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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

PERMITTING AND ENFORCEMENT COMMITTEE

SOLANO COUNTY GOVERNMENT CENTER

675 TEXAS STREET

MULTIPURPOSE ROOM, 1600

FAIRFIELD, CALIFORNIA

TUESDAY, OCTOBER 10, 2006

5:00 P.M.

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APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Ms. Cheryl Peace

Ms. Pat Wiggins

BOARD MEMBERS

Ms. Margo Reid Brown, Board Chairperson

Mr. Jeffrey Danzinger

STAFF

Mr. Mark Leary, Executive Director

Mr. Elliot Block, Acting Chief Counsel

Mr. Howard Levenson, Deputy Director

Mr. Michael Bledsoe, Senior Staff Counsel

Ms. Christine Karl

ALSO PRESENT

Mr. Dwight Acey, Citizens Against the Dump Expansion

Mr. Larry Bahr, Fairfield-Suisun Sewer District

Ms. Jane Bogner, Sierra Club

Mr. Arthur Feinstein, SPRAWLDEF

Ms. June Guidotti, Protect The Marsh

Mr. George Guyan

Mr. Frank Kardos, Fairfield City Council

Mr. Duane Kromm, Solano County

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APPEARANCES CONTINUED

ALSO PRESENT

Ms. Monica Lopes

Ms. Lorraine McGee

Mr. Morland G. "Mac" McManigal, Fairfield/Suisun Chamber of Commerce

Mr. John Mraz, Councilman, City of Fairfield

Mr. John F. Silva, Solano County Board of Supervisors

Mr. Brad R. Smith, Brad R. Smith & Associates

Ms. Yoshiko Tagami

Mr. David Isaac Tam, Northern California Recycling Association

Ms. Virginia Thomas

Ms. Amber Vierling, Law Office of Amber Vierling

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PROCEEDINGS

CHAIRPERSON MULÉ: I'd like to call this meeting to order.

Welcome to the October 10th meeting of the Permitting and Enforcement Committee. This is a continuation of our committee meeting from this morning. And we're here this evening to hear Committee Item E, which is Board Agenda Item 15.

First of all, on the back table there in the room there are speaker slips. So if anyone has not filled out a speaker slip and you wish to address our Committee and the Board, please do so at this time.

Also, there's copies of the agenda item back there as well.

And I would like to ask all of you to please either turn off or put in the silent mode your cell phones and pagers.

Thank you very much.

Now, Kristin, would you please call the roll.

SECRETARY GARNER: Members Peace?

COMMITTEE MEMBER PEACE: Here.

SECRETARY GARNER: Wiggins?

COMMITTEE MEMBER WIGGINS: Here.

SECRETARY GARNER: Mulé?

CHAIRPERSON MULÉ: Here.

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CHAIRPERSON MULÉ: And also this evening, we have our Board Chair, Margo Brown, and Board Member Jeffrey Danzinger. Thank you for being here this evening.

Okay. Members, do we have any ex partes to report?

COMMITTEE MEMBER PEACE: I just said hi to Chuck Helget.

CHAIRPERSON MULÉ: I'm up to date.

COMMITTEE MEMBER WIGGINS: I'm up to date.

CHAIRPERSON MULÉ: Okay. Thank you.

Before we get started on this Committee item, I'd like to ask our legal counsel to provide us with an --

COMMITTEE MEMBER WIGGINS: I'm sorry. I met -- I went to Potrero Hills today and Evan Edgar was there. So that's my --

CHAIRPERSON MULÉ: Okay. Thank you very much.

Okay. We're going to have our staff legal counsel, Elliot Block, just give us an opening statement before we start this meeting.

Elliot.

ACTING CHIEF COUNSEL BLOCK: Thank you.

I want to set some context for this meeting and how it fits within the Board's process for considering the proposed Potrero permit.

As mentioned, tonight's hearing is a continuation

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of our regularly scheduled Permitting and Enforcement Committee meeting. The rest of the items on our Committee agenda were heard in Sacramento this morning. And we continued the meeting to tonight in order to allow for public testimony on the proposed permit at a more convenient time and place for members of the public.

The Board's normal process requires items to be heard by one of its committees first, which then makes a recommendation to the full Board for a final decision.

In the matter we're discussing tonight, the applicant for this permit has waived the normal timeframes that would apply to this permit and the LEA has accepted that waiver. Therefore, the Board hearing for final decision for this item that was scheduled for next week is actually being postponed.

This matter will come back to the Committee for a recommendation and the Board for a final decision sometime -- at the earliest next month, November.

However, since the next public hearing had already been scheduled, the Committee has decided to take public testimony on this proposed permit tonight after a presentation by Board staff.

Tonight's testimony will be part of the record for this item and will be something that the Committee and the Board will consider in making its decision. However,

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I want everybody to be aware that the Committee will not be making any recommendations for or against the permit tonight. This is simply an opportunity for the Committee to hear public testimony.

CHAIRPERSON MULÉ: Thank you, Elliot.

So we will be hearing the item from our staff and we will be taking public comment. But we will not be rendering any decision on this permit until at least next month.

So with that, I'd like to turn this over to our staff, Howard Levenson, our Deputy Director.

Howard.

DEPUTY DIRECTOR LEVENSON: Thank you, Madam Chair.

Can you hear me?

I'm Howard Levenson, Deputy Director for Permitting and Enforcement at the Waste Board. And as you've indicated, this item requests that the Board consider the proposed revised permit for the Potrero Hills Landfill.

As you know, as Mr. Block just stated, the operator has submitted a letter today waiving time on this proposed permit; the LEA has accepted that. But we did feel for purposes of this meeting tonight and for hearing the public testimony that we set the stage in terms of the

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proposed permit that we had received on September 8th and the status of our findings on that proposed permit.

As you know, at the time this item was written and posted into the Board's electronic agenda item system, staff had recommended Option 2, which was objecting to the issuance of the proposed permit for several reasons. And I think it's important for the record to get those reasons out on the public record so that everyone understands where staff's perspective is on this item.

Primary among these reasons was that staff did not make the required finding regarding the consistency of the closure and post-closure plans to state minimum standards because the initial permit application package did not include those plans.

Staff also was unable to make the required finding regarding financial assurances for the landfill. And we're still unable to make those findings.

In addition, the facility was not found to be in compliance with state's minimum standards during two staff inspections that were conducted in late September. And we still have questions about the CEQA documentation and the joint technical document that's part of the permit package.

Now, we received the proposed permit on September 8th, which did not allow much time for review of the

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associated documents. I think it's important for the Board to understand that typically we see many of these kinds of documents in pre-draft form, and so we're able to perform some kind of initial review and go back and forth in terms of providing feedback to the LEA and the operator about those documents. But that was not the case in this situation.

Moreover, the fact that the permit application package did not contain the closure and post-closure plans and other required items was particularly frustrating to me and to staff in general. The LEA could have and, in my view, should have rejected the permit application package as incomplete, but it did not. So this puts staff in the awkward position of developing this item with incomplete information.

We've been in constant communication with the LEA on these issues, and we also met with the operator at their request last Wednesday to discuss these issues further.

At that time, the operator did submit some plans -- closure and post-closure plans to us. But those did not include what we term "slope stability analysis". And I'll come back to that in a second.

But I'd like the Board -- the Committee to understand several points about these kinds of plans.

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First of all, they're very complex engineering documents. For purposes of a permit process and the time clocks -- or timeframes associated with the permitting process, our regulations anticipate that we will have 60 to 90 days to make a finding about completeness and then a subsequent finding about the consistency of those plans with state minimum standards.

First we have 30 days within which to make a determination about the completeness of those closure and post-closure plans. Then for purposes of the permit consideration, staff has 60 days to make a finding regarding consistency with state minimum standards. And usually that determination involves some back-and-forth consultation with the Regional Water Board that has oversight over the particular landfill.

So, typically, if everything is going according to the normal process, the Waste Board staff and the LEA would have received these plans before the LEA received the permit application. And that's well before the permit -- proposed permit is actually forwarded to the Board.

In this case, we didn't receive the plans until last week, after the proposed permit was sent to us on September 8th. And as I noted, the plans still did not have the slope stability analysis. And since this

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proposed permit entails a vertical expansion, the question of slope stability is of great importance in reviewing the plans.

So without an analysis of slope stability specifically for what is called Phase 1.5, the plans would still be incomplete and our finding would continue to be one of nonconsistency with the closure and post-closure plan state minimum standards.

Even if we get the analysis this week, the site analyses are complex. We may have questions requiring some back and forth between our staff and regional board staff as well the operator and the LEA. And so it may take some time for us to come to some conclusions about that plan. We're not prejudging the slope stability analysis. We just typically need quite a bit of time to do a thorough review.

So with that backdrop and understanding that the operator has waived the timeframe, I'm going to turn this over to Christy Karl to make a little more detailed presentation about what the actual proposal is as of today and what the status of our findings is based on the information that we had up to literally Friday and yesterday.

CHAIRPERSON MULÉ: Thank you, Howard.

Good evening, Christy.

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MS. KARL: Hi.

Good evening, Madam Chair and members of the Board.

The item before you considers a Revised Full Solid Waste Facility Permit for Potrero Hills Landfill, Solano County, which is owned and operated by Potrero Hills Landfill, Incorporated, its subsidiary, Republic Services.

The operator is proposing to make the following changes to the currently permitted Phase 1 area of the landfill:

To increase the elevation from 230 feet to 310 feet above mean sea level.

To increase the estimated closure date from 2011 to 2013.

To count for purposes of the tonnage limitations only the waste materials that are destined to be disposed. The material currently handled that would not fall into that -- within that peak daily tonnage limit of 4,330 tons and 3,400 tons per day averaged over seven days includes source-separated recyclables and all materials used for ADC and other beneficial uses on the site such as concrete, what is used for internal road construction and tipping pads. The amount of these combined materials received in 2005 was approximately 615 tons per day.

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They also propose to change the hours of operation from 4 a.m. to 1 a.m. seven days a week and 24 hours a day Monday through Friday, and with 10-hour -- or, sorry -- with 20-hour days on Saturday and Sunday. They would be closed from 12 a.m. to 4 a.m.

The hours of the site that's open to the public are not proposed to change.

Up till today staff was recommending the Board object to the proposed permit for the following reasons:

Staff has determined the financial assurances are not adequate. The letter of credit amendment provided November 4th, 2004, does not provide adequate coverage for the closure and post-closure maintenance cost estimates. And staff has not received evidence of operating liability.

Closure section staff are in the process, as Howard explained, reviewing a revised preliminary post-closure and maintenance plan, and have not made the finding that the plans are consistent with state minimum standards.

Closure staff are in attendance, if you have specific questions regarding the closure plan.

Staff reviewed the August 2006 version of the JTD and determined that it does not contain all of the items required by Title 27 California Code of Regulations,

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Section 21600.

The operator provided some information informally to staff on October 4th, 2006. But staff has not initiated a formal review due to the lack of an accepted application from the LEA to accompany the information.

Staff is still attempting to determine if the five-year permit review report requirement was met. We didn't have time to get to that.

Staff inspected the site and found it in violation of state minimum operating standards with regards to daily cover -- alternative daily cover and litter control.

We have pictures prepared, if you'd like to see them, regarding these violations when we found them.

And staff have determined that the proposed permit is not consistent with Section 20680(a), as they have not defined the operating day regarding application of cover materials.

In compliance with Public Resources Code 44009 in Title 27 CCR in 21685(b) that states the Board shall not concur in the issuance of a proposed permit if certain identified requirements are not met, and as is specified in -- Title 27, Section 21685(b) subsections 1, 5, 7 and 8 have not been met -- and we're still trying to determine subsection 2 -- it was determined that with this

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information staff would recommend denial of the proposed permit -- without this information staff would recommend denial of the proposed permit.

In addition, staff has not developed a finding relative to CEQA. However, the Board does not need to meet requirements of CEQA in denying a permit.

The agenda item resolution will be updated to reflect staff's findings prior to the Board meeting, which now will be November.

And this concludes my presentation.

The LEA is present to address your questions and the operator is here.

CHAIRPERSON MULÉ: Thank you, Christy.

Does staff have -- or does the Committee have any questions of staff?

Howard?

DEPUTY DIRECTOR LEVENSON: I just want to reiterate, that was our -- those are our findings as of the most current information that we have. But it has to be taken into the context that we now have a waiver -- time waiver from the operator. And as Mr. Block indicated, that waiver goes to at least November. So at this point, we're not actually making a formal recommendation for your consideration, but maybe to hear public testimony. And we will recalendar this for the

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November Committee meeting.

CHAIRPERSON MULÉ: At this point in time?

DEPUTY DIRECTOR LEVENSON: Right.

CHAIRPERSON MULÉ: Correct.

Okay. Let's get started then with our public testimony.

I just would like to ask folks if you could please try to limit your comments to five minutes or less.

DEPUTY DIRECTOR LEVENSON: I think the operator may wish to speak as well.

CHAIRPERSON MULÉ: Okay. I think first what we'll do is to hear public comment. We have several speaker slips. We'll hear from them first.

Our first speaker is Jane Bogner.

MS. BOGNER: Good evening.

I'm not sure how this mike is working.

My name is Jane Bogner. I live in Vallejo. I'm part of the Sierra Club Solano group here in Solano County. I've been following the waste and recycling issues for about 18 years on behalf of the Sierra Club.

Landfills, as we all know, are a contentious issue, no matter where they are. The Waste Board has been very diligent about following AB 939 and getting -- diverting at least 50 percent of our trash out of the landfills. And I know all of us are continuing to work

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very hard to do that at varying -- different levels.

Expanding a landfill is a serious thing. Part of this particular landfill is no longer a local landfill. It's a regional landfill. And I guess that bothers us in Sierra Club because a lot of trash is hauled in from over 150 miles away. And that has changed the status of that landfill. And we haven't seen any good mitigation or solutions to all the additional truck traffic and pollution and all those other things that happen.

You know, there are other things that are happening too. Vallejo exports its trash to another landfill outside of our county limits. And here we are importing from another city.

So I think it's something that we really need to look at where this landfill is, where it's sited. It's sited real close to our bay. And I know BCDC is working really hard on trying to figure out if this is a good place for a landfill. I don't think it is at this point. I think maybe we need to look at a different spot. And to expand it just is not a good thing for our local environment.

And I thank you very much for coming down to Fairfield and hearing from our public.

Thank you.

CHAIRPERSON MULÉ: Thank you, Jane.

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Our next speaker is Brad Smith.

MR. SMITH: Good evening, Board members. And also thank you for coming down to our neck of the woods to make this easier on us. I understand it's a strain on you. But thank you.

I live in Fairfield. I don't live near the dumpsite, but I'm a concerned citizen and a resident of Solano County. I don't know a lot of the technical -- the laws or the requirements, so my comments are more of a layperson.

The operator, Republic Services, request for a permit modification should be denied. Landfill capacity at Potrero Hills Landfill should be managed, not increased. We currently -- when currently permitted landfill capacity is reached, the site should be closed, and a more suitable site developed that is far away from the marsh and far away from residential neighborhoods, with an operator that will manage the resource -- the landfill capacity resource responsibly and conservatively.

It appears that from what we've seen that Republic Services and/or Patrero Hills Landfill has been a less than responsible custodian of Solano County's precious and limited landfill capacity.

This site was not popular in 1986 and it is not popular now as a site for waste disposal. It was

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originally created as a community landfill to last the residents of Solano County for 50 years. But that resource has been squandered, and now we have less than seven or eight years capacity left.

I think it appears corporate greed, fueled by discounted tonnage fees and aggressive waste importing from other locations, as we heard, up to 150 miles away, have resulted in unprecedented and unanticipated fill rates exceeding four times the annual rate seen during the first decade of operation, and now close to a million tons a year.

Instead of capacity for 30 more years, we're told the dump will be full in 2011; with 75 percent to 85 percent of that volume coming from other -- imported from other counties with higher tonnage fees.

In addition, we've heard there have been permit violations and numerous odor complaints, complaints of windblown garbage, litter; and garbage falling from trucks, near misses with traffic; and unfulfilled promises of improvement from the operator.

Now, Republic Services is asking to be allowed to bring in more waste and wants permission to bring it in at an even faster -- even greater rate by requesting 24-hour-a-day, almost continuous operation, and excluding some of the waste from its calculation.

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We disagree. I think what we should be doing is cutting the permitted daily tonnage in half to extend the life of the landfill, without increasing capacity. And then when that -- when the landfill is full, we should open another site. The landfill should not be allowed to grow any larger, either vertically or otherwise.

Landfill capacity should be considered a public resource and prudently managed, not abused.

Nearby communities must live with the hazards of hauler truck traffic and the potential health risks of spills, traffic accidents, dumpsite accidents, fires, human waste sludge dumping, and windblown particulates, et cetera. They must bear the nuisance of odors, noise and lights at the landfill day and night. These communities pay a price in terms of quality of life and very likely increased rates of disease and illness such as asthma and other respiratory problems.

We as Solano residents pay for and expect a certain level of service in waste disposal. Our community should not be penalized for corporate abuse of a well planned community landfill. And they should not be asked to bear any further insult and injury from enabling greater abuse of that resource.

The landfill proposal was contentious and the site was controversial in 1986. It remains so today. The

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fragile site in the Suisun marsh protection area was never intended to grow beyond the community landfill. It was not conceived to become a regional mega-dumpsite. And it is an insult to Solano residents and just plain wrong to reward Republic's reckless mismanagement of our landfill resource by granting them license to make the pile bigger at an even faster rate.

I urge you to deny the requested permit modifications, then reduce the permitted tonnage to half its current level.

Thank you.

CHAIRPERSON MULÉ: Thank you.

Our next speaker is June Guidotti.

MS. GUIDOTTI: Chair and Board members. At your last meeting last month, I introduced myself as June Guidotti, a resident at 3703 Scally Road in Suisun, California. I stated that my family owned 152 acres, which are a buffer to the secondary Suisun Marsh, and our land is zoned for agriculture use. The land has been in my family for 90 years.

We are the closest residents to both the -- to the closest Solano garbage landfill and the existing Phase 1 Potrero Hills Landfill.

The Board process:

I understand that usually an agenda item for a

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proposed permit is first heard by the Permitting and Enforcement Committee and then at a full board meeting.

Question: Will that process be followed for this proposed permit? If yes, please confirm that this item will be heard at the October 17th, 2006, meeting in Sacramento. But you're stating today November.

If no, please explain what the process will be and if the public will be allowed to speak at all upcoming meetings. Please identify the date, the time, and the location of the upcoming meeting.

Incomplete documents:

The Board agenda item as well as the September and October letter from your staff to the LEA shows that many items were missing in the permit application packet or were incorrect. I agree with your staff's recommendation to object to the issuance of the proposed permit as submitted by the LEA. The LEA is allowing the operator to change the project daily and is not following permit processing regulations. The LEA is not doing their job correctly and should be decertified by the Board.

Third issues that require close review by your agency:

The following issues have been raised to various regulation agencies for the last 20 years. My family and I expect your agency to follow and enforce all California

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law and regulations relating to the solid waste.

The CIWMB CEQA comment and lead agency responsibility:

John Loane of your staff prepared a comment letter for the Phase 2 draft EIR. He raised several excellent questions and received response to the final EIR. The final EIR responded indicating several project features that were dropped from Phase 2 project. Board staff should review the letter, as it appears that some of the dropped features (power plant, use of sludge on the slopes, water pipes, for example) are now being proposed in Phase 1.5, evidence that Phase 1.5 is a new project.

Land use:

I do not believe that Phase 1, Phase 1.5, Phase 2 are consistent with the County General Plan. When the Phase 1 Potrero Hills Landfill was sited, Solano Garbage Company had an option to lease my 150 acres of land for solid waste disposal, as my land was and is zoned solid waste. They dropped the lease and they continued to show and represent to local officials my land as their land in order to obtain their original permit used -- their original land-use permit. The 150 acres identified in the General Plan as approved by the solid waste facility is my property, not Potrero Hills, Inc.

Your staff noted in their September 22nd, 2006,

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letter to Terry Schmidtbauer, LEA, that while Ms. Narcisa Untal, General Planner, made a statement that the site is consistent with the County General Plan, she did not provide documentation to verify her conclusion.

I request that you obtain the documentation from the county that proves consistence with the General Plan as require. A legal description should be required.

Phase 1.5 Project is a Different Project than Phase 1 or Phase 2 - Additional CEQA Required:

As I identified in my letter to you on September the 11th, 2006, I believe that the Phase 1.5 height increase is a new project under CEQA and requires either the LEA or the Board to become the lead agency for the proposed project. An environmental document must analyze the following:

How stable the new design is.

If the liner under Phase 1 was designed to support the weight of the increased garbage.

The visual impact of the new design.

The change in the cell lining and the landfill grading.

Change in the draining in the roads.

Changes in any other site activity that will be different from the existing Phase 1 project.

And the need for the new permits from federal,

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state and local agencies.

Litter:

Litter on my fences and on my property has been an ongoing nuisance from the landfill for years. I used to allow the employees from the landfill onto my property to pick up the litter cleanup. This was with the understanding that they would call in advance, as I had a minor child at home and I did not want my privacy invaded. When the landfill employees began picking litter up without calling in advance, I told the company that they did not need to pick up my litter off my property. In the last three years, I've allowed litter pickup once after I had surgery and once when I was worried about my cows eating plastic. Since then, I have called the LEA, the operator, the police, your staff, when landfill employees were jumping the fences to collect the litter and in the process breaking my fences, invading my family's privacy. Maybe you -- maybe you agree with Larry Birch and others respecting the landfill, that I should allow them on my property without advanced notice. But how would you like four to six men entering your yard without notice when you're at home alone, home sick, or planting flowers or sunbathing.

I believe that the litter from the landfill is the responsibility of Potrero Hills Landfill, and that

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they must control it at the source. Your state minimum standards are minimum standards, and the LEA and the Board needs to consider maximizing the standards for this site. After 20-plus years of landfill litter, I agree with Larry Birch's statement in the draft EIR where he responds to my daughter Cheri's letter dated January 6th, 2004, that: "without your permission to remove the litter from your property, it is a situation beyond our control," and I believe that there must be something flawed about how the waste is placed and covered, or not covered, that must be addressed in the proposed permit and the JTD and through enforcement.

Regional Water Quality Control Board:

Closure plan and post-closure maintenance plan:

I see from a review of your facility files that a closure plan and post-closure maintenance plans were submitted to the LEA, the Regional Water Quality Board, and the CIWMB at the same time.

Question: Has the CIWMB heard from the Regional Water Board regarding the closure plan and post-closure plan? If so, what are their comments?

Sludge:

The operator has included the receipt and disposal of high moisture content sludge in their proposed permit, as well as going to a 24-hour operation five days

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a week.

Questions:

How will the high moisture content sludge be disposed?

When will the sludge be covered during the five days per week after the landfill is operating 24 hours a day?

Application Package:

Question: Did the operator or the LEA submit the same permit application documents to the Regional Water Quality Board that they submitted to the Integrated Waste Management Board September 8th, 2006?

5. Agenda Item:

I have several questions regarding information contained or not contained in your agenda item.

Estimated closure date:

The proposed permit indicated that the estimated closure date is seven years. Seven years isn't a date. What is the estimated date of closure for Phase 1.5, and when is it calculated -- and what is it calculated from?

Remaining Disposal Capacity:

In 2005, during the testimony before the Solano County Planning Commission and Board of Supervisors, representatives from Republic Services indicated that the Phase -- existing Phase 1 landfill had 8 to 10 years,

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2013-2025, of remaining landfill capacity. Before your Board in 2006 is a proposed permit indicating that with additional waste being added in Phase 1.5, the estimated closure date is only 7 years, to 2013.

Questions. What is the operator's explanation for the difference?

Has the landfill been exceeding their 1996 permitted disposal tonnage?

Based on the information reviewed by your staff, what do they estimate as the remaining disposal capacity of the landfill as Phase 1 only and of Phase 1.5?

Is the method of landfill proposed to change in the 2006 permit?

Conclusion:

Potrero Hills Landfill and Solano County have degraded my property. The liter, the odor, the flies, the gnats are a public nuisances and a health hazard. The routine fence destruction from landfill employees is costly and creates a safety hazard for my goats and cows, as trucks and cars are not compatible with agricultural activities. The owners of landfill have not provided all required information to the LEA and the Board, and the JTD includes parts of the Phase 2 project. Therefore, the owner should not be granted a revised solid waste facility permit. I request the opportunity to speak before the

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Board once a complete application package is submitted by the operator to the LEA and the LEA to the Board, and when the Board makes it available to the public for review and comment. You are welcome to come and walk my parcel if you would like a different view.

Thank you.

And then I have many -- letters that I have put in for comment. And three of them are for the Grizzly Island Bridge Road. And one's from Cherri Bonnici, one's from June Guidotti, one's from Arthur Feinstein included in this packet. And all the other letters are supportive of this document.

Thank you.

CHAIRPERSON MULÉ: Thank you, June. We do have copies of your letters. Thank you very much.

And also I just want to address one thing. The next meeting, where this might be heard -- I mean right now it's scheduled to be heard at our November 6th -- November 6th is our next Permitting and Enforcement Committee meeting, that will be held -- is it the 6th? I think it was the 6th.

DEPUTY DIRECTOR LEVENSON: I'll check.

CHAIRPERSON MULÉ: It's November 6th. It's a Monday. It will be held in Sacramento at 10 a.m. at our Cal EPA headquarters.

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If it is not heard that day, the next Committee meeting date is December 4th. That meeting as well will be held at 10 a.m. in Sacramento at our offices at the Cal EPA building.

And the remaining questions, I would assume staff can respond to those questions.

MS. GUIDOTTI: Thank you very much.

CHAIRPERSON MULÉ: Our next speaker is David Isaac Tam.

MR. TAM: Chair and Board members. My name is David Isaac Tam. I'm a resident of Berkeley. I'm here today in my capacity as one of the ten elected directors of the Northern California Recycling Association.

I also have another hat, which is that I'm one of the directors of the group called -- a nonprofit that is helping on litigation against this expansion -- not this one, not the Phase 1.5, but the Phase 2.0 -- called SPRAWLDEF.

I'd just like to say that the Northern California Recycling Association agrees with and finds very helpful the staff recommendation that this matter be continued to either your November or your December meeting. I think perhaps the later meeting is perhaps the better because there are actually three parallel tracks of permitting going on. One of course is the CEQA lawsuit challenging

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the certification of the environmental impact report. And that comes to the attention of the Solano County judge on the 20th of this month, just about ten days away.

And the Bay Conservation and Development Commission has the final authority over whether or not a marsh development permit should be granted for this continued incursion into the secondary management area of the state-protected Suisun Marsh, which is the largest estuary and marsh in the western United States. And they're waiting on a technical report from some experts as to whether or not there's any ecological impact from an increase in landfill activity.

So those are very salient matters, substantive and procedural, that will affect the fate of this landfill company whether or not you call their operations in the next seven years Phase 1.5 or really the precursor of Phase 2.0.

So, yes, we're very comfortable with the staff recommendation.

The Northern California Recycling Association is about -- a trade association of about 170 members, as some of you know some of the people that are in it. I happen to be the person that got it started, although I'm not active lobbying. It was 30 years ago. We were looking at the question of getting the Bay Area governments to get

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committed to curbside recycling. And there was an environmental management plan funded by the Jimmy Carter Environmental Protection Agency. And after sitting there for two days and after the really heavy-duty items like air quality and water supply got dealt with, they went along with, perhaps just to shut me up, the idea of having curbside recycling programs, and then Proposition 13 passed a few days later.

So it wasn't until the bottle bill in modified form got passed in the late 1980s and then AB 939 that it really began to be serious in the Bay Area and elsewhere in the other 82 percent of California about recycling. So it's been a long time. I've been here all that time in one capacity or another. And I'm glad to see new faces and I'm glad to see interest in pushing the envelope farther towards complete sustainability in this important area.

Anyway, the Northern California Recycling Association, we slogan here a little bit. My slogan is that "Cheap Landfilling is the Enemy of Recycling." And Arthur Boone, who would be here today but for a pre-planned trip, made testimony against this particular proceeding in August and presented documentation essentially that garbage flows downhill to the cheapest landfill.

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And probably all your Board members are somewhat familiar with, or maybe intimately familiar with, the Bay Area landfill configuration. We have nine counties. Mostly landfilling takes place within the county of origin. But Contra Costa County and Sonoma County are kind of special.

Sonoma County got shut down last September, unfortunately; and it's very expensive or it's politically infeasible, or both, to fix it up, so they need a place to go. And this is one of two or three places that we can see.

And there's been a long-standing trading of landfill tonnage between southern Solano County and sort of coastal or east coastal or central coastal, and now west coastal, Contra Costa County.

And the loser in this is really Solano County in the long run, because this was originally going to be, like the other counties, a landfill that was going to be primarily providing capacity for the long, long future for Solano County, which had a lot of growth prospects.

Last year when we objected to the certification of the EIR, the word was that this was going to last seven to ten years in existing capacity. Now it's down to five to six. And the extension is only going to be from around seven years -- I read somebody else's testimony, but I

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think it's 2013 to 2015 -- 2011 to 2013. So what's happening is last year the tonnage figures we had then were -- the county was taking -- the landfill was taking in about 900,000 tons a year, that 85 percent of that was from outside Solano County. It's accelerating since then. That's why they need to hurry up and get this additional capacity on the existing EIR.

And I just think it's so consequential, a decision about whether or not you're going to be breaking away from -- and basically ratifying a breaking away from the one county at least one landfill system. While it's legally possible to do so, as a matter of public policy we do not think it is a good idea.

The real problem is that the tipping fees here are substantially less because, unlike other counties, particularly in the San Jose, Santa Clara County area and Alameda County and to a lesser extent Marin County, and certainly San Francisco, all of those landfills have fee structures that include large fees, for recycling and other diversion programs like planning and household hazardous waste and various other things. In San Jose it's $20 a ton, in Alameda County it's almost $16 a ton. Here it's about $4.40 a ton. Big differential.

As Arthur Boone said at his testimony in August, garbage flows downhill to the cheapest landfill. It's a

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lot less than the 10 to $15 a ton differential to pay somebody to put it in a truck and haul it up the freeway. It took me and my friend Arthur Feinstein just about 35 minutes to get up here from Berkeley. And we weren't breaking any laws.

So it's a rush to accommodate a market situation, which has arisen from, to be unkind, a less than diligent application of the California Environmental Quality Act to Solano County's planning process.

Thank you very much.

CHAIRPERSON MULÉ: Thank you.

Our next speaker is Arthur Feinstein.

MR. FEINSTEIN: Chairwoman and Board members. I'm Arthur Feinstein. I'm speaking for SPRAWLDEF -- I'm going to have to read this because it's hard to remember -- but it's the Sustainability of Parks, Recycling and Wildlife Legal Defense Fund.

I've been 25 years a conservationist, 25 years with the Golden Gate Audubon Society as President, Conservation Chair and Executive Director for 15 years. And Golden Gate Audubon is the largest audubon chapter in California. So I'm well acquainted with environmental issues.

I'm not as well acquainted with Integrated Waste Management Board issues. But for my perspective I'll be

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speaking about the impacts of this on Suisun Marsh. I have sent you one letter. And I'm going to give you another one, but it's in a packet. That's more directed at a road alignment that this landfill may be facing.

Many of us came here today to ask you to not make a decision or basically sustain the staff's decision, which we were going to ask you to sustain, to put off a decision because we felt that it was inappropriate for you to be reaching decisions on this permit prior to the litigation -- the CEQA litigation going to court in three days before your next hearing. Well, that's immaterial now since you're not going to be hearing that.

However, since I have this opportunity, I will speak towards more substantive issues, which is that ultimately you should look towards denial of this permit.

The landfill -- I was brought in in July to address the Bay Conservation Development Commission, of which this landfill needs approval for it to expand to its Phase 2, which would include expanding into the Suisun Marsh secondary management area and approximately 260 acres and destroying that for the Suisun Marsh values of wildlife and water issues.

Evidently that is not what you look at. You are constrained to look simply at CIWMB issues. But, nonetheless, it's important that you understand just how

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important Suisun Marsh is. And in my cover letter to Chairwoman I did explain a little bit about it. It is the largest brackish marsh on the west coast of North America, and I think probably in the United States.

And what does that mean? It means it's rich with wildlife. It has quite a few endangered species and threatened species, and species of concern. The waters that flow into Suisun Marsh are critical for sustaining hundreds of thousands of water foul. And one of the species that it sustains is the Delta smelt, which actually exists in this part of the Delta -- part of Suisun Marsh that Spring Creek flows into. Which Spring Creek is the creek that comes from Potrero Hills landfill.

So a lot of issues that you might not look at exactly. But at least you'd have in your mind when you are thinking about when this permit comes before you approval or not.

Again, I was brought in by SPRAWL DEF to address BCDC, who I've worked with for many, many years. And my personal opinion is that BCDC will ultimately deny the Phase 2 permit, in which case your problems are done because you can't -- it would be meaningless to approve.

But it seems like the landfill, sensing that it has troubles with the Phase 2, is now searching for Phase 1.5 instead. So I've rarely seen an entity play the

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regulatory game so rapidly in such a short process. And that's why your staff was jammed trying to reach a solution for today.

They saw they had problems with Phase 2. They suddenly say, "Well, let's redefine what we're doing so we can take this extra garbage material and put it into a Phase 1.5." However, they have not adequately addressed that we believe in their CEQA documentation. So you have another issue that's coming before you.

In all, I think that you're facing quite a bit of problem with this. Again, you're not hearing this issue before you as a permit. You're just hearing that staff is recommending you put it off for a while. We sustain that. We urge you to do so. But when you do look at this issue, please understand how important it is for the ecology of the Bay Area. Suisun Marsh, again, is of national and international importance, not just a local issue. The landfill to our understanding and belief will -- expansion to either 1.5 or 2 will have significant impacts on that landfill.

BCDC will not be looking at 1.5. It's looking at Phase 2. So, again, there's sort of this -- and if 1.5 comes before you and BCDC hasn't had a chance to review it, there will be an appeal there. You're going to be asked to approve a project that is under appeal, likely to

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be denied. And you're put in the funny position of saying yes to something that you should be saying no to and that other agencies will be probably saying no to. And I think that should be an embarrassing position for you to be in.

And, one, I'm glad the LEA has asked that this be put off. I urge you to wait until BCDC is done with all the various permutations that the Potrero Hill Landfill brings forward. Let them make their decision about whether that permit should go or not before you reach your conclusions. Because, otherwise, you're not really doing anybody any good. We're all spending a lot of time going to hearings, where ultimately it will be resolved through another agency. And your decision then that's based on a very narrow framework may influence that agency to grant something that otherwise it might not. So that's another part of the game playing that may be going on.

So we'd urge you again to ask the LEA to just wait, not bring this back in November, not bring it back in December, wait for BCDC to finish their hearing on Phase 2. And then see whether that has implications for Phase 1.5. Then hold your hearing so that you have a full wealth of information in which to discern your course of conduct.

Thank you very much.

CHAIRPERSON MULÉ: Thank you.

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Our next speaker is George Guyan.

MR. GUYAN: It's pronounced Guyan.

CHAIRPERSON MULÉ: Guyan. I'm sorry.

MR. GUYAN: No. problem.

CHAIRPERSON MULÉ: That's all right. Everybody gets my name wrong too.

MR. GUYAN: Well, it's not an easy name, so I understand. No problem.

Anyway, I'm George Guyan. I live in Suisun City, owned property there for 30 years. And I'm not too far from the landfill.

I'd like to speak tonight about how I don't think your agency should approve a permit to the expand. Even if you decide to extend the time, I think ultimately you should vote against expansion.

Solano County only has 17 percent of the garbage. And the rest of it is coming from outside the region, up 150 miles away. So if we were just talking about Solano garbage, I probably wouldn't be here tonight. But since it's a regional dump, I think it's really a huge problem. And I think that the landfill is trying to get around BCDC by trying to go from Phase 2 to Phase 1.5. And it's really not a very good subterfuge to try to do that.

I think also it's not good for the marsh that we're talking about going to a 24-hour operation. It

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would be bad enough if it was just regular hours. But when you go to 24 hours, then you're going to have lights shining that could affect the marsh. Also it's not going to be good for people that live in the neighborhoods.

And it's going to create a traffic nightmare. There's going to be a lot more traffic. There's too much traffic already.

Wal Mart is considering building a store in Suisun. They're going to have 900 parking spaces, plus a restaurant. So that's going to make Highway 12 even more overcrowded than it already is. Plus Wal Mart is also talking about developing the Mission Village spot in Fairfield. So you're talking about really a lot more traffic for the area. And there's not anything worse to really basically change what we already have is in the infrastructure. So it's going to be a lot worse.

Plus also it's my understanding that the landfill is talking about having a back way into the landfill going down Grizzly Island Road and they're going to build a bridge so that they can go in the back way. That would be even more devastating to the marsh.

Also, the landfill is pretty close to where the planes from Travis take off and land, especially when they do touch and go's. If there was ever an accident, it would be a real disaster for the marsh. Plus it's also

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not going to be very good for the people that live nearby in the subdivisions.

It's really not a very good site for garbage dumping, to be frank about it.

Also, there is a question that I believe was mentioned earlier about the stability of the slope site if you go from 245 to 310 feet. Plus, also I believe there was no liner in the first part of the dump. And the later part that there is a liner there's a question about whether it was adequate for the present height. And if you go even higher, it's going to put more pressure on the liner so that there's more chance of leakage. That could get into the groundwater. It could have all kinds of problems.

Also, the landfill has had a history of over 20 years of not collecting plastic bags before they go out of their site. At a planning commission hearing -- I can't remember how long ago it was. Maybe a year ago already. When the planning commission voted against giving the permit to the garbage dump, there was a video showing that showed there was plastic all over this fence, plus also in the marsh itself, which is outrageous. And if the garbage dump has had 20 years to get their act together on it and they still haven't managed to solve the plastic problem, I think it's really expecting a lot to say that overnight

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they're going to make some new changes.

And, also, BCDC still hasn't decided. And till BCDC decides, all this could be a moot point anyway. And I sure hope that nothing is done quickly to endanger the marsh.

Thank you.

CHAIRPERSON MULÉ: Thank you very much.

Our next speaker is Morland McManigal.

MR. McMANIGAL: Very good.

CHAIRPERSON MULÉ: Got that one right, huh?

And, also, I'm just going to ask remind everyone once again, if you could possibly keep your comments to five minutes, we really would certainly appreciate it.

MR. McMANIGAL: Chairman and Committee members. I'm Mac McManigal. I've been a Fairfield resident for 50 years.

And 24 years ago I was a good friend of the Solano Garbage owners. They purchased the local garbage company. They asked me if I'd go to the city council and see if I could get the City Council of Fairfield to accept them. I did. I said there's three things: They will give you good service, the rates will be good, and they're good corporate citizens.

Four years ago, the City Council in Fairfield thought maybe they should get another garbage company to

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come in. Fifty-four people spoke at the city council meeting that night, fifty-three in favor of the Solano Garbage. The one who was not was the person that represented the company that was going to come in.

Solano Garbage got the contract. They then sold it that same year to Republic Services.

One of the things that I don't think -- I haven't heard anything tonight, and I've attended most of these other meetings, none of the speakers talked about what it is going to cost Solano County people if we shut down our garbage disposal, the dump out here.

It's going to be 10 to $15 a month additional cost per family. The initial cost of -- we're getting a good chunk of money from the outside people who are dumping things here. Which means if we don't do that, the county rates go up. The local garbage companies charge us a very reasonable rate, and that's going to go up if they have to ship it where? In your backyard? In your backyard? This is in our backyard.

I've seen people say, "Well, the smell from that goes here to Rio Vista." The wind goes from, approximately where the dump is, right across Travis Air Force Base, and that's why Travis Air Force Base was built there, because of the winds, which heads up towards Sacramento. It doesn't go toward Rio Vista or towards

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Suisun. Well, two days a year maybe. But generally it's going to go right up that runway.

Also, they talk about the lights at night. One person said, "They're only supposed to have three lights per night, and I see five." I know that I pay a lot more in taxes than the person that said that, and I see a thousand lights every night and I think, being from Nebraska, what a wonderful thing it is to see that, because we never saw lights like that in Nebraska.

These people will do whatever is necessary to be done to be good corporate citizens. The lady who talked about having all the garbage on her yard, I cannot understand why they have not taken care of her. She should be taken care of. They should make arrangements to come and get those things picked up. And I would make sure if my friends were there that they'd do that. That should not happen.

But they are good people. And I certainly hope that you guys will give them very good favorable consideration in the future.

Thank you.

CHAIRPERSON MULÉ: Thank you.

Our next speaker is Larry Bahr. Is that correct, Bahr B-a-h-r?

MR. BAHR: Good pronunciation.

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CHAIRPERSON MULÉ: Sorry.

CHAIRPERSON MULÉ: Is it Bahr (Bear)?

MR. BAHR: Bahr. Well done, well done.

First off, thank you for giving me the opportunity to comment tonight. My name is Larry Bahr. I'm with the Fairfield-Suisun Sewer District. We serve the cities of Fairfield and Suisun City in the central Solano County. And we serve a population of about 130,000 with wastewater treatment services.

We neither support nor oppose the landfill proposal. But I'm here to acknowledge the importance of the landfill to the district's biosolids management program as it currently exists.

We've had a long-term beneficial working relationship with the landfill. They have a successful alternative daily cover program that uses the district's biosolids. The biosolids are used in a restoration program at the landfill. I'm --

PERMITTING AND INSPECTION BRANCH MANAGER de BIE: A little bit closer. I'm sorry.

MR. BAHR: Did you get all of that or should I start over?

COMMITTEE MEMBER WIGGINS: We got it.

CHAIRPERSON MULÉ: You're fine.

MR. BAHR: This is first time in my life I've

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been accused being too tall.

(Laughter.)

MR. BAHR: Finally, the landfill uses our recycled water as a water source for their operation. Overall, our programs have been mutually beneficial and productive.

District encourages the Integrated Waste Management Board to make an early and a carefully considered decision on the landfill's application.

Thank you very much.

COMMITTEE MEMBER WIGGINS: What is your -- you're with the water district?

MR. BAHR: I'm with the sewer district. The waste water treatment plant.

COMMITTEE MEMBER WIGGINS: Sewer district?

MR. BAHR: Yes.

CHAIRPERSON MULÉ: Thank you.

MR. BAHR: You're welcome.

CHAIRPERSON MULÉ: Our next speaker is Dwight Acey.

MR. ACEY: Good evening. And thank you for this opportunity to speak. My name is Dwight Acey and I'm with Citizens Against the Dump Expansion.

Citizens against the Dump Expansion is opposed to the vertical and/or lateral expansion of the Patrero Hills

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Super Landfill. We are residents opposed to this landfill project for almost two years now, when they tried to push it past the Planning Commission of Solano County right around Christmas time. We got wind of this.

Most of us -- well, I shouldn't say most of us. But a percentage of us live within 1.8 miles of this expansion. So whatever happens there is going to impact us one way or another.

We are opposed to the vertical and, again, the lateral expansion, Phase 1.5 and Phase 2.0? One.

Of our concerns with this permit revision is that it does not consider the impact of height limitations for airport flight obstruction areas of the Air Force -- of the Travis Air Force Base, which is immediately across Highway 12 from the landfill project.

Under "Findings" in Section 13 of this permit, it addresses birds in the flight path, but it says nothing about the height of garbage. And it was our understanding that this is a discussion about vertical -- the vertical expansion of garbage, not birds. So we're kind of concerned about why it didn't address that matter.

Also, America right now is at war with Iraq and Afghanistan and we seem to be threatening a war with others. There's a great deal of activity because of that at the Travis Air Force Base. Any crash there will

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endanger our troops and the families -- residents who live nearby. The potential for a catastrophic fire and toxic smoke is apparent there.

On September 22nd, 2006, residents of Suisun, Fairfield and Rio Vista witnessed the horrifying fire of the E.B. Stone Fertilizer Plant two miles from the Potrero Hills Super Dump. The fire threatened the potentially explosive ammonia nitrate and propane stored at the plant. Due to the great peril to firemen, they were ordered to retreat. They watched helplessly outside a one-mile perimeter while the plant burned to the ground and smoldered for several days.

One wonders: Was this a premonition of things to come?

The Solano County policies and regulations governing the Suisun Marsh Scenic Roadways Element states, quote, "The county and city should initiate a special program of roadside maintenance, landscape maintenance or replacement, litter retrieval, et cetera, among scenic routes are recognized in the fact that the immediate roadside environment has a great impact on motorists and tends to color his or her total scenic roadway experience."

Before that it states, "The general and specific policies set forth provide a series of guidelines to be

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used by the county in its land development guidelines to be used by" -- "to be used by the county in its land development guidance procedures. It is the intent that these provisions be employed as criteria to be adhered to by all future land development which falls within the visual components of any of the designated scenic roadways."

One of the complaints over the 18 hearings or meetings that our group has attended on this matter that tends to surface at almost every hearing is the amount of garbage that we have to encounter up and down Highway 12 because of the 500-truck-per-day limit of garbage trucks going down that route to the landfill.

With this permit, we notice that they have taken out of that count recyclables, compost, construction materials and other trucks from that 500 limit. So now it appears that there is no limit.

Also, for almost three weeks there have been bags piled up underneath the sign for "Adopt a Highway" that also reads the Solano Garbage Company as the caretaker of the highway. And the bags have been sitting there for almost three weeks.

And we are asking you to deny this project because we don't want more of the garbage, we don't want the other impacts possible -- health impacts that folks

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would have to deal with as a result of a lateral and vertical expansion.

Also, we would like to know what the urgency of this permit request is. If they're going before BCDC by December, why do they have to have this now?

One of the speakers that came before me spoke about the cost to residents here, that there would be a monetary cost to us. I think we need to talk about the real cost. And the real cost, if you look on the Internet, it's no secret, wherever a Republic Services -- whatever regions that they're in, people are suing them about the quality of life, people are suing them because they can't sell their houses, people are suing them because of the constant odor.

In this county we have the highest asthma rate of any county in California.

COMMITTEE MEMBER WIGGINS: Fresno County.

MR. ACEY: Dr. Ronald Chapman said that. What's your expertise?

I don't know. Maybe you're a doctor too. But that's what I heard him say. Okay.

COMMITTEE MEMBER WIGGINS: Okay.

MR. ACEY: And he works for the county.

The real cost to us is the increase of respiratory problems, asthma, cancer clusters, odors,

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traffic congestion, truck accidents, and on and on.

What will happen also to the Suisun Marsh when they -- the super garbage dump is capped off and it is returned to agricultural use as is outlined in the Suisun Marsh Preservation Act? Will we end up with E. coli outbreaks now because of that? Or all of the country from California produce grown there?

We, as a community, ask again that you deny this project. It continues to be our sincere belief after two years that we are dealing with a project that could have horrible environmental consequences. For that reason, we ask the California Integrated Waste Management Board to deny this permit.

CHAIRPERSON MULÉ: Thank you.

Our next speaker is John Silva.

Thank you, Mr. Supervisor, for being here.

MR. SILVA: Thank you, Madam Chair. And welcome, Board members and staff, to Solano County, as you are sitting in a multi-award green building in Solano County.

CHAIRPERSON MULÉ: We can tell.

(Applause.)

MR. SILVA: Today our board authorized staff to move forward with a bag Green Plant such as other counties have so that we can -- I'm always accusing staff of cutting down too many trees and putting them on our

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tables, so we have to read all that stuff.

I'm very happy to hear from staff that the applicant has waived their time so that your staff has the opportunity to really look at this and investigate it. And that's very important to us. As you know, we approved this thing to go forward because we knew that we had people that had the expertise on landfills.

I live in the south end of the county. I live at 348 Military East in Benicia, California. I remember World War II, and we recycled everything, believe me. Everything. And I think that we're doing that and doing a pretty good job, but we can always get better at that. But in Benicia we had a dump. That dump was closed. It is now a marina. It was cleaned up and it's a marina on the waterfront. That's pretty dangerous dumping your garbage at the waterfront.

Vallejo had a dump on the waterfront in Vallejo that had to be cleaned up.

We also had a dump where the California State Park is in Benicia. That was closed, it was cleaned up. It's now a State Park and Recreation Area.

We had another dump in Benicia that was closed, cleaned, and it's now a housing development. So I'm very familiar with dumps and the problems.

What I don't want to see in Solano County again

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are seven cities and seven dumps. That's not the way to do business. We have evolved now. We have the Solano -- the landfill here at Potrero Hills. It takes care of parts of Solano County and it brings in other, yes. And if that money that they take in goes in to preserving the environment and putting in and following the direction of your capable staff in doing good work so that we don't have future problems to deal with, yes, we can help. We're getting more in to regionism. We need to help our neighbors have places to take our garbage.

My garbage from my home in Benicia goes to Keller Canyon in Contra Costa County. At one time we required that operator to dump it here in Solano County. But state law changed that you can't tell them where to dump it. We pay a little more because we have to go across the bridge to get rid of that stuff.

So the least amount that we put in there, the better off we are. At our home and at my childrens' homes, I demand that they have the smallest garbage container possible. And get everything else so that it recycles. And that works very, very well.

And I commend you for being here and I thank you for being here. And it's very important to Solano County. I don't object to the landfill as long as it's safe and it's helpful to the environment. I spend a lot of time in

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that marsh duck hunting. I don't want to see it destroyed.

Thank you very much for your consideration and listening to me.

CHAIRPERSON MULÉ: Thank you. I think you have a question.

Board Member Wiggins.

COMMITTEE MEMBER WIGGINS: Yeah. Well, first of all, I live in Sonoma County and our landfill was closed, and so it goes here.

But what amount of money does Solano County get from the landfill?

MR. SILVA: We've got some staff people here. I hope they can answer that for you. But there is -- you know, there's a tipping fee, there's charges to clean up along the roadways. We implemented an educational program that Potrero Hills pays for. And I can't put dollars with that. It would be administered by Solano Community College.

The Suisun Marsh district gets a large amount of money for continued preservation of the marsh.

But I can have staff provide all that to you if you --

COMMITTEE MEMBER WIGGINS: Yeah, I think that would be interesting to know what the county gets off

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this.

MR. SILVA: Right.

COMMITTEE MEMBER WIGGINS: Thank you.

MR. SILVA: Okay. I'll ask staff to provide that.

Thank you very much.

CHAIRPERSON MULÉ: Okay. Our next speaker is Yoshiko Tagami.

MS. TAGAMI: Good evening. Thank you for the opportunity for us residents to speak.

Many of our neighbors are still on their way home. So they asked me to do my best. So let me try.

As you may know, landfill fires are common occurrence. According to the U.S. Fire Administration in the December 2001 data, an average of 8,300 landfill fires occur each year, where there's a greater chance of spontaneous combustion with recently hot smoldering discarded products ignite.

Underground is not uncommon at the landfills also. A landfill fire in Maui in 1998 was 15 to 20 feet underground. And it took weeks to extinguish. It smoldered for four months.

Only a couple weeks ago, on September 22, there was much fire in Suisun, not too far from Potrero Hills Landfill. It totaled the fertilizer plant containing

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ammonium nitrate and the propane. It was spread to nearby grass area and burned 600 acres.

The firefighters were ordered to retreat a mile away from the site because of the toxic smoke and the potential of explosions. And they had to let it burn itself for three days.

Had similar fire started at Potrero Hills Super Dump where they store truck fill and harvest -- it would have been a major disaster. Travis is within a mile from the dump. And thick smoke could completely stop the operations of the plane activities for days, weeks or maybe months, if not worse.

Potrero Hills Landfill is two miles from residential communities where I live. Toxic smoke will be sure to impact us all as well as burns from explosions. There was a methane gas leak accident at Potrero Hills last year on June 23rd, 2005. The methane gas was leaking from a truck to the ground and emitting a white smoke. A 2004 study by the San Dimas National Lab suggested that LNG, which is mostly methane, fire would be hot enough to melt steel at a distance of 1200 feet and could result in second degree burns on exposed skin a mile away. Mind you, Travis has many airplanes within disaster range.

MIT Professor Emeritus Fay says, "There is no way to put out that kind of fire. The fire will burn until

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all its fuel is gone, which takes five to eight minutes. But it could ignite a rash of secondary fires on such a large scale that they may cause more damage than the initial blaze."

The Suisun Marsh is full of methane underneath. A big fire at Potrero hills Super Dump could destroy a major portion of this county, not just Suisun City. It is scary just to think about the possibility of such a horrific disaster in such close proximity.

Please deny the Potrero Hills Super Dump expansion permit for these serious reasons. This is not just a not-in-my-backyard protest. Our very lives are at stake.

Thank you very much for your consideration of this matter.

CHAIRPERSON MULÉ: Thank you, Ms. Tagami. And you can tell your neighbors you did just fine.

MS. TAGAMI: Thank you.

CHAIRPERSON MULÉ: Our next speaker John Mraz.

Is he here?

Is John Mraz here, City Councilman from Fairfield?

We'll just hold that one off.

Our next speaker then is Duane Kromm.

MR. KROMM: Thank you.

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Supervisor Silva already welcomed you to Solano County. Let me welcome you to the Third District of Solano County. I have the privilege of having this wonderful building in my supervisorial district right here. I also have Potrero Hills Landfill and Suisun Marsh in my district. And I care passionately about the marsh.

Let me answer a question that Commissioner Wiggins asked a few minutes ago about fees. I was sitting back with staff and they handed me a sheet of paper with fees.

The local fees in Solano County right now are 563 per ton. And for comparison sake, in Alameda and Contra Costa County, the two combined, they range from a low of 1175 a ton to a high of 1375 a ton. In Santa Clara County, the City of Palo Alto's at 422. Everybody else is at 1765 a ton for fees. Marin's 453, San Mateo Ox Mountain is 453. And Sonoma, which is recently closed, was about what we were at 555 a ton. So there's a pretty dramatic range in tipping fees for tonnage.

And the total door price, as our staff calls it, also is pretty dramatically different. It ranges to as high as $97 a ton in Santa Clara County at Zanker Road. And we are at $41 a ton, roughly, at Potrero Hills.

CHAIRPERSON MULÉ: Thank you.

MR. KROMM: One of the issues that I have

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complained about here in Solano County is that we have in essence become the Wal Mart of dumps in northern California. We are cheap. And as other speakers have said, trash flows to where it's cheap to dispose of it. And I think that causes huge problems, particularly causes huge problems for Suisun Marsh. To have a substantial expansion as we're talking about in the middle of the most remarkable marsh in northern California, I don't think is a long-term good thinking.

You've already started to hear from good citizens here in Solano County, good chamber folks who are very supportive of Potrero Hills Landfill in Solano County. My guess is you hear this a lot when you have these kinds of hearings. Garbage companies are very skilled at building support in their communities. They're good corporate donors to a variety of issues, but also good corporate donors to those of us who are elected officials, as we well know. And they understand how the game is played extraordinarily well.

The challenge I think we have in Solano County with Potrero Hills Landfill is the location of the dump, the price of the materials being brought to the dump, and what we're doing in the regional sense. Eighty-five percent of the trash, as you've already heard, is coming from outside Solano County to Potrero Hills Landfill.

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We're not taking care of Solano County trash. We're taking care of trash in the region and we're bringing that trash into Suisun Marsh. To me, that is not a good use of landfill planning, to put the best land we have of preservation in the region, a marsh, into a landfill. It troubles me.

Highway 12 and Interstate 80 -- and Interstate 80 is probably the one you know best, the I80-680 interchange. And it's a regional major congestion choke point. Most of the trucks that come Potrero Hills Landfill have to come through that interchange. By importing 85 percent of the trash that goes to the dump, we're putting that kind of truck traffic on our worst congested roads. I don't think that is very smart public planning.

I was quoted a no-vote -- board of supervisors were on a 3-2 vote. They certified the environmental impact report and approved the project going forward. It was very contentious. And, as you've been hearing, there are lawsuits, there's BCDC hearings. We received letters this past week, copies of letters from BCDC dated late September that there's issues that BCDC has raised to Potrero Hills Landfill that date back to March that have not yet been answered. But I think there's a pattern of Potrero Hills Landfill not doing a good job of

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communicating with regulatory agencies. I mean I find it particularly troubling that when regional bodies such as yourself can't get information, BCDC cannot get information, and it's been going on for many months. The most recent letter from BCDC staff to Potrero Hills Landfill was 20 -- 32 new issues that have not been resolved. They raise 9 clarification issues. And then they go on to state that they submitted a letter on March 8th with a list of 20 questions regarding the proposed mitigation and monitoring plan. We have not yet received any response to this letter six months later. It's difficult to do business with corporations and applicants that are essentially nonresponsive to permitting agencies.

I urge you just to flat deny the permit. I think what we need to do at a local level and at a regional level is figure out how to economically restructure the fees and the rates and the operating plans for Suisun Marsh and for the Potrero Hills Landfill, the number one emphasis being marsh preservation and, second, how we adapt appropriate management plans and expansion plans for the landfill so that we can accommodate the trash of Solano County, so that we can be more aggressive in our recycling and diversion programs. I mean the fees that the other counties are charging are substantially higher fees, that we've looked into it, have much more aggressive

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recycling diversion programs to divert the materials away from the landfill. We're not doing that here nearly as aggressively as we possibly can in Solano County. And I think the risks that we're putting Suisun Marsh under by having this vertical and -- both horizontal and vertical expansion -- you don't have a vertical expansion in front of you today. That's Phase 2. Phase 1.5 is the vertical expansion. Phase 2 is the horizontal expansion.

What they haven't told you yet -- maybe it will be in the plans when it comes to you later -- but there is a Phase 3 out there. There are hundreds of additional acres that are adjacent to this current landfill, adjacent to the current Phase 2 proposed expansion, that are owned by the landfill, are a logical extension of the landfill's footprint. And the landfill has said that "it's not our current expansion plan." They're just holding this land. They refuse to put a conservation easement on it. They refuse to put any kind of mitigation -- habitat mitigation measures across that land.

So what we will see if this vertical expansion occurs, the next will be the horizontal expansion of Phase 2. And then further there'll be hundreds of other acres decades out -- but decades out continuing to expand the landfill into the marsh.

I find it objectionable that they won't deal with

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the entirety of the property that they own and that they don't focus on preservation of the marsh.

Thank you.

(Applause.)

CHAIRPERSON MULÉ: Thank you, Mr. Kromm.

Our next speaker is Lorraine McGee.

MS. McGEE: I'm Lorraine McGee. I'm a retired physician and I live in Rio Vista. And I wanted to tell you a couple things that have come up that there weren't answers to. And, that is, that Vallejo and Benicia sends their trash to Contra Costa County, and the amount of that trash about equals the amount of trash that Fairfield, Rio Vista, and -- and Suisun City send to Potrero hills.

Additionally, Dixon and Vacaville send their trash to Hay Road Landfill. And you -- I know you have an application from them to expand also. And I would assume that their -- the amount of their trash is about the same.

The amount of trash that is coming in to Potrero Hills from Solano County is less than 15 percent of the total load.

And the information about Solano County being the high -- the county with the highest rate of asthma comes from Cal Asthma, which is a website that comes out of UCLA. They have an e-mail publication called RAMP. And you can just look up asthma and UCLA. And my

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understanding is that that facility is supported by the tobacco tax. And it certainly -- it has a lot of programs within the schools trying to keep track of what's going on.

I wanted to -- although I've spoken lots of times about -- against the expansion of the landfill, I want to focus on one aspect of it. And usually I focus on the environmental, but I think you've gotten a lot of that and BCDC really is involved in that.

The focus I want to take is the amount of pollution that's a result of the traffic, of trash being brought from 150 -- as far as 150 miles away and from multiple communities. And as we've talked, more than 85 percent of that comes from outside of the county.

The truck traffic causes pollution in the air. And you don't have to be too convinced to see that. It causes road pollution. I've a number of times driven behind the garbage trucks, and I've seen plastic bags fly out of them. And If you look at the road in front of the Potrero Hills now, it really looks pretty decent, much better than it has for a long time. But if you drive along Highway 12 to Rio Vista, you will see plastic bags all on the roads there, because we don't have a lot of people, a lot of businesses volunteering to pick up the plastic bags in the rural areas.

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The other problem which the increased traffic causes is traffic accidents. We have a very high rate of traffic accidents in -- on Highway 12. We've had a number of deaths this year. And I think what we can do to lessen traffic -- and of course there's traffic coming to the landfill at Potrero Hills and also to the landfill at Hay Road along Highway 12 between Rio Vista and the landfills. So that's a very heavily trafficked area.

I don't think most of those roads are constructed for heavy traffic. And I kind of wonder what's going to happen in the future. And that wasn't really explained too well. If you have a limited number of vehicles that can come on to your site a day, and you're going to do 3400 tons per day times 7, and then you're not going to count the weight of the recyclables and the biosolids in that count, it seems to me that vehicles are going to have to be loaded more heavily. And unfortunately there isn't a state check of weights of vehicles on Highway 12.

The last issue is an article that was published recently called Infection Risk in Kids Living Near Landfills. This study was done in New York. There were a hundred identified waste sites and highly contaminated bodies of water, and they examined hospitalization rates for acute respiratory infections and asthma by area residents for children aged 0 to 9 years old.

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And the rates were increased, both for asthma and for infections. The author, whose name was Carpenter, said, "Asthma's a disease due to an overactive immune disease. And we expected that we'd see a reduced rate of hospitalization for asthma. However, we were looking at asthmatics that are hospitalized for a very severe attack. And on consideration we now suspect that this occurs primarily when an asthmatic also has an infection." His team has to do additional studies. In summing up he says, "The study shows that exposures to organic pollutants and other contaminants are going to harm health, and just living near a contaminated site may cause exposure. While our specific study focused on air transport of the contaminants, they're also in our food. And the effect of exposure should not be different whether it's via food or air."

So we really need to get these chemicals out of our environment to the greatest degree possible.

Thank you.

CHAIRPERSON MULÉ: Thank you.

Next speaker is Virginia Thomas.

MS. THOMAS: Hello. I am a resident of Fairfield, but I don't live near the marsh. However, when I moved to Fairfield and discovered the marsh, I was so pleased. It's such a beautiful place. And I know you've

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heard all the reasons for defeating this proposition, so I won't even go into them. But I'm amazed that it's gotten this far. It should have been defeated at the beginning. And my understanding is that it was.

But then the proponents of the project mitigated things. I love that word. I haven't heard it so much in all my life as I have in these hearings. They went back and skewed a few things, I guess, and then brought them back to be reviewed again.

I think the project is a disaster, I mean a disaster to all of us, to the land, to the animals.

And I'd like to end with another stylish word. It's egregious.

Thank you.

(Applause.)

CHAIRPERSON MULÉ: Thank you.

Our next speaker is Amber Vierling -- I think it's Vierling.

MS. VIERLING: Close enough.

Good evening to the Board. Thank you so much for coming to our hometown to hold this discussion. And there's a good turnout. And by my calculations, we have 14 that are opposed and 2 that have spoken in favor. I'm going to join the 14.

I'm an attorney, and I represent

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environmentalists, taxpayers and ranchers and landowners in the area that's opposing any expansion of the landfill.

I think my most productive comments tonight could be addressed to CEQA. And even when the application becomes complete at the end of this year, in December, when the case -- when that case may be, you still have CEQA to deal with. And CEQA requires that an EIR be prepared if there may be significant effects to the environment.

In this case the LEA has opined that the previous EIRs count for Phase 1.5. The major problem with that from my view is that Phase 2 EIR identifies the peak, which identifies the peak at a different location than Phase 1.5 does. So you have a couple of problems that stem from that. If Phase 1.5 is approved in addition to Phase 2, where is the peak? The project description is unstable. It's a moving target. And if you have two approvals with two different peak locations, I don't see how that can be reconciled.

So I think at the end of the day there is no EIR for Phase 1.5. This is a post hoc analysis by the operator. But it really doesn't -- it doesn't make sense. If you read the EIRs, there's not substantial evidence in those EIRs that Phase 1.5 has an environmental review attached to it.

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So that means that there's significant effects to the environment that -- and an EIR must be prepared. Tonight you've heard about the biosolids in the marsh. You've heard about the 24 hours a day of operation and the effect that that may have on wildlife.

And I'd like to address also -- somebody had mentioned in the pro the issue of cost, what are the costs? And I appreciate that argument. And I think economy is always a good subject to inform our decisions. But the bottom line is that we have no idea what the costs are of moving to an alternative site because there's only one alternative analyzed in the 2005 EIR, and that wasn't an alternative location. So we really don't have evidence in any record that deals with the costs -- the actual costs of moving the landfill.

So we respectfully request that the application, the permit revisions be denied, not only because it's incomplete now, but at the end of the year it will still be incomplete because CEQA has not been complied with.

So I will submit comments from my -- Law Office of Amber Vierling as well the Law Office of Dana Dean, who represents the groups to protect the marsh, et cetera, the petitioners that have filed active litigation against the Phase 2 expansion. The originals are on top and the copies follow.

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CHAIRPERSON MULÉ: Thank you.

You do have a question from Committee Member Wiggins.

COMMITTEE MEMBER WIGGINS: Did you say that there are biosolids in the marsh?

MS. VIERLING: Biosolids in the secondary management area of the marsh.

COMMITTEE MEMBER WIGGINS: In the marsh?

MS. VIERLING: -- Suisun Marsh as the 85,000 acres of protected area under the Suisun Marsh Preservation Act, if that's --

COMMITTEE MEMBER WIGGINS: Well, I mean it's one thing to say there's biosolids in the marsh. I mean what are you -- what is the point here?

MS. VIERLING: That you have an area, and identified by CEQA as an area of critical environmental significance. And having biosolids in an area of that environmental importance seems at odds. So my point is is that --

COMMITTEE MEMBER WIGGINS: That's not in the marsh.

MS. VIERLING: In the secondary management area of the marsh --

COMMITTEE MEMBER WIGGINS: But it's one thing to say they're in the marsh, because the marshes are

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protected. So that's all I was trying to clarify.

MS. VIERLING: Okay. When I said marsh, I mean the 85,000 acres of what they call the Suisun Marsh. I hope that helps.

COMMITTEE MEMBER WIGGINS: Okay.

CHAIRPERSON MULÉ: Thank you.

MS. VIERLING: Thank you.

CHAIRPERSON MULÉ: Our next speaker is Frank Kardos.

MR. KARDOS: Good evening. Thank you very much for the opportunity to speak to you tonight. I'm Frank Kardos. I'm a member of the Fairfield City Council. I'm here to speak in behalf of this proposal.

I'd like to recognize Solano Garbage/Potrero Hills for their many valuable contributions to our community, besides the many groups and associations that they have supported.

Things that go unnoticed is like last year we had floods. Solano Garbage and Potrero Hills, they donated their equipment, their personnel, their time, their financial resources to address them. They have been excellent citizens of our community.

I think their efforts is -- they have come before our panel and we have heard comments either way. And I've been very impressed over the last year about their

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numerous safeguards and precautions. I think that is what is behind the 3-2 vote in favor of the proposal by the County Supervisors of Solano.

I also want to talk just briefly about something else that we had preliminary discussions with them, as our county and our city has a very good economic relationship and contractual relationship with them. We see that we have a growth or an urban limit line and there is only going to be so much growth. And that revenue stream from housing is coming to an end and we're looking at deficits here in 2009-2010 and trying to plan alternative sources of revenue, those being sales tax and corporate revenues.

One of the ways we're addressing that is, number one, trying to develop a quality work force; but, number two, energy. And as we look at depleted energy sources, the instability of rising costs of that, we have preliminary discussions, our staff with the city and members of city council with Solano Garbage, in terms of conversion of methane into LP.

The concept is is that if one megawatt can power 750 homes, the preliminary estimates are a facility of that size can produce 10 to 12 megawatts, which is a considerable amount of energy production.

We've had meetings with other corporate members of our community about other sources of energy production.

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So as we try and prepare our revenue sources in the future in this city, one of the essential components is energy costs. And I just thought that you should be aware of some of the efforts that we're trying to make with that.

Thank you very much for the opportunity.

CHAIRPERSON MULÉ: Thank you, Councilman, for being here this evening.

Our final speaker is Monica Lopes.

MS. LOPES: Hi.

Can you hear me okay?

All right. My name is Monica Lopes. And I am citizen of Lawler Ranch, which is within 1.5 miles of the marsh. And actually -- I'm actually two blocks from the perimeter of the 85,000-acre marsh.

First of all I'd like to thank Supervisor Kromm for his comments this evening, because there were a lot points that I was going to make he's already made them, so I won't restate them.

Second of all, I'd like to say that the local planning committee denied the permit and it was appealed to the board of supervisors and it was passed by just one single vote.

As other people have mentioned, there was a lot of testimony and a lot of opposition to the expansion of the marsh. So I'd like the Committee to be a aware of

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that.

In the final EIR, there were a lot of unresolved issues, one of them being the inadequate liner, inadequate governmental monitoring by the Solano County LEA. Also, trash, litter, just various problems that residents have been experiencing.

I would also like to say that not only is Highway 12 impacted but also Highway 80. I travel that highway everyday to work. And it's just very obvious when you're going up 80 -- and as someone's mentioned before, the 680 and the 80 interchange, from there all way up to the marsh -- I mean to the garbage site there's nothing but bags and garbage and a lot of different things. So it's not all of the landfill because there is some dumping going on. But the windblown trash bags is clearly a result of the transport of the trucks up and down 80 and Highway 12.

I'd also like to state that Phase 1.5, there is no EIR for that.

And I'd like to say that while several people have said what a good neighbor Republic Services has been, I think the smaller companies -- Solano Garbage Company probably was a good neighbor. But Republic Services is a different animal. This is a major corporation that is national, with major investors, and it is not a little

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local garbage company that used to be here. And the very fact that they're before this Committee, without waiting for the BCDC opinion, says that they're not good neighbors. So I just want to make that point very clear.

Also, I'd like to say that I think if you were to allow the permit, that it's really just asking for a lot of trouble, not just the impacts of the permit, but also legal, because there's a lot of legal questions here. And I'm not a legal person, but other persons have alluded to it. And I believe that it's a road that we don't need to take. I think we should definitely wait for the BCDC opinion.

Thank you very much. And I hope you will take into account that even though -- someone mentioned that when it first came to a vote, I think the vote was 53 to 1, but since over the past two years, the majority has been against the landfill and particularly since it's come into operation under Republic Services.

Thank you.

CHAIRPERSON MULÉ: Thank you.

(Applause.)

CHAIRPERSON MULÉ: We do have a request from the operator to speak. So if the operator would like to come forward now and make a presentation.

MR. BIRCH: Thank you Madam Chairwoman and

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members of the Committee and Board members. My name is Larry Birch. I'm the chief engineer and environmental planner for the landfill.

And I wanted to explain my hat. I had an accident yesterday as I was putting my trailer back on the truck, and I have a little dent in my head. And it's prettier with the hat on than off. So that's the reason for the hat.

I want to pass out a form here that talks about public hearings and meetings that have gone on for this project in the last three years. This is meeting number 16 that -- was able to count most of the meetings. There's been more than that.

But on this form, it covers the EIR that was prepared -- the draft EIR that was started in 2003, hearing held in 2004. There was a Suisun Resource Conservation District. They are the stewards of the marsh. They're the stewards of the marsh. And they were concerned about what would this project do to the marsh. They originally were concerned about that, thought there would be visible from the marsh, and they opposed the project. They no longer oppose the project. They favor the project. And so there's another hurdle. We've gone through many, many approvals through the years here.

The Airport Land-use Commission meetings, there's

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been three of those. We are next door to Travis. And we have taken measures for bird control. We use some of the same coordinators that Travis uses on their bird control. They have their falcon program. We have our falcons. And so we believe that you'll find Travis on the support list of the project.

The planning commission, we went through the presentations and there was new information developed near the end of that. The board of supervisors listened to the evidence and they felt that this project in the majority of 3 to 2 felt the project was good for the area.

Now, when you think about trash importation, if you want to call it that, a regional landfill, that's a local land-use decision that was made by the board of supervisors here. If you back up and look and see why we're getting more trash, if you go to the Integrated Board website and look at the statistics on landfills, not fully in that website but in knowing the history of what's happened -- I started in this business back in 1968, and there were 39 landfills serving 12 counties up here, all around the bay. And we now are down to I think 15, because a week ago Saturday west Contra Costa had a landfill, a Republic Landfill was closed down. It filled up to capacity.

A few months prior to that Sonoma County Landfill

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closed because of -- not capacity, but because the regional board said that's not -- shouldn't continue to operate.

Basically, we have not had any new land fills created in 14 years. No new landfills. We've tracked the business pretty closely in looking for, where's the next landfill -- new landfill? We know of no new landfills that are under discovery or under study right now.

So if you look at the statistics and you see these landfills closing down, and using your 2002 data on capacities -- and just assume that the population growth didn't happen, but it is, but say the population growth continued but recycling kept up with that and we just had an even, steady flow of waste to landfills, all the Bay Area landfills will be closed in 2017. If you just take the four landfills that are in the northern Bay Area, we run out in about 2013. There's not a lot of landfill capacity out there. That's why we've come to the county with our proposal for a Phase 2.

Now, I want to show a little show and tell here. There's been a lot of questions about why is there a Phase 1.5. And so I put together a little model. And this basically is a scale model of the landfill at -- 1 inch equals 500 feet. So this is a mile across here. And this is what the landfill topography looked like before we were

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here in 1984.

You have the Potrero Hills making their U. And this is like one half of the Potrero Hills. Grizzly Island Road is out in here. And if you look at this laying down here, it's a nice secluded area in this central valley. There was a stock water pond at this location. And in our original Phase 1 permit we were required to move that stock pond over here.

Okay. We went now to -- this is 25 million cubic yards of garbage that goes into this little hole here. That's what the landfill will look like, Phase 1, when it's all built to capacity.

Now, in the scale of things here, if I set this at this location, this is -- Highway 12 is about right here. It curves and goes this way. Lawler Ranch is about over here. What was approved in 1984 is this hill here, this hill here, this hill here. And you can see right through the highway and see that.

So back in 1984 they made the cautious decision that visibility could be tolerated. That made -- they went through the tests. And we do comply with the general plan of Solano County. We have been found to be compatible with the marsh two times before, in 1984 and 1996. So Phase 1 was tolerable.

Now we talk about Phase 2. Well, Phase 2 was a

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combination of you build original Phase 1 a little higher and you add onto it the lateral expansion people have been talking about. I think it's going to fit.

And so this is the massive landfill of 80 million cubic yards.

Okay. What is Phase 1.5? Well, if you look at the EIR, it says we start over here and we add on the Phase 1 landfill and we build to the east. And you start out here at maybe 200 feet, 250 feet, 300 feet, 310 feet, 350 feet -- 330 feet, and then finally you get to 343 or 345 as the tallest point in Phase 2. Well, what is Phase 1.5? It's just the early portion of Phase 2. So the EIR totally covers all of the area. The 310 foot elevation is just one part of the completion of that project. It's totally within the footprint of Phase 1. You can see the darker green area.

So the concern about the EIR's not complete is really not there. We didn't do the EIR. The county did the EIR. And it was looked at by many agencies.

The phase 1.5 wasn't mentioned in the EIR. But that is just the same thing, they didn't mention all 35 cells as being constructed. But we are building cells at a time.

Now, moving on to the points of the visibility. We're here to talk about Phase 1.5. We're slightly higher

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than we were before. And from this visibility here, these hills do a pretty good job of screening all of Phase 1. And there's only about a 20-foot height you'll see right along this line here for Phase 1.5. You're moving down the highway at 55 miles an hour. You have these hills back here that are 400 and 450 feet high. Basically it's going to be ridge, ridge, ridge, and it's not going to be blatantly spotted.

The board of supervisors didn't see this model, but they understood the maps. And there has been cross-section drawings shown. And they have -- they understand that the visibility is something that could be tolerated.

Now, we won't know about what BCDC feels about Phase 2 until all the studies are completed. But from the work that we have seen on grasslands, birds, salamanders, and -- I'm missing the last one -- there was four -- wetlands, no fatal flaw is turning up. We have -- yes, mitigation has been mentioned a lot. That's because we're doing the job of -- when we take and occupy an area that was once a pond, okay, we mitigated this 3 to 1. We moved it down here and we built more wetlands. Successfully passed all tests.

When it goes to Phase 2, that needs to be discussed as: Is it 2 to 1, 3 to 1? And that's what BCDC

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is talking about now in their studies.

So visibility on Phase 1.5 to me is a non-issue. It's been accepted in the past, and is not a significant change.

Traffic. There's no change in traffic. We're talking about 500 vehicles in, 500 vehicles out on an average basis. All vehicles are counted. If I drive in there -- Larry Birch drives in there and -- they count my car or the truck. The garbage trucks, recycle trucks, dirt trucks, all of those are counted. What is kind of the confusion here is the 3400 tons per day counts what is disposed of, and we go into waste disposal language. And the recycling is not following under that 3400-ton-per-day limit.

Nighttime operation, 24 hours per day. We've heard discussion about highways are busy. We're trying to get the trucks in during the nighttime so that they're not stalled in the traffic and sitting there idling and polluting. They can make the runs up and back quickly.

And with the landfills -- local landfills closing, that with time -- as time goes by, we need to have some studies as to, okay, where's the next landfills? Where are other expansions going to be necessary? We're trying to provide expansions for our area here, not necessary for all of northern California.

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We now supply waste disposal services for 75 communities in the Bay Area. It's no secret. We publish the data. We furnish the data for the -- what counts, the diversions and what's buried. So that is an open record that we're providing that space.

But we also have provided a guarantee to Solano County, basically Fairfield-Suisun as the first part of the family, is that we will guarantee the waste disposal space for them in our landfill. So we're not running out of landfill space at the local citizens' detriment.

The other thing on nighttime operations, we're operating 21 hours per day under the current permit, and the change would be three more hours. One of the letters that was sent to the Board had an interesting comment about it's nice to go out to the marsh in the nighttime and see dark conditions and see the stars. And I agree with that. I just came back from Bodega Bay. And I didn't see stars from getting hit. But I saw -- I wanted to see stars. But what happened? The moon was up. It was a wonderful moon.

Okay. So many weeks of each month the moon rises at nighttime and you don't see stars. We have rain about 85 times a year. And so you don't see starry conditions. From November through February we have a lot of fog and you can't see the stars.

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Basically seven more lights that are down here in this valley shouldn't be a detriment to somebody who wants to go out in the marsh. Now, if somebody's going out there different than what they do now, they're there between 1 o'clock and 4 o'clock in the morning. I'm not sure they're out there wanting to see stars. They may be up to mischief.

I think Mrs. Guidotti has found people out here on Scally Road, that didn't need to be there, partaking of beverages in the middle of the night.

The other thing on lights, if you look at our neighbors, there are lights at Lawler Ranch. But there are significant lights at Travis Air Force Base. As you drive out of here, you'll have to go down Highway 12 tonight. You're going to see a lot of lights that are protecting our Air Force Base.

And so the night lighting we think is misrepresented. The studies that have been made for BCDC are not showing that those lights are going to be a detriment to the wildlife out there.

Just close up here with just a couple of comments. I guess you'd call them rebuttal. There's no height restrictions for Travis. We have the bird control. The Travis airplanes come in and land. Basically they're coming in the other direction. They're taking off near

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us. These hills are 450 high. They're reaching maybe 1500 feet above us by the time they're making their turn. And so the landfill is not anywhere near being to the point it's going to restrict the airplane flights.

Regarding garbage bags along the road. CalTrans has a program. They always have those little mini-dumps that they have. All these bags that are stationed out there are to tell us something. We're slobs. We're dumping litter out the car window. We're losing it out back of our pickup trucks. CalTrans crews pick it up, put it in bags, and leave it on the side of the road. In Vallejo there must have been 500 to a thousand bags parked there in the last month. Those have now been removed.

We do pick up litter three times a week on Highway 12 for about a three-mile stretch. And it's the cleanest segment of Highway 12 now.

The bags you see, if you were to drive westward tonight and CalTrans had been picking up litter, it's not from garbage trucks losing litter. It's people being slobs. They just lose the litter out the windows. And that's a consequence of our society.

Methane gas leaks. You know, the LNG that they were talking about was actually a fuel truck coming in to deliver fuel to our garbage trucks. Our garbage trucks at Solano Garbage Company don't run on diesel fuel. They run

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on LNG -- not CNG, but LNG clearly. And that fuel comes from Arizona or from Wyoming. We'd love to make that fuel out of the landfill. That's a potential Phase 2 project that's named in the EIR and it's named in the use permit. But there was no leak of LNG or methane gas from the landfill.

Information still waiting. That kind of bothered me. We have some -- being nonresponsive. The March 28th, or whatever it was, letter that BCDC was looking for information that was supplied to them, several waves of it wasn't maybe in one document. I personally authored a document that gave them all the data for November and December. A lot of these things take a while to get the information all gathered and then turned in.

I think we've just submitted our about an inch thick document to the BCDC staff, and it answered questions that we thought were the answers they're looking for. They have asked us some more questions. It's natural in this give-and-take process. And we agree with the time extension that we -- the next 30 days or 20 days, whatever it is, should be spent in making sure that this Phase 1.5 permit is all answered and we don't have this nonresponsive question, or what's the definition of this feature or that feature.

Just one more point here that's on the page.

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The litter pick up. If there's an embarrassing part of this landfill, it's the wind blows and litter doesn't stay with us. We have not had any surface water pollution for 20 years leaving this landfill going downstream. The water tests are actually better downstream than upstream because there's cows upstream. And when you measure the nitrogen upstream, it's higher than it is after it's gone past us and flows coming off the landfill. It basically diluted what's upstream.

No groundwater impacts.

The landfill gas. Yes, we've had some violations where the flare went out because the wind blew or something. But it was back on within the prescribed time.

But litter, that's a difficult one to tackle. We are doing a better job. We now have the transfer of the recyclables all caged in. That will stop that litter -- or it has stopped that litter. We're building more litter fences, higher litter fences. But it's really difficult to control the plastic bags. They just be like little kites and off they fly.

Yes. We goofed probably -- June, we goofed years ago by not keeping the purchase of the -- on her property and just going through that. We would like to get to her property. I was kind of surprised by the comments that we didn't call. There was maybe a couple times where our

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employees got a little aggressive. You wanted to pick up that litter. They jumped over the fence.

There was also a little boundary dispute too as to what is the actual fence line. We have a standing letter to her that basically says, "If you don't want us on your property to pick up litter, we will pay for you," Mrs. Guidotti to select whoever she wants, we'll pay on the basis of the invoice of time and cost per hour and the management fee and we'll provide the pick-up service. If's it's not us, it's going to be whoever she chooses.

That's not the best solution. The best solution is to catch it at the source, and that's what we're trying to do.

And just the last thing I want to talk about is this Phase 1.5 again. That's why we're here. We didn't come to the LEA saying we needed Phase 1.5 because we're having trouble with BCDC on Phase 2. Yes, that Phase 2 is taking more time than anybody thought. We thought that the biological study would start in January, it would finish in May. It started in May. We thought it would then finish in September. It's still -- we have not seen final reports yet. We've seen draft reports. But it has taken longer. But that's not because it's in trouble. It's just the professors just took time to get all their work completed.

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We started Phase 1.5 because the Richmond Landfill was closing. We've known this for several years, and that we needed to bring them in on a nighttime schedule if we can. And so the sooner that the nighttime schedule is allowed, then we get that transportation more efficient and less pollutants.

We also want to adjust what counts. The 3400 tons per day is waste disposal and not recycling. Actually, we want to go back to 1996 conditions. The traffic doesn't change from 1996. The area doesn't change with the exception of the vertical height expansion. But back in 1996, we nominated the 3400 tons per day to be what's buried, what's landfill, what's waste disposal. And a year or so later after that was -- that permit was issued, an interpretation by the Board -- this Board was, no, when you have a number in your permit, and that's that little block, that's the total tonnage you can bring in to your landfill. So we said, oops, because we were bringing in recyclables to be composted, we were bringing in concrete to be made into gravel. We're more than a landfill. We're a resource recovery facility. And ADC materials were brought in. And so we want to be able to continue that service to provide that and have that tonnage number go up.

So that's the reason for Phase 1.5. It's not

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because we think our permit's in trouble. We think this is a fine landfill. And, yes, I helped design it, so I've got some faith in it of my own.

And that it takes time to do all these projects. But I think what we really have to sense here is time in the long term is somebody better start planning for where are the future landfills going to be? We have no Phase 3. Duane Kromm said, "Oh, yeah, look out here. They have left this place bare." We'll, we've already nominated some 5 or 600 acres of land that are more appropriate for salamanders and for wetlands and for grasslands. And to -- we're having a 150-acre footprint, yet we're nominating 500 and some acres. We think, well, that's a pretty swell proposal.

We pay the county -- something like 2 percent of the General Fund monies comes from the garbage that goes to the landfill and gets buried out there. And so you might say that 2 percent of the General Fund in Solano County is subsidized by -- what is it? -- 85 percent of other garbage that comes in. We are paying 15 cents a ton into a Suisun Marsh Education Fund. That raises something like $150,000 a year at 3,000 tons a day buried. And that goes to grade schools, junior highs, high schools, junior colleges and -- I can't say it -- Davis -- University of California at Davis for special studies in the marsh or

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education efforts. We are raising something like $600,000 a year for the Suisun Resource Conservation District so they can go out and protect the marsh in their water master program and their levee construction program.

So when you hear about these so-called horrific things that might happen, that's kind of speculation. We've been here for 20 years and nothing like that's happened. We were there about the time Lawler Ranch started. In the 1984 hearings there was nobody from Lawler Ranch came to the hearings. In 1989 nobody came. In' 96, I don't think so, but I can't prove that tonight.

But we think that if you were to query the people of Fairfield as to "What do you think about Potrero Hills Landfill being expanded?" they're going to be very much like Supervisor Silva: "If it's done right and the marsh is protected, it's a good idea, because we should keep the disposal site local here."

So if there's questions I can respond to, I think I've used up my time here.

COMMITTEE MEMBER WIGGINS: It was suggested by a previous speaker that the plastic bags along Highway 12 towards Rio Vista came from the landfill.

MR. BIRCH: Yes. I don't think it would come from the landfill. It doesn't blow that far.

Now, if it was the traffic that's delivering

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wastes -- or some of the trucks that are delivering wastes, the transfer trucks are the major source of the materials that are coming from that direction. The Rio Vista garbage truck comes in. Citizens will drive their materials to the self-haul from Rio Vista if they want to use the landfill. But the majority of the waste come in transfer vehicles from the -- basically the transfer station in Pittsburg. Those are covered vehicles. If they are leaking litter, and maybe that's the case, that's illegal. Highway Patrol can cite them for that. We don't think that's a major source. Yes, there may be a bag. But it's not a flagrant, constant, chronic-type thing.

COMMITTEE MEMBER WIGGINS: It's not from the landfill then?

MR. BIRCH: No. It's not blowing that far. The landfill -- okay. This location -- Highway 12 is about three miles away to get it this downwind direction. And we pick up the litter all through here on our property. And we don't find any litter down as far as Branscom. That's the next road over.

Thank you.

CHAIRPERSON MULÉ: Thank you, Mr. Birch.

Any other questions for Mr. Birch?

Well, if there's no further --

MS. LOPES: Excuse me, Madam Chair. May I have a

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rebuttal a minute please? Just one minute for rebuttal?

CHAIRPERSON MULÉ: We can do that.

MS. LOPES: Thank you.

The first thing I want to say is, first of all, thank you.

First of all, about the litter. It is coming somewhere from the landfill. It is not citizens. Because it's the same type of trash all the way up 80, all the way up 12. There's no way in the world that many people are littering the type of things that are being littered. As I mentioned in my testimony, there is some dumping and it's not the landfill's fault. But the rest of it is attributable to the landfill.

Second of all, the issue about Phase 1.5. It has never been mentioned before. It was not mentioned at the local level from the local planning commission. It was not mentioned at the board of supervisors meeting. And now that -- he also admitted that 1.5 is within Phase 2 EIR. If it's within Phase 2, which has an EIR, then it should be the decision of BCDC and not this Committee.

Thank you.

(Applause.)

CHAIRPERSON MULÉ: Thank you.

Board Member Peace, do you have a comment?

COMMITTEE MEMBER PEACE: You have to pull this

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close.

You know, I just want to say that the Board is not going to take action on this permit this month because our staff did not have adequate time to review the permit to ensure the public health and safety and the protection of the environment.

The permit was not complete. It didn't have the adequate closure and post-closure plans. It didn't have the adequate financial assurance plans when it was submitted.

And I have to say that I am very disappointed in the operator and in the LEA for submitting something to us that was not complete and didn't give our staff the adequate time that it needed to review.

With that being said, I was wondering if, before we leave here tonight, that our Legal staff or our staff could let the people here know what is the rule of the Board, what we can and can not do, what are the reasons that the Board can turn down a permit and what is the Board's role as it relates to CEQA; and, two, also what is our legal relationship with other agencies, whether it be the Water Board or the BCDC.

ACTING CHIEF COUNSEL BLOCK: Okay. Let me go ahead and get started, and then either Howard or Michael may jump in. And hopefully I'll get I think three

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questions that you mentioned.

First of all, the Board's authority to concur or object to a permit is set forth in Public Resources Code Section 44009. With not going into a lot of details on that, but the relevant issues actually have been outlined in the staff presentation in terms of those items that are within the Board's jurisdiction. And I think probably the primary issue that maybe has been raised today is actually not within the Board's jurisdiction is the siting decisions, which are made at the local level. So that's probably important to make clear.

Another significant issue that came up primarily had to do with -- primarily dealing with other agencies, had to do with BCDC, and a number of people mentioning that the permit -- the Board's decision should wait for that decision. For better or for worse, the statute separates the Board's decision from the decision of other agencies. The Board does not have the ability to delay this permit until other agencies have made their own decisions. Now, that doesn't mean that the Board's approval overrules BCDC's decisions. I think it's specifically mentioned in the item as well, even if the Board concurs in this permit and the LEA issues it, to the extent that BCDC's decision is necessary for certain operations to occur at this facility, the facility won't

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be able to start operating if they need the approval by other agencies. It just simply means that they have checked another permit that they need to get off -- yet off of their list.

That was two. There were three questions. I wasn't actually writing them down. I'm not sure if I covered all three.

COMMITTEE MEMBER PEACE: What were the reasons that we can deny a permit?

ACTING CHIEF COUNSEL BLOCK: Okay.

COMMITTEE MEMBER PEACE: Those are limited also.

ACTING CHIEF COUNSEL BLOCK: Those are fairly limited. I think I did mention -- the ones that are relevant, they're actually outlined in the agenda item itself, for those that have it in front of them. Or if they don't, certainly they can find those on our website. They're fairly limited. They relate to financial assurances issues, state minimum standards, closure plans, the like. And then the ones that our staff had found that we have some potential issues with are the ones that were mentioned earlier in the presentation.

To the extent that the issues were not mentioned in the staff's analysis, while they may be issues in the broader sense for this landfill, they're not limited to Board's jurisdiction to object.

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CHAIRPERSON MULÉ: Thank you, Elliot.

We do have a question from Board Member Wiggins.

COMMITTEE MEMBER WIGGINS: Well, can BCDC overrule a decision by the California Integrated Waste Management Board after they make their decision?

ACTING CHIEF COUNSEL BLOCK: No. They're basically -- the statute -- they're two separate sets of authority. BCDC has its own set of authority over -- issues they have jurisdiction over, as the Waste Board has its own. Essentially they're independent. Now, if the landfill needs BCDC's approval to do X, the fact that the Waste --

COMMITTEE MEMBER WIGGINS: X being what?

ACTING CHIEF COUNSEL BLOCK: Whatever that item -- some aspect of the landfill revision, whatever that is. Fill in the blank.

I should say I'm not specifically familiar with all of BCDC's authority, so that's what you want to do is pick something out of air.

But if there's something that BCDC has jurisdiction over that requires their approval for it to occur, the Waste Board's approval or -- of what's within the Waste Board's jurisdiction doesn't either control or require BCDC to either approve or disapprove, and vice versa. They have two separate areas of jurisdiction.

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And so there may be some overlap in the sense that we might look at issues like litter, and we have our own standards, and BCDC might have their own standards. They wouldn't necessarily be litter standards. They would be phrased within the context of protecting the marsh. And they essentially -- they're independent/supplementary of each other.

COMMITTEE MEMBER WIGGINS: I guess the question is: If BCDC makes a ruling, that would prevail, wouldn't it?

ACTING CHIEF COUNSEL BLOCK: Well, it would prevail in the sense if the landfill needs an approval from BCDC and they don't get it, they will not be able to do what they need an approval for regardless of whether the Waste Board has concurred in the issues of the permit?

COMMITTEE MEMBER WIGGINS: Yeah, that's what I'm trying to get at. Okay.

ACTING CHIEF COUNSEL BLOCK: It doesn't mean the Waste Board's permit goes away or it -- that the LEA's permit goes away or isn't valid. But they won't be able to --

COMMITTEE MEMBER WIGGINS: And if the CEQA is considered inadequate?

ACTING CHIEF COUNSEL BLOCK: By who?

COMMITTEE MEMBER WIGGINS: By the Board staff.

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ACTING CHIEF COUNSEL BLOCK: Well, there's various options that might come into play depending on our analysis of CEQA. I can ask Michael to explain those to you if you want. I'm going to ask him whether he wants to actually -- the problem is it's a little bit speculative. I mean as -- the staff analysis says we haven't been able to make that analysis. So he can certainly say in general terms what the broad options are under CEQA. But I'm not sure how useful those would be given that we don't have all the information that we need yet to do that.

COMMITTEE MEMBER WIGGINS: Well, then I guess the bigger question is: If the CEQA was considered inadequate that the Board denied a permit based on that lack of --

STAFF COUNSEL BLEDSOE: Michael Bledsoe from the Legal office.

Honestly, Member Wiggins, that question is too simply asked. CEQA is a good deal more complicated than the question would allow an answer. So, number one, it would not be the staff's determination that the CEQA document is inadequate. It would be the Board's decision. So that's an important distinction.

It as also important to note that the Waste Board in this situation is a responsible agency, not the lead agency. So we have much less ability to shape the CEQA document and much less authority.

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But except in some peculiar circumstances that I don't think are going to exist here, the primary ability that the Waste Board would have if it determines that the CEQA document is inadequate or that the lead agency has failed to comply with CEQA is to sue the lead agency. So that's the primary, not the only, but the primary avenue we would have.

COMMITTEE MEMBER WIGGINS: This was a generic question.

STAFF COUNSEL BLEDSOE: Yes ma'am.

CHAIRPERSON MULÉ: Okay. With that, we will conclude this meeting.

Thank you all for your attendance and your participation. We certainly a appreciate it.

Thank you.

(Thereupon the California Integrated Waste Management Board, Permitting and Enforcement Committee meeting adjourned at 7:35 p.m.)

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CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of October, 2006.

JAMES F. PETERS, CSR, RPR
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