on the market at a high interest
19 rate. In fact we have -- of the 50, 17 are below 4.25
20 percent and actually 33 are above 4.25 percent. So 33 of
21 those loans are actually getting a higher interest rate
22 now and would in fact have a lower rate. And so I think
23 that's where that loss for us occurs.

24 BOARD MEMBER PEACE: Could you tell me what the
25 dollar amount is on those 33 that are higher? Is it --

1 versus the ones with the lower interest rate would be?

2 DEPUTY DIRECTOR WOHL: Yeah, I don't have that.

3 I'm sorry.

4 Yeah, that would obviously make a difference too.

5 But I think just to blanketly say we're going to be able

6 to get a better rate if we put them out now is not

7 necessarily the case.

8 MR. WAYNE: If I could just respond. That's the

9 weighted average coupon --

10 CHAIRPERSON MARIN: Mr. Schaefer.

11 MR. WAYNE: Mr. Wayne.

12 CHAIRPERSON MARIN: Which one are you?

13 MR. WAYNE: I forget some days. But I am

14 actually Rick Wayne.

15 CHAIRPERSON MARIN: Rick Wayne, Rick Wayne. I'm

16 sorry.

17 MR. WAYNE: That is exactly right, that you have

18 loans that -- you know, some have higher rates than

19 others. But what's important is the weighted average

20 coupon, which is to say, when you take it, some of the

21 loans that have a rate in excess of four twenty-five and

22 some that have less than that number, you have to look at

23 the average balance to determine overall what the weighted

24 average coupon, which I believe is three ninety-eight.

25 I'm simply making the point, interest rates, everyone, you

1 know, knows are going up. And over time you'll be able to
2 reinvest those at a rate higher than three ninety-eight.
3 It's a timing question.

4 CHAIRPERSON MARIN: Okay. Any further questions?

5 BOARD MEMBER PEACE: I'd like to ask you one more
6 question.

7 So you're proposing to take over all our, quote,
8 "good loans". So really the chance of default is low.
9 But you're holding 5.5 percent or over a million dollars
10 until 2017-18. Is this like the standard for your
11 company, to hold --

12 MR. WAYNE: No, it's actually not. And just --
13 we respond to -- there was a bid form that went out and
14 requested a bid in a certain format. One of the points we
15 made in our presentation is we tried to make what's called
16 a conforming bid, which is to bid in accordance with what
17 you asked. Which means that's why we bid on every loan
18 that you offered for sale. And you asked for a reserve
19 number for loss, because I believe that's how you did a
20 prior transaction with that. And that's what we responded
21 to. So when we offered our price, we came up with a
22 number that reflected some amount in the reserve and that
23 reflected buying all of the loans. If your offer had said
24 no reserve, just give us -- you know, tell us how many
25 dollars you'll give us at closing, and we had gone through

1 that analysis, I suspect there would have been a number
2 that would have been slightly less than what we offered
3 you, because we're taking more credit risk and you would
4 get a little -- and you wouldn't have the reserve. So it
5 depends how it works out.

6 But we simply responded to exactly -- tried to
7 make an offer in exactly -- in accordance with what you
8 asked for.

9 BOARD MEMBER PEACE: Okay. So you're saying
10 that -- I guess one of the other offers they were going to
11 release the money over time?

12 MR. WAYNE: I'm sorry?

13 BOARD MEMBER PEACE: One of the other offers I
14 believe I read that they're going to -- they would start
15 releasing that default amount over time. You're just
16 saying you're going to release it in one lump sum in 2018.

17 MR. WAYNE: You know, to the extent that
18 without -- you know, you decided to award us the bid and
19 you wanted to work out the details of how that money was
20 released, not the amount of the reserve but the timing of
21 it. And you're getting interest on that reserve.

22 BOARD MEMBER PEACE: But in any case we do get
23 interest on it?

24 MR. WAYNE: You're getting interest on our -- you
25 know, those are details we would be happy to work out with

1 you. As I say, we simply responded, you know, to what
2 your offer was, without changing the pricing but in terms
3 of the timing of releasing some of that money, there's --
4 you know, we could work out a formula that sort of
5 accomplish what it's intended to do, which is to provide a
6 credit cushion, but doesn't keep the money in there
7 unnecessarily too long. And I'm sure we could, you know,
8 work out an arrangement that was suitable if you could
9 delegate that to, you know, your staff to work that out.

10 BOARD MEMBER PEACE: Okay.

11 CHAIRPERSON MARIN: Any further questions?

12 Okay. I just want to say one thing. Because I
13 know there was a concern expressed about the fact that we
14 have been working with these different companies; and when
15 some of the companies for unforeseen reasons face a very
16 difficult situation, we have been working with those
17 companies and literally rescued them from going bankrupt.

18 And it would be my understanding that any good
19 bank would also want to restructure, if need be, that
20 particular loan. So that they understand. Businesses
21 sometimes go through difficult times. And a good
22 responsive bank wants to not only rescue the loan, but
23 rescue the relationship.

24 So it would appear to me that you would also
25 restructure that particular loan if that were to be the

1 case.

2 MR. WAYNE: Within the parameters of what we can
3 do reasonably, restructuring that is our objective. And
4 we have a particular advantage in doing this, because
5 we're buying these at a discount.

6 So in a simple example, our bid was 83 or 84
7 cents. If a loan were a hundred dollars, as I said
8 earlier, you know, and we paid 84 for it, ignoring that
9 it's interest-rate adjusted, you know, we could
10 restructure that loan -- one loan for \$84 one, for 16.
11 And when we go through our bidding process we'd figure out
12 how much that the loan can support.

13 So the answer is, yes, we would do that. I
14 can't -- you know, in fairness, I can't commit that we
15 would, you know, hang in there forever.

16 CHAIRPERSON MARIN: No, I understand. I mean
17 there has to be --

18 MR. WAYNE: But we would be more than reasonable
19 on that.

20 CHAIRPERSON MARIN: We would do that as well. I
21 mean that's why we have -- the amount of repayment is
22 extremely high. We have secure, very good clients for
23 these loans, and we've had tremendous success. That's why
24 you're willing to buy them. But I wanted to appease, if
25 you will, some of our Board members, because we have

1 invested a lot of time and energy and effort. And more
2 importantly, what those businesses end up doing basically
3 is fulfilling our own mandate to reduce what goes into the
4 landfills and so forth.

5 So I just wanted to reassure it, if you will,
6 that it is in the best interests of banks and/or lending
7 institutions when companies face difficult situations to
8 work with those companies --

9 MR. WAYNE: I agree with you. Thank you.

10 CHAIRPERSON MARIN: -- because they want to
11 maintain -- they want to rescue their loan, but they also
12 want to maintain their relationship.

13 Okay. Marie, did you want to -- did you want to
14 add something?

15 CHIEF COUNSEL CARTER: Yes, Madam Chair.

16 I just wanted to say briefly that maybe Jim La
17 Tanner could address the issue that you were just
18 discussing, that is, the degree to which we as a board go
19 to try to help lenders who are in trouble as compared to
20 commercial holders of these loans.

21 MR. LaTANNER: Well, in general terms when a loan
22 defaults, when they can't make their payments is our first
23 real clue. We do get annual financial statements from
24 these applicants. We analyze those. And if we see a
25 decline, you know, we can take action before they default

1 on payments.

2 But the goal -- what we try to do is we can
3 restructure the loan in any manner we want to ensure that
4 eventually down the road we'll get paid back. When we
5 restructure a loan we look at what's the current available
6 cash flow of a business to make the payments. And then
7 usually we defer interest payments or we do interest only
8 and we add the principal on.

9 One thing we've never done is we haven't really
10 extended the maturity date of the loan beyond ten years.
11 Some of the earlier loans were five years and seven years.
12 We can take those out to ten, but we've always held to
13 that ten-year maturity date by statute with that.

14 But both these companies that are bidding,
15 Capital Crossing Bank, that buys SBA loans, those are
16 borrowers that aren't normally bankable. They have an SBA
17 guaranty behind them. And then Community Reinvestment
18 Fund buys economic development loans. It's all the same
19 type of pool of applicants. It's companies that couldn't
20 just walk into a bank for one or other reason and went to
21 a more -- other source.

22 So both these companies probably would work
23 within the same way we do. The more you work with an
24 applicant, eventually you get them back on track. The
25 only thing that falls out is when the company totally

1 fails. Then you have the collateral. And then you work
2 with the borrower, and hopefully you let the borrower sell
3 the collateral because they can get more money for it than
4 we can.

5 CHAIRPERSON MARIN: Thank you, Jim.

6 DEPUTY DIRECTOR WOHL: Can I just add to that?

7 This is Patty.

8 CHAIRPERSON MARIN: Yes, Patty, then Carl.

9 DEPUTY DIRECTOR WOHL: He's talking about the
10 financial things that we do. But we do also have, you
11 know, a zone program that has staff where, as soon as Jim
12 indicates to me that there is a company that may not be
13 making their payment, I would in turn try and figure out
14 if there's, you know, a marketing problem, you know, a
15 feed stock problem, whatever else is going on with that
16 company. And I have the resources to, you know, either --
17 send some expertise to shore up those companies. And
18 we've done a little bit of that to, you know, where -- it
19 goes beyond just figuring out that we're only going to pay
20 interest only or defer a loan payment for six months or
21 something like that. It really is giving them expertise.

22 CHAIRPERSON MARIN: But selling the loans
23 wouldn't preclude those companies from coming back to us
24 to ask for that --

25 DEPUTY DIRECTOR WOHL: Right. We just may not

1 know as early as we do now.

2 CHAIRPERSON MARIN: Mr. Washington.

3 BOARD MEMBER WASHINGTON: And I think what Patty
4 is saying is exactly where I'm trying to go. My concern
5 is that both of these companies are from out of state. We
6 are a board that represents the state of California. And
7 I do believe that Capital Crossing as well as Community
8 Reinvestment Funds -- one is from Boston, one is from
9 Minnesota. And I don't believe that they have the same --
10 and I shouldn't say I don't believe. It wouldn't appear
11 to me being in the type of business they're in that they
12 would have the type of time or the staffing to do what we
13 do here at the Board at addressing some of these issues
14 with these 50 loans companies. I just don't believe that
15 they'll be able to put in the same type of -- and both can
16 come and address this -- in terms of helping these folks
17 who are in trouble, are at close to defaulting.

18 And I think that's one of my positions I have
19 here and one of the -- what I'm trying to get an
20 understanding from them in terms of what my vote would be
21 is to what extent would they really help out those
22 companies. Because some of these companies are mom and
23 pop, they're not big companies that's, you know, running
24 out the door with money.

25 CHAIRPERSON MARIN: Mr. Washington, let me tell

1 you, there's two different things. One is the actual loan
2 servicing, you know, holding the hand of the customer and
3 so forth. What we may do aside from the loan servicing is
4 something that we will continue to do with these companies
5 out there. That will still not preclude us from providing
6 technical assistance to those companies. They --

7 BOARD MEMBER WASHINGTON: To the ones that we
8 give -- that we sell to these folks?

9 CHAIRPERSON MARIN: Right. There's two different
10 things. One is the servicing of the loan and the other
11 thing is what we provide technical assistance if they so
12 desire or needed it. Okay. We don't --

13 BOARD MEMBER WASHINGTON: Yeah, but what good is
14 our service once we have sold the bulk of loans to
15 California -- I'm sorry -- to Capital Crossing Bank? What
16 would they have to gain from us, this Board, walking --
17 those folks who come to us and say, "You guys sold our
18 loans to these folks. And now they raised my interest
19 rates. They won't help us. They won't return my calls"?

20 CHAIRPERSON MARIN: They're not going to do that.

21 BOARD MEMBER WASHINGTON: I don't know what
22 they're going to do.

23 MR. WAYNE: May I respond --

24 BOARD MEMBER WASHINGTON: I'm just asking the
25 question here.

1 CHAIRPERSON MARIN: Go ahead.

2 MR. WAYNE: Mr. Washington, let me just try and
3 put some numbers --

4 BOARD MEMBER WASHINGTON: And this is not to say
5 you're going to do that. I'm just raising a
6 hypothetical --

7 MR. WAYNE: I think you raise a very fair
8 question.

9 BOARD MEMBER WASHINGTON: -- because I have to
10 vote on this stuff.

11 MR. WAYNE: You raise a fair question. I want to
12 try and just respond, if I could, with some facts that may
13 support the point that I want to make.

14 Number 1, we are about a billion two in asset
15 bank. Thirty-one 31 percent of our loans, or about \$250
16 million, are located in California. We have more loans in
17 California than we have in Massachusetts. We have more
18 loans in California than we have in New England. We have
19 more loans in California than we have in any other state.
20 Point number 1.

21 Point number 2 is, over the last -- since 1996,
22 we have purchased, just as we're doing here, 9400 loans.
23 In the last three years, we have bought more than half of
24 our purchases, which -- let's call it 8 or 900 or a
25 billion dollars. I don't know the number exactly. Half

1 of those balances were institutions. You know, there
2 is -- as the Chair has indicated, there is every reason in
3 our own economic interest to want to service loans. We do
4 much better when we can work with borrowers and have them
5 repay than we do by roughing them up. That's just -- and
6 we don't do that.

7 We're a regulated industry governed by the FDIC.
8 We have more examiners crawling around our bank with
9 respect to every possible privacy regulation, consumer
10 regulation. You name the regulation, we have to be in
11 compliance with that. And we behave ourselves, not that
12 you -- this is the first time we've had an opportunity to
13 meet. And I assume as a Boston bank you don't know us or
14 much about us. But we have a very good reputation in this
15 area.

16 We have had, to the best of my knowledge -- and
17 we've bought over about 180 -- in 180 transactions, to the
18 best of my knowledge we have not had a single instance --
19 there may have been one, but I don't think so -- where a
20 borrower whose loan we have bought have come back to the
21 seller and have complained about our behavior. It's not
22 what we are. It's not what we're about. It's not our
23 culture. It's not in our economic interest to do so.
24 This is our sweet spot, these kinds of loans.

25 BOARD MEMBER WASHINGTON: Why do you have more

1 loans in California than you do where you're
2 headquartered?

3 MR. WAYNE: Because it's where the opportunities
4 for us. You know, there's -- California, is, as we like
5 to say -- and this you've heard it, I'm sure -- is a big
6 country. There's been lots of opportunities to buy in
7 California and --

8 BOARD MEMBER WASHINGTON: What's the size
9 difference in Massachusetts and California?

10 MR. WAYNE: Population size?

11 BOARD MEMBER WASHINGTON: Yeah.

12 MR. WAYNE: I think Massachusetts is 6 or 7
13 million and California is a lot bigger.

14 BOARD MEMBER WASHINGTON: Thirty-six million.

15 MR. WAYNE: Yes.

16 BOARD MEMBER WASHINGTON: So we're talking about
17 30 million difference?

18 MR. WAYNE: Yes. It's a big state and it's a --
19 there's lots of opportunities here and this is our sweet
20 spot. This is, you know, what we do, what we're good at.
21 And you have my word that we will treat your borrowers
22 fairly and compassionately.

23 And I would add one other point, which is -- you
24 know, I think from the Board's perspective, it's in your
25 interest, I believe, to let the private sector have these

1 loans once you originate them. If you can keep, you know,
2 creating 50 jobs for every million dollars that you put
3 out -- you know, if we don't behave ourselves, I'm sure
4 that if we come back and buy -- try and buy -- and we
5 will -- but if we didn't, next time we try and buy loans
6 from you you will remember this conversation, and you --
7 and we're not going to do that.

8 BOARD MEMBER WASHINGTON: Thank you. And I
9 appreciate that.

10 MR. WAYNE: Thank you, sir.

11 BOARD MEMBER WASHINGTON: If I can hear from
12 Community Reinvestment.

13 CHAIRPERSON MARIN: Gary.

14 MR. HORMQUEST: Addressing the servicing issue
15 first.

16 CRF has purchased over \$350 million worth of
17 economic development loans. And as Jim was talking about,
18 you know, these are -- vast majority are these are second
19 mortgages to small businesses. Our loss rate is .2
20 percent. Now, it -- you know, I think it comes out to
21 about \$550,000. And I know that one of those loans, over
22 \$300,000, was due to fraud.

23 Our goal -- you know, we keep track of our
24 businesses on a quarterly basis, you know, so we've got
25 advanced warning on when those businesses are being hurt.

1 We go back to the loan seller and work with them, you
2 know, if they have a vested interest -- in this case you
3 guys have a vested interest. And you have an existing
4 program to help those businesses, you know, get up and
5 running. That's our goal. You know, our goal is to make
6 sure that there are jobs. You know, we're a nonprofit.
7 We have a mission, a mission to see that you guys fulfill
8 your mission.

9 Now, specifically about our bid. In '96, we
10 spent a good portion of a year working with the staff at
11 integrated Waste Management to come up with the best
12 possible solution for, you know, a securitization. At the
13 time, they offered up a portfolio of \$6.1 million worth of
14 loans. And we came -- you know, we went back and forth,
15 back and forth, trying to come up with the appropriate
16 level of dollars to advance against that portfolio,
17 against the discount. And at that time, you know, we were
18 looking at an interest rate environment. You know, there
19 was about a 4 percent differential between the loan rate
20 and the market rate. And we came up with an advance of
21 \$4.7 million, with Integrated holding what we term a
22 residual interest in the portfolio.

23 At the time the assumption was that the discount
24 would be about 11 and a half percent. Because of
25 prepayments in the portfolio, which we -- you know, I

1 don't think anybody expected, because they were, you know,
2 4 and a half percent loans. You know, the way that we
3 structured the deal, the prepayments -- the benefit of the
4 prepayments accrued to Integrated Waste Management. And
5 the end result was that the discount actually came in a
6 little less than 7 and a half percent. You know, so you
7 actually, you know, benefited and minimized the discount.

8 Our proposal to you today mirrors that proposal.
9 We tried to come up with the best possible, the optimal
10 funding level to minimize your discount. And I think if
11 you look at what the discount is, it's substantially
12 different than just a wholesale purchase. It conserves
13 the state's cash, you know, capital that's put into the
14 program; and provides you with a very good benefit.

15 You know, I think that looking at the residual in
16 both cases, and totally assuming that goes to loss, is
17 very Draconian. You know, our experience in purchasing
18 these loans, you know, in the less than .2 percent loss
19 rate, as compared to, you know, roughly a 20 percent loss
20 rate assumption, is, you know, not even in the same
21 ballpark.

22 You know, we -- we've actually offered -- and on
23 the first purchase several years into the deal we offered
24 to purchase the residual interest. And we actually had
25 purchased the residual interests a couple years into deals

1 with other sellers. You know, so it's something -- you
2 know, if you guys are looking at getting -- you know,
3 maximizing the dollars sooner, it's something we'd look at
4 doing on a regular basis, you know, just as our course of
5 business.

6 You know, our investors are mostly social
7 investors. In fact, we've got in this case an
8 individual -- well-healed individual who is interested in
9 recycling and actually came to us and looking for an
10 investment that puts his money into recycling. We will be
11 using his dollars in this transaction. You know, these
12 are the types of people that we use to drive down the
13 costs of our business, you know, to increase the dollars
14 available to economic developers. And, you know, I think
15 if you just look at the discount, you'll understand.

16 CHAIRPERSON MARIN: Okay, Gary.

17 Okay. Then are there any further questions for
18 Gary?

19 Marie, I note that you wanted to say something.

20 CHIEF COUNSEL CARTER: Yes.

21 CHAIRPERSON MARIN: And then Ms. Peace.

22 Let me -- before I do that. I really would like
23 to finish this before lunch, if that's okay.

24 Our poor court reporter is working so hard.

25 Thank you so much.

1 Okay. Go ahead, Marie.

2 CHIEF COUNSEL CARTER: Thank you, Madam Chair.

3 I just wanted to say that if the bidders were
4 willing, we could craft language to include in the sale
5 agreement that would allow us to address the issues that
6 you and Mr. Washington raised about the level of servicing
7 for borrowers who might be in trouble.

8 CHAIRPERSON MARIN: Okay. Thank you, Marie.

9 Ms. Peace.

10 BOARD MEMBER PEACE: I just had a question of
11 staff. How many times have we had one of our loans falter
12 to the point where we actually had to restructure a loan?

13 MR. LaTANNER: There's probably been -- of the
14 130 loans that we've made since inception of the program,
15 probably 6.

16 BOARD MEMBER PEACE: Okay.

17 MR. LaTANNER: Six to ten maybe.

18 BOARD MEMBER PEACE: So less than 10 percent.

19 CHAIRPERSON MARIN: Okay. Thank you, Ms. Peace.

20 Is there any further discussion?

21 Okay. Is there a motion?

22 Ms. Moulton-Patterson.

23 BOARD MEMBER MOULTON-PATTERSON: Just for staff,
24 again -- and I know one of the bidders mentioned it.

25 How would we -- how do you see us not having any

1 of these funds swept? Are they going to give it to us
2 gradually or something like that? Because, as you know,
3 this does happen once we have, you know, a large amount of
4 money.

5 Ms. Wohl, do you have any comments about that?

6 DEPUTY DIRECTOR WOHL: Sure. I think they gave a
7 proposal to -- you know, they could probably give us
8 incremental dollars --

9 BOARD MEMBER MOULTON-PATTERSON: Both of them?
10 That is my question.

11 DEPUTY DIRECTOR WOHL: But even that
12 withstanding -- I think I've talked to Tom about this --
13 and the idea of -- when we placed the budget for this
14 particular program, we've been saying that we're going to
15 expend about \$10 million. I think what we would do is
16 basically change that allocation, so to speak. So if
17 there were 25 million out there, we could say we plan to
18 expend 25 or 23, which sort of puts that -- kind of says
19 that we're anticipating getting all of that out the door
20 and therefore it's all needed.

21 Now, what happens the following year if we don't
22 meet that? That may be the issue. But, again, I think
23 that's a way to kind of stave that off, you know, to show
24 that our intention is to actually get all those dollars
25 out the door if we have them.

1 BOARD MEMBER MOULTON-PATTERSON: Right away.

2 DEPUTY DIRECTOR WOHL: So to modify that.

3 BOARD MEMBER MOULTON-PATTERSON: Okay. Thank
4 you.

5 CHAIRPERSON MARIN: Ms. Mulé.

6 BOARD MEMBER MULÉ: Madam Chair, I just noticed
7 that we do not have a resolution. We have a resolution to
8 approve Option 3, but we don't have any other resolution.
9 So could staff address that?

10 Thank you.

11 DEPUTY DIRECTOR WOHL: We actually do have some
12 samples depending how this discussion went. So we can
13 send those up to you right now. We have if there is a
14 sale -- either/or, you have the options.

15 CHAIRPERSON MARIN: Okay.

16 BOARD MEMBER WASHINGTON: Madam Chair, just real
17 briefly.

18 CHAIRPERSON MARIN: Yes, Mr. Washington.

19 BOARD MEMBER WASHINGTON: I just want the Board
20 to know that I'm going with the staff recommendation based
21 on several reasons. One, I believe that enough hasn't
22 been done to assure from either/or that is selected from
23 this process that we're really going to get the best bang
24 for our buck in protecting the small businesses in the
25 State of California.

1 I'm concerned that we're getting ready to give
2 these loans to out-of-state companies. And it's not to
3 shed any bad light on out-of-state companies. But I want
4 some assurance that these folks will be taken care of like
5 we take care of them in the State of California. No one
6 takes care of you like your own family does. And to some
7 extent to where we can get some real cooperation and get
8 some real commitments, not some "We'll do the best we
9 can," "probably so," "we'll take a look at it." I'm
10 really not, Madam Chair, prepared to support moving this
11 forward, and to stick with the staff recommendation. I
12 just wanted the Board to know that before we took a vote
13 on this.

14 CHAIRPERSON MARIN: Okay. Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam
16 Chair.

17 It almost seems like we have two issues before
18 us. One is whether to sell the loans or not, and then
19 which company to choose if we choose to sell the loans.

20 And it's almost like we -- almost like we should
21 take two votes. We should decide the first, whether we
22 want to sell the loans or not. And then I think we may
23 need a little more discussion of the differences between
24 the offers, because we're being asked to choose one or the
25 other if we choose to sell the loans.

1 CHAIRPERSON MARIN: Okay. Well, I think -- and
2 this is the reason why we brought this to the full Board
3 and why we needed to have the discussion. Because, most
4 importantly, we have -- we cannot have our cake and eat it
5 too, you know. We either believe in this program and we
6 want to fund it and we want to do everything possible to
7 increase it and augment it; or we don't and we just want
8 to give lip service to people, yes, we really like this
9 program, but we're just going to fund it at the current
10 level and maybe not market it as much, so that nobody
11 knows that there is this program out there so that
12 people -- because then it will be over-subscribed and we
13 don't have a lot of money and here we have an opportunity
14 to increase it.

15 You know, I think that this calls for what do we
16 really want to do. And if we say we support this program
17 and we have all of these people say, "We want you to do
18 this" because that will open capital and more businesses
19 will be able to do that and our mandate will be fulfilled,
20 if you will, in that we will have more companies that are
21 involved in this process, or we don't. And that's clearly
22 the first question.

23 To me it seems like we need to discuss that as a
24 board, what is it that we really want to do here.

25 And we have an opportunity to augment and expand,

1 and with enough precautions that would be taken, or we
2 don't. Maybe we're afraid. Maybe we don't want to.
3 Maybe -- I don't know what the maybe's might be. But it
4 seems to me that that's what's in discussion here.

5 Ms. Peace.

6 BOARD MEMBER PEACE: Well, I was just going to
7 say we did send this bulk sale out to bid, and we only had
8 two companies respond. I mean California companies did
9 have an opportunity to respond and they did not.

10 BOARD MEMBER WASHINGTON: Yeah, it's not even so
11 much about it being a California company. I'm talking
12 about some assurances. I don't care if they come from New
13 York. It's not about whether they come from California or
14 not. There are some assurances that I would like to see
15 in here and they're not in here. These guys have stood
16 here and said, "We'll take a look at it. Maybe so." And
17 we're talking about giving up 50 loans. These people are
18 not here just so they can get some loans. They're in the
19 business of making money.

20 CHAIRPERSON MARIN: Okay. Ms. Peace.

21 BOARD MEMBER PEACE: Well, I guess -- do we need
22 two resolutions then, like --

23 DEPUTY DIRECTOR WOHL: Well, I think he was just
24 proposing that you decide where you stand on whether you
25 want the sale or not.

1 BOARD MEMBER PEACE: Do that first, you mean?

2 DEPUTY DIRECTOR WOHL: So that would be the first
3 resolution as is. And then we have two that should say
4 revised depending on, if you choose to do a loan sale,
5 which company would you pick. And I don't think "revised"
6 is on there, but it should be.

7 BOARD MEMBER MULÉ: No, Patty, they're not. As a
8 matter of fact, the original resolution asks us to approve
9 Option 3. So I'm going to ask Legal, do we need to -- how
10 do we go about doing that? Because -- and then the second
11 thing is they're both the same resolution number. So
12 that's why I was asking the question earlier. This is a
13 little confusing to --

14 DEPUTY DIRECTOR WOHL: Well, they would all be --
15 see, what you would do is, if you were to choose 2004-263,
16 if you decide what you want it to say, it's the same
17 resolution. So if it's revised, it would be one of the
18 two alternatives I gave you. If it's "no loan sale,"
19 that's Option 3, then it's as is, 263. But I don't
20 believe the number changes.

21 BOARD MEMBER MULÉ: Marie, could you address that
22 please for us.

23 CHIEF COUNSEL CARTER: I would ask Mr. Papanian,
24 did you intend to also entertain the decision to sell to
25 one of these bidders today? If that's the case, then I

1 think in one resolution it would cover both of your
2 issues. But if you intend to postpone that determination,
3 then I think that we would address the resolution today,
4 modify it just to say that the Board was willing to sell
5 and then come back on --

6 BOARD MEMBER PAPARIAN: Right. Yeah, it was not
7 my postpone till after today. But it was my intention --
8 if we do want to sell the loans, I think -- at least for
9 me, I need to understand a little more the differences
10 between the two bids before I choose one bid over the
11 other.

12 CHAIRPERSON MARIN: Okay. Let's go with Item No.
13 1 first. Let's go with the question of whether we want to
14 sell the loans. Okay?

15 Is there anybody that would like to make a motion
16 for that?

17 BOARD MEMBER MOULTON-PATTERSON: Before we make a
18 motion, I'd like to speak to it.

19 CHAIRPERSON MARIN: Oh, okay. Ms.
20 Moulton-Patterson.

21 BOARD MEMBER MOULTON-PATTERSON: Thank you.

22 This is one that I've really struggled with about
23 the sales. And I have been so impressed with what our --
24 in staff, what we've done and what we've been able to do.
25 It's just been remarkable to me.

1 I'm at the point now where I think I will be
2 voting aye for the sale. But I want it -- and mainly
3 because of the comments from the zone administrators, who
4 are out there in the trenches and everything. That weighs
5 very heavily with me because I've had a long relationship
6 with them and I have a lot of respect for them. But I
7 just want to say what a great job we've done with very
8 limited resources, and how professional it's been. And so
9 I just wanted my vote to really reflect that. It's been a
10 long, hard decision for me. But I'm really influenced by
11 the zone administrators.

12 CHAIRPERSON MARIN: Thank you, Ms.
13 Moulton-Patterson.

14 Any further --

15 BOARD MEMBER PEACE: I'm still confused on what
16 we're doing. If we want to vote for the bulk loan sale,
17 is that one thing?

18 CHAIRPERSON MARIN: Yes --

19 BOARD MEMBER MOULTON-PATTERSON: Yeah, that's --

20 CHAIRPERSON MARIN: -- that's where we are.

21 BOARD MEMBER PEACE: Just that. And then we'll
22 go back and have another resolution, which I don't have
23 copy of?

24 CHIEF COUNSEL CARTER: We can do it in two ways:
25 We could have included in one resolution the determination

1 to sell, and then immediately after that "And, further,
2 therefore, the sale will be to" X Company.

3 CHAIRPERSON MARIN: Yeah. What happens is that
4 the resolutions here talk specifically about both
5 companies. So the first resolution would have to be
6 something that we do not have here.

7 DEPUTY DIRECTOR WOHL: Well, I guess this is how
8 I was looking at it. We have three options in front of
9 you. So I have three resolutions: The one in the book,
10 that is, for no sale, that's the Option 3; and you have an
11 Option 1 and Option 2 in front of you.

12 CHAIRPERSON MARIN: Okay. Now, which one is
13 Option 1 and which one is Option 2?

14 DEPUTY DIRECTOR WOHL: If you look at the second
15 page -- well, on -- let me see which one -- I think one's
16 longer than the other. But where it starts to say, "Now,
17 therefore" on both of them. One says Option 1 for Capital
18 Crossing and one says Option 2 for Community Reinvestment
19 Fund. So one is the very first -- "Now, therefore" is on
20 the first page and on the one it's just the second page.

21 CHAIRPERSON MARIN: Oh, I understand. Okay.

22 DEPUTY DIRECTOR WOHL: So you have all three
23 options in front of you.

24 CHAIRPERSON MARIN: Okay.

25 DEPUTY DIRECTOR WOHL: So maybe it's just make a

1 motion for an option.

2 CHAIRPERSON MARIN: I see. So there is not one
3 for just the option of selling? There is not?

4 DEPUTY DIRECTOR WOHL: No, because it was to pick
5 the bidder --

6 CHAIRPERSON MARIN: Right, to pick the bidder.

7 DEPUTY DIRECTOR WOHL: -- to pick the actual bid.

8 Okay. Mr. Paparian.

9 BOARD MEMBER PAPARIAN: Yeah, I'm sorry, Madam
10 Chair.

11 I think there may be a simple way to do this.
12 It's almost like a straw vote. I think two members of the
13 Board have now declared themselves -- three members of the
14 Board have declared themselves about where they stand on
15 the sale. And if we're able to declare ourselves, then we
16 can I think move right to the resolutions. We don't have
17 to have a vote on the motion --

18 CHAIRPERSON MARIN: Okay. Well, we don't have a
19 resolution -- we don't need to have a resolution. We can
20 take a vote as to whether we can -- whether we'll move
21 forward.

22 BOARD MEMBER PAPARIAN: I think if it's clear
23 whether the Board is ready to sell the loans or not, that
24 will --

25 CHAIRPERSON MARIN: Then we will make the

1 resolution.

2 BOARD MEMBER PAPARIAN: So I'll declare myself --
3 and Mr. Lautze will remember a week and a half ago I spoke
4 with him on the phone and said, you know, I support the
5 staff resolution, you know, and -- but I have an open
6 mind. And my open mind has -- after hearing the
7 information at the Committee, after hearing the
8 information today, after studying this a lot more, I'm
9 ready to try the sale. So that's where I'm at today.

10 CHAIRPERSON MARIN: Okay. Ms. Mulé.

11 BOARD MEMBER MULÉ: Madam Chair, thank you.

12 I too am ready to support the sale of the loans.

13 And, again, I'd like to echo the comments that
14 Board Member Patterson had made. The RMDZ, the zone
15 administrators, you all have influenced my decision. You
16 guys are the ones out there in the trenches and you're the
17 ones that should know what you are capable of doing. And
18 so I'm going to be relying on you, Steve, you and your
19 folks to get out there and grow the program.

20 So I do support the sale of the loans.

21 CHAIRPERSON MARIN: Thank you.

22 Ms. Peace.

23 BOARD MEMBER PEACE: Yes, I also support the sale
24 of the loans.

25 CHAIRPERSON MARIN: Okay. Well, there.

1 Thank you, Mr. Paparian. That was brilliant of
2 you, to let us do a straw poll here.

3 The next item then will be --

4 DEPUTY DIRECTOR WOHL: Well, actually -- yeah,
5 you have the two resolutions then in front of you. That
6 could be Option 1 or Option 2.

7 CHAIRPERSON MARIN: Option 1 would be to award it
8 to Capital Crossing Bank. And Option 2 would be to award
9 it to the Community Reinvestment Fund.

10 Is there a motion?

11 BOARD MEMBER PEACE: Yes, I would like to make a
12 motion. The Resolution 2004-263, Option 1, to sell the
13 loan to Capital Crossing Bank, with the things that we
14 have specifically talked about with them, paying the legal
15 fees with them, taking another look at the default
16 schedule, see if we could work that out to anything
17 better, and then working to reschedule the release of the
18 funds so that we only get the funds as we need it.

19 BOARD MEMBER MULÉ: Second.

20 CHAIRPERSON MARIN: It's been moved and seconded,
21 moved by Peace, seconded by Mulé.

22 Will you please call the roll?

23 Oh, hold on one second.

24 Mr. Paparian, do you want to add something?

25 BOARD MEMBER PAPARIAN: Could I just ask, does

1 the staff have a position on one bidder versus the other?

2 DEPUTY DIRECTOR WOHL: In our original RFP we did
3 discuss that we would give strong points for those who
4 agreed to purchase most of the loans, the majority of the
5 loans as well as had the most up-front money. So given
6 those two scenarios, that is Capital Crossing.

7 BOARD MEMBER PAPARIAN: So that would be the
8 staff recommendation?

9 DEPUTY DIRECTOR WOHL: Correct.

10 BOARD MEMBER PAPARIAN: Okay.

11 CHAIRPERSON MARIN: Okay. This one you're going
12 to have to call the roll.

13 Thank you.

14 SECRETARY JIMENEZ: Moulton-Patterson?

15 BOARD MEMBER MOULTON-PATTERSON: Aye.

16 SECRETARY JIMENEZ: Peace?

17 BOARD MEMBER PEACE: Aye.

18 SECRETARY JIMENEZ: Mulé?

19 BOARD MEMBER MULÉ: Aye.

20 SECRETARY JIMENEZ: Papanian?

21 BOARD MEMBER PAPARIAN: Aye.

22 SECRETARY JIMENEZ: Washington?

23 BOARD MEMBER WASHINGTON: No.

24 SECRETARY JIMENEZ: Marin?

25 CHAIRPERSON MARIN: Aye.

1 Okay. Wow.

2 Thank you so very much to everybody. Thank you,
3 thank you, thank you.

4 Now, I do want to say, Mr. Lautze, I hope you
5 leave here with a bigger -- what do you call it? -- thing
6 on your shoulder.

7 Now, we do appreciate -- and I think that by the
8 Board's action, I believe that you -- you can go back to
9 your administrators and let them know that not only are we
10 wishing you success, but we're standing right behind you,
11 we're augmenting that.

12 MR. LAUTZE: Well, have a good time in Santa
13 Rosa.

14 CHAIRPERSON MARIN: We'll all be there. Well,
15 some of us will be there.

16 With that, Marie, we're going to have a closed
17 session item after lunch. I presume it would be after
18 lunch, that my colleagues would rather have lunch first.

19 And would you like to mention that please?

20 CHIEF COUNSEL CARTER: Yes. Thank you.

21 That closed session will cover two items under
22 Government Code Section 11126E.

23 Thank you.

24 CHAIRPERSON MARIN: Thank you.

25 Thank you so very much, everybody, for hanging in

1 with us. And we'll see you next month.

2 That concludes this meeting.

3 Thank you.

4 BOARD MEMBER MOULTON-PATTERSON: What time?

5 CHAIRPERSON MARIN: Oh. What time we'll have our
6 closed session item?

7 BOARD MEMBER MOULTON-PATTERSON: Yes.

8 CHAIRPERSON MARIN: Oh. Hour and a half for
9 lunch?

10 1:30?

11 Okay, 1:30. Thank you.

12 (Thereupon the California Integrated Waste
13 Management Board recessed into closed session
14 at 1:30 p.m.)

15 (Thereupon the California Integrated Waste
16 Management Board meeting adjourned at
17 3:00 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board
7 meeting was reported in shorthand by me, James F. Peters,
8 a Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

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

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 21st day of October, 2004.

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