

MEETING
STATE OF CALIFORNIA
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
REGULAR MONTHLY BUSINESS MEETING

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Boardroom
8800 Cal Center Drive
Sacramento, California

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WEDNESDAY, NOVEMBER 18, 1992

10:00 a.m.

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Certified Shorthand Reporter
License Number 8751

A P P E A R A N C E SBoard Members:

Michael Frost, Chairman

Wesley Chesbro, Vice Chairman

Sam Egigian, Board Member

Jesse Huff, Board Member

Kathy Neal, Board Member

Paul Relis, Board Member

Staff Members Present:

Andi Thomas, Board Secretary

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P R O C E E D I N G S

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3 BOARD CHAIRMAN FROST: Good Morning and welcome to
4 the monthly meeting of the California Integrated Waste
5 Management Board.

6 May we first have a roll call to establish a quorum,
7 please.

8 BOARD SECRETARY THOMAS: Board members Chesbro.

9 BOARD MEMBER CHESBRO: Here.

10 BOARD SECRETARY THOMAS: Huff.

11 BOARD MEMBER HUFF: Here.

12 BOARD SECRETARY THOMAS: Egigian.

13 BOARD MEMBER EGIGIAN: Here.

14 BOARD SECRETARY THOMAS: Neal.

15 BOARD MEMBER NEAL: Here.

16 BOARD SECRETARY THOMAS: Relis.

17 BOARD MEMBER RELIS: Here.

18 BOARD SECRETARY THOMAS: Chairman Frost.

19 BOARD CHAIRMAN FROST: Here.

20 Okay, now Mr. Conheim, any ex parte announcements?

21 LEGAL COUNSEL CONHEIM: Just the standard one,
22 Mr. Chairman, that members of the California Integrated Waste
23 Management Board comply with Public Resources Code Section
24 40412 by disclosing in writing any communications outside of
25 this board meeting about issues which are before the Board for

1 decision. Those written disclosures are on file in a publicly
2 reviewable file here at Board headquarters and may be reviewed
3 upon your written request.

4 Also at this time, Mr. Chairman, you provide an
5 opportunity for contemporaneous oral disclosures of
6 communications which may have taken place so proximate to this
7 board meeting that the written disclosures have not yet been
8 completed.

9 BOARD CHAIRMAN FROST: Yes, any board member have
10 any ex parte announcements to make?

11 BOARD MEMBER RELIS: I had one discussion with
12 Sandra Darbeck of Californians Against Waste regarding the
13 recycled, contract on the recycle procurement or product
14 shopping that I wanted to give.

15 BOARD CHAIRMAN FROST: Okay, any others?

16 Okay, thank you.

17 Let's go into today's agenda. First of all, three
18 items are pulled from today's agenda. They are items 19, 20,
19 and 22. 19, 20, and 22 are pulled.

20 Now, we have a large consent agenda today. Today's
21 consent calendar consists of the following: Items 5 through
22 16, inclusive. 5 through 16, 18, 24, 25, and 27. 5 through
23 16, 18, 24, 25, 27.

24 So before I call for a motion, are there any members
25 of the Board who wish to request any item to be removed from

1 Now, item two is reports from the Board's
2 committees.

3 And let's start with Mr. Huff. Do you have a report
4 from the Permitting and Enforcement Committee?

5 BOARD MEMBER HUFF: None, other than that the fruits
6 of our efforts are very apparent in the consent calendar and
7 the other items on the Board's agenda today.

8 BOARD CHAIRMAN FROST: Okay, thank you.

9 Mr. Egigian, Policy and Technical Assistance
10 Committee.

11 BOARD MEMBER EGIGIAN: We did not meet. Thank you.

12 BOARD CHAIRMAN FROST: Thank you.

13 Miss Neal, Legislation and Public Affairs Committee?

14 BOARD MEMBER NEAL: The majority of our items were
15 taken up either on consent or are later in the agenda. But I
16 would just like to report that our public education campaign
17 is moving along at a very good pace, and last week
18 Pat Macht and I participated in the filming of our commercials
19 that will be aired very shortly. And I think that we will be
20 quite proud, you will be quite proud when you see the final
21 product.

22 They were very well and very professionally done. I
23 think that they are done in a way that the public will pay
24 attention. They provide, I think, some real good information,
25 to the point but in a way that is humorous and emotionally

1 pleasing, shall we say.

2 So I really cannot wait till we get the final
3 product, cause I'm very anxious to show them to you.

4 BOARD MEMBER HUFF: Will we have a party?

5 BOARD MEMBER NEAL: Well, I was thinking about doing
6 a premiere here in the board room.

7 VICE CHAIRMAN CHESBRO: Be sure to put them on the
8 big screens, I don't think we'd be able to see them on the
9 little screens.

10 BOARD CHAIRMAN FROST: Okay, thank you, Miss Neal.

11 Mr. Chesbro, the Planning Committee?

12 VICE CHAIRMAN CHESBRO: Only item number 4 on
13 today's agenda was, that was the only action item we took up,
14 and that will be presented to us momentarily.

15 BOARD CHAIRMAN FROST: Okay, thank you.

16 Mr. Relis, Market Development Committee?

17 BOARD MEMBER RELIS: Yes, brief report. Our major
18 activity was to discuss the framework for meshing actions
19 listed in the plans derived from the Commodities Specific
20 Workshops.

21 The committee agreed that the concept of
22 categorizing actions for recycling market development
23 activities should be organized under administrative,
24 regulatory, and statutory categories, that is actions each
25 appropriate for those categories.

1 The committee also agreed that additional sub-
2 groupings of actions within each of these categories was
3 useful. For example, four actions with an established state-
4 wide information center, that was one of the proposals that we
5 set up such a group, would come under the category, the sub-
6 group of administrative, the administrative category.

7 The committee asked staff to return in December with
8 second, with a second iteration incorporating all seven action
9 plans, including definitions of sub-groupings and individual
10 actions.

11 The committee noted that priorities in each action
12 plan do not consider other commodities. Committee asked staff
13 to develop criteria for ranking actions within each sub-group.

14 We expect to bring the draft of the entire market
15 development plan to the committee in January.

16 The committee also approved the first public notice
17 of regulations for recycled content trash bags, subject today.

18 Update on -- we received an update on the zone,
19 programs and the status of the zones and the staffing
20 internally, how the Board is responding to the needs
21 identified by zone administrators, and how businesses are
22 proceeding in obtaining financing for market development
23 activities.

24 And then finally, the committee approved
25 publication, the first comparable, quality standards for

1 recycled content newsprint.

2 Thank you.

3 BOARD CHAIRMAN FROST: Okay, thank you, Paul.

4 The Administration Committee did meet in November,
5 but there's no business to report at this time.

6 We'll move to item three, consideration of contracts
7 and interagency agreements.

8 Bob Del Agostino will present this item.

9 MR. DEL AGOSTINO: Yes, Mr. Chairman and board
10 members.

11 We are asking the Board to approve the award of a
12 contract to the Department of Finance in the amount of
13 \$100,000 to perform an economic analysis of state-wide funding
14 mechanisms. This concept was approved at the Board's
15 September 30th meeting. The scope of work has been reviewed
16 and signed off by advisors. The work would be completed by
17 the end of the fiscal year.

18 We are requesting your approval to go ahead with
19 this contract.

20 BOARD CHAIRMAN FROST: Why do we need to approve
21 this? We approved it at the last --

22 MR. DEL AGOSTINO: You approved the concept, but the
23 process that has been established says that agency agreements
24 come directly to the Board for actual award.

25 BOARD CHAIRMAN FROST: I see, okay. Okay, any

1 question or discussion?

2 BOARD MEMBER HUFF: Move it.

3 BOARD CHAIRMAN FROST: Moved.

4 BOARD MEMBER RELIS: Second.

5 BOARD CHAIRMAN FROST: Seconded.

6 Call the roll, please.

7 BOARD SECRETARY THOMAS: Board members Chesbro.

8 BOARD MEMBER CHESBRO: No.

9 BOARD SECRETARY THOMAS: Huff.

10 BOARD MEMBER HUFF: Aye.

11 BOARD SECRETARY THOMAS: Egigian.

12 BOARD MEMBER EGIGIAN: Aye.

13 BOARD SECRETARY THOMAS: Neal.

14 BOARD MEMBER NEAL: I have to abstain because I was
15 having a sidebar with Wesley, and I don't know what we're
16 voting on.

17 BOARD SECRETARY THOMAS: Abstain.

18 Relis.

19 BOARD MEMBER RELIS: Aye.

20 BOARD SECRETARY THOMAS: Chairman Frost.

21 BOARD CHAIRMAN FROST: Aye.

22 MR. DEL AGOSTINO: Thank you.

23 BOARD CHAIRMAN FROST: Okay, item four,
24 consideration of an approval of emergency used oil recycling
25 regulations.

1 Tom Rietz.

2 MR. RIETZ: Mr. Chairman, for the record, Tom Rietz,
3 Deputy for Planning and Assistance.

4 Last month the Board approved regulations relating
5 to collection of the 16 cent fee from oil manufacturers, and
6 also specified industry reporting requirements. This new set
7 of regulations relates to the certification procedures for
8 used oil collection sites and used oil recycling facilities.

9 It involves procedures for the collection sites to
10 receive reimbursement for the 16 cents given to individuals in
11 the community, and also provides for procedures for allocating
12 local government block grants.

13 Christy Porter will now describe the contents of
14 these regulations and discuss some concerns raised at the
15 Planning Committee.

16 We also have Bonnie MacDuffee of Administration
17 Division and Fernando Bertrand with the use of household
18 hazardous waste section to provide any answers to questions
19 you might have relating to the block grants and the collection
20 process.

21 MS. PORTER: Thank you, Tom.

22 First, I'd like to give you an overview of the
23 contents of the regulations, and then address some of the
24 concerns that were raised by the Planning Committee at its
25 last meeting.

1 The proposed regulations do describe how to become a
2 certified used oil collection center, a certified recycling
3 facility, how those eligible can claim a recycling incentive,
4 and how local governments can apply for block grants.

5 We are proposing emergency regulations at this time.
6 Staff is proposing to adopt emergency regulations and
7 concurrently conduct the non-emergency rule-making process.
8 The notice for the non-emergency regulations was published in
9 the October 30th version of the Notice Register.

10 And we are asking for emergency regulations in order
11 to process the applications in a timely manner so that centers
12 can become certified and begin receiving payments by April 1st
13 of '93.

14 We don't anticipate any major changes between the
15 proposed emergency regulations that you see today and the
16 final non-emergency regs. We have met with several industry
17 groups, local government, we've held several informal
18 workshops prior to even writing the regulations to find out
19 what potential concerns might be.

20 As far as the contents of the regulations, the
21 format is question and answer as it was for the last set of
22 used oil regulations.

23 Article 1 contains definitions.

24 Article 2 describes recordkeeping and auditing
25 requirements and administrative actions.

1 Article 5 describes procedures for certifying a used
2 oil recycling facility.

3 The recycling facilities are the facilities that
4 actually process the used oil, either re-refining it or
5 processing it into a fuel. And the procedures that we've
6 defined are that after the Board receives a report from the
7 Department of Toxic Substances, we would analyze that report
8 and determine whether or not that facility should be
9 certified.

10 The reason for denial would be a serious recurring
11 violation which would be reflected on Toxic's report. And
12 these facilities are subject to annual evaluation and
13 certification. If the facility were denied certification they
14 could request a hearing before the Board.

15 Article 6 describes procedures for becoming a
16 certified used oil collection center. The collection centers
17 are the facilities, like at a drop-off center or a gas
18 station, where people who change their own oil can take the
19 oil and drop it off, which it would then be sent to a
20 recycling facility.

21 The way we have it set up in the regulations, staff
22 would process the applications and the applicant would be
23 notified. If certification were denied they could appeal for
24 a hearing before the Board.

25 We're not really sure at this time, there are

1 currently about 1,000 collection centers throughout the state,
2 so there could be that many applications.

3 Article 6.1 describes registration procedures for
4 those other than certified collection facilities that could
5 receive payment. These include curbside collection programs,
6 industrial generators, and electric utilities.

7 Article 6.2 includes formulas for calculating oil
8 recycling rates.

9 Article 7 includes, or specifies recycling incentive
10 payment procedures; in other words, how someone would submit a
11 claim. It asks that a purchase invoice be submitted by
12 industrial generators which would show that the fee was paid
13 in the first place, and a manifest from the hauler which would
14 evidence that the oil had been recycled.

15 Article 8 and 8.1 relate to local government block
16 grants. There's 10 million dollars per year, at least,
17 allocated to local government block grants. The regulations
18 are set up similarly to the ones in place right now for the
19 household hazardous waste grants.

20 That summarizes the contents of the regulations.
21 Now, I'd like to address some of the concerns that were raised
22 at the last Planning Committee Meeting.

23 - - One of the concerns related to prompt payment of
24 claims. Several of the members had concerns that we didn't
25 want to take a lot of time to reimburse, especially certified

1 centers, when they've been paying money out of their pockets
2 to the public.

3 I believe most of you, or all of you, should have
4 received this morning some additional language, one additional
5 section which would specify that payment would be made within
6 35 days of the postmark date of the claim. So that's
7 basically what we're proposing.

8 Another concern that was raised at the Planning
9 Committee related to the non-profit grants. The regulations
10 that we're proposing today specify only the grant procedures
11 for local government block grants. One of the reasons for the
12 delay on this was that the local government block grants take
13 priority in the hierarchy of how the funds are allocated
14 according to the statute.

15 The first line is that the money would go to pay the
16 claims. The second line, the money would go for local
17 government block grants. And then the money that was left
18 over, that, from there, could be spent for non-profit grants,
19 research grants, and for public education.

20 So those grants wouldn't be available until late
21 '93, I would say, at the earliest, since the local government
22 block grants have to be allocated first. So staff will begin
23 working on, on that set of regulations so that they're in
24 place when the money is available.

25 To conclude, I'd just like to reiterate that we have

1 held several workshops and worked with industry and local
2 government as we've prepared these regulations. We've also
3 incorporated recommendations of the Planning Committee.

4 Therefore staff recommends that the Board adopt the
5 proposed emergency regulations as presented, with the addition
6 of the section of the 35-day payment turnaround time, and
7 several other minor administrative changes. Also approve the
8 finding of emergency, and adopt the resolution that's in your
9 packet.

10 And staff would be happy to answer any questions.

11 VICE CHAIRMAN CHESBRO: Mr. Chairman, my only
12 comment would be that the proposed amendment is a direct
13 response to what the committee asked for, and I think is in
14 conformance with that, so it would be part of the committee's
15 recommendation as well as the staff's.

16 BOARD CHAIRMAN FROST: Okay.

17 BOARD MEMBER EGIGIAN: Mr. Chairman.

18 BOARD CHAIRMAN FROST: Mr. Egigian.

19 BOARD MEMBER EGIGIAN: I would like to know what
20 category that the automobile dealerships fall into. They do a
21 lot of changing oil and servicing. Would they be part of the
22 used oil collection center certification and operations
23 standards or --

24 MS. PORTER: Well, they can possibly fall into one
25 of two categories. If they're servicing their own vehicles

1 that are on the lot they could classify as an industrial
2 generator. To be an industrial generator the entity has to
3 either own or use the equipment that the oil's being used in.
4 So if they're servicing their customer's vehicles then they
5 wouldn't be classified as an industrial generator.

6 They could become a certified collection center
7 where they would collect oil from the public, do-it-
8 yourselfers, but if they did that they could also claim the
9 money on the oil that they changed in their customer's cars
10 and keep that, and they wouldn't have to pass that on to their
11 customers.

12 BOARD MEMBER EGIGIAN: Thank you.

13 BOARD CHAIRMAN FROST: Is there any approach to used
14 oil filters?

15 MS. PORTER: Staff is actually in the process right
16 now of preparing an issue memo at the direction of Mr.
17 Chandler that would analyze how used oil filters might be
18 dealt with through this program or as an adjunct to this,
19 program, since people who change their own oil also will have
20 an oil filter.

21 So we're looking to see what the opportunities are
22 for recycling the filters, and public education, center
23 involvement, et cetera. So it's being looked into.

24 BOARD CHAIRMAN FROST: Do, how do we, how would we
25 publicize the location for the centers?

1 MS. PORTER: Well actually right now we're trying to
2 get an effort started to work with the major oil companies to
3 have them do some cooperative advertising with the Board to
4 get out, mainly our 800 number, because they already have used
5 oil collection centers indicated on there. And we would add a
6 designation whether or not they were certified in the hot line
7 database.

8 BOARD CHAIRMAN FROST: Well I wonder, since that's
9 probably the most difficult part of recycling oil is finding
10 out where you can do it. If the -- there isn't some way to
11 have the, at the point of the sale of the oil, some sort of
12 information about where you can recycle it.

13 MS. PORTER: We also have a, an RFP request for
14 proposal that's going to be going out soon that would be doing
15 market research and developing a marketing strategy to target
16 the do-it-yourselfers to find out what is the best way to
17 market this program.

18 VICE CHAIRMAN CHESBRO: Under 2020, you know, the
19 beverage container sellers have to post some sort of
20 notification about where people can redeem the containers, and
21 I don't think that's a provision in this law that I know of,
22 but it's one that we might want to take a look at, discuss
23 with the author, because I think Mr. Frost raises a very good
24 point.

25 BOARD CHAIRMAN FROST: Yeah. Having done this, that

1 is the most difficult part, is finding out where it is you can
2 take the oil. It's just very difficult to do.

3 VICE CHAIRMAN CHESBRO: On the other hand, in some
4 communities the program may be primarily the curbside program
5 and not necessarily a drop-off point. But that could be, you
6 know, that could be the alternate information that would be
7 posted as well would be in the, you know, in this community
8 you can dispose of it in the following way or something, you
9 know.

10 But anyway that's something maybe we can take up
11 with the author and see if there's any interest in the
12 amendment which would require some sort of posting.

13 BOARD CHAIRMAN FROST: Yeah, that would be a good
14 idea.

15 Okay. any other questions, comments? Okay.

16 VICE CHAIRMAN CHESBRO: I'm going to move it.

17 BOARD CHAIRMAN FROST: Sorry, I goofed. Yeah.

18 Peter Weiner, Evergreen Oil.

19 MR. WEINER: Thank you, Mr. Chairman and members. I
20 seem to be the only commentor on this.

21 I've previously approached staff and some of your
22 advisors with a small issue which we thought might be able to
23 be dealt with in the emergency regulations. And it has to do
24 specifically with Section 18643.3 which is on page eight of
25 your October 28th draft, and which is entitled, "How does the

1 Board certify or recertify a used oil recycling facility."

2 Specifically that section provides procedural
3 guidance to the regulated community, but no substantive
4 guidance about the grounds on which the Board would certify or
5 deny certification to a used oil recycling facility. And of
6 course that certification is essential in order to be able to
7 receive oil that will be the subject of the refined and the
8 recycling incentives that are in the bill.

9 From our perspective, you get a lot more compliance
10 and acceptance in the regulated community when they know what
11 the rules of the game are. Some of those rules are set forth
12 in the statute. But my experience, having been in this arena
13 for the last 15 years or so, is that it's unfortunate but most
14 people don't read the statutes, they read the regulations,
15 people in the regulated community, and it very much helps them
16 to set forth what the standards are for certifying or denying
17 certification.

18 So I've suggested some language to staff which, is
19 rather short, and in many ways repeats in a slightly more
20 simplified form, so that it's more user-friendly, what the
21 statutory grounds are, which is that the Board will deny
22 certification for a facility that is engaged in a recurring
23 pattern of noncompliance that poses a significant threat to
24 public health and safety or the environment.

25 And I tried to give an example of that in the

1 language I proposed, that such a pattern may include, for
2 example, i.e., including but not limited to, failing to have
3 or comply with an approved corrective action plan to clean up
4 significant soil or groundwater contamination.

5 The purpose of suggesting that addition is this.
6 These emergency regulations, as opposed to the non-emergency
7 that you will be dealing with later this year or at the
8 beginning of next year, are the ones that will be used to
9 certify in the first instance.

10 On the one hand, it is useful for the regulated
11 community to know that certification will not be denied for
12 insignificant violations of the laws as reflected in the
13 inspection report that the Department of Toxic Substances
14 Control does. That way they don't get alarmed about
15 irrelevant issues.

16 On the other hand, it's useful for the regulated
17 community to know that if they drag their feet, for example,
18 as people sometimes are wont to do in these difficult economic
19 times on correcting past contamination, that that might have
20 other consequences in terms of this law because that's what
21 your statute commands.

22 So all I'm trying to do is get something into the
23 regulations to give some guidance to the regulated community
24 on this issue, because it's obviously at the heart of, in
25 terms of certification process it's at the heart of what gets

1 recycled and where it gets recycled.

2 BOARD CHAIRMAN FROST: Mr. Chesbro.

3 VICE CHAIRMAN CHESBRO: Mr. Chairman, I think that
4 Mr. Weiner raises a very good point. The problem I have with
5 it is that it was submitted in the last several days and was
6 really not considered during the several months worth of
7 meetings that the committee held on this, both prior to my
8 being on the committee and now this last month when we did our
9 final consideration and recommendation to the Board.

10 And I think it raises some important issues that we
11 probably ought to wrestle with, but I don't think that it's
12 one where there's not any nuances or discussion that should
13 take place about how it's worded, about what our relationship
14 is to the Department of Toxic Substances Control relative to
15 their, they are the primarily, the primary lead enforcement
16 agency. And so I think we need to have a discussion of this
17 before doing it and it should take place at the committee
18 level.

19 And so my leaning on it would be to, for us to go
20 ahead and adopt the committee's recommendations and to suggest
21 to, or not suggest, direct staff to take this and include an
22 analysis of it in their recommendations to us for the final
23 regs when they come back, for the permanent regs, non-
24 emergency regs, whatever we call them, when they come back to
25 us, and seriously consider this.

1 But I have a little difficulty with doing it just on
2 the verge of the moment with several days, with only several
3 days of discussion.

4 BOARD CHAIRMAN FROST: Okay, any further discussion?
5 All right.

6 Staff have any reaction?

7 MS. PORTER: I agree with Board Member Chesbro.
8 Staff would like to have some time to discuss this with the
9 Department of Toxic Substances prior to adding it into the
10 regulations.

11 BOARD CHAIRMAN FROST: Okay.

12 MR. WEINER: We acknowledge that we were very late
13 on this, and we would look forward to working with you on
14 this.

15 BOARD CHAIRMAN FROST: Okay. Thank you, Mr. Weiner.
16 I'm ready for a motion.

17 VICE CHAIRMAN CHESBRO: With that, I'll move the
18 committee's recommendation including the amendment that staff
19 has brought to us, and also in the same motion direct staff to
20 include an analysis of the proposal from Evergreen Oil when we
21 consider the non-emergency regulations.

22 BOARD CHAIRMAN FROST: Okay. Second?

23 BOARD MEMBER RELIS: Second.

24 BOARD CHAIRMAN FROST: Call the roll, please.

25 BOARD SECRETARY THOMAS: Board members Chesbro.

1 BOARD MEMBER CHESBRO: Aye.

2 BOARD SECRETARY THOMAS: Huff.

3 BOARD MEMBER HUFF: Abstain.

4 BOARD SECRETARY THOMAS: Egigian.

5 BOARD MEMBER EGIGIAN: Aye.

6 BOARD SECRETARY THOMAS: Neal.

7 BOARD MEMBER NEAL: Aye.

8 BOARD SECRETARY THOMAS: Relis.

9 BOARD MEMBER RELIS: Aye.

10 BOARD SECRETARY THOMAS: Chairman Frost.

11 BOARD CHAIRMAN FROST: Aye.

12 Miss Neal.

13 BOARD MEMBER NEAL: Yeah. During the course of item
14 four, I got some clarification on item three since I wasn't
15 paying attention when the motion was made.

16 I now know what the motion was and I would like to
17 change my vote to an aye vote.

18 BOARD CHAIRMAN FROST: Okay. Miss Neal will be
19 recorded as aye on item three.

20 Now, item 16, which is consideration of concurrence
21 in the issuance of a revised solid waste facilities permit for
22 the Mecca II Center Landfill, Riverside County.

23 Martha Vazquez.

24 DEPUTY DIRECTOR VAZQUEZ: Good morning, Mr. Chairman
25 and Board members. I am Martha Vazquez, Deputy Director of

1 the Permitting and Compliance Division. This item regards a
2 permit revision for the Mecca II Sanitary Landfill. It's
3 located in Riverside County.

4 And the revision is necessary to incorporate three
5 changes to the facility. One is an increase in the quantity
6 of waste received from 45 tons a day to 50 tons a day; a
7 change in elevation from 45 feet to 70 feet above mean sea
8 level; and a change in excavation depth from 20 feet to 50
9 feet below mean sea level.

10 The site is currently operating under a stipulated
11 order of compliance because they have changed a couple of
12 their design parameters. The issuance of the proposed permit
13 would eliminate these violations, and the stipulated order
14 could be withdrawn by the LEA.

15 Board staff have conducted an annual inspection this
16 year of the facility and during that inspection, six
17 violations were cited.

18 In September, the LEA conducted it's annual, or,
19 pardon me, it's monthly inspection, and found that all the
20 violations had been corrected.

21 Staff is recommending concurrence with the issuance
22 of this proposed permit.

23 With that, I would like to introduce Mr. David
24 Otsubo and Mr. Chris Deidrick of the Permits Branch to present
25 the staff report.

1 VICE CHAIRMAN CHESBRO: Well I have a couple of
2 questions that may be easily answered and can expedite the
3 situation, but I'm not sure if you want to go through the
4 complete --

5 BOARD CHAIRMAN FROST: No, go ahead.

6 VICE CHAIRMAN CHESBRO: It might quicken things just
7 a little bit for me to ask and get the answers that are
8 available.

9 There was an issue on what's page 105 by the agenda
10 numbers right here in the corner, regarding the Southwest Air
11 Quality Management District regulations, and the SWAT tests.
12 Can you address that and tell us what the status of the issue
13 is? It's a temporary exemption for one of their rules that's
14 been granted, and I just want to understand the nature of
15 that.

16 MR. DEIDRICK: Yes, Mr. Chesbro, my name is Chris
17 Deidrick and I represent the Permits Branch.

18 That paragraph on that page didn't accurately ,
19 describe what is currently occurring there, and that is,
20 that's my mistake, when I was reading the support
21 documentation.

22 But what I have done since, since that time, I have,
23 I've looked into that exemption. And after talking with Carol
24 Coy of the South Coast Air Quality Management District, I was,
25 I found out that the facility is currently operating under an

1 exemption to Rule 1150.1. And as per the requirements of the
2 exemption they are conducting, or doing monthly gas
3 monitoring, and also providing the, the Air Quality Management
4 Board, that is the operator is providing the Air Quality
5 Management Board with quarterly reports. And per Carol Coy
6 they are in compliance with that exemption.

7 VICE CHAIRMAN CHESBRO: And is the, is the
8 exemption, as is described here, a temporary one that's
9 related to some, some steps that they have to take.

10 MR. DIEDRICK: No sir, actually, in that paragraph I
11 mentioned that they're waiting on their air SWAT. Their air
12 SWAT was actually turned in in 1988. The exemption was
13 provided to the operator ,I believe September of 1989,
14 actually it was September of 1989.

15 That exemption will continue until the operator is
16 notified by the Air Quality Management District that there has
17 been a change. The Air Quality Management District does
18 quarterly monitoring of that facility. And the most recent
19 one was in October, and they found that they were following
20 the requirements of the exemption.

21 VICE CHAIRMAN CHESBRO: Okay. The other issue was
22 partially answered by Miss Vazquez, but the issues of the
23 violations. It was stated that the LEA has found the
24 violations to have been resolved.

25 Have we done any inspections or are we basing our

1 assumption that they, they've been corrected on the LEA's
2 inspection solely?

3 MR. DIEDRICK: The last inspection that Board staff
4 has conducted at that facility was in, I believe, I believe it
5 was January of 1992. And they have not been out there since
6 then.

7 We requested from the, from Board staff a summary on
8 the recent reports or inspections from the LEA. And the, the
9 compliance staff in our Redlands office has full confidence in
10 the LEA, and their determination that the litter violation
11 over the last, well actually since January, has been, has been
12 corrected.

13 VICE CHAIRMAN CHESBRO: Okay, thank you.

14 BOARD CHAIRMAN FROST: Okay, thank you.

15 Any further discussion on this item?

16 All right, motion?

17 BOARD MEMBER EGIGIAN: I move we concur this permit.

18 BOARD CHAIRMAN FROST: It's been moved and seconded.

19 Call the roll, please.

20 BOARD SECRETARY THOMAS: Board members Chesbro.

21 BOARD MEMBER CHESBRO: Aye.

22 BOARD SECRETARY THOMAS: Huff.

23 BOARD MEMBER HUFF: Aye.

24 BOARD SECRETARY THOMAS: Egigian.

25 BOARD MEMBER EGIGIAN: Aye.

1 BOARD SECRETARY THOMAS: Neal.

2 BOARD MEMBER NEAL: Aye.

3 BOARD SECRETARY THOMAS: Relis.

4 BOARD MEMBER RELIS: Aye.

5 BOARD SECRETARY THOMAS: Chairman Frost.

6 BOARD CHAIRMAN FROST: Aye.

7 Okay. Move to item 17, consideration of issuance of
8 revised solid waste facilities permit for the Coachella
9 Valley, Coachella Landfill, Riverside County.

10 Martha Vazquez.

11 DEPUTY DIRECTOR VAZQUEZ: The Coachella Sanitary
12 Landfill is located in Riverside County. And the revised
13 permit incorporates several major changes. These include an
14 increase in tonnage, an increase in elevation, an increase in
15 the days of operation, and most notably a decrease in the
16 acreage where waste may be placed.

17 The decrease in acreage in the footprint is a result
18 of investigations that have been conducted which determine the
19 existence of holosene, Chapter 15 prohibits waste from being
20 deposited where there are known holosene faults.

21 This site is currently being operated under a
22 stipulated order issued by the LEA. The order was issued
23 because the facility was receiving more waste than was allowed
24 by the current permit.

25 The issuance of the proposed permit being considered

1 by the Board today would eliminate the need for this order.
2 The operator is also under an order from the Regional Water
3 Quality Control Board of a clean up and abatement order was
4 issued as a result of investigations showing that there was
5 ground water contamination at the site.

6 The Water Board has advised us that the facility is
7 in compliance -- or the operator is meeting all the
8 requirements of the clean up and abatement order. Questions
9 raised at the committee regarded the potential impact that may
10 be caused by the increase in elevation by an existing ground
11 water pollution problem.

12 Mr. , the Branch Chief of the Permit -- of Permits,
13 and Miss Charlene Herbst, the Branch Chief of Closure
14 Remediation would like to give a full staff report on this
15 permit item.

16 MANAGER MORALEZ: Chairman Frost and Board members.
17 This item before you is consideration of concurrence of the
18 issuance of a revised solid waste facility permit for
19 Coachella Sanitary Landfill in Riverside County.

20 Now, on November 4th the Permitting Enforcement
21 Committee voted two to one in favor of concurrence in the
22 issuance of the revised permit. This facility has been in
23 operation as Miss Vazquez noted since 1972 and was issued it's
24 first solid waste facility permit in September 3rd, 1979.

25 At that time, the permit allowed the acceptance of

1 up to 235 tons of non-hazardous solid waste. On October 24th
2 1991, the local enforcement agency issued a stipulated order
3 of compliance. Currently the facility is operating under that
4 order and is permitted to receive 1189 tons per day. The
5 revised permit for your consideration before you today is for
6 an increase in permitted tonnage from the 235 to 2,000 tons
7 per day. It's also for an increase in the final elevation by
8 25 feet, and the addition of woody waste grinder and the
9 change in the days of operation from a six-day to a seven-day
10 week.

11 The revision also reduces the area that can receive
12 waste from 249.5 acres to 75 acres. This reduction is in the
13 permitted boundaries, reduces the life of the landfill from 30
14 years to two-plus years with closure in mid 1995. The
15 reduction of the area to be filled was reduced due to a
16 geological investigation conducted by the operator at the
17 request of the Regional Water Quality Control Board. The
18 Colorado River Basin.

19 The study determined that the existence of faults
20 that could fall under the holocene fault category. For those
21 in the audience who are not familiar with the holocene fault,
22 the holocene fault is defined as a fault that has been active
23 in the last 11,000 years.

24 Title 23 of the California Code of Regulations,
25 Chapter 15, Section 2533, permits of the expansion of an

1 existing Class 3 landfill on a known holocene fault. On
2 August 23rd, 1989, a solid waste assessment test, a SWAT test,
3 submitted by the operator to the Regional Water Quality
4 Control Board, show that the halocarbons and the volatile
5 aromatic compounds were leaking from the landfill to the
6 ground water.

7 On June 25th, 1990, the verification results of the
8 initial round of sampling were received. The verification
9 analysis confirms the results of the analysis detected in the
10 SWAT report. On September 21st, 1990, the Regional Board
11 issued a clean up and abatement order, Number 90-074 to the
12 facility for unauthorized discharge to the ground water of
13 hazardous waste constituents.

14 On October 7th, 1992, the Regional Board staff
15 indicated to us that the operator of the facility had
16 submitted a detailed clean up proposal as required and in
17 compliance with that order.

18 In Permitting and Enforcement Committee Meeting,
19 Board Member Relis raised his concern that the additional
20 solid waste would impact and add to the ground water
21 contamination. While staff can not guarantee that the
22 additional waste that would be accepted during the two year
23 expansion will not cause any worsening of the existing ground
24 water contamination, the following facts have led staff to
25 conclude that the additional waste poses only a minimal

1 threat.

2 One, the relatively small volume of additional
3 waste; secondly, the relatively dry nature of the waste; and,
4 third, the strong likelihood that the gas transport rather
5 than Leachate transport is the main mechanism by which
6 contaminants have reached the ground water. This makes the
7 gas control a high priority. The Colorado River Basin also
8 has reached the same conclusion and is not in opposition to
9 this expansion.

10 It is important to remember that the actions of the
11 Regional Board to ban lateral expansions at the site due to
12 the presence of active faults have already reduced the life of
13 the landfill from the originally proposed 30 years to two
14 years. Or -- and the two years would be for allowing the
15 vertical expansion.

16 Please note that the independent -- that the
17 independence of this Permit Waste Board staff has taken two
18 steps. One is that the final closure, oh, excuse me, let me
19 rephrase that, that independent of this permit, Board staff
20 has taken two steps; one, that a final closure -- post closure
21 plan will be submitted by December 31st, 1992; and secondly,
22 that staff have requested the LEA to ask the operator to
23 install a gas monitoring system pursuant to corrective action
24 authority. This is done as a step -- first step toward the
25 designing of an affective gas control system and should

1 address the contamination problem.

2 Pursuant to Public Resources Code Section 44009,
3 staff in review of the proposed permit and the supporting
4 documentation that this permit is acceptable for Board's
5 consideration. Staff recommends that the Board adopt permit
6 decision 92-139 concurring in the issuance of this solid waste
7 facility permit number 33-AA-0012.

8 Miss Charlene Herbst, Manager of the Closure
9 Remediation Branch, is here to answer any technical questions
10 you may have, along with the LEA and the operator to answer
11 any additional questions. This concludes staff's
12 presentation.

13 BOARD CHAIRMAN FROST: Okay, thank you. Now, I have
14 one speaker who would like to speak on this matter,
15 Mr. Thomas Sheahan, Riverside County Waste Management
16 District.

17 MR. SHEAHAN: Thank you. I would like to give some
18 comments, but I believe it might be appropriate for you to
19 hear from Mr. Nelson of the Riverside County Waste Management
20 Department, first.

21 So if it's your pleasure, let me turn this over to
22 Mr. Nelson.

23 MR. NELSON: Mr. Chairman, and members of the
24 committee. I'm here, primarily, to respond to questions that
25 you might have of us. We discussed this extensively at the

1 Permit -- Permitting Committee Meeting, here, two weeks ago.
2 We have provided you, I believe, with some additional
3 information including a letter from our geophysicist,
4 Mr. Sheahan who just spoke to you briefly. We have in here
5 today to assist us in responding to any technical questions
6 that you may have regarding the studies that were done and the
7 options that we're considering together with the Water Board
8 to deal with the issue that concerns have been raised on -- on
9 this permit.

10 We certainly respectfully request your positive
11 consideration of approval of this. We believe that there's
12 about two and a half years of site life left, given the
13 geometry that we've proposed which is simply adding about 25
14 feet of height to the existing fill. We have been stunned
15 during the last year by the geologic studies on the remainder
16 of our property to learn that there are some faults which can
17 not be proved to be active, but also can not be proved not to
18 be active and, therefore, the rules say you can not expand the
19 footprint like we had thought.

20 We have very limited capacity in this valley and we
21 rely heavily on the ability to use this site for the next two
22 and a half years while we prepare to get alternative capacity
23 or transfer going to a different site.

24 I think I would terminate my comments at that point
25 other than to offer to respond to questions the Board may have

1 and certainly I would like, at your discretion, for the
2 opportunity to have our consultant speak to these issues that
3 you may want to get into some of the technical aspects of
4 them. His name is Tom Sheahan, he's a Registered Geologist,
5 Certified Engineering Geologist and Registered Geophysicist,
6 he's been the lead man on our investigation and report that we
7 have provided to the Water Board. The Water Board is
8 satisfied with the progress we're making on it. We've
9 presented a number of options for them to consider and we,
10 together with them, are now exploring which one to pursue as
11 to clean up on this landfill. That progress will, will
12 proceed no matter what the outcome of today's decision.

13 We realize there's a contamination issue, it's a
14 number of contaminants that have shown up, and we regret to
15 see that, just like you do, but we do not believe that the
16 request that we've made here today will change either the
17 intended action or the intended results on the ground water.
18 So with that, I would terminate my comments at this point.

19 BOARD CHAIRMAN FROST: Okay, thank you very much. I
20 just have a technical question, probably of staff.

21 How, how do you know on a holocene fault, how do you
22 know whether it's been active in the last 11,000 years.

23 MS. HERBST: My name is Charlene Herbst, the best
24 way to determine if a fault has actually been active, if you
25 haven't got records of faults of the earthquakes that have

1 occurred on that fault, is to do trenching across it and look
2 for offset on the near surface soil layers. The soils would
3 be dated and if a particular soil layer showed that it had
4 been offset that you would know that it had, the fault had
5 broken sometime after that soil was deposited. It's very
6 tricky work.

7 BOARD MEMBER EGIGIAN: Who's got the records of
8 11,000 years back?

9 (LAUGHTER.)

10 BOARD MEMBER RELIS: Mr. Chairman.

11 BOARD CHAIRMAN FROST: Yes, Mr. Relis.

12 BOARD MEMBER RELIS: Following the committee
13 meeting, at which I voted not to concur with this permit, I
14 met with staff and I think we had a very useful meeting, at
15 least in terms of deepening my understanding of what the
16 environmental impacts of this landfill are. Vis-a-vis the
17 gas -- that the ascertain or the assumption that the gas, gas
18 is the median for possibly the contamination that we see, and
19 they presented a radius or the area in which the pollutants
20 had been detected.

21 And it had come to my mind in the course of that, I
22 mean we face these situations where we're dealing with a
23 contaminated site and we don't know how long it will last, and
24 the presentation was made to me that when the gas monitoring
25 and then the, hopefully the, remediation system is put in

1 place, though that's not designed yet.

2 MS. HERBST: No.

3 BOARD MEMBER RELIS: That would be the means for
4 cleaning up or at least arresting the spread of the
5 contaminants. Would that be a fair characterization of --

6 MS. HERBST: Yes, that would be a fair
7 characterization. And in conversations with
8 Mr. Robert Purdue, who's the senior geologist at the Regional
9 Board, they feel that gas control will probably be critical to
10 resolving the ground water contamination problem, itself.

11 BOARD MEMBER RELIS: But the gas control will go in
12 whether we concur with the permit or not, right?

13 MS. HERBST: I believe that that is the way that
14 Robert is going to go. We have asked for a permanent gas
15 monitoring system as a first step to designing the -- a gas
16 collection system, and that'll be done in concert with the
17 Regional Board.

18 BOARD MEMBER RELIS: I also noticed in the maps that
19 were presented to me, the presence of what appears to be an
20 active agricultural operation right at the boundary of the
21 landfill, so that means there is some uptake of water in that
22 area for agricultural purposes. Is that also true?

23 MS. HERBST: We haven't investigated whether they're
24 using large diameter agricultural wells. Based on the level
25 of contaminants that we're seeing in the ground water as a

1 result of the last investigation, and based on the nature of
2 most of those kinds of pumps, we're usually talking about a
3 great big vertical turbine pump, and there's a lot of
4 agitation of the water as its brought to the surface, I would
5 guess that most of the volatile organic constituents are gone
6 by the time that water reaches the surface and certainly by
7 the time it actually goes on to the plants.

8 I wouldn't want to drink it, but I would guess if
9 you were to test it that by the time it reaches the surface it
10 probably doesn't contain very high concentrations at all of
11 those constituents.

12 BOARD MEMBER NEAL: I have --

13 BOARD CHAIRMAN FROST: Miss Neal.

14 BOARD MEMBER NEAL: I am trying to understand
15 something here. Will the depositing of additional waste,
16 won't create additional gas, is that what you're trying to
17 say, or --

18 MS. HERBST: The question that was originally asked
19 was whether the depositing of additional waste could squeeze
20 additional Leachate out of the underlying material.

21 BOARD MEMBER NEAL: But, my question is will the
22 depositing of additional waste create additional gas?

23 MS. HERBST: As that waste decomposes, it probably
24 will create additional gas which could be controlled with a
25 gas collection system.

1 BOARD MEMBER NEAL: Okay. And right now it sounds
2 to me that the issue is, is the suspicion that the gas is
3 creating the water contamination problem, correct?

4 MS. HERBST: It appears, based on Regional Board
5 experience, that the gas is transporting the constituents down
6 to the ground water.

7 BOARD MEMBER NEAL: Okay. And, at the current time,
8 the appropriate monitoring and collection systems are not in
9 place for the gas, correct?

10 MS. HERBST: That's correct.

11 MR. NELSON: I would like to speak to that, may I,
12 Mr. Chairman?

13 BOARD CHAIRMAN FROST: Yes.

14 MR. NELSON: Bob Nelson, again. Yes, the monitoring
15 systems are in place. We have probes all around the landfill,
16 we have surface monitoring going on on a quarterly basis.
17 Those reports are provided to the Air Quality Management
18 District, none of them exceed the limits and the exemption
19 that they've given to us in 1989 remains in affect. So it's
20 not correct to say that there is no monitoring.

21 The monitoring is going on exactly as prescribed and
22 the record needs to be clear on that point, there is no
23 extraction system, there is no extraction system, at this
24 time.

25 VICE CHAIRMAN CHESBRO: When you say monitoring, you

1 test the air over the landfill?

2 MR. NELSON: Yes.

3 BOARD MEMBER NEAL: Yeah, but your not collecting --
4 you don't have your own collection system?

5 MR. NELSON: No, there is no collection system.

6 VICE CHAIRMAN CHESBRO: That's what staff was
7 talking about when you said that we were going to be requiring
8 a monitoring system, you meant extracting gas and testing it?

9 MANAGER MORALEZ: No, I think we were talking about
10 probes that go beyond the surface.

11 VICE CHAIRMAN CHESBRO: Right.

12 BOARD MEMBER NEAL: Okay.

13 MR. NELSON: Probes, there are, I think, six or
14 eight probes around the boundary of the landfill which are
15 tested quarterly. Those test results are provided to the AQMD
16 and none of them violate any of the current standards.

17 BOARD CHAIRMAN FROST: Okay.

18 BOARD MEMBER NEAL: Okay.

19 MR. NELSON: I think a decision will be made fairly
20 soon as to whether or not a gas collection system is needed to
21 be installed. That's a decision that will be made in concert
22 with the Water Board, and I don't know that the Air Board will
23 have any input on that other than to say that their rules
24 don't require it at this point. If it's needed it would be a
25 judgement or conclusion reached, I think, by the Water Board

1 in concert with the County and its consultant as to how to
2 address the issue. And we're working with the Water Board on
3 that and intend to address it, whether it includes the gas
4 collection system or other means, is not clear to me at this
5 point.

6 BOARD MEMBER NEAL: Okay. Well, in my mind it seems
7 like we've got a situation here where we've got water
8 contamination problem that may be either created by, or
9 impacted by a gas situation, and we're talking about putting
10 in more material that would create more gas, yet I'm hearing
11 that it won't impact the situation and to me, somehow, that's
12 not logical.

13 MS. HERBST: Well, one of the reasons for staff's
14 conclusion that it won't cause a significant change in the
15 situation, and staff can not guarantee that it will, it will
16 absolutely cause no change. Is that the relative amount of
17 material that will be added by the expansion, relative to the
18 amount of material that's already there, it's not all that
19 much additional refuse.

20 BOARD MEMBER NEAL: Okay. Well, I'm not comfortable
21 with going forward with something that may or may not
22 negatively impact it, or may have a little bit of impact. I
23 mean, we're put here to protect the public health and interest
24 and that's not protect it marginally, but protect it as
25 stringently as we can, so I can't support this.

1 VICE CHAIRMAN CHESBRO: I have a question that's
2 related.

3 BOARD CHAIRMAN FROST: Mr. Chesbro.

4 VICE CHAIRMAN CHESBRO: I understand that there is
5 no liner or any physical separation between the waste that's
6 being piled on top and the waste that's down below, is that
7 correct?

8 MS. HERBST: That is correct.

9 VICE CHAIRMAN CHESBRO: So, from my standpoint, the
10 distinction that, as we will face other situations like this
11 and we have faced other situations, the distinction in my mind
12 is if the, if the new waste that is brought on, is lined and
13 separated and designed in a way to prevent the pollution that
14 is occurring from the old waste, then they become two distinct
15 issues.

16 But when you're essentially piling the new waste on
17 top of the old with -- it's hard to accept a series of
18 assumptions that if this happens, and we think that'll happen,
19 and I'm not, I'm not, you know, putting down your analysis,
20 but from the standpoint that Miss Neal has mentioned of being
21 assured, I think it's very difficult to go forward with it.

22 The question of being assured that there won't be
23 similar contaminants in the new landfill, I know that we all,
24 that all landfills we're trying to put in place screening
25 programs to avoid the deposit of materials that create

1 residential waste which is unlikely to contain chemical
2 compounds of environmental concern or insufficient quantities
3 to be of concern for ground water contamination.

4 It's one thing to police these areas, it's another
5 thing to be unfair about the way that we do it. And I think
6 that we're nit-picking a little bit in this area. I feel
7 comfortable with this knowing that the area it's located in
8 and knowing that the operator of this landfill is trying to do
9 the right thing. So I'm in a position to make a motion, if
10 you're ready for it.

11 BOARD CHAIRMAN FROST: No, we're not, we're not
12 ready yet.

13 BOARD MEMBER RELIS: Mr. Chairman.

14 BOARD CHAIRMAN FROST: Okay, Mr. Relis.

15 BOARD MEMBER RELIS: I don't know if we're at motion
16 stage, but I'm still not persuaded by the evidence to remove
17 my doubts about the safety of our action were we to concur, so
18 I'm going to recommend a no concurrence with this proposal.

19 BOARD CHAIRMAN FROST: Okay. If that's a motion,
20 Mr. Relis.

21 BOARD MEMBER RELIS: Yes, that's a motion.

22 VICE CHAIRMAN CHESBRO: Second.

23 BOARD CHAIRMAN FROST: Mr. Relis moves that the
24 permit be denied. Seconded by Mr. Chesbro. It take four
25 votes.

1 Call the roll, please.

2 BOARD SECRETARY THOMAS: Board members Chesbro.

3 BOARD MEMBER CHESBRO: Aye.

4 BOARD SECRETARY THOMAS: Huff.

5 BOARD MEMBER HUFF: No.

6 BOARD SECRETARY THOMAS: Egigian.

7 BOARD MEMBER EGIGIAN: No.

8 BOARD SECRETARY THOMAS: Neal.

9 BOARD MEMBER NEAL: Aye.

10 BOARD SECRETARY THOMAS: Relis.

11 BOARD MEMBER RELIS: Aye.

12 BOARD SECRETARY THOMAS: Chairman Frost.

13 BOARD CHAIRMAN FROST: No. Motion defeated.

14 Motion fails. Okay, thank you. This concludes this
15 item.

16 VICE CHAIRMAN CHESBRO: You should explain or
17 someone explain the --

18 BOARD MEMBER HUFF: Learned counsel.

19 BOARD CHAIRMAN FROST: Learned counsel, explain what
20 we just did or didn't do. We all know, but I'm not sure the
21 public does.

22 LEGAL COUNSEL CONHEIM: The statute requires four
23 affirmative votes for any action taken by this Board. A, a
24 vote of three constitutes failure of the motion and no action
25 to be taken. No matter what the question is.

1 And so, in this case, the permit, the motion was for
2 a denied to not concur in the permits, and that motion fails
3 for lack of a fourth vote.

4 BOARD CHAIRMAN FROST: So what happens to the
5 permit?

6 LEGAL COUNSEL CONHEIM: If no other motion is made
7 to taking -- getting four votes, then no action is taken on
8 this permit and the statute also provides that the end of a
9 60-day period from when this permit was submitted to the
10 Board, but the permit becomes deemed concurred in by operation
11 of law as if a positive vote, a lawful positive vote, had been
12 taken by the Board.

13 BOARD CHAIRMAN FROST: Okay, thank you.

14 BOARD MEMBER HUFF: Question of staff. When's the
15 60th day?

16 DEPUTY DIRECTOR VAZQUEZ: The 60th day is
17 December 1st.

18 BOARD MEMBER HUFF: Okay, thank you.

19 BOARD CHAIRMAN FROST: Thank you. Okay, now item 21
20 is consideration of approval to publish comparable quality
21 standards for recycled content newsprint.

22 Mr. Tom Rietz will introduce this item.

23 MR. RIETZ: Mr. Chairman, as you may recall, in
24 April the recycled content newsprint regulations were
25 promulgated. One provision of those regulations requires that

1 the Board establish comparable quality standards for recycled
2 content newsprint by November 30th of each year.

3 Once we have those, newsprint consumers can use
4 those standards in meeting their annual minimum content
5 certifications which are required by March 1st of each year.

6 Jerry Hart will now describe these standards in more
7 detail and discuss a technical change which was required since
8 the Market Development Committee approved these standards.

9 BOARD CHAIRMAN FROST: Okay. I have a question.
10 I'm not sure if it's better to ask you. I've never been
11 really clear on what our role is in terms of this law. The
12 law has -- let me ask a question, does the law have a specific
13 recycled content requirement by a specific date?

14 MR. RIETZ: We do have three specific dates, Jerry
15 can discuss those, and the first one is 25 percent of the
16 newsprint must have 40 percent recycled content and that is
17 what, 1993?

18 MR. HART: Effective '91.

19 MR. RIETZ: '91.

20 BOARD CHAIRMAN FROST: Okay, '91. So that's in
21 place now?

22 MR. RIETZ: That's in place now.

23 BOARD CHAIRMAN FROST: And what is our role in that?

24 MR. RIETZ: We -- well initially, when I first got
25 here in February, the big push was getting all the annual

1 certifications which were due by March 1st. So we got those
2 certifications in prior to our regulations being promulgated,
3 but most of the certifications have gone through.

4 The next phase now is getting these comparable
5 quality standards in place so they can use those to insure
6 that they're meeting their certification requirements, and
7 Jerry is here to discuss that.

8 BOARD CHAIRMAN FROST: So there is, now, another
9 date and another level of recycled content?

10 MR. RIETZ: Precisely.

11 BOARD CHAIRMAN FROST: And what is that -- when is
12 that?

13 MR. HART: The content requirement goes up to 30
14 percent in 1994.

15 BOARD CHAIRMAN FROST: 30 percent in 1994. And our
16 role is to certify the, the stock as to whether it actually
17 contains the 30 percent, or do we -- what's our role?

18 MR. HART: Our role is to receive the certifications
19 from the consumers of newsprint for indicating they've met the
20 use requirement, not the post-consumer content of the
21 newsprint but that they achieve the currently 25 percent use
22 requirement.

23 BOARD CHAIRMAN FROST: So the use of the newspaper,
24 in this case, tells us that they're meeting the requirement
25 and our role is to, then what?

1 MR. HART: To process a certifications, conduct
2 audits, and refer any false or misleading certifications to
3 the Attorney General.

4 BOARD CHAIRMAN FROST: Okay. Okay. Thank you.

5 BOARD MEMBER HUFF: They have to tell somebody they
6 did it?

7 MR. HART: Exactly.

8 BOARD CHAIRMAN FROST: They have to tell us they did
9 it, and we then have to audit to make sure that they're
10 telling us the truth, and if they don't we can refer it?

11 MR. HART: Correct.

12 BOARD CHAIRMAN FROST: Okay. Then what about the
13 standards for the recycled content itself? Do we have
14 anything to do with that?

15 MR. HART: The statute requires the Board to
16 establish the quality standards, and also to establish an
17 availability standard, which the availability standard was
18 done in regulation, the quality standards were done through an
19 interagency agreement with the Department of General Services
20 and are now ready to be adopted by the Board.

21 BOARD CHAIRMAN FROST: Okay. Thank you. Proceed.

22 MR. HART: Chairman Frost, Board members, my name is
23 Jerry Hart, I'm in the Planning and Assistance Division, the
24 Market Development Branch, and I've been lead on the recycled
25 content newsprint program for the past couple years. On

1 November 12th, at the Market Development Committee Meeting,
2 staff proposed the adoption of the first comparable quality
3 standard.

4 At that time, there was still an outstanding issue
5 regarding one of the quality standards, the 22.2 pound light
6 weight newsprint white grade according to statute, in order to
7 qualify to be included in the testing to develop the
8 standards, a manufacturer must be selling 5,000 metric tons
9 per year in California, of that grade.

10 At the time of the committee meeting the
11 manufacturer was still unsure whether he would meet that sales
12 limit. After the committee meeting yesterday, the
13 manufacturer notified staff that they, in fact, would not meet
14 that 5,000 metric ton sales limit, and so the proposed
15 standard for the 22.2 pound light weight newsprint white will
16 be eliminated from the proposed standard.

17 In addition, at the committee, staff was directed to
18 notify the California Newspaper Publishers Association of the
19 action taken at the committee meeting. On the following day,
20 Friday the 13th, staff faxed a copy of the proposed standards
21 to CNPA. Also to the Printing Industries of California.

22 The six manufacturers and several other interested
23 parties, in addition, Californians Against Waste was in
24 attendance at the committee meeting. So the -- those parties
25 have been notified and were ready, at this time, to request

1 Board adoption of the standards which would again make, make
2 the quality standards available for the consumers of newsprint
3 in the event that they need the standards for their annual
4 certification to the Board.

5 BOARD MEMBER HUFF: Could I ask a question on this
6 one?

7 BOARD CHAIRMAN FROST: Yes, go ahead.

8 BOARD MEMBER HUFF: Because I asked you to get a
9 hold of CNPA, I'm sorry, I was having a conversation here,
10 what was the CNPA response?

11 MR. HART: CNPA's response was that they notified
12 several of their members of the action that staff had
13 requested Committee and Board to take, and that they had not
14 received an overwhelming negative response. I believe
15 there --

16 BOARD MEMBER HUFF: Had you --

17 MR. HART: -- several of their members had comments,
18 but I don't believe that they're in a position to oppose, the
19 standards.

20 BOARD MEMBER HUFF: Okay, so -- and I don't know,
21 are we to infer from that, that the comments may go back to
22 some of the original concerns that individual newspapers might
23 have had about this to begin with?

24 MR. HART: Correct. As well as some of the comments
25 received, well a comment received by a manufacturer back to

1 staff. Comments and concerns that were addressed throughout
2 the regulation adoption process, not necessarily on the
3 standards themselves, more to the methodology used in
4 establishing the standards.

5 BOARD MEMBER HUFF: So, in other words the comments,
6 we might infer at least that the comments represent nothing
7 new?

8 MR. HART: Correct.

9 BOARD MEMBER HUFF: Okay.

10 BOARD MEMBER RELIS: Mr. Chairman.

11 BOARD CHAIRMAN FROST: Mr. Relis.

12 BOARD MEMBER RELIS: It's my view that the newspaper
13 industry and the print industry is pretty well informed on
14 this issue, and I think, by now, if there were grievous
15 problems here, we would have heard loud and clear from them.
16 So I would hope we could move this thing along.

17 VICE CHAIRMAN CHESBRO: If that's a motion, I'll
18 second it.

19 BOARD CHAIRMAN FROST: Okay, I'd like to ask a
20 question about the audit function. It seems to me that if you
21 were a -- if you were marketing newsprint in California and
22 you knew we had a 30 percent recycled content law, you
23 obviously are going to say your newsprint is 30 percent
24 recycled content or you can't sell it here. So the question
25 is, how do you know whether it is or not?

1 MR. HART: Actually, for this program the
2 requirement to achieve the use requirements are on the
3 consumers, the printers and publishers. All suppliers of
4 newsprint have to do is pass along the content information
5 from the manufacturers to the consumers.

6 BOARD CHAIRMAN FROST: Yeah, but that's my question.
7 How -- they can do that, and the manufacturer and particularly
8 if the manufacturer is out of the country can say whatever
9 they want their recycle content is.

10 MR. HART: In our certification, we request
11 information regarding the sources of post-consumer fiber and
12 ship -- per shipment information regarding post-consumer
13 content of the shipment of newsprint to each and every
14 consumer. In addition, we have backup or information from the
15 consumers, the printers and publishers regarding their sources
16 of post-consumer content newsprint. So we, we do provide for
17 a cross check in our certification. In addition, we do have
18 the authority to audit out-of-state and out-of-country
19 manufacturers.

20 BOARD CHAIRMAN FROST: Is there any intent to do
21 that?

22 MR. HART: Yes, sir.

23 BOARD CHAIRMAN FROST: Okay.

24 BOARD MEMBER HUFF: Well, when you say audit out-of-
25 country manufacturer, what does that mean? What do you do?

1 Do you go stand next to the vat and count the number of trees
2 that go in the vat as opposed to the number of pieces of
3 recycled paper?

4 MR. HART: This is intended to be a paper audit. We
5 can request --

6 BOARD MEMBER HUFF: A paper audit.

7 (LAUGHTER.)

8 MR. HART: We can request information be provided --
9 we can require information be provided to the Board and again
10 evaluate the cross check of information provided in the
11 certification process.

12 BOARD CHAIRMAN FROST: Well, let's just take an
13 example. If there's a company in Canada making recycled
14 content. The way the audit would work is you would ask them
15 to tell you where they're getting and how much post-consumer
16 material they're getting and where they're getting it from?

17 MR. HART: Correct. And how much exactly went into
18 the shipments that came into California -- to California,
19 consumers.

20 BOARD CHAIRMAN FROST: Okay. Well, I'm a little bit
21 uncomfortable with the -- what I think is not a complete audit
22 system and that is somehow verified other than just through a
23 paper audit somehow verified that they're actually putting in
24 the recycled content they say they are.

25 BOARD MEMBER RELIS: You mean like a batch test or

1 something like that?

2 BOARD CHAIRMAN FROST: A spot -- some sort of a spot
3 test that would, that would tell you whether they're, the
4 paper audit is actually giving you the accurate information.

5 BOARD MEMBER HUFF: Are tests possible? I
6 understood that tests aren't possible, that you can't take a
7 piece of paper and tell.

8 BOARD CHAIRMAN FROST: No, I mean an actual visit to
9 the plant that is making this paper to find out if they're
10 actually using recycled content that they say they are.

11 MR. HART: A visit to the plant is really the only
12 way you're going to make sure.

13 BOARD CHAIRMAN FROST: Right.

14 BOARD MEMBER HUFF: Right.

15 MR. HART: As Board Member Huff mentioned, there is
16 no test once the pulp has been made into a piece of paper, to
17 tell if there is post-consumer content or not.

18 BOARD CHAIRMAN FROST: That's right. So I would
19 feel a lot more comfortable if we were going to include some
20 of those kinds of on-site audits as a part of this program
21 because it has -- I'm aware of situations where there has been
22 claims for recycled content that, that really weren't, weren't
23 true.

24 MR. HART: We have met with the Administration
25 Division and discussed receiving their assistance, perhaps, in

1 resources as well as expertise in, in the auditing process, so
2 discussions are, are underway.

3 BOARD CHAIRMAN FROST: Okay. I'm prepared to vote
4 for the motion, but who -- what committee would be the
5 appropriate committee to oversee the audit function of this?

6 BOARD MEMBER HUFF: The same one that wrote the regs
7 to begin with.

8 BOARD CHAIRMAN FROST: Which is? Which is?

9 BOARD MEMBER HUFF: Market Committee?

10 BOARD CHAIRMAN FROST: Was it policy?

11 BOARD MEMBER HUFF: Policy Committee.

12 MR. HART: The regulation went through Policy
13 Committee.

14 BOARD CHAIRMAN FROST: Policy Committee. Well, I
15 would appreciate, then, that as a part of the motion, who made
16 the motion?

17 BOARD MEMBER RELIS: I did.

18 BOARD CHAIRMAN FROST: As a part of the motion you
19 would include a staff report to the Policy Committee on, on,
20 on-site audit capabilities.

21 BOARD MEMBER RELIS: That would be fine with me,
22 yeah.

23 BOARD CHAIRMAN FROST: Okay, all right. So it's
24 moved and seconded.

25 Call the roll, please.

1 BOARD SECRETARY THOMAS: Board members Chesbro.

2 BOARD MEMBER CHESBRO: Aye.

3 BOARD SECRETARY THOMAS: Huff.

4 BOARD MEMBER HUFF: Aye.

5 BOARD SECRETARY THOMAS: Egigian.

6 BOARD MEMBER EGIGIAN: Aye.

7 BOARD SECRETARY THOMAS: Neal.

8 BOARD MEMBER NEAL: Aye.

9 BOARD SECRETARY THOMAS: Relis.

10 BOARD MEMBER RELIS: Aye.

11 BOARD SECRETARY THOMAS: Chairman Frost.

12 BOARD CHAIRMAN FROST: Aye.

13 Okay, item 23, which was heard yesterday in

14 Legislation Public Affairs Committee. Consideration of
15 contract for KCBS education contest.

16 Pat Macht will introduce this item.

17 MS. MACHT: Yes, thank you, Chairman Frost and
18 members of the Board.

19 At the September Board Meeting the Board approved
20 funding for waste management education in the amount of
21 \$200,000. This is consistent with the Board's mandate to
22 educate the public in all aspects of Integrated Waste
23 Management.

24 At today's meeting we are respectfully requesting
25 that \$10,000 of this amount be appropriated for development of

1 a state-wide integrated waste management contest in California
2 schools.

3 This contest would be centered around having eighth
4 graders identify integrated waste management problems in their
5 community and develop solutions to the problems.

6 Tricia Broddrick of our Public Affairs and Education
7 Staff is here to present this proposal, which is a unique
8 opportunity for the Board to develop some education in schools
9 and also utilize broadcast media to further advance our
10 message in the education area.

11 BOARD CHAIRMAN FROST: Okay, let me -- maybe I
12 can --

13 BOARD MEMBER NEAL: Before you do that, maybe I can
14 say at committee yesterday it did go forward with a vote to
15 approve, but there was considerable discussion, so we thought
16 we ought to bring it to the Board so you also understood what
17 this was all about.

18 BOARD CHAIRMAN FROST: Yeah, I think I made --, I
19 voted for this and it passed unanimously, but I wanted the
20 Board to understand that this is a basically the research
21 section of the program. This will cost \$10,000. If the
22 research comes back that this is feasible and doable we will
23 be coming back for another, up to \$100,000 for a roll out of
24 the programs. So this is a two part.

25 So I just wanted everybody to be aware that we're

1 approving not only this \$10,000 today, but we wouldn't want to
2 invest the \$10,000 unless we were willing to invest up to a
3 \$100,000 to roll this out. And that's the reason I wanted it
4 to come before the full Board. But I, all three of the
5 members of the committee voted in favor of it.

6 MS. BRODRICK: We would be coming before the
7 committee, I mean, excuse me, the Board and the Legislation
8 Public Affairs Committee with the final proposal so you would
9 have an opportunity to review the final proposal and to act
10 upon it.

11 BOARD CHAIRMAN FROST: Right. So, I don't -- unless
12 there are further questions, I think we can entertain a
13 motion.

14 BOARD MEMBER NEAL: I would move approval.

15 BOARD MEMBER CHESBRO: Second.

16 BOARD CHAIRMAN FROST: Okay, moved and seconded.
17 Call the roll.

18 BOARD SECRETARY THOMAS: Board members Chesbro,

19 BOARD MEMBER CHESBRO: Aye.

20 BOARD SECRETARY THOMAS: Huff.

21 BOARD MEMBER HUFF: Aye.

22 BOARD SECRETARY THOMAS: Egigian.

23 BOARD MEMBER EGIGIAN: I abstain.

24 BOARD SECRETARY THOMAS: Okay. Neal.

25 BOARD MEMBER NEAL: Aye.

1 BOARD SECRETARY THOMAS: Relis.

2 BOARD MEMBER RELIS: Aye.

3 BOARD SECRETARY THOMAS: Chairman Frost.

4 BOARD CHAIRMAN FROST: Aye.

5 Okay, motion, items approved.

6 Item 26. Yes, Ms. Neal.

7 BOARD MEMBER NEAL: Yes. Item 26 was considered at
8 the committee meeting yesterday. It was regarding a co-
9 sponsorship of the CRRA activity. We subsequently learned
10 that the date of the activity has been pushed up or back,
11 whichever, I'm not sure which way it goes, to March of '93.

12 We did have some questions at the meeting about the
13 project, and given that the date has been changed, I think
14 there's adequate time to get our questions answered so I would
15 like to have this referred back to committee to appear on our
16 next committee agenda. That is my motion.

17 BOARD CHAIRMAN FROST: Okay. Without objection
18 this is referred back to the Legislation and Public Affairs
19 Committee.

20 Now that concludes our agenda for today. Is there
21 any other business to come before the Board?

22 Okay, we do have a need for a closed session on
23 litigation, we can do it this afternoon, that would be fine.
24 All right, let's say at --

25 BOARD MEMBER HUFF: Early lunch.

1 BOARD CHAIRMAN FROST: He wants to watch Rush
2 Limbaugh.

3 (LAUGHTER.)

4 BOARD MEMBER NEAL: And let me note that when this
5 Board Meeting was rescheduled, I did inform everyone that I
6 had a commitment from 12:00 to 2:00.

7 BOARD CHAIRMAN FROST: Okay. Then we will set for
8 2:00.

9 BOARD MEMBER NEAL: Try 2:30, to give me time to get
10 back.

11 BOARD MEMBER HUFF: Oh good, three hour lunch.

12 BOARD CHAIRMAN FROST: 2:30 the Board will meet in
13 closed session on personnel.

14 We are recessed until that time.

15 (Thereupon the foregoing meeting of the
16 California Integrated Waste Management
17 Board was concluded at 11:29 a.m.)

18

1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2
3 I, DORIS M. BAILEY, a Certified Shorthand Reporter
4 and Registered Professional Reporter, in and for the State of
5 California, do hereby certify that I am a disinterested person
6 herein; that I reported the foregoing meeting in shorthand
7 writing and thereafter caused my shorthand writing to be
8 transcribed by computer.

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

12 IN WITNESS WHEREOF, I have hereunto set my hand as a
13 Certified Shorthand Reporter on the 12th Day of December,
14 1992.

15
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17 Doris M. Bailey, CSR, RPR

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