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REGULAR MEETING

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CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

3

PERMITTING AND ENFORCEMENT COMMITTEE

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BOARD ROOM

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8800 CAL CENTER DRIVE

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SACRAMENTO, CALIFORNIA

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WEDNESDAY, DECEMBER 9, 1992

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10:15 A.M.

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Reported By:

24

Clara Mae Mathis,
CSR No. 2832

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MEMBERS PRESENT

Jesse Huff, Chairman
Sam Egigian
Paul Relis

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P R O C E E D I N G S

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3 CHAIRMAN HUFF: The meeting will be convened. This is
4 the Permitting and Enforcement Committee. If you thought it was
5 something else, you can leave.

6 Item 14 has been pulled. I'm not going to be taking
7 things in order. I have never been of the persuasion that
8 numbering systems need to be sequential or unique.

9 I understand we have no contracts or interagency
10 agreements; isn't that correct? That's just the place holder
11 that was put here.

12 What I want to do is try to get through all these LEAs as
13 quickly as possible. This is pretty routine stuff. I know at
14 least with regard to Item 13, that is -- okay. That's not a LEA
15 certification. But Item 13 we will also watch because that
16 person has a 12:30 flight.

17 If anyone else has a flight you are trying to catch in
18 this weather, please let me know. We will try to accommodate
19 that.

20 Roll call to establish quorum. Thank you. I got it from
21 both sides.

22 MS. KELLY: Board Member Egigian.

23 BOARD MEMBER EGIGIAN: Here.

24 MS. KELLY: Board Member Relis.

25 BOARD MEMBER RELIS: Here.

1 MS. KELLY: Board Member Huff.

2 CHAIRMAN HUFF: Here. A quorum is present.

3 MS. VASQUEZ: Mr. Chairman, as to Items 3 through 10,
4 we have a situation with Item 3. Yuba/Sutter is the first
5 jurisdictional LEA certification to be considered by this board.
6 Yuba County will be acting as the LEA for both jurisdictions.

7 Another item -- it's a little different -- Item 5, Nevada
8 County designation certification. This item is unique in that
9 the board has served as the regulating agency for McCourtney
10 Road landfill since April of 1991. That was arranged per the
11 judgment pursuant to stipulation. It was with worked out
12 through the court system.

13 The temporary certification for Nevada County would
14 expire January 1, 1993. In the judgment pursuant to
15 stipulation, the County was directed to make -- County as
16 operator -- was directed to make some changes at that facility,
17 and they have made notable progress in fulfilling the JTPS.

18 Certification for this LEA would make the LEA responsible
19 for the landfill once again and for all responsibilities except
20 for outstanding JTPS issues at the McCourtney Road landfill.

21 Also, there is a proposed permanent new transfer station
22 at McCourtney Road landfill included in today's agenda in
23 Item 17.

24 CHAIRMAN HUFF: Thank you.

25 MS. COYLE: Mr. Chairman and members, once again we are

1 in front of you to discuss certification of LEAs.

2 As you will recall, in July we granted 34 temporary
3 certifications that expired over the past few months, and next
4 month. The staff has put the map up on the monitor so that you
5 can recall the amount of temporary certifications and the
6 locations those were given.

7 We have since gone through full certifications for all
8 but 20 of those 34. After today, we will only have 14
9 remaining. And if the staff would change them out to just to
10 show the Committee the difference today makes. So as you can
11 see, they are narrowing down.

12 With that, I would like to begin our presentation with
13 the consideration of certification and designation of Yuba
14 County Environmental Health as the Local Enforcement Agency for
15 the Counties of Yuba and Sutter. As Martha was mentioning, this
16 is the first multijurisdictional package to come before you.
17 Next month we will have some more of those.

18 As you know, the statute allows local governing bodies to
19 designate an enforcement agency to carry out solid waste
20 permitting and enforcement in their jurisdiction. Regulations
21 require the agency to submit for Board approval an enforcement
22 program plan. Those plans must discuss the agency's technical
23 expertise, adequate staff resources, adequate budget resources,
24 training, the existence of at least one permitted solid waste
25 facility within the jurisdiction, no operational involvement,

1 and a sole enforcement agency per jurisdiction.

2 After approval of the EPP, the board may issue
3 certifications for Forest Heights. They all relate to facility
4 inspection, enforcement, and permitting for either solid waste
5 landfill, transfer processing stations, or incinerators.

6 With the background completed, this first item is to talk
7 about Yuba/Sutter, and at the July 16th meeting the Board
8 granted conditional certification to Yuba County Environmental
9 Health as the LEA for the Counties of Yuba and Sutter until
10 January 1, 1993. The initial certification was granted to allow
11 staff sufficient time to review the package and the agency the
12 time to make comments on our comments if necessary.

13 The documentation is now meeting the requirements of
14 statute and regulations, and we find that they are complete and
15 acceptable for the Board to issue certification.

16 With that, Marc Arico will go over the detailed fact
17 sheet for the jurisdiction.

18 MR. ARICO: Mr. Chairman and committee members, I would
19 like to present the designation of certification facts for the
20 Yuba County LEA.

21 The governing bodies are Yuba and Sutter Counties and the
22 majority of their cities. The designated jurisdiction is Yuba
23 and Sutter Counties, and Yuba County Environmental Health is the
24 designated enforcement agency.

25 They have 29 facilities that include three landfills, one

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1 transfer station, one material recovery facility, 17 closed
2 sites, four illegal, two exempt sites, and one inactive. They
3 requested all four types of certification and have demonstrated
4 adequate budget and staff as well as technical expertise.

5 Pat Gavin from the local enforcement agency was unable to
6 make it due to illness this morning. Any questions that you
7 might have, we would be glad to answer.

8 CHAIRMAN HUFF: Yes, Sam.

9 BOARD MEMBER EGIGIAN: We had a sort of an agreement that
10 at some time, not exceeding -- was it six months?

11 MS. COYLE: Six months, right.

12 BOARD MEMBER EGIGIAN: That we would be told about the
13 illegal and abandoned sites. I just want to make sure that this
14 is still the rule that we are working on.

15 MS. COYLE: Yes, Mr. Egigian. We will be reporting on
16 the status of all those abandoned sites for these items and all
17 the items you have heard, at a six-month interval.

18 BOARD MEMBER EGIGIAN: So I won't bring it up on the
19 others.

20 MS. COYLE: Thank you.

21 CHAIRMAN HUFF: Any other questions?

22 BOARD MEMBER RELIS: Motion.

23 CHAIRMAN HUFF: It's been moved. Could we have a roll
24 call.

25 MS. KELLY: Board Member Egigian?

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1 BOARD MEMBER EGIGIAN: Yes.

2 MS. KELLY: Board Member Relis?

3 BOARD MEMBER RELIS: Aye.

4 MS. KELLY: Chairman Huff.

5 CHAIRMAN HUFF: Aye. The ayes have it three to nothing.

6 The motion is adopted.

7 Item 4.

8 MS. COYLE: This is consideration of certification and
9 designation of Tehama County Department of Environmental Health
10 as the LEA for the County. The Board granted conditional
11 certification on July 16th until January 1 for this agency
12 because they have not completed their establishment of an
13 independent hearing panel, and their enforcement program plan
14 was not complete.

15 At the time of the preparation of this agenda item, the
16 item reflects that those have yet to be received, but I am
17 pleased to announce that they have been received by Board staff.
18 And they are now complete and are ready to be certified.

19 With that, Skip Amerine of the LEA Section will give you
20 the facts.

21 MR. AMERINE: Good morning, Mr. Chairman and Committee
22 members.

23 Tehama County Board of Supervisors and its cities has
24 designated Tehama County Department of Environmental Health as
25 the enforcement agency. The jurisdiction has 22 facilities and

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1 sites, two landfills, three transfer stations, a material
2 recovery facility, 11 closed sites, one illegal site, and three
3 inactive sites, and one site with no records at this time. They
4 have demonstrated adequate staff and procedure at the present
5 time.

6 At this time I don't believe we have a representative
7 from the LEA here today.

8 CHAIRMAN HUFF: Questions?

9 BOARD MEMBER RELIS: Motion.

10 CHAIRMAN HUFF: Without objection, we will substitute the
11 prior roll call. We have three ayes; noes, none.

12 The motion carried. This is consent.

13 Item 5.

14 MS. COYLE: Consideration of certification and
15 designation of Nevada County Department of Environmental Health
16 as the LEA for the County.

17 As Martha has mentioned, the Board has been the
18 enforcement agency for McCourtney Road landfill since April of
19 '91 pursuant to a judgment of stipulation over incidents
20 involving that landfill. At the July 16th Board meeting the
21 Board granted the county conditional certification until January
22 of '93. That certification was granted to allow Board staff
23 time to complete document review, and if necessary, the agency
24 time to respond to those comments.

25 The documents have now been completed, and they are

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1 acceptable according to statute and regs. We are recommending
2 that the Board issue full certification.

3 I just want to place a caveat on there that the Board
4 will remain the enforcement agency for McCourtney Road landfill
5 on all issues still outstanding with a stipulated order.

6 With that, Jo Clement of the LEA Section will give you
7 the facts.

8 MS. VASQUEZ: I'd like to point out that the
9 certification and designation facts are missing from the packet.

10 MS. CLEMENT: Good morning. Designated agency with
11 enforcement jurisdiction in Nevada County is the Nevada County
12 Department of Environmental Health.

13 There is a total of 20 facilities and sites in the
14 County. The facility types are one landfill, four transfer
15 stations, six inactive, three closed, five illegal, and one
16 abandoned site.

17 The County is requesting all four certification types.
18 The total annual budget is \$159,499. Technical expertise and
19 staff adequacy have been demonstrated. The time-test analysis
20 shows 1.23 PY. Tim Snellings, Vaughan Hall, and Grant Issing
21 from the LEA are here today if you have any questions.

22 BOARD MEMBER EGIGIAN: Mr. Chairman, I have a question.
23 It doesn't really pertain to this in that great extent; however,
24 I was told at a meeting that was held sometime last week that
25 the representative from that area got up and said that they have

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1 solved their problems. They are charging \$148 a ton for dumping
2 material. I want to know is this true.

3 CHAIRMAN HUFF: \$148?

4 BOARD MEMBER EGIGIAN: That's the figure that was given.
5 Whether it's a load or a ton. Can anybody from Nevada County
6 tell us what was going on? I may be wrong on the number. It
7 was a large amount.

8 CHAIRMAN HUFF: Are they getting much traffic lately?

9 MR. FARRELL: Close is good enough in horseshoes, hand
10 grenades, and perhaps in this case. The fee was \$158 per ton.
11 The fee was changed the 1st of the December. It's now 102 for
12 all classes of customers. And, yes, the tonnage has gone down.

13 I'm Tom Farrell, Director of Department of Sanitation,
14 for the record.

15 Not unusual.

16 BOARD MEMBER EGIGIAN: The citizens are happy?

17 MR. FARRELL: Not happy. We have just completed the
18 estimate. We have just completed the estimate, the engineer's
19 estimate, based on 20 percent drawing to the landfill closure
20 cost, and we have made that closure to be in the neighborhood of
21 \$7 million of which we will be supported by something like 70
22 tons a day as an annual average. Not an easy task.

23 BOARD MEMBER EGIGIAN: I sympathize with the City or
24 people who are using the facilities.

25 CHAIRMAN HUFF: Any other questions? Motion?

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1 BOARD MEMBER RELIS: So move.

2 UNIDENTIFIED SPEAKER FROM THE AUDIENCE: I'd like to
3 thank you guys, too, for thinking about us up there.

4 (A document was handed to Chairman Huff.)

5 CHAIRMAN HUFF: What we have here is a letter to members
6 of the Board, so I'll hand it out to the members of the Board.

7 And before you make a motion, if you feel like reviewing
8 the memo you may. Send it down to staff. They're curious too.
9 Send it the other way, too.

10 I think the substance of this letter focuses on an issue
11 with McCourtney landfill. There is some concern about the
12 degree of communication or lack thereof, but I think in terms of
13 its implications to the LEA certification, I think that may be
14 the McCourtney focus.

15 There's a motion?

16 BOARD MEMBER EGIGIAN: I move.

17 BOARD MEMBER RELIS: Second.

18 CHAIRMAN HUFF: Approval of Item 5 has been moved.
19 Without objection, we will substitute prior roll call. The ayes
20 are three; the noes are none.

21 Because of the situation with this County and history of
22 this, I think that Board members just ought to be aware that we
23 are now certifying the LEA and be aware of how staff is
24 regarding what is going on in this County.

25 Item 6.

3
1 MS. COYLE: This is consideration of certification and
2 designation of the Siskiyou County Public Health Department as
3 the LEA for the County. The Board granted a conditional
4 certification for Siskiyou County on July 16th until January 1,
5 1993.

6 The grant certification, conditional certification, was
7 granted to allow the designated enforcement agency to
8 demonstrate they had adequate staff budget, technical expertise,
9 and training. We have received a document that demonstrates all
10 of the requirements pursuant to statute and regs. The Board
11 staff is now recommending that the Board issue certifications.

12 Jeff Watson of the LEA Section will go over the various
13 facts of the County.

14 MR. WATSON: Siskiyou County and all of its cities have
15 designated the Siskiyou County Public Health Department as the
16 designated enforcement agency.

17 There is a total of 45 facilities and sites -- 13
18 landfills, 30 closed and inactive sites, two other sites that
19 have been awaiting disposition.

20 Types of certification requested are A, C, and D and a
21 \$152,299 annual budget, a total of 3.14 PYs, and there is no one
22 present that I'm aware of.

23 CHAIRMAN HUFF: Questions? Motion?

24 BOARD MEMBER RELIS: Motion.

25 CHAIRMAN HUFF: It been moved. Without objection, we

3
1 will substitute the prior roll call. The ayes are three; the
2 noes are none, this is consent.

3 Item 7

4 MS. COYLE: This is consideration of certification and
5 designation of Colusa County Environmental Health Division as a
6 the LEA for the County. Colusa County was granted conditional
7 certification at the July 16th meeting until January of '93.
8 That certification was granted to allow Board staff time to
9 review the document and to have agency response if necessary.

10 The document is complete as to statute and regulations.
11 We are now recommending that the Board issue certifications for
12 requested types. Jo Clement of the LEA Section, again, will
13 give you the facts.

14 Ms. CLEMENT: Colusa County and all its cities have
15 designated the Colusa County Health Department, Environmental
16 Division for a total of 16 facilities and sites -- three
17 landfills, and two transfer stations, site types, closed for
18 illegal enactment and which have not been clearly defined.

19 The request in is for all four certification types. They
20 have a total annual budget of \$46,021. The technical expertise
21 and staff resources have been amply demonstrated. The time-test
22 analysis shows 1 PY jurisdiction.

23 Richard Dixon of the LEA is here if you have any
24 questions.

25 CHAIRMAN HUFF: Questions?

3
1 BOARD MEMBER RELIS: We will be taking up sort of a
2 parallel with the Colusa Evans Road landfill later on. I was
3 just wondering should we in any way correlate the issues there
4 with the LEA certification here? There are no problems?

5 CHAIRMAN HUFF: No, we do this now. As long as we are
6 happy with the LEA, we do this now. And then there are no
7 problems later.

8 Ready? Motion?

9 BOARD MEMBER RELIS: Move it.

10 CHAIRMAN HUFF: It's been moved. Without objection, we
11 will substitute the prior roll call. The eyes are three, and
12 noes are none. The motion carries. This is consent.

13 Almost every one is a consent so far.

14 Item 8.

15 MS. COYLE: This is consideration and certification of
16 designation of Mendocino County Public Health Department,
17 Division of Environmental Health as the LEA for the County. The
18 County was granted conditional certification until January of
19 1993 in order for them to complete their hiring process. They
20 had one staffer that they had yet to hire back in July. They
21 have since done that, and so they are certifiable now. Their
22 documents and all of their --

23 CHAIRMAN HUFF: They are what?

24 MS. COYLE: They're certifiable. (laughter)

25 Their documents are complete.

4
1 CHAIRMAN HUFF: We all are certifiable.

2 MS. COYLE: Excuse that choice of words.

3 Anyway, the staff is recommending that the Board certify
4 them now for the requested certifications.

5 Gabe Aboushanab with the LEA Section will review the
6 facts.

7 MR. ABOUSHANAB: Good morning, Chairman Huff and
8 Committee members.

9 The designated local agency is Mendocino County Health
10 Department, Division of Environmental Health. They have a total
11 of 47 sites. They have ten landfills, four transfer stations,
12 and one composting station. They have got 30 closed sites and
13 two illegal sites.

14 They are requesting all four types of certifications --
15 A, B, C, and D. Their budget is \$100,858 per year. And the LEA
16 has demonstrated staff and technical expertise. 2.2 PYs.

17 I am not aware of anyone representing the LEA here. If
18 you have any questions, I will try to answer them.

19 CHAIRMAN HUFF: Any questions? Motion?

20 BOARD EGIGIAN: Moved.

21 CHAIRMAN HUFF: It's been moved. Without objection, we
22 will substitute the prior roll call. The ayes are three; noes,
23 none, and the motion carried. This is consent.

24 BOARD MEMBER EGIGIAN: Mr. Chairman?

25 CHAIRMAN HUFF: Yes?

4
1 BOARD MEMBER EGIGIAN: Before we go on to these other
2 items, I would like to move back to the Nevada County situation
3 and have somebody bring us in some information as to whether or
4 not there seems to be a lot of promiscuous dumping now and
5 what's happening up there as these higher rates go into effect.
6 It might be for a good guide for us later up the road.

7 CHAIRMAN HUFF: That will be for the next Committee
8 meeting then?

9 BOARD MEMBER EGIGIAN: Yes.

10 CHAIRMAN HUFF: All right. For the next Committee
11 meeting, if we could have some information as to what's going on
12 in Nevada County with the charge that has to be levied and also
13 some information, then, as to what the charges are in the
14 surrounding counties.

15 MR. SNELLING: Okay, I can answer some of those
16 questions.

17 CHAIRMAN HUFF: Identify yourself.

18 MR. SNELLINGS: Tim Snellings, Environmental Health
19 Director, Nevada County.

20 Tom Farrell is here to answer any questions specifically.

21 MR. FARRELL: The promiscuous dumping issue, we regulate
22 -- excuse me. I'm kind of nervous for some reason. We're on
23 the spot a lot, you know.

24 We have approximately a hundred illegal dumping
25 complaints that we have investigated in the past year, and for a

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1 county of our size that is certainly a concern to us. And we
2 have not really seen an increase, though, in the past six months
3 to a year. This is pretty much what with we have been
4 investigating. We haven't seen like an immediate upsurge in the
5 number of complaints or complaint investigations. They have not
6 been required.

7 As far as surrounding counties, I know that we do have a
8 lot of people hauling waste outside of our County. That is of
9 concern to us.

10 We have a new board coming on line. We have three new
11 board members. They are going to have some serious issues to
12 deal with such as mandatory collection. That's being talked
13 about. The rates certainly are a problem, and it causes some
14 concern that nobody will continue to grapple with.

15 As you know, there are no easy answers in this arena, and
16 we are trying to take it one step at a time. This transfer
17 station permit, which you will be hearing later on today, is a
18 good step in the right direction for the County. We hope that
19 we're heading in the right direction and being responsive.

20 O BOARD MEMBER EGIGIAN: If the amount of refuse is
21 declining into the landfill, do you have any idea what's
22 happening to it?

23 MR. SNELLINGS: Well, it is my sense there is a
24 significant out-of-county hauling problem, and we have a local
25 ordinance that we will be looking at to deal with that issue.

4
1 The mandatory collection issue is one way that's being talked
2 about, setting up service areas. And with the rates -- the
3 rates just actually came down reasonably, too, which makes it
4 less practical to haul out of County. So I think we are moving
5 in the right direction.

6 BOARD MEMBER EGIGIAN: The population really is based in
7 Grass Valley and Nevada City?

8 MR. SNELLINGS: That's correct.

9 BOARD MEMBER EGIGIAN: So how far would someone have to
10 drive to go to the landfill in the next county?

11 MR. SNELLINGS: Well, they either go to Yuba or to the
12 one in Placer County.

13 CHAIRMAN HUFF: It's 25 miles?

14 MR. SNELLINGS: It's about 30 -- 25 to 30 miles; whereas
15 McCourtney Road takes about ten minutes from Grass Valley.

16 CHAIRMAN HUFF: In other words, they'd be talking about
17 40 minutes instead of ten?

18 MR. SNELLINGS: I think we are reaching that point where
19 it's becoming less practical to haul out of county. And we are
20 also stepping up our enforcement program to make it doubly a
21 problem for illegal disposal.

22 BOARD MEMBER EGIGIAN: Do you have any idea what this
23 40-mile trip is costing them?

24 MR. FARRELL: Tom Farrell. We are dealing with matters
25 most dear to me, and it's financial for the Department. We have

1 taken a look now for some time at the dollar value of each of
2 our transactions. We find that something like 93 percent of our
3 transactions are \$20 or less.

4 And what we have is a landfill opportunity or transfer
5 station in the Auburn area. The minimum charge is five bucks.
6 Our minimum charges is 4.75. That's the least-cost opportunity.

5
7 So for the customer with very little waste to bring,
8 there is no motivation to drive down to the Auburn area or drive
9 down to Marysville, the Yuba/Sutter landfill area. And I think
10 their minimum charge is something like 3.75. So for most
11 people, weighed against 4.75, there is not the motivation.

12 The key here is that something like 90 percent of our
13 transactions are under \$20. Now, if we look at the other end,
14 the large end, the large load, and you referred to that earlier,
15 if we take one-ton, it's a \$102 opportunity at our transfer
16 station, and it would be something like -- I don't remember, but
17 I think it's probably about 12.50 or something like that if you
18 went through the Yuba/Sutter --

19 CHAIRMAN HUFF: 12.50 a ton?

20 MR. FARRELL: -- per load. I believe they actually do it
21 by volume, but it would be something like that. Maybe \$20.

22 If you went to the Lincoln landfill or the transfer
23 station there, I can't remember the rate. Something like \$20.

24 So there's an \$80 motivation. You can drive a lot of
25 miles for 80 bucks. And I think that -- the dollar value of our

1 transactions have changed with time. We find that we have not
2 lost the individual homeowner, but it appears that all the
3 commercial traffic, that's where they have gone.

4 BOARD MEMBER EGIGIAN: With your transfer station
5 completed now maybe -- is it going to go into your landfill or
6 to outside landfills?

7 MR. FARRELL: The landfill being used is the Anderson
8 landfill in the Cottonwood area. So there has been a
9 significant drop-off. You did discuss earlier what about
10 promiscuous dumping? I think the surge of promiscuous dumping
11 came a year ago when the rates went up in the \$100 range, and it
12 has not changed since then. So it's not like everything's rosy.
13 I think we have already had that crunch, and it hasn't abated.

14 BOARD MEMBER EGIGIAN: You have problems up there, and we
15 wish you a lot of luck.

16 MR. FARRELL: Thank you.

17 MR. ANDERSON: I'd like to make a quick comment.

18 CHAIRMAN HUFF: Identify yourself, please.

19 MR. ANDERSON: My name is Ray Anderson. I'm a citizen of
20 Nevada County.

21 The rates have dropped. It used to cost me \$3.65 for
22 two cans, the 30-gallon cans. Now it costs me 9.50. What they
23 have done is the commercial users' prices have gone down, but
24 the individual household user, actually their rates have gone up
25 three times.

5
1 So I think what they're trying to do, they're trying to
2 discourage people from just taking two or three cans to the
3 landfill at one time. But I think you'll find the majority of
4 people go to the landfill. They don't have the automatic pickup
5 in the backyard. They can't get the service from our Grass
6 Valley or Nevada City disposal because of the location.

7 So the majority of people who do use McCourtney Road
8 landfill take two on three cans. They are the ones bearing the
9 brunt of the new rate. It's a nice drop from 3.55 to 9.50.

10 CHAIRMAN HUFF: Any questions?

11 MS. VASQUEZ: I would like to ask on the information that
12 you have received this morning, are you satisfied? Or are there
13 any questions? Would you like more information?

14 BOARD MEMBER EGIGIAN: Well, I think if there's more to
15 it, we would certainly like to hear about it. If it were the
16 LEA, we would hear real fast.

17 MS. VASQUEZ: It will not be the LEA. I think that's the
18 proposal this morning that Nevada County voted.

19 BOARD MEMBER EGIGIAN: As I stated, my purpose in wanting
20 to know this, it seems to be a trend that rates are going to
21 keep going up and up, and we would like to have some idea of
22 what makes these rates go up and whether or not everything that
23 we're doing is the right -- we are doing it the right way.

24 I don't want to be in a position of moving rates up, and
25 if I hear of being in the trash business all those years, and I

5

1 think of what would have happened to me and how long I would
2 have survived at this kind of a rate per ton, about the second
3 day I would be gone.

4 But any information we could get would be helpful.

5 CHAIRMAN HUFF: It is, I think, a significant issue: The
6 concept of rates this high and their impact on promiscuous
7 dumping. Because we're going to have to confront that at some
8 point in time.

9 Rates are going to go up, and I think dramatically with
10 all the changes that are coming in terms of the cost of
11 operating a landfill. And so I think that here we have a sort
12 of a case study opportunity. Just take a nice little look at
13 what happens when a landfill goes from X to Y and why there is
14 some factor of ten.

15 MS. VASQUEZ: We mean to take a comprehensive look at
16 that and go back. I would ask for two or three months to do
17 that.

18 CHAIRMAN HUFF: Okay. We want it done right, and it
19 isn't clearly something that we have to have done tomorrow. But
20 it is something that I think is of importance to us.

21 MS. VASQUEZ: Very well. We have done 3 through 8.

22 CHAIRMAN HUFF: Good enough. We have completed all the
23 LEA certifications.

24 Ready to go to 9.

25 MS. VASQUEZ: Yes, correct.

5
1 MS. COYLE: This issue is consideration and revision to
2 to the Enforcement Advisory Council membership matrix and
3 appointment of members.

4 As you will recall, at your last meeting in November, we
5 did bring an agenda item to you for consideration to change the
6 membership matrix based on the new body of LEA since
7 certification. At that time we prepared a membership matrix
8 that represents seven categories.

9 We have since found that there were no rural Southern
10 California counties when we were going through trying to
11 identify members.

12 CHAIRMAN HUFF: This comes as no surprise, I'm sure, to
13 anyone from the north.

14 MS. COYLE: We thought there might be be a population or
15 two that might fit the rural category.

6
16 CHAIRMAN HUFF: There are a number of Southern California
17 counties that when it is to their advantage to claim ruralness,
18 do so.

19 MS. COYLE: It didn't fit into our population count.

20 We are now here before you to recommend that that
21 category for the rural Southern California member be changed to
22 a member representing the cities. We had, as you know, always
23 intended to recommend a city appointment, but now it would
24 actually be a designated membership category.

25 Also, we had listed the incorrect Health Officers

6
1 Association, so we would recommend that that be changed to
2 California Conference of Local Health Officers.

3 We have also gone through and prepared a constituent list
4 of all the LEAs broken down to membership categories and of
5 those, staff has prepared a list of recommended members. I
6 would like Marc Arico of the LEA Section to present the details
7 on our recommendation.

8 MR. ARICO: Good morning.

9 We solicited members from the individual categories of
10 LEA constituent list. The following people responded positively
11 and expressed an interest in serving on the Enforcement Advisory
12 Council, and we would like to propose the following membership
13 appointments to the Enforcement Advisory Council:

14 For Urban LEAs - North, Antone Pacheco from Santa Clara
15 County; Urban LEAS - South, Richard Hanson from Los Angeles
16 County; Suburban LEAs - North, Jonathan Krug, Sonoma County; and
17 from the south, Thomas Wolf, Imperial County.

18 Representing rural Local Enforcement Agencies would be
19 Walter Kruse from Tuolumne County and the new city LEAs we would
20 propose Dennis Ferrier from the City of San Jose. The Contract
21 County representative would be Tibor Banathy from the Department
22 of Health Services, and the California Conference for Directors
23 of Environmental Health representative, also chairing that Waste
24 Committee, Donald Koepp from Ventura Couty.

25 California Conference of Local Health Officers

6
1 representative would be Dr. William Walker from Contra Costa
2 County.

3 The staff recommends that the above proposed Advisory
4 Council membership appointment, change to the membership, be
5 made.

6 MS. COYLE: Mr. Chairman, I would just like to point out
7 that three of the members that we are recommending were on the
8 EAC prior, but that will maintain some continuity between the
9 old EAC and current proposed one.

10 CHAIRMAN HUFF: Well, that's good.

11 MS. VASQUEZ: I should also like to add that the group
12 that we have proposed represents a group of real strong LEAs
13 that have a good understanding of their program, commitment to
14 the EAC, and this will probably be the finest team we have seen.

15 CHAIRMAN HUFF: Well, that's my understanding, too, and I
16 think staff is to be commended for their work in this area. And
17 I am very pleased that these individuals have seen fit to
18 basically serve as volunteers in a sense. They have to take
19 their time to come here and talk to us, and do these things. So
20 I'm very pleased that they are willing to do that.

21 I do find it a little -- well, to think of Imperial
22 County as rural still -- I haven't been there for a while.
23 Maybe it's changed. But we will call them suburban.

24 I'm ready for a motion.

25 BOARD MEMBER EGIGIAN: Mr. Chairman, before a motion, I

1 notice most of these terms are two years. Do they all end at
2 the same time? Are they staggered? Or what's going to happen?

3 MS. COYLE: Yes, they are staggered. As you look at the
4 urban ones, they are staggered one and two. Suburbans are
5 staggered one and two, so we won't have a new body every one or
6 two years. They will stagger about half and half.

7 CHAIRMAN HUFF: But those that are two years all expire
8 the same date unless they are one year. They will all expire on
9 the same date. We are talking about nine people. So you are
10 talking about three of them with one-year terms; is that
11 correct?

12 MS. COYLE: Yes.

13 BOARD MEMBER EGIGIAN: Four.

14 MS. COYLE: Four with two-year terms.

15 CHAIRMAN HUFF: Okay. So it isn't all that hard.

16 And they make -- there is nothing to prevent them from--

17 MS. COYLE: Coming back up.

18 CHAIRMAN HUFF: -- coming back up. There is no the term
19 limitation on the EAC.

20 BOARD MEMBER EGIGIAN: I was noticing that one of these
21 very active members, Mr. Fanning, he's not on this; did he not
22 want to come back?

23 MS. COYLE: Mr. Fanning was the representative of the
24 California Conference of Directors of Environmental Health.
25 They have nominated Mr. Koeppe this time.

1 CHAIRMAN HUFF: I'm sure that we will have continued
2 opportunities to talk to John anyway.

3 Is there a motion?

4 BOARD MEMBER RELIS: So moved.

5 CHAIRMAN HUFF: Without objection, we will substitute
6 the prior roll call. Ayes are three; noes are none.

7 Does this go to the Board?

8 MS. COYLE: Well, it would go to the Board for the
9 changes of membership matrix only. Not for any appointment.

10 CHAIRMAN HUFF: Just for the matrix.

11 MS. COYLE: Right.

12 CHAIRMAN HUFF: Consent.

13 We will skip Item 10. And why don't we go into some of
14 these permits and see how quickly we can get through them.

15 Do Item 11.

16 MS. VASQUEZ: Item 11 is consideration of concurrence in
17 the issuance of a new solid waste facilities permit for the Bay
18 City recycling service transfer station, Alameda County.

19 And this facility is located in Oakland and will be
20 operated as a materials recovery facility. The operator will be
21 Bay City Recycling Services.

22 I should note for record that there is a citation on
23 page 2 that states that the site was recently purchased by Waste
24 Management. I think that is incorrect. The facility is being
25 leased by Waste Management.

7
1 This facility, was previously operated as a recycling
2 center only, and that operation was by Norcal. At this time the
3 facility is not operating, and operations will commence only
4 after all pertinent permits have been obtained.

5 The permit would allow the facility to accept a maximum
6 of 600 tons per day of nonhazardous solid waste and will consist
7 of residential and commercial recyclables. Ms. Fernandez will
8 present the material.

9 MS. FERNANDEZ: Good morning, Mr. Chairman and members of
10 the Committee.

11 My name is Amalia Fernandez, and I represent the Permits
12 Branch of the Permit and Compliance Division.

13 This item regards the consideration of a new solid waste
14 facility permit for the Bay City Recycling Services in the
15 County of Alameda. For the record, there were some
16 typographical errors in the permit that have been corrected by
17 the LEA, and the corrected permit has just been passed out.

18 This facility is located in Oakland in an area zoned
19 industrial. This facility will receive a maximum of 250 tons
20 per day of recyclable commercial and the industrial waste. It
21 is anticipated that the facility will be able to divert from 75
22 to 85 percent of that tonnage. The waste stream will consist of
23 materials such as corrugated cardboard, plastics, wood, scrap
24 metal, waste paper, glass, and aluminum beverage cans.

25 The primary mission of the facility is to provide a

7
1 recycling operation for industry in the Oakland area, although
2 the public may also use the facility for recycling.

3 The facility will be open from 6:00 a.m. to 11:00 p.m.
4 daily, and it will be closed on six holidays.

5 The materials recovery operation consists of four main
6 steps, the main steps which are (1) collection of recyclable
7 materials; (2) segregation; (3) baling and compaction; and (4)
8 transportation to the appropriate recycling or disposal
9 facilities.

10 The facilities will institute a hazardous waste exclusion
11 program which will consist of random inspection of loads,
12 training of personnel, and proper hazardous waste handling
13 procedures.

14 The operator anticipates very small amounts of residue
15 from the recycling process. Any material not recycled will be
16 shipped to the Altamont landfill or the Davis Street transfer
17 station.

18 The LEA and Board staff have determined the following:
19 (1) the facilities found in the Alameda County product waste
20 project management plan; (2) the facilities in conformance with
21 the City of Oakland general plan; (3) The project is consistent
22 with the waste diversion goals of AB 1939; and (4) CEQA has been
23 complied with.

24 Staff has reviewed the proposed permit and supporting
25 documentation and found them to be acceptable.

7
1 In conclusion, staff recommends that the Board adopt
2 Solid Waste Permit No. 92-147 concurring in the issuance of a
3 Solid Waste Facility Permit No. 01-AA-0269.

4 The LEA and operator are present and will answer
5 questions if any. This concludes staff's presentation.

6 CHAIRMAN HUFF: Questions?

7 BOARD MEMBER RELIS: I have a question of the LEA and
8 operator on (3) under environmental controls, the dust control
9 system that is being designed here. I would just like some
10 assurance that it's adequate, because a lot of dust is generated
11 in the handling of recyclables, and I want to be sure that it's
12 safe for the workers there.

13 CHAIRMAN HUFF: I think probably that's a question of the
14 operator unless the LEA wants to try to deal with that.

15 MR. THOMPSON: I'm Rich Thompson, environmental manager
16 for Waste Management North America, the operator at this site.

17 In the past we have had this dust system, or I have heard
18 that the dust system was adequate for the facility.

19 Since most of operations are inside the facility, the
20 dust system is able to capture that dust inside there.
21 Basically, it's a centrifugal system, and the dust falls out.

22 BOARD MEMBER RELIS: So do I understand the dust system
23 goes in. Its part of unit that you are building. It's not
24 something in comes in later or is subject to determining whether
25 you need it or not.

7
1 MR. THOMPSON: No, it's already in and has operated in
2 the past.

3 BOARD MEMBER RELIS: Fine. Thank you.

4 CHAIRMAN HUFF: If it didn't work right, CAL/OSHA would
5 be down on them.

6 Is there a motion?

7 BOARD MEMBER RELIS: So move.

8 CHAIRMAN HUFF: It's been moved. Without objection,
9 substitute prior roll call. Ayes, three; noes, none. This one
10 goes to consent.

11 12.

12 MS. VASQUEZ: Item 12 is consideration of concurrence in
13 the issuance of a new solid waste facilities permit for Tank
14 Gulch disposal site in Humboldt County. Pacific Lumber Company
15 proposes to construct and operate a new woodwaste site near
16 Scotia in Humboldt County.

17 The facility will receive wood ash, woodwaste, small
18 amounts of greenwaste and demolition debris. The facility would
19 receive a max of 111.5 tons of waste per day, and the facility
20 would be used exclusively by Pacific Lumber Company.

21 Mr. Mike Kuhn of the Permit Section will present the
22 facts.

23 MR. KUHN: Thank you, Marcia.

24 Good morning, Mr. Chairman and members of the Committee.

25 This item regards a new permit for the Tank Gulch

7
1 woodwaste disposal site in Humboldt County. The Pacific Lumber
2 has proposed to construct and operate a 12-acre woodwaste
3 disposal site in Scotia in Humboldt County.

8
4 The site will receive only waste generated by Pacific
5 Lumber. The waste will be predominately woodwaste and ash from
6 the Company's cogeneration plant. Small amounts of greenwaste
7 and demolition debris will also be accepted.

8
9 The facility will be permitted to receive a maximum of
10 111.5 tons per day and will receive an average of approximately
11 50 tons per day.

12
13 Typical site operations will involve transportation of
14 woodwaste, ten cubic yards to dump trucks from the Pacific
15 Lumber Company in Scotia to the Tank Gulch facility located
16 approximately a half mile to the northeast. Ash will be
17 transported to the landfill in a dedicated, fully enclosed
18 tractor trailer. The waste will be hand-dumped from a tipping
19 pad into the lowest end of the cell and moved into place with a
20 bulldozer.

21
22 During the summer, a two-acre cell area will be
23 utilized. During the rainy season, the active face will be
24 limited to approximately one quarter acre reducing the exposed
25 area.

26
27 The proponent has requested an alternate cover frequency
28 for this facility, and that will be -- intermediate cover will
29 be placed over each eight-foot lift of waste.

8
1 The LEA has included provisions in the permit to include
2 requiring more frequent cover all the way up to daily cover if
3 wind-blown ash becomes a problem at the site.

4 Staff has recently suggested to the operator's consultant
5 that wood base be used as cover for the ash since the two waste
6 pads will be of approximately equal proportions, and the
7 operator will have total control over the delivery schedule to
8 the landfill. The consultant has indicated that they think this
9 is feasible and preferable to the use of soil cover.

10 The LEA and the Board have made the following findings:
11 The facility is in conformance with the County general plan.
12 It's consistent with the County's solid waste management plan.
13 The California Environmental Quality Act has been complied with,
14 and the project is consistent with waste diversion goals of
15 AB 939. Staff have reviewed the proposed permit and supporting
16 documentation and found them acceptable.

17 In conclusion, staff recommends that the Board adopt
18 solid waste facilities Permit Decision No. 92-146 concurring in
19 the issue of Solid Waste Facilities Permit 12-AA-0091.

20 Steve Salzman of SA 10 Consultant Engineers and
21 Geologists are consultant to the operator. He is present to
22 answer any questions that the Committee may have.

23 This concludes my presentation?

24 ACTING CHAIRMAN RELIS: Any questions of staff?

25 I have a couple of information questions and .

8
1 clarification. On page 108, the last paragraph, the second
2 sentence, it says, "The tank will be located inside a secondary
3 containment structure. The leachate will be brought to the
4 cogeneration facility and recycled back into the ash to control
5 dust."

6 Could you just explain that a little further to me. I
7 haven't read about this type of thing.

8 MR. KUHN: Steve Salzman is here to represent the
9 operator, and and applicant, and I think he can answer it
10 better.

11 MR. SALZMAN: Well, I'm Steve Salzman.

12 The leachate that's being generated by the Waste
13 Management Unit will brought back down to the plant. we have to
14 have a moisture content of around 55, 50 to 60 percent to get
15 the ash to compact to its maximum density and also to control
16 dust.

17 Currently the landfill that's accepting the ash required
18 about 55 percent moisture content of the ash waste stream for
19 those same reasons. Currently, they're using water. So at the
20 facility we're paying for approximately half of the waste stream
21 in water, clean water, going into the waste.

22 So we decided that we would use the leachate rather than
23 clean water and dispose of the leachate at the same time.

24 ACTING CHAIRMAN RELIS: I have one other just technical
25 question. Later on in the discussion of diversion plans in the

8
1 area, there is a reference to using some of the ash. There are
2 hopes that it will be used for a conference date later on.

3 Are you involved in that analysis?

4 MR. SALZMAN: Yes.

5 ACTING CHAIRMAN RELIS: What are your thoughts on that?
6 Is it promising?

7 NR, SALZMAN: Yes, it is. Quite promising. P.L. is
8 pursuing waste-diversion studies in applying for the permit for
9 this landfill. The hopes are that we will be able to divert
10 most of that waste stream into either soil amendments or
11 concrete products such as -- it won't be be composted. It could
12 be used as a mixture with woodwaste and other waste streams as
13 soil amendment. The ash is is not very compostable.

14 Another use of it currently is the Calgon water filters.
15 They are accepting some of that into the facility nearby.

16 ACTING CHAIRMAN RELIS: Thank you. I just wanted to make
17 one observation on that. For this permit application, the name
18 is certainly one of the more compelling ones in California. The
19 Tank Gulch disposal site.

20 MR. SALZMAN: That was the name of the creek nearby.

21 BOARD MEMBER EGIGIAN: Mr. Chairman?

22 CHAIRMAN HUFF: Yes.

23 BOARD MEMBER EGIGIAN: I have been led to believe that
24 there is something in the ash that it shouldn't be dumped
25 strictly into a landfill. Is wood ash different from ash coming

1 from cogeneration plants?

2 CHAIRMAN HUFF: I think it might very well be, but that's
3 a question of staff. I mean when you have -- you're talking
4 about like ash coming out of Long Beach?

5 MR. DIER: You are talking about a municipal waste center
6 here. We have an itinerary here from the incinerator.

7 CHAIRMAN HUFF: There the Water Board is quiet. The ash
8 has been treated before it's been disposed of.

9 MR. DIER: Right.

10 CHAIRMAN HUFF: That's a mixed solid waste incinerator.
11 This is wood ash.

12 MR. SALZMAN: Sure it's wood ash. It looks like
13 crushed-up brickettes. It's a fly ash. There will be some
14 bottom ash in also.

15 It's very much particles of ash. We have done extensive
16 characterization of that and four other waste streams of ash, in
17 the County. And they were four piles of ash, and they were all
18 below the California Title 22 and Ricker waste standards. So we
19 don't anticipate a problem.

20 BOARD MEMBER EGIGIAN: I have one other question. One of
21 our Board members, Mr. Chesebro, this is his home base. On
22 every item that comes up, he is more interested in salvaging and
23 recycling.

24 We have here on page 4, the top paragraph, "Resource
25 Recovery." "No salvaging or recycling operations are planned

1 for this facility."

2 I don't know whether or not we will have any problems
3 with Mr. Chesebro or not.

4 CHAIRMAN HUFF: Well, that is discussed in the diversion.

5 MR. SALZMAN: At the facility we don't have any
6 recycling. We hope to divert the waste stream as is planned, if
7 possible, and not at the facility. The facility is fairly
8 small. It's just going to be a waste management unit.

9 BOARD MEMBER RELIS: Then if your plans work out with the
10 use of that as an amendment or whatever, that would be one
11 potential.

12 MR. SALZMAN: It would be taken straight from the boiler
13 plant, from the power plant, and not from the facility, and it
14 will be taken from a dry ash waste stream and the leaching
15 amendment.

16 BOARD MEMBER EGIGIAN: All of this is satisfactory for
17 you?

18 BOARD MEMBER RELIS: Well, yes.

19 CHAIRMAN HUFF: If it's good enough for Paul, it may or
20 may not be good enough for the rest of us.

21 There are one of two possibilities. We could pass it
22 here and put it on the next agenda for consent unless it's taken
23 off, or we could put it on the regular agenda. I'm inclined to
24 the first.

25 BOARD MEMBER EGIGIAN: I would go along with that.

9
1 ACTING RELIS: Then I have heard a motion to approve
2 staff recommendation. Any further discussion? Absent any
3 objection, we will substitute the prior roll call. The ayes are
4 three; the noes are nothing.

5 Motion passes and this goes to consent.

6 CHAIRMAN HUFF: Item 13.

7 MS. VASQUEZ: Item 13 regards the consideration and
8 concurrence of a new permit for the Camp Rock transfer station
9 in San Bernardino County.

10 CHAIRMAN HUFF: Now, was this a 12:30 flight that they
11 were trying to catch? Or trying to leave by 12:30?

12 MS. STEVENS: Planned to leave by 12:30.

13 CHAIRMAN HUFF: This is a piece of cake.

14 MS. VASQUEZ: This transfer station will be located, or
15 is located, in a rural portion of San Bernardino County. It is
16 within the property boundary of Lucerne Valley landfill which is
17 currently operating under enforcement order, and the landfill
18 will cease operations once the transfer station is fully
19 permitted and in compliance.

20 The transfer station will handle a maximum of 14 tons per
21 day of residential waste, and there is an interesting compliance
22 history regarding the landfill.

23 Rosslyn Stevens of the permit staff will give the full
24 presentation.

25 MS. STEVENS: Good morning. I'm Rosslyn Stevens

9
1 representing the Permit Branch.

2 Item 13 is consideration of concurrence of a new solid
3 waste facility permit for the Camp Rock transfer station in
4 rural San Bernardino County. As Miss Vasquez has said, this
5 transfer station is wholly enclosed within the property
6 boundries of the Lucerne Valley landfill.

7 The operators of the landfill decided to close the
8 landfill and provide waste management capability to the area
9 with a transfer station, and they constructed the transfer
10 station in the barrow pit of the landfill.

11 The transfer station began operations in February of 1991
12 but at that time was not permitted, and because operators closed
13 the landfill at the same time as they opened the transfer
14 station, the result was an illegally operating facility.

15 In December 1991, the LEA issue was a cease and desist
16 order to the operators of the facility directing them to cease
17 operations or obtain a solid waste facility permit on January
18 13th, 1992. In January the operators elected to reopen the
19 landfill to accept the waste from the transfer station
20 operations at the landfill while the permitting process was
21 pending.

22 Permit application process is now complete, and as soon
23 as the Board concurs in the permit for the transfer station, the
24 landfill will close. The transfer station, as I said, is
25 located in barrow pit of the landfill. It consists of 30

9
1 40-cubic foot bins and will accept primarily residential waste.

2 There is some light commercial waste listed in the
3 primary operation, but it's a very rural area. So that waste
4 will be minimal.

5 The proposed permit is to all for the maximum of 14 tons
6 per day of this waste and special waste is not accepted at the
7 site. The site includes some interesting environmental
8 controls, because there is a chronic problem at the site with
9 the raven population. And ravens are of concern because they
10 feed on an endangered species, the desert tortoise.

11 So in order to prevent the ravens from getting their food
12 supply there, and be attracted to the area, all the transfer
13 bins will be equipped with covers that are closed every night
14 and locked.

15 In evaluating the proposed permit, staff determined that
16 the site is in conformance with the County plan. It's
17 consistent with the general plan, and would not impair
18 achievement of waste diversion goals.

19 The requirements of the North California Environmental
20 Quality Act have been satisfied, and transfer operations at the
21 site are in compliance with state minimum standards.

22 Board staff therefore recommends that the Committee
23 adopt Resolution 92-140, approving the Proposed Permit
24 36-AA-0317 for the Camp Rock transfer station.

25 And Mr. Jim Trujillo and Dominick Nigro of the LEA's

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1 office are here, and they're also some representatives from
2 Solid Waste here, the operators. Probably the next person you
3 will talk to there is Kathleen Brown. She's the technical point
4 person on this project.

5 BOARD MEMBER EGIGIAN: Can you tell me why they don't
6 want the ravens to eat little turtles? What was that?

7 MS. STEVENS: They want to get protect the turtles.

8 BOARD MEMBER EGIGIAN: Oh, they want to protect the
9 turtles.

10 MS. STEVENS: Yes. The desert tortoise has been on and
11 off the endangered species list. I think right now they are
12 currently on. And the ravens eat the baby desert tortoises, so
13 there was a mitigation measure that had to be proposed in order
14 to comply with CEQUA so they wouldn't be endangering an
15 endangered species. So they had to find a way to deal with the
16 raven problem.

17 BOARD MEMBER EGIGIAN: So they are covering the -- the
18 transfer bins are covered with lids?

19 MS. STEVENS: With lids, yes.

20 BOARD MEMBER EGIGIAN: I would think that more turtles
21 would get eaten up if they can't get at the bins.

22 MS. STEVENS: Well, The ravens get into the garbage, and
23 that attracts them to the site, and then they go on and eat the
24 turtles -- the tortoises.

25 CHAIRMAN HUFF: The turtles are dessert.

10

1 MS. STEVENS: Actually, they are. One fellow described
2 the tortoises as raviolis with legs from the perspective of a
3 raven. Ravens are considered a pest.

4 CHAIRMAN HUFF: Do you want to pursue this anymore?

5 BOARD EGIGIAN: In the interests of time, no.

6 BOARD MEMBER RELIS: I have a couple of questions and
7 observations. Page 128-29, the recap on the history here is the
8 facility that's operating without appropriate permit, continued
9 to operate after the cease and desist order. I read page 29,
10 the first full paragraph, that they currently do not have a
11 closure plan, but that we might have a closure plan by the end
12 of this month which is about where we are today.

13 Could we get an update on that? This is one where we
14 kind of have to close it to save it. We want to permit the
15 transfer station so the landfill can close.

16 MS. STEVENS: That's correct, and the transfer station is
17 located in the barrow pit of the landfill so closure activities
18 at the site are in a separate area, and those will proceed when
19 the plan is complete.

20 Kathleen Brown is the lead person on that plan, and she
21 could probably give you a better idea of it's completeness.

22 MR. TRUJILLO: Rosslyn, let me answer.

23 CHAIRMAN HUFF: Identify yourself.

24 MR. TRUJILLO: I'm Jim Trujillo and supervisor for the
25 LEA Section in San Bernardino. In regards to the question of

10
1 closure plans, we just received correspondence recently that the
2 closure plans are still being reviewed. They are being
3 rereviewed, and they should be submitted to the LEA but
4 1 February 1993.

5 BOARD MEMBER RELIS: That doesn't affect your staff's
6 recommendation at all.

7 MS. STEVENS: We didn't think it was of concern because
8 (1) as you said, the transition will allow the landfill to
9 correct its problem. And the other issue is the transfer
10 station doesn't interfere with progression toward closing the
11 landfill as it is in a separate area.

12 BOARD MEMBER EGIGIAN: This item came before us not too
13 long ago, didn't it? There was something about water running
14 off into a creek? Or is that a different area?

15 MS. STEVENS: That's a different facility.

16 CHAIRMAN HUFF: I have driven through this territory.
17 It's a desolate country. It's hard to imagine collecting 14
18 tons a day from this territory.

19 MR. TRUJILLO: It would average 14 tons a day for four
20 days only.

21 CHAIRMAN HUFF: Okay. For four days. Any other
22 questions?

23 BOARD MEMBER EGIGIAN: I move we concur on this.

24 CHAIRMAN HUFF: We have a motion. Without objection, we
25 will substitute the prior roll call. The ayes are three, and

10

1 noes are none. The motion carries. This is consent.

2 Item 14 was pulled. Item 15, they want to hear later in
3 the day; is that correct?

4 MS. KELLY: That's correct.

5 BOARD MEMBER RELIS: Could I make the observation that it
6 might be helpful to get a little bit more of something from the
7 City of San Jose, the analysis on the EIR process that was used
8 there. I would find that helpful when this item comes before us
9 a little bit more in depth, the statement as to their reasoning
10 behind the EIR approach they took.

11 MS. VASQUEZ: Hopefully, when the EIR returns to the
12 Committee, there will be no question.

13 CHAIRMAN HUFF: So we're going to pass over Item 15 for
14 the time being. We will go to Item 16. In fact, let me maybe
15 inform people so that if it alters their plans, they can give it
16 consideration. We're going to work probably through lunch
17 because we're going to lose Mr. Egigian to the vagaries of air
18 travel later this afternoon, and I would rather hold the
19 majority, rather hold the complete membership Committee for as
20 long as I can. So we will have a late lunch, and that's when
21 Sam is trying to catch an airplane assuming they are still
22 flying.

23 So Item 16.

24 MS. VASQUEZ: Item 16 is consideration of concerns in the
25 revised permit for Evans Road landfill in Colusa County. Staff

10
1 are recommending objection to this permit due to inadequate
2 funding and financial mechanism, and two outstanding violations
3 of state standards.

4 It is an existing Class III facility, and it's reaching
5 capacity. A proposed permit would extend the life of the
6 landfill up to the 56 years and add three separate variants, one
7 in connection with areas for municipal solid waste, a second
8 unit for ash, and a third for leachate and septic waste.

11
9 The proposed permit would also add ash of a waste type
10 and allow tonnage to the maximum of 300 tons per day. The owner
11 and operators of the facility include Colusa County Department
12 of Public Works.

13 On the LEA issue there are two facilities. The operator
14 in June of 1991, when the order was still in effect that
15 required that facility revise the permit that incorporated ash
16 waste type.

17 Mr. Kuhn will be giving the presentation on this item.

18 MR. KUHN: Thank you, Martha.

19 Good morning, again Mr. Chairman and members of the
20 Committee.

21 This item regards a revised solid waste facilities permit
22 for Evans Road landfill in Colusa County. The proposed permit
23 will increase the permitted time from an average every 30 turns
24 per day in the current 1978 permit to a peak of 300 tons per
25 day.

11

1 The revised permit will allow the operation of three new
2 waste management units which have not yet be been constructed.
3 The acreage of the site will be increased to 122.8 acres due to
4 the purchase by Colusa County of an adjacent parcel of land.
5 The proposed expansion will extend the closure date to as far as
6 the year 2046.

7 The existing landfill at the site is reaching capacity,
8 and the proposed permit involves three different waste
9 management unit types -- waste management for municipal solid
10 waste will be constructed to the east of the existing landfill,
11 an ash-compatible waste management unit will be constructed to
12 west, and a surface impoundment for these wastes and septage
13 will also be constructed to the west of these. All three of
14 waste management units will be constructed to Class II
15 standards. The facility will be continue to be owned and
16 operated by the Colusa County Public Works Department.

17 There are two problem areas with regard to the proposed
18 permit. The first is funding of the financial mechanism, and
19 the second is violation of state-recommended standards.

20 The financial mechanism for closure and both closure
21 maintenance has been deemed acceptable by the Financial
22 Assurances Branch Staff; however, that mechanism has not been
23 adequately funded. The funding shortfall is in excess of half a
24 million dollars.

25 Discussions with the operator had not resulted in right

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1 resolution of the situation. Rather the operator has chosen to
2 make their case to this Committee, to the Board.

3 Staff will not present arguments in favor of the
4 proponents of this permit. Staff's position remains that the
5 operator is in violation of Section 18282 of Title 14 of the
6 California Code of Regulations which establishes the required
7 funding level for this facility.

8 The second problem area involves violations of statements
9 and standards.

10 Compliance Branch staff, along with the LEA, conducted a
11 pre-permit of this facility on November 18th, 1992 and found two
12 violations of statements and standards. But the first violation
13 was of Section 17743 of Title 14, liquid waste. The landfill
14 has historically leaked septage in underlying surface
15 impoundments. That practice was prohibited by the waste
16 discharge requirements adopted on November the 22, 1991.

17 The landfill operator, however, has continued to
18 discharge septage into those underlying surface impoundments in
19 violation of the waste discharge requirements. The County has
20 contended that there has been no practical alternative to
21 violation of the Water Board order.

22 The second violation is of the section 17808 of Title 14
23 drainage and erosion control. The precurent inspection
24 documented erosion channels as deep as 18 inches on the side
25 slopes on the northern end of the landfill. The erosion has

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1 provided a pathway for migration of waste into a drainage ditch
2 and eventually into an adjacent creek.

3 At this point I would like to make a correction to the
4 agenda item. Although the side slopes had not been regraded at
5 the time of the inspection, a diversion berm had been
6 constructed at the top of the slope with the intention of
7 diverting runoff water from the area of erosion.

8 Staff have reviewed the proposed permit and supporting
9 documentation. And with the exception of the funny financial
10 mechanism, violations of statements on standards have found them
11 acceptable.

12 The LEA and the Board have made the following findings.
13 The facility is in conformance with the County general plan, is
14 consistent with the County solid waste management plan. The
15 California Environmental Quality Act has been complied with, and
16 project is consistent with the waste diversion goals of AB 939.

17 In conclusion, due to inadequate funding of the financial
18 mechanism and two violations of state minimum standards, staff
19 recommends that the Board adopt solid waste facilities Permit
20 Decision No. 92-150 objecting to the issuance of Solid Wastes
21 Permit No. 068-AA-0001.

22 The LEA and representatives from Colusa County are
23 present to answer any questions the Committee may have. This
24 concludes my presentations.

25 CHAIRMAN HUFF: Questions of staff? No questions of

11 1 staff.

2 I assume that the LEA would wish to address us; is that
3 correct?

4 The LEA is present. My name's Janet Krug, and I'm the
5 Environment Compliance Analyst with the Department of Public
6 Works, so I'm not the LEA. I'm with the operator.

7 And it's a little bit different to hear the report as
8 it's presented. It presents kind of a different picture from
9 the way I see our situation.

12 10 We have been working for a long time to be in compliance,
11 both on the issue of the closure of the ponds and working to get
12 adequate funding for our landfill. Luckily, in terms of the
13 politics, we have moved a long ways from an age where they said
14 absolutely no out-of-county waste where now they recognize that
15 we are going to have to work with out-of-county to make it an
16 economically viable situation.

17 We have been putting away money in our closure,
18 post-closure, fund ever since it was established, and we plan to
19 use that money for the ultimate final closure of the site.
20 Where we are short is about \$708,000 that we need immediately to
21 close the existing unit.

22 Now, no matter how we get that, we have to get it from
23 our population, and we're going to have to be borrowing that
24 money and pay that back. We are working with financial advisers
25 to develop certificates of participation, and that's the money

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1 that we're going to be using to develop the new landfill unit
2 and do pay, though, for this initial closure.

3 So we are putting away money for the ultimate closure.
4 We have a pledge of revenue mechanism for the closure
5 maintenance of the existing unit when it is closed. Because our
6 ongoing revenue will pay for the water monitoring and other
7 closure maintenance costs.

8 There is only one part of the post-closure that hasn't
9 been covered, and that is that initial cost of importing the
10 clays and things to cover it, and we simply don't have that
11 money. It's money that should have been accumulating over the
12 last 20 years. It hasn't been, so we are going to have to
13 borrow it.

14 And having the permit increases our ability to obtain the
15 funds. It makes our projects look better. If we don't have a
16 good project, we can't get the funds. So we are kind of in a
17 Catch 22 situation, and we feel that we have moved a long way
18 from getting many of those issues resolved.

19 The other issue with the ponds and our waste discharge,
20 in our waste-discharge requirements there is a compliance
21 schedule, and there are about nine items. The final date of the
22 closure of the ponds is November of 1993.

23 One of the interim dates was to cease using the ponds as
24 of July 1, 1992. As we were negotiating those compliance dates
25 last year, it just -- we neglected to notice that that was going

12

1 to cause us a problem. We do not need all the way from July '92
2 to November of '93 to close those ponds.

3 But we do need someplace to dispose of septage. We have
4 been in conversation with the Water Board. And we have been
5 discussing compliance, a cease and desist order, where we would
6 be continue to be able to use those ponds to September of 1993
7 and still maintain the final closure date. We are not looking
8 for extending the final closing date. It's just the interim
9 stages of how that whole thing is going to work.

10 And I believe our engineer from the Water Board is
11 available to answer questions.

12 CHAIRMAN HUFF: Any questions?

13 I have a question of staff. It says "by the County." As
14 I understand it here by the operator that they will borrow money
15 to obtain the necessary capital for funding the closure plan
16 and that the lenders view having the permits in their hand as
17 being desirable. I didn't hear that stated as necessary.

18 MS. KRUG: Yes, you did. It would make the project look
19 more feasible.

20 CHAIRMAN HUFF: Have we encountered that before?

21 MS. VASQUEZ: We have not. It will be the first time.

22 MR. KUHN: Mr. Huff, in a number of different areas in
23 our programs we run into underwriters, counsel, bond counsel.

24 CHAIRMAN HUFF: A flakey bunch to be sure.

25 MR. KUHN: As you know them well. Who always have a

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1 problem. They want everything their way because they have done
2 it that way for a hundred years. We have over the years tried
3 to educate them in our process and tried to educate them as to
4 the minimal environmental compliance requirements.

5 What I'm seeing here is something that I'm familiar with,
6 that people come to us quite often and say, "We need a permit in
7 order to get our financing. We need something from you in order
8 to get our financing."

9 And it's a very real problem. Although I think what it
10 is, it puts an operator in a Catch 22, and I think it's evidence
11 of the financial community's slowness to learn about our process
12 and to understand how we work.

13 It was a big issue discussed in Nevada County. So we
14 have seen this before.

15 MS. KRUG: It was not our choice to apply for the permit
16 right at this time. It would have been our choice to have
17 waited a little bit longer until more details were taken care
18 of, but we were sent a notice and order from our local LEA to
19 make application at this time. So we were forced to put things
20 the way they were and make the best of it.

21 But now that we are in this situation, we would not like
22 to have to reapply and go through this again. We feel like, you
23 know, we have nailed down a number of different variables, and
24 at some point you have to step forward.

25 MS. VASQUEZ: It should also be noted that there are

12 1 regulations that provide latitude or waiver from this particular
2 standard. It's a hard requirement.

13 3 MR. KUHN: The general requirement that you have all your
4 permits, that's one thing that the financial community wants.
5 So in a general manner we have seen this -- although I agree
6 with staff that I have never seen it come though this type of
7 issue under these circumstances, but I think it's incumbent upon
8 us to at least understand what they're asking for. They're
9 asking for us to violate our law or cause the operator to
10 violate the law in order to come into -- in order to get the
11 funding to come into compliance. It's a circle going in the
12 wrong direction.

13 CHAIRMAN HUFF: A circle going in the wrong direction?

14 MR. KUHN: We are going the wrong route on this. I think
15 they need to get their -- they need to come into compliance and
16 then they're eligible for -- that should put them in a much
17 better view towards the financial community if they were in
18 compliance.

19 CHAIRMAN HUFF: I guess the nature of my question is what
20 went wrong here when? Because if it's true that they are in a
21 Catch 22 what is precluded?

22 BOARD MEMBER RELIS: They didn't get the money.

23 CHAIRMAN HUFF: Given that we have a very clear, very
24 simple financial requirement here that we can't waive. We set
25 it up in our regulations to be sure. And we haven't waived it.

13 1 We don't have the authority to waive it. Is either here or not,
2 right?

3 Am I stating things correctly?

4 MS. VASQUEZ: Yes.

5 CHAIRMAN HUFF: No one has asked us to do this particular
6 thing before.

7 MR. KUHN: The issue has just come to this point, but we
8 have had project proponents come to us and say, "Give us. Give
9 us. Give us. So we can get our financing." That we see
10 before. And usually that is worked out. Nothing is really
11 different except the facts that converged in this one in a
12 little different way.

13 MS. VASQUEZ: I believe the problem was created because
14 the County did not set aside money to close this facility as
15 they needed to.

16 BOARD MEMBER EGIGIAN: So if we don't go along with this,
17 they can't borrow any money, and they can't close.

18 MS. VASQUEZ: I have not heard the County say they could
19 not borrow the money. It would put them in a more desirable
20 position.

21 BOARD MEMBER EGIGIAN: Meanwhile we have got this ongoing
22 problem. Violations of drainage. The chronic thing it sounds
23 like. We're not doing very as well at this level.

24 MS. KRUG: I think there's a more current performance
25 status than the original violation.

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23 like. We're not doing very as well at this level.

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25 status than the original violation.

13
1 MR. DIXON: Richard Dixon, Director of the Colusa County
2 Environmental Health. On Monday I went to the landfill to take
3 pictures of the correction of the situation with the erosion.
4 Today I brought them with me, and I have shown them to the
5 enforcement person, Colleen Murphy, for the Integrated Waste
6 Management Board, who's part of the inspection team. I think
7 the situation has been greatly corrected, and the erosion
8 situation no longer exists.

9 One of the sites where the erosion was viewed was on a
10 shelf on the north face of the partial or the waste unit that's
11 currently being used. That shelf has no waste in the shelf. It
12 is directly dirt. So there is no way for waste to be eroded out
13 of that shelf and into the drainage system that borders it on
14 the north.

15 Part of what we have seen is some off-site migration,
16 some ash that had come from the upper level of the waste
17 management unit. We are talking about ash that is approximately
18 one eighth of an inch thick and covers an area ten to 12 feet
19 long and 15 feet wide. We're talking about five-gallon bucket
20 of ash.

21 The erosion situation has been changed so that that no
22 longer exists.

23 MR. KUHN: Unfortunately from my perspective, it did
24 exist according to the LEA's report six times prior, and Robert
25 gave me some last-minute measures. And I appreciate that. The

13
1 other facilities within the County that accepts septage.

14
2 Being Director of Environmental Health, it's my ultimate
3 responsibility to maintain the health and safety of the
4 population. We have about 40 percent rural populations which
5 means they are all on septic systems, and I would feel that
6 disposing of sewage in ponds that are currently being used for
7 that situation is a more healthy situation than having it
8 disposed of in ditches or having surface sewage along the
9 ground, having it properly disposed of.

10 BOARD MEMBER EGIGIAN: I would like to ask a question of
11 Mr. Connors. If we were to go ahead and concur on this
12 liability, what would we be buying? I'm saying this only if
13 they need some kind of concurrence to help them to do the job
14 they have to do. If we went ahead, would we be liable? This
15 Board be liable for the situation?

16 MR. CONNORS: There is a bit of a strict legal concern,
17 and I think that there are a number of policy implications in
18 your question that it's not my place to comment on.

19 But from strict liability standard or strict legal
20 standard, the government agency has very limited liability for
21 doing its job, if it is truly doing its job, if it's not
22 conducting itself in kind of a wilful or reckless manner. I
23 think, however, you increase the risk of being joined in some
24 action if there is a failure out there, a site not being in
25 compliance if you acknowledge it's not in compliance, and you go

14
1 ahead and concur in the permit; however, I think there are far
2 greater implications to the program, the consistency of the
3 application of regulations events which I'm sure Miss Vasquez
4 could comment on. I think you are pointing to a statute.

5 CHAIRMAN HUFF: Well, I think perhaps a recitation of the
6 regulation that describes what course of action we should take
7 when the financial mechanism is insufficient would be
8 appropriate.

9 MR. CONNORS: Miss Vasquez has a comment on a provision
10 of the law that I may have ignored.

11 MS. VASQUEZ: There is a section of the PRC that requires
12 that this Board, in taking permit action, consider the
13 requirements of the Regional Board or any board of waste
14 discharge requirements that's issued, and we cannot issue a
15 permit that is in violation of one of those standards. So we
16 are actually prohibited, to some extent, from concurring with
17 any permit where there is a violation of a regional board order.

18 CHAIRMAN HUFF: Have we ever done that?

19 MS. VASQUEZ: Not that I'm aware of. Not knowingly.

20 CHAIRMAN HUFF: Well, this is good information. Now,
21 give me the financial mechanisms.

22 MR. CONNORS: The question again?

23 CHAIRMAN HUFF: The regulation that describes the course
24 of action available to this Committee and Board in the event
25 that there is insufficient natural regulations.

14

1 MR. CONNOR: Can you get to it another way?

2 MR. CASTLE: Richard Castle from the Financial Assurances
3 Section.

4 And the regulations specific to the financial assurance
5 requirement is within Section 18282 which is the amount of
6 required coverage, and the formula within that section which, in
7 essence, states that as a proportion of the landfill is filled,
8 the same proportion of the funding has to be in place.

9 CHAIRMAN HUFF: That makes sense.

10 MR. CASTLE: And this landfill being -- this portion of
11 the landfill, which is the subject at this point, being
12 virtually to capacity, the funding should be to capacity. And
13 the County has acknowledged that they are --

14 CHAIRMAN HUFF: What does the regulation say that we
15 should do about that?

16 MR. CASTLE: Well, the regulation states that they will
17 do it. The PRC states that we can -- I believe states that we
18 cannot issue or concur on the permit unless they have met all
19 the requirements of the regulation. So the regulation just
20 states that you will fund at this rate. I can read that to you,
21 but basically that's it.

22 CHAIRMAN HUFF: So it's not a "may." It's not subject to
23 waiver. It says that the County shall do something.

24 MR. CASTLE: Correct.

25 CHAIRMAN HUFF: And the statute says we can't issue a

14 1 permit if they haven't done this; is that correct?

2 MS. VASQUEZ: That's true.

3 CHAIRMAN HUFF: And the statute also says we can't --
4 doesn't say we can find extenuating circumstances. The statute
5 says we can't issue a permit if they are violating the water --

6 MS. VASQUEZ: Water Code. That is correct.

7 MR. CONNORS: We can't be inconsistent with a Water Board
8 order. That's 40055 or one of the sections right around there.

9 MS. VASQUEZ: If this operator were to go to the regional
10 board and get approval to continue using those ponds, that would
11 be acceptable.

12 CHAIRMAN HUFF: Then the water thing is gone.

13 MS. VASQUEZ: That's correct.

14 CHAIRMAN HUFF: The financial mechanism, if they go out
15 and hit the low, then that's gone.

16 MS. VASQUEZ: That's right.

17 CHAIRMAN HUFF: Well, I mean you're almost looking at
18 that I know.

19 MS. KRUG: Did you want to talk about the water board?

20 MR. ROSENBAUM: My name is Steve Rosenbaum. I'm with the
21 staff of the Regional Water Quality Control Board.

22 We recognize the problem with Evans Road, particularly
23 with the waste disposal, liquid waste disposal, and their
24 violation of requirements. The existing requirements state that
25 they must close those ponds by November of '93.

14
1 We have drafted a cease and desist order, which we plan
2 to take to our board in January, which allows them to operate
3 those ponds until September of '93 and complete closure by
4 November of '93.

15
5 In other words, they will still close at the same date
6 that's planned in the current WDRs. The cease and desist order,
7 as well, as existing requirements link pond closure with the
8 construction of new septage ponds and the new landfills. That's
9 the way the original WDRs were written in 1991, and that's the
10 way the cease and desist order continues, basically giving them
11 a new time schedule through 1993 to come back into compliance
12 with with waste discharge regs.

13 I hope that helps.

14 MS. VASQUEZ: I think there is one point that probably
15 needs to be clarified. It is my understanding that the site is
16 currently in violation of the WDR; is that correct?

17 MR. ROSENBAUM: They continue to discharge septage to the
18 unlined ponds.

19 MS. VASQUEZ: Is that in violation of the WDRs?

20 MR. ROSENBAUM: The WDRs had a cease discharge in July of
21 '92, a cease and desist order to give them a new time schedule,
22 basically, to come into compliance.

23 CHAIRMAN HUFF: If they came before us after you did
24 that, then we wouldn't have this as an issue.

25 MS. VASQUEZ: That's correct on this particular issue.

15
1 CHAIRMAN HUFF: Yes. We would still have the financial
2 mechanism.

3 BOARD MEMBER RELIS: It seems to me that you're too
4 early.

5 CHAIRMAN HUFF: I think that you're correct, Mr. Relis.

6 MS. KRUG: We are here at this time based on an order
7 from our LEA which was at the direction of the Waste Management
8 board.

9 MR. RELIS: I'm not sure what means.

10 MS. KRUG: I'm not sure what it means, either. I'm not
11 sure what status this puts us in to come back three months
12 later.

13 MR. ROSENBAUM: The LEA issued a notice and order mostly
14 because the facility was receiving several ash, waste types,
15 that they were not permitted to accept. The LEA was advised
16 that that would require permit revision for them to accept the
17 ash because, at the time, ash was a large moneymaker for the
18 operation.

19 They were told that they needed to revise their permit in
20 order to do that. The notice and order was issued, and an EIR
21 that was in the process of development was expanded to include
22 additional amounts. This related to the ash.

23 So it is true that the LEA was directed to issue the
24 order, but the fact remains that all of the required prior
25 approvals haven't been obtained.

15

1 MR. RELIS: Was the timing proscribed to the LEA?

2 MR. ROSENBAUM: No.

3 MS. VASQUEZ: It is possible that the LEA, could issue a
4 new notice or order to extend time frame providing for amendment
5 to allow the operator to obtain adequate funding?

6 CHAIRMAN HUFF: That is in fact possible. It's parallel
7 to what happened to San Marcos, isn't it? So that's something.

8 MR. DIXON: Do you wish us to issue an order to change
9 the required dates for the permits?

10 CHAIRMAN HUFF: Yes. That's solves the present problem.

11 MR. CONNORS: It solves the problem of the WDRs. It's
12 still going to require that you go back to your lenders and tell
13 them like it is.

14 BOARD MEMBER RELIS: My read, it is part of the impetus
15 part was to get enough cash flow in the landfill to do the
16 closure. So it's a little more complicated, I think, because
17 that's what triggered this whole action here was to get the ash
18 to build the cash flow or the economics, and then that was not
19 permitted. That's why we're here.

20 MS. VASQUEZ: It's one of the reasons, yes.

21 I would suggest that we could assist the operator in
22 their discussions with the lender to explain what our process
23 is.

24 BOARD MEMBER RELIS: I think we should.

25 MS. VASQUEZ: Why there is that type of limit. And we

15 1 can assist in any way through letters or a meeting directly.

2 BOARD MEMBER RELIS: What we want to do is get the
3 problem fixed here. The Board needs to be as active on that as
4 possible and facilitate it, but we have our legal requirements
5 which guide our permit authority here.

6 So we have got two parallel actions, I think, that need
7 to be thought of.

8 MR. CONNORS: The general recantation I hear of this
9 lender, ill-at-ease feeling, is so general that what we
10 understand about lenders is that they want sites to be in
11 compliance with all standards and regulations, but the message
12 you're getting is so general that if we can in any way
13 facilitate discussions with your lender and tell them we are
14 trying to assist you in gaining compliance faster than their
15 kind of blind pointing to "The borrower needs a permit. The
16 borrower needs a permit."

17 The borrower needs to comply with all of the laws, and I
18 don't think the lenders generally -- the lenders that you're
19 talking to, the message that you're getting, is not from
20 underwriting counsel who probably hasn't yet taken a look at the
21 specific requirements of our law.

22 By our telling you the general in a sense, "Come to us
23 when you have your permits. Your rate will be lower."

24 CHAIRMAN HUFF: Well, the only thing the borrower -- or
25 lender -- cares about is getting paid.

15 1 MR. CONNORS: That's true.

2 CHAIRMAN HUFF: And there are federal responsibilities
3 imposed by federal law on the people who are lenders that
4 heightens that as being their only concern. They have
5 translated this into a simplistic formula. You have to get a
6 permit then the revenue stream is not jeopardized.

7 There are ways to overcome that with the assurance
8 mechanism of enhancement. They cost a bit of money, which I
9 think the County would rather avoid, but they exist

16 10 MR. CONNORS: But Mr. Huff, I think the suggestion might
11 go another step towards clearing up the reluctance of the
12 lenders to, you know, finalize.

13 CHAIRMAN HUFF: I think that we ought to do that, but I
14 suspect that even though we do that, the lender is going to
15 raise the issue of insurance.

16 MS. KRUG: That's a concern. I have a different concern.
17 I am concerned about what is the status of our application I
18 guess. Timing is very important in this, timing for the
19 funding, timing for the permit, timing for making agreements
20 with outside parties for waste.

21 And I'm just concerned about starting back at zero for
22 the review time that it takes the staff to work through these,
23 and three months or something like that would probably give us
24 the time for our economics. But six months, nine months, a year
25 is not going to work out, because as you hear, we have a

16
1 deadline of November of '93 to get those items constructed and
2 other items closed.

3 CHAIRMAN HUFF: A resubmittal of the same permit with two
4 changes in it and everything else the same produces maybe a
5 different result. The two changes that I'm thinking of are the
6 water issue and the financial mechanism issue.

7 MS. KRUG: As soon as those are resolved, the permit
8 would be on the next available agenda.

9 CHAIRMAN HUFF: Well, resolved. What was heard from the
10 regional board -- was it the regional board? -- was there that
11 timetable of --

12 MS. VASQUEZ: January.

13 CHAIRMAN HUFF: Yes. Just another formula. How would
14 that be?

15 MR. ROSENBAUM: That's our next board meeting.

16 MS. VASQUEZ: As soon as the operator is given a cease
17 and desist order from the regional board that allowed the
18 regional discharge of the waste into the ponds, we would
19 consider that to be approval. And that would be satisfied when
20 the financial mechanism is finally funded, and the erosion
21 problem corrected.

22 CHAIRMAN HUFF: Which it may have been. We can verify
23 that that.

24 MS. VASQUEZ: I think the permit would be ready for the
25 following month's agenda.

16

1 CHAIRMAN HUFF: That would be February.

2 MS. VASQUEZ: It wouldn't be returning to Square One.
3 There will be a few items that could be corrected. We would not
4 consider it to be a new application rather than just a waiver
5 because of the existing application time frame.

6 CHAIRMAN HUFF: That's what we are talking about. We are
7 not talking about nonconcurring here. This is it.

8 MS. VASQUEZ: The operator would need to waive the days
9 that this Board has to act on the permit.

10 CHAIRMAN HUFF: What we would do, we would recommend to
11 the full Board nonconcurrency unless we received from the
12 operator in writing a waiver at which time our recommendation
13 would be -- our instruction would be to not put this on the
14 agenda. Okay?

15 MS. VASQUEZ: Yes.

16 BOARD MEMBER RELIS: I'm a little confused. Why would
17 this to come to the full Board?

18 CHAIRMAN HUFF: Because of the 60 days. We don't receive
19 the waiver. We have to be protected.

20 MS. VASQUEZ: Yes.

21 CHAIRMAN HUFF: So it's a fail-safe.

22 MR. CONNORS: We need a waiver from someone who has the
23 authority in the County to do it, and it needs to be on the
24 record so that we cannot continue to keep it on the agenda for
25 the Board meeting.

16
1 CHAIRMAN HUFF: Yes. That's all.

2 MS. VASQUEZ: The other option would be to withdraw the
3 permit.

4 BOARD MEMBER RELIS: That's the other option. Would that
5 require starting all over?

6 MS. VASQUEZ: No. It's a new situation.

7 CHAIRMAN HUFF: The withdrawal of the waiver, the
8 withdrawal simply means that the clock stops and that it starts
9 again; however, our commitment is that we are going do review
10 all the information we had plus the new information, and there
11 appear to be defects. And we are going to do it in an
12 expeditious time frame.

13 I think Miss Vasquez has already committed to you that
14 with the ducks lined up, it would be ready for that very next
15 meeting when the ducks were all --

16 MS. KRUG: That would be -- if that's your commitment,
17 that would be acceptable.

18 MR. CONNORS: In order to solve the confusion or the
19 legal niceties of waiver, Miss Krug, are you in authority to
20 make such a record statement?

21 MS. KRUG: I don't think that would be appropriate.

22 MR. CONNORS: Okay. That's fine. We do need it in
23 writing, and it's still on the agenda. Our recommendation is
24 you keep it on agenda until we get such a letter.

25 CHAIRMAN HUFF: Okay. Then the appropriate motion would

16
1 be to recommend that the Board not concur unless we receive,
2 prior to the Board meeting, a written waiver in which case our
3 recommendation to the Board would be not to hear the item, okay?

4 MR. CONNORS: Yes. And we'll assist the County. I'm
5 sorry, Miss Krug. I know you're not the LEA. It slipped my
6 mind.

7 We'll assist the County in preparing the appropriate
8 document. The permit staff can assist you in preparing the
9 appropriate document in effecting the withdrawal of the waiver.

10 MS. KRUG: Thank you.

11 MR. EGIGIAN: Move.

12 CHAIRMAN HUFF: Without objection, we will substitute the
13 prior roll call. The ayes are three; the noes are none.

14 The motion carried.

15 And we're going to take a recess.

16 (A brief recess was taken.)

17 CHAIRMAN HUFF: We took care of Item 16 just then. We'll
18 now take care of Item 15.

19 MS. VASQUEZ: Item 15 is consideration of concurrence in
20 the issuance of a revised solid waste facilities permit for
21 consolidated volume transporters regional material recovery and
22 transfer facility located in Orange County.

17
23 There are a number of significant changes that have
24 occurred at the facility. There was issued by LEA in January of
25 '92 a concurrence in the proposed permit which would bring the

17 1 site into full compliance.

2 Mr. Chris Deidrick of the Permit Section will make the
3 presentation.

4 MR. DEIDRICK: Good morning, Chairman Huff and members of
5 the Committee.

6 The item before you today is regarding the issue of
7 concurrence. The solid waste consolidated volume of the
8 transfer is covered by a transfer facility located in Orange
9 County. The Local Enforcement Agency made a determination that
10 the following six changes have occur governing the solid waste
11 facilities.

12 These changes include a change in the facility name and
13 address, a change in operating hours to 22 hours, expansion of
14 the size of the facility, recycling and resource referability
15 to approximately nearly a hundred thousand square feet.

16 The owners, William C. and Vincent C. Taormina and the
17 operator is Consolidated Volume Transporters, Incorporated, CTB
18 Recycling.

19 Currently the facility is operating under a stipulation
20 issued by the Local Enforcement Agency, LEA, for violations of
21 the 1990 solid-waste facility purity, Section 44004(a) which
22 include the following: The construction of a 80,000 ton
23 expansion, expanding the facility from 2.6 acres to 11.4 acres
24 and accepting waste outside the facility permitted 2.6 acre
25 area.

17

1 The terms and conditions of this enforcement order limit
2 the amount of material that can be received to material and
3 covered to 1100 tons per day. The Board's concurrence with this
4 proposed commitment will correct these violations.

5 On October 20th, 1992 the Board compliance, staff,
6 accompanied by the LEA, conducted an inspection of the facility
7 and determined that the facility was in compliance with State
8 standards for waste handling and disposal.

9 In preparing this item for Board consideration
10 enforcement -- Local Enforcement Agency and Board staff has
11 determined the following: The facility is in conformance with
12 the general plan. The facility design is consistent with the
13 Orange County solid waste management plan dated April 1989.
14 CEQA has been complied with, and the project is consistent with
15 the waste diversion of AB 989.

16 Staff reviewed the proposed waste facilities permit and
17 supporting documentation, found it acceptable.

18 In conclusion, staff recommends that the Board adopt
19 Solid Waste Facility Permit Decision 92-148, concurring in the
20 issuance of Solid Waste Permit Facilities No. 30-AB-0335.

21 Pat Henshaw representing the LEA and Vince Taormina, who
22 is the of-record officer of the facility, are here to answer any
23 questions that you may have.

24 CHAIRMAN HUFF: Questions of staff? Questions of the
25 LEA? Questions of the operator. Come on now. They came all

17
1 this way.

2 I am reliably informed that it is a beautiful day in
3 Southern California this morning, is that correct?

4 MR. HENSHAW: It is, yes.

5 CHAIRMAN HUFF: The sun is shining. 72 degrees.
6 Knocking down the Northern California water all the time.

7 BOARD MEMBER RELIS: They say a key facility to the
8 diversion effort in Orange County. I saw the facility perhaps
9 over a year ago. I'm glad to see that it's being brought up
10 into the conformance with the permit.

11 CHAIRMAN HUFF: I, too, have seen the facility, but not
12 the new one. I have seen the old one. I saw plans for the new
13 one, and I found that they were impressive.

14 Sam?

15 BOARD MEMBER EGIGIAN: This company is one of the few
16 companies in California that put their shovel in the ground
17 before anybody else was willing to take a chance and invest
18 money in this kind of a MRF. Everybody on the Board, I think,
19 has seen this.

20 This firm happens to be close to the Fullerton office so
21 when you get off of the 91 freeway to the north, you can always
22 feel thing, and you never see any sign of debris or wind-blown
23 paper, or anything that might be contrary to what we expect of a
24 good facility.

25 I personally know Vince and Bill, and they have been in

17
1 this business a long time. They know, probably, the markets
2 better than a lot of people that are in this business today or
3 going into the business. I just at the risk of going too far in
4 commending them, because L.A. might give them a warning tomorrow
5 about something -- they are doing a heck of a good job, and I
6 want to move that we pass this, concur on this commitment.

7 CHAIRMAN HUFF: It's been moved. Without objection, we
8 will substitute the prior roll call. The ayes are three; the
9 noes are none.

10 We won't send it to consent only because of the history
11 here with regard to the stipulated order of compliance and
12 agreement for violations of the 1990 code, but it shouldn't have
13 any trouble at the Board. And I think that it is a good
14 operation.

15 MS. HENSHAW: Are there any questions about this or other
16 questions to put on the order?

17 CHAIRMAN HUFF: She's saying what she can do to put it
18 off of consent. She doesn't want to come up to all this rain,
19 and wind, and misery anymore.

18
20 MS. HENSHAW: No, I'm from Seattle so I like this rain.
21 I just was curious because I can return next Wednesday, but I
22 was just wondering if there were questions about the stipulated
23 order. The reason that stipulated order was issued was because
24 Mr. Taormina wanted to comply with AB 929 requirements and like
25 Mr. Egigian said, he was ahead of the game and constructed his

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1 MRF before he got the permit done. So we put him under
2 stipulated order basically to allow him to operate that MRF.

3 MR. EGIGIAN: So it was a friendly stipulated order.

4 MS. HENSHAW: Yes.

5 CHAIRMAN HUFF: Does that change your impression,
6 Mr. Relis?

7 BOARD MEMBER RELIS: Yes. Consent.

8 CHAIRMAN HUFF: We did 16. 17? McCourtney.

9 MS. VASQUEZ: Item 17, regarding concurrence in an
10 issuance of a new solid waste permit for McCourtney Road
11 transfer station. This facility is currently operating as a
12 public receiving area for the McCourtney Road landfill located
13 at the McCourtney Road facility.

14 This new permit allows the facility to receive up to 180
15 tons per day. As you heard earlier, this Board has been acting
16 as the LEA for this facility pursuant to a judgment that was
17 signed between the County and the Board in March of '91.

18 The County has evaluated the relative merits of
19 continuing this facility versus contracting for disposal and had
20 decided that site closure was a preferred alternative. This
21 facility would allow all the waste to be transferred to the
22 Anderson wasteland in Shasta County.

23 The recommendation and concurrence are dependent upon the
24 Board's approval of the Nevada County as the LEA.

25 Mr. Paul Sweeney will provide the staff report.

18 1 MR. SWEENEY: My name is Paul Sweeney. I'm head of the
2 Permit Branch of the Permitting and Compliance Division.

3 This item regards the consideration of concurrence with
4 issuance of a new solid waste facility permit for the McCourtney
5 Road transfer station.

6 The facility will be permitted to process up to 180 tons
7 per day of mixed municipal waste. This waste has previously
8 been disposed of in the McCourtney Road landfill.

9 The waste will be transferred to and disposed of at the
10 Anderson landfill in Shasta County, California, Facility No.
11 45-AA-0020. A judgment pursuant to stipulation, or a JPS,
12 between the State of California and County of Nevada was signed
13 March 4, 1991.

14 Faced with a December 3rd, 1992 JPS deadline for
15 submittal of a complete application for a revised solid waste
16 facility permit or final closure or post-closure maintenance
17 plan, the County evaluated the alternative merits of continued
18 solid waste disposal operations at the McCourtney landfill
19 versus contracting with others to achieve the same ends.

20 They decided to pursue closure, and in order to provide
21 disposal services to the western Nevada population, they entered
22 into a long-haul contract with a private firm to remove waste to
23 the Anderson solid waste plant in Shasta County.

24 The McCourtney Road transfer station has decided that the
25 proposed permit, the new permit, would provide the means of

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1 preparing the waste for transfer from western Nevada County to
2 the Anderson solid waste landfill in Shasta County. This
3 facility is a former public receiving area of the McCourtney
4 Road landfill.

5 It consists of a scale house, a tipping floor area, and
6 associated roads and parking spaces needed by the public for
7 unloading of the waste.

8 And then for brevity purposes, rather than go through all
9 the explanation of how they deal with the waste and everything,
10 which are found in the agenda item, we will just move along to
11 say that the Regional Water Quality Control Board, Central
12 Valley Region, has determined that new waste disposal
13 requirements are not required for the McCourtney Road transfer
14 station.

15 The Regional Board has issued WDRs to the Nevada County
16 Department of Sanitation for the McCourtney Road Class III
17 landfill to constitute surface impoundment and Class II
18 treatment units.

19 Let's see. Salvaging is permitted only by McCourtney
20 Road transfer station staff to intercept recyclables from the
21 waste stream. Customers are encouraged to only deposit refuse
22 at the McCourtney Road transfer station. The recyclables and
23 wood waste are directed to the adjacent recycling operation.

24 It has been found in compliance with the California
25 Environmental Quality Act. Notice of determination to that

18 1 effect is found in Attachment 6 of your package.

2 Representatives of the LEA and the operator of the County
3 are present to answer any of your questions as well as Robert
4 Holmes and Compliance staff personnel.

5 This concludes my presentation.

6 CHAIRMAN HUFF: Questions of staff?

7 BOARD MEMBER RELIS: Just again to clarify the
8 recommendation of staff, on page 17, second paragraph, the
9 relationship between or the contingent on approval of this
10 Committee and Board of the certification of Nevada County
11 Health, SELA, would you please just explain why you made that
12 statement in here.

13 RENE ANTONSON: The stipulated judgment is the Board as
14 the LEA for the landfill. This facility is located within that
15 facility's boundaries, and it would be necessary to certify the
16 LEA as the LEA over this area before we would recommend
17 concurrence.

18 BOARD MEMBER RELIS: That's like a cleanup.

19 CHAIRMAN HUFF: No, if the Board bounces the LEA permit,
20 and this permit, it's drug down.

21 BOARD MEMBER RELIS: And all the waste now that's
22 intended that has been going through this landfill, now this
23 becomes essentially just a transfer.

24 MR. SWEENEY: Currently it's averaging 74 tons a day, but
25 that will be permitted up to a hundred eighty tons per day at

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1 the fee that we mentioned earlier. 360 days a year.

2 CHAIRMAN HUFF: I do have one question. Let's go to the
3 LEA. Does the LEA have anything to add? Operator also?

4 MR. SNELLINGS: Tim Snellings, the LEA Environmental
5 Health Director.

6 I'm a little unclear about what was just said about tying
7 the transfer. I thought we were going to the cleaner the way.
8 This was all coming about from transferring the LEA, closing the
9 landfill, the transfer station. It was all coming together as a
10 package deal.

11 I never saw that if the LEA would for some reason fall
12 through, that that would adversely affect the transfer station.
13 If you could clarify it for me.

14 MS. ANTONSON: If the Board did not approve of the
15 certification in its entirety, it is our determination that we
16 would still be required to regulate the transfer station. When
17 this item was first prepared and the permit prepared, it was
18 going forward to the Board as a LEA transfer station. It was
19 only after discussion in-house that we felt that Nevada County
20 could propose the permit and issued by your agency. So it could
21 go either way.

22 CHAIRMAN HUFF: Okay.

23 BOARD MEMBER EGIGIAN: It's a technicality. That isn't
24 going to happen. You have got three votes right here for
25 certification. You don't need four. I can guarantee it.

19 1 MR. SWEENEY: Okay. Thank you.

2 MS. VASQUEZ: I would also like to point out there's a
3 mistake. The permit includes me as the issuing officer, and
4 that should be changed to the LEA.

5 BOARD MEMBER RELIS: We thought part of the package deal
6 was her getting a new job.

7 MR. SWEENEY: We'll make sure that that's corrected in
8 time for the Board.

9 CHAIRMAN HUFF: Okay. Apparently there are no questions
10 of the LEA or the operator. I do have one request to speak from
11 the same gentleman who spoke to us previously.

12 MR. ANDERSON: My name's Ray Anderson. I live at 14100
13 Caroline Way, Grass Valley.

14 I still have problems with Nevada County being the LEA
15 seeing that -- one issue that wasn't brought up is who's going
16 to be the LEA's lawyer? Is the county counsel going to approve
17 one of his own people to be the LEA attorney? I'm asking the
18 question because I don't know.

19 This is what's around right now. I really have a problem
20 with the Nevada county counsel having anything to do with the
21 landfill considering they were the ones who really were the
22 driving force when we first started this exercise in '89 as to
23 what they couldn't say, as far as County staff, to this previous
24 Board.

25 There are a few points that I want to make. The

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1 hazardous waste task force spent months looking at various
2 locations in Nevada County. They recommended to the Board of
3 Supervisors the McCourtney landfill not be the transfer station,
4 nor should it be used for the household hazardous waste
5 facility. And they cited two reasons. One was the location.

6 And I don't know if all of you have you been up there.
7 It's a very narrow road, McCourtney Road. We have already had a
8 CDF truck tip over. We have already had a leachate truck tip
9 over. Now we have got a lot of Anderson trucks going back and
10 forth. It's just a matter of time before that happens. It's a
11 very narrow road.

12 Also under the direction of county counsel, I think a lot
13 of -- and I'm not here to rat on Farrell or Mr. Snellings. I
14 think that since we have come on board, things have changed for
15 the better. That is not what my focus is.

16 My focus is still with county counsel. I think a lot of
17 direction that staff in Nevada County has to abide by is
18 dictated by county counsel. No offense to your lawyer over
19 there. No offense. It's not that all lawyers are crooked.

20 But I have a very definite problem with county counsel in
21 Nevada County. I think you folks have tried to do a job. You
22 have tried to get answers to Nevada County. You have been put
23 off time and time again just like we have on getting test
24 results from runoff from the landfill. That problem is not
25 going to change. It hasn't changed.

19 1 If you don't think we have a problem on McCourtney right
2 now, you ought to take a drive up there and see the amount of
3 water that we receive. All that ends up in Hidden Valley.

4 And yes, I don't live in Hidden Valley, but that doesn't
5 mean I'm not concerned. I'm concerned about a water flow that
6 hasn't changed. There is migrating contamination offsite from
7 McCourtney.

8 Mr. Farrell, two weeks ago on our local radio station,
9 finally confirmed for the first time in four years that 55
10 percent of the landfill is not lined because the people who work
11 at the landfill use that as cover dirt because they didn't know
12 any better. We do have a major problem at McCourtney.

13 I don't want to exacerbate it. Everybody working on this
14 particular site has recommended other sites. I talked about the
15 Hazardous Waste Task Force. We also had a siting committee
16 three years ago look for a whole year in Nevada County, and they
17 recommended three alternate sites other than McCourtney.

18 I know that McCourtney is the easiest way to go because
19 it's already there. I don't want to keep this exercise going
20 for four or five years. If you give the LEA back to Nevada
21 County, if you make McCourtney Road landfill a transfer station,
22 I hope you do it with conditions like a probation. Because I
23 think that Nevada County hasn't shown good faith up to this
24 point. And I don't see where it's going to change.

25 Thank you.

20
1 MR. SWEENEY: I'd like to address that if I could.

2 CHAIRMAN HUFF: Just a minute. Mr. Relis.

3 BOARD MEMBER RELIS: Just a couple of observations. In
4 looking at the diversion from Dianne Range, it mentions that --
5 I guess in addition to the transfer station, this would be the
6 site for the regional or the local MRF. Am I reading correct
7 here?

8 CHAIRMAN HUFF: Yes, it is.

9 BOARD MEMBER RELIS: That's consistent with -- do they
10 have a County plan there?

11 MR. SWEENEY: Dianne Range? We have an Attachment No. 4
12 in your packets that addresses all those issues. Here she is.
13 She can address those.

14 MS. RANGE: I'm Dianne Range from the local assistance
15 branch.

16 They don't have an approved county-integrated waste
17 management plan yet by our board; however, they do have a County
18 solid waste management plan.

19 BOARD MEMBER RELIS: Do they have a draft plan?

20 MS. RANGE: Yes. They did submit a plan, but it has been
21 withdrawn for further need to make corrections and to upgrade it
22 for a more adequate document.

23 BOARD MEMBER RELIS: Do you know if that draft plan
24 indicated a MRF at this location?

25 MS. RANGE: Yes, as far as I know, yes, it has.

20

1 BOARD MEMBER RELIS: And then I take it the mitigations
2 are all spelled out, I guess, for initially what would be the
3 transfer station on Attachment V. Am I reading those -- those
4 are the mitigations to which the concern of how this place would
5 operate. That spells them out.

6 And then just for my own curiosity, given the comment
7 made, what is the relationship between the LEA and the county
8 counsel?

9 CHAIRMAN HUFF: Who chooses your county counsel?

10 MR. SNELLINGS: Our county administrator.

11 CHAIRMAN HUFF: And who chooses the county administrator?

12 MR. SNELLINGS: The board of supervisors.

13 CHAIRMAN HUFF: Are they elected?

14 MR. SNELLINGS: All five of them.

15 CHAIRMAN HUFF: And they regularly stand for --

16 MR. SNELLINGS: Yes.

17 CHAIRMAN HUFF: Question of staff. Just a second,
18 please. Question of staff. When we perform a LEA certification
19 and evaluation process, we look at adequacy of resources
20 including personnel resources. Do we assess the quality of the
21 county counsel's law degree or anything like that?

22 MS. COYLE: We do ensure that they have legal
23 arrangements. And what Nevada County did, because we were firm
24 on this issue was they appointed a county counsel to -- they
25 named a county counsel to represent Public Works. They will

20 1 have other county counsel to represent the LEA when necessary.

2 CHAIRMAN HUFF: So there is a split in counsel so that
3 there is no conflict.

4 MS. COYLE: Correct. And also, they have also set aside
5 money and made arrangements that they will bring in an
6 independent counsel when necessary in order to prepare speedy
7 actions to take up legal issues so that they have -- the first
8 line is county counsel that is independent from the one that
9 represents Public Works, and they have a second line of
10 independent counsel if necessary.

11 BOARD MEMBER RELIS: I just wondered if the gentleman who
12 spoke is aware of that relationship.

13 MS. RANGE: The board of supervisors hire the county
14 counsel.

15 CHAIRMAN HUFF: It comes from the same source. That's my
16 point.

17 MR. CONNORS: For the record, two things. The
18 arrangements that Ms. Coyle is describing to you are
19 arrangements that are not really unique for Nevada County. We
20 have addressed the similar issue of building a Chinese Wall and
21 providing for independent counsel within the legal services
22 section of cities and counties throughout the various LEAs.

23 BOARD MEMBER RELIS: So Ms. Coyle, is this fairly typical
24 of arrangements that have been made around or have there been
25 similar arrangements to avoid conflict made in other cities and

20
1 counties?

2 MS. COYLE: Yes, there have been.

3 MR. CONNORS: The other thing is that we have paid
4 particular attention to this issue with regard to Nevada County
5 and with regard to the Nevada county counsel's office because
6 this was one of the major rubbing points that led to the removal
7 of the certification back in, you know, a couple of years ago as
8 a result of the judgment so that this has been thoroughly
9 reviewed by staff.

10 And our recommendation to you both on the certification
11 and on the transfer station permit was based on thorough
12 consideration of these issues.

13 BOARD MEMBER RELIS: And the establishment of the
14 independent --

15 MR. CONNORS: The staff has indicated that they are
16 satisfied with the establishment of independence for purposes of
17 correcting the situation in Nevada County.

18 BOARD MEMBER EGIGIAN: I move.

19 CHAIRMAN HUFF: It's been moved. Without objection, we
20 will substitute prior roll call. The ayes are three; the noes
21 are none. The motion is carried.

22 This is not consent because we had a objection from a
23 member of the public who was here.

24 BOARD MEMBER EGIGIAN: Mr. Chairman?

25 CHAIRMAN HUFF: Yes.

20
1 BOARD MEMBER EGIGIAN: I think we ought to make it clear
2 that our attorneys don't fall under the category of crooks;
3 however, I would have supicions about this attorney I play golf
4 with.

5 MR. CONNORS: Mr. Egigian, I appreciate those remarks,
6 and for the record, this counsel takes no part in casting any
7 aspersions on Jim Curtis, county counsel of Nevada County. I
8 have had professional, honorable relations with all of them.

9 CHAIRMAN HUFF: But do you play golf?

10 MR. CONNORS: My failings in that area have nothing to do
11 with my legal abilities or ethics as far as the practice of
12 law. Abilities and ethics with regard to the playing of the
13 game of golf, that's another story.

14 CHAIRMAN HUFF: That means that we have completed
15 everything on our agenda except Items 2, 10, 18, 19, and 20.
16 Shall we try No. 2? Let's try it.

17 Let me say this. Item 2, which is the proposed green
18 material compost, really has two aspects to the regulation, and
19 I would like to consider them separately, okay?

20 So first let's consider the green composting side of
21 those regulations and see if we can't button that down and then
22 go to the Chapter 5 area, where I'm aware of people with some
23 concerns, and see if we can't resolve those.

24 So if we can start with the green composting issues.

25 MR. DIER: Mr. Huff, we will do that. We had planned on

1 presenting comments on both sequentially, but we can break them
2 up in that fashion.

3 The agenda item lists the chronology of events that have
4 occurred in the development of this regulation package. We
5 first went to notice in September of this year with a 45-day
6 notice and subsequently, we had a 15-day comment period which
7 ended last Friday.

8 At the time this item, was written we had not received
9 any comments; however, in the last week there was a flurry of
10 comments. We wound up receiving comments from 26 parties, half
11 of which we received Friday, and the Fax machine was burning.

12 Staff has been working diligently to compile those
13 comments, and we are ready to prepare -- to present the response
14 to those comments this morning for Chapter 3.1 on the compost
15 array.

16 Scott Humpert from our Research -- or our Standards
17 Section will make the presentation.

18 MR. HUMPERT: Thank you, Don.

19 BOARD MEMBER EGIGIAN: Could we make one clarification.
20 We are going to be talking about green compost?

21 CHAIRMAN HUFF: Right.

22 BOARD MEMBER EGIGIAN: Now, how do you determine
23 mulching? Is that green?

24 MR. HUMPERT: Mulching, we don't consider green compost.
25 In fact, we have taken mulching out of the regulations. We are

1 not considering mulching within the green material regulations.

2 BOARD MEMBER EGIGIAN: So that will be exempt from
3 anything that you do.

4 MR. HUMPERT: We don't address it -- it's not covered.

5 CHAIRMAN HUFF: These are compost regulations. If a
6 mulch pile starts turning into compost, an LEA has a legitimate
7 basis to go out and slap that pile around.

8 MR. HUMPERT: Yes, that's correct.

9 BOARD MEMBER EGIGIAN: We had a lot of discussion on it
10 before, so I just wanted to make sure about that.

11 MR. HUMPERT: Presently, during the 15-day public
12 commentary period, we have actually received just a little bit
13 more than the 26 comments that Don has mentioned. We were up to
14 34 sets of comments. But seven of these sets of comments were
15 late.

16 We will review those comments and check to see if there
17 is anything substantial in those comments. The late comments,
18 though, we're not required to respond to them during the
19 official response period.

20 Of those sets of comments, there were no new significant
21 issues raised with the exception of the deletion of much from
22 the regulations. Most of the Chapter 3.1 comments, which are
23 the green material composting comments, were directed towards
24 clarification or editorial changes.

25 The Chapter 3.1, the major issues that we received are

1 first, the -- we received a number of comments on the definition
2 of active compost, and we talked about this. And I believe it
3 was justified. So we went ahead. And we do have some staff
4 changes to the definition which I will get into later.

5 Other issues that received the majority of the comments
6 were the deletion of mulch from the regulations, various
7 comments on a firm composting definition and exclusion of some
8 composting.

9 Also, we received a number of comments on the language
10 change that we made in the exemption package, exemption section,
11 from "shall" to "may," and that's on page 5, line 20.

12 Another main issue is the use of "green" in defining
13 green material compost. The term "green" is confused, I guess,
14 immature material.

15 We have talked about the terminology over, and over, and
16 over again, and at this point the use of "green" has been
17 recommended by industry and then also staff at one point or
18 another, and if we decide that we're going to start nitpicking,
19 then we can get back into it. If not, I would recommend going
20 ahead.

21 Another issue that was brought up is the concern that
22 backyard composting is going to be regulated and --

23 CHAIRMAN HUFF: Where is that in the regulations?

24 MR. HUMPERT: It isn't contained within the regulations,
25 but we do exempt -- we have an exemption for facilities that are

1 less than 500 cubic yards, and the only requirement that we have
2 of those facilities are they meet certain health and safety
3 requirements and then also performance requirements with respect
4 to the quality of the product in terms of like metals and also
5 pathogens.

6 But we don't require any testing; we don't require any
7 sampling. The LEA can go out and inspect it, or the Board, if
8 they wish, but I don't think practically that the Board or LEA
9 will be inspecting backyard composting.

10 If there is a problem with odor or nuisance, my best
11 guess is the neighbor will probably go to the local authorities
12 and make a complaint, and the local authorities can take control
13 of that.

14 But technically speaking, we are regulating backyard
15 composting in the sense that they are exempted under the
16 regulations but have to meet certain health, safety, nuisance,
17 and performance requirements.

18 BOARD MEMBER EGIGIAN: That, to me, doesn't seem like a
19 good way to go if you want everybody to get into the backyard
20 composting and tell them if it's smells a little bit, people are
21 going to be down on them. Why would they even want to start
22 doing it?

23 MR. HUMPERT: Well, we are not saying that the local
24 authorities are going to come down on them.

25 BOARD MEMBER EGIGIAN: We know that composting smells.

2
1 MR. HUMPERT: Well, it depends on the size of your
2 backyard composting pit. I have a pit myself out in my
3 backyard, and I have received no comments at all.

4 BOARD MEMBER EGIGIAN: Maybe nobody talks to you.

5 CHAIRMAN HUFF: Let me add this: You know, I understand
6 what you're saying. I also understand that someone who wanted
7 to make a case that the State is running amuck could cite such
8 things as the potential of the State regulating backyard
9 composting and cited in a rhetorical sort of way, and anyone who
10 has a bent to do that could have a field day with such.

11 And we have frequently heard of such exercises, and the
12 rest of the story frequently puts a whole different light on
13 such things. But at least part of Sam's question is not so much
14 are we doing something wrong, but are we doing something that
15 could potentially hold us up to ridicule.

16 So in that light, let me ask a question. Right now we
17 have this exemption for green composting facilities which have
18 onsite not more than 500 cubic yards. That's a pretty big
19 volume, isn't it? 500 cubic yards.

20 MR. HUMPERT: It's a sizable volume.

21 A cubic yard is three by three by three high. So 500
22 cubic yards.

23 BOARD MEMBER RELIS: It's the equivalent of eight
24 trailers.

25 CHAIRMAN HUFF: I remember when I bought my house, I had

2
1 some peat moss delivered to my yard, and I bought it by the
2 yard. 500 cubic yards would totally bury my whole lot, wouldn't
3 it?

4 MR. HUMPERT: That's true.

5 BOARD MEMBER RELIS: I think people would be more
6 comfortable if our discussion was a residential and not perhaps
7 not define that.

8 CHAIRMAN HUFF: The 500 exists because there are people
9 who do operations of that size also.

10 BOARD MEMBER RELIS: They aren't backyard people, though.
11 It might be a farm or something, right?

12 CHAIRMAN HUFF: Okay. And we may have a greater interest
13 in what is going on at that level than we do with some chap's
14 backyard. And I am wondering if the answer isn't another
15 exemption here that further exempts from any State interest
16 someone who is dealing with five yards or something.

17 MR. HUMPERT: So you are recommending that we exempt the
18 backyard composter with some size, something less than, say, 15
19 cubic yards or whatever? From all sections of the regulations?

20 BOARD MEMBER RELIS: It basically takes it down to
21 whatever that meaning of backyard, absolutely wanting to get out
22 of residential level that the State has got a regulatory control
23 over that. That's what we want to eliminate.

24 And I don't know where that size is. It depends on how
25 big your yard is. It's not commercial; it's a simple backyard

2 1 operation. I don't know how to define it any better.

2 CHAIRMAN HUFF: And the fact of the matter is no
3 regulator is ever going to come visit anyone anyway. We're
4 talking about appearances.

5 BOARD MEMBER EGIGIAN: I don't think we should have it
6 in.

7 MR. DIER: Mr. Huff, let me offer this: We agree there
8 is no intent to go in the backyards and regulate them, but
9 differences on institutional memory here as to the basis for
10 that. What I would like to do is ask the Committee -- we will
11 look at this issue. It gets back to ability to obtain diversion
12 credit and issues that we discussed a couple of years ago. We
13 don't have time for that here, but I'd like to note a statement.

14 CHAIRMAN HUFF: Obtaining diversion credit is different
15 now than it was a few years ago, too.

16 MR. DIER: That's why I would like to go back and look at
17 the issue, take your direction if we can support that we need
18 that right now, we will include that in the 15-day comment.

19 CHAIRMAN HUFF: Incidentally, for all of those who have
20 heard me say we're going to have these regulations by the first
21 of the year, it does appear to me that we are going to have one
22 more 15-day comment, that these regulations probably won't make
23 my self-imposed deadline. We will get damn close. That's good
24 enough for government.

25 MR. DIER: We understand the Committee's concern, and if

2 1 we can, we will make those corrections.

2 CHAIRMAN HUFF: You have another one?

3 BOARD MEMBER RELIS: Going back to the definitions, I
4 just want to be very clear that my understanding is what is
5 written here. Regarding the permeability requirements, we had
6 that long discussion last time about wanting to exempt or
7 basically eliminate permeability requirements for green waste
8 only, and I want to be assured that our definition of "green
9 waste" is green waste only, not amendments and green waste. Is
10 that a correct reading?

11 MR. FINCH: This is Michael Finch with the Standards
12 Development Unit.

13 I'm pleased to report that we have been working closely
14 with the State Water Resources Control Board and are moving
15 towards coming up with a permeability requirement that will meet
16 their concerns as well as address the concerns that we had
17 raised earlier. And if Scott, a little later, can go over some
18 of those suggestions that we worked out with State.

19 BOARD MEMBER RELIS: You have reached closure? This is
20 on page 14, the definition there.

21 CHAIRMAN HUFF: The Committee's previous action is
22 reflected on page 14, page 9 of the regulations.

23 BOARD MEMBER RELIS: And you're thinking you're close to
24 working out a set between the Board.

25 MR. FINCH: The State Board, however, does reserve the

3
1 right with our next set of compost regulations to revisit this
2 issue to make sure that they have nailed it down. Essentially,
3 what they're after is conditional --

4 BOARD MEMBER RELIS: You mean it's a conditional --

5 CHAIRMAN HUFF: They're cautious people. There may be
6 some of them out here.

7 BOARD MEMBER RELIS: We think this is okay, but let's
8 take a look at the overall regulatory picture.

9 MR. FINCH: To be specific the State Board's concern was
10 that there be all-weather surfaces that encourage lateral
11 drainage, and that was the language as the absolute minimum.

12 CHAIRMAN HUFF: That's very good news. And you're to be
13 commended, and the State Water Board is to be commended for
14 continuing to slog through this.

15 Where were you, Scott?

16 MR. HUMPERT: I was going to work on the last major issue
17 which was permeability. But you discussed that.

18 CHAIRMAN HUFF: Where do we go from here?

19 MR. HUMPERT: I'll discuss the recommended changes that
20 we're proposing. Of all the issues we're only proposing two
21 changes -- the definition of active compost and also the changes
22 to the permeability as requested by the State Water Board. Why
23 don't I go into staff's proposed changes for active compost,
24 that definition.

25 We're proposing to further modify the definition. It

3
1 will read "'Active compost' means any organic material derived
2 from compost feedstock which is in the process of being rapidly
3 decomposed." Active compost is unstable and is generating
4 temperatures in excess of 50 degrees celsius. And I believe
5 that this will address a lot of the --

6 CHAIRMAN HUFF: That gets rid of two twigs and a leaf.
7 You can't get those guys up to 50 degrees celsius.

8 MR. HUMPERT: In terms of mulching, that takes care of
9 that.

10 CHAIRMAN HUFF: 122 Fahrenheit.

11 MR. HUMPERT: So it can start decomposing. We are not
12 going to be necessarily looking or treating mulch that is just
13 beginning to decompose.

14 CHAIRMAN HUFF: It has to get up 122 degrees. Now, you
15 like that one better than the one you had earlier where you talk
16 about aerobically and anaerobically?

17 MR. HUMPERT: Yes. If you put in aerobically and
18 anaerobically, we are trying to be more specific. And there was
19 a recommendation that we try not to be specific but to
20 generalize.

21 CHAIRMAN HUFF: That sounds like a reasonable change to
22 me. What do you think? When we make the motion you have got
23 that one.

24 The other change.

25 MR. HUMPERT: The other change is permeability, and we do

3
1 have language on that.

2 CHAIRMAN HUFF: Where will it go?

3 MR. HUMPERT: This will go on page 9, line 38. We will
4 delete what we have in there right now.

5 BOARD MEMBER RELIS: Agenda item, page 14.

6 MR. HUMPERT: Lines 38 through 47 will be deleted, and we
7 will insert the following language: "All weather surfaces that
8 laterally drain free liquids: and we have a list. The list
9 starts off with (A) compost processing areas; (B) including
10 cleaning areas, and (C) tipping floor or unloading areas.

11 And then we have -- we go on to another subparagraph
12 which begins "Green composting facilities that use amendments or
13 additives in their composting operations shall include a liner
14 with a permeability of less than or equal to ten to the minus
15 six centimeters per second with a minimum of one percent grade
16 on the compost processing area or other standard allowed in
17 writing by the Regional Water Quality Control Board."

18 And then we have -- below that we have a subsection or a
19 subparagraph and which reads, "The thickness of the liner shall
20 ensure durability based on type of equipment used."

21 This, again, has been reviewed by the Water Board, and
22 they have given tentative approval.

23 BOARD MEMBER RELIS: So ten to the minus six is viewed
24 as -- how should we look at that?

25 MR. HUMPERT: Ten to the minus six relates to those

3 1 facilities that use amendments and additives only. The language
2 that refers to all facilities in general, including those
3 facilities that don't use amendments and additives is up above
4 basically all-weather surfaces that laterally drain the free
5 liquids.

6 BOARD MEMBER RELIS: An all-weather surface, would you
7 clear what that means.

8 MR. HUMPERT: No, it's not specified.

9 BOARD MEMBER RELIS: That means that you can get in or
10 get out, right?

11 MR. FINCH: Michael Finch, again, of the Standards Unit.

12 It would, once again, be a performance standard of -- the
13 last subparagraph where we allow this requirement to be a
14 performance standard approach. It would be based on the type of
15 operation that is proposed for this area. It would also be
16 based on the type of equipment.

17 There are cases of equipment that may be straddling
18 windrows in some cases, so it's possible that you could have in
19 some cases a rather thin liner such as HDPE liner.

20 BOARD MEMBER RELIS: But basically what you are getting
21 at here is that you want to be able to operate in all weather
22 conditions. Is that the intent of the performance?

23 MR. FINCH: It would depend on what the operator is
24 proposing to do as far as operations. Obviously, if they were
25 only going to perform summer operations, that might not be even

4
1 be an issue at all.

2 MR. DIER: That's the intent, though, Mr. Relis.

3 MR. HUMPERT: Aside from the major issues and changes
4 that I just described, there are a number of small clarification
5 changes and editorial changes that staff has looked at and is
6 proposing to change and -- but unless the Board wishes not to
7 spend the time reviewing that, I won't go ahead.

8 CHAIRMAN HUFF: Don't. On your assurance that they are
9 all technical in nature, well roll them into the motion, and
10 motion at the moment looks like it will include instruction to
11 the staff to pursue exempting the backyard.

12 MR. DIER: Or including even. Including.

13 CHAIRMAN HUFF: Acceptance of the change in an active
14 compost, acceptance of the change in permeability. The
15 backyard, the technical, and the activity and the permeability.
16 That's where we are at right now. We are going to lose Sam in
17 about 20 minutes.

18 BOARD MEMBER RELIS: Just going back to the access or
19 all-weather, when you incorporated this, your basis for doing
20 that was the discussion with the Regional Board? Is that all?

21 MR. FINCH: State and Regional.

22 BOARD MEMBER RELIS: State and Regional, and also what
23 about from the people who will build these facilities and
24 operate them?

25 MR. FINCH: It's part of the purpose of our 15-day

4
1 comment period.

2 BOARD MEMBER RELIS: They haven't seen that?

3 MR. FINCH: This was very, very recently discussed.

4 Actually, it was drafted last Thursday.

5 CHAIRMAN HUFF: All right. Now --

6 BOARD MEMBER EGIGIAN: I would like to ask the Chair if
7 he would please allow my adviser to comment on a few of the
8 items that I will not be here to hear.

9 CHAIRMAN HUFF: That's perfectly acceptable. What I'd
10 like to do, then, is have a motion while you're here to make the
11 technical changes, the backyard examination, the active compost
12 change, and the permeability change, and instruct staff to
13 prepare these changes.

14 MR. DIER: Chapter 3.1.

15 CHAIRMAN HUFF: And do another 15 days. Now we may have
16 other motions after you leave, and Paul and I may make
17 additional changes. But these are the major changes, and I
18 would like to make that motion now and have you have the
19 opportunity.

20 BOARD MEMBER EGIGIAN: Move it.

21 BOARD MEMBER RELIS: Before we have a motion I just
22 wanted to -- I have two ex partes that I want to give. Do we
23 have time to report? One was from work and Denise Talams is
24 here regarding the section. That's it. Thank you.

25 CHAIRMAN HUFF: Now, Sam has made his motion. Without

4
1 objection, we will substitute the prior roll call. The ayes
2 have three; noes have none. Motion is carried.

3 And now we can pursue anything else that you wish to
4 pursue, Mr. Reglis.

5 BOARD MEMBER REGLIS: Well, let's see. I don't really
6 have anything to bring up. Everything will come out in the
7 comment period.

8 CHAIRMAN HUFF: I have a stack of people who want to talk
9 to us. I'm going to take these slips in the order that they
10 appear up here at the dais which may or may not be the right
11 order, but I'm going to do it that way.

12 And the first one is actually relative to Chapter 5.
13 Unless, Steven, if you want to talk about anything else.

14 MR. SPAHE: I have nothing on 3.1.

15 CHAIRMAN HUFF: Bill Yeates, you're on the green side of
16 things.

17 MR. YEATES: Mr. Chairman, Bill Yeates, representing
18 Kings County Waste Management Committee.

19 I guess we will see the all-weather language when it
20 comes out. I don't think my initial reaction -- my client will
21 probably wonder what that means.

22 CHAIRMAN HUFF: They live with it I suppose. They get
23 out there on their facility in all weather conditions in Kings
24 County. That will work out fine.

25 Do you have any weather changes in Kings County?

4
1 MR. YEATES: We have. They aren't like Northern
2 California. It kind of goes right by them.

3 One of those things, to me, I really appreciate what
4 Mr. Egigian, and Mr. Relis said regarding just the backyard
5 concept of regulations to the extent that we are -- I realize
6 you are trying to accommodate another agency, the State Water
7 Board.

8 But we are fussing around -- we are all-weather services
9 and how the LEA is going to deal with it. Dealing with what?
10 It is going to drain through the soil normally. It just strikes
11 me as, you know, we will all hope that we accommodate one
12 another and come up with something that's with workable, but the
13 interest of Kings County is to reduce the cost of a significant
14 compost facility for Kings County.

15 The other thing that I did want to bring up which I did
16 do in a letter submitted and comments to the last draft, but I
17 think this Committee made real clear that you wanted to exempt
18 green compost from the question of permeability or the
19 all-weather wrinkle.

20 The way the additive is defined, if water or rain goes
21 through your compost facility, it will become compost leachate.
22 Compost leachate is defined as an additive. If you take that
23 leachate and put it back on a facility for the purpose of
24 allowing the compost to continue work, that would that would be
25 considered an additive.

5 1 BOARD MEMBER RELIS: So you're saying rainwater passing
2 through the pile will become leachate under our definition.

3 MR. YATES: No, no. It will become leachate but not by
4 your definition. By your definition it becomes an additive. So
5 therefore, in Kings County, if you take that leachate, put it
6 back on the pile to keep it moist, you would be violating your
7 thing.

8 So I suggest language that simply says, "Look. If we are
9 putting that green compost leachate back on top, that's not
10 considered a violation of the additive restriction."

11 MR. HUMPERT: It isn't, the staff contends, to not allow
12 compost leachate to be recycled back onto green material only.
13 Compost. By clarifying our intent, we are planning to do is
14 take compost leachate out of definition of additives.

15 CHAIRMAN HUFF: And that will do it, and that's one of
16 your technicals.

17 MR. YEATES: I like it except for the all-weather.

18 CHAIRMAN HUFF: We're narrowing the issues, Bill.

19 The next one is Worm Concern. Jeff Bowling.

20 MR. BOWLING: Good afternoon. I'd like to thank you for
21 the opportunity to testify here today.

22 I think a lot of comments that staff has made in terms of
23 changes are going to be very helpful. I don't want to take time
24 with our written comments that we provided earlier to go through
25 those again.

5
1 I think the 15-day comment period is a very good idea. I
2 would like to request that during that 15-day period, the
3 Compost Advisory Panel be formed again, meet, iron out some of
4 these technical changes, iron out some of the definitions and
5 get everybody in industry there to resolve everything.

6 CHAIRMAN HUFF: Maybe that's possible. Some of them are
7 going to say 15 days from now that's Christmas Eve.

8 MR. BOWLING: With the holidays approaching, it's
9 certainly rough. But if it's possible, I think that would be
10 great.

11 BOARD MEMBER RELIS: We could have a couple of conference
12 calls. It may not be practical.

13 CHAIRMAN HUFF: At least conference calls are consulting.

14 MR. DIER: Mr. Huff, we do have the luxury of a little
15 bit more time before the next Committee meeting which I think is
16 January 20th. We had anticipated at least ten days before we
17 sent these back out for comment.

18 CHAIRMAN HUFF: Actually my calendar is a little skewed.
19 We might be able to get them together.

20 MR. DIER: If not get them together physically, a phone
21 call.

22 CHAIRMAN HUFF: Richard Mohar.

23 MR. MOHAR: Thank you. Richard Mohar.

24 And most of my comments have to do with Section 17857,
25 Page 5, and it's really the change of the word "may" to "shall"

5
1 or "shall" to "may." Whichever way it goes. And in my opinion,
2 what that does is takes it off the State Board and puts it back
3 on the LEA, certain qualifications of green compost and the
4 Burma compost in particular.

5 And where we started with this was the LEA, who asked the
6 State what do we do with certain facilities? And the State was
7 going to make certain regulations to help guide the LEA, and now
8 the State is, by doing this, throwing it right back into the
9 LEA's lap.

10 And in a lot of cases the LEA doesn't know how to handle
11 the situation. This would be a different playing field
12 depending on who the LEA is.

13 I think there should be two exceptions, one for
14 exclusions for like backyard and hermaculture which is a
15 recognized type of culture activity, and another one for
16 exemptions, for sites who have under a certain amount of
17 materials.

18 Even in your newsletter that I just looked at out front,
19 both the government benefits from simpler waste management law.
20 So here we are saying we are trying to help local governments to
21 simplify the law.

22 But here under this section, we are making it much more
23 complicated. We are going to throw things right back into the
24 LEA's lap. Part of the original purpose of the green waste regs
25 was to make it so small operators can exist, and AB 939 can be

5
1 implemented and permitting be simplified.

2 I'm not so sure that in doing this right here, you would
3 accomplish this at all. I think in a way you would be making it
4 a difficult situation.

5 I also think that the mulch should be excluded and put in
6 there definitely as excluded and not just left out.

7 I have got some more things to say, but because of the
8 time, I will pass on that.

9 MR. HUMPERT: If I may respond to that, the reason why we
10 changed "shall" to "may" was because of necessity. We can't, in
11 the exemption section, just allow an exemption before a hearing
12 on the status of the exemption. So you have to go through a
13 hearing process before you can be exempted. And that's why we
14 used the word "may," because of the hearing.

15 BOARD MEMBER RELIS: What do you mean, hearing?

16 MR. FINCH: Mr. Chairman, if I may take a couple of steps
17 back, I was meaning to bring this up when we were talking about
18 the backyard composting issue. Originally in this particular
19 section, we had looked to having an actual exclusionary process.

20 But after our legal review by our legal staff here, we
21 come to find that we don't have clear authority in this
22 particular area to be able to fully exclude. Now we do have
23 provisions that do allow for exemptions. And that's why we
24 haven't seen exclusions to exemptions, and it's also why I'm not
25 100 percent certain on our ability to outright exclude backyard

5
1 operations as well.

2 I'm sure our legal staff will look into this a little
3 more, but since we are citing existing regulations, it does call
4 for a hearing process. And that's why we had to change "shall"
5 to "may."

6 As I see it, it seems to be our maximum flexibility given
7 our narrow statutory authority.

8 CHAIRMAN HUFF: I'm not sure I followed that completely.
9 Can you give it another stab? Mr. Connors?

10 MR. CONNORS: It seemed very clear the way Mr. Finch put
11 it to me, so I may not make it much clearer.

12 We are following the template in this set of exemptions,
13 following the template of existing regulations which call for
14 public hearing. We are tracking through that section.

15 CHAIRMAN HUFF: You are making clear something that
16 already exists.

17 MR. CONNORS: Actually, it's derived from that authority.
18 And as far as the exclusions go, we will be looking into
19 that. Please don't be concerned about that now.

20 We will review that with Mr. Finch and his staff. Our
21 thinking grows as we try to meet the needs of the regulated
22 public, and we begin to see different ways of doing things. We
23 are not exercising license in some of things, but we're being
24 creative, and we're trying to see what the law will do and allow
25 us to do.

6
1 CHAIRMAN HUFF: That's fair. And you are to be
2 encouraged to continue in that direction.

3 MR. CONNORS: And we will provide that support to
4 Mr. Finch and his staff's creative juices.

5 CHAIRMAN HUFF: It's going to be actively looked at. Is
6 that everyone who was on the green side of things? Apparently
7 it was.

8 Well, then, it doesn't really take a motion to ask staff
9 to further examine the exclusion question. On the other hand,
10 if you wish to make that motion, it doesn't hurt anything.

11 BOARD MEMBER RELIS: If it will help, I will make the
12 motion.

13 MR. FINCH: I don't think that's necessary. I will keep in
14 mind staff had originally had these as exclusions.

15 CHAIRMAN HUFF: That's right. You are encouraged to let
16 your creative juices flow.

17 Let's go to Chapter 5.

18 MR. FINCH: Susan Talams of the Permit Branch will make
19 the presentation.

20 MS. TALAMS: Good morning, Mr. Huff and members of the
21 Committee.

22 My plan was to once again outline the current process and
23 the new process to summarize the comments, address some of the
24 comments, to suggest some possible changes. Would that please
25 you to do it that way?

6
1 CHAIRMAN HUFF: It certainly would. Understand that we
2 have made a deal with the guy in the cafeteria. He's going to
3 stay open till 2:00 to make sandwiches, so in 15 or so we are
4 going to break so everyone can make a mad dash over there to get
5 sandwiches unless you don't want to eat.

6 Go ahead.

7 MS. TALAMS: Currently under the permit process, the LEA
8 receives an application Day I, has five days to accept or reject
9 the application. If the application is accepted, the LEA has 60
10 days to prepare a proposed permit.

11 When that permit arrives at the Board, Board staff have
12 60 days to -- well, I should take that back. The Board has 60
13 days to either concur or not concur in that permit. So the
14 whole process is about 125 days.

15 And let me show you the proposed process. With the
16 proposed process, the LEA will receive the package on Day I, and
17 within five days will submit -- actually, they will receive
18 three copies of package -- will then within five days submit two
19 copies of the package to the Board. The LEA has 30 days to
20 accept or reject the package.

21 Once a determination is made, within seven days that
22 determination will be forwarded doubt to Board staff. Board
23 staff will have 21 days to look at the package. If Board staff
24 agrees with the LEA's determination, the package will be
25 considered filed on that 21-day which is 58 days of the -- into

6 1 the process. It will be 15 days.

2 If the Board disagrees with the determination made by the
3 LEA, the filing date does not start until the staff has received
4 those items that either have not been received or those items
5 that are inadequate and have become adequate.

6 The next 60 days -- well, the next 120 days is the same
7 as the current process. I'll just leave that up while I'm
8 talking.

9 As Scott said, we have received 34 total comments during
10 this 15-day period. Out of those 34 comments, we had 11
11 commenters on Chapter 5 which is approximately one-third. Just
12 to summarize the comments, we had two comments on Section 18215
13 which is the one with the exemptions that you were just
14 discussing. We had four comments on the list of items that is
15 in Section --

16 CHAIRMAN HUFF: The laundry list.

17 MS. TALMANS: There is one comment on streamlining the
18 process or the lack thereof. There is one comment on removing
19 the LEA's authority in this process. There was one comment on
20 seeking an additional 15-day period. There were two comments on
21 clarification of the entire -- not the entire but on parts of
22 process, and there was one comment on -- one commentor said that
23 his comments are so voluminous that he would rather come today
24 and make those comments.

25 As far as addressing the comments that were received, two

6 1 comments on Section 18215 addressed the authority of the Board
2 to even use that regulation, and my response to that comment
3 would be that the Board does indeed have the authority, and we
7 4 use the authority cited in the Public Resources Code 40502 which
5 gives the Board the authority to adopt rules and regulations to
6 carry out Division 30 which is Waste Management Division.

7 I think one commenter had a specific problem with the
8 comment section of that section or Subsection (c) of Section
9 18215. And I wanted to say that unless we change that section,
10 I mean unless the Committee directs us to change that section,
11 that we weren't going to make any changes to the section. And
12 therefore, it would remain.

13 As far as comments on the laundry list, there were three
14 main areas that we received comments on. One area was some of
15 these items should be able to be filed concurrently with the
16 application and not have to already have been completed at the
17 time that the application was filed and those were the waste
18 discharge requirements, the Air Board permit, Coastal Commission
19 permits, Army Corps permits, Department of Fish and Game
20 permits.

21 Another area was items on the list that need
22 clarification, and those were coast, swamp, or sea risk
23 conformance, general plan consistency, waste diversion
24 information, and the periodic site review.

25 There were items that commenters felt should not be on

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1 the list at all, and there is one -- about 12 or 13 items on
2 that list.

3 What I wanted to point out was I think that for the areas
4 that the commenters suggested clarification, that we would go
5 ahead and give that clarification. If the public is not sure
6 what this means, I think that we need to provide some more
7 assistance in that area.

8 As far as being able to file concurrently your
9 application with, for instance, your waste discharge
10 requirements or any other permits, I would say my response would
11 be -- I think the permit manager's response would be that it
12 would be very hard for a LEA to condition a operating permit
13 without knowing what is going to be in those other permits. In
14 other words, the waste discharge requirement, the air permits,
15 the Coastal Commission permits. They're going to have certain
16 details that we need to also condition, and that would be the
17 reason that I would suggest that we leave those on the list.
18 And we have them -- have the operator seek those permits before
19 their application is accepted.

20 Now, the items that should be removed, it is, I think,
21 the staff's opinion that these items should remain on the list
22 because the list is an open-ended list. I believe the list
23 reads that items that are applicable are ones that need to be
24 included, and if there is an item on here that's not applicable,
25 it doesn't need to be included with the permit application.

1 I think beyond that, I'm looking for some direction as to
2 where to move with this.

3 CHAIRMAN HUFF: Any questions of staff?

4 BOARD MEMBER RELIS: Well, I have just a thought here
5 that the time -- what we're trying to address in this whole
6 permit process, I think, is first of all, an accurate statement
7 of the time involved. When we have this comparison, it doesn't
8 include the problems we've encountered where the actual permit
9 process is lengthened by the back and forth that goes on at the
10 last moment. Permits get pulled. Applicant pull their permit,
11 and so I don't know that it's an accurate time comparison.

12 I think it's important for the people who are here
13 commenting on this to say, "We're after efficiently operated
14 government." And the Waste Board side of the work load is part
15 of that equation. So stating it accurately is important.

16 I know there was no attempt to not state it accurately,
17 but the unofficial reality is that it has been extended in many
18 cases well beyond the time frame shown, and that's inefficient
19 from the Board's operating standpoint.

20 So I just wanted to get that on the record.

21 MS. TALMANS: Actually, Mr. Relis brought up a point that
22 I would like to make another statement on, and that is on the
23 Evans Road permit we saw now that the operator has to go back
24 and do an number of things, and they're going to probably come
25 before the Board in February or March when they get their

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1 funding and when they clean up their violations.

2 Had Board staff had an opportunity to review that
3 package, I don't think that would have happened. And I think
4 this process will allow -- or will prevent this from happening
5 in the future, and that's what it's designed for.

6 MR. CONNORS: This whole proposal is consistent with the
7 permit format which is an overarching State law which encourages
8 completion analysis to be done before --

9 CHAIRMAN HUFF: That's correct, and thank you for
10 pointing that out. We haven't really cited that, I think, as
11 much as we could have, but there is a permit format. It does
12 contemplate this sort of thing. Whether we have got the exact
13 sequence right or the exact number of days right can be
14 discussed and should be discussed, but the format does
15 contemplate exactly this sort of thing.

16 So I have a request. Here's what we're going to do.
17 We're going to break for lunch in just a second. One member of
18 the public here has requested, because of their time constraint,
19 that they be able to address us before we break. So I will
20 respect that.

8
21 Mr. Relis wants to get in line early.

22 MS. VASQUEZ: So Denise Delmatier is here with Gualco
23 Group on behalf of Norcal Waste Systems.

24 MS. DELMATIER: And thank you Mr. Chairman and Committee,
25 for allowing me to speak before the lunch break. I do have a

1 prior commitment.

2 I'm here to comment specifically on one particular
3 section on behalf of Norcal management. It is proposed Section
4 18215. Mr. John Bernard with Norcal Waste Systems will comment
5 on the bulk of the Chapter 5 proposed regulations.

6 First of all, I want to apologize to the Committee for
7 not seizing on this section earlier, and we are coming in late
8 in the process in bringing this particular section to your
9 attention. We have, however -- have seen the section now.

10 It actually appeared in a middle version of the proposed
11 package and did not have that highlighted, gray-shaded area, so
12 we didn't see it right off the bat. We finally did see it,
13 however, and it's a major policy consequence to ongoing
14 discussions and ongoing commitments. And it is of extreme
15 importance to the waste industry.

16 That particular code section, as I understand it in the
17 conversation with Mr. Conheim yesterday, actually was a former
18 Code Section that received its authority from a previous
19 Government Code Section 6679631 that preceded 8929.

20 That Government Code was not carried forward
21 deliberately, and although this particular Code Section was
22 however carried forward with statutory authority cited and
23 approved by OAL, the comment section that appears in this
24 particular section is where we have our major concern. It is
25 not with the Code Section itself, but it's actually the comment

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1 section that appears in the package.

2 This particular section obviously provides exemptions for
3 types of facilities applying or not applying for a solid-waste
4 facility permit, and those include government grants, short-term
5 realty constructions sites, evaporation ponds, et cetera. We
6 have no quarrel or qualms with those particular exemptions that
7 appear here in the previous Code Section and, in turn, in this
8 Code Section.

9 In addition to that, all of the applications must meet
10 all three criteria including conflict of public interest, amount
11 of waste that's insignificant, and that particular facility
12 poses no significant threat to health safety and environment.

13 Again, the problem with the comments section, the comment
14 section actually takes that Code Section a great deal -- a huge
15 step further and, in fact, cites a number of types of facilities
16 that could be solid-waste facilities and, in fact, could be
17 handling a significant amount of solid waste, and exempts those
18 through the comments, through the guideline provided in the
19 comment section, from following the solid-waste facility
20 application process.

21 And if you look at page 29 and the Items 1 through 4, you
22 have got a basic list of recycling facilities and processing
23 facilities that potentially can be exempted statutorily or
24 through the regulations from the filing for a facility permit.

25 Now, as we know, Policy Committee has undertaken a

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1 comprehensive review and a comprehensive survey of all the
2 potential solid waste facilities, and it's in the process of
3 surveying all those facilities and will be coming back with
4 recommendations for the full Board on how to handle the question
5 of what is a solid-waste facility and what is not a solid-waste
6 facility. But that study is undergoing the survey and analysis,
7 as we speak, and this particular comment section gets codified
8 through the regulatory process, and in our analysis would
9 preempt that study and would codify in regulations these flat
10 exemptions.

11 CHAIRMAN HUFF: Let me interrupt a second. A question of
12 staff. 18215 is the current regulation with that number. In
13 fact, it just went through OAL not too long ago; is that
14 correct?

15 MS. TALAMS: I don't know how long ago. It's been there
16 at least two years.

17 MR. CONHEIM: '91. And it was reauthorized by OAL.
18 Reapproved.

19 CHAIRMAN HUFF: Did this comment section appear at that
20 time?

21 MR. CONHEIM: Yes, it did.

22 CHAIRMAN HUFF: So we aren't making a change here.

23 MS. DELMATIER: Right. We are asking that this comment
24 section, because it provides the regulatory guideline for
25 implementation of the actual regulation, which we have no qualms

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1 with, be deleted because it conflicts with the ongoing policy
2 discussion, and it provides a flat exemption.

3 CHAIRMAN HUFF: That conflict already exists.

4 MS. DELMATIER: It certainly does exist.

5 CHAIRMAN HUFF: If we, in fact, decide to delete 18215,
6 that conflict still exists.

7 MS. DELMATIER: We are not asking for deletion of --

8 CHAIRMAN HUFF: I know. If we decided to do that, there
9 would still be a conflict.

10 MS. DELMATIER: If the comment section remained.

11 CHAIRMAN HUFF: The comment section is already written in
12 the Code, in regulations. It's already there.

13 MS. DELMATIER: Right. We were asking that the comment
14 section only be deleted, and in my conversation with
15 Mr. Conheim yesterday, that is a possibility through this
16 package process.

17 CHAIRMAN HUFF: It can be done. It can be done. But you
18 see, what I'm saying is that what that does is that it takes us
19 beyond where we have focused. We have focused on green
20 composting, and we have focused in Chapter 5 on the process,
21 what should be present physically in terms of the process of
22 getting a permit.

9
23 Now you're asking us to expand the scope of our
24 proceedings, our regulation writing, to make changes in things
25 that don't relate to those two areas I just talked about.

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1 MS. DELMATIER: It certainly is in the regulation package
2 that we have before us today. We are asking that you expand,
3 not the scope, but the focus, yes. And the rationale, the
4 rationale for the request to expand that focus is the fact that
5 the Policy Committee has undertaken this study and then in
6 addition to that, we have existing Code Sections that were added
7 to the Act with AB 939 that prohibit any operator from going
8 forward with an operation of a solid-waste facility without a
9 permit.

10 We have a definition of a solid-waste facility that
11 includes a processing station. We have a definition of
12 processing that includes separation, conversion, recycling,
13 et cetera. Those three definition combined that are in 939 in
14 existing statute, conflict directly with this comment section
15 and conflict directly with the study that has been undertaken by
16 Policy Committee and is an extreme question to be answered.

17 CHAIRMAN HUFF: Understood. Understood. None of that is
18 really in the dispute. The only question is this isn't a
19 conflict of our making. We are not making a conflict here. It
20 already exists.

21 I would argue that we are not making it worse, because it
22 already exists. You might argue to the contrary.

23 I'm going to argue some after lunch. Mr. Conheim, hold
24 your thought till lunch.

25 (The luncheon recess was taken at 2:00 p.m.)

1 WEDNESDAY, DECEMBER 9, 1992

2:20 P.M.

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CHAIRMAN HUFF: We will come back, and I hope you all enjoyed your 15-minute lunch.

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We will take up where we left off which is this discussion of Section 18215 and the comment section that appears as a part of that section. Do you have more to say Denise? Do you have a two o'clock time problem?

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MS. DELMATIER: I did. We had to cancel.

Just to recap real quickly, I understand that this Code Section was recodified after 8939 was passed. The Code Section that I referred to, of course, was deleted in 8939, but nonetheless, the Code Section was reenacted after 8939 passed.

A couple of changes have occurred, however, since that Code Section was reenacted and that, in particular, is a decision of the 15-cubic yard rule. That, combined with the Code Sections that I cited earlier -- the prohibition, cooperative facility without a public facility permit, the definition of a solid-waste facility, includes processing, and definition of processing which includes a preparation, recycling, and conversion center.

Those Code Sections, combined with the section of the 15-cubic yard rule, in our estimation, requires the Board to delete this comment section at this time because this comment section is in direct conflict with those Code Sections. And so

1 whereas certainly -- I certainly acknowledge this has not been
2 the focus of this package to date -- with this new analysis,
3 when this an appeared in the middle version of the package, it
4 was looked at, analyzed by industry, and we came to the
5 conclusion that it is an appropriate time to address it. And so
6 therefore Norcal, along with others, is asking for deletion of
7 this comment section at this time.

8 CHAIRMAN HUFF: Mr. Lipson, did you have some comments?

9 MR. LIPSON: Yes, I did. On behalf Mr. Egigian who
10 appeared on the policy and rendered technical assistance,
11 Mr. Egigian is concerned that the reenactment of this comment
12 section may in some way affect the work that this Committee has
13 undertaken to examine: The status of facilities that are
14 recycling, related facilities with respect to consideration of
15 these facilities acquiring a solid-waste facility permit.

16 And he is concerned that a reenactment or recent action
17 by this Board establishing a set of definitions while that study
18 is underway may tend to prejudge to some extent the conclusion
19 of that work that's underway. So he is concerned that if we
20 reenact this comment section, we may be taking steps that make
21 this Board's recent action affect some of the work that's
22 underway at this Committee.

23 CHAIRMAN HUFF: I don't understand two things. If we
24 make a change, how does that not prejudge the study, (1)? And I
25 will give you both at the same time. (2) how will it affect the

1 study?

2 I mean the study is whatever the people participating in
3 the study make it.

4 MR. LIPSON: I think the argument would go to the fact
5 that there were statutory changes made subsequent to the
6 original enactment of this language. And those statutory
7 changes -- we are considering the implications of those
8 statutory changes, and while we are considering the implications
9 of those statutory changes to adopt this, it tends to split the
10 conclusion.

11 CHAIRMAN HUFF: This isn't an adoption. This is a
12 carrying forward. We are not making any changes.

13 MR. LIPSON: But that's an action by the Board to enact
14 and change regulations.

15 CHAIRMAN HUFF: If we could find a way to enact these
16 changes without changing the section, we would do it, but that's
17 not how regulations are written.

18 MS. VASQUEZ: There is a study being conducted, and we
19 expect the results to be out in February, and it will probably
20 come to the Policy Committee for consideration in March.

21 If I were doing the comment section, I would keep it
22 consistent with the direction we have given the Board. I do not
23 see the conflict.

24 I think that if Mr. Egigian is uncomfortable with the
25 change, as he appears to be, recodification is possible, and we

10 1 could not make any changes in 2185. I think the changes in here
2 are needed, but we could limp along without it until the study
3 is completed if that's necessary.

4 CHAIRMAN HUFF: Well, we may do that. I don't think it
5 solves the issue, but it may be a convenient way to not let that
6 issue mess up our regulations.

7 MR. CONHEIM: There is nothing legally significant about
8 this. There is no legal change to this regulation as it exists
9 now, and as it will exist after these regulations are, as a
10 package, adopted as this language was in existence before it in
11 fact -- the conflict, if anything, with this language existed
12 with the so-called 15-yard policy. That 15-yard policy
13 represented a divergence from this language.

14 With that gone, we're back to where we were originally.
15 This language is consistent with the direction that the Board
16 gave -- that the Board directed staff to continue to give to
17 project proponents and LEAs pending the results of the study.
18 There is nothing legally significant in readopting this
19 regulation. It doesn't give this language any more weight or
20 force. There is no legal action of prejudgment that is
21 contemplated in the Administrative Procedures Act.

22 CHAIRMAN HUFF: Mr. Conheim, I don't disagree with you at
23 all. In fact, I totally agree with you.

24 MR. CONHEIM: To make changes now would hopelessly
25 confound the thing.

10

1 CHAIRMAN HUFF: You're absolutely right. You're
2 absolutely right. But what people are talking about, though, I
3 think, is the question of appearances. It's not so much the
4 legality of what you're talking about; it's the appearance.

5 And I think that's what Denise is talking about. I think
6 that's what Sam's talking about. Now I happen to agree with
7 you, but I can see that they're making arguments about
8 appearances. Let's not say ratify, okay? Ratifying this
9 language when some people want this language changed, and so
10 every time the Board fails to seize an opportunity to make the
11 change is regarded as an opportunity lost and a statement about
12 the willingness to make a change. We're talking appearances.

13 MR. CONHEIM: Appearances, for purposes of any rulemaking
14 when there is no legal change in the language of a regulation,
15 appearances are best contained and confined in the rulemaking
16 file itself, and that rulemaking file as of this moment is
17 replete with a statement of these concerns.

18 CHAIRMAN HUFF: That is true.

19 MR. CONHEIM: And so where one would look for --

20 CHAIRMAN HUFF: You are saying that appearances have been
21 dispelled by this dialogue.

22 MR. CONHEIM: By this dialogue.

23 MS. DELMATIER: I would respectfully disagree with this
24 that conclusion, obviously.

25 CHAIRMAN HUFF: That was pretty good, Conheim. That was

10 1 pretty good. That was quick.

2 MS. DELMATIER: Creative juices are flowing.

3 MR. CONHEIM: And I'm most concerned, Miss Delmatier,
4 with the real appearance of turning the whole policy debate up
5 on its head by making a change, almost arbitrary, before the
6 true changes, as Miss Vasquez has indicated, are put before the
7 Committee and the Board for debate and determination.

8 CHAIRMAN HUFF: I totally agree.

9 MS. DELMATIER: What we're asking for is the fact that
10 this provides guidance to provide a flat exemption for, in our
11 estimation, solid-waste facilities which are, in fact hammered
12 out.

13 CHAIRMAN HUFF: It's already written right there for any
14 LEA that can read.

15 MS. DELMATIER: Right. It is in conflict with the
16 existing statute.

17 CHAIRMAN HUFF: It may very well be. It's already
18 written down.

19 MS. DELMATIER: And for the record, we have asked for a
20 correction of a conflict in this regulatory package under the
21 OAL guidelines.

22 CHAIRMAN HUFF: So you will be unhappy if we excise this
23 section from our regulations at this point in order to avoid
24 making the change.

25 MS. DELMATIER: I'm not sure of the question.

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1 CHAIRMAN HUFF: In other words, if we decide that
2 Section 18215 is something with we can live without in these
3 regulations and drop the entire section from our regulations,
4 you will still be unhappy because we are doing that in order to
5 avoid making the changes to the conflict.

6 MS. DELMATIER: I think that in the package --

7 CHAIRMAN HUFF: That's what we're talking about.

8 MS. DELMATIER: Right. If you drop it out and leave it
9 as is in existing regulatory framework, obviously, yes. Because
10 it is in the package. It has been circulated for public comment
11 for the rulemaking process. Therefore, it is on the table, if
12 you will.

13 CHAIRMAN HUFF: If we take it off, that's the same thing
14 as passing it almost.

15 MS. DELMATIER: It is the same thing as ratifying that
16 this is not --

17 CHAIRMAN HUFF: We are talking about appearances. A
18 perception becomes reality. That's the operative principle.

19 MS. DELMATIER: I'd like to ask Mr. Conheim a question.

20 Is there is a problem with a comment section that
21 provides direction as opposed to the regulation itself? Is
22 there a problem legally for the Board to, in fact, delete the
23 comment section and not touch the existing regulation?

24 MR. CONHEIM: The Board has drafting authority with these
25 regulations, and they can leave the comment as is; they can turn

10 1 it into Subdivision D and make it a regulation; they can excise
11 2 it; they can change the words; they can do anything they want
3 with this regulation subject to all the requirements of the
4 Administrative Procedure Act.

5 CHAIRMAN HUFF: Okay?

6 MS. DELMATIER: Thank you.

7 CHAIRMAN HUFF: John Bernard, will you go on from where
8 Denise left us off?

9 MR. BERNARD: Thank you, Mr. Chairman and members of
10 staff. If there are no other Committee members around --

11 CHAIRMAN HUFF: Oh, yes, there are. He is within earshot
12 because this is piped into the room next door. He's here with
13 us.

14 MR. BERNARD: Denise did cover 18215 for us, so I'm going
15 to restrict my comments to Section 18201(d) which is the laundry
16 list of items which are required to be included with a
17 solid-waste facility permit application for it to be considered
18 correct and complete. And I say that with quotation marks
19 around "correct" and "complete."

20 The Board's effort here is obviously a streamlined
21 permitting process and in doing so is requiring these items to
22 be submitted. In the language of Subsection (d), however, it
23 says that "A complete and correct application package shall
24 include, but not necessarily be limited to, the following
25 applicable items."

11 1 I urge that the Board change this to read "The following
2 items, if applicable" which would met the intent of Miss Talmans
3 as she stated earlier that these items are not necessary if they
4 are not applicable.

5 CHAIRMAN HUFF: You are asking for respect of the King's
6 English.

7 MR. BERNARD: Yes.

8 CHAIRMAN HUFF: There is a stylistic difference, and it
9 may not -- it may be more than stylistic. At best it's a
10 change. At worst it's no more than stylistic.

11 MS. DELMATIER: I agree.

12 MR. BERNARD: We agree with the intent that these
13 regulations are designed to streamline the permitting process.
14 We understand, as evidenced by the Evans Road landfill,
15 permanent application was reviewed by this Board, this
16 Committee, earlier today, yet there are problems with the
17 permitting process, and there are steps which should be taken to
18 streamline this process and ensure that permits which are sent,
19 are forwarded to the Board from the LEA, are done so with the
20 understanding that they are complete and correct.

21 However, I have to take point that we cannot agree with
22 this laundry list and the items, the massive number of items,
23 which have been included.

24 CHAIRMAN HUFF: But doesn't your previous change just
25 take care of that?

11 1 MR. BERNARD: I would prefer that they not be there in
2 print if they are not actually necessary, and I feel that some
3 some of the items with are not actually necessary. And I will
4 cover those point by point.

5 CHAIRMAN HUFF: Okay.

6 MR. BERNARD: One of my concerns is that using the word
7 "complete" as used here, I interpret that to mean that the final
8 permit -- that the actual permit application must include a
9 completed and final permit for all of these items listed if they
10 are indeed a permit. They may indeed be just information which
11 is required.

12 But some of these items actually should be allowed to be
13 applied for concurrently. Miss Talams did mention that there
14 have been a number of comments requesting that some of these
15 items be allowed to be applied for concurrently, and I would
16 make that case here.

17 The regulation seems to streamline the permitting process
18 for the Board, but if this nonconcurrent permitting is allowed
19 to stand, then it in effect streamlined -- it may streamline it
20 for the Board, but it certainly does streamline it for the
21 applicants themselves. This would be consecutive permitting in
22 which the applicant would have to obtain all of the permits
23 necessary first before applying to the Board for a solid-waste
24 facility permit.

25 And in some circumstances, those permits are not under

11 1 the purview of the Board and are not required, do not directly
2 influence the solid-waste facility permit application process.

3 Looking at the points -- looking at the actual items that
4 are on the list, we have no problem with the following items
5 which are the application form, the report of facility
6 information, the preliminary or final closure, post-enclosure
7 plan, financial assurance documentation, operating liability
8 requirements, although that is not well-defined, waste discharge
9 requirements, although we believe those should be allowed to be
10 applied for concurrently, and land use and/or conditional use
11 permits.

12 A number of the other items remaining are not
13 well-defined or are included as part of the review process of
14 some of the items I just mentioned which we feel we have no
15 comments on.

16 For instance, land use or conditional use permits include
17 general plan consistency in its review as well as the Land
18 Conservation Act contract and the Williamson Act cancellation.
19 For the Board to ask for these documents to be submitted to them
20 suggests that the Board will be second-guessing a local planning
21 decisionmaking process.

22 I would ask the Board to examine its reasoning for asking
23 for these materials to be submitted. Is that indeed what the
24 Board plans to do?

25 Additionally, the CoSWMP/CIWMP performance -- this is on

11 1 two lines. I assume it to refer to just one item, but again it
2 is confusing as written. This is not defined in any statutes or
3 regs. I would ask that the staff please clarify that.

4 Additionally, this doesn't include nondisposal elements and
5 facilities and should this be included here?

12 6 Waste diversion information. That's not really clear to
7 us. We believe that it might be included in the reported
8 facility information so should not be required as a separate
9 item.

10 Lease agreements, owner, and operator, and contract
11 operator agreements, these contain confidential information. We
12 see no reason to make that part of the application process and
13 therefore public information unless they would in some way
14 impair the ability of the local community to meet AB 939
15 recycling goals. If that's not the case, we see no reason why
16 these documents would be required.

17 Periodic site review is required for landfills only. By
18 the Board including it here, I have to ask if the Board intends
19 periodic site reviews to be expanded to include all solid-waste
20 facility permits since this is as now written applicable to all
21 solid-waste facility permits. I would ask the Board to please
22 investigate that and see if that is the intent they desire.

23 Cleanup, and abatement order, and work plan for
24 corrective action needs to be required for current activities
25 only. Past problems which have been corrected, do they need to

12 1 be included?

2 Regarding storm water NPUDS permits, there is some
3 confusion here also. Regarding a storm water permit, the state
4 is pointing only to permits, general permits. For storm water.
5 One would be for a construction area of five acres or more in
6 size, and one would be a general industrial permit.

7 For the Board to ask for each solid-waste facility permit
8 to submit this information would be to get the same information
9 over, and over, and over, and is that what the Board desires?

10 In terms of NPUDS permit section, that could be construed
11 to include the waste discharge requirements which, I believe,
12 are the a portion of the NPUDS permit which is site specific
13 which would then have some value for a solid waste permit
14 application. But that is already listed above, so there is no
15 had need to have it in the list again.

16 The Coastal Commission approval, Army Corps permits, and
17 Department of Fish and Game permits, those should be allowed to
18 be applied for concurrently with solid-waste permit application.

19 CEQA compliance. That is very broad, and we hope that
20 that refers only to land-use requirements. Additionally,
21 mitigation schedule and notice of determination, we believe
22 should be wrapped up within that CEQA compliance item. We don't
23 understand why that would need to be listed separately.

24 Compliance with statement of standards, parentheses, LEA,
25 I'm not clear on this because I thought that was what the LEA

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1 was doing when they were reviewing the facility permit
2 application. I don't understand why, for instance on a permit
3 review, the LEA would have to provide to the operator a letter
4 or some documentation that they comply with the state minimum
5 standards which would then be included back with the permit
6 application for it to be complete and correct.

7 CHAIRMAN HUFF: All these comments are based on -- not
8 all. But many of them are based on the assumption that your
9 change about if applicable does not really obviate the need for
10 each and every one of these.

11 MR. BERNARD: That's true.

12 Regarding hazardous-waste facility permit and EPA
13 generator ID number, I don't understand the applicability to a
14 solid-waste facility permit application.

15 CHAIRMAN HUFF: Maybe it's not applicable.

16 MR. BERNARD: Fair enough. Fire district compliance. If
17 there is not a fire permit which program is being offered
18 through the local fire district, there may had been no format
19 for obtaining fire district compliance, and we would ask the
20 Board to look at that and see what it is exactly they're
21 desiring here. Also again, I don't understand the bearing of
22 the fire district compliance on a solid-waste facility permit.
23 If that could be clarified.

24 The final one -- and I'm sure you're glad to hear that --
25 is local county ordinances permitting. Does this apply to all

12 1 solid waste ordinances which have been passed by the local
2 agencies even if those ordinances do not pertain to the
3 solid-waste facility permits and the application which is being
4 submitted?

5 For instance, if it is a landfill or a transfer station
6 making the permit application, does something about residential
7 garbage collection which does not directly impact that facility,
8 the permitting the applying facility, does that need to be
9 required here? If that could please be clarified.

10 One of the things that we would also recommend is as this
11 regulation goes out for another 15-day comment period, there
12 have been workshops held on compost side of the regulations but
13 there has been no inclusion of the Chapter 5 changes in the
14 workshops done on the compost regs. Industry has not had the
15 opportunity to sit down with staff and review some of their
16 intent and rationale on some of these points, and so what we'd
17 like to do is recommend that there be an additional workshop
18 shop which would include Chapter 5 so that we have the
19 opportunity to review this since this has not happened yet.

20 I'm not sure, but there may be general agreement with
21 that with the audience here.

22 With that, I will thank the Board for its patience, and
23 if there are any questions?

24 CHAIRMAN HUFF: I don't have any, and if Paul has any, he
25 will have to come back running in here.

12 1 All right, Stephen?

13 2 MR. SANACROS: Thank you, Mr. Huff, for the opportunity
3 to speak today, and I will try to keep my comments on Chapter 5
4 brief. I'm Steve Sanacros. I'm with the Sanitation Districts of
5 L.A. County.

6 We have two main areas of comment on Chapter 5, and then
7 we have some suggestions. The two areas of comment are, the
8 first one is that with we see the proposed changes as apparently
9 adding too much time to the process we feel. It appears that
10 there are approximately 50 days being added at this point, and
11 we feel that any changes that are made to Chapter 5 should be
12 that if there are any changes to be made, the process should be
13 kept the same or shortened if there are to be changes made to
14 Chapter 5.

15 If things are felt incomplete or want to be worked on,
16 current practice does allow for either the LEA or the Board to
17 ask for extensions. And that could work in the other way if you
18 had a complete package, and you had a product that was complete,
19 and the LEA and the Board used their maximum time allowance just
20 because they could. So we feel that any changes should be made
21 to keep the time period the same or to shorten it.

22 The other comment is that sanitation districts feel that
23 the Waste Management Board should not be in a position of making
24 a separate finding of permit package completeness. We see the
25 Waste Management Board's role as more of an adviser to the LEA

13 1 and someone who provides concurrence. We do not really see it
2 as someone who makes a separate findings of package
3 completeness.

4 Our suggestions and understanding that the Board has
5 stated numerous times that there is currently a problem with the
6 existing system, that it is not working, our suggestions are
7 that that the current permit process be used, and that it is
8 working. And if things are coming up short, as was demonstrated
9 today, that time extensions be asked for.

10 CHAIRMAN HUFF: The problem with that, you see, is that
11 if the time extension is asked for, that takes an action
12 actually by the operator to give us relief. Okay? We have a
13 60-day clock. And that's fine. Perfectly happy to live with
14 the 60-day clock, but if I have a certain charge given me by
15 statute, and I do, to act with the statewide interest in mind
16 that protects the land, air, and water, then I have to have to
17 have appropriate information in front of me to meet my 60-day
18 clock and discharge my duties within that time frame.

19 Sometimes that doesn't happen unless someone external to
20 my process gives me that waiver. I find that unsatisfactory.

21 MR. SANACROS: Okay. Our comment is that we work within
22 the existing time line and system. We do see the Waste
23 Management Board advisory role to the LEA as a positive
24 relationship. And we see that, in our opinion, in L.A. County.
25 The communication between the LEA and the Waste Management Board

13 1 works well while the LEA is drafting the proposed permit, and we
2 see that as something that should be continued and, if anything,
3 that be used more as a model to the other LEAs that you may be
4 having problems with, that we actually work within the system.

5 So we're offering the suggestion that possibly both the
6 current permit desk manual and the LEA certification process be
7 possibly updated and used more effectively to work within the
8 the existing 125-day time frame.

9 Additionally, we are also suggesting that the Permitting
10 Enforcement Committee take no action on the Chapter 5 changes at
11 this time and that any proposed changes or any changes made to
12 Article 5 should include some form of panel discussion or public
13 hearing of those issues as just being a solid-waste facility
14 permit process discussion and that it be separated, clearly
15 separated, as you have made an attempt in these last couple of
16 meetings, clearly separated from the composting rates.

17 Do you have any questions?

18 CHAIRMAN HUFF: Okay. Thank you. No questions.

19 I have a question of staff. 18215. Why did we put that
20 in the regulation package?

21 MS. TALAMS: Because we wanted to make some changes to
22 it.

23 CHAIRMAN HUFF: Like what?

24 Q. The ones that are outlined?

25 CHAIRMAN HUFF: What do they do? What's the changes we

13 1 have outlined.

2 MS. TALAMS: I wanted to clarify with the nonclassified
3 Waste Management Unit that you could be exempted if you had a
4 waiver from the Regional Board and not just having waste
5 discharge requirements. That's come up in the past.

6 Although the Regional Board agrees to give a waiver, it
7 doesn't so state.

8 MS. VASQUEZ: What you should also know is that we had
9 former agreement from the Regional Board so it's already in
10 practice.

11 CHAIRMAN HUFF: It's already in practice, but we wanted
12 to say it in the right way in 18215.

13 MS. VASQUEZ: We wanted to clear it up so everybody knows
14 about it.

15 CHAIRMAN HUFF: So that's why 18215 is here. It doesn't
16 really focus on green compost, and it doesn't really focus on
17 the problem that we have talked about in the package. It's here
18 because it's in the same area and it would be nice to do.

19 MR. DIER: The second change, however, to regard to
20 deleting the note for profit did come up as a result of the
21 discussion of Chapter 5 or the composting regulations but,
22 again, if we're talking a matter of most importance, as Miss
23 Vasquez said, maybe we could wait a few months to effect that
24 change.

25 CHAIRMAN HUFF: My thinking is if we are going to open up

14

1 issues in an attempt to shut down issues, then what is the bias?

2 MS. VASQUEZ: Nothing.

3 CHAIRMAN HUFF: So if you're willing to make a motion,
4 Mr. Relis, just to take 18215 out of the regulations, we can
5 reconsider it when our second shoe drops on compost, because we
6 are going to have another set of compost regulations. They are
7 going to be complicated compost. They're going to come along in
8 six months or so.

9 BOARD MEMBER RELIS: Why don't we do that.

10 CHAIRMAN HUFF: Why don't we do that? That's a motion.
11 Okay we will have a roll call.

12 MS. KELLY: Chairman Huff?

13 CHAIRMAN HUFF: Aye.

14 MS. KELLY: Board Member Egigian?

15 CHAIRMAN HUFF: Absent.

16 MS. KELLY: Board Member Relis?

17 BOARD MEMBER RELIS: Aye.

18 CHAIRMAN HUFF: Motion carried.

19 We will take five minutes.

20 (A brief recess was taken.)

21 I think that concludes what we're doing with compost at
22 the moment. We'll move on. Other than to say I think that
23 Mr. Relis probably agrees. We do have an apparent problem here,
24 and Stephen Sanacros mentioned it, too, the appearance that we
25 are lengthening the period may actually work. I understand it

14

1 to be a shorter period, but we're now saying it's a 178-day
2 period instead of a hundred twenty, and that is troubling. And
3 I think we're going to have to explore ways to put our review at
4 the beginning of our 60-day period instead of at the beginning
5 of the 120-day period to see if that works. Okay?

6 Probably you can meet individually with Paul and with me
7 and/or Sam before these things go out for the 15 days and
8 convince us, or marshall more arguments, or be creative. Okay?
9 But there aren't going to be any more actions on compost here.
10 You have got enough to chew on.

11 So thank you.

12 Tire regulations. Steven, what?

13 MR. SANACROS: I just had a question. Is this going to
14 be included with the 15-day notice for the rest of compost? Or
15 is it going to be included as a separate issue.

16 CHAIRMAN HUFF: They are still in. We took no action to
17 take them out.

18 MR. SANACROS: Okay. Okay. I just wanted to be sure.

19 CHAIRMAN HUFF: My notebook doesn't have a copy of the
20 regs in it.

21 CHAIRMAN HUFF: Tire guys? Go ahead.

22 Garth Adams?

23 MR. ADAMS: Yes.

24 CHAIRMAN HUFF: Go ahead.

25 MR. ADAMS: As you are aware, this is Item No. 18.

14 1 That's page 184 in your packet.

2 My name is Garth Adams.

3 We are at the conclusion of the 15-day public comment
4 period on the proposed changes to the regulations, and staff is
5 prepared to summarize the comments received from the public
6 during this comment period.

7 CHAIRMAN HUFF: Do bear in mind that it's getting late in
8 the afternoon.

9 MR. ADAMS: That's the end of my thing. I'm going to
10 turn it over to Tom Micka to discuss what comments are
11 received, and we'll go on from there.

12 CHAIRMAN HUFF: Show us the post cards.

13 MR. MICKA: Mr. Chairman, members of the Committee my
14 name is Tom Micka.

15 We are presenting Item 18, consideration of amendments to
16 the proposed amendments to the regulations for permitting waste
17 tire facilities.

18 At the November 21st Committee meeting -- I'm sorry. On
19 October 21st, staff was directed by the Committee to make
20 changes to the draft waste tire regulations and to notice the
21 changes for 15-day comment period. Staff had received eight
22 comment letters and approximately a hundred post cards. More
23 than a hundred post cards were also received after the close of
24 comment period.

25 Each post card states that the commenter supports the

14 1 previous additional term for recyclable tires in the draft
2 regulations and that the commenter supported the comment letter
3 being submitted by the California Tire Dealer Retirers
4 Association.

5 On the back table is the latest draft of the proposed
6 regulations dated December 3rd, 1992. This draft is identical
7 to the draft mailed out at the beginning of the 15-day comment
8 minus the red-line strike out. Staff is proposing to make
9 certain changes to the regulations in response to the comments
10 and for clarity and consistency in the regulations.

11 I'll now address the comment letters that we have
12 received. Two of the eight commenters were satisfied with the
13 proposed changes, and the remaining six letters are addressed as
14 follows: One commenter recommended that Section 18246(b) should
15 require that a renewal application be submitted 120 days prior
16 to permit expiration unless the Board is a lead agency under
17 CEQA in which case the period would be 395 days as previously
18 specified in the draft regulations.

19 Just a second. I'll tell you what page that's on.

20 CHAIRMAN HUFF: 395 days? Page 14 is it? Page 14 at
21 line 46?

22 MR. MICKA: Right.

23 Staff does not support the change since we may not always
24 know which applications the Board will be lead agency for. So
25 staff proposes keeping that at 395 days. And the 395 days is

14 1 the sum of one year plus 30-day review. CEQA allows one year if
2 we are a lead agency for processing any application, going
3 through the EIR process.

15 4 The same commenter recommended that the regulations say
5 "the most recent revision" when referring to forms and
6 regulations rather than specifying the date of the form as the
7 draft regulations now do. It is staff's understanding that the
8 Office of Administrative Law requires forms to be referred to by
9 date in the regulations.

10 Section 17355, starting at the bottom of page 8, states
11 that after January 1, 1993, waste tires may no longer be
12 landfilled without first being reduced in volume. Section
13 17355(b) at the top of page 9 states that whole waste tires that
14 are inadvertantly mixed in with municipal solid waste may be
15 buried at a solid-waste facility as long as the quantity does
16 not exceed one percent of the weight of the load.

17 One commenter recommended that the one percent be
18 depleted because it may be construed as a permissible quantity.
19 Another commenter supports this section as written. Staff
20 believes that this section will still accomplish its purpose
21 without the reference to one percent and recommends that the
22 term "one percent" be deleted.

23 One commenter recommends that the addition of the words
24 "any of following conditions exist" after the word "unless" in
25 Section 18420(a) on the top of page 10 to ensure that it is

15
1 clear that all of the conditions listed in this subsection may
2 not be satisfied. Staff supports this change.

3 One commenter recommends that "altered tires" be stricken
4 from the definition of waste tire in Section 1725.735, and it's
5 on the bottom of page 4. Commenter stated that altered tires do
6 not pose a vector breeding problem in that there are fire
7 standards to cover the storage of altered tires.

8 Staff added this term previously when one commenter
9 stated that it would be unfair discrimination for the Board to
10 only regulate altered tires when stored with other whole waste
11 tires. Staff believes that altered tires do pose a fire threat,
12 although not identical to the threat posed by whole waste tires
13 and that the statute gives the Board the authority to set its
14 own tire-safety standards. In addition, the proposed
15 regulations include other technical standards as well as
16 tire-safety requirements.

17 Staff does not support removing the term "altered" from
18 the definition of waste tire.

19 One commenter stated that a recyclable tire should not be
20 treated as a waste tire because there's a profitable demand for
21 recyclable tires; whereas, there are unmanaged accumulations of
22 waste tires.

23 Another commenter, the California Tire Dealers and
24 Retreaders Association, CTDRA, stated that staff did not change
25 the definition of waste tire agreed upon by the Committee in the

15
1 last Committee meeting. Staff has reviewed the transcript and
2 believes that the changes made in the November 13th draft of
3 regulations conform to the motion passed by the Committee at the
4 last committee meeting.

5 CTDRA also, referring to the previous committee meeting,
6 stated that 18420(b) on page 10 should not contain the word
7 "recyclable tires," that some used tires may need to be stored
8 for up to a year and that retreaders should not be required to
9 complete the application operation plan forms.

10 Staff's response is the same as with the previous comment
11 that staff made that changes to the regulations as directed by
12 the Committee.

13 One late comment letter that came in yesterday from a
14 Local Enforcement Agency from Riverside County stated that there
15 would be more consistency in the regulations if only the
16 permitting authority performed inspections and not the LEA.
17 Section 18443(b), page 21, currently requires the Board and the
18 LEA to perform pre-permit inspections and that the LEA now use
19 the term EAU in the regulations in case there is no LEA, Local
20 Enforcement Agency, to perform the interim inspection.

21 The statute gives the Board authority to delegate
22 inspections to the Local Enforce Agency. Staff recommends that
23 we keep this delegation in the regulations because it will
24 familiarize these Local Enforcement Agencies when they need to
25 go out or after they have done interim inspections and if they

15
1 are called with regard to a complaint concerning a facility, and
2 they will have done a previous inspection. And they will know
3 whether the circumstances have changed from when it was
4 inspected previously.

5 Section 18 -- in addition to the above changes, staff
6 recommends the following changes to ensure clarity and
7 consistency in the regulations.

8 CHAIRMAN HUFF: Those are technicals?

9 MR. MICKA: Right.

10 CHAIRMAN HUFF: All right. We will handle them as
11 technicals unless there's substance.

12 MR. MICKA: There is some substance.

13 CHAIRMAN HUFF: You just give us the substance.

14 MR. MICKA: Okay. If we go to page -- or Section 18420,
15 and that's (b) on page 10, we have a couple of recommended
16 changes here. In the third line it says that -- and this was a
17 change we were instructed to make at the last committee meeting.

18 It processes or handles recyclable tires. We recommend
19 deleting the terms "or handles" and just state that it processes
20 recycled tires, because handling recyclable tires could be just
21 a stock piler.

22 Another point is that this section refers only to
23 recyclable tires, and I have checked with staff counsel. The
24 way it's written now is that if an operator was storing more
25 than 500 waste tires in a facility, even though he complied by

16
1 turning his recyclable tires over in 90 days, he would still
2 have to get a permit because of the waste tires.

3 CHAIRMAN HUFF: We don't intend that.

4 MR. MICKA: Right. So the solution to that -- and before
5 I read it, there was another concern. The letter submitted by
6 the Retreaders Association at the last Committee meeting had a
7 statement something like an average of 75 percent over 90 days,
8 and it wasn't clear. And Mr. Relis made that point. And so
9 that was stricken from the changes.

10 However, the way it's written now, the retreaders would
11 be bound to turn their entire stockpile over in 90 days.

12 CHAIRMAN HUFF: That wasn't intended.

13 MR. MICKA: Right. And we understand that there are
14 some, you know, casings that move at a slower rate and we would
15 want to be able to store some of those.

16 CHAIRMAN HUFF: You just don't get much demand for tires
17 that come off of the 1963 XKC.

18 MR. MICKA: Right. And we have been told that there are
19 some people in this business that store antique tires. So the
20 language that we're proposing to insert for 18420, the first
21 sentence will continue say "for the purposes of this chapter,
22 the business shall not be deemed to be a waste tire facility"
23 if, as a normal element of its business, it processes recyclable
24 tires.

25 Okay. Then we go on to say, "90 percent of all

16
1 recyclable and other waste tires received shall not be stored on
2 the business premise for more than 90 days."

3 "The total number of recyclable and other waste tires
4 maintained on the premise for more than 90 days shall not exceed
5 25 percent of the number of recyclable and other waste tires
6 received during the previous 90-day period."

7 It sounds like a mouthful of words.

8 CHAIRMAN HUFF: It sure does.

9 MR. MICKA: Let me give an example. What it's saying is
10 that every 90-day period we will assume that a person or a
11 retreader is bringing in a thousand casings such that he must
12 turn over 90 percent of those. And so if we have a thousand
13 coming in the first period, we have 900 going out. And so he
14 can retain 100 of those. And so the total number that he's
15 retained in his inventory is a hundred.

16 The second 90-day period, a thousand comes in. 900 goes
17 out. And he has retained another hundred. So now he's at 200
18 tires.

19 And in the third period a thousand comes in, but he can
20 only -- 950 goes out. He can only retain 50, because the last
21 parts of clause I said was --

22 CHAIRMAN HUFF: That's 25?

23 MR. MICKA: Right that's 25 percent of what was taken in
24 the previous 90-day period. And the purpose there is to allow
25 him to be able to hold or retain a certain number of these

16 1 casings but not allow the retreader to continue accumulating
2 forever, and the amount just increases. No limit.

3 CHAIRMAN HUFF: You are not really worried about the
4 retreader doing that.

5 MR. MICKA: Right.

6 CHAIRMAN HUFF: A real retreader would not do that.

7 MR. MICKA: Right. And along with this proposed change
8 in this section, we would also propose to change the language in
9 the operation plan that now refers to how to, you know, how to
10 follow these procedures and what information to keep track of.

11 CHAIRMAN HUFF: Let me get to -- is that the real
12 substantive change you had in your technicals?

13 MR. MICKA: Yes, it is.

14 CHAIRMAN HUFF: Is that the only one?

15 MR. MICKA: Right.

16 CHAIRMAN HUFF: Maybe I can start the process here a
17 little bit. I understand that the retreaders do believe that
18 their understanding of what we did last meeting and your
19 understanding of what we did last meeting have different
20 interpretations.

21 I tend to believe that you interpreted it correctly,
22 although I would acknowledge that the Committee may not have
23 appreciated fully the ramifications of what we did which was
24 that we took the retreaders out of the permit process. That was
25 our intent.

16
1 MR. MICKA: Right.

2 CHAIRMAN HUFF: The real retreaders. But we left them in
3 the technical standards. And I understand the retreaders don't
4 believe they belong in the technical standards, either.

5 We had some conversation when you briefed me on this as
6 to one option -- and I can't locate it in the regulation package
7 here -- on how to address that issue.

8 MR. MICKA: Okay. I have made some notes. I can tell
9 you one way of doing this as we have discussed.

17
10 CHAIRMAN HUFF: Do that, please. It's a lot quicker just
11 to cut to the chase right there.

12 MR. MICKA: Going back to page 10, 18420(b), we have
13 already discussed making a change in the first part of that
14 section, and what we would do is delete the last sentence under
15 (b). That's that "Businesses that qualify under this subsection
16 shall manage their waste tires in accordance with --" That's
17 part of it.

18 If we do that, then there is no need for them to submit
19 an operation plan. So if we go down to (c)(2) below (b), the
20 sentence in the middle where it says, "In addition, those
21 operators applying under Subsection (b) shall submit a completed
22 waste tire facility operation plan for DONND 501." We delete
23 that sentence.

24 And then the next sentence would say, "The Board shall
25 review the application..." And we delete the words "and

17
1 accompanying operation plan to determine if the operator
2 qualifies under subsections (a)(4) or (5) or (b) above."

3 CHAIRMAN HUFF: Okay. And that way we still know about
4 their presence --

5 MR. MICKA: Right.

6 CHAIRMAN HUFF: -- which is something that we think is
7 appropriate. But it takes them out of an area which arguably
8 the bill may not have intended them to be in.

9 MR. MICKA: There are two other things we need to do with
10 the regulations to make this change. One is I mentioned in the
11 operation plan, Item No. 4 discusses how we, in the 90-day
12 storage mechanism -- so I would propose that we move that to the
13 application form since they will now be required to complete the
14 operation plan.

15 CHAIRMAN HUFF: That's a conforming change.

16 MR. MICKA: Right. And in moving that we would delete
17 the first part of No. 4 which referred to 10,000 tires which is
18 no longer applicable because that was taken out of this
19 exclusion at the last meeting.

20 And one other change is if we go back to the scope and
21 17350, and that's at the --

22 CHAIRMAN HUFF: Another conforming change.

23 MR. MICKA: Right. At the beginning of the regulations
24 we would make the paragraph that's already there under 17350,
25 that would become Paragraph A. Paragraph B would then stay.

17
1 "This article shall not apply to any facility that meets the
2 requirements of Section 18420(b) of the Article I, Chapter 6."

3 CHAIRMAN HUFF: Now, I know that Mr. Egigian is
4 supportive of this change. I don't know, Mr. Relis, if you are
5 prepared to support it because obviously we have had no
6 conversation about it.

7 BOARD MEMBER RELIS: Well, my sole concern is we are
8 meeting the legislation, and I understand, and I think we
9 debated this down to the fine strokes on trying to eliminate the
10 real recycling operators here from these --

11 CHAIRMAN HUFF: I think we still have protection, because
12 in order to be determined as a real recycler, you have to turn
13 over 90 percent within 90 days. You have certain things that
14 you have to do. But if you do these. And if you don't do
15 these, you can be caught.

16 MR. MICKA: Right. And then you would need to be
17 permitted.

18 CHAIRMAN HUFF: And then you would need to be permitted.
19 But if you do these, then you are not in the game.

20 BOARD MEMBER RELIS: If I understand it, the
21 determination, though, is made voluntarily?

22 MR. MICKA: Well, they still will receive an application
23 from --

24 BOARD MEMBER RELIS: So if someone wants to be
25 exempted --

17
1 CHAIRMAN HUFF: Or excluded.

2 BOARD MEMBER RELIS: -- or excluded, rather, they will
3 submit an application. You will review it and make a
4 determination.

5 MR. MICKA: Right.

6 BOARD MEMBER RELIS: So there is a check and balance.
7 It's not a carte blanche.

8 MR. MICKA: And then the application will also state that
9 they maintain records so that at any time in the future we can
10 verify that they are turning the tires over at the prescribed
11 rate.

12 BOARD MEMBER RELIS: That's fine.

13 CHAIRMAN HUFF: You will go along with that?

14 BOARD MEMBER RELIS: Yes.

15 CHAIRMAN HUFF: Would you care to move it?

16 BOARD MEMBER RELIS: I will move it.

17 CHAIRMAN HUFF: I will second it, and as we will
18 substitute the prior roll call wherein we have Egigian absent,
19 and the votes are two to nothing, and the motion carries.

20 Now I want them to speak because now they know what we're
21 doing. If they want us to do more, we will entertain it, okay?
22 I had a feeling that it would go that way, so I wanted to do
23 that. You understand.

24 Karl Atkins. I brought a little speech with me, but I'm
25 afraid I'm a little confused and I'm sorry.

17 1 CHAIRMAN HUFF: Well, let us try and help you.

2 MR. ATKINS: Can you tell me is there anyone in this room
3 that happens to be a copy of the legislation.

4 CHAIRMAN HUFF: We have copies all over as well as there
5 the lawyers over here.

6 MR. ATKINS: Is there anyone who could actual read what
7 it says, the definition?

8 CHAIRMAN HUFF: I'm sure they can.

9 MR. MICKA: And this is Section 42807 of the PRC.

10 (Reading)

11 Waste tire means a tire that has been removed from
12 the wheel of a vehicle and is no longer suitable for its
13 original intended purpose due to wear, damage, or defect.

14 (End of reading)

15 MR. ATKINS: That's changed. You have a copy there in
16 front of the proposed regulations that are different from that.
17 Could you read those or could someone staff read those, please.

18 MR. MICKA: The definition in the regulations, Section
19 1725.735 states that (Reading)

20 Waste tire means a tire that is not on the wheel of
21 a vehicle and is no longer suitable for its original
22 intended use due to wear, damage, defect, or deviation
23 from the manufacturer's original specifications. This
24 includes all used tires, altered, waste tires, all
25 recapable casings and scrap tires.

18 1 (End of reading)

2 MR. ATKINS: I respectfully ask where do you get the
3 authority to change that?

4 CHAIRMAN HUFF: Counsel can describe it to you, but as I
5 understand the authority, the authority is that the law is not
6 self-implementing, and that is to say if it was, there would be
7 no need for regulations or anything else. Everyone could just
8 read the law and understand what they were supposed to do.

9 But this law and the fact that we have taken an awful
10 long time to write these regulations and to figure out, not only
11 this section but a lot of different sections, and some sections
12 that appear to conflict. This law is not self-implementing. It
13 takes additional words to explain what it's really about.

14 MR. ATKINS: Those words have to be defined accurately,
15 and the original intended use is not being addressed. That is
16 the key to the legislation.

17 The definition of a waste tire is a tire that's no longer
18 suitable for its original intended use, and through a great of
19 effort, at least on the part of people, members that I know of
20 our industry, that has tried to makes presentations here,
21 somebody is not listening.

22 The original intended use of the tire includes the reuse
23 of the tire in its original form by virtue of regrooving,
24 repairing, and recapping. Those are three very important
25 original intended uses.

18

1 Some way or another, somebody questions that, and I
2 brought with me today proof positive that I want to show both of
3 you, and I would like to demonstrate what is meant by what the
4 factory said when they made the tire.

5 In addition to the salespeople that go around from
6 Goodyear, Bridgestone, and Firestone, all these companies, and
7 tell everybody that they guarantee a percentage of a certain
8 number of their tires, certain sizes of their tires, to be
9 retreadable -- this means its the original intended use. It
10 doesn't say that with the tire.

11 I brought with me a tire that I'd like to show you if you
12 don't mind. This tire qualifies as a waste tire. Now your
13 definition, as written in these proposed regulations, on this
14 tire as part of its original construction -- this is not
15 something that was added to the tire -- it says what does it
16 say?

17 BOARD MEMBER RELIS: It says "regrooveable."

18 MR. ATKINS: Is there anything I have to prove now?

19 CHAIRMAN HUFF: I don't think so. You can regroove that
20 tire.

21 CHAIRMAN HUFF: That means it was intended to be
22 regrooved as is the case in every municipal city transit
23 authority, all tires that they buy for buses in all the major
24 cities, including Sacramento, that is done as a regular
25 practice. It's part after their cost analysis of the tire

18

1 program. That's how it's done. There are no exceptions to
2 that.

3 Not all tires are marked with this. Not all tires are.
4 I don't intend to imply that all tires are. Not all tires would
5 retread. Not all tires can be repaired after they have been
6 damaged.

7 But there are people in this industry -- and I am one of
8 them -- that does all of this. I do not retread tires. I'm not
9 what you're talking about: a real retreader.

10 Without me, most of those retreaders would not be able to
11 acquire the inventory that they have to buy. They don't have
12 time to do what I do.

13 BOARD MEMBER RELIS: So your concern is the way we're
14 defining it, you're left out?

15 MR. ATKINS: No. Your definition of the word "waste
16 tire" is inaccurate. It has been from the start of the
17 regulations.

18 CHAIRMAN HUFF: So what we have done -- and I will
19 concede that that tire says " regrooveable" on it and that you
20 have regrooved it. What we have done, especially with the
21 action we took here today, is to say that these regulations
22 don't apply to you.

23 MR. ATKINS: No. It still says the definition of a waste
24 tire includes a used tire, a repairable tire, a regrooveable
25 tire, a recapable tire. All of those tires are included in

18 1 waste tires, and the intent of it, recyclable word in the
2 process recommended by other people in the industry, was to
3 exclude the people who are dealing with recyclable inventories
4 of tires in their original intended use which conforms with the
5 legislation as it was chaptered.

6 CHAIRMAN HUFF: That's true. And what we did is we took
7 the change that we just did. We then said that these
8 regulations don't apply to you except at the beginning you have
9 to give us a piece of information that you're in business. And
10 that's all that you have to do now.

11 MR. ATKINS: I'm not in legal service, or government
12 service, or public service. I'm in the tire business, and I
13 have grown to distrust this type of process.

14 I don't believe honestly that if you are going to make a
15 mistake by classifying this tire different than the legislator
16 did when they passed the bill, if you are going to use this
17 language that's in this regulation package now that is clearly
18 different and counterproductive to the issue that was made in
19 the legislation, that it cannot be resolved by some kind of a
20 little extra word someplace else.

21 It has to be correct going into the process. And
22 anything beyond this definition puts me completely out of this
23 business. The possibility of being able to survive by the
24 wording that you have revised is a possibility.

25 CHAIRMAN HUFF: You will survive. This takes you out of

18 1 our game.

2 MR. ATKINS: The correction needs to be made to the
3 wording of the definition of a waste tire. It must not include
4 things that were not intended to be included by the Legislature.
5 If that needs to be changed, it has to go back to the
6 Legislature and give us a chance to appeal it at that level, but
7 you should not be given the authority to arbitrarily change that
8 definition.

19 9 To be honest with you, we came here in May. A lot of the
10 same people are here. It was completely by surprise. These
11 gentlemen that are at the table can tell you we were completely
12 amazed that they had been working for a year and a half on this
13 process with this interpretation of the definition of a waste
14 tire in their minds, and not one of the people in this room
15 sitting in the room sitting in the audience had that same
16 interpretation. It was complete opposite and a surprise to
17 everybody. They were as surprised that we didn't understand it.
18 And we were that they had interpreted it that way.

19 CHAIRMAN HUFF: I remember that. And that's why we have
20 been working since then on resolving the conflict which I
21 sincerely believe that today we have resolved.

22 MR. ATKINS: I'm sorry.

23 CHAIRMAN HUFF: Thank you,
24 Stephanie?

25 MS. McCUBRIAN: I'm Stephanie McCubrian with the

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1 California Retreaders Association. I am representing Southern
2 California today, too.

3 We are 800 members statewide, and I'm very pleased to see
4 that some of them responded. At least it got us on the comments
5 for the staff.

6 I think where Karl's frustration is coming from, if I
7 can, you have thrown a lot of information at us when we got here
8 that we were not aware of before we got here. So you have made
9 some changes, but during all the conversation when I was sitting
10 there listening to this, there was some changes that I did not
11 see made or hear made. So maybe we need some clarification.

12 In Section 17225.735, waste tire, on page 4 and also
13 again in the same definition in Section 18422, page 12, (m)
14 waste tires, if you read that definition, it says "... means
15 retired. It's not on the wheel of a vehicle and is not suitable
16 for its original intended use due to wear, defect, or deviation
17 from the manufacturer's original specifications."

18 Karl's argument is that that tire that he just showed you
19 was built for being regrooveable.

20 CHAIRMAN HUFF: Yes.

21 MS. MCCUBRIAN: And we understand. But if you continue
22 to read this, as far as what I have heard today, you did not
23 strike this out of these out of these two definitions. This
24 includes all used tires and recapable casings.

25 CHAIRMAN HUFF: That's right.

19
1 MSMcCUBRIAN: Why?

2 CHAIRMAN HUFF: The reason why is because if we did, then
3 you would not fill out the form at the beginning -- and I'm
4 using the wrong word here -- but to let us know of your
5 existence and to require that you keep records for the 90-day,
6 90 percent turnover.

7 If there wasn't some way that we could get that in -- so
8 what we did is we said, "Okay. We will include in the
9 definition of waste tire these things, and then when it comes to
10 all the other things that you have to do, technical standards,
11 close your plans, and all rest of the stuff, we exempt you out.
12 So the only thing left for you to do is that which I just
13 described.

14 MS. McCUBRIAN: I understand that. But I also understand
15 that -- I was trying to write very quickly so please correct if
16 I'm wrong.

17 In Section B, part of the rewording was "all recyclable
18 and other waste tires..." Okay? "... shall not be in a 90-day
19 period with 90 percent of all."

20 So you referred to waste tires there. If you continue to
21 keep used tires and recappable casings in the definition of
22 waste, those are assets of this industry's business, and that
23 can't be done. It has to be removed for this to be complete.

24 CHAIRMAN HUFF: Why?

25 MS. McCUBRIAN: Because five or ten years down the road,

19
1 you have defined that as waste, then who knows who's going to
2 come along and pull that out of your regulations and pull it out
3 of context like I believe some of these terms are taken out of
4 context.

5 CHAIRMAN HUFF: But, Stephanie, the regulations say
6 exactly what you folks do. You can't --

7 MS. McCUBRIAN: Someone could come along and pull that
8 definition out of the regulations.

9 CHAIRMAN HUFF: Stephanie, they can't. The
10 regulations -- and counsel will tell you this -- the regulations
11 have to be read as a body.

12 MR. SPAHE: There is another thing as well.

13 Steve Spahe, legal counsel for the Board.

14 There is no doubt authoritywise this Board has the right
15 to adopt a definition that further influences the program. The
16 program that is in place for this Board to do under this
17 legislation is a program that has to do with regulating piles of
18 tires.

19 If this Board wasn't an agency that licensed recyclers or
20 set standards for whether or not a tire's recyclable or
21 recappable, or regrooveable, it would be much more relevant to
22 our definition as to whether or not -- how we tried to define
23 it. But since we don't do that type of business, and we are
24 concerned with permitting them as piles of tires, it's necessary
25 for us to define waste tires the way we do. We have a

19 1 completely different purpose in doing our regulatory job than
2 you do in your context of using them as a recyclable asset.

3 If you don't -- and this is why there is additional
4 reason why it's necessary to keep this definition. An example
5 would be if you have a legitimate tire recycler who is using
6 recyclable tires, if that entity were to go belly up and in a
7 year or two or maybe three years were to go by, and the tires
8 were to sit there and not get the 90-day inventory rollover, it
9 would pose the same environmental hazard that a tire pile of
10 what you would consider true scrap tires, the exact
11 environmental hazard.

12 But the fact that some are capable of being recyclable
13 would keep this agency from permitting them, from using our
14 powers to clean those tires up. So our definition is necessary
15 because of the role we have as an environmental agency, and it
16 is not a disparaging remark on the nature of the tires you use
17 in your business.

20 18 And staff has worked pretty hard to come up with a way to
19 take you out of everything, all of the regulations, all of the
20 technical standards, all of the permitting processes, and still
21 let us do our job to regulate piles of tires that need to be
22 regulated.

23 MS. McCUBRIAN: But I thought from our conversations that
24 in a 90-day period a waste tire pile had to be moving, and if
25 that tire pile is not moving, there is an enforcement vehicle

20
1 there that says you can enforce -- you're not moving those
2 tires. They're not moving.

3 CHAIRMAN HUFF: Not unless we know about you, not unless
4 you are keeping records, and that's why the definition of waste
5 tire.

6 MS. McCUBRIAN: We don't have any problem with filling
7 out the application, but we still have a problem, and this
8 industry will have a very large problem in understanding why
9 you're still defining their assets as waste.

10 CHAIRMAN HUFF: But it doesn't make any difference as to
11 how you do business.

12 UNIDENTIFIED SPEAKER FROM THE AUDIENCE: Yes, it does.

13 BOARD MEMBER RELIS: What will it do to your business?

14 MS. McCUBRIAN: Perhaps I should get some of them up here
15 to talk to you for a little bit.

16 Mark?

17 MR. JAGOW: My name is Mark Jagow with Pacific Coast
18 Retreaders.

19 Good afternoon, Mr. Huff, and Mr. Relis, and staff.

20 I will go ahead and give my short spiel right now.

21 Pacific Coast Retreaders is opposed to these regulations
22 for permitting minor waste and major waste tire facilities. The
23 definition for waste tires stated in Section 18422,
24 Paragraph (n), conflicts with the definition of recyclable
25 tires as a stated in Paragraph (o).

20
1 Used tires are recappable casings and should not be a
2 parts of the definition for waste tires since they are
3 recyclable tires. Pacific Coast Retreaders fully supports the
4 definition for recyclable tires, and we believe that this
5 definition provides an explicit reflection of the statute's
6 intent.

7 We oppose Paragraph (b) of Section 18420, applicability,
8 since it says that an operator must process recyclable tires
9 within a 90-day period to be exempt from the permitting process
10 of waste tires. We suggest that this paragraph be rewritten to
11 clearly state than operator must process waste tires in the
12 90-day period to be exempt from a permitting process and
13 recyclable tires may not be a part of any process, period.

14 We also oppose Table I, representative exposure,
15 separation distance of Section 17354. The new storage
16 restrictions established by the table will render all of our
17 outdoor storage area unfeasible.

18 With the greatest respect, this is economically
19 unacceptable. We strongly suggest that the storage restriction
20 be omitted from the regulations remain the full responsibility
21 of the LEA.

22 With respect to my last statement there, if someone could
23 show me how to work your monitor here, I would put a little plot
24 plan up so you can see how the storage restrictions would affect
25 our operation.

20
1 CHAIRMAN HUFF: We are not applying them to you I don't
2 think. Are we?

3 MR. JAGOW: As I understand it, and in the connotation of
4 what's going on here, I believe that it would.

5 CHAIRMAN HUFF: How come?

6 MR. JAGOW: Because you are using waste tires including
7 recappable casings, and you are applying recyclable tires.

8 CHAIRMAN HUFF: We exempt you out of all the
9 requirements. We exempted you out of all the requirements with
10 the definition of recyclable tires.

11 MR. JAGOW: Well, in my opinion if you say that, well I
12 believe it. Then it could be stated in the regulations in a
13 much more easily understand fashion from our side of things.

14 CHAIRMAN HUFF: I think we have got you to a place where
15 you are pretty well off really. And part of this discussion,
16 the last half hour really, has been over semantics, not over
17 where you actually end up.

18 MR. JAGOW: Well, the semantics is the argument and what
19 Stephanie brings out as far as potential future negative
20 regulations.

21 BOARD MEMBER RELIS: But I think you're extending to
22 imponderables. You can't guarantee that someday somebody won't
23 do something. But what we're dealing with --

24 MR. JAGOW: You have defined waste tire in a certain
25 fashion that's inconsistent with the market and the industry.

20
1 BOARD MEMBER RELIS: Our argument is -- our
2 responsibility is not to -- we're not in the business of the
3 tire business. We have a specific mandate.

4 MR. JAGOW: That's exactly the problem as the attorney
5 pointed out. Your regulatory authority, and duties, and so
6 forth are different from what the commerce side of things are.
7 That's what's wrong.

8 BOARD MEMBER RELIS: But what we have tried to do here is
9 to keep us out of the commerce part of it.

10 MR. JAGOW: With the proper definition, you would be out
11 of it, and everyone would understand it very easily, very
12 correctly.

13 CHAIRMAN HUFF: I'll tell you what. We'll make a staff
14 recommendation that they reexamine the definition of waste tire,
15 that our definition of recyclable tire, with the mind of
16 determining whether there is any way that is legally possible
17 that we can write these definitions to achieve the same result
18 that we have now achieved today: exempting the recyclable tires
19 the way that the motion that just passed says. Okay?

20 MR. SPAHE: Staff can certainly make that attempt.

21 Let me point out a couple of things. First of all, we
22 have been trying to administer the program which everyone has
23 said the statute is not written the way that we would have liked
24 to administer. Given what we have got, we have worked on this
25 project for about 18 months. Probably almost 20 months because

20
1 the regs went into place almost eight months ago.

2 And for this last year, we have been working with you on
3 this particular problem. You have come to our agency many, many
4 times explaining to us why the definition of waste tire can't be
5 the way it is now. And we tried to explain to you that the
6 purpose of what we do leads to the least encompassed of what
7 this Board is required by the statute to do.

1
8 And I think you have gotten a lot of responsiveness of a
9 way to cut this channel a certain way, the way to get just what
10 you want. But there has not been much response to the fact of
11 what our agency has to do, the limits to which we can go.

12 We can cut some ways, but we can't cut other ways. Out
13 of the year or so that staff, along with legal counsel, have
14 tried to work out definitions for this. I don't see many other
15 ways to go.

16 If you have that tire that was here. And it's
17 grooveable, and you have a pile of 5,000 of them, and they are
18 all sitting there, this Agency has to decide whether it can
19 regulate that as a pile of tires or not. Therefore, you have to
20 choose to fulfill its duties under the law or not to fulfill its
21 duties under the law in the absence of a regulatory process.

22 I'm describing to you to a wall that's left here, and we
23 are trying to go around it. And remember this, too. This Board
24 does not have the final say on these regulations. Board staff
25 has gone out on a limb, which I support legally, as a way to cut

1 out from the granite wall for you a hole to get out.

2 If we get support from the industry, we can convince the
3 the other control group that it has to okay these regs, that
4 we're allowed to do that. So just be careful of the gun that's
5 in your hand and make sure it's not pointed at your foot.

6 Ours is not the last agency to decide that we're allowed
7 to do this.

8 CHAIRMAN HUFF: Let me elaborate. There are those that
9 say we can't a make exemptions under this law. Here we are. We
10 are saying that for people who are dealing with recyclable
11 tires, you don't have to meet technical standards. You don't
12 have to meet closure. You don't have to do any of that except
13 put in an application. That's all.

14 And if you are dealing in recyclable tires and turning
15 them, that's all you have to do, and that's the way this reads.

16 Now I admit we back into it. Okay? And that is what
17 leaves people -- lay people, business people -- a little
18 confused at first picking up these regs. I think that's the
19 source of your confusion. We do back into it for the reasons
20 that Counsel said. But we get there. And that's my bottom
21 line. We get there. All you have to do is do the application
22 if you are dealing with recyclables.

23 MR. JAGOW: Let me offer a suggestion, because I disagree
24 with the conclusions of your attorney. Why could it not be that
25 retreadable casings and these tires be stricken from the list by

1 a definition that would be in consistency with the facts as
2 recyclable tires, be adopted as it's stated, and with that
3 adoption of recyclable tires, you simply request for an
4 application.

5 We're accomplishing the same thing here, but we are not
6 making the very, very wrong mistake of an incorrect definition
7 of waste tires.

8 CHAIRMAN HUFF: I still don't understand the harm that
9 comes to you because of our definition. If I'm correct about
10 it, all you have to do is file an application.

11 MR. JAGOW: Even as it's been explained to me here, as
12 far as I understand it, I find it very difficult to believe that
13 we are somehow excluded from the definition or exempted.

14 CHAIRMAN HUFF: Grant my assumption. All you have to do
15 is file an application. Now, what is the harm in that? If I'm
16 right.

17 MR. JAGOW: Okay. If you're right, the harm with your
18 definition is future regulations, future activity by our
19 government, because it's wrong.

20 CHAIRMAN HUFF: Future regulations would have to go
21 through the same process as we did here. Future regulations are
22 are going to have to be based on law. Future regulations are
23 going to have to go through the same public process.

24 MR. JAGOW: Right. And now there is a definition for
25 waste tires that includes used tires and casings, and that's

1 wrong. Some one, some legislator, is going to pick this up,
2 this definition, and is going to use it.

3 CHAIRMAN HUFF: That's not how the world works.
4 Legislators do not pick up regulations as the sources of
5 inspiration for laws.

6 MR. JAGOW: When they look for cases for perversion of
7 the law, they will want to go somewhere to see how terms have
8 been defined.

9 CHAIRMAN HUFF: Not any legislator that I have ever
10 worked for.

11 MR. JAGOW: Well, here's a Legislature that went to
12 somebody other than industry to define waste tire, and it's
13 wrong.

14 BOARD MEMBER RELIS: They didn't do that.

15 MR. JAGOW: Okay. Another point. What about the
16 storage? I have just stated that the table is going to
17 eliminate all of our outdoor storage.

18 MR. MICKA: That's part of technical standards, and as we
19 have just said, you would be excluded from those technical
20 standards.

21 MR. JAGOW: Okay. Then that side apart, going with the
22 idea that we will be exempt. There are people who are not going
23 to be exempt, obviously. Those people --

24 CHAIRMAN HUFF: That's the intent of the law.

25 MR. JAGOW: That's the intent of the law, but the law

1 doesn't say how much you have to increase their costs which are
2 going to have to be passed on to the retailer profitably, we
3 hope. If those costs are significantly increased, it's going to
4 have a detrimental effect on what's intent is.

5 These costs are hopefully going to be able to be passed
6 on to the consumer. Retreaders will have to pass their costs on
7 also. That will increase our costs. When our costs get closer
8 to new tires, then we are not as attractive. We become less
9 attractive. So the table is much more restrictive than what was
10 initially put forth.

11 So I'm very concerned with costs that other business
12 people impose on Oxford or Royster, because that's who will have
13 to pay the dump.

14 CHAIRMAN HUFF: And they're concerned about them, too.
15 I don't think the Legislature when it drafted and passed that
16 law was.

17 MR. JAGOW: probably not.

18 CHAIRMAN HUFF: We're the implementers

19 MR. JAGOW: You're the implementers, and I believe you
20 have to control the costs.

21 BOARD RELIS: That's what we are trying to do, but we
22 have to still enforce the law.

23 MR. JAGOW: The law doesn't say how you have to store
24 tires. The law gives you the authority to regulate tire piles
25 and so forth. You are coming up with all the ideas on the

1 storage of tires. That's significantly going to increase the
2 costs depending on what you adopt.

3 MR. SPAHE: It may be factually true that it will
4 increase costs, but one of the specific mandates we were told to
5 do in the law is make the height restrictions, limit the size of
6 the pile. So we have no choice but to come up --

7 MR. JAGOW: But it doesn't say what those are. That
8 could be five feet. It could be 5,000 feet.

9 MR. SPAHE: It could be five miles.

10 MR. JAGOW: It could be five miles.

11 MR. SPAHE: But at that point we have to find
12 measurements that are not unreasonable. We are interpreting our
13 duty in that fact.

14 CHAIRMAN HUFF: And in fact the source of our standards
15 were not of our own making.

16 MR. MICKA: What you're talking about spacing, our
17 standards are based on what's in the Uniform Fire Code and
18 National Fire Protection Association standards 231(d).

19 MR. JAGOW: I fully understand that. There are all sorts
20 of scientific study that gives an argument for this, an argument
21 for that. There is also an economic reality out there for
22 businesses to survive, and that's something I believe this Board
23 has to take into serious consideration to not stub your toes.

24 CHAIRMAN HUFF: The fact of the matter is we did not want
25 to put people out of business who are dealing with recycled

2
1 tires, and that's why expended so much energy and met so many
2 times, and made the changes that we have made. We are
3 responding in fact to the business realities out there. I
4 really think so.

5 MR. JAGOW: The table now is much more restrictive than
6 what was initially proposed, and that cost is going to be
7 something that Royster is going to pass on to me. Of course, I
8 have great difficulty with increasing costs.

9 Thank you very much for your time.

10 CHAIRMAN HUFF: Glenn Fletcher.

11 MR. FLETCHER: Good afternoon. My name is Glenn
12 Fletcher. I'm with Pete's Road Service, Incorporated, and as of
13 four days ago, past president of the CTRA.

14 I appreciate all the hard work that has been done by
15 Board and staff and with all the new changes you sprung on us
16 today, which I do believe are positive changes. We need to
17 review these changes.

18 Although I do not believe that the document meets the
19 intent or spirit of the law which was to regulate waste tires
20 and not designate the damaged tire or produce retreads, reduce
21 the scrap tire problem, I still believe the definition is the
22 problem.

23 Real retreaders have DOT numbers and are registered.
24 Those people are available through many registration documents.
25 If the intent is to keep the definition the same, this could

2
1 possibly include all tire dealers that sell used tires and would
2 give you a possibility of over 3,000 applications into your
3 office.

4 We do believe that other agencies will look at your
5 definition of waste tires and take that and develop other
6 regulations or possible laws affecting the business with those
7 definitions in it. If your agency and Board would change or
8 strike out the used tires and recappable casing from the
9 definition, I believe you would get full support from our
10 industry on this law.

11 I know we have gone over and over again about what the
12 definition is. Your reasons for doing this, we do see. But we
13 also see reasons why we need to object to it.

14 Any questions.

15 CHAIRMAN HUFF: Counsel just brought to my attention
16 something I think is a pretty good idea for staff and that is we
17 can change -- well, first of all, we want to you to look at
18 this. Because this is integrative process, okay? We have made
19 changes, and made further changes, and made changes on the
20 changes. So go back and look at it and see if you would write
21 it the way it turned out. If you would have written it that way
22 to start with.

23 That's really what I'm asking to do with regard to the
24 definition of waste tires and recyclable tires. Maybe the
25 answer is you would. And if it is, I am willing to accept that.

2
1 Secondly -- and this, I think, is at a minimum. At the
2 beginning of regulations where you have the definition of waste
3 tire you can put in there a statement that this definition is
4 for the purposes of section, chapter such and such solely. That
5 gives a little more along the lines of what some of these
6 speakers have said. Okay.

7 BOARD MEMBER RELIS: You mean to regulate in the way the
8 Legislature has prescribed, and if not --

9 CHAIRMAN HUFF: It's not meant to be a blanket statement
10 about anything. It's a protection against anything outside the
11 program. Only for this purpose is the way. So that's
12 amendable, okay?

13 We don't need a motion to that. Anything else?

14 MR. LIPSOM: Board Member Egigian had one comment he
15 wanted to make on this. He supports the changes that you have
16 made to the regulations, but at the same time, he feels that the
17 definition proposed by industry is the appropriate one.

18 CHAIRMAN HUFF: We're adjourned. <TKPHREUBG>.

19 (The meeting was adjourned at 4:00 p.m.)

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