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JOINT PUBLIC HEARING
STATE OF CALIFORNIA
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE WATER RESOURCES CONTROL BOARD

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COPY

BOARD ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA

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MONDAY, DECEMBER 7, 1992

9:00 A.M.

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Vicki L. Medeiros, C.S.R.
License No. 7871

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JOINT HEARING OFFICERS:

JESSE HUFF
California Integrated Waste Management Board
Board Member

JAMES STUBCHAER
State Water Resources Control Board
Board Member

ALSO PRESENT:

BERT H. BRENDLE
Department of Finance
Project Manager

MOTI MALKANI
Department of Finance
Lead Analyst

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P R O C E E D I N G S

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3 JOINT HEARING OFFICER HUFF: Good morning. We
4 will convene this public hearing on the overlap between the
5 Water Resources Control Board and the Integrated Waste
6 Management Board pursuant to the requirements of the
7 legislation passed and signed by the Governor last year.

8 I won the coin toss, or maybe I lost it. At any
9 rate, I get to do more of the talking than my colleague,
10 but this is co-equal effort on the part of the Water Board
11 and the Waste Board to respond to this legislation.

12 AB-3348 requires the State Water Resources
13 Control Board and the Integrated Waste Management Board to
14 jointly prepare a report, together with recommended
15 legislation, to the Governor and the Legislature by March
16 1, 1993.

17 The report will describe the regulatory programs
18 and activities of both Boards, the California Regional
19 Water Quality Control Boards and Local Enforcement Agencies
20 relating to solid waste disposal sites.

21 The report will identify of areas of regulatory
22 overlap and duplication and make recommendations for
23 change. As appropriate, the report will review the
24 regulatory authority of other state and local agencies
25 related to solid waste disposal.

1 Now, the Integrated Waste Management Board has
2 entered into an Interagency Agreement with the Department
3 of Finance to prepare the Joint Report required by AB-3348.
4 The Department of Finance intends to deliver a draft report
5 to the Integrated Waste Management Board and the Water
6 Board no later than mid February 1993.

7 Specific attention will be directed to areas of
8 overlap and duplication between the two Boards. However, to
9 the extent that time permits, the Department of Toxic
10 Substances Control and local Air Quality Management
11 Districts will also receive consideration or be listed for
12 further consideration.

13 Let me emphasize, this is a short time frame for
14 such a report. So, it's my desire that we remain focused
15 on the primary issues. Those primary issues, I think, have
16 to do with what the legislation specified.

17 I do not think we will have time to go beyond the
18 legislation. I think that we have to stay focused on
19 issues of direct overlap between the two Boards, primarily,
20 and give careful consideration in the area, particularly,
21 of permits and solid waste facilities.

22 I would like to also say that we have both legal
23 counsel working here. We have the Department of Finance
24 sitting at the front table today, represented by Bert
25 Brendle and Moti Malkani.

1 I intend to be rather informal because I don't
2 know how to be any other way. I do ask that people wishing
3 to address us, and I hope that there are a whole bunch of
4 you, fill out a request form. They are back there in the
5 back, and somehow get them to the front here.

6 You can also submit written comments. Someone
7 already has.

8 To whom should written comments be directed?

9 Hand them to Patty who will distribute them to
10 the appropriate people.

11 I want and strongly encourage input from the
12 regulated community as we try to frame the study and how
13 we're going to go about this business. We need the input.

14 I think those of you who have dealt with me
15 before understand that I'm not just giving lip service to
16 that concept. I also have to tell you we want that input
17 yesterday. I know you can do it.

18 So, with that, I'll turn -- Do you have anything
19 to say, Jim?

20 JOINT HEARING OFFICER STUBCHAER: No. Just good
21 morning.

22 JOINT HEARING OFFICER HUFF: I know you guys are
23 going to like him better than me already.

24 Okay. Bert.

25 MR. BRENDLE: I would like to start out this

1 morning by introducing myself. My name is Bert Brendle. I'm
2 from the Department of Finance.

3 With me with is Moti Malkani. He will be the
4 Lead Analyst on this study.

5 We have two other members in the back of the
6 room. We have Ron Law and Rich Herbert. They both will be
7 working on the study.

8 I would like to encourage any of you to contact
9 the staff directly. In your handout this morning we gave
10 you telephone numbers. We gave you addresses.

11 If you have written comments that you don't get
12 in today, you can send them directly to us. If you want to
13 speak with us privately, you can contact us directly.

14 I think, as Jesse just said, the time frame on
15 this study is very, very short. We have like two months to
16 finish this whole thing.

17 We are going to be focusing our effort primarily
18 on the landfill areas and looking at the overlaps between
19 the Water and the Waste Boards.

20 As time permits, we will try to get into some of
21 the other areas that I know are of interest to you. But I
22 have a feeling at this point in time, mostly it will be an
23 identification of problems that will be left for further
24 resolution.

25 We are going to try to attempt to complete all of

1 our field work by about January 7. So, we would like to
2 have any comments that you have in no later than that date,
3 which will give us a couple of weeks to go out and do any
4 additional research, analysis or costing that will be
5 needed to round out those recommendations.

6 We are going to use four sources of information
7 for this study. We are going to start with a review of the
8 laws and regulations and any reports that are presently
9 existing.

10 There have been several of them done. I know
11 we've done some starting back in 1974, where we got into a
12 report called "One Environment, Many Protectors."

13 Program evaluation has been in just about every
14 one of the agencies involved in this and many other one's.

15 The second thing we want to do is get involved
16 with the people that are involved with the landfill sites,
17 which means we're going to be talking with the LEAs. We're
18 going to be talking to the Regional Boards.

19 We going to be talking to the operators, both
20 public and private. We're going to be dealing with any
21 other people that are interested in providing input into
22 this study.

23 The third area that we want to deal with is
24 actual site visits. We're going to be visiting these
25 landfill sites, seeing how they operate, and hopefully

1 gaining a good understanding of what is going on there, how
2 you're regulated, and what the problems are that you're
3 experiencing by the State and the Regional regulations.

4 Finally, we will be reviewing all the written
5 information that you people submit to us for our review.

6 Again, I would like to reiterate that the time is
7 very short on this. The quicker we can get these issues
8 identified, the more time we can will on analysis and
9 rounding out any recommendations and looking for ways to
10 get around the overlap and duplication that you perceive
11 that is there.

12 I encourage you to get that in as soon as
13 possible. That is all I wanted to say.

14 JOINT HEARING OFFICER HUFF: Thank you, Bert.

15 If it's meeting with your -- you're the brain
16 power in the study, I have four requests to address us.

17 Is that appropriate at this time?

18 MR. BRENDELE: I believe so.

19 JOINT HEARING OFFICER HUFF: Okay. I will tell
20 you in this order, I think, I have Doug Landon, Pamela
21 Milligan, David Fishel, and then I have a tag team match
22 lead by Marc Aprea, five individuals that wanted to be
23 together because they've coordinated, which I thought was
24 good form.

25 We will start with Doug Landon. You don't look

1 like Doug.

2 This was numbered one, two, three, and you were
3 two, Pam.

4 MS. MILLIGAN: I know. My comments are real brief
5 and general. I thought his were much more specific than
6 mine. We didn't coordinate quite as well as Marc's group
7 did.

8 As most of you know, I am Pamela Milligan. I'm a
9 lobbyist for San Bernardino County and SWANA, the Solid
10 Waste Association of North America. Today I'm here to give
11 general comments for the County Administrative Officers
12 Association.

13 They have recently put together a group to study
14 solid waste issues, because as the true cost of
15 implementing 939 has come to bear, it's providing some
16 financial constraints on county budgets.

17 It's important I think in the study to recognize
18 that our solid waste fees are not isolated, or our solid
19 waste services are not isolated from other county fees and
20 services.

21 You folks are all aware of what happened,
22 especially the Department of Finance, in the State budget
23 process last year. They are probably more aware of what is
24 going to happen next year on county budgets.

25 The State taking \$525 million from property tax

1 revenue has created a situation where almost all the
2 services that counties provide, fees are going to have to
3 be increased.

4 What we need at the local level is flexibility to
5 assess community need for these programs and to charge
6 accordingly.

7 We put together a legislative package from the
8 CAO's office, and it will be forwarded. There are two
9 issues that are somewhat paramount to the study that you
10 folks are considering today.

11 Basically, the bottomline is if we're going to
12 meet the mandates of the law within the rate structure that
13 the public will accept, we have to make sure that all the
14 programs are streamlined and coordinated as possible.

15 We no longer can afford to have the overlap and
16 duplication and redundancy that we see between the Waste
17 Board, the Water Board and between the Waste Board and the
18 LEAs, and between the Water Board and the LEAs.

19 Basically, there are three things in our
20 proposal. One is that the Water Board should maintain its
21 responsibility as the lead agency on groundwater
22 protection. Last year we had talked for some time about
23 moving that function to the Waste Board. We have
24 determined that that is not a good idea.

25 The State is very diverse on groundwater

1 protection, and we like the Regional Water Board set up
2 where they can actually look at our areas more
3 specifically.

4 The Waste Board has a tendency to make
5 regulations and apply them uniformly across the State, and
6 that doesn't work for groundwater.

7 The second one is to end the duplication between
8 the LEAs and the Waste Management Board. We believe that
9 the certification process for the LEA should instill or
10 include some trust.

11 If you're going to certify them, then you have to
12 trust them to carry out State regulations.

13 The last one is that we have to take a very,
14 very, very close look at the Solid Waste Disposal and
15 Maintenance Cleanup Account. Since that law was passed in
16 1987, we've had subsequent legislation and regulation.

17 The Closure/Postclosure regs require us to put
18 money aside. Article 5 from the Water Board requires us to
19 put money aside. We don't really see anymore a need for a
20 statewide pot of money for corrective action when each
21 individual landfill operator has to provide that funding
22 currently.

23 There is a need, and we are prepared to be very
24 supportive of a Waste Board proposal to take care of
25 abandoned and closed sites.

1 Last year, as you recall, SWANA was out in front
2 trying to abolish the Household Hazardous Waste Program
3 because we see this as duplicative and generally
4 bureaucratic and circuitous.

5 That's not because we do not want to fund the
6 program. We just think that the most appropriate place to
7 fund those programs is locally.

8 We do not need to send money to the State and
9 then have it withheld. We can't think of any other reason
10 to have that account.

11 We would appreciate you folks taking a close look
12 at that. I know that your focus is really going to be on
13 duplication and overlap, but I don't think you can separate
14 that from the financial mechanisms.

15 The only thing that the CAOs came up with was
16 that the Water Board should be adequately funded, and they
17 should be adequately funded, like the Waste Board, out of
18 the Integrated Waste Management Account.

19 We do not see a need at this time, especially
20 with what is happening with the economy, that any more fees
21 are imposed on solid waste operators. You folks may
22 remember reading in the Sacramento Bee where the City of
23 Sacramento went to increase their solid waste fees, the
24 most vocal opposition was from the Chamber of Commerce.

25 That is an example of how you can't separate

1 these fees. The cost of living in California is very
2 high. The costs of providing services are very high, and
3 businesses cannot afford to pay their employees enough.

4 They are not isolated fees. We have to look at
5 them as part of the cost of living in California.

6 I hope you folks take those recommendations into
7 consideration. If you have any questions.

8 JOINT HEARING OFFICER HUFF: Stay there.

9 Actually, of course, this study isn't going to
10 deal very much with fees, I don't think.

11 MS. MILLIGAN: I don't know how it can avoid
12 talking about fees.

13 It's supposed to talk about all of the financial
14 assurance requirements. If you're going to talk about
15 streamlining between the Waste Board and Water Board, you
16 have to talk about funding the Water Board more
17 adequately.

18 I don't know how can you separate those issues.

19 MR. BENDLE: We do intend to take a look at
20 financial assurance and the fee structure.

21 MS. MILLIGAN: Jesse, I got a call from Cal EPA
22 last week because the Waste Board wants to increase their
23 tipping fee to a dollar a ton. I know you folks have a lot
24 of mandates.

25 Basically, I don't see any support at the county

1 level for that increase. That's unfortunate, because I
2 have tried to get them to be supportive of you folks, just
3 like I would like you folks to be more supportive of us.

4 It all boils down to what is in this study. We
5 are funding our own LEAs. I only know Sacramento County
6 since I'm on the Local Task Force there.

7 But \$500,000 a year for our own local
8 enforcement, and then you folks have a tremendous
9 enforcement staff, and you're micro-managing our programs.
10 We're all paying for services two or three times.

11 If we stop that, if we prioritize, then maybe
12 there is more money available. We want you folks to put
13 more money into market development.

14 We want you folks to stop micro-managing local
15 plans. They are locally adopted documents from locally
16 elected officials.

17 We know you have a lot of mandates. If you want
18 some relief from those mandates, we're prepared to support
19 you on that. It's all a matter of prioritizing and trying
20 to make 939 as fiscally responsible and responsive as
21 possible.

22 Real support on the going to a dollar has a lot
23 to do with the 2448 Account.

24 JOINT HEARING OFFICER HUFF: Real support on
25 going to a dollar has what?

1 MS. MILLIGAN: Has to do with changes to the 2448
2 account.

3 JOINT HEARING OFFICER HUFF: That's the Eastin
4 Fund?

5 MS. MILLIGAN: The Eastin Fund.

6 JOINT HEARING OFFICER HUFF: Quid pro quo?

7 MS. MILLIGAN: Yes, sir.

8 JOINT HEARING OFFICER HUFF: Thank you.

9 Okay. Doug, are you going to follow that?

10 MR. LANDON: My name is Doug Landon. I'm the
11 Solid Waste Manager for Kern County coin, and Vice Chairman
12 for the SWANA Legislative Task Force, so I'm here kind of
13 representing both organizations.

14 My qualifications for being able to speak about
15 this are Kern County, owning and operating fourteen
16 landfill facilities and transfer stations and spending the
17 last four years trying to get any of those sites
18 repermited as well as new permits.

19 We have successfully permitted a couple of new
20 sites and a couple of very small bin transfer station
21 sites, but we've yet to conquer the repermitting process on
22 our existing landfills, currently operating landfills.

23 As I lead into this, what I'm going to do is
24 follow the elements, each element that is supposed to be
25 part of the study according to the bill itself, 3348. So,

1 there are basically six elements, and I will just go
2 through each one.

3 The most important probably is the very first one
4 talking about the overlap between the Water Board and Waste
5 Board and duplication. I brought some visual aids with
6 me.

7 I'm not sure if you guys have seen enough of
8 these or not, but for our newest landfill that we
9 permitted, this is the Report of Waste Discharge, and this
10 is the Report of Disposal Site Information. This goes to
11 the Regional Water Quality Control Board, and this to the
12 Waste Management Board.

13 You can almost tell by the size that they are
14 over 70 percent the same information in these documents.
15 They are just slightly differently formatted. They are
16 requested by the staffs to be in the particular format.

17 We have tried to -- four years ago, we tried to
18 come up with a scheme where we could combine them ourselves
19 and have a summary table at the front that you could
20 cross-reference so that the Boards' staffs could
21 cross-reference and have the information of both.

22 JOINT HEARING OFFICER HUFF: How long ago was
23 that?

24 MR. LANDON: We did that, we initially tried to do
25 that about four years ago. It was kind of rejected.

1 So, we've gone to where we have developed two
2 separate documents.

3 JOINT HEARING OFFICER HUFF: Is rejected the same
4 as shot down?

5 MR. LANDON: Yeah.

6 JOINT HEARING OFFICER HUFF: I wasn't here four
7 years ago.

8 MR. LANDON: I understand.

9 Of course, that is part of our comments, we would
10 like to see a single permitting type of process where this
11 information can be put in one format that is acceptable to
12 not just the two Boards but any other agencies that are
13 involved in reviewing the information.

14 We think it could be put in one format and
15 adequately understood and followed by both Boards as well
16 as any other state agencies that want to review the
17 information without getting too much thicker than it
18 already is.

19 The other thing that goes with having the two
20 documents, is any time one of the facilities is -- there is
21 a change on site or a change in design or operation, there
22 needs to be amendment to the document, it means amending
23 both documents, communication with both Boards.

24 It's not the initial preparation where you have
25 the duplication, but also the ongoing maintenance of the

1 documents, you're maintaining two separate documents.

2 We have submitted written comments, and I think
3 they have been distributed. Within that there was a table
4 that we pulled from an EPA report earlier this year, a Cal
5 EPA report earlier this year, that really does a good job
6 of summarizing the overlap.

7 I would encourage you to look at the table. It
8 does a good job of visualizing the same information, not
9 just these two reports but periodic site review that I will
10 mention later.

11 We feel that as well as room to combine the
12 information and streamline the permitting process, there is
13 room to coordinate the inspection process as well. Right
14 now both Boards' staffs send separate people down from
15 their own staff's to look at the landfills.

16 We understand that they are looking for -- they
17 have different priorities and different information that
18 they are looking for, but we still feel that there is a
19 good chance that there could be a more coordinated and
20 streamlined approach to the State inspections of the
21 facilities as well.

22 Another major example of the overlap in the
23 permitting process that I did not bring visuals for is the
24 closure plan submittal, review and approval process. As it
25 stands right now, closure plans and postclosure plans are

1 submitted to three separate agencies: Water Board; Waste
2 Board; and LEA, all separately.

3 All three of them have to separately deem them
4 complete before they are accepted to start the review
5 process. In an attempt to save our time and make it more
6 efficient, we tried to develop them in a common format.

7 On one of our facilities that we were submitting
8 on, the Water Board rejected the format that we had it in
9 even though it was the same format that went to the Waste
10 Board and LEA, and requested a slightly different format
11 that put us back to redeveloping the same information back
12 to a different format.

13 What happens there though is the fact that all
14 three have to deem it complete separately, and when one
15 does, you have to go back and redo it and resubmit it to
16 the other two agencies again as well because now there has
17 been a change to the document. That is just getting it
18 deemed complete.

19 Then the review process for approval starts from
20 there. That is to be coordinated by the Waste Board. The
21 Waste Board is supposed to be the lead on that function of
22 getting those comments and bringing them back.

23 There still appears to be a great deal of overlap
24 that the Water Board staff is looking at some of the same
25 things that the Waste Board is looking at and it bogs the

1 process down.

2 We would like to make sure it's clear between the
3 two staff's what informational details and interest each
4 staff has so that it doesn't get, the issues don't get
5 double review to make the process more efficient.

6 The last document that I want to talk about as
7 far as permitting is the Periodic Site Review. This is a
8 Waste Management Board, within Title 14 is the requirement,
9 and as the table shows, it's almost identical in its
10 informational content as the RDSI.

11 They are both, the RDSI is required for a new
12 landfill or when there has been significant revision to a
13 landfill or a facility, then it might have to be rather
14 than just revised it would have to be resubmitted for
15 repermitting.

16 A Periodic Site Review is required at least every
17 five years. Quite frequently these two documents come up
18 concurrently. In fact, we have had occasion where we have
19 had to stop our preparation on a Report of Disposal Site
20 Information because we were under Notice and Order to get
21 our Periodic Site Review in.

22 We had to stop everything we were doing on the
23 RDSI to get what information we had together quickly into
24 the form of a PSR, a Periodic Site Review, to satisfy that
25 Notice and Order, when it's really just putting the same

1 information that we had been working on, and there is lots
2 of reference to "this information will be forthcoming"
3 because that's why the RDSI was taking longer because we
4 were waiting for the geologic or hydrologic information to
5 come in.

6 Basically, they are the same information and
7 should be recognized and coordinated by the Board.

8 I guess the main topic was to talk about the
9 overlap between the two Boards, but I will talk some about
10 overlap, as Pam alluded to, overlap between the Waste Board
11 and its LEAs.

12 We're finding that the Waste Board is becoming
13 much more of a supervisory role, or taking a first-hand
14 role in document review and approvals rather than just
15 concurring and reviewing with the LEA.

16 We had our LEA write us a draft permit based on
17 our submittals and then have the permit almost completely
18 rewritten by the Waste Board staff. I'm not going to
19 comment on whether it's appropriate, whether the changes
20 that they made were appropriate or not, but it does make it
21 difficult on the applicant to receive a draft permit and
22 expect to be going down one way, and all of a sudden after
23 a month or two get a whole different change in what is
24 being requested within the permit.

25 As far as, I think the worst overlap right now

1 between the two has to do with inspections, as Pam refers
2 to it as the micro-management of the operations. We have
3 actually had situations where we are under Notice and Order
4 on a facility and working with the LEA to take care of any
5 deficiencies that are on our landfills.

6 In the meantime, the Waste Board will make an
7 inspection, and usually about two to three months after the
8 inspection, you get the written comments on it. We have
9 actually just recently started to receive letters
10 threatening to put our landfills on, giving us 90-day
11 Notice of Violation before putting us on the violation
12 list, that the LEA wasn't communicated -- there was no
13 communication between the Waste Board staff and the LEA
14 before the letter went out, and some of the items listed
15 that were in violation had already been taken care of with
16 the LEA, or there is already a Notice and Order that the
17 LEA issued that talks about how we are going to take care
18 of the deficiency.

19 The fact that the letter comes from the State
20 without communication to the LEA is disconcerting and
21 provides confusion, and that gives the operator another
22 agency to have to respond to. Now that you have this
23 letter, you have to make some response to it.

24 It takes away staff time in addressing problems,
25 and another letter of explanation or agency to have to deal

1 with.

2 We do feel that now is a good time to be
3 reviewing this in light of the regulatory program to comply
4 with the RCRA Subtitle D. I think this is a good time to
5 be reviewing this and trying to resolve some of this in
6 conjunction with compliance with Subtitle D.

7 That was element number one within the study.
8 Element number two is implementation and achievement of the
9 mandated goals of the Solid Waste Assessment Program, or
10 SWAP.

11 Our comments on that are that basically the SWAP
12 program was developed to detect leakage of hazardous waste
13 from landfills. I think that the program has done that
14 pretty well so far. We are up through rank 7, which are the
15 higher priority sites.

16 The problem side is that at a lot of the Regional
17 Boards they don't have the staff and are still reviewing or
18 still have on their desks reports from rank 5 that haven't
19 been looked at or commented on yet.

20 I think a major accomplishment of the SWAP
21 program is that there are monitoring wells and programs in
22 almost all of the landfills, certainly on the highest
23 priority landfills, and I think that's a good thing.

24 We think what needs to be done and reviewed as
25 part of this study is to get caught up before moving on to

1 the remaining ranked sites, basically the infrastructure is
2 now in place on the landfills to the Subchapter 15
3 monitoring requirements and groundwater requirements, they
4 are in place now, and the attention should turn to the
5 backlog, bringing up the funding in the backlog of reports
6 and get that finished up, and also at the same time review
7 whether there is a true need to continue the SWAP program
8 on a lot of the sites that are remaining because they are
9 the very low priority sites.

10 Element number three is consideration of the
11 mandated goals and funding allocations of the Solid Waste
12 Disposal Site Hazard Reduction Act.

13 Basically, this issue, as we see it, is the
14 Household Hazardous Waste funding issue. As Pam already
15 mentioned a little bit, we feel the best way to assure
16 funds for that program are to minimize the payments that
17 the local governments have to make to State agencies and
18 establishing special funds, and let them have more
19 flexibility of their available funds locally so that they
20 can make their decisions about the collection programs to
21 run.

22 Another suggestion was to look into establishing
23 kind of an advanced fee on household hazardous products and
24 use that as a grant funding program rather than the
25 existing format where local government pays a lot more into

1 the fund where the grants come from than they are ever
2 eligible to get back in return.

3 We see that situation as being more efficient to
4 keep the money in the local hands in the first place, and a
5 lot more money would be available for household hazardous
6 waste collection.

7 JOINT HEARING OFFICER HUFF: Do you mind if I
8 interrupt you there?

9 MR. LANDON: Not at all.

10 JOINT HEARING OFFICER HUFF: So, what you're
11 saying is repeal what we call the Eastin Fund, and the
12 locals realizing at least a reasonable share of that \$20
13 million revenue stream will fund their own household
14 hazardous programs, or in the alternative, put an advance
15 disposal fee on household hazardous goods, create a special
16 fund out of that, I suppose, because it would have to be
17 statewide, wouldn't it?

18 MR. LANDON: Right.

19 JOINT HEARING OFFICER HUFF: And then fund
20 household out of that?

21 MR. LANDON: Maybe both.

22 The repeal of the Eastin Fund is a much broader
23 issue than just the household hazardous waste, of course,
24 and that probably would need a separate look, but it may be
25 worthwhile to repeal both that and look into the

1 advanced --

2 JOINT HEARING OFFICER HUFF: Where were you guys
3 on AB-3348?

4 MR. LANDON: Prior to its passing?

5 JOINT HEARING OFFICER HUFF: What position did
6 you have on that bill?

7 MR. LANDON: We supported it.

8 JOINT HEARING OFFICER HUFF: Oh.
9 Doesn't this represent a reversal from that
10 position?

11 MR. LANDON: This --

12 JOINT HEARING OFFICER HUFF: I probably should ask
13 Pam that.

14 MR. LANDON: My understanding is -- our interest
15 in 3348 is the study for the streamlining.

16 I'm not even sure what else is in 3348. There was
17 a lot to 3348.

18 JOINT HEARING OFFICER HUFF: There was. Okay.
19 You can come back later, Pam.

20 MR. LANDON: Element number four was
21 consideration of consolidating State fees. This
22 piggy-backs on the same topic to some extent.

23 We definitely see advantages and interest in
24 common funding for the Waste Board and the Water Board in
25 that that would promote better coordination and cooperation

1 between the two Boards if the funding was coming from the
2 same fund.

3 We do feel that it is very important to properly
4 fund the Water Board. They apparently have been
5 underfunded in the past few years. It has an impact on the
6 permitting process and the locals ability to get their
7 permits.

8 As an example, the solid waste facility permit
9 from the Waste Board is the last in the chain of permits
10 before operating. One that is necessary prior to that are
11 the waste discharge requirements from the Water Board.

12 Their being understaffed or underfunded at this
13 time makes that procedure take longer than it should, and
14 the response out of the Water Board can be extremely slow
15 at times. Therefore, it holds up the permitting process.

16 You can't finish off your solid waste facility
17 permit until you have the waste discharge requirements.

18 Consolidated funding, consolidated State fees, we
19 believe would help the two agencies coordinate the funding
20 needs so that the permitting can be streamlined.

21 Related concern to that is also the need for
22 timely notification of fee modifications. It's important
23 for our budgeting process to know well in advance. I do
24 appreciate hearing the discussions of a potential increase
25 in -- I don't know that I like hearing the potential

1 increase, but we like hearing about it early, not just so
2 that we can argue the point, but also so that we can
3 prepare in your budgets.

4 If it's going to be higher, we can prepare.
5 Timely notificaiton is important in review of consolidating
6 fees.

7 One other comment is just that the current
8 multiple fee system of which we now have three or four
9 different per ton fees coming at us for different agencies,
10 and also all the different funds that we put into, that
11 situation heightens the perception of poor coordination
12 between the State agencies and heightens the perception
13 that there is a very cumbersome regulatory system.

14 The fifth element is the insurance mechanisms
15 requirement and operating liability insurance. We'd like to
16 make two comments on that.

17 One is that the current system of all the
18 different funds, having all the different funds and the
19 need for the financial assurance and the insurance, I think
20 needs some review in consideration of the fact at the same
21 time the requirements for the environmental protection, the
22 liners, the leachate collection systems and other things
23 going into the landfills certainly impact the need for the
24 different funds that are set up for insurance and
25 financial, financial assurance, as well the liabilities and

1 insurances.

2 We would like to see also that all those funds
3 are reviewed and better coordinated so that they are more
4 understandable and more efficient in how the local
5 government funds for them, and flexibility that looks at
6 the fact that if local government does have different, or
7 some additional mechanism that is available to a local
8 government that may not be available to others, such as
9 pledge of revenues and taxing authority, that others don't
10 have, in consideration of funding for those types of
11 insurances and financial assurances.

12 The final element is review of regulatory
13 activities and responsibilities of other State agencies and
14 local agencies in regards to solid waste disposal sites.
15 This is is to reiterate that there are other State agencies
16 that are involved other than just the Waste Board and Water
17 Board, such as the Department of Fish and Game, Department
18 of Toxic Substances Control and the Air Resources Board as
19 well local districts, area districts.

20 It goes back to the single permit system. We
21 reiterate that that seems an acceptable way to go. You
22 might also consider a clearinghouse approach or lead agency
23 to coordinate the review at the State level. Clearinghouse
24 similar to CEQA, the State clearinghouse now takes
25 responsibility of getting all the comments from the State

1 agencies and bringing them back through one agency.

2 My final comment would be that this report comes
3 out pretty fast, but the overall process to actually change
4 the permitting streamlining and such will undoubtedly take
5 some time.

6 We would also look to maybe an interim method for
7 resolving conflicts between the State agencies that
8 currently exist, that if some interim method to be devised
9 and set up to try to address some of that even before the
10 report is done.

11 I would like to make sure that those preparing
12 the report and study are aware that SWANA membership will
13 make itself available for any questions or comments and
14 continue to work on this process. We will make the
15 commitment to be responsive to any additional information
16 that might be necessary or questions that you have of us.

17 The mention was made on visiting landfills and
18 actually seeing the sites. I make the invitation to use
19 Kern County. We would make ourselves available and make
20 our sites available for anyone wanting to come down and
21 review and see a landfill operation in action.

22 Thank you.

23 JOINT HEARING OFFICER HUFF: Very good.

24 Questions?

25 JOINT HEARING OFFICER STUBCHAER: Do you have any

1 comments on who should be the lead agency for groundwater
2 protection?

3 MR. LANDON: Lead agency, we support the Water
4 Board as in its current role as far as groundwater.

5 How lead agency applies to an overall lead
6 agency --

7 JOINT HEARING OFFICER STUBCHAER: Ms. Milligan
8 used that term in her presentation, that's why I used it.

9 MR. LANDON: For the most part, we're comfortable
10 with the Water Board's lead in the areas of groundwater.

11 Again, part of our statement here is sometimes
12 it's unclear as to the overlap. If there is not a single
13 agency made in charge of the entire permitting process,
14 certainly we need better clarification, definition between
15 which agency is handling which issues.

16 JOINT HEARING OFFICER HUFF: First of all, let me
17 say that I really appreciate the detailed nature of your
18 comments.

19 If we're going to pull off a study in the time
20 frame, it's very helpful to get the specifics, and I
21 appreciate that.

22 Secondly, a personal statement, and it's been
23 referenced by both Pam and you, the Water Board is asking
24 that people with regard to closure and liability that you
25 buy -- not closure but liability, that you buy collision

1 insurance.

2 The Waste Board requires that you buy liability
3 insurance. The law requires that you buy uninsured
4 motorist. That's a reasonable analogy.

5 I suppose your question is why do you have to buy
6 three separate policies? Why can't you just buy one?

7 MR. LANDON: It may have all those components,
8 but one policy would be a lot easier to understand and
9 follow.

10 JOINT HEARING OFFICER HUFF: I have some sympathy
11 about that.

12 There is a certain logic to buying one policy
13 with three components rather than buying three separate
14 policies pursuant to three separate pieces of
15 requirements. So, I have sympathy in that direction.

16 I was wondering what your reaction would be to
17 the idea that a number of jurisdictions, we have had
18 discussion here of the dollar or the seventy-five cents,
19 that a number of jurisdictions are charging a dollar.

20 We have confirmation that LA San is. Riverside
21 is. San Bernardino is.

22 MR. LANDON: They are already charging a dollar?

23 JOINT HEARING OFFICER HUFF: Charging a dollar.
24 We are only getting seventy-five cents.

25 MR. LANDON: We're only charging or collecting

1 seventy-five cents in Kern County.

2 We would like to see it kept there if at all
3 possible.

4 JOINT HEARING OFFICER HUFF: Thank you.

5 Okay. David Fishel.

6 Written comments, good.

7 MR. FISHEL: Since they are written, I will just
8 take some highlights out of here, if that's all right.

9 JOINT HEARING OFFICER HUFF: That's fine.

10 MR. FISHEL: I do appreciate the opportunity of
11 coming in.

12 Since this is a day for picking things that need
13 to be corrected, I would like to start off by saying there
14 is tremendous improvement from where we were a year ago,
15 and we appreciate that. The communication with the Waste
16 Board and the LEA round table has helped a good deal in
17 dealing with the LEAs.

18 There was reference earlier and I referred also
19 to this draft document that came out earlier in the year
20 for the permit streamlining. This process is a part of
21 those seventeen recommendations that were in that document.

22 I think that it's very important. Like the
23 permit streamlining, it's not quite hitting the center of
24 the target.

25 Policies need to be established among all the

1 Boards so that we have a coordinated, integrated,
2 environmental policy. Our practices and procedures are
3 going to follow what that policy is, I believe.

4 We have an Air Board, Water Board, Waste
5 Management, Toxics, and all of these different groups that
6 set policy, and they are directed by statute to do that,
7 and they are all doing a very fine job with the single
8 issue that they are charged to carry out.

9 Somebody needs to be able to pool all those
10 policies together and coordinate them into a single policy,
11 I believe.

12 A whole lot of the problem lies in the
13 interpretation and implementation, not just in the
14 statutes. A practice that makes that even more difficult
15 is that most of the decisions that deal with solid waste
16 have to be made in Sacramento. They are not made by field
17 people.

18 The people come to the field or the LEAs are
19 there. Then they come back, and the whole thing gets
20 reviewed and revised. The decisions then are hard to come
21 by.

22 This isn't just with the Waste Management Board,
23 but it's with virtually every State board that we deal
24 with.

25 The public, and certainly the regulated

1 community, as well as the LEAs, lose confidence in the
2 system. We think that it can't work, that we have people
3 here that don't know what they are doing, when, in fact, we
4 have very good people at all levels.

5 It isn't that they don't know what they're
6 doing. They know it too well. They know too many of the
7 things that provide blockages when you're trying to move
8 through.

9 It causes struggles for turf as to who is going
10 to be in charge, and the questions that have been asked
11 earlier about whether it ought to be the Regional Board or
12 Waste Management Board on groundwater.

13 We have a site where for many years some liquid
14 waste were disposed of on a few acres adjacent to a
15 landfill. When we determined that that needed to be
16 discontinued, we entered into an investigation in the
17 county and the Regional Board to determine the extent of
18 contamination, whether anything really needed to be done,
19 but certainly a site assessment.

20 The Waste Management Board then, as we got
21 involved in that, and this started about five years ago,
22 the site assessment. The Waste Management Board reminded
23 us that liquid waste is defined in the statute as solid
24 waste. Therefore, this was an illegal solid waste
25 facility.

1 For two or three years, we haggled over who was
2 going to be the lead agency on that. Finally, the Waste
3 Board was determined that they would be the lead agency,
4 but for the groundwater issues, they would rely on the
5 Regional Water Quality Control Board.

6 The Regional Board was finally able to issue some
7 orders concerning site assessment, but the Waste Management
8 Board doesn't like some of the work procedures. There's
9 not any quarrel any longer with how the findings are to be
10 developed or what takes place subsurface, but the
11 difference now is over what has to be done prior to
12 starting any work at the site, and it's resting there.

13 So, the operator is left waiting. They were
14 ready to go to contract more than two years ago for the
15 site assessment. That's been put on the bottom of the
16 stack now because they are going to wait for the two Boards
17 to reach a final agreement on that.

18 The other area of duplication that we are most
19 closely involved with as LEA is the notion of the
20 processing of permits and inspections and what have you.

21 When we receive an application, the operator has
22 had to go through and provide have extensive, detailed
23 information. You saw some of those documents earlier.

24 We are obligated to duplicate all of that in the
25 sense that we have to verify every detail in there. As

1 each detail comes up, we need to check with the Waste
2 Management Board staff to determine what's the position on
3 this specific issue at this specific time.

4 Sometimes we get changes to that after the first
5 answer because then it goes to a different office and
6 another office has it.

7 Again, it's not because we don't very good people
8 doing it. It's because we have too many people doing it.

9 We propose, as LEA, a decision or some action to
10 be taken by the operator. When that is proposed that comes
11 up to the Waste Management Board for full review again.

12 If the Board concurs with what we propose, then
13 we can take some action. If they don't concur, there has to
14 be a different action taken.

15 This doesn't constitute program oversight. This
16 is site specific detailed management. It's very difficult,
17 if not impossible, I think, to hold somebody else
18 accountable for their program if you're making all of the
19 decisions for them.

20 We think that even on our routine monthly
21 inspection reports, we have to inspect the solid waste
22 facilities monthly, the original of that report gets sent
23 to the Waste Management Board.

24 We do get to keep a copy, so it encourages us to
25 make copies we can read. Where the original goes sort of

1 indicates the priorities on this.

2 The establishment of policy, we think, at the
3 State level, and program management at the local level
4 would get us a far more effective, efficient and economical
5 regulatory program.

6 There are four suggestions that we would submit.
7 Consolidate the independent boards into a single
8 comprehensive board, or a set of comprehensive regional
9 boards.

10 Let those boards establish the multimedia
11 standards and policy. We need something somewhere that
12 recognizes that we do have cross-media conditions to deal
13 with.

14 Then at the State level, provide the policy, the
15 technical resources, funding support and program
16 oversight.

17 At the local level, provide the service, the
18 delivery of service, including permit processing and
19 enforcement.

20 And provide back through the State policy and
21 program oversight area, a standardized enforcement policy
22 and practice.

23 Thank you for the opportunity to come in. This
24 is not as extensive as some of the other comments you're
25 going to get, but these relate more specifically to what

1 I'm concerned with.

2 JOINT HEARING OFFICER HUFF: Yes. Did I catch
3 that?

4 You're really describing a revolution here,
5 aren't you?

6 MR. FISHEL: No, sir.

7 Progress.

8 JOINT HEARING OFFICER HUFF: Progress can come of
9 revolution.

10 MR. FISHEL: It's close, yes, sir.

11 One of the -- if we can't get that far, then the
12 model that the ARB uses for dealing with Air Pollution
13 Control Districts could help a little bit in the terms of
14 program oversight.

15 APCO is similar in many ways to the LEA but has
16 considerably more authority than we are currently
17 operating.

18 There is a procedure that's been agreed upon
19 between the Air Pollution Control Officers and the ARB, a
20 Conflict Resolution Procedure. So, when there are
21 differences, there is a way to go about and get those
22 resolved.

23 The resolution now turns into, after extensive
24 debate, if you can't work it out among yourselves, then
25 there is a decree that gets issued.

1 That is not from personal experience. We have
2 been able to work things out, but sometimes it takes a long
3 time.

4 JOINT HEARING OFFICER HUFF: Okay.

5 Questions?

6 JOINT HEARING OFFICER STUBCHAER: No.

7 JOINT HEARING OFFICER HUFF: Thank you.

8 Okay. Marc, assemble your team.

9 MR. APREA: Board Member Huff, Board Member
10 Stubchaer, members of the staff, thank you very much for us
11 opportunity to address you today on the subject of permit
12 streamlining and the overlapping of jurisdictions.

13 Our purpose today is to take some of the several
14 issues that have presented themselves in this hearing,
15 divide them up and to address them to avoid any kind of
16 duplication.

17 My purpose today is to describe in concept the
18 ideal streamlined permitting process and to recommend
19 objectives for the Department of Finance study.

20 Specifically, the ideal streamlined permit
21 process would, one, have strong local government control of
22 land use; two, would have a high measurable environmental
23 protection standards; three, would have certainty of time
24 to decision; four, would have cost-effective predictability
25 of results; and five, would result in some sort of one-stop

1 permitting process.

2 Let me, before I go further, define the problem
3 and use a visual aid to illustrate that. I don't know if
4 you can see that. Perhaps somebody can blow that up for
5 me.

6 JOINT HEARING OFFICER HUFF: Somebody help Marc
7 with our handy-dandy machine here. It has a blow-up
8 feature here.

9 You're going to have to take the classes if you
10 keep coming here, Marc.

11 MR. APREA: That is a diagram of the permitting
12 process that a solid waste landfill must go through. I
13 think that the illustration describes the problem in and of
14 itself.

15 It remained when I first saw it of some sort Rube
16 Goldberg device.

17 JOINT HEARING OFFICER HUFF: Do you have this in
18 poster size?

19 MR. APREA: We could get it for you, Mr.
20 Chairman.

21 JOINT HEARING OFFICER HUFF: I like it.

22 Not that it's good, but I like having it all in
23 one.

24 MR. APREA: It's an August 1990 document put
25 together by a joint study by the LA County Sanitation

1 District and the LA County Solid Waste Department.

2 The current siting and permitting process, quite
3 simply, just takes too long. We all recognize that we're
4 looking at a seven to ten year process.

5 As a result of that long time frame, it is
6 difficult for solid waste companies, like BFI, it is
7 difficult for counties, whether they be Los Angeles or
8 others, or it is difficult for this Board to properly
9 manage the disposal capacity where the length of time and
10 uncertainty are so great.

11 The cost in siting a facility runs into millions
12 of dollars, making the siting of a landfill prohibitive for
13 small operators, or forcing larger operators to look
14 outside of California in investing their landfill
15 development dollars.

16 In essence, we have all come to believe or there
17 is a conventional wisdom that because of the attractiveness
18 of the market in California, and because of the certainty
19 of the waste being generated in this State, that certainly
20 landfill companies are going to come to this State and are
21 going to be forced to deal with the permitting process in
22 this State.

23 But companies, like BFI, and others, frankly make
24 decisions based upon where they are going to likely see a
25 return on the investment of their time and dollars. If

1 they can find a jurisdiction that is in need of landfill
2 capacity, whereby the permitting and siting process can get
3 a facility operating in one to three years period of time
4 with some certainty as to what the requirements for
5 environmental protection are, versus the system that we
6 just described to you and have shown you in California,
7 those are not automatic decisions, but rather they are
8 balances, and those kinds of trade-offs and choices are
9 made every time investment dollars are being considered.

10 Furthermore, I am remained in looking at the
11 predictability of environmental standards in obtaining some
12 environmental permits in this State, and it remains of the
13 Supreme Court's consideration of what is pornography, in
14 which one Justice said, "I'll know it when I see."

15 That is when it is often times we find that we
16 don't know nor can any one give us a defined environmental
17 standard to achieve, but we are told that they will know if
18 we have achieved the objective or the requirement when we
19 present it to them.

20 That poses, again, a very difficult problem for
21 companies in trying to comply with the environmental
22 protections that are being laid out in statute and
23 regulations.

24 The current siting process, its multi-media and
25 multi-level permits, cannot necessarily be shown to improve

1 the environmental protections in this State. That is that
2 the environmental protections -- excuse me.

3 It cannot be shown that the same level of
4 environmental protections could not be achieved in a less
5 cumbersome fashion, at the same time having very high
6 standards of environmental protection.

7 Some of the examples of the problem that I think
8 in terms of real life problems can be shown if we look at
9 the disposal capacity in LA County. Long-term, we all know
10 that we are looking at a potential shortfall in the State.

11 We have seen for the first time last week the
12 out-of-state export of solid waste to the East Carbon
13 County Landfill in Utah, 800 miles away from Los Angeles.

14 Finally, we are looking at a landfill in Los
15 Angeles County, that is operated by the LA County
16 Sanitation Districts, which is less than a year from its
17 permitted capacity. Yet we have no way of having some
18 predictability in 12,000 out of 40,000 tons per day of
19 disposal in that county is somehow going to remain on line
20 beyond its 1993 deadline.

21 I might point to another example that Mr. Huff
22 and the Water Board and the Waste Board are certainly
23 familiar with. It's a landfill that we sought and were
24 ultimately successful in getting sited. But it was the
25 tension between the Water Board and the Waste Board on the

1 Keller Canyon Landfill in Contra Costa County.

2 There was a reluctance to approve or find
3 conformance with a landfill permit by the Waste Board
4 pending an appeal to the State Board. I use this as
5 example to show there is an out-of-sync timing here that is
6 a problem that does need to be resolved, and I think
7 everyone recognizes that as well.

8 How do other state jurisdictions manage the
9 process? One, of course, they have a very, very strong
10 local land use decision. I want to reiterate that is an
11 important component to any permitting process. But many of
12 them have a single state environmental agency, often times
13 with a fixed review period, sometimes as short as 90 days.

14 The examples I'd like to offer are two states.
15 One is a rather economically and ethnically and
16 geographically diverse state, the State of Illinois. It
17 has a permitting process whereby a local land use decision
18 is made, and then an environmental permit document is
19 brought up before Illinois EPA, and then that jurisdiction
20 then takes the varying components, air, water and so on,
21 divides them up amongst the departments, and then that
22 review is completed and brought back and an application is
23 either granted or denied or a request for additional
24 information or a different type of way of achieving the
25 environmental protection goal.

1 Another state, one that is, although not as
2 economically or ethnically diverse, but certainly has one
3 of the highest environmental standards by any measure, is
4 the State of Oregon. It, too, has a very simple process
5 whereby a local land use decision is obtained. Then the
6 Oregon Department of Environmental Quality then rules upon
7 the adequacy of the environmental documents.

8 As a caveat, I would like to suggest that the
9 permitting process or the examples that I have shown you, I
10 don't mean to suggest that the State of California can
11 merely reach in and take the example of Illinois or Oregon
12 and boilerplate it and have it applicable to California.

13 But I use it as illustrative of the fact that it
14 can and has been done, and it has been done with success,
15 outside of the borders of this state, and that in those
16 states the total permitting process in terms of siting to
17 actual operations are running from one to three years.

18 We are finding that that compared with the seven
19 to ten years that we find in this State is a very, very
20 vast difference.

21 In conclusion, I would like to offer the
22 following recommendations to the Department of Finance
23 study. First, of course, the objective ought to be to save
24 the State money, given the budget considerations that the
25 Legislature will have to grapple with, along with the

1 Governor's Office, that is a very, very important
2 objective.

3 Two is to maintain and improve the environmental
4 protections. To improve them in the sense that they be
5 predictable, scientific, at the same time making sure that
6 everyone is comfortable with the standards that have been
7 required.

8 Third that we protect and maintain local
9 government control over land use decisions.

10 We also ought to, four, speed up the permitting
11 process with fixed deadlines. Let's get to the yes or no
12 answer, so that either changes can be made or another
13 location or another project can be sought after if for some
14 reason the location or the operator that has proposed a
15 permit is found to be unsuccessful.

16 Finally, five, we ought to look at some kind of
17 one-stop permitting process. I might suggest, given that
18 both the representatives from the State Water and Waste
19 Board are here, that the Subtitle D process, that we're now
20 undergoing, perhaps would afford us an opportunity whereby
21 the kind of environmental predictability that we're looking
22 for might come to bear here.

23 You've got an opportunity where there is a
24 regulatory process where you're going to have to look at
25 the Subtitle D rules, and that might be, in fact, a good

1 starting point.

2 With that, I'll conclude and stand for any
3 questions.

4 JOINT HEARING OFFICER HUFF: Subtitle D rules,
5 when they come down, may be more strict than anything we
6 have looked at to date, true?

7 MR. APREA: Potentially so, yes.

8 Again, I think that what is important here is
9 that an operator, whether it be our company or some
10 another, they understand that there is some
11 predictability. It's going to be in terms of the cost
12 differences of achieving those environmental protections
13 versus the dollars that are squandered in terms of the
14 permitting process.

15 I think that, at least from those companies that
16 we are familiar with, that that is a trade-off that we are
17 willing to entertain.

18 JOINT HEARING OFFICER HUFF: Okay. Thank you.

19 MR. WHITE: Board Member Huff, Board Member
20 Stubchaer, my name is Charles White. I'm representing
21 Waste Management of North America.

22 Like Mr. Aprea, we do appreciate the opportunity
23 to come and share our thoughts on how we can make the
24 AB-3348 process work to everyone's benefit.

25 I would like like to show a couple of charts if I

1 can manipulate this machine.

2 JOINT HEARING OFFICER HUFF: You, too, have to
3 sign-up for the training.

4 MR. WHITE: This is just an overview that I
5 actually borrowed from the Waste Board's information that
6 has been published projecting landfill capacity off into
7 the future.

8 A couple points, one is there is going to be some
9 changes in how solid waste is managed, but a lot of things
10 are going to stay the same. The gray area indicates the
11 brand-new facilities that are going to have come on line to
12 handle diverted materials.

13 The darker line indicates that level of statewide
14 solid waste disposal capacity that is still going to be
15 required off into the future.

16 A couple of obvious conclusions one can draw,
17 that is going to have an effect on funding because there
18 are going to be some changes in the level of waste
19 disposal.

20 Certainly, the obvious conclusion is that there
21 is still going to be a need for landfills off into the
22 future.

23 I have taken the liberty of going ahead and
24 project what, if there were no more permitted landfills
25 made available in California, what that would mean.

1 The dark area indicates the landfill capacity
2 that would slowly be decreased if we just stayed at our
3 current diversion rate. Granted, with the increased
4 diversion to 50 percent by the year 2000, it would extend
5 the available capacity but only for about a five-year
6 period before we run out of existing permitted facilities.

7 I'm not suggesting that we really believe there
8 aren't going to be any more permitted landfills. But, as
9 Mr. Aprea indicated, the permitting process for landfills
10 does take seven to ten years. We haven't got a whole lot
11 of room to move.

12 We need to get a process that provides some
13 degree of certainty and some degree of predictability in
14 how we can bring these additional facilities, both
15 diversion facilities for recycling, for composting, for
16 moving materials out of the solid waste stream without
17 disposal, but also landfills themselves.

18 What are some of the problems that we have?

19 In a sense, I believe, that there is some
20 inherent conflict in the way that the regulatory system has
21 been set up.

22 This is a very simplified chart. It's no where
23 near as complicated as Mr. Aprea's. One could make it much
24 more complicated, of course.

25 Across the top, I have indicated in a sense the

1 media or the to resource specific regulatory agencies that
2 exist: Land, in the form of local government; air, in the
3 form of the ARB and APCDs; and water in the case of the
4 State Water Resources and Regional Water Quality Control
5 Boards.

6 Of course, there are others. There's Fish and
7 Game for wildlife. There's the Federal Corps of Engineers
8 for wetlands protection, all of which are in a sense
9 resource protection agencies, and they have been set up in
10 order to most efficiently regulate those resources that
11 they are geared to protect.

12 Overlaying that, I give two examples of activity
13 specific regulatory agencies. In the case of solid waste,
14 the Integrated Waste Board and LEA regulatory system. In
15 the case of hazardous waste, the Department of Toxic
16 Substances Control.

17 You can see just from the surface that that
18 creates a tremendous opportunity for conflict and
19 duplication of effort, because solid waste regulatory
20 agencies have to deal with land, air, water -- in fact, the
21 air agencies have other impacts on land and water as well.

22 So, you get this very complex chart that Mr.
23 Aprea indicated. One can look at the activity specific
24 agencies, that is solid waste regulatory and hazardous
25 waste, as adding a tremendous amount of complication, or

1 can they be viewed in such a way as to provide a way of
2 coordinating the overall permitting aspects of all the
3 agencies?

4 In fact, that is the way that I hope we can move
5 and try to get away from consecutive permitting process to
6 more of a concurrent permitting process where all agencies
7 are working together to develop one permit. Whether that
8 means vesting is one permitting authority or one agency, or
9 having all of the other agencies work together, there needs
10 to be some kind of predictability, some kind of certainty
11 and some kind of coordination, where we have in a sense
12 this one-stop permitting that people keep referring to.

13 What are some examples of conflict? A potential
14 for conflict is being discussed right now with the Waste
15 Board's own Chapter 5 regulations on permit application.

16 The way those proposed regulations are written it
17 would encourage the consecutive permitting of solid waste
18 facilities by requiring all other permits to be finalized
19 before you even submit your application for a solid waste
20 facility permit to the LEA.

21 To us, that's in a sense stepping in the wrong
22 direction, away from permit streamlining, away from
23 coordinated, concurrent, one-stop permitting, but into
24 consecutive permitting. I know those regulations are under
25 review, and we have submitted separate comments with

1 respect to that.

2 We would encourage the permitting process be
3 predictable and flexible and ability to proceed in a
4 concurrent fashion wherever possible.

5 Air emissions and gas collection and condenscent
6 disposal are another area where you have conflict with a
7 myriad of regulatory agencies. You have the ARB, the AQMD
8 involving air emissions and above-ground gas migration.

9 You have the State Water Resources Control Board
10 and Regional Boards worried about gas migration impact on
11 water quality, and condenscent disposal in many cases.

12 The Integrated Waste Board is also involved in
13 how a gas collection system operated and how underground
14 gas can move off-site. The LEA is also involved in gas
15 collection operation requirements.

16 Even county public works in some cases are
17 concerned about how a gas collection system operates at a
18 landfill.

19 So, you have a myriad of agencies that creates a
20 real opportunity for conflict and misunderstanding, and
21 there has got to be an effort to bring that all into a more
22 coordinated approach.

23 Another example is that we frequently find that
24 solid waste facility permits require an operator to meet
25 the requirements of all other agencies, whether they be

1 state, local or federal.

2 So if you happen to come into a violated
3 condition under one other agency, you also find yourself in
4 a violated condition of the solid waste facility permit.
5 In a sense, that creates a double jeopardy kind of
6 situation.

7 We would prefer to see a situation where you can
8 actually coordinate that better in this regard.

9 One overall problem is CEQA. CEQA is either a
10 problem or opportunity. Maybe a better way of looking at
11 it is in terms of opportunity where the permitting process
12 must be better integrated.

13 The environmental regulatory agencies must take
14 more of a partnership role in the development of the EIR so
15 that they are satisfied with the document once it is
16 certified by a particular lead agency.

17 I'm not suggesting that we should change CEQA.
18 I'm suggesting that there needs to be more effort on a
19 concurrent permit process and development where you have
20 cooperative relationships, cooperative working
21 understandings with the various permitting agencies.

22 Now, with respect to the Integrated Waste Board
23 and the State Water Resources Control Board and Regional
24 Water Quality Boards, Subtitle D has been mentioned. I
25 would like to spend a moment, if I could, on that. As I

1 think Mr. Aprea mentioned, Subtitle D is in a sense a test
2 case.

3 It provides an opportunity to see how the solid
4 waste system will work in coordination with the Water
5 Resources Control Board's regulatory and permitting system.
6 Considerable changes are going to come about as a result of
7 Subtitle D.

8 I have a chart here of what solid waste landfill
9 requirements would look like under Subtitle D. Subtitle D,
10 the first big deadline on that is October of 1993. At that
11 point in time, unless the State has an approved regulatory
12 system approved by the Federal EPA, the Federal
13 requirements will prevail.

14 Those Federal requirements are very strict and
15 narrow and underflexible. There is really very little
16 opportunity for making changes.

17 As an example, all landfills in California, is if
18 California doesn't get an approved State system, are going
19 to look like this.

20 Does that mean new permitted facilities off in
21 the future?

22 No.

23 It means any lateral expansion beyond where waste
24 is placed as of October 1993. You're going to be
25 constrained to only this kind of system design, wherein

1 basically HDPE of synthetic layer and two feet of clay on
2 every side and bottom of every landfill or landfill
3 expansion.

4 Subtitle D not envision that this really had to
5 be the only option. In fact, Subtitle D provides latitude
6 for approved State programs to approve alternative systems
7 that may be suitable for the particular state, for the
8 particular climatological locale, whatever is appropriate
9 and has been approved.

10 The problem is that these programs need to be
11 approved by October of this next year, or we're going to be
12 faced with this very rigorous, inflexible system that is
13 not to anybody's benefit but is required by law.

14 I understand that the Waste Board and the Water
15 Board are now in the process, staffs are coming up with
16 revised regulations related to landfills in California.
17 Those involve containment and landfill design standards,
18 and presumably involve groundwater monitoring requirements,
19 both of which allow considerable flexibility under Subtitle
20 D once they become approved.

21 We don't know what that is going to look like.
22 Time is running shorter and shorter. Not only do these
23 regulations have to be adopted by the State agencies and
24 put into final form, but they have to be approved by the
25 Federal Environmental Protection Agency.

1 We're getting more and more anxious out here is
2 what I'm saying. Are we going to be able to meet this
3 deadline?

4 Are we going to have an approved State program?
5 Is it going to provide flexibility for operators to provide
6 alternative systems, both for groundwater monitoring and
7 containment and design?

8 Or are we going to be stuck with this come
9 October of 1993?

10 One suggestion that we are going to make in
11 writing is that we would encourage there to be a Subtitle D
12 meeting. I know there has been some discussion between EPA
13 Region 9, between the staff of the two Boards, but the
14 industry and operators of the facilities have not been
15 participating in these meetings, and we would very much
16 like to know what you have in store for us with respect to
17 how we're going to be able to be in compliance with
18 Subtitle D come October of this next year.

19 We're going to be encouraging a specific
20 discussion on that. I think this is, as I said, is a test
21 case. If we can make the system work and put up a flexible,
22 reasonable system by October, then we don't have a problem.

23 But if we have some problems, then we need to
24 deal with that. It does provide an opportunity for an
25 example to be set.

1 Another example is composting facility design
2 standards. The State Water Resources Control Board
3 regulates discharges to land, including composting
4 facilities, they require ten to the minus six for solid
5 waste land disposal facilities.

6 The Waste Board is in the process of developing
7 compost regulations. The question is what kind of
8 standards can be set for compost placement?

9 Should it be ten to the minus six to be exactly
10 the same as the Water Board's ten to the minus six
11 requirement of two feet of clay? Or could it be some lower
12 standard to be more flexible but still could provide basic
13 statewide protection for compost placement, but then allow
14 the Water Board to have additional flexibility to prescribe
15 more stringent standards in those cases statewide that
16 might be appropriate.

17 We're watching, again, how the interaction of
18 these two agencies work with respect not only to landfills
19 but also with respect to facilities that are greatly needed
20 to provide diversion of solid waste from the waste stream
21 and for reuse.

22 Closure and postclosure standards have been
23 mentioned. I won't go into those in detail other than to
24 say, again, both agencies do have requirements, and they do
25 overlap and sometimes are in conflict.

1 Surveillance and enforcement is also an area
2 where you always have the Regional Water Quality Control
3 Board doing enforcement at your facilities.

4 You have a myriad of other agencies. You always
5 have the LEA with respect to the solid waste system. Many
6 times you have the Integrated Waste Board itself. There is
7 frequently a conflict with respect to how those enforcement
8 actions, which in many case proceed independent of each
9 other, can be concluded.

10 Waste restrictions, both agencies have permits
11 that typically contain lists of prohibited waste receipts,
12 but seldom is there absolute coordination between these
13 various lists of wastes that can or cannot be received.

14 One case, for example, is fuel contaminated
15 soils. If it's not hazardous, typically the Regional
16 Boards allow for a case-by-case review and allow for
17 disposal of that particular waste stream into your
18 landfill.

19 Other agencies, and the Waste Board, I understand
20 now is talking about having to modify the permit each time
21 and specifically identify those kinds of waste streams.
22 So, again, we're going away from flexibility into more
23 specific requirements.

24 Another example would be alternatives for soil as
25 a daily cover. Both regulations have opportunities to get

1 preapproval, but that preapproval can take sometimes over a
2 year, and there are two separate processes that need to be
3 brought together in better coordination.

4 I have gone very rapidly over a number of
5 concerns that we have. We will be expressing these to you
6 in more detail in writing.

7 We appreciate the opportunity to provide these
8 comments and hope to do follow-up work with you as we move
9 towards providing a report on the 3348.

10 I don't have any more comments. At this point in
11 time, I would be happy to respond to any questions.

12 JOINT HEARING OFFICER HUFF: We have questions.

13 MR. WHITE: Good.

14 JOINT HEARING OFFICER STUBCHAER: The same
15 question on groundwater protection agency, do you have any
16 comments on that?

17 MR. WHITE: I would say that the Regional State
18 Water Resources Control Board system should be the primary
19 program at this point in time.

20 It just needs to be coordinated so that there is
21 clear understanding and predictability on the part of a
22 solid waste facility operator as to what is going to be
23 required.

24 I have no way to predict right now what we are
25 going to have to do in October of 1993. I would urge both

1 Boards to try to communicate more directly with the
2 operators of the facilities so that we're better able to
3 have a degree of predictability what you're going to
4 require us to do come October 1993.

5 There are a lot of very detailed issues that need
6 to be resolved on Subtitle D equivalency regulations. I
7 have been in communication with the Water Board for
8 sometime on groundwater monitoring requirements, for
9 example.

10 It's in everyone's interest to have the first
11 detection of a release from a landfill. If we have a
12 release, we want to find out as soon as possible. We don't
13 want to get drug into tests doing tests and analyses that
14 are duplicative, or not necessary or are so stringent where
15 you are constantly constantly detecting false positives.

16 Your monitoring system is so sensitive that
17 you're not really detecting releases. You're detecting the
18 noise that happens down at those very low levels of
19 detection. There needs to be balance and flexibility to
20 provide the operator to design that groundwater monitoring
21 system that works best for that particular facility.

22 I think a Regional Board is ideally suited to be
23 able to set those different limits, but the regulations
24 have to provide the operator the flexibility of providing
25 just the right kind of designed containment system and just

1 the right kind of groundwater monitoring system.

2 Yes, I support the Board.

3 There needs to be more dialogue back and forth.
4 You're planning our future for us. It's not that we don't
5 trust you, but we would like to be involved in the game
6 plan.

7 JOINT HEARING OFFICER HUFF: Your mention of
8 compost triggers me, as you probably could have guessed.

9 MR. WHITE: I debated on mentioning it.

10 JOINT HEARING OFFICER HUFF: You realize that
11 there we wanted to kind of make one small example of how we
12 could move toward one-stop.

13 By picking up what at the staff level was
14 recommended to us by the Water Board, ten to the minus six,
15 we now have people who want to operate composting
16 facilities saying we don't want one-stop if that's what it
17 means. We want multi-stop because we want to take our
18 chances with the Regional Boards.

19 MR. WHITE: Right.

20 I think there are probably going to be composting
21 situations where you're going to want to have ten to the
22 minus six or ten to the minus seven, even, because of the
23 proximity to very sensitive water sources.

24 But for your purpose of your statewide
25 regulations, I would hope that the Water Board would not

1 mandate for composting facilities that you establish the
2 same kind of high level of protection.

3 I would think that if you establish, for example,
4 ten to the minus four, statewide, provides a base. Then a
5 Regional Board can say, yeah, that looks like it is going
6 to be protective. I don't even have to get into regulating
7 composting facilities except in those specific local
8 situations where a higher standard is necessary, and the
9 regulations should provide that.

10 Here is the standard base for composting. The
11 can go to higher standards in some situations on a local
12 basis if they feel that it's necessary. Ten to the minus
13 four, I believe that most Regional Boards on 89 percent of
14 composting facilities would go with ten to the minus four.
15 Only those few additional situations would they require a
16 more stringent standard.

17 I have given you some suggested language in
18 writing that I sent last Friday on the comment deadline.
19 There should be certain parts of parts the composting
20 facility, for example, the collection of runoff water from
21 the composting area that would be appropriate for say ten
22 to the minus six type of protection, but the basic working
23 surfaces would be appropriate.

24 We're getting too much into composting and not
25 regulation detail, and there are other people who want to

1 speak.

2 There is a way to coordinate the two regulatory
3 programs without having to--

4 JOINT HEARING OFFICER HUFF: I was struck by the
5 irony, here we were taking a step toward trying to get us
6 to one-stop, and, at least in our view, our steps were
7 being greeted with that, well, if that's what it means,
8 maybe we don't want one-stop.

9 We can talk about the details, and we have.

10 The path to one-stop is more difficult than it
11 seems.

12 MR. WHITE: What I would hate to see happen is
13 what happened with respect to the overlap between Water and
14 Hazardous Waste, where in the case of containment systems
15 and groundwater monitoring, both agencies adopted
16 regulations that were intended to be similar but not quite
17 the same. There are some differences.

18 We're talking this box here, DTSC has groundwater
19 containment and groundwater monitoring standards that are
20 on the regulations. They virtually parallel the same
21 regulations adopted by the Water Board.

22 But you're going to you modify those regulations,
23 you've got to modify them concurrently with both agencies,
24 and that creates the worst situation.

25 Particularly if you get into modifying Subtitle

1 D, Chapter 15 regulations for Subtitle D, not only are you
2 talking about coordinating a Subtitle D program for both
3 the Water Board and the Waste Board, but DTSC regulations
4 to the extent that your Chapter 15 regulations overlap
5 them. You have to modify those as well and it creates a
6 nightmare.

7 October is rolling towards us very quickly, and
8 we're getting increasingly concerned.

9 JOINT HEARING OFFICER HUFF: Okay. Thank you
10 very much.

11 Let's take a break for ten minutes.

12 (Thereupon a brief recess was taken.)

13 JOINT HEARING OFFICER HUFF: We're all anxious to
14 hear Larry Sweetser make his presentation.

15 Let me say that we have had five people speak to
16 us, and we have six more. We do need to get on with the
17 show.

18 Let me also say that I'm really pleased with the
19 comments, the nature of the comments, the helpfulness that
20 I think is inherent in all the comments we've had so far,
21 the specificity. This has been a really good morning so
22 far. I expect that it will continue as we go through the
23 rest of the speakers.

24 I want to commend all of you for the effort that
25 you have already put into this. Thank you.

1 Larry.

2 MR. SWEETSER: Good morning, Board Member Huff
3 and Board Member Stubchaer. My name is Larry Sweetser.
4 I'm the Director of Regulatory Affairs for NorCal Waste
5 Systems.

6 I want to direct most of my comments to the
7 financial assurance requirements. The basic intent of
8 financial assurance is basically two-fold.

9 One is to ensure proper operation. The second is
10 to ensure that adequate resources are available in order to
11 address any environmental problems that may arise. That's
12 the basic premise of all these requirements for financial
13 assurance.

14 This assurance is provided by many of the
15 requirements. Essentially, we have closure and postclosure
16 and operator liability, which are Waste Board
17 requirements. We have Article 5, which is a Water Board
18 requirement. Now we have Subtitle D which is a Federal
19 requirement that fits into the mix somehow.

20 Everybody anticipates other requirements may come
21 down in the future, so, hence, even more need to streamline
22 now rather than later.

23 I'm not going to itemize each of these
24 requirements. This is just kind of an overview of each of
25 those components.

1 Under closure and postclosure, the basic intent
2 is to prevent any environmental contamination both during
3 and after operation, with the emphasis on providing making
4 sure that adequate funds are available and that the amount
5 itself is actually self-determined by the operator, but
6 basically it's an operational requirement.

7 Operating liability is to demonstrate adequate
8 financial ability to compensate third parties for bodily
9 injury and property damage by facility operator prior to
10 closure. That essentially deals with general liability and
11 environmental incurrence and doesn't have a cap on the
12 coverage for that.

13 Article 5 is basically for owners and operators
14 of Class 3 landfills where they have to obtain and maintain
15 assurances of financial responsibility for initiating and
16 completing corrective action for all known or reasonably
17 foreseeable releases from the waste management unit.

18 That's essentially a worst-case scenario for
19 corrective action with similar mechanisms for that as does
20 for closure and postclosure mechanisms.

21 Then we have Subtitle D, which is essentially the
22 overall requirements, but a lot of it is still unclear,
23 unlike Article 5, which is -- Subtitle D just deals with
24 the worst-case, worst-detected case for corrective action.

25 California has gone beyond that with a number of

1 similar mechanisms, but they're not identical to what
2 Subtitle D has, so there is a lot of unclarity on that and
3 how that's going to be implemented in California.

4 It still remains a mystery. Chuck White has
5 given some of the deadlines for that.

6 As operators, we're still trying to wrestle with
7 how we're designing landfills now to take those
8 requirements into play with a lot of things changing.

9 As a quick summary of some of these, just a
10 little chart dealing with some of the coverage for
11 financial assurance. The shaded areas on the chart is
12 where you're putting money in or taking money out.

13 As I mentioned in the beginning, we have
14 operation of the landfill. That's one component.

15 Then we have to deal with the landfill after it's
16 closed. Closure and postclosure, basically you're
17 collecting money now for things later. Under operating
18 liability you're collecting and using money now, but it
19 stops at the time of closure.

20 Then Article 5, Subtitle D are all dealing with
21 collecting and using money now and after. So, there is
22 some room for some overlap, as you can see there.

23 Basically what results from all this is some
24 inconsistencies on the requirements, what they are and how
25 they're implemented. I'm not trying to single out one, but

1 the same rules need to apply to all parties, owners,
2 operators, whether they are public, private, large or
3 small.

4 Basically, we're looking for every one needs the
5 ability and has the ability to meet these requirements
6 consistently.

7 As far as the impacts some of these multiple
8 requirements, one is the delay in implementing the
9 requirements due to redesigning mechanisms. Everytime there
10 is a new fund, there's a new mechanism that needs to be set
11 up. It would be very helpful to sort of streamline some of
12 the available mechanisms.

13 The cost of establishing the funds, the up-front
14 money that is needed, I know from our own case where we set
15 a number of trust funds, each time we have to do a fund for
16 each site, we have a number of set-up fees and tax fees and
17 reporting fees for each of the funds. That amounts to
18 significant dollars set aside just to deal with that and
19 having nothing to do with the actual requirement.

20 The other is the cost recovery issue. For
21 anybody trying to recover these monies in the rate,
22 typically there is a one- to two-year lead time to try to
23 get these monies in there for requirements that are being
24 imposed now.

25 Many of these requirements are not clear, so

1 we're trying to develop set aside money and explaining to
2 communities why we need these funds for something that's
3 not quite clear, as well as the rate shock of people when
4 these funds are developed.

5 We tend to be going back trying to get this
6 money, and the fund keeps going up and people want to know
7 why.

8 As far as recommendations, one, quite possibly
9 for the State to take a role in the public education side,
10 explaining to people the need for these funds. It would
11 sure help to have somebody, something we could point to out
12 there for these funds as well as solid waste in general as
13 to why people's bills keep going up.

14 Another one is establishing some sort of common
15 fund where necessary, either one large fund or maybe
16 minimizing a number of funds, such as dealing with the
17 operations side versus the environmental issue side.

18 Also, with a reality check on the appropriate
19 costs that are involved. Right now under some of these
20 funds, there really is no mechanism for what is a
21 reasonable cost, and so people are left to their
22 imagination on that. A reality check might help determine
23 whether these funds are reasonable or whether they are out
24 of line, as well as developing a system mechanism for
25 funds.

1 Another one was briefly mentioned this morning
2 also is under closure/postclosure, many landfills are now
3 closing as you go. The requirement itself,
4 closure/postclosure, doesn't allow for that.

5 Basically, even if you're doing activities now,
6 you still have to set aside money for those later.

7 In summary, I think some funding requirements
8 would provide more funds available for operations and
9 probably less funds for the consultants, accountants,
10 engineers and attorneys needed to set up all these funds.

11 Just remember that in the basic requirements of
12 all these assurances is to make sure there is a safe design
13 and operation, and that there are adequate resources for
14 environmental issues as they arise.

15 Thanks.

16 JOINT HEARING OFFICER HUFF: Any questions?

17 Thank you, Larry.

18 Next Kathy Fletcher.

19 MS. FLETCHER: Good morning, Members Huff and
20 Stubchaer. I'm the fourth member of the tag team, and my
21 purpose is to discuss the Solid Waste Disposal Site Cleanup
22 and Maintenance Account, also known, thank heavens, as the
23 Eastin account.

24 The AB-3348 study is an opportunity to reassess
25 the purposes for which the account was created, and explore

1 more efficient and effective uses for these monies.

2 The Eastin account was originally established in
3 1987 by AB-2448 to provide monies to respond to potential
4 health and environmental problems at solid waste landfills,
5 support State and local landfill permit and enforcement
6 programs and provide grants to local agencies for household
7 hazardous waste programs.

8 \$20 million annually is deposited into the Eastin
9 account by fees based on tonnage levied on private and
10 public solid waste landfills. The fees have increased
11 annually from fifty cents a ton in 1989 to fifty-six cents
12 per ton currently.

13 Since the passage of AB-2448 five years ago, the
14 Legislature, the California Integrated Waste Management
15 Board, the Water Resources Control Board and the Air
16 Resources Board have enacted extensive and stringent
17 statutory and regulatory changes to solid waste law to
18 ensure the safe management of solid waste landfills.

19 These changes include financial responsibility
20 for corrective action, water and air monitoring
21 requirements, water and air quality protection standards,
22 financial assurances for closure and postclosure and
23 standards for closure and postclosure, third party
24 liability insurance, mandatory household hazardous waste
25 programs and enhanced enforcement activities by all the

1 regulatory entities.

2 Due to these comprehensive changes in the
3 regulatory landscape, we suggest that the Eastin account be
4 adjusted accordingly to reflect these changes.

5 Specifically, we offer the following suggestions
6 for study; Household Hazardous Waste grants. Continue to
7 collect and disburse at the State level that portion of the
8 monies presently used to fund the discretionary grant
9 program which is now funded at \$3 million per year, and
10 transfer the collection and disbursement of the
11 nondiscretionary funds to local governments. That's \$4
12 million per year.

13 The discretionary grant program provides on a
14 competitive basis the seed money to expand household
15 hazardous waste programs and for innovative or more
16 cost-effective programs. Priority for these monies is new
17 programs for rural and underserved areas, small cities and
18 for joint or regional programs, we believe a State run
19 program is appropriate.

20 However, the State-based, nondiscretionary grant
21 program duplicates the efforts of local governments, is
22 very expensive to administer and is no longer necessary as
23 an incentive for local governments to provide household
24 hazardous waste programs.

25 Under the current funding mechanism, local

1 governments collect fees from landfill operators, transmit
2 them to the State Board of Equalization, which then
3 deposits the money into the Eastin account for
4 reimbursement back to local governments by the Integrated
5 Waste Management Board.

6 Due in part to sizable administrative costs for
7 implementation of the program at the State level, local
8 governments are reimbursed only a fraction of what they
9 originally collected, making it imperative upon them to
10 find additional sources of funding for their household
11 hazardous waste programs.

12 Moreover, the amount of money reimbursed each
13 jurisdiction is uncertain year to year, thus, diminishing
14 their ability to consistent long-term program and budget
15 planning.

16 We suggest the State transfer the collection and
17 disbursement of these funds to local governments for the
18 purpose of funding and implementing household hazardous
19 waste programs.

20 In addition, the existing law may need
21 strengthening to ensure that the local governments are
22 providing adequate household hazardous waste programs.

23 Local enforcement grants, we suggest that the
24 Eastin surcharge earmarked for local enforcement grants be
25 phased out over time. Additionally, guidelines delineating

1 the appropriate costs and expenditures by the LEA should be
2 adopted by the Waste Board as has been done with other
3 local programs overseen by Cal EPA agencies.

4 One example is the statutory mandate upon local
5 underground storage tank programs. They have put a cap on
6 how much overhead can be charged at the local level.

7 It is our understanding that Local Enforcement
8 Agencies are fully funded by the solid waste facilities
9 under their purview. Therefore, it's puzzling that
10 additional monies from the Eastin account are needed.

11 In addition, Local Enforcement Agencies currently
12 have not been provided guidance by the State Board on what
13 charges and expenditures are appropriate, thus, there are
14 major inconsistencies between one jurisdiction and another.

15 Corrective action and cleanup, we suggest the
16 study look at transferring the corrective action and
17 cleanup fund in the Eastin account to a new program for the
18 tipping fee funding of hazardous waste removal and remedial
19 actions at co-disposal sites, those sites with both
20 municipal solid waste and hazardous waste.

21 I think there are a lot of them since most sites
22 accepted both hazardous and solid waste before 1976. They
23 were just called industrial waste at that point.

24 Technically, the Eastin account tipping fee was
25 adopted by the Legislature as a fee not a tax. Its proceeds

1 were to be used for removal and remedial actions at sites
2 owned or operated by persons who have contributed to the
3 fund, and in proportion to amounts contributed.

4 Basically a fee for service rather than a tax for
5 the general welfare. The Legislative intent was to provide
6 a fund for existing operators to cleanup environmental
7 problems at their sites and not for use at orphaned sites,
8 or to pay for an owner's or operator's alleged share of
9 cleanup liability at a co-disposal site.

10 Given the requirements for closure/postclosure
11 funding, financial assurance for corrective action,
12 operating liability and other similar requirements in
13 current law, the set aside of the cleanup fund for owners
14 and operators of existing operating facilities may be
15 superfluous.

16 It has become clear, however, that an equitable
17 mechanism should be provided to pay the portion of the cost
18 of cleanup attributed to public and private entities and
19 persons held responsible for the disposal of municipal
20 solid waste at co-disposal sites. Such a fund could be
21 created as a sub-account to the Integrated Waste Management
22 account.

23 Use of the account, we suggest that the study
24 look at amending current law which established the Eastin
25 account to ensure that these funds cannot be expended for

1 any purpose other than that for which they are intended.

2 As we all know, the build-up of a substantial
3 reserve in the Eastin account this year, coupled with the
4 continuing budget shortfalls places the fiscal viability of
5 the account in an extremely vulnerable position.

6 This year over \$20 million was either transferred
7 to the General Fund to help backfill the budget shortfall,
8 or it was transferred for other purposes by the Board and
9 the Legislature.

10 This year we recognize the urgent need to do our
11 part to help reconcile the State budget, however, we are
12 extremely wary about leaving any inappropriate funds in
13 this account in the future.

14 We fully support an aggressive, well-funded solid
15 waste program and would like to work with you to ensure
16 that the program is efficient and effective.

17 JOINT HEARING OFFICER HUFF: Any questions?

18 JOINT HEARING OFFICER STUBCHAER: No.

19 JOINT HEARING OFFICER HUFF: I may not be as wary
20 as you about leaving inappropriate balances in the account,
21 but I'm worried.

22 I think it's a safe prediction that if there is a
23 reserve left in this account come, I don't know, sometime
24 in July or August or September, that the Legislature will
25 do exactly the same thing that they did a year ago.

1 In fact, some people will remember last year that
2 in conversations with me, I predicted that the Legislature
3 would rip off as much of this account as they could.

4 That did not make me a great prophet. That one
5 you could see coming.

6 I don't know what to do about it, though.

7 MS. FLETCHER: I think it will help if all the
8 funds are earmarked instead of building up a huge reserve.

9 There was over \$20 million in the reserve.

10 JOINT HEARING OFFICER HUFF: That's right.

11 There is a problem there. Who pays for orphaned
12 sites? I think I heard you say that this fund shouldn't
13 pay for the orphaned sites.

14 MS. FLETCHER: We have to look at the orphaned
15 sites as well.

16 I think that is important. I don't know if the
17 Department of Finance is going to be looking into that, but
18 from the people that I talked to who worked on the original
19 Eastin bill, AB-2448 in 1987, and actually from the
20 author's office as well, we believe that the intent of that
21 legislation as a fee was to take care of those sites where
22 the operators are paying into the fund.

23 So, it's controversial. We need to eliminate
24 that controversy and get set on a course that we all
25 understand.

1 JOINT HEARING OFFICER HUFF: Because that fund,
2 if it's not going to handle orphaned sites, it may be
3 collecting too much money.

4 MS. FLETCHER: That may be true as well.

5 The fund should probably have a cap on it.

6 JOINT HEARING OFFICER HUFF: It's \$20 million in
7 the law right now.

8 Whatever it takes to raise \$20 million, that gets
9 translated into the fifty-six cents.

10 MS. FLETCHER: It's not really \$20 million into
11 that particular, into cleanup fund, but I think that the
12 cleanup fund has a cap now of \$100 million that you could
13 collect over time, and the money sits in reserve.

14 We'll never get the money.

15 JOINT HEARING OFFICER HUFF: I'm also informed
16 that at least in some counties they have rounded the
17 fifty-six cents to an even sixty cents that they collect on
18 behalf of the fund, even though they only transmit
19 fifty-six.

20 I'm also told that some counties have even
21 rounded the fifty-six cents to a dollar.

22 MS. FLETCHER: They can charge what they wish.

23 Thank you.

24 JOINT HEARING OFFICER HUFF: Okay. Eric Newman.

25 MR. NEWMAN: Board Members, Eric Newman, on

1 behalf the Aprea tag team.

2 JOINT HEARING OFFICER HUFF: In light of the
3 season, I could have called you all ghosts of this that or
4 the other thing.

5 MR. NEWMAN: Appropriately, I do have the least
6 to say. That's not to say that it is unimportant.

7 We have focused or we have discussed to this
8 point in various presentations consolidation of the fees.
9 I would point out, Mr. Huff, you asked Pam Milligan why the
10 fees were important and should they be a part of this
11 study, the legislation and, indeed, the background paper
12 that was presented today by your staff indicates that the
13 fourth element of AB-3348 is indeed consideration or
14 consolidating fees.

15 I would just like to speak to that briefly. The
16 California Integrated Waste Management Board has a tipping
17 fee that is set at seventy-five cents, and, as you've
18 noted, can go up to a dollar, and has, in fact, gone up to
19 a dollar in some cases.

20 As you also noted, the solid waste site operators
21 are assessed a fifty-six-cent, perhaps sixty or perhaps a
22 dollar a ton tipping fee to fund the Eastin hazardous
23 reduction program.

24 In addition, we've seen requests for substantial
25 landfill operating fees by the Water Board. It's been

1 about \$10,000 per landfill to date, but there have been
2 requests in the last two years of legislative activities
3 for as much as \$150,000 or more per landfill.

4 In addition, proposals providing for other solid
5 waste fees have been announced from time to time that may
6 serve as a funding for various solid waste regulatory
7 activities. Two of note are the Solid Waste Assessment
8 Test programs, SWAT, and the Household Hazardous Waste
9 programs.

10 In the spirit of the consolidated, streamlined
11 and efficient regulation that we have advocated in the
12 previous presentations, we believe that it makes utmost
13 sense to combine these multiple solid waste regulatory
14 funding mechanisms into one elevated tipping fee and to
15 deposit the proceeds all into the Integrated Waste
16 Management Fund.

17 To the extent that you need funding for the
18 Eastin Hazardous Reduction program, the Water Board or
19 other agencies, those kinds of regulatory programs could be
20 all satisfied in terms of their funding needs from these
21 enhanced Integrated Waste Management Funds.

22 This consolidation of fees and funding will
23 sharply reduce administrative costs of collecting these
24 fees and operating these funds. It simply doesn't make
25 sense to have numerous fees and numerous collection

1 mechanisms when they are all basically going for the same
2 sort of activities. We believe that it will provide a far
3 better frame work for assessing fund priorities.

4 Thank you.

5 JOINT HEARING OFFICER HUFF: Any questions?

6 Thank you.

7 Kevin DeLange.

8 MR. DELANGE: Thank you for the opportunity to
9 speak. My name is Kevin DeLange. I'm with Brown, Vence and
10 Associates.

11 I want to commend your respective Boards efforts
12 on this study. It's very timely in light of your budget
13 constraints and the local entities budget constraints that
14 we try and streamline the process and make it more
15 efficient.

16 I'm going to be brief and try and focus on the
17 budget constraints of local communities and provide some
18 recommendations that consolidating this process or
19 streamlining this process will make it more efficient and
20 effective in getting the end goals that we are all looking
21 for.

22 First of all, I would like to mention that as a
23 member of SWANA, Brown, Vence and Associates supports the
24 SWANA written comments and agree with them.

25 One area that they touched on was closure plans.

1 One area that has been confusing in the past is the
2 Integrated Waste Management Board requires a preliminary
3 and final closure plan, where the Water Board requires a
4 closure plan, but it's not defined.

5 Both agencies define the requirements of the
6 contents of the plans. One issue that has been very
7 confusing for local governments is budgeting to prepare
8 these plans and who has the regulatory responsibility to
9 review the appropriate sections of those plans.

10 It would be very effective if the Water Board and
11 the Integrated Board had the same content, which has been
12 mentioned before, but also the same timing on these plans.

13 A preliminary plan defines the closure costs that
14 the local government must set aside. If the Regional Board
15 or Water Quality Control Board doesn't agree with the
16 design but hasn't reviewed the preliminary plan, then the
17 cost that the entity is setting aside may not be
18 appropriate.

19 So, if we could look for a mechanism to tie the
20 plans with your financial budgeting, it would significantly
21 help local governments plan and have the funds necessary.

22 Unfortunately, as discussed with the financing,
23 they don't have the option of setting aside money and if
24 another concern in the local government comes up to transfer
25 that closure account to help pay for another project. They

1 have to set aside the appropriate amounts.

2 In the areas of permitting, that has been
3 discussed significantly, so I will be brief and request
4 that the timing on the regulatory reports, if they could be
5 consistent, it would allow local governments to plan and
6 budget for the consultant they're going to hire to prepare
7 these plans, the remediation that is going to be required.

8 Under the enforcement area, typically both
9 agencies and the LEA will issue some sort of a compliance
10 order in order to budget for cleaning up the environment,
11 or whatever the problem might be, they need to have the
12 same schedule, and they need the same requirements.

13 I don't know how that's -- a simple method for
14 doing that. I guess there are two options. One is you
15 submit a joint enforcement order that is agreed upon by
16 everyone, and certain agencies are responsible for certain
17 aspects of that order.

18 As an example, the Water Board would be
19 responsible for all groundwater compliance issues. The
20 Waste Board would be responsible for all operations
21 compliance issues.

22 That would give that local government the ability
23 to plan what they are going to have to expend immediately,
24 and long-term monitoring and long-term controls.

25 In the area of planning, it has been discussed

1 about the difficulty of the permit process. Currently, the
2 Waste Board is developing siting element draft regulations.
3 It seems like this is the perfect opportunity to get the
4 process to a more efficient level.

5 The siting element defines the process for a
6 local government to look for a new landfill, but, however,
7 it does not include quantitative criteria.

8 The Water Board, on the other hand, does have
9 quantitative requirements where you site a landfill. If
10 these two agencies could help a local government to find
11 exactly if the site is going to be appropriate before they
12 expend the money for looking for all these sites, and not
13 allow it to get to the point where the land use permit has
14 been approved, the Integrated Board has approved the
15 process, but then the Water Board comes in and says, no, it
16 doesn't meet our criteria.

17 If we can find a way in the draft regulations
18 that are prepared right now to combine the two agencies'
19 review, and assure that the site itself is going to meet
20 the requirements, and possibly just put design criteria in
21 that recommendation for approval of the site, and then in
22 that manner, the local government has much less expensive
23 options or opportunity for developing a new site.

24 On the last note, I have seen your agencies in a
25 much more supportive role for the local entities and the

1 landfill operators. It seems, and it's very helpful.

2 In certain cases, staff will tell you before you
3 prepare your closure plan what most likely is going to be
4 approved and is not going to be approved. In many cases,
5 it exceeds the minimum standards.

6 If that is a process that could be clearly
7 defined, and who has regulatory authority or responsibility
8 over certain areas of what is going to be included in the
9 permit document, or the closure plan, or whatever, or the
10 siting element, it would allow the local government a much
11 less costly -- and if the cost is less, we are going to get
12 to the end result, which is cleaning up the site or
13 appropriate new site.

14 Thank you.

15 JOINT HEARING OFFICER HUFF: Thank you.

16 The last two have a combo here, a duo. David
17 Root and Terry Davies.

18 Did I interpret that correctly?

19 MS. DAVIES: Yes, sir.

20 Board Member Huff, Board Member Stubchaer, my
21 name is Terry Davies. I represent the California Forestry
22 Association.

23 In the interest of being brief, I will not repeat
24 a lot of what has been said. I think we have a little bit
25 of a unique situation from the previous testimony, though.

1 We represent people who are in the forest
2 products industry. They have what we call non-hazardous
3 wood waste landfills. These are essentially landfills that
4 are comprised of bark, wood chips and sawdust, and others
5 that are comprised of ash.

6 They are chips and stuff that we cannot put in
7 our co-generation plants because they have either been
8 commingled with rock and soil, or the bark is too hard on
9 the co-gen plant to be effective.

10 These are situated in remote areas. They are
11 about five to fifteen acres in size, and in our opinion
12 don't constitute a significant environmental threat.

13 However, we are being regulated as if we were
14 municipal waste landfills and have to undergo much of the
15 same requirements that municipal waste landfills currently
16 undergo.

17 Mr. Huff, as you are well-aware, last session the
18 Legislature and the Governor signed legislation that gave
19 you the discretion of adopting separate regulations from
20 municipal waste landfills. We do encourage you to go
21 forward with that.

22 Additionally, there has been some talk by Cal EPA
23 of making us a pilot program for a one-stop permit
24 process. We would like to encourage you to do that.

25 One of the problems we've had between the

1 Integrated Waste Management Board and the Water Board is we
2 had a situation, just as one example, of a plant in
3 Oroville where the staff from the Water Board came out and
4 said, "You cannot put your ash with your wood chips. You
5 have to put them in different cells," ash monofil is what
6 we call it.

7 Subsequently, in an inspection from the
8 Integrated Waste Management Board, they came out and said
9 that this was in violation of their permit, so they have to
10 modify their permit.

11 It's that type of thing that we would like to
12 work with you on to avoid duplication and over-regulation
13 that we don't feel merits the environmental magnitude of
14 the landfills.

15 In addition to that, we agree that there needs to
16 be one agency that does this regulation on the ground. If
17 you were to go out to these things, they look like golf
18 courses that have not been mowed for quite sometime.
19 There's not a lot to see.

20 Yet, we have three or four different agencies out
21 there at one time. We would like to suggest, a radical
22 thought, that the State put together statewide goals and
23 have the counties out there as the sole regulators in these
24 areas.

25 The rest of the recommendations I had have

1 already been repeated.

2 I would like to introduce Mr. Dave Root, who is
3 the Division Manager of Sierra Pacific Industries. He would
4 like to give you his thoughts on how to streamline and
5 improve the process, plus he has a story he would like to
6 tell.

7 Mr. Huff, I would like to leave by saying that
8 your staff has been very cooperative in trying to resolve
9 our concerns. We just need some more help.

10 Thank you.

11 MR. ROOT: Good morning, Board Members. My name
12 is David Root. I'm the Division Manager for Sierra Pacific,
13 at their Burney Division.

14 That facility is an energy and lumber producing
15 operation. My experience with regard to landfills is
16 limited to the Aubrey Landfill, which is located five miles
17 from our facility. It serves our facility only.

18 It's a wood waste facility. We dispose of bark,
19 sawdust and ash, wood ash.

20 The wood ash, wood waste disposal operations were
21 initiated under the ownership of Publishers Paper in the
22 late 60's or early 70's. The first record that I have of
23 any governmental involvement was in 1976 when apparently
24 the CDF noticed they were running a wood waste facility and
25 wanted to know if the State was involved in it or not.

1 At that time, I think Publishers requested the
2 California Integrated Waste Management Board to make a
3 finding of need, is what they called it. A waste discharge
4 requirement was generated by the Regional Water Quality
5 Control at that time, and subsequently submitted to the
6 Waste Management Board, who stated at that time "We have no
7 comments regarding the solid waste management aspects of
8 this site."

9 From 1976 until 1988, the landfill operated under
10 the waste discharge requirements set forth by the Regional
11 Water Quality Control Board. All requirements were met, and
12 there were with no problems encountered.

13 The permitting process, in the Spring of 1988, we
14 were contacted by the Regional Water Quality Board stating
15 that our waste discharge requirements needed to be revised
16 because they no longer conform to California code.

17 We were also requested to submit a completed
18 application of a solid waste facility permit. We completed
19 the application, but the Shasta County Department of
20 Environmental Health would not accept it without the
21 following: A copy of the use permit for this facility; a
22 copy of the report of disposal site information and site
23 engineering report; and final waste discharge requirements.

24 After six months of talking to Shasta County
25 Planning Department, we were classified, the subject

1 property was a legal non-conforming use as a landfill site.

2 We also submitted a report of disposal site
3 information and waste discharge requirements.

4 The application for solid waste facility was
5 again denied because the county solid waste management plan
6 did not include our Aubrey Ridge Landfill.

7 We would have to be included, they said, through
8 public hearing and a vote of the Board of Supervisors.
9 Then a permit could be issued according to the
10 Environmental Health Department there.

11 In the Spring of 1989, Shasta County
12 Environmental Health contacted me stating they also needed
13 a report of initial costs, and postclosure costs and proof
14 of financial mechanism to cover those costs; therefore, the
15 application for permit was incomplete.

16 It was stated that as soon as these items were
17 submitted, then I would be advised of other requirements
18 that may be submitted, if any.

19 In the Fall of 1989, a resolution was made by the
20 Shasta County Board of Supervisors to include Aubrey Ridge
21 in the county plan that they had.

22 In the Spring of 1990, Shasta County
23 Environmental Health requested the following additional
24 information: Source of cover material for the landfill;
25 and we responded by saying that we had a borrow area

1 on-site.

2 They responded by saying that we needed a use
3 permit for the borrow area before a permit could be issued
4 to operate the landfill.

5 Later in the Spring of 1990, we were again
6 contacted by Shasta County Department of Environmental
7 Health informing us that California Integrated Waste
8 Management Board informed them that a CEQA review was
9 required before the Aubrey Ridge site could be permitted.

10 Sometime within that period, Sierra Pacific
11 submitted cost estimates and financial requirements to the
12 California Integrated Waste Management Board, and Shasta
13 County Environmental Health Department and California
14 Regional Water Quality Control Board.

15 Still later in the Spring of 1990, the Shasta
16 County Planning Department contacted us to state they
17 needed the following to issue a permit for the borrow
18 area: A thousand dollars for processing permit; a detailed
19 site plan; a reclamation plan and permit; and a negative
20 declaration for the borrow area.

21 Also in the Spring of 1990, we were contacted by
22 the California Integrated Waste Management Board who stated
23 the following: Our closure plan was incomplete because we
24 had not filled out a closure certification form; and our
25 financial assurance mechanism was not adequate.

1 Later on it was found out that it was adequate.
2 After we got into it, it was.

3 In the Fall of 1990, we were again contacted by
4 the California Integrated Waste Management Board who stated
5 that the closure and postclosure plans were deemed
6 incomplete because new requirements had come about. Since
7 we had made our submittal, nine more additions were
8 required to be made to our closure plan, which meant
9 additional engineering costs.

10 By this time we were running out of stockpiled
11 cover material for our landfill and could no longer operate
12 without our borrow area, which was without a permit.

13 The Planning Department stated that they could
14 not issue a permit until we could show them that we had a
15 permit to operate from the Integrated Waste Management
16 Board.

17 We couldn't get a permit for the landfill until
18 we had a permit for the borrow pit. At this point, I
19 decided that we weren't any farther along than we were two
20 and a half years previous.

21 We were about \$85,000 in the engineering costs,
22 and we had not turned a rock. We were no longer able to
23 operate without cover materials.

24 So, I advised the Shasta County Environmental
25 Health Department that we were going to winterize the

1 landfill and asked them what we had to do to close it
2 permanently, what procedure we had to go through.

3 The Shasta County Environmental Health responded
4 by stating we needed to submit a final closure plan, which
5 we had already made, but this one was to be more
6 comprehensive than the one we had already prepared. We had
7 to demonstrate CEQA compliance, and obtain a revised waste
8 discharge requirement from the Regional Water Quality
9 Control Board, and obtain a solid waste facility closure
10 permit, as per the Integrated Waste Management Board.

11 During this period, Fall of '90, I was also
12 contacted by the planning department who had ten additional
13 items to be addressed on our reclamation plan for the
14 borrow are which we still needed a final permit, we needed
15 it for the final closure.

16 During 1991, Sierra Pacific submitted a passed
17 final closure plan, passed the financial needs test and
18 posted bond for closure. Plans were deemed complete by the
19 Integrated Waste Management Board for filing only, and
20 would be given further consideration.

21 Plans were deemed complete by the Shasta County
22 Health Department, but a more thorough review was
23 required.

24 January through May, plans go through what is
25 called a clearing house, where I guess they gone through a

1 sixty-day period where they go through various agencies,
2 and additions were made by the California Water Quality
3 Control Board, Shasta County Environmental Health, CDF,
4 Integrated Waste which we conferred with all those
5 recommendations, because at this point I was afraid if I
6 disagreed with any of them that we would go back to square
7 one.

8 During this time also, our reclamation plan was
9 approved. Our use plan was approved. We got a notice of
10 determination, negative dec, and in May of 1992, the
11 Integrated Waste Management Board notified us that they had
12 approved our closure and postclosure plans, and we were
13 informed by Shasta County we had to fill out another
14 application for closure. That is the third one by now.

15 I hired a contractor to do the job. After that
16 that, I called for a planning meeting, and the
17 Environmental Health Department informed me that it would
18 take sixty days to draft an application for closure to be
19 submitted to the Integrated Waste Management Board.

20 I then terminated the services of the contractor
21 because we were not able to -- weather would not permit us
22 to wait that long to close. We would have had to wait
23 until the following year.

24 In August of 1992, the draft closure permit was
25 submitted to the Integrated Waste Management Board by the

1 Environmental Health Department, and the Integrated Waste
2 Management Board said they would need another sixty days to
3 review the draft closure permit.

4 The draft closure permit was basically the
5 closure and postclosure plan that they had already reviewed
6 sixty days the previous year.

7 The next contact with the California Integrated
8 Waste Management Board was when they contacted the
9 Department of Environmental Health at Shasta County and
10 said they were not going to issue a closure permit because
11 we never had a permit to operate.

12 This is probably five years down the road. The
13 primary reason we wanted a permit to close was so that we
14 would be sure of the stipulations, what the requirements
15 would be for closure. The Integrated Waste Management
16 Board now -- let me read a letter from the Shasta County
17 Environmental Health to the Integrated Waste Management
18 Board.

19 "A draft closure permit for the above-referenced
20 solid waste facility was sent to the California Integrated
21 Waste Management Board on August 11, 1992. At that time we
22 requested the board staff make comments on the draft permit
23 and submit any concerns to this office in writing.

24 We received a phone call over a month later
25 stating that the Board would not concur on the issuance of

1 a closure permit for a facility that did not have an
2 existing solid waste facility permit.

3 I asked the Board staff to submit this policy in
4 writing, but to date we have not received any written
5 certification regarding this issue.

6 The policy to not concur on the issuance of a
7 closure permit for a facility that did not have an existing
8 operating permit would contradict statements made several
9 years earlier by Board staff when this facility was
10 deciding whether to obtain an operating permit for
11 operation of a landfill or to cease operation and proceed
12 with obtaining a closure permit.

13 Sierra Pacific Industries chose the later option
14 and proceeded with permanent facility closure by preparing
15 and submitting closure and postclosure maintenance plans.

16 The Board approved the closure and postclosure
17 maintenance plans in a letter dated May 22.

18 This office, as the Local Enforcement Agency, is
19 requesting that the California Integrated Waste Management
20 Board submit a written statement clarifying the Board's
21 policy for concurring on the issuance of closure permits
22 for facilities with no existing operating permit.

23 Also, please address whether closure/postclosure
24 maintenance plans are required for this type of facility.
25 Your immediate attention in this issue is greatly

1 appreciated."

2 Conclusion, recommendations, I think there is a
3 need for one local agency that has a flexibility to
4 regulate and permit, permit, regulate and permit to close
5 on a site-specific basis.

6 This landfill is less than two and a half acres.
7 We have had representatives from the Integrated Waste
8 Management Board, the local agency, the California Regional
9 Water Quality Control Board, CDF, the Wildlife, they come
10 up and look at it and they say, "Boy, this thing isn't even
11 a landfill. You shouldn't have to operate under the
12 regulations that are provided for a big municipal
13 landfill."

14 At this point, all I want to do is close it. I
15 received contact from the Integrated Waste Management Board
16 that said, this is to let you know that you don't need a
17 closure permit. If you go ahead and close it, we will
18 issue you a certification of closure, and that will mean
19 that there is a possibility that you may not, that further
20 stipulations, that you will be regulated by, that there
21 will be further regulations stipulated to you after it's
22 closed.

23 We need some kind of an assurance that once we do
24 this that we are done with it. So, my recommendations are
25 that somehow there is one agency to deal with, one agency

1 that can tell us and give us direction.

2 We would like to get it done, but we don't know
3 what we're supposed to do.

4 Any questions?

5 JOINT HEARING OFFICER HUFF: I have two
6 reactions.

7 One, your story certainly points us in the
8 direction of looking at the LEA-Board respective roles
9 here, because part of your story deals with that.

10 That doesn't resolve your specific problem, and
11 this study won't resolve your specific problem.

12 But talk to Mr. Rob Saroyan, there, who is the
13 Committee liaison for the Permitting and Enforcement
14 Committee, and he's going to be your focal point to
15 interface with our bureaucracy, and we'll get you some
16 answers on your specific situation in a time frame that
17 doesn't have to be written into a study done by the
18 Department of Finance.

19 The subject matter and the problems that are
20 illustrated by your story, of course, can be part of the
21 study, and will be part of the study.

22 Okay?

23 MR. ROOT: Thank you.

24 JOINT HEARING OFFICER HUFF: Now, I have
25 exhausted all of these little slips of paper. Did someone

1 forget to fill anything out?

2 Are you all satisfied that everything has been
3 said that needs to be said?

4 Thank you very much for all of your testimony. I
5 think it's been very good and very helpful. I want to
6 commend you for being able to be here today and present
7 meaningful issues for the consideration of the kick-off of
8 this study.

9 Bert, do you have anything else you want to say?

10 MR. BRENDE: I would just like to concur and
11 give you my thanks for the input.

12 You certainly have started us out in the right
13 direction, and I think we can bring this to a successful
14 conclusion.

15 Again, I would encourage you to get any written
16 comments in to us as soon as you possibly can.

17 Thank you.

18 JOINT HEARING OFFICER HUFF: Was the background
19 paper generally available to people? So, everyone should
20 have a record of the appropriate phone numbers if they want
21 to contact the people doing the work here; is that correct?

22 That being the case, we'll be adjourned.

23 (Thereupon the Joint Hearing was adjourned
24 at 11:50 p.m.)

25 --oOo--

