

MEETING
STATE OF CALIFORNIA
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

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BOARD ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA

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TUESDAY, FEBRUARY 14, 1995

1:30 P.M.

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Vicki L. Medeiros, C.S.R.

License No. 7871

A P P E A R A N C E S

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EDWARD G. HEIDIG, Committee Chair
Board Chair

SAM EGIGIAN, Committee Member
Board Member

PAUL RELIS, Committee Member
Board Member

I N D E X

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P R O C E E D I N G S

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3 COMMITTEE CHAIRMAN HEIDIG: The Permitting and
4 Enforcement Committee meeting will come to order.

5 Jane Lowas, will you, please, call the roll.

6 MS. LOWAS: Member Egigian.

7 COMMITTEE MEMBER EGIGIAN: Here.

8 MS. LOWAS: Member Relis.

9 COMMITTEE MEMBER RELIS: Here.

10 MS. LOWAS: Chairman Heidig.

11 COMMITTEE CHAIRMAN HEIDIG: Here.

12 We're going to try to get out of this meeting at
13 5:30. I'll ask my colleagues to cooperate with that.

14 Why don't we start off with -- it has been
15 requested that we move the West Covina item forward. So,
16 I'd like to take that first.

17 There's been a request to take the two San
18 Bernardino items soon, and we'll take those next.

19 So, why don't we start off with Agenda Item 7,
20 consideration of the Local Enforcement Agency Evaluation
21 Report from the City of West Covina and Committee action.

22 COMMITTEE MEMBER RELIS: Before we begin the item,
23 I would like to make two disclosures.

24 Gary Kovall and Cathy Fletcher met with me briefly
25 before this meeting on the BKK, West Covina decertification

1 issue, and Yvonne Hunter, representing the League of Cities,
2 on the same issue.

3 COMMITTEE CHAIRMAN HEIDIG: I met with Yvonne
4 Hunter as well on this issue.

5 Mr. Egigian.

6 COMMITTEE MEMBER EGIGIAN: I met with Cathy
7 Fletcher and the gentleman with her, and there are a bunch
8 of letters on that.

9 COMMITTEE CHAIRMAN HEIDIG: Yes.

10 I have some letters here that I will disclose.
11 One is from the City of Fontana, relative to Agenda Item 1.
12 It's by Senator Mountjoy.

13 I presume this is on the West Covina. Yes, it is.

14 A letter by the City of Los Angeles, Lewis Ho, I
15 guess, speaking for himself, and a letter by Daniel
16 Baskerville.

17 This will be entered into the record. Letter by
18 Lillian Kawasaki, from the City of Los Angeles.

19 All right.

20 COMMITTEE MEMBER RELIS: Mr. Chair, there are a
21 couple of other letters.

22 There's one from Laser Landfill Alternatives, Save
23 Environmental Resources, that is from Lynn Plambeck, and
24 then a Nancy Adin, from Consulting Chemist, also on the
25 matter before us, and Jean Arneson and Robert Arneson, West

1 Covina, also, on this item.

2 COMMITTEE CHAIRMAN HEIDIG: Okay. Why don't we
3 start off with the staff report.

4 Douglas.

5 MR. OKUMURA: Thank you, Mr. Chairman and Members
6 of the Committee.

7 Prior to introducing Item 7, I would like to first
8 give the Committee an update of our LEA evaluations, and
9 secondly, provide a brief description of the process adopted
10 by the Board.

11 First the update, back in December of 1993, the
12 Board adopted the procedures that we are currently using for
13 the evaluation decertification process with LEAs. In
14 January of 1994, staff began internal evaluations for
15 looking at the available data, and in March of 1994, staff
16 began the on-site evaluations.

17 Up to March 1 to today, we have a total of 23
18 total jurisdictions that have been evaluated. The
19 evaluations have been completed.

20 Of the 23, 10 of them are in the decision process.
21 We haven't determined which way we're going with them.

22 Of the remaining 13, decisions have been made.
23 Three met all of the requirements. Seven jurisdictions are
24 under work plans, and work plans are basically agreements
25 between the Board, the operators and the LEAs as far as

1 corrective work plans.

2 One has been de-designated by the Board last
3 month, and two are before the Board today.

4 The second part I'd like to do is just briefly,
5 since there was some confusion on the process, I think Tom
6 is going to put on the screen for you the process that we
7 went through to get to where we are at today. First of all,
8 we do have a handout there, we evaluate the LEA for
9 evaluation.

10 Then we notify the LEA. We do a Board internal
11 evaluation from all of the managers within the Board, any
12 comments or recommendations they may have.

13 Third, we do an evaluation review of the LEA
14 program on-site.

15 The fourth step is develop draft LEA evaluation.
16 The fifth step is LEA exit interview and discussion.

17 The sixth step is evaluate the issues with the LEA
18 input in the form of a draft. Then a final evaluation.

19 Then there is a Deputy Director decision-point or
20 recommendation. The next step that I have there is not
21 numbered, or in between step 7 and 8, is a noticing
22 requirement that we have here at the Board for noticing for
23 public meetings, and that is not on the flow chart. That's
24 just the process that we have to go through.

25 I think there was some confusion, because we did,

1 in fact, put an agenda item forward. It appeared to some
2 people that we had already made a decision on the position
3 that we're taking as a staff, recommending to the Committee
4 and the Board.

5 But, in fact, we have to do that in order to meet
6 the requirements of noticing. So, we put what our
7 recommendation at that point would be, and it could be
8 changed at any time during the process.

9 After that we hold an administrative conference
10 with an advisor, Executive Director and myself. Then we
11 come to a decision-point, at which time we can make a
12 recommendation to go with the agendaized item or make
13 modifications or even pull the item.

14 So, there is flexibility in there.

15 After that, we present the item to the Committee
16 and Board, implement the Committee and Board decision. Then
17 we have a follow-up to the Board's decision.

18 So, where we're at today is at the point of making
19 a recommendation to the Committee, which, in fact, is
20 different than the recommendation that is in the package.

21 From there, I think I will turn it over to staff
22 and have Tom Unsel make the staff presentation.

23 MR. UNSEL: Good afternoon, Committee Members.

24 The evaluation with the City of West Covina LEA
25 began, and I want to acknowledge that all of the program

1 areas were being fulfilled by the City of West Covina Local
2 Enforcement Agency with the exception of an updated permit
3 process for the BKK Landfill.

4 During the process itself, we identified that all
5 aspects of the City program were being fulfilled, with the
6 exception of that update for the BKK Landfill. We also --
7 staff found in the course of the evaluation that despite
8 aggressive efforts by the City of West Covina Local
9 Enforcement Agency over the past five years, the agency has
10 failed to prepare or caused to be prepared permits, permit
11 revisions or closure/post-closure maintenance plans.

12 That is the requirement that is statutory in
13 nature and found in the Public Resources Code 43214(d)(3).
14 Furthermore, the statute requires that the Board, during the
15 course of evaluations, in finding that the LEA is not
16 fulfilling its responsibilities when this situation occurs,
17 they may take action.

18 In your agenda packet itself, there are several
19 options outlined for the Committee to consider. During the
20 course of the preparation of the agenda item, staff had made
21 a recommendation.

22 I should note that an administrative conference
23 was held, in accordance with the procedure, on February 10.
24 There was, in my opinion, consensus of what the significant
25 issue is and that is a lack of an updated permit for the

1 originally issued permit for BKK Landfill that was issued in
2 1979.

3 There did appear to be consensus of how or what
4 should be done as to how to get that permit updated. In the
5 course of that, staff has considered its original
6 recommendation from the agenda item and will be prepared to
7 present that as well.

8 At this point --

9 MR. CHANDLER: Mr. Chairman, I think before you go
10 to questions of staff, I would like to offer some summary
11 comments.

12 Not only would I like to provide the Board with a
13 brief overview of the results of the administrative hearing
14 on February 10 that I held, but I would like to just try to
15 summarize a little what we just heard from staff.

16 First, I believe that staff have provided a
17 thorough overview of the Board-adopted process for LEA
18 evaluations and how we believe the process has strictly been
19 adhered to. With respect to the evaluation of the City,
20 staff have made a clear finding.

21 That finding is that the agency is not fulfilling
22 all of its responsibilities pursuant to Public Resources
23 Code Section 43214(d)(3), which states the grounds for
24 withdrawal of an agency's certification include instances
25 where the local enforcement agency has failed to prepare or

1 caused to be prepared permits, permit revisions or
2 closure/post-closure plans.

3 PRC Section 43215 states that if the Board finds
4 that an enforcement agency is not fulfilling its
5 responsibilities, the Board shall notify the enforcement
6 agency of its findings and the Board's intention to withdraw
7 its approval of the designation.

8 I think it's already been presented by staff we
9 believe that the conditions at the local level make it
10 extremely difficult for the LEA to process in a timely
11 manner the permit update. The frequency and nature of
12 ongoing litigations surrounding the facility's land use
13 approval as well as the operational standards have, in
14 staff's view, created a situation which has blocked the
15 LEA's effectiveness in carrying out its duties.

16 The issue is not about the State usurping the
17 authority of local government. The land use approval is
18 outside of this discussion and appropriately so.

19 However, the State's permit which governs the
20 operational parameters at the site is our business and
21 responsibility, a responsibility which we have vested with
22 the LEA through its certification to ensure that permit
23 accuracy reflects the operation at the site is consistent
24 with State and Federal Sub Title D standards.

25 The Board is well-aware the situation we have here

1 has been represented earlier times as the program's Achilles
2 heel, and I'm speaking generically. What I mean by that is
3 a situation where local conditions prevent the timely
4 responsiveness of the State's requirements.

5 In my conversations up and down the state with all
6 LEAs, they have responded to this alleged criticism by
7 stating that in situations where the Board finds the LEA is
8 deficient in its responsibilities, the Board should step in
9 and assume that responsibility.

10 This issue seems to have developed into one of not
11 what needs to be done but how it's to be done.

12 Let me summarize the Administrative Hearing held
13 last Friday with the officials of the City of West Covina.
14 As Tom Unsel just represented, the City recognizes that the
15 State's permit is well overdue for being brought current.
16 There's no argument over this point.

17 Staff's original position was to recommend
18 immediate partial decertification as allowed by statute.
19 However, the City indicated that with the Board staff's
20 involvement as a facilitator that perhaps progress can be
21 made in the intervening weeks.

22 Therefore, we have modified our recommendation to
23 postpone the effective date for the partial decertification
24 for 45 days, such that both parties can initiate discussions
25 around finding a mutually agreed-upon process for updating

1 the permit and fulfilling the CEQA compliance.

2 I would like, if I could, to read into the record
3 and for those in the audience, to enunciate again, what is
4 the staff's final recommendation. Staff recommends that the
5 Committee move to partially decertify the LEA pursuant to
6 Public Resources Code Section 43216.5 in the area of solid
7 waste facility permit authority for the City of West Covina
8 over the BKK Landfill.

9 Staff furthermore recommends that based on
10 discussions held during the administrative conference on
11 February 10, 1995 that the effective date of this partial
12 decertification be staid until March 31, 1995, as I
13 indicated, a period of 45 days from today's Committee
14 meeting.

15 During the period between the February Committee
16 meeting of the Permitting and Enforcement Committee and the
17 effective date of the partial decertification of the LEA,
18 the staff recommends that the LEA be directed to initiate
19 negotiations with the operator of the BKK Landfill to
20 achieve a mutually agreed-upon process where the solid waste
21 facility permit can be brought up to date and CEQA
22 compliance met.

23 If the two parties, the City and the operator,
24 demonstrate a spirit of cooperation in which a process for
25 updating the permit is agreed to and immediate steps are

1 taken which reflect commitment to resolving the outstanding
2 permit, the LEA shall report back to the Board at its March
3 meeting in order for the Board to reconsider the effective
4 date of the partial decertification.

5 However, failing any agreed-upon process and a
6 commitment to move forward, effective March 31, 1995, the
7 Board shall assume the duties and responsibilities for
8 obtaining a permit which complies with CEQA and reflects the
9 operating parameters at the BKK Landfill.

10 So, Mr. Chairman and Members, that is staff's
11 recommendation based on the conversations we had with the
12 City officials on Friday. I think it's consistent with the
13 statute and what is allowed, and I think it's best for the
14 integrity of the LEA program that we give that some
15 consideration.

16 Thank you.

17 COMMITTEE CHAIRMAN HEIDIG: Have you met with the
18 operator of the landfill?

19 MR. CHANDLER: I have not personally met with the
20 operator of the landfill since Friday's meeting, however, I
21 did communicate our revised recommendation through a
22 telephone conversation over the weekend.

23 COMMITTEE CHAIRMAN HEIDIG: Mr. Relis.

24 COMMITTEE MEMBER RELIS: Mr. Chandler, in your
25 recommendation or your revised recommendation, you refer to

1 the idea of having the LEA initiate negotiations with the
2 operator to achieve a mutually-agreed upon process where the
3 solid waste facility can be brought up to date.

4 Can you elaborate on what -- and then you go on to
5 say the spirit of cooperation and some other language
6 related to resolving the outstanding permit, do you have for
7 us some specifics in mind so that in such a process you have
8 to evaluate it, so, we would need specifics if we were to go
9 down that line, we would need to know what would we be
10 measuring.

11 MR. CHANDLER: I think it was appropriately
12 brought out in the administrative conference by one of the
13 representatives for the City that when we got into
14 discussions about perhaps defining a process, it was noted
15 that the operator wasn't present in that administrative
16 conference and that clearly we should bring all parties to
17 the table to define this process.

18 Let's recognize that the LEA will remain the LEA
19 during this next 45-day period. So, I want to be clear, we
20 are recommending that the LEA, and I believe appropriately
21 so, take responsibility for initiating these discussions and
22 defining the process.

23 Personally speaking, I think there are some things
24 we could see immediately brought forward. We need a project
25 description agreed-to by both parties.

1 The contentions of this situation leads me to
2 believe that perhaps an environmental mediator would be a
3 useful tool to include. Resolution of the lead agency
4 status is one area that we discussed in the meeting inasmuch
5 as I think the operator contends there are some questions
6 over whether or not this document would ultimately be
7 certified given the failure in attempts on getting an
8 environmental report completed to date.

9 It's clear that there is some outstanding
10 litigation separate again from the land use that deal
11 specifically with this permit that has recently been filed.
12 I think that serves as somewhat of an encumbrance on getting
13 the permit updated.

14 So, it would be specific actions, such as I just
15 outlined, resolution of the project description, resolution
16 of the lead agency status, withdrawal of some of the
17 litigation that's hampered discussions and perhaps looking
18 into the possibility of bring in a third-party mediator to
19 keep the process moving forward, are the types of things
20 that I would hope that could be put forward in a process
21 that both parties would agree to and that would leave this
22 Board some comfort that, in fact, we are seeing the State's
23 responsibilities being addressed here.

24 COMMITTEE MEMBER RELIS: Okay.

25 COMMITTEE CHAIRMAN HEIDIG: All right.

1 Any other questions?

2 Let's start off with the public testimony.

3 MS. LOWAS: Mr. Chairman, just to let you know
4 that there is a representative, Colin Lennard, the counsel
5 for the West Covina LEA, has asked to open the presentation
6 for the City.

7 COMMITTEE CHAIRMAN HEIDIG: Is Assemblyman
8 Horscher here?

9 Mr. Lennard.

10 MR. LENNARD: Yes, he is here, and I would like to
11 introduce Mr. Assemblyman Horcher now so that he can get
12 back to his duties at the Capitol.

13 ASSEMBLYMAN HORSCHER: Hi, Mr. Chairman and
14 Members. Hi, Sam.

15 I appreciate this opportunity to speak before the
16 Board on behalf of my City, the main City in my district.
17 In fact, it's one-fourth of my district, the City of West
18 Covina, and I will make my remarks brief.

19 This battle between the BKK Corporation and the
20 West Covina LEA has gone on far too long without resolution.
21 Understandably the citizens of West Covina, the California
22 Integrated Waste Management Board, the LEA, the BKK
23 Corporation have completely lost patience on this issue.
24 The LEA and BKK Corporation have had difficulty working
25 together, understatement.

1 As you may be aware, on several occasions BKK has
2 delayed the permit process and the accompanying CEQA review
3 by changing the scope and definition of its project. The
4 ongoing string of these abrupt actions by the West Covina
5 LEA and the BKK Corporation has caused a severe breakdown in
6 negotiations and the permitting process.

7 Today I would like to propose a possible solution
8 to this ongoing problem. First, it is crucial for the City
9 of West Covina to retain its LEA status.

10 BKK directly affects the citizens of our area, and
11 it seems only fair that it maintain some control over the
12 landfill.

13 Secondly, what you should do today, the Board
14 should establish a deadline for negotiations between the BKK
15 Corporation and the West Covina LEA. Six months from today
16 the BKK Corporation has failed to produce an acceptable
17 permit review to the LEA, the Board and the West Covina LEA
18 jointly should take immediate action to shutdown the
19 facility, period.

20 In my view, the whole situation is ridiculous.
21 BKK has managed to remain open and is accepting solid waste
22 without the appropriate permits for ten years. As the LEA,
23 West Covina has been unable to exert any enforcement action.

24 When the LEA takes forceful steps towards
25 enforcement, they are threatened with decertification. This

1 chain of events has done nothing to help the waste facility
2 to be permitted properly or assure the citizens of my
3 district, the citizens of West Covina, that BKK is operating
4 safely.

5 I urge the Board to act accordingly and
6 responsibly. Thank you for your time.

7 COMMITTEE CHAIRMAN HEIDIG: Thank you.

8 Any questions?

9 Mr. Lennard.

10 BOARD MEMBER CHESBRO: Mr. Chairman.

11 COMMITTEE CHAIRMAN HEIDIG: Yes.

12 BOARD MEMBER CHESBRO: As a Senate appointee, it
13 was suggested that I read a letter from the Senator who
14 represents the area into the record.

15 This is addressed to Ed Heidig, Chairman of the
16 California Integrated Waste Management Board. It is from
17 Senator Mountjoy, who was detained in Southern California,
18 apparently, and was unable to be here. He had intended to
19 present testimony to the Committee.

20 "Dear Mr. Heidig, I am sorry that I cannot make a
21 personal appearance today, but my schedule does not permit
22 that. It's my understanding that the Board is considering a
23 partial decertification of the West Covina Local Enforcement
24 Agency with an effective date of March 31, 1995.

25 "The BKK Landfill is of a great local concern.

1 Decertification of an LEA would greatly impact local control
2 and the LEA regulatory scheme. I believe that before taking
3 such action that the Board should be absolutely certain that
4 there are no alternatives available.

5 "My suggestion to the Board is that instead of
6 adopting a partial decertification of the West Covina LEA
7 that would become effective March 31, the Board instead
8 direct BKK, the West Covina LEA and the Board staff to meet
9 on the solid waste facilities permit issue.

10 "With strong involvement and clear direction from
11 the Board, I believe that a solution is possible. Even if
12 no solution is reached, we will know that every alternative
13 has been attempted.

14 "Only after the March 31, 1995 deadline has been
15 passed without a solution should a partial decertification
16 be entertained.

17 "Ordering a partial decertification that will be
18 in abeyance for 45 days may be premature. It also may taint
19 the discussions in this 45-day period that could be used by
20 the parties as excuses for failure to come to agreement.

21 "Leaving the decertification out of the equation
22 until later if necessary allows the greatest opportunity for
23 a satisfactory solution to be reached.

24 "I hope this letter conveys my personal concern
25 and interest on this issue to you and the Board and my

1 preference for Board action. Please keep me informed as to
2 the disposition of this matter, sincerely, Richard
3 Mountjoy."

4 And I would like to enter that into the record.

5 COMMITTEE CHAIRMAN HEIDIG: Thank you.

6 I think it's already entered into the record, but
7 I appreciate your reading it, Mr. Chesbro.

8 Mr. Lennard, would you like to continue?

9 MR. LENNARD: Yes.

10 Mr. Chairman and Members of the Committee, my name
11 is Colin Lennard. I represent the West Covina LEA, and I'm
12 a partner of the law firm of Poe, Williams and Sorrenson.

13 We do have a brief presentation that we would like
14 to make to you. We have a number of speakers.

15 We have made every attempt possible to make sure
16 that the speakers are not duplicating what the others say.
17 Before I introduce the first speaker, I would like to make
18 some brief comments, and I have just handed out to you an
19 alternative recommendation that West Covina LEA is
20 suggesting would meet everybody's desires in this matter,
21 and we will get to that at a later time.

22 You now have before you an amended staff
23 recommendation for partial decertification of the West
24 Covina LEA. I would at this point like to also thank the
25 Members of the Board for taking the time that you have to

1 meet with us and the representatives of the City and the LEA
2 on this very important issue.

3 I would also like to say, thank you for the time
4 that the Executive Director has put into this issue and also
5 the time that he's taken to meet with us and members of the
6 LEA.

7 We believe that these meetings have been
8 constructive. We believe that we have given you information
9 that you may have not had before, and we hope that
10 information will lead to some type of resolution where all
11 parties can get on with what we all agree on and that is
12 that we need an updated Solid Waste Facilities Permit on the
13 BKK facility.

14 As I said, you have an amended staff
15 recommendation before you, recommending, however,
16 decertification or partial decertification of the LEA. In
17 addition, as you heard before, it also recommends that that
18 decertification be staid essentially until March 31 so that
19 a process can be worked out between the LEA and the
20 operator, BKK, in order to arrive at an amended or new Solid
21 Waste Facilities Permit.

22 While we welcome the opportunity and certainly
23 have no objection to sitting down and coordinating a process
24 with the operator, with the assistance of the Board to try
25 and get an amended new Solid Waste Facilities Permit, we

1 must strenuously object to the discussions being tied in any
2 fashion to a decertification of the LEA's permitting
3 authority.

4 The LEA proposed decertification, we believe,
5 should be simply taken off the table and the parties allowed
6 to develop the process regarding an amended Solid Waste
7 Facilities Permit.

8 We don't think it's necessary for a public agency,
9 for the IWMB to enter into discussions with another agency,
10 the LEA, while having the threat of decertification over our
11 head. We firmly believe that the staff recommendation,
12 while it partly goes in the right direction, really becomes
13 counterproductive to what we all hope to arrive at, and that
14 is an amended Solid Waste Facilities Permit.

15 I don't think it stretches the imagination that if
16 we all start sitting around the table and there is a
17 decertification on the LEA with the hammer to fall or not
18 fall on March 31, those discussions may very well not get
19 very far.

20 There are a lot of interests around the table.
21 There are a lot of issues to be discussed. There are a lot
22 of disputes to be resolved, and I don't think it helps that
23 resolution to have a partial decertification now.

24 Certainly, if we're going to make headway, then
25 let the process go forward, let us sit down, and if we can't

1 work it out, and someone appropriately suggests that it's
2 the fault of the City LEA for not working it out, then you
3 can come back, and then you can take whatever action you
4 think is appropriate.

5 Let me briefly address why we so strenuously
6 object to any action or motion referring to decertification
7 of the West Covina LEA. We believe, again, very strongly
8 that a decertification motion or recommendation is, number
9 one, factually insupportable.

10 It's without any legal foundation in statute, and
11 it's contrary to the Board's own regulations.

12 Such a recommendation completely undermines the
13 basic legislative purpose and intent in setting up the LEA
14 program as it was intended to by the Legislature. It was
15 clearly to provide for local control by communities impacted
16 by solid waste facilities to let them have the inspection,
17 the permitting and the enforcement of the Statewide
18 operating standards but done at the local government level.

19 The landfill site in question is not a new site.
20 It's not a state-of-the-art landfill site.

21 Far from it. The West Covina community in which
22 the facility is located has for the past thirty years had to
23 deal with long-term evacuation of residences due to
24 explosive levels of methane gas, vinyl chloride air
25 emissions, extensive off-site groundwater contamination and

1 sometimes, and not today, horrendous odors.

2 This West Covina LEA, instead of being
3 decertified, I think should be given a commendation from
4 this Board for it's continued vigilant efforts in overseeing
5 the landfill operations so as to ensure that compliance with
6 State Minimum Standards, and that it has done.

7 In connection with this Solid Waste Facilities
8 Permit, the LEA over the last four years, essentially since
9 1990, when we first received the order from this Board to
10 revise the permit, has had discussions with BKK. It has
11 corresponded with BKK.

12 It has held meetings upon meetings with BKK. It's
13 coordinated with BKK. It's negotiated with BKK. It's
14 cajoled BKK.

15 We have issued several Notice and Orders against
16 BKK, and we still don't have a revised permit. We readily
17 admit that we don't have the permit.

18 The question should be, which no one seems to have
19 asked yet, is, why is there no updated permit? And is it as
20 a result of the LEA not fulfilling its legal obligations and
21 duties?

22 The answer is categorically, no. The LEA
23 approximately two weeks ago, prior to any notice that we
24 were going to be considered for decertification, took the
25 ultimate enforcement step against BKK by filing for

1 injunctive relief in the Los Angeles Superior Court to do
2 that which we're being criticized for not having done in the
3 past, and that is to get an updated permit along with an EIR
4 in accordance with CEQA requirements.

5 We would respectfully submit that it's simply not
6 sufficient for the Board staff to throw up their hands and
7 declare, we don't have an updated permit, therefore,
8 decertify the LEA, without any analysis of the facts as to
9 why we don't have the permit.

10 I should also add that we are far from the only
11 LEA facing a facility that has an outdated permit. There
12 are probably hundreds up and down the State that have an
13 outdated permit and many that are considerably more outdated
14 than BKK's.

15 Could we have produced an amended permit for this
16 site? Most definitely.

17 All we would have had to do is to agree to BKK's
18 position that all that was necessary was some minor
19 modifications to the 1979 permit and no requirement for EIR
20 or CEQA review. We probably could have had that permit a
21 year or year and a half ago with no problems at all.

22 We did not then and we don't think today such a
23 motion is well-taken, nor do we think that your staff really
24 believes that such a position is legally justifiable.

25 This decertification recommendation, we believe,

1 with all due respect, is simply as a result of the process
2 breaking down, and it has broken down.

3 Instead of the Board staff working with and
4 supporting the LEA in trying to resolve the issues with the
5 operator, the LEA has taken upon itself, as it should, to go
6 out and make its own permitting and enforcement
7 interpretations only to now be subjected through the LEA
8 evaluation process to decertification recommendations,
9 notwithstanding the fact that the Board has never
10 corresponded with the LEA in terms of requiring necessary
11 corrective action or even suggesting time lines for an
12 amended Solid Waste Facilities Permit.

13 This is not how the process should work. We don't
14 think it should work this way. Obviously you don't think it
15 should work this way, and probably BKK doesn't think it
16 should work this way.

17 If there are LEAs who are not meeting their
18 obligations, then decertification may very well be
19 warranted, but this is not one of those LEAs.

20 We, as you are aware of the recently filed NRDC
21 action against the Board, however, please, don't lay those
22 allegations of the NRDC complaint at the feet of the West
23 Covina LEA.

24 The process should simply be, and it's a very
25 simple process, allow the LEA to use the appropriate

1 enforcement action to resolve the issue, and we are doing
2 everything we can to do that. Second, to then clearly warn
3 the LEA of its intent to act if not satisfied with the
4 enforcement effort, which has not happened.

5 Third, the Board staff should give the LEA an
6 opportunity to work out with the operator and the Board
7 staff an action plan before the Board resorts, as noted by
8 your own Executive Director, to such a drastic action as
9 decertification.

10 We don't have to rush to judgment. That is
11 exactly what is being done here.

12 In conclusion, the issue really comes down to
13 whether we're going to follow the legislative intent behind
14 the LEA program and allow those local agencies who operate
15 within the communities directly impacted by solid waste
16 facilities to enforce the State Minimum Standards or whether
17 we're going to remove and set a precedent for removing all
18 permitting and enforcement to the State level.

19 If there is something else this West Covina LEA
20 could have done under the circumstances, we don't know what
21 it is, and no one has yet told us. I can tell you this,
22 that in your own regs, specifically entitled the LEA
23 Evaluation Process, Section 18081, it specifically sets
24 forth the conditions that the facilities have to meet within
25 the LEA jurisdiction.

1 Funnily enough, those three conditions are as
2 follows: One, that they must meet the Minimum State
3 Standards, and we agree that BKK at this moment, due to
4 their own efforts and to the efforts of the West Covina LEA,
5 meet those Minimum State Standards; two, must be permitted,
6 and then there is a little word in there that says, "or,"
7 and I put that in quotes, be under appropriate enforcement
8 action.

9 It is under appropriate enforcement action. The
10 question therefore arises as to how this LEA is not
11 fulfilling its legal responsibilities when it is fully
12 complying with the Board's own regulations.

13 Again, let me stress, we welcome the opportunity
14 to sit down with the Board and the operator to work on a
15 process, night and day if necessary, to produce an updated
16 permit along with an appropriate EIR. But that should not
17 be done under the threat of decertification. It simply
18 won't work.

19 We urge you to adopt the alternative
20 recommendations that we've handed out to you, which was, as
21 discussed in Senator Mountjoy's letter, to let the process
22 take its course, and if it fails, then it can come back
23 before this Board, and you can then decide whatever action
24 against BKK or against us you feel is appropriate, then you
25 can take it.

1 But don't let that process go forward with a
2 hammer over our head, which shouldn't be there in the first
3 place. This decertification recommendation should be
4 withdrawn.

5 We don't believe it's appropriate under the
6 circumstances. It's not justified by the facts, and it's
7 not supported by the law or even your own regulations.

8 With that, I would be glad to introduce the next
9 speaker, unless there are any questions.

10 COMMITTEE CHAIRMAN HEIDIG: Ms. Tobias.

11 MS. TOBIAS: I have a question.

12 I just wondered what section you had just quoted
13 from, Mr. Lennard?

14 MR. LENNARD: 18081.

15 MS. TOBIAS: Thank you.

16 COMMITTEE CHAIRMAN HEIDIG: Mr. Relis.

17 COMMITTEE MEMBER RELIS: Earlier I had asked our
18 Executive Director to lay out some of the things that he
19 thought were necessary for assessing progress or could
20 constitute the basis perhaps of an action plan.

21 He mentioned a project description, resolution of
22 the lead agency status, concern over outstanding litigation
23 and possibly the use of a mediator.

24 Could you respond to those four?

25 MR. LENNARD: Certainly.

1 We're willing to sit down with any issue that's
2 willing to be put down on the table and discuss it. We're
3 willing to discuss how the EIR process can be the most
4 effective.

5 Does that mean incorporating a process with
6 respect to how the EIR is certified? We're willing to sit
7 down and talk about that.

8 There are many different variations that can be
9 done from co-lead agencies on the EIR, from different ways
10 of treating it through the LEA process. We're willing,
11 ready and willing to discuss that process.

12 We are very, very happy at this point in time to
13 know now that, in fact, your Board staff supports an EIR.
14 We didn't even know that six months ago.

15 We have always said from the LEA's position that
16 an EIR is absolutely essential.

17 We're very, very happy that now the staff has also
18 agreed with us that it's essential. So, we're willing to
19 work on that and discuss it.

20 There are many, many things and many variations
21 that we need to come to a determination on.

22 COMMITTEE CHAIRMAN HEIDIG: Sam.

23 COMMITTEE MEMBER EGIGIAN: Mr. Chairman, first I
24 have a couple of questions.

25 First, I would like to ask Ms. Tobias to comment

1 on the part of Mr. Lennard's discussion that it was illegal
2 what we are doing, that that's not in the law.

3 Did I understand that correctly? You said it was
4 illegal to do what we were about to do?

5 MR. LENNARD: What I suggested was that we believe
6 that we are fully fulfilling our responsibilities as the
7 LEA.

8 What I said was I don't think there are the facts
9 to support the finding of decertification, but I think that
10 goes very differently from what our point to you today is.
11 We don't want to get into the battle as to essentially what
12 are the rights and what are not the rights.

13 We have one goal in mind and that is to get an
14 updated Solid Waste Facilities Permit. If that can be done
15 as a result of the process between us and the operator, with
16 the assistance and involvement of the Board staff, we're
17 totally in favor of that.

18 COMMITTEE MEMBER EGIGIAN: Did you hear what I
19 heard when Mr. Lennard said it was not legal what we're
20 doing?

21 This is what I want a comment on.

22 MR. CHANDLER: I think you're referring to, Mr.
23 Egigian, the reference made to the fact that he made the
24 comment that the facility was not out of compliance because
25 it was under a Notice and Order.

1 I think that was the section of the regulation
2 that Kathryn asked about. So, our issue of an outstanding
3 permit or not having a permit that properly governs the
4 oversight of the facility, and I don't want to put words in
5 Mr. Lennard's mouth, but I think he said that that wasn't
6 the case inasmuch as there is a Notice and Order in effect
7 that attempts to deal with that issue.

8 Is that correct, or how would you like to add to
9 that?

10 MR. LENNARD: I think that's correct, Mr.
11 Chandler.

12 I think what we're saying is we agree with you
13 there is no updated permit. There's no question about that.

14 We're not going to sit here and discuss that with
15 you.

16 What we're saying --

17 COMMITTEE MEMBER EGIGIAN: What I'm trying to find
18 out is if we are doing something that's wrong by looking
19 into this matter and contemplating some kind of action.

20 MR. LENNARD: I think if the Board is
21 contemplating looking into this action to assist the LEA in
22 resolving and getting a new Solid Waste Facilities Permit as
23 quickly as possible, I think that is appropriate.

24 It is welcome, and we'd love to have that. If
25 what the Board is going to do is essentially say decertify

1 the LEA, then, yes, I have said I don't think you have the
2 facts to support a finding of decertification.

3 MS. TOBIAS: Mr. Egigian, let me also say in
4 response to that that I think the staff's recommendation
5 rests on good legal grounds.

6 COMMITTEE MEMBER EGIGIAN: Mr. Lennard, I don't
7 want to show you any disrespect, but this last couple of
8 months every time we turn our radio on or the television you
9 are bombarded with attorneys making different decisions.

10 One will counteract what the other one's saying.

11 So, at this point in time, I'm concerned about
12 attorneys and politicians. Okay.

13 I have to make sure that what I'm doing has to do
14 with the law that we are provided to make decisions by. You
15 made a statement that you said you wanted some time so that
16 the LEA, our staff and whoever else could sit with BKK and
17 work out a permit.

18 Is this what you said?

19 MR. LENNARD: Work out a processes that would lead
20 to an updated permit, that's correct.

21 COMMITTEE MEMBER EGIGIAN: Up until today, at this
22 time, everybody in all of the letters and Assemblyman
23 Horscher, they all wanted the landfill shut down.

24 I live close to that area, and I read a lot of the
25 newspapers saying that during the election time that they

1 are running, if you elect me, we'll close the landfill.

2 If you're going to close the landfill, that's one
3 thing. If you're looking for ways to come to some agreement
4 here, that is something else.

5 MR. LENNARD: Let me respond if I may, the City
6 Manager, who will be speaking shortly will address this
7 issue, but let me suffice to say this to the Chairman of the
8 Committee, and we'll say the same thing to the whole Board,
9 this is not about the closure of BKK.

10 That is a separate action. We are not using the
11 Solid Waste Facilities Permit in any manner, shape or form
12 to close down BKK.

13 We are looking to have an updated permit that
14 makes sense and realizes what conditions are out there at
15 the landfill. Quite honestly, and as I said to some of the
16 members that I met with, if we wanted to do that, we could
17 have done that a long time ago.

18 We didn't have to wait until now to use a Solid
19 Waste Facilities Permit as a leverage to close BKK down. We
20 have even gone as far to tell BKK and to let this Board know
21 that even though your regulations require us to put a close
22 date in the Solid Waste Facilities Permit, we would not put
23 a closure date on the Solid Waste Facilities Permit of 1995.

24 I don't know what else we can do.

25 COMMITTEE CHAIRMAN HEIDIG: Okay. Quick question.

1 COMMITTEE MEMBER RELIS: Mr. Chair, earlier I went
2 through the four points and asked you to respond, and you
3 responded, but I didn't quite get perhaps what I was looking
4 for.

5 Usually when negotiations or situations like this
6 develop and parties aren't communicating or resolving
7 matters, there is the possibility for what you would call
8 more precipitous action, perhaps, but there is also in
9 evaluating alternatives to that there is a need to get
10 product-specific, not process-specific, but
11 product-specific, and I wonder if you, or perhaps subsequent
12 to you the representatives of the City, could speak to the
13 four items that I mentioned, which were referenced by Mr.
14 Chandler, as products as opposed to process, because
15 otherwise I see just an unending quagmire of who is
16 interpreting what who's doing regarding process, and clearly
17 that history is abundant, and speaking for myself, we will
18 never get to the bottom of that history.

19 What communicates to the Board at this point is
20 progress, and progress, it seems to me, is about products.

21 MR. LENNARD: I think you're absolutely right.

22 There will be other people, but let me try and
23 finish and address some of the items that you suggested.

24 Obviously it's really a two-phase process. One of
25 them is obviously process. The other one is leading to some

1 product.

2 The product has got to be what is the project. We
3 have been asking for that for a long time.

4 We will be glad to sit down and work out what is
5 the appropriate project, absolutely.

-6 Secondly, the next project --

7 COMMITTEE MEMBER RELIS: If I might just
8 interject, after five years, it should be possible, one
9 would think, to describe what it is one is doing or intends
10 to do.

11 MR. LENNARD: Mr. Relis, we have had six project
12 changes. We have issued two draft EIRs.

13 If you want me to, I can go through the six
14 project changes.

15 COMMITTEE MEMBER RELIS: No.

16 I know what they are.

17 MR. LENNARD: It's not for the lack of the City.
18 We want a project change. We're not the one's
19 that decide what the project is.

20 The applicant who decides what Solid Waste
21 Facilities Permit and whether it's consistent with the RDSI,
22 that's what generates what the project and the
23 appropriateness of the project.

24 That is, obviously, a product that's got to come
25 out of these discussions. Absolutely no question about it.

1 The second product that's got to come out of these
2 discussions is simply how is the EIR going to be certified?
3 What process going to be used, and who is going to be lead
4 agency? Is it one, or are there going to be two?

5 The third item, which I think you spoke about, was
6 what about the enforcement action that is presently pending
7 by the City LEA against BKK in order to get compliance
8 without a Notice and Order? I can't give you any
9 explanation or satisfactory answer to that.

10 That is something that is going to have to be
11 discussed as part of these discussions. There are many
12 alternatives.

13 We stay the action, obviously, and I would say the
14 product would be is if we are able to resolve all of the
15 issues that we've talked about, the legal action that we
16 filed becomes moot.

17 We're not interested in litigating against BKK
18 just for the sake of it. It's very expensive. It takes up
19 a lot of staff time and a lot of money.

20 COMMITTEE CHAIRMAN HEIDIG: Anything else?

21 I would like to move this along.

22 Did you want to introduce the next --

23 MR. LENNARD: Yes, please.

24 I'd like to introduce Council Member from the City
25 of West Covina, Nancy Manners.

1 MS. MANNERS: Thank you very much for the
2 opportunity to be here to express the City Council's
3 viewpoint on this.

4 I want to thank the Board, and I want to thank the
5 staff also for the time they have given us this last few
6 weeks to discuss this thing and get our viewpoint across and
7 our concerns across.

8 I represent the City Council Membership of five,
9 who solidly support the continued local control of oversight
10 over the landfill. The City of West Covina has designated
11 the Local Enforcement Agency for many years in conjunction
12 with LA County and in the last three years as our own Local
13 Enforcement Agency, and the BKK Landfill, unfortunately,
14 continues to have a significant impact on the community both
15 in a positive and a sometimes in negative terms, also.

16 The landfill operation has a tremendous physical
17 impact on the thousands of residents that live surrounding
18 the landfill. Therefore, the City's role, as Local
19 Enforcement Agency, has been very important to the City in
20 ensuring that there is local sensitivity in the regulatory
21 oversight of landfill operations, and we appreciate the
22 staff's amended report that we heard today.

23 The recommendation to involve the staff in
24 resolving issues, that may have impeded our progress on
25 BKK's permit. We welcome the opportunity to work with the

1 Board staff on this effort.

2 I'm optimistic that with the staff's help we can
3 develop a process for the environmental review that is fair
4 to BKK, will meet the State's needs, while at the same time
5 maintain the confidence and trust of my 98,000 constituents
6 that their interest may be represented. I tell you,
7 gentlemen, that if our local oversight is removed, we're
8 going to have an awful, awful lot of unhappy campers in our
9 city.

10 However, there is one aspect of the staff report
11 that I must continue to take issue with, and that is the
12 recommendation to partially decertify the West Covina LEA.
13 The proposed action relative to the LEA's permitting
14 authority, I think, is premature.

15 It's telling my community that somehow our City
16 LEA have been found guilty or is to blame for the fact that
17 this process has not moved along, and that before we've had
18 a hearing on the facts of the matter.

19 I ask you not to prejudge the LEA but instead see
20 where the discussions go in the next 45 days. I'm
21 optimistic that they will be productive.

22 So, I would urge you not to rush to the
23 conclusions to partially decertify our LEA and remove my
24 community's formal linkage to the most important regulatory
25 process, the local control over our LEA.

1 On behalf of the West Covina City Council, I urge
2 you to recommend to the Board that the matter of the West
3 Covina decertification be deferred to your meeting in March
4 with a report from the staff on the status of the meetings
5 to resolve the permitting issues as described to your staff.
6 To do otherwise is putting the cart before the horse.

7 You are decertifying us or partially decertifying
8 us and saying, you work this out, and if you work it out all
9 right, we'll give it back to you, rather than, you go work
10 this out, and if you don't work it out, then we'll do
11 something about it. I think that is the cart before the
12 horse.

13 I thank you very much for your consideration of
14 our viewpoint and our ardent request for time to work this
15 out with your staff, with the Board to resolve these issues
16 to the best interest of all.

17 COMMITTEE CHAIRMAN HEIDIG: Thank you,
18 Councilwoman.

19 Jim Starbird, and then Yvonne Hunter is next.

20 MR. STARBIRD: Mr. Chairman and Members of the
21 Committee and staff, my name is Jim Starbird. I'm the City
22 Manager for the City of West Covina, and in our organization
23 the LEA and the Waste Management and Enforcement Manager
24 reports to my office.

25 I want to first express my thanks to the Committee

1 and the Board Members, especially those of you who took time
2 last week to meet with me and representatives of the City to
3 get to understand a little better this issue and the
4 concerns that we have about the staff's recommendation.

5 Particularly, I want to thank the staff and Mr.
6 Chandler for the number of hours they have spent in the last
7 week meeting. I have talked to Mr. Chandler at least twice
8 by phone, including this weekend, when he should have been
9 resting, about this issue, and we greatly appreciate the
10 openness that they have shown in trying to understand our
11 concerns about this action.

12 We come here frankly wanting to support entirely
13 the staff's recommendation with some modification. We could
14 do that, I believe, and I believe we could put together a
15 process and structure that hopefully will lead to some
16 resolution on both the issue and the problem with the permit
17 for BKK not being up to date at this point.

18 Your staff has indicated, and I can understand, a
19 reluctance to try and lay blame for the delays at anybody's
20 feet. Finger pointing isn't productive usually.

21 I think though in this case it's difficult to come
22 to the conclusion that's been recommended without looking
23 behind the fact that there is no up-to-date permit and not
24 assessing what has caused it.

25 Mr. Unsel indicated in his staff presentation that

1 the results of staff's evaluation of West Covina has been
2 that we have taken aggressive efforts to try and get the
3 permit updated, that with respect to all other activities of
4 the LEA, we are in full compliance. I think that tells you
5 something.

6 We have worked actively and strenuously and, I
7 think, professionally over the past three years to get this
8 permit updated. I'm not going to take shots at the
9 operator, but I think if you look behind the fact that the
10 permit isn't updated, it's not because of lack of effort by
11 the LEA.

12 The one area that I would like you to give some
13 particular thought to in terms of the process from here has
14 to do with our recommendation that you defer any action on
15 decertification for the 45 days.

16 Particularly with respect to the process that
17 we're suggesting, it wasn't very clear in Mr. Chandler's
18 report exactly the role that the Board staff might play in
19 the intervening time period.

20 As we spoke both personally by phone and during
21 the administrative conference, it was my feeling that if
22 what you do is set a new 45-day deadline for something to
23 happen and then send off the West Covina LEA and the
24 operator to somehow negotiate some agreement, I can almost
25 assure you that there isn't going to be a positive result,

1 because I believe the operator would like to see West Covina
2 decertified.

3 I think they would like to be dealing directly
4 with the State. I think they would like to avoid, frankly,
5 the concerns and the issues that are raised at the local
6 level. I think it will be in their interest to continue to
7 not have this process come to a positive resolution.

8 As I indicated to Mr. Chandler, I think the way
9 this process can come to a positive conclusion is if the
10 Board staff is actively involved with us over the next 45
11 days in identifying issues and trying to develop a process
12 to keep this permit on track and to get the issues resolved.

13 The question of litigation and West Covina has
14 come up a number of times, and it's been pointed to as to
15 the reason why in the litigious environment in West Covina
16 that a permit can't be updated. It takes two, frankly, to
17 get to the point of litigation.

18 From the LEA standpoint, I have worked very hard,
19 and we have a very professional staff, with the LEA. I
20 think your staff will bear that out. We have worked very
21 hard.

22 First in insulating the activities of the LEA from
23 the City's land use issues with BKK and from the litigation
24 that's currently taking place over the closure agreement
25 that was signed a decade ago, we have worked hard to do

1 that, and I think we can point out at some point, if you'd
2 like, in fact, things that we have done that otherwise could
3 have been used to frustrate BKK if indeed we wanted the use
4 the LEA for that purpose.

5 We have not done that. We have acted very
6 professionally.

7 I think the effort to hold up the existing
8 litigation in West Covina as a sign that we cannot get the
9 permit processed frankly is a red herring. I don't think
10 that the City Council, and I can tell you from the staff's
11 standpoint, we do not utilize the LEA to get involved in the
12 City's land use issues or in an effort to try and achieve
13 our purpose in the litigation over the closure agreement.

14 Frankly, we were very reluctant --

15 COMMITTEE CHAIRMAN HEIDIG: Excuse me.

16 Mr. Relis has a question.

17 COMMITTEE MEMBER RELIS: A couple of points as
18 you're going on before we have -- point of clarification
19 from Mr. Chandler, in your proposed recommendation you
20 referred to the LEA and BKK getting together and resolving
21 this.

22 I don't read into that a Board or Board staff
23 role. I think I understand why you have constructed it that
24 way, because in effect if it takes our engagement, we're
25 right back in the role, we're like a shadow LEA, or we're

1 doing the business that we're not supposed to be doing, as I
2 understand, in the delegation of the LEA authority.

3 Perhaps you can speak to that, Mr. Chandler?

4 MR. CHANDLER: Yes.

5 In looking at my --

6 COMMITTEE MEMBER RELIS: Because you're asking for
7 us to play that role.

8 MR. CHANDLER: Sure.

9 In my prepared remarks, I did say that our
10 involvement as a facilitator could be beneficial.

11 However, I do want to caution the Board about
12 setting a precedent that when a situation like this begins
13 to develop that we become the active doer, if you will, to
14 make this happen. There is a process.

15 If you want us in the driver's seat here, we will
16 be the EA, and we will take the steps necessary.

17 We know that's not the recommendation of staff at
18 this point, and we know that is not what the City is asking
19 for, but it seems to me we can't have it both ways. We
20 can't say don't allow us to lose the control at the local
21 level, but come on down and make sure it happens for us or
22 with us.

23 What I'm saying is that we should be at the table.
24 We should not simply stand up here in Sacramento and say,
25 we'll see you on March 31 and report in.

1 We should be at the table, and we should serve as
2 a facilitator. But I do caution us being actually the one's
3 actively involved in hammering out these negotiations,
4 because we are charging that responsibility with the LEA.

5 I do take issue with the City's position that they
6 want the Board staff to come back on March 31 and report on
7 these discussions. If the decision is adopted, the LEA will
8 be the LEA for the next 45 days.

9 If anyone should come back and report on the
10 progress, it should be who we have charged with the
11 responsibility to report back on getting this permit
12 updated, and that is the LEA.

13 So, I would say that we want to be, in a way, we
14 want to sit at the table and see progress happening. We
15 don't want to be in the way of, if you will, cracking heads,
16 and then be in the middle of this with responsibility still
17 vested at the local level.

18 MR. STARBIRD: Mr. Chairman, we wouldn't disagree
19 with that.

20 I didn't hear Mr. Chandler indicate that they
21 would be at the table though. I think that's critically
22 important as we move through this process.

23 From our standpoint, I and the City Council are
24 optimistic that if you defer action on the certification and
25 if indeed we proceed with the process that's been outlined,

1 that it will come to a positive fruition.

2 I encourage the Committee to give that process a
3 chance, to not prejudge the role of the LEA in this process
4 until indeed we've been able to see the product of the next
5 45 days.

6 We do encourage and would like to have the
7 facilitation and support of the LEA staff. I think that is
8 important.

9 I will be happy to answer any questions.

10 COMMITTEE CHAIRMAN HEIDIG: Questions?

11 COMMITTEE MEMBER RELIS: I was just happy to hear
12 you starting to use the word product, which I think is what
13 this is all about.

14 MR. STARBIRD: Absolutely. We agree.

15 COMMITTEE CHAIRMAN HEIDIG: Yvonne Hunter.

16 Thank you, Mr. Starbird.

17 MR. LENNARD: Mr. Chairman, if I may just
18 intercede for a minute, it relates directly to what we were
19 just discussing.

20 Under the Public Resources Code 43101(c)(8), it
21 states specifically that the Board's primary role in regard
22 to permitting and compliance shall be to provide assistance,
23 training and support to the LEAs, and I think that's
24 consistent with what your Executive Director has just said,
25 and that's all we're requesting.

1 COMMITTEE CHAIRMAN HEIDIG: Thank you.

2 Before I call on Yvonne, I would like to hear from
3 the operator, Gary Kovall.

4 MS. TOBIAS: Our only point in that it would be up
5 to the operator is that generally we hear from the LEA first
6 and then the operator.

7 So, I understand that this is part of the City's
8 presentation, but that's the normal order of things.

9 Yvonne.

10 MS. HUNTER: Thank you, BKK.

11 COMMITTEE CHAIRMAN HEIDIG: He's been overruled.

12 MS. HUNTER: Whatever you wish, Mr. Heidig,
13 however you wish to handle this.

14 COMMITTEE CHAIRMAN HEIDIG: That is a well-heeled
15 lobbyist.

16 Go ahead.

17 MS. HUNTER: Mr. Chairman and Members, Yvonne
18 Hunter, representing the League of California Cities.

19 I have been before this Board, and I think if I
20 look around all the Board Members are here. I have been
21 here before you testifying on a number of issues, but this
22 is probably the most important one that the League has ever
23 been involved in.

24 It's more important because of its Statewide
25 implications. It's more important than deciding what counts

1 towards the AB-939 goals. It's more important than defining
2 good faith effort for enforcement, and it's certainly more
3 important than alternative daily cover.

4 I just wanted to emphasize that, because we are
5 here in support of the City's issues and the City's
6 perspective and in support of their recommended alternative.
7 The reason that we're here because of that is the Statewide
8 implications.

9 I don't want to get involved in who did what, when
10 and why in the LEA and the West Covina issue. The issue,
11 the question of the Board is whether you decertify the LEA
12 now, because that's in essence what your recommendation is,
13 or the Board, as I understand it, has the option to
14 establish an Order of Compliance or a corrective work plan.

15 That process -- I mean you've come to a fork in
16 the road, and I believe cities around the State, counties
17 around the State, LEAs are looking at which road you take.
18 This is something that is very, very important. This is a
19 local control issue.

20 As you know, the League has been here and talking
21 about concerns of transferring LEA authority to the State.
22 This is more than a symbolic issue. This is real.

23 We would urge you, because of the Statewide
24 implications, to step back, give the process some additional
25 time to work, and set a corrective work plan, however you

1 want to word it, and if you're not happy with the product
2 and the process, then to begin to look at decertification.

3 This is something, as I said, that all of the
4 cities are looking at very carefully, and I think they will
5 view it as some sort of indication of the Board's view on
6 local control, which is, as you know, something that we hold
7 very dear.

8 That is the essence of my testimony, and I will be
9 happy to answer any questions.

10 COMMITTEE CHAIRMAN HEIDIG: Thank you, very much.
11 Gary Kovall.

12 MR. KOVALL: Thank you, Mr. Chairman, Members of
13 the Committee. My name is Gary Kovall. I'm General Counsel
14 for BKK Corporation.

15 Before I get into the remarks that I planned to
16 say, I really need to respond to a couple of things that
17 were mentioned by Assemblyman Horscher and by Mr. Lennard.

18 Mr. Horscher in his remarks concluded that there
19 are health, safety and environmental problems at the
20 landfill. We don't believe that's true.

21 We think that there are a lot of agencies that do
22 an awful lot of inspection enforcement work there, and they
23 would not believe that's true.

24 Mr. Lennard referred to our landfill as being not
25 state-of-the-art. We also don't believe that's true. This

1 is a Sub Title D landfill, and we think it is more than
2 state-of-the-art.

3 As we understand what's going on here, the point
4 of this is to get an updated Solid Waste Facilities Permit.
5 I have a permit manual that sits in my office, and it's an
6 impressive document.

7 It contains probably a hundred or so sub-parts for
8 all of the permits, the operating conditions that we have to
9 live with from all types of agencies.

10 The only one of those documents that's out of date
11 is the Solid Waste Facilities Permit, a 1979 permit that has
12 never been updated. I am not going to get into
13 recriminations about who did what, who didn't do what,
14 except to say that we do not agree, and we believe that we
15 can show that we don't -- that we are not the reason that
16 this permit hasn't been updated.

17 But we want it updated. We want to get that
18 process underway.

19 Mr. Lennard has asked you to allow the process to
20 continue, to allow their enforcement action to continue. I
21 can only tell you that on the face of the pleadings
22 themselves in the lawsuit that was filed, the first status
23 conference is next September 21.

24 It's the first time the parties go to court and
25 tell the judge where they are in the case.

1 That's a long time to start talking about this
2 process. We think the permit update should get underway
3 today.

4 BKK operates a large regional landfill. It has
5 importance far beyond the boundaries of the City of West
6 Covina.

7 We are the second largest landfill in California,
8 fourth largest in the United States. We take in almost our
9 daily limit every day of 12,000 tons a day, five days a week
10 and a half a day on Saturday.

11 We are a creature of local government. That is
12 who we serve.

13 They are our customers. We know local government.
14 We respect them at every level and in every jurisdiction.

15 The landfill was created just as much by the
16 active involvement of the City of West Covina as it was by
17 the BKK Corporation and their family members, the
18 individuals who owned the company almost 35 years ago.

19 We are reaching a point now where at some point in
20 time, in the near future, the capacity is going to be
21 utilized and the landfill will cease operations in West
22 Covina. Of course, there is litigation going on as to when
23 that date might be.

24 We think our record with the regulatory agencies
25 across the board is a very, very strong, good record. We

1 can ask your staff to contact them.

2 We are not in the habit, we exist under
3 regulations everyday, we are not in the habit of refusing to
4 comply with enforcement rules. That's ridiculous.

5 We've had disagreements with agencies, of course,
6 but we always go the extra mile to sit down and work up a
7 program to comply. That has not been the case that can
8 characterize this Solid Waste Facilities Permit update.

9 When we were ordered to revise the permit, we
10 requested a public hearing to debate in public, not behind
11 closed doors with lawyers but to debate in public, before
12 the local governing body, which is the City Council of West
13 Covina, our concerns to put them in the public. It was
14 refused, and we were sued.

15 The City has against BKK and its affiliates and
16 subsidiaries right now seven lawsuits against us. We have
17 every reason to believe that in the very near future there
18 is going to be two more.

19 That is not an atmosphere that's conducive to a
20 free exchange of ideas.

21 I'm not trying to tell you that we're obstinate or
22 they are, it's just -- I'm an attorney, so I'm burdened by
23 that, but when you get involved in litigation, you have to
24 be very careful about what you're saying between the
25 parties.

1 It's not unusual to have conversations in the City
2 that have shown up in court papers. So, it is a difficult,
3 very, very delicate and sensitive process to go forward
4 under any circumstance.

5 What we seek here is an objective, unbiased, fair,
6 expedited process to get this permit updated. We welcome
7 it.

8 We believe that the goal of the City is to close
9 our landfill by the end of this year. There is abundant
10 evidence to support that.

11 We believe that this process is one more tool in
12 their chest, I guess, that they are going to use to try to
13 close this landfill by the end of the year.

14 I guess, addressing just for a moment your
15 regulations, I note that your regulations also require the
16 local governing body to be totally independent from other
17 operating units of the local governing body.

18 That is, this body, the City Council acting as the
19 LEA, needs to be totally independent from its other
20 functions as a City Council. I submit to you they are not.
21 They can't be given the atmosphere that we have.

22 I'll cut to the chase. We agree with the staff's
23 recommendation with one minor exception. We frankly would
24 like to see decertification, partial decertification just
25 for the permit process effective today, so we can begin with

1 this staff tomorrow to update the permit.

2 If we need this 45-day period, BKK will come
3 forward, and we will work with the process, but we want to
4 get this permit updated.

5 This is not about recriminations and frankly, it's
6 not about usurpation of local authority. The authority that
7 exists here was granted through the Legislature through and
8 to the City.

9 We are talking about taking away part of that
10 authority to facilitate a higher purpose to get an updated
11 permit for a very modern updated facility.

12 With that, I will be happy to answer any
13 questions.

14 COMMITTEE CHAIRMAN HEIDIG: Any questions from the
15 Committee?

16 Thank you, Mr. Kovall.

17 Richard Hanson is our last witness.

18 MR. HANSON: Good afternoon, Mr. Chairman and
19 Members of the Committee. My name is Richard Hanson.

20 I'm the Chief of the Solid Waste Management
21 Program, County of Los Angeles, LEA. I have a statement I'd
22 like to read, with your permission.

23 COMMITTEE CHAIRMAN HEIDIG: Please.

24 MR. HANSON: I don't think I have ever appeared
25 before a Committee of the Board or the Board itself to give

1 testimony that did not involve a solid waste facility within
2 our jurisdiction.

3 However, the LA County LEA was a co-LEA along with
4 the City of West Covina up until the summer of 1992. So, we
5 aren't entirely an uninterested or unacknowledgable party
6 regarding the issues surrounding the City of West Covina LEA
7 and the BKK Landfill.

8 Also, as a member of the Enforcement Advisory
9 Council, whose function is to advise the Board in some
10 manner regarding the Board's relationship with the LEAs, I
11 feel compelled to offer my observations and impressions
12 regarding this agenda item.

13 I'm not here representing the EAC as a body, as
14 events have progressed too rapidly in order for that group
15 to convene and express an opinion. Therefore, my statements
16 today simply reflect the opinions of the County of Los
17 Angeles LEA.

18 The LA County LEA has been one of the Board's
19 strongest supporters for a thorough and equitable LEA
20 evaluation program. From the beginning I gave my support
21 almost unconditionally in the belief that to squabble over
22 details of a process, which I thought would evolve naturally
23 and I hoped equitably, would serve no purpose.

24 I had to speak long and hard with some LEAs to get
25 their support. Their primary concern was that the Board

1 could not be trusted.

2 It has been my position that if a strong and
3 equitable evaluation program was not in place, an LEA, no
4 matter how well it functioned, would continue to be
5 criticized.

6 I'm sure there are some in this room who will
7 recall the contentious disagreements between the Board and
8 the LA County LEA in the late 1980s and early 1990s. One of
9 these confrontations led to litigation between the two
10 agencies.

11 So, I think it would be a fair statement to say
12 that both sides harbored ill-feeling and mistrust for some
13 time after the events.

14 However, over time personnel have changed at both
15 agencies, and I think a general tempering of ill-feelings on
16 both sides has led to the current situation of what I hope
17 is one of mutual respect and at the least tolerance.

18 The point that I'm trying to make here is that I
19 was very much a part of those earlier problems. Entrusting
20 the Board as an organization does not come easily or
21 naturally to me. As individuals, I consider many of the
22 Board staff to be highly professional, and some I consider
23 to be close friends.

24 Over the last couple of years, I've noticed a
25 definite swing in the Board's approach to the LEAs, aside

1 from the mandates of AB-1220. The Board appeared to be
2 cultivating a more cooperative attitude with the LEAs and
3 creating more of a visible decision-making process with the
4 implementation of the round-tables.

5 However, I believe if you proceed with the
6 recommendation from your staff regarding this agenda item,
7 you will create the impression among many LEAs, warned or
8 not, that the clock has been turned back, and it will be
9 business as usual of a few years ago.

10 I see two main issues here. The first is the
11 merits of the decertification itself, and the second is the
12 process by which this is accomplished.

13 At this point, the most important issue to this
14 LEA, and I assume to many others as well, is the process.
15 I'll make some general comments regarding the merits later.

16 Section 43101(c)(8) of the PRC requires that the
17 Board, quote, "shall set clear and uniform standards to be
18 met by local enforcement agencies," unquote.

19 My problem is that I don't know what the City of
20 West Covina did or didn't do to deserve decertification.

21 The standard to which the action or inaction of
22 the City's LEA was compared is a complete mystery to me.
23 I'm concerned that a similar invisible yardstick will be
24 used to evaluate my program as well.

25 I appreciate the fact that there are no definitive

1 guidelines presently in place, such as regulations, which
2 would define the standards for all to see. So, I think it
3 would be incumbent upon the Board staff to state clearly the
4 exact statutes and regulations which they are using to
5 support the decertification, rather than to throw out for
6 view the complete laundry list of applicable statutes,
7 regulations and policies, which they list in the conclusion
8 section of the agenda item.

9 I assume that PRC Section 43216.5 is being used to
10 validate Board staff's recommendation. It should be noted
11 that that Section ends with the clause, quote, "and
12 implement any other measures which may be determined by the
13 Board to be necessary to improve local enforcement agency
14 compliance," unquote.

15 Clearly the intent here is to enhance the
16 performance of the LEA not just take over. In fact, the way
17 the Agenda Item is presented, it gives the impression that
18 if consensus is not reached with Board staff, 43216.5 can be
19 applied and saying, one less LEA.

20 It would also be helpful to know exactly what
21 constitutes consensus. Perhaps there are very good reasons
22 why the City LEA should be decertified, but lacking explicit
23 decertification regulations, the Board should make known by
24 means of a directive to the City of West Covina LEA those
25 things it wishes the LEA to do.

1 That way the Board performs its primary function
2 as it relates to the LEAs as stated in PRC 43101(c)(8), and
3 the LEA community will know what is expected of them.

4 Otherwise the LEAs perceive the process as
5 arbitrary, and there is no lesson for the next LEA in line
6 for evaluation.

7 This recommended action by Board staff also gives
8 a strong impression that the LEA is only there as an adjunct
9 to the Board. If this were the case, the statement in
10 43101(c)(8) would not exist, quote, "The Board's primary
11 role in regard to permitting and compliance shall be to
12 provide assistance and ongoing training and support for
13 local enforcement agencies to ensure a local enforcement
14 agency's performance in complying with State Minimum
15 Standards and to review permits and other documents
16 submitted by local enforcement agencies for Board
17 concurrence or approval."

18 Therefore, I respectfully advise the Board to
19 reject the modified recommendation as presented today by
20 staff and chose instead option number four.

21 Now, I would like to make some general comments
22 regarding the issues and statements within the Agenda Item
23 as presented by Board staff. It is my understanding that
24 because of the recent NRDC lawsuit, the Board feels pressure
25 to decertify as NRDC states poorly performing LEAs.

1 The only place in the statute where I can find
2 that the Board must decertify any LEA is PRC 43214(c), where
3 the Board finds that an LEA is not fulfilling its
4 responsibilities and, quote, "this lack of compliance has
5 contributed to significant noncompliance with State Minimum
6 Standards," unquote.

7 In every other situation, I believe the Board has
8 the option to act to a lesser degree. Within the summary
9 section staff reports, quote, "The LEA did not complete the
10 permit review report until June 1990," unquote.

11 Everyone hopes that with permit streamlining and
12 the additional permit training of LEAs by Board staff that
13 the processing of permits, whether they are being reviewed
14 or revised, will speed up the process.

15 The fact is a two-year review of a permit is not
16 all that uncommon, even for the LA County LEA, which has had
17 significant expertise in permit processing and always has
18 somewhere between 25 to 40 permits in some stage of
19 processing.

20 In the analysis section, second paragraph, it
21 states, quote, "The LEA is bound under law to process the
22 permit application and to draft the operating permit,"
23 unquote.

24 One has to have the application first. As I
25 understand it, the operator, BKK, believes that a modified

1 permit would suffice while the LEA feels that a revision is
2 necessary.

3 According to the Board's recent directives, this
4 is a moot point. All permits which the Board considers,
5 whether the concurrence is acted upon by the full Board or
6 delegated to staff, are considered various degrees of
7 revision, and this all must address CEQA, even if the
8 project qualified for a Notice of Exemption.

9 To the best of my knowledge, no application has
10 been submitted.

11 I need not point out to the Committee that the
12 world of solid waste management changes almost on a daily
13 basis. Statutes, regulations, policies, et cetera, continue
14 to shower down on the regulators and the regulated
15 community.

16 Established procedures which may have worked fine
17 in a more stable setting are found wanting today.

18 The operators of facilities have had to change
19 their way of doing things just as quickly in order to
20 respond to new waste streams, new regulations regarding
21 those waste streams, new operational or design requirements
22 and the needs of their customers, the waste or recycling
23 haulers.

24 Unfortunately, the permits which regulate these
25 facilities can't be revised fast enough to legally

1 accommodate the needed changes. The only recourse that the
2 LEA has in order to keep the waste stream flowing and the
3 recyclable items processed is to issue a temporary permit,
4 which allows at least in part the desired change.

5 Of course, there is no such thing as a temporary
6 permit, so, the LEA uses the only other tool at its
7 disposal, the Notice and Order. The LEA must be very
8 careful with the use of this procedure in order that the
9 checks and balances inherent in a permit are followed as
10 closely as possible in a Notice and Order.

11 I will not comment on whether I think the City of
12 West Covina's use of the Notice and Order is or was
13 appropriate, but the last sentence in the first paragraph of
14 the conclusion section states, quote, "An updated permit is
15 essential for the proper regulation of the landfill,"
16 unquote.

17 To me this sentence carries with it the
18 implication that somehow without an updated permit
19 everything will go or has gone to pot.

20 The Board's recent evaluation of the facility has
21 shown that this is not the case and, in fact, the evaluation
22 of the LEA's enforcement procedures, which I assume includes
23 the evaluation of Notice and Orders issued by the LEA,
24 demonstrated that this area of the LEA's function was also
25 satisfactory.

1 Therefore, I can only conclude that the Board
2 approves of Notice and Orders used in certain circumstances
3 similar to this one, and that the words proper regulation
4 have more to do with procedure and timing rather than a
5 concern for public health and the environment. This is a
6 subject which begs for clarification.

7 Finally, as an interested bystander, I have tried
8 to imagine the point of view of everyone involved including
9 the operator. I have come to the conclusion that all of
10 those concerned have defensible positions, and the right way
11 may only reside in the eye of the beholder.

12 This is a tough one.

13 In closing, my administration has given me
14 permission to offer any assistance to any and all concerned,
15 if requested. Although the LA County LEA has never traveled
16 down this exact road before, the neighborhood sure looks
17 familiar.

18 Any questions?

19 COMMITTEE CHAIRMAN HEIDIG: Any questions?

20 Thank you, very much.

21 Anyone else that wants to be heard from in the
22 public?

23 MR. MALAN: Mr. Chairman, Members, I hadn't
24 intended to speak to you today.

25 COMMITTEE CHAIRMAN HEIDIG: You have to state your

1 name and your affiliation.

2 MR. MALAN: Justin Malan, with the Environmental
3 Health Directors, and we represent most of the LEAs in the
4 State.

5 You do, for the record, have a two-page letter
6 from our association expressing our opinion on this case.
7 Generally, we support the certification and decertification
8 process.

9 We believe it's the Board's decision to decide
10 which way it wants to go, up or down in this case.

11 However, in our letter we did request an
12 explanation, and having heard the testimony of both sides, I
13 don't believe I am clear at least on behalf of the
14 Environmental Health Directors exactly whether this process
15 has been followed.

16 Mr. Relis, I do appreciate that you're trying to
17 get a product out of here not just a process. But as some
18 of the other LEAs have expressed, we need to know what the
19 ground rules are, and we need to be sure that they are
20 followed.

21 Our concern rests mainly on the bifurcation of
22 decisions at the point in the evaluation flowchart where we
23 understand that the Board has a decision to either go with
24 decertification or to go with a request for work plan.

25 My understanding or the understanding of the

1 Environmental Health Directors is that the Board certainly
2 does have an option to request a work plan, a corrective
3 work plan be drafted.

4 We would certainly urge this, because at this
5 point in time, although we wouldn't allege that there has
6 been a side-stepping of the process, it certainly appears as
7 though the Board has a very, very reasonable alternative and
8 that is to follow this plan to request a work plan and then
9 to take any necessary action.

10 Thank you.

11 COMMITTEE CHAIRMAN HEIDIG: Thank you.

12 I will enter this letter into the record as ex
13 parte communication.

14 Okay. Let's close the public testimony and open
15 for Board discussion.

16 Mr. Egigian.

17 COMMITTEE MEMBER EGIGIAN: Mr. Chairman, I have
18 heard several times today this afternoon about the NRCD
19 lawsuit that is against us for not supposedly doing the best
20 job that is possible.

21 I am very concerned that the LEA in this case has
22 been unable to present this Board with an updated permit for
23 the BKK landfill. The five-year permit review was due in
24 1984, and our permit requirements have not yet been met.

25 We are faced with the unique situation where the

1 LEA is unable to carry out its permit responsibilities
2 because of fundamental conflicts between the City of West
3 Covina and the facility operator which have culminated in a
4 litigation war.

5 The City has vowed to close the landfill. This
6 has placed the LEA in a tenable conflict of interest which
7 has prevented it from objectively performing the duties
8 required by law.

9 This situation is unlikely to change in the near
10 future. Over ten years is too long to wait for the permit
11 update, and I believe we should not wait any longer.

12 Therefore, and with some reluctance, I endorse the
13 original staff recommendation to partially decertify the LEA
14 immediately and have the Board assume the LEA duties and
15 responsibilities to update the permit for the BKK landfill.

16 My reluctance stems from the fact that I have
17 grave reservations about this Board usurping the proper role
18 of local government, but I want to emphasize that this
19 action by the Board has no effect on local land use
20 responsibilities of the City of West Covina, and it
21 certainly does not provide clear sailing for BKK
22 Corporation, because they still must contend with the
23 outstanding lawsuits and continuing inspections and
24 enforcement activities of the LEA.

25 To ensure that the City remains completely

1 involved in the permitting process, I recommend that they be
2 invited to participate fully in the CEQA compliance that the
3 Board will initiate as part of updating the permit.

4 I don't believe that the action I am recommending
5 will set a dangerous precedent for the Board. We are facing
6 a unique set of circumstances in this case.

7 Our staff has determined that action must be taken
8 to ensure the integrity of our permitting process. In the
9 future, our staff will continue to review LEA operations on
10 a case-by-case basis, and this Board will not decertify an
11 LEA simply because they are not doing what a facility
12 operator wants them to do.

13 In summary, we must take our permitting
14 responsibilities seriously, and when an LEA cannot perform
15 to update a permit, we must take the appropriate action to
16 decertify and assume those duties.

17 Mr. Chairman, I don't feel comfortable doing this
18 because of all the testimony that I have heard, but I have
19 not yet heard in all of the testimony today that any
20 solution has been offered here.

21 So, therefore, I would like to, if the Chair is
22 ready, I would like to make a motion that we endorse the
23 original staff recommendations to partially decertify the
24 LEA immediately and have the Board assume the LEA duties and
25 responsibilities to update the permit for the BKK Landfill.

1 COMMITTEE CHAIRMAN HEIDIG: Mr. Egigian, let me
2 restate the motion, because it's not only my first day of
3 Permitting and Enforcement as Chair, but it's also Jane
4 Lowas' first day as Secretary to this Committee.

5 I'm not trying to change the motion, but I would
6 like to restate it, that you're moving staff's
7 recommendation as originally stated, which is in our
8 Permitting and Enforcement Agenda.

9 COMMITTEE MEMBER EGIGIAN: Correct.

10 COMMITTEE CHAIRMAN HEIDIG: Is that clear with all
11 of the Committee Members?

12 Okay. Why don't we have a discussion on the
13 motion, and then we will take a roll call.

14 COMMITTEE MEMBER RELIS: Mr. Chair, I'm not going
15 to support that motion.

16 The reason, Sam, is that I have listened to the
17 testimony carefully. I think I was inclined to go that way
18 prior to the meeting today, but I'm persuaded at least that
19 we ought to pursue a process culminating in 45 days with a
20 decertification decision at that time.

21 If, and I would refer -- Well, I'll just stop
22 there right now.

23 COMMITTEE CHAIRMAN HEIDIG: All right. Why don't
24 we ask Jane to call the roll.

25 MS. LOWAS: This is on --

1 COMMITTEE CHAIRMAN HEIDIG: This is on Mr.
2 Egigian's motion, which is the Permitting and Enforcement
3 staff recommendation, original staff recommendation.

4 MS. LOWAS: Member Egigian.

5 COMMITTEE MEMBER EGIGIAN: Aye.

6 MS. LOWAS: Member Relis.

7 COMMITTEE MEMBER RELIS: No.

8 MS. LOWAS: Chairman Heidig.

9 COMMITTEE CHAIRMAN HEIDIG: No.

10 Motion fails one to two.

11 Mr. Relis, would you like to make a motion?

12 COMMITTEE MEMBER RELIS: I'll try making an
13 alternative.

14 I look at the staff recommendation, the revised
15 one we have before us, and if we were to begin somewhere
16 down on that third paragraph, beginning with after the
17 reference to LEA, beginning the, you state that the staff
18 recommends that the LEA be directed to initiate negotiations
19 with the operator of BKK Landfill to achieve a mutually
20 agreed-upon process and so on and so on, that language as
21 stated there would be the basis of the motion, and we can
22 read that into the record.

23 But I want to have the products spelled out in
24 the, at least in my motion, that you referenced, Mr.
25 Chandler, the four areas, those may not be all, but that's

1 the best information I'm working on, the project
2 description.

3 COMMITTEE CHAIRMAN HEIDIG: Mr. Relis, you're
4 going to have to restate the motion. I'm having trouble
5 tracking you.

6 COMMITTEE MEMBER RELIS: Okay. Then I will read
7 the text, and if you'll bear with me, that will be the
8 motion.

9 The LEA be directed to initiate negotiations with
10 the operator of the BKK Landfill to achieve a mutually
11 agreed-upon process where the Solid Waste Facilities Permit
12 can be brought up to date and CEQA compliance met.

13 If the two parties, the City and the operator,
14 demonstrate a spirit of cooperation in which a process for
15 updating is agreed to and immediate steps are taken which
16 reflect a commitment to resolving the outstanding permit,
17 the LEA shall report back to the Board at its March meeting
18 in order for the Board to reconsider the effective date of
19 the partial decertification.

20 COMMITTEE CHAIRMAN HEIDIG: That is the motion?

21 COMMITTEE MEMBER RELIS: Yes.

22 COMMITTEE CHAIRMAN HEIDIG: Do you want to speak
23 in favor of your motion?

24 COMMITTEE MEMBER RELIS: Let me just add, the
25 motion includes the reference to products, not just process

1 here.

2 So, those include the project description, the
3 resolution of the lead agency status, and I don't know about
4 the -- I'll leave the outstanding litigation out of this,
5 because I don't think that's our business.

6 Whether there is an environmental mediator or
7 not, that would be the choice of the parties involved,
8 that's also, I don't think, our business.

9 COMMITTEE MEMBER EGIGIAN: Mr. Chairman, I would
10 like to know what the motion is.

11 COMMITTEE CHAIRMAN HEIDIG: Mr. Egigian, I can
12 have Mr. Relis restate the motion.

13 It's a complicated motion, and what the motion has
14 at the end is some incorporation by reference to concepts
15 put forth by the Executive Director.

16 COMMITTEE MEMBER RELIS: Basically, Sam, they come
17 back in 45 days with demonstrated progress that we can
18 verify.

19 At that point, a decision would be made about
20 decertification.

21 I'm prepared to decertify at that time if progress
22 isn't made..

23 COMMITTEE MEMBER EGIGIAN: I can't support that
24 because you're leaving out the date that decertification
25 will take place.

1 They are going to come back, and they are going to
2 make another argument of another 45 days.

3 COMMITTEE MEMBER RELIS: Well, that's not my
4 intention in the motion.

5 COMMITTEE MEMBER EGIGIAN: Well, put it in the
6 motion, put the date in the motion.

7 MS. TOBIAS: I think it's unclear, Mr. Relis, as
8 to whether you're taking the first part of that that
9 includes --

10 COMMITTEE MEMBER RELIS: No.

11 MS. TOBIAS: Okay. You're not --

12 COMMITTEE MEMBER RELIS: I purposely left that
13 out.

14 MS. TOBIAS: So, your motion is that the parties
15 are going to work together, including the resolution of lead
16 agency status between the parties, and to come back and
17 report, and at that time then the Board would act on
18 decertification.

19 That is essentially the applicant's proposal but
20 not using their wording.

21 COMMITTEE MEMBER RELIS: It's a modification of
22 our staff recommendation and the applicant or the LEA.

23 COMMITTEE CHAIRMAN HEIDIG: It's basically, if I
24 could characterize it, it's sort of a cooling-off period
25 asking both sides to negotiate.

1 Then if they don't come together, to restate what
2 we want to occur then.

3 COMMITTEE MEMBER RELIS: Yes, but I'm not looking
4 at this as just a postponement.

5 If things don't work out, I think this Board is in
6 a position where it must begin to fulfill that five-year
7 review process, and the parties out in the LEA world and in
8 general will see that as a serious commitment by this Board.

9 So, there is the intention to follow through on
10 the, I guess, threat if it doesn't pan out.

11 COMMITTEE CHAIRMAN HEIDIG: Any further discussion
12 on the motion?

13 COMMITTEE MEMBER EGIGIAN: I can't buy that. It
14 proves nothing.

15 When this thing first started five or ten years,
16 another 45 days added, and then we start the same process
17 again. We didn't arrive at any point of making a decision.

18 COMMITTEE CHAIRMAN HEIDIG: Kathryn, did you want
19 to say something?

20 MS. TOBIAS: I was just clarifying that this was
21 to come back at the March meeting, but I think Mr. Relis
22 included that.

23 COMMITTEE CHAIRMAN HEIDIG: I believe he did.

24 BOARD MEMBER CHESBRO: May I ask the Committee's
25 courtesy?

1 COMMITTEE CHAIRMAN HEIDIG: If I may just say so,
2 I've asked Kathryn Tobias about when we're talking about a
3 deliberation I think with a motion on the Floor, we may very
4 well be in violation of Bagley or --

5 MS. TOBIAS: The protocol aspect really.

6 You may want to hear the question and decide
7 whether it goes to the motion or whether it's a point of
8 clarification.

9 BOARD MEMBER CHESBRO: Mr. Chairman, as a matter
10 of tradition since this Board was seated, and no counsel has
11 objected to date, as a matter of courtesy to other Board
12 Members who have dropped in on Committee meetings, every
13 instance that I'm aware of that has been welcome.

14 COMMITTEE MEMBER EGIGIAN: There is a motion
15 pending.

16 BOARD MEMBER CHESBRO: I'll make my comments after
17 the motion. That's fine.

18 COMMITTEE CHAIRMAN HEIDIG: I certainly want to be
19 courteous. That's not the intention.

20 BOARD MEMBER CHESBRO: I'll make my comments after
21 the motion.

22 COMMITTEE CHAIRMAN HEIDIG: I just want to make
23 sure everything is kosher.

24 So, if you can hold off, that would be --

25 BOARD MEMBER CHESBRO: I don't accept the

1 precedent, but I will hold off.

2 COMMITTEE CHAIRMAN HEIDIG: I'm not trying to be
3 precedential.

4 If you want to ask the question or make a comment,
5 we could refer this ruling by counsel.

6 It's up to you, Mr. Chesbro.

7 BOARD MEMBER CHESBRO: I will make my comments.

8 Mr. Chairman, my concern that I don't think is
9 addressed correctly in the motion, I think it's directed --
10 it's addressed indirectly has been raised by the League of
11 California Cities and the Environmental Health Directors
12 Association, which is really a process question.

13 I'm not trying to urge you to aye or a no vote on
14 this motion. I'm just raising this for thought purposes,
15 and especially if this doesn't come to the Board later this
16 month, and I'm not clear whether it will.

17 COMMITTEE CHAIRMAN HEIDIG: I believe that it
18 will.

19 Let me just ask Kathryn Tobias, who is counsel to
20 the Board, if further discussion on this issue by Mr.
21 Chesbro would be better taken up after a vote when there is
22 no pending motion before us?

23 MS. TOBIAS: My understanding, although this is
24 based on what I've heard from other legal staff, and since
25 I've been here a year, I can't really stand on too much

1 prior knowledge, is that generally other Members of the
2 Board have been able to ask questions and participate in the
3 discussion prior to a motion on the Floor and that once
4 there is a motion on the Floor, there is a motion that is
5 deliberated by the Committee Members, and that's my
6 understanding of how it's been handled in the past, and I
7 will apologize in advance if the Board finds differently.

8 BOARD MEMBER CHESBRO: Well, I'll hold my comments
9 then.

10 COMMITTEE CHAIRMAN HEIDIG: Thank you, Mr.
11 Chesbro, and thank you, Ms. Tobias.

12 Now, we have a motion in front of this Committee,
13 and I'm going to ask for a roll call vote on it.

14 MS. LOWAS: This motion includes the date of March
15 31 to be reported back?

16 MS. TOBIAS: Is there a conflict between March 31
17 and the March Board meeting?

18 COMMITTEE MEMBER RELIS: No.

19 Received by the March Board meeting.

20 COMMITTEE CHAIRMAN HEIDIG: By the March Board
21 meeting is what it will be.

22 MS. LOWAS: Member Egigian.

23 COMMITTEE MEMBER EGIGIAN: No.

24 MS. LOWAS: Member Relis.

25 COMMITTEE MEMBER RELIS: Aye.

1 MS. LOWAS: Chairman Heidig.

2 COMMITTEE CHAIRMAN HEIDIG: No.

3 Motion fails one to two.

4 Does anyone want to put forward the revised staff
5 recommendation?

6 COMMITTEE MEMBER EGIGIAN: Mr. Chairman, I will
7 make that motion.

8 COMMITTEE CHAIRMAN HEIDIG: Mr. Egigian moves the
9 revised staff recommendation, which was read into the record
10 by Mr. Chandler.

11 Is there any discussion of that motion?

12 Hearing none, I'll ask for a roll call on that
13 motion.

14 MS. LOWAS: Just to clarify, that includes the
15 entire page, the three paragraphs, includes everything?

16 COMMITTEE CHAIRMAN HEIDIG: That is correct.

17 COMMITTEE MEMBER RELIS: That's the
18 decertification effective now.

19 COMMITTEE CHAIRMAN HEIDIG: That is correct, and
20 staid until March 31.

21 Okay. Any discussion? Is there any objection to
22 the vote being called?

23 Hearing no objection, we will call the roll.

24 MS. LOWAS: Member Egigian.

25 COMMITTEE MEMBER EGIGIAN: Yes.

1 MS. LOWAS: Member Relis.

2 COMMITTEE MEMBER RELIS: No.

3 COMMITTEE CHAIRMAN HEIDIG: Yes.

4 Motion carries two to one.

5 BOARD MEMBER CHESBRO: Mr. Chairman.

6 COMMITTEE CHAIRMAN HEIDIG: Mr. Chesbro.

7 BOARD MEMBER CHESBRO: First of all, I'd like to
8 say that any Member of this Board will continue to be
9 welcome at any time during the Local Assistance and Planning
10 Committee to comment on deliberations of that Committee.

11 COMMITTEE CHAIRMAN HEIDIG: Mr. Chesbro, I want to
12 say that any Member of the Board is welcome at this
13 Committee meeting or any other Committee meeting. It's
14 always been the protocol and that has always been in force.

15 BOARD MEMBER CHESBRO: Well, the views I am going
16 to express might have been, since it takes four votes to
17 move anything, it seems like it's a good idea to have some
18 sense of what the other Members of the Board are thinking in
19 the process of making a decision.

20 In any case, I will express them at this point.

21 I am concerned with process and what was raised
22 was the question of where the step of corrective work plan
23 that has been used or as described in our flowchart and in
24 our process where that falls. I have not heard that
25 directly addressed.

1 I was not here for all of Mr. Chandler's
2 presentation, so if it was addressed prior to my coming in,
3 I apologize. But I'm concerned that the motion as addressed
4 fails to do so, and I'm more concerned with the implications
5 around the State to other LEAs and other permits than I am,
6 with all due respect to West Covina, the LEA and the
7 operator, I'm more concerned about the broad implications
8 than the specifics in this situation, and I want to make
9 sure that whatever steps we take are consistent with the
10 procedures we've laid out and steps that we will take in the
11 future with regards to LEA evaluations, so that we're going
12 through in a due process sort of way a step-by-step and not
13 racing to judgement.

14 Now, I know that the intent of the motion as it's
15 been described is kind of like that, it's to get there to
16 give some time, but I want to make sure that procedurally we
17 are following each of those steps and being consistent all
18 the way along.

19 Thank you.

20 COMMITTEE CHAIRMAN HEIDIG: You're welcome.

21 Okay. Why don't we take a five-minute recess so
22 that we can have the court reporter change tapes.

23 (Thereupon a brief recess was taken.)

24 COMMITTEE CHAIRMAN HEIDIG: I'm going to reconvene
25 the Permit and Enforcement Committee. We'll take Item 4

1 next.

2 Doug, would you give us a briefing on this item.

3 MR. OKUMURA: Sure. Agenda Item 4 is for
4 consideration for concurrence in the issuance of a Revised
5 Solid Waste Facilities Permit for the Tajiguas Sanitary
6 Landfill, Santa Barbara County.

7 The staff presentation will be made by Mr. Terry
8 Smith and Mr. Don Dier.

9 MR. SMITH: Mr. Chairman, Committee Members, this
10 permit is to reflect a revision to incorporate changes which
11 include increase in tonnage, a lateral and vertical
12 expansion, addition of a hazardous waste screening program
13 and to allow the acceptance of sewage sludge that will be
14 consistent with the current waste discharge requirements.

15 After analyzing the proposed permit and the
16 supporting documents, the LEA and Board staff have found
17 that the project meets State Minimum Standards. It is in
18 conformance with Santa Barbara County's Solid Waste
19 Management Plan.

20 It is consistent with Santa Barbara County's
21 General Plan and diversion goals, and CEQA requirements have
22 been satisfied.

23 Consequently, staff have determined that the
24 proposed permit and supporting documents are acceptable for
25 the Board's consideration. Staff recommend that the Board

1 adopted Permit Decision No. 95-40, concurring in the
2 issuance of Solid Waste Facilities Permit No. 42-AA-0015.

3 The operator and LEA are available to answer any
4 questions you may have. This concludes staff presentation.

5 COMMITTEE CHAIRMAN HEIDIG: Should we hear from
6 the LEA?

7 MS. LANGLE: Thank you, Chairman Heidig. My name
8 is Peggy Langle. I'm the supervisor for the LEA program in
9 Santa Barbara County.

10 Lisa Sloan, our Senior Solid Waste Specialist, who
11 processed the permit application, is also here today.

12 We have no additional comments to add.

13 COMMITTEE CHAIRMAN HEIDIG: Any questions of the
14 LEA?

15 Hearing none, thank you very much.

16 Would the operator like to come forward?

17 MR. WILSON: Commissioner Heidig, my name is Chris
18 Wilson. I'm with San Bernardino County Solid Waste.

19 I don't have any items myself, unless you have
20 questions of us.

21 COMMITTEE CHAIRMAN HEIDIG: Any questions of the
22 operator?

23 MS. LOWAS: I did not get the last name.

24 MR. WILSON: Chris Wilson.

25 COMMITTEE MEMBER RELIS: I'll move the item.

1 COMMITTEE CHAIRMAN HEIDIG: The item has been
2 moved by Mr. Relis.

3 Is there any discussion on the item?

4 Hearing no discussion, is there any objection to
5 calling the question?

6 Hearing none, we will have a roll call vote.

7 MS. LOWAS: Member Egigian.

8 COMMITTEE MEMBER EGIGIAN: Aye.

9 MS. LOWAS: Member Relis.

10 COMMITTEE MEMBER RELIS: Aye.

11 MS. LOWAS: Chairman Heidig.

12 COMMITTEE CHAIRMAN HEIDIG: Aye.

13 Motion carries three-zero.

14 COMMITTEE MEMBER RELIS: Mr. Chair, would that go
15 to consent?

16 COMMITTEE CHAIRMAN HEIDIG: I believe that it
17 would.

18 Is there any objection to putting it on consent?

19 Hearing none, it will be on the Consent Calendar.

20 COMMITTEE MEMBER EGIGIAN: Since Paul is from
21 Santa Barbara, maybe we ought to --

22 COMMITTEE CHAIRMAN HEIDIG: The next February
23 Board meeting. Do you have another item that will go
24 quickly, Mr. Okumura?

25 MR. OKUMURA: Yes, I believe Agenda Item 2.

1 Agenda Item 2 is for consideration of concurrence
2 in the issuance of a Revised Solid Waste Facility Permit for
3 Phelan Solid Waste Disposal Facility, San Bernardino County.

4 Staff presentation will be made by Ms. Georgianne
5 Anderson.

6 MS. ANDERSON: Good morning -- good afternoon, I
7 guess now.

8 This revised permit will update the 1979 Solid
9 Waste Facility Permit to allow the following changes: an
10 increase in tonnage from 12 tons per day to 198 tons per
11 day; a decrease in the disposal footprint from 80 acres to
12 30 acres; the implementation of the recycling activities; an
13 addition of the household hazardous waste storage area; a
14 change in the closure year from 1999 to 2004; and a change
15 in operating hours.

16 The environmental control measures for impacts of
17 potential problems with dust, vectors, storm water run-off,
18 litter, noise, odor associated with the operations have been
19 addressed. The LEA and Board staff enforcement staff
20 conducted a pre-permit inspection and found the facility in
21 compliance with all State Minimum Standards.

22 Staff have reviewed the proposed permit and found
23 it suitable for Board consideration.

24 Staff, therefore, recommends that the Board adopt
25 Decision 95-42, concurring in the issuance of the Solid

1 Waste Facilities Permit No. 36-AA-0044.

2 The operator, owner and LEA are also here.

3 This concludes my presentation.

4 COMMITTEE CHAIRMAN HEIDIG: Thank you very much.

5 Any questions of staff?

6 Hearing none, would the LEA like to come forward
7 and address the Board?

8 MS. GALLAGHER: I'm Pat Gallagher. I'm with San
9 Bernardino County LEA, and I'm here if there are any
10 questions that you have about the site.

11 COMMITTEE CHAIRMAN HEIDIG: Thank you.

12 Any questions of the LEA?

13 Thank you very much, Pat.

14 Is the operator here?

15 Come forward.

16 MR. GLASS: Good afternoon, Mr. Chairman, Members
17 of the Committee. I'm Paul Glass, from the County of San
18 Bernardino Solid Waste Management Department, and if there
19 are any questions, we're here to answer them.

20 COMMITTEE CHAIRMAN HEIDIG: Any questions of the
21 operator?

22 COMMITTEE MEMBER EGIGIAN: I'll move the item.

23 COMMITTEE CHAIRMAN HEIDIG: The item has been
24 moved by Mr. Egigian.

25 Any discussion?

1 Any objection to substituting the prior roll call?

2 We will substitute the prior roll call.

3 The aye's are three.

4 The no's are none.

5 Any objection to putting it on Consent?

6 Hearing none, it will be on the Consent Calendar
7 for the February Board meeting.

8 Doug, do you have another one you want to take
9 since we're --

10 MR. OKUMURA: I think that's the last of the easy
11 one's.

12 COMMITTEE CHAIRMAN HEIDIG: I think since we had
13 such good work with the decertification, we should continue
14 on that part of the agenda, Item 8.

15 MR. OKUMURA: Mr. Chairman, my staff is not here
16 right now. I would recommend that we go to Item 1, if we
17 could, please.

18 COMMITTEE CHAIRMAN HEIDIG: We will accommodate
19 the San Bernardino folks.

20 Item 1 is the consideration of concurrence in the
21 issuance of a Revised Solid Waste Facilities Permit for the
22 Mid-Valley (Fontana) Landfill, San Bernardino County.

23 Then we will move directly to Item 8 on the Madera
24 County decertification.

25 MR. OKUMURA: Ms. Georgianne Anderson will make

1 the staff presentation.

2 MS. ANDERSON: Before I begin, I would like to
3 make a few changes in the Agenda Item.

4 On page 1 and page 3, where the Agenda Item states
5 the facility, the facility is three miles north of the City
6 of Fontana, this is incorrect, and I'd like to note that the
7 City limits are actually adjacent to the landfill.

8 On page 2 of the Agenda Item, the last paragraph,
9 second sentence should read an average of 1,821 tons per day
10 instead of 2,642.

11 On page 3, the first paragraph, please, omit the
12 word vertical in the first sentence and omit the second
13 sentence. I'm sorry for the inconvenience.

14 This revised permit will update the 1978 Solid
15 Waste Facilities Permit to allow the following changes:
16 daily permitted maximum tonnage will increase from 280 tons
17 per day to an average of 1,821 tons per day, with a peak of
18 4,000; the permitted capacity will increase from 2.2 million
19 cubic yards to 24.4 million cubic yards, which will extend
20 the site life from 1985 to April of 1997; the hours of
21 operation will change from 8:00 a.m. to 5:00 p.m., six days
22 a week, to 7:00 a.m. to 5:00 p.m., five days a week, and
23 8:00 a.m. to 5:00 p.m. on Saturday; the proposed permit will
24 redefine the permitted footprint to 142 acres from the
25 previous 160 acres allowed in the 1978 permit; the proposed

1 permit will allow the facility to increase the site's
2 vertical limits to approximately 100 feet above grade; the
3 proposed permit will allow the addition of recycling
4 activities, household hazardous waste storage area and
5 environmental controls.

6 The City of Realto's City Manger, Mr. Gerald
7 Johnson, wrote a letter on February 10, 1995, to the Board
8 expressing concerns regarding the height limit of the
9 landfill, bird control issues, visual screening, airport
10 safety, litter and traffic, as well as the site's closure
11 year. Mr. Johnson also wanted to increase the current
12 environmental mitigation fee from \$1 a ton to \$2 per ton.

13 On February 13, 1995, Mr. Gregory Divo, City
14 Manager of the City of Fontana, also wrote a letter
15 expressing concerns with the increase in traffic, the site's
16 elevation and closure year, as well as litter, illegal
17 dumping, noise and the increase in tonnage. The cities are
18 asking for conditions to be put in the permit which deal
19 with these concerns.

20 They are outlined in detail in the two letters
21 that are before you.

22 Environmental control measures for impacts of
23 potential problems of dust, litter, noise, vectors, fire and
24 waste water associated with the operations of this facility
25 have been addressed. The LEA and the Board have made

1 determinations that the facility has met the requirements
2 and conformance with the County's Solid Waste Management
3 Plan, the County's General Plan and is consistent with
4 AB-939 goals as well as CEQA requirements.

5 The facility was inspected by Board staff and LEA
6 staff on January 19, 1995, and found that the site was in
7 compliance with all State Minimum Standards. Staff have
8 reviewed the proposed permit and found it suitable for Board
9 consideration.

10 Board staff, therefore, recommend the Board adopt
11 Permit Decision 95-41, concurring in the issuance of the
12 Solid Waste Facilities Permit 36-AA-0055.

13 The representatives of the owner, operator and LEA
14 are also here, if you have any questions.

15 I should note that Mr. Gerald and the City Manager
16 for the City of Fontana were unable to make it today, unless
17 they speak up right now. So, I just wanted you to know that
18 they did want to submit those letters.

19 COMMITTEE CHAIRMAN HEIDIG: I don't have those
20 letters before me.

21 MS. ANDERSON: One letter was given to you at the
22 beginning of the meeting, and the other letter should have
23 been presented earlier this morning.

24 COMMITTEE CHAIRMAN HEIDIG: All right. This is
25 the letter from the City of Fontana.

1 I think this is the one that I read into the
2 record this morning by the City Manager.

3 Does the LEA wish to speak?

4 MS. STALL: Mr. Chairman, Members of the
5 Committee, I'm Suzanne Stall, with the County of San
6 Bernardino Local Enforcement Agency.

7 I'll be happy to answer any questions that you
8 might have.

9 We saw these letters for the first time today,
10 also.

11 COMMITTEE MEMBER RELIS: Mr. Chair, I have two
12 questions.

13 If I could see the letter from Fontana, again, I
14 marked it, under points five and six in this letter, I just
15 want to be clear, because they do pertain to our oversight
16 responsibilities, the final elevation they refer to in
17 excess of 100 feet above grade, that would not be a
18 departure from the permit; is that correct?

19 MS. STALL: That is correct.

20 What is expressed in the RDSI is 100 feet. The
21 gradient goes down hill.

22 So, the elevation is not constant. It's 100 at
23 any one point.

24 COMMITTEE MEMBER RELIS: This wouldn't be a change
25 in the elevation?

1 MS. STALL: It will exceed what is currently.
2 The landfill average is -- let me concur with the
3 operator here.

4 Approximately 60 to 70 feet would be the average.
5 It's in two different sections above grade at the present
6 time.

7 COMMITTEE MEMBER RELIS: But it meets our slope
8 requirements, staff?

9 MS. ANDERSON: That's correct.

10 COMMITTEE MEMBER RELIS: In terms of the dust,
11 they reference that this is located below Cajon Pass, which
12 I know to be quite windy.

13 Do you feel that the mitigations in the design are
14 appropriate to addressing the dust?

15 MS. STALL: The County has implemented a wind
16 policy, and it is condition, I believe, number 18.

17 The exact specifics of it, I can't quote to you at
18 the present. It goes from partial closure of the landfill
19 to residential individuals to full closure of the landfill
20 depending on the wind speeds and whether the litter is able
21 to be controlled.

22 COMMITTEE MEMBER RELIS: San Bernardino, if I
23 recall, has this problem pretty much all over the major
24 sections of the county.

25 We've seen more wind there than other parts of --

1 MS. STALL: This site is, I think, one of the
2 worst.

3 There is one other that experiences very high
4 winds.

5 COMMITTEE MEMBER RELIS: Okay. So, that's the
6 approach taken with the winds.

7 MS. STALL: With the wind policy, and as Condition
8 18, it does state the operator shall maintain the high wind
9 closure exclusion policy, and the facility shall be operated
10 in accordance with that policy.

11 If they don't, it's a permit violation.

12 COMMITTEE MEMBER RELIS: Okay.

13 COMMITTEE CHAIRMAN HEIDIG: Do you have further
14 questions?

15 COMMITTEE MEMBER RELIS: No.

16 COMMITTEE CHAIRMAN HEIDIG: I think we found the
17 other letter from the City of Realto, and we will enter that
18 into the record as an ex parte communication.

19 Does the operator wish to speak? Is the operator
20 here?

21 MR. GLASS: Good morning, Members of the
22 Committee, Paul Glass, from the San Bernardino County Solid
23 Waste Management Department, again.

24 I would only note that I think we have
25 sufficiently addressed the concerns of both the City of

1 Fontana and Realto, and I would note that in the City of
2 Realto's letter that they do state on the second page that
3 the City of Realto recognizes the need for the facility and
4 does not object to the issuance of the revised permit.

5 I think that's a significant statement in their
6 letter, and I think we have addressed their other concerns.

7 Are there any questions?

8 COMMITTEE MEMBER RELIS: That letter refers to
9 operational matters which would be subject to our minimum
10 standards, so, that's duly noted.

11 COMMITTEE CHAIRMAN HEIDIG: Any other questions of
12 the operator?

13 Hearing none, is there a motion?

14 COMMITTEE MEMBER EGIGIAN: Move staff
15 recommendation.

16 COMMITTEE CHAIRMAN HEIDIG: Any objection to
17 calling the question?

18 Call the question. We will ask Jane Lowas to call
19 the roll.

20 The motion is that the staff recommendation be
21 adopted.

22 MS. LOWAS: Member Egigian.

23 COMMITTEE MEMBER EGIGIAN: Aye.

24 MS. LOWAS: Member Relis.

25 COMMITTEE MEMBER RELIS: Aye.

1 MS. LOWAS: Chairman Heidig.

2 COMMITTEE CHAIRMAN HEIDIG: Aye.

3 Motion carries three-zero.

4 Is there any objection to putting it on the
5 Consent Calendar?

6 Hearing none, it will be on the Consent Calendar.

7 MR. OKUMURA: Mr. Chairman, if I'm not mistaken
8 one of the letters asked to have it heard.

9 COMMITTEE CHAIRMAN HEIDIG: Then we will put it
10 off the Consent Calendar.

11 Good catch.

12 Item 3, are we ready for Item 3?

13 MR. OKUMURA: Yes.

14 COMMITTEE CHAIRMAN HEIDIG: Item 3 is the
15 consideration of a new Solid Waste Facility Permit for the
16 Mammoth Recycling Facility and Transfer Station, Madera
17 County.

18 MR. OKUMURA: That's correct, and Agenda Item 3
19 will be presented by Virginia Rosales.

20 MS. ROSALES: Good afternoon.

21 Item 3 is for consideration of concurrence in the
22 issuance --

23 COMMITTEE CHAIRMAN HEIDIG: Would you just restate
24 your name for the record.

25 MS. ROSALES: Virginia Rosales, with the Permits

1 Section.

2 Item 3 is for consideration of concurrence in the
3 issuance of a new Solid Waste Facilities Permit for the
4 Mammoth Recycling Facility and Transfer Station, Madera
5 County.

6 COMMITTEE MEMBER EGIGIAN: I'm not hearing what
7 you're saying.

8 COMMITTEE CHAIRMAN HEIDIG: Read right into the
9 mike.

10 They are directional. It doesn't matter how close
11 as long as you are speaking towards it.

12 MS. ROSALES: Again, I'll repeat this.

13 This is a new Solid Waste Facilities Permit for
14 the Mammoth Recycling Facility and Transfer Station in
15 Madera County. The owner, County of Madera, Mr. Michael
16 Kirn, County Engineer, operator, Madera Disposal Systems
17 Incorporated, Mr. Gene Dupreau and Mr. Charlie Younglaus.

18 The County of Madera is requesting a new Solid
19 Waste Facilities Permit to operate a materials recovery
20 facility and transfer station, which sorts commingled
21 recyclables and mixed solid waste. The recyclable materials
22 are baled on-site and shipped to various markets.

23 The waste remaining after processing are baled and
24 transferred to the adjacent Fairmead Landfill.

25 The proposed permit would allow the MRF to receive

1 and process a maximum 500 tons per day of mixed solid waste.
2 Staff were unable to document what the expected recovery
3 rate of the facility is.

4 Board staff recommendation is to object to the
5 proposed permit based on the inadequate submittal of
6 planning and CEQA documents, which I will describe in more
7 detail later in this presentation.

8 On October 19, 1994, and November 14, 1994, the
9 LEA observed the Mammoth MRF receiving solid waste and
10 operating without a Solid Waste Facilities Permit. On
11 November 21, 1994, a Stipulated Order of Compliance and
12 agreement was issued ordering the owner and operator to
13 cease receiving and baling solid waste and to submit an
14 application to the LEA for a Solid Waste Facilities Permit
15 by December 12, 1994.

16 On the contrary, the LEA authorized a stay under
17 a local county nuisance ordinance allowing the continued
18 operations while appealing the enforcement action to the
19 Madera County Hearing Panel.

20 Board staff review of statute and regulation
21 concludes the appeal of enforcement actions is not an
22 activity intended for local hearing panels.

23 A hearing was heard before the Solid Waste
24 independent Hearing Panel on January 26, 1995. Again, a
25 stay was issued allowing the facility to continue to receive

1 and bale solid waste until another hearing is scheduled
2 within 29 days from the date of this hearing, which would be
3 February 24, 1995.

4 In summary, this facility has been operating
5 without a Solid Waste Facilities Permit since October 1994.

6 Environmental measure for impacts from potential
7 problems of vector, litter, noise, odor, fire and dust
8 associated with the MRF include vector and bird problems
9 will be minimized through partially enclosed structure
10 design of the building.

11 To control litter, all waste and loading will be
12 within the building on the tipping area. Additionally, the
13 facility is fenced to help capture wind-blown litter.

14 Noise inside the building is controlled through
15 the use of equipment mufflers and electronically driven
16 motors.

17 To control odors, facility personnel may direct
18 odorous waste loads directly to the landfill. If a load of
19 odorous material is dumped at the MRF, the crew can by-pass
20 the conveyor and picking systems and load the waste directly
21 into the baler.

22 The tipping floor and area around the baler will
23 receive, at a minimum, a weekly high-pressure wash.

24 Provisions for fire control include fire hoses, a
25 fire hydrant placed within 50 feet of the MRF and several

1 fire extinguishers located inside and around the perimeter
2 of the building.

3 Report of the station information indicates that
4 the MRF will generate little dust because waste will be
5 brought to the MRF on paved or gravel roads and deposited on
6 a concrete floor. Also, the public access road is concrete
7 which will be cleaned daily by facility personnel.

8 Board staff have reviewed the proposed permit and
9 supporting documents and conclude the following: the
10 facility is consistent with the County of Madera's General
11 Plan as required by PRC 50000.5; the Madera County Planning
12 Department confirmed that the Mammoth MRF is consistent with
13 the County's General Plan and the 1994 General Plan
14 revision; also in a letter dated January 17 -- excuse me --
15 dated January 27, 1995, the Planning Department verified the
16 land use adjacent to and near the facility is compatible
17 with the facility and the use.

18 The proposed permit would neither prevent nor
19 substantially impair the County of Madera from achieving
20 their diversion goals of AB-939. At the time of the
21 pre-permit inspection on January 23, 1995, which was
22 conducted by Board staff and the LEA, three violations were
23 found.

24 The violations are, one, the facility's operating
25 without a Solid Waste Facilities Permit as required PRC

1 44002.

2 Number two, California Code of Regulations Section
3 17451 requires the design of a new station to utilize expert
4 advise. In this case, Madera County Fire Control District
5 requires two roof access ladders at each end of the
6 building. The ladders were not in place.

7 Number three, California Code of Regulation
8 Section 17481 requires that each point of access from a
9 public road must be identified by a sign indicating the name
10 of the station operator. This information was not posed.

11 The issuance of the permit would correct the first
12 violation. On February 1, 1995, the LEA conducted a
13 follow-up inspection.

14 The LEA has found the required ladders to be in
15 place and the name of the station operator and phone number
16 to be posted. Therefore, the second and third violations
17 are corrected.

18 I will now discuss the reasons for staff
19 recommendation of objection. Regarding the planning
20 requirements, staff of the Diversion Planning and Local
21 Assistance Division reviewed the information provided for
22 determining conformance with the County's Solid Waste
23 Management Plan.

24 The Public Resource Code requires that until a
25 County-wide Integrated Waste Management Plan has been

1 approved by the Board, no person shall establish a new
2 materials recovery facility without a certification by the
3 LEA that the site identification and the description of the
4 facility has been submitted to the local task force.

5 The information provided indicates that the
6 Mammoth MRF is not identified in the 1984 Madera County
7 Solid Waste Management Plan. Although the LEA believes the
8 MRF site identification and description has been submitted
9 to the local task force, and despite repeated requests to
10 the County officials, Board staff have not received the
11 verification that the requirements of PRC 50000(a)(4) has
12 been met.

13 Regarding the environmental review, Madera County
14 Environmental Review Committee determined that a mitigated
15 Negative Declaration would be the appropriate California
16 Environmental Quality Act compliance document. Madera's
17 Planning Department, acting as the lead agency, prepared the
18 mitigated Negative Declaration for the establishment and
19 operation of the MRF.

20 Change in operation of the waste management
21 practices of the Fairmead Landfill, the change being the
22 bale fill, the mitigated Negative Declaration referenced the
23 1988 prior Environmental Impact Report developed for
24 expansion for the Fairmead Landfill. Board staff reviewed
25 the mitigated Neg Declaration and the 1988 EIR.

1 Staff prepared comments which indicated that
2 information regarding specific mitigations for the MRF were
3 not included in the document's analysis.

4 In January and October 1994, and again in January
5 1995, Board staff requested a copy of the mitigation,
6 monitoring and reporting program. The LEA has submitted
7 information indicating the mitigations for the MRF are those
8 included in the 1988 EIR. Staff find that the mitigations
9 in the 1988 EIR are for the landfill operations only and not
10 appropriate for the MRF.

11 For these reasons, staff recommend the Board adopt
12 Permit Decision 95-43, objecting to the issuance of the
13 proposed Permit No. 20-AA-0031 for the Mammoth Recycling
14 Facility and Transfer Station.

15 The LEA and county officials are here today, and
16 they feel they have addressed these issues and are present
17 to discuss them.

18 COMMITTEE CHAIRMAN HEIDIG: Any questions of
19 staff?

20 Hearing none, we will hear from the LEA.

21 MS. NISHI: Good afternoon, Chairman Heidig,
22 Members of the Committee. My name is Jill Nishi, and I'm
23 the Solid Waste Program Manager, from the Madera County
24 Environmental Health Department, currently the LEA for
25 Madera County.

1 Considering or concerning staff's concerns
2 regarding the report here, there are three main items, I
3 believe. The first is local task force finding.

4 We are prepared to provide documentation that that
5 first concern has been corrected.

6 The second, regarding the recovery rates, again,
7 we have prepared documentation to provide today to address
8 that item.

9 The third, regarding the CEQA compliance as per a
10 previous discussion held today with your legal counsel, a
11 member of your CEQA Section and a member of your Permits
12 Section, we feel that a mutual agreement or resolve to this
13 issue can be achieved, and that is, we are prepared to work
14 with staff to add additional proposed conditions to the
15 permit to address any mitigation measures that Board staff
16 feel need to be addressed for the facility.

17 This is in the effort to, hopefully, achieve a
18 concurrence determination on this facility.

19 I would like -- we're here to answer any comments
20 you may have or questions you may have. I would like to
21 discuss this issue.

22 We also have present the County Engineer and the
23 County Planning Director to answer any questions you may
24 have regarding the local task force finding and the CEQA
25 compliance.

1 COMMITTEE CHAIRMAN HEIDIG: Is that Mr. Kirn and
2 Mr. Garoupa?

3 Any questions of the LEA at this time?

4 COMMITTEE MEMBER RELIS: Not at this time.

5 COMMITTEE CHAIRMAN HEIDIG: Should we ask Mike
6 Kirn and Mr. Garoupa?

7 MR. KIRN: Good morning, Mr. Chairman, Members of
8 the Committee, Mike Kirn, County Engineer, County of Madera.

9 I have two items that I would like entered into
10 the record. The first is a written comment and Notice of
11 the Local Task Force meeting that was held for the site
12 identification and written comments thereto.

13 I also have a written report here of the expected
14 diversion rates of the material recovery facility.

15 Madera County has been in the process of trying to
16 comply with AB-939 for almost five years now.

17 We believe we have a good product that will help
18 to achieve the diversion goals that your Board has
19 established.

20 So, I'd like to submit these right now.

21 As Jill has indicated, there's the issue of CEQA.
22 I just would like to confirm what she said.

23 We did meet with staff this afternoon, and we feel
24 that through some minor clarifications of specific
25 mitigation measures that are contained in the EIR that was

1 referenced under the Negative Dec, we can move forward and
2 hopefully get your concurrence in this, so that we don't
3 delay the permitting of this any longer.

4 Along those lines, I'd like to introduce Leonard
5 Garoupa, and he can answer any questions specifically.

6 COMMITTEE CHAIRMAN HEIDIG: Thank you.

7 Mr. Relis.

8 COMMITTEE MEMBER RELIS: I have a question, not a
9 question directly, but a comment at this time.

10 I've been looking over this staff write-up fairly
11 carefully, and I'm disturbed about the history here, the
12 history of -- I guess in two ways.

13 One would be, I'm wondering in a way why this
14 permit is before us, because it seems like, to use the term
15 earlier, it's not quite baked. It's getting baked as we
16 speak here, but the process that we've tried to define, some
17 of us have spoken to over the past, is, if it's ready, then
18 bring it forward.

19 If it isn't ready, don't negotiate at the last
20 minute.

21 I have some problems with that, and I think staff
22 is correct to take the position they did on the basis of
23 that history. I have no doubt that this permit can be fixed
24 and readily so. It's more the process that I'm concerned
25 about here.

1 COMMITTEE CHAIRMAN HEIDIG: Thank you.

2 Mr. Garoupa.

3 MR. GAROUPA: Thank you. Leonard Garoupa,
4 representing the Madera County Planning Department, and I'm
5 here to address specifically the CEQA issues that were
6 raised in the staff report.

7 To give you a brief summary, this originally
8 started as an Environmental Impact Report that was certified
9 for an expansion of the landfill plus a recycling facility
10 at the Fairmead site.

11 That was certified by the County Planning
12 Commission. There was a Conditional Use Permit issued for
13 that facility.

14 Subsequent to that time, we were asked to separate
15 out the recycling facility, which we did, and we presented
16 that to the Environmental Committee for review and issued a
17 Negative Declaration incorporating the mitigation measures
18 of the originally certified Environmental Impact Report by
19 reference.

20 My understanding now, in discussing this matter
21 with the staff, is what we are essentially down to in the
22 CEQA process is a request to separate out the mitigation
23 measures and specify which of those specifically would apply
24 to the recycling facility.

25 We have attempted to do that, and we faxed a

1 letter to your staff, I believe, yesterday. We have some
2 extra copies available for the Board, if you would like, in
3 the event that you don't have those before you.

4 My understanding is what we are down to now is
5 after having specified which mitigation measures apply
6 specifically to the recycling facility is a request from
7 staff to clarify the mitigation measures that apply to that
8 facility, and as indicated by our Local Enforcement Agency,
9 perhaps, in the conditions of some of the permits, that they
10 issue more specific in terms of the mitigation measures that
11 were applied to the facility.

12 Unless there are any questions, I will stop at
13 that point.

14 COMMITTEE MEMBER RELIS: I take it that we're
15 getting this information as we speak here.

16 This often happens, but staff's position is that
17 it's still not ready.

18 Is that correct?

19 MR. OKUMURA: That's correct, Mr. Relis.

20 I think the way, on this, the way we can handle
21 this is maybe since we have received a lot of new
22 information today and late yesterday that we could
23 potentially sit down with the company and look at these
24 documents and come to some decision prior to the Board
25 meeting and make a presentation at the Board meeting as far

1 as whether we are able to comply with the CEQA requirements.

2 That would be my recommendation, Mr. Chairman.

3 COMMITTEE CHAIRMAN HEIDIG: Thank you.

4 Are there any further questions?

5 Mr. Egigian.

6 COMMITTEE MEMBER EGIGIAN: Is there some way that
7 we can work this thing out like we did a couple of -- about
8 an hour ago when we worked out with the City of Covina to
9 give them time to do all kinds of things?

10 Can we do this with a smaller organization,
11 smaller city without the political clout that the big city
12 had?

13 MR. OKUMURA: I think that was basically what the
14 recommendation was.

15 What we would do, Mr. Egigian, is we have received
16 a lot of documents just now. What we'll do is we'll take
17 those documents and work with the company to see if we can
18 meet the requirements of CEQA.

19 We would then come back to the Board next week and
20 be able to make a presentation as far as does the document
21 help us get to the point we want to get to. So, I think we
22 could work with them over the course of the next week.

23 I think we would come back, with no guarantees,
24 but legal counsel feels that we could work with them and
25 come to some decision.

1 COMMITTEE MEMBER RELIS: I could live with that,
2 except I would just underscore, with the workload that the
3 Board is under, this last minute and -- I regard the West
4 Covina case a little different.

5 That was not a permit decision. Here we have a
6 permit decision.

7 We have a prescribed path. The LEA brings it
8 forward and says it's ready. Staff says it's not ready.
9 Then we end up with perhaps maybe we can work this out.

10 That would be acceptable, but it puts an undue
11 amount of workload on our staff in a way that we have tried
12 to speak to in the past, both with the clock issue that we
13 took up several years ago, and now with -- we don't really
14 want to see it unless it's ready or be prepared for the
15 consequence of an objection. Staff has made that position.

16 COMMITTEE CHAIRMAN HEIDIG: We still have somebody
17 to hear from, Charles Younglaus.

18 MR. YOUNGLAUS: Charles Younglaus, with Madera
19 Disposal.

20 For the record I would just like to have the
21 letter that was addressed to the two Members of the
22 Committee that I knew were on the Committee last week
23 entered into the system.

24 To address Mr. Relis's comments, from what we
25 gathered this morning, it's more a matter of outlining a

1 road map of where this stuff is. The stuff is all here. It
2 is here.

3 What staff wants, what we all want, is up here,
4 but the points need to be tied together and that we think we
5 can do in the time that you would allow us to do that.

6 Also, the last summary statement in my letter to
7 the Committee, I just want to point out that in our County
8 we have really made a real turn-around this month in the
9 direction that we are going to be able to take to resolve
10 some of the personality issues and the problems that we have
11 had.

12 Part of the Board doesn't realize that there is
13 even a private enterprise involved with the operation in
14 Madera. There has been for fourteen years, and from here
15 forward that presence will be known.

16 I think we have a general resolve in the county
17 now to resolve our problems and get in full compliance. So,
18 you have our 100 percent commitment to that, and if we can
19 move it forward for next week, we are certainly trying to do
20 that.

21 COMMITTEE CHAIRMAN HEIDIG: Mr. Egigian.

22 COMMITTEE MEMBER EGIGIAN: Mr. Chairman, I would
23 recommend that we be a little consistent with what we do
24 here.

25 If they say they can have it done by next week, I

1 think we should just, without making a decision on this,
2 just push it over to the Board meeting, and if they are all
3 complete at that time, then we will act on it.

4 COMMITTEE MEMBER RELIS: Mr. Egigian, would that
5 motion then be to not take action, pass on the staff
6 recommendation as is, and then see if it could be worked
7 out?

8 Is that what I understand it to be?

9 COMMITTEE CHAIRMAN HEIDIG: I think that it would
10 forward the staff report without recommendation to the
11 Board.

12 COMMITTEE MEMBER RELIS: Okay.

13 COMMITTEE CHAIRMAN HEIDIG: I still have Wayne
14 Pearce.

15 MR. YOUNGLAUS: I would like to introduce Wayne
16 Pearce, who has been one of the forces that's helped us get
17 on track, I think.

18 MR. PEARCE: Good afternoon, Mr. Chairman, Members
19 of the Committee. My name is Wayne Pearce, and I'm owner of
20 Phase-3 Environmental Management.

21 We are an environmental consultant and been
22 retained by Madera Disposal Systems to assist them with
23 their permitting.

24 As you heard in the staff report, at the
25 pre-inspection there were a few violations, and as they also

1 noted, those violations were corrected very quickly.

2 Staff also noted that there was a question
3 regarding the local task force findings. That has also been
4 corrected.

5 That was an oversight and that has been corrected.

6 There was a question on the percent of diversion,
7 and that is just a matter of it existed in the documents and
8 we just had to make sure that the right data was shown,
9 which really leaves just the CEQA issue, and I won't retrace
10 that.

11 We also believe that that is something that should
12 be able to be taken care of quite easily.

13 The fact of the matter was CEQA was done. It
14 wasn't a matter where we used old documents and tried to
15 make them fit. We did go through the process, and it was
16 complied with.

17 We believe that that is actually a full-baked
18 permit at this point, although there is a little bit of
19 clarification.

20 We do appreciate your willingness, and in
21 recognition of the workload that you do have, we also have
22 been working very hard on our end to try and bring this
23 facility on line. This is almost a \$2-million material
24 recovery facility.

25 We believe that this is the direction that you'd

1 like to see this State going. We're trying to go in that
2 direction. We're trying to bring it on line and get it
3 fully permitted as quickly as possible.

4 We do believe that we can work out any remaining
5 comments here. Before next week's meeting, I would like to
6 make one minor suggestion, rather than just simply tabling
7 it, I believe that with all the issues that have been taken
8 care of, at least I'd like to recommend that the Board
9 concur with the issuance of the permit provided that the
10 remaining issue can be resolved for next week's meeting.

11 COMMITTEE CHAIRMAN HEIDIG: Thank you.

12 Any questions?

13 MR. PEARCE: I would like to submit some comments
14 that I won't read into the record, but I have fifteen
15 copies.

16 COMMITTEE CHAIRMAN HEIDIG: Thank you very much.
17 We will put that in the record as an ex parte communication,
18 and also this Madera County Planning Department document,
19 and Mr. Edgar, we will put your written comment as well and
20 share with my colleagues.

21 MS. TOBIAS: Mr. Chair, may I clarify something,
22 and I apologize if this is repetitive and if this was
23 discussed.

24 I want to make it clear that staff basically feels
25 that two of the three issues have been resolved. I think we

1 would agree with Mr. Relis's comments that the process needs
2 some adjusting, and this is probably not the prime example
3 of how we would want to see conformance met and those kinds
4 of things, but we do feel like the county has or the LEA and
5 the operator have made an effort to try to address these
6 issues.

7 The remaining issues are those having to do -- and
8 I think Mr. Garoupa did a good job of trying to explain the
9 CEQA issues and how we got there. What we're proposing at
10 this point is that the county would be able to come back
11 with some revised conditions pertaining to the MRF, that
12 they would try to get those to staff this week and that they
13 would come back to the Board next week at the meeting.

14 If they do not, and if they are not to the
15 satisfaction of the staff, and if we can't work that out,
16 then basically any proposals that the LEA would make at that
17 time would actually be considered an amendment to the
18 permit, and we would be back into a new 60-day clock.

19 I just wanted to make that time frame clear. If
20 we don't meet it for next week, you won't see them for
21 another 60 days possibly while we work this out. I wasn't
22 sure that was clear.

23 COMMITTEE MEMBER EGIGIAN: Then if we forward it
24 to the Board without recommendation --

25 MS. TOBIAS: That's okay.

1 COMMITTEE MEMBER EGIGIAN: That's okay.

2 MS. TOBIAS: I don't have a problem with that,
3 because I think what we're doing is basically taking a week
4 to try to get -- they have resolved two of the three.

5 We're trying to resolve the third one. They are
6 going to put their best efforts forward on it. Staff will
7 try their best to work with it. .

8 I'm just saying that there are some issues that
9 may take more than a week to resolve. We hope not.

10 I just want to make clear that if it's not at the
11 Board next week, if they don't want to accept those, it
12 would basically be put into an amendment, the regulation
13 that covers amendments, and it starts a new 60-day clock on
14 that.

15 COMMITTEE CHAIRMAN HEIDIG: All right.

16 Committee discussion?

17 Does anybody have a motion?

18 COMMITTEE MEMBER RELIS: I thought Sam made a
19 motion.

20 COMMITTEE MEMBER EGIGIAN: I just made the motion
21 to forward to the Board without recommendation.

22 COMMITTEE CHAIRMAN HEIDIG: It's been moved that
23 we forward this permit, the concurrence of this permit to
24 the Board without recommendation.

25 Is there any discussion on the motion?

1 COMMITTEE MEMBER EGIGIAN: If they do not fulfill
2 it, then what Kathryn says will happen.

3 COMMITTEE CHAIRMAN HEIDIG: Right. Okay.

4 Hearing no discussion, we will call for the roll
5 of the Committee.

6 MS. LOWAS: Member Egigian.

7 COMMITTEE MEMBER EGIGIAN: Aye.

8 MS. LOWAS: Member Relis.

9 COMMITTEE MEMBER RELIS: Aye.

10 MS. LOWAS: Chairman Heidig.

11 COMMITTEE CHAIRMAN HEIDIG: Aye.

12 Motion carries three-zero.

13 Since it's forwarding the recommendation to the
14 Board, I don't think we will put it on the Consent Calendar.

15 Item 8, consideration of Local Enforcement Agency
16 Evaluation Report for the County of Madera and Committee
17 action items.

18 Doug.

19 MR. OKUMURA: Thank you, Mr. Chairman.

20 Agenda Item 8 is for consideration of the Local
21 Enforcement Agency Evaluation Report for the County of
22 Madera and Committee action options.

23 As a result of the evaluation of Madera County
24 Environmental Health Department, the LEA, we revealed some
25 concerns that we had. Staff have recommended a full

1 decertification.

2 However, since the evaluation, the process has
3 continued and an administrative conference was held, and
4 based on several of the findings that did come out of the
5 conference, we do have an amended recommendation.

6 Our recommendation is based on the fact that, and
7 I think you heard it as part of the testimony on the permit,
8 in Madera County there have been some changes made more
9 recently within the County that we feel will help get the
10 job done toward the standards the Board has set for the
11 LEAs.

12 One of the changes has been the change in the
13 consultant, a change in the communication procedures where
14 the LEA is going to be more involved directly with the
15 operator, change in the Board of Supervisors' support for
16 the LEA at the local level, potential for new staffing as a
17 result of the LEA going to the Board and a Board resolution
18 to support the water issues.

19 We feel that there has been a drastic change more
20 recently, and we would like to propose a different
21 recommendation. That recommendation will be presented by
22 Tom Unsel and Mary Coyle.

23 MR. UNSEL: To add on to the items of the
24 administrative conference on February 10, I think it was
25 very emphatic to acknowledge that the LEA has acknowledged

1 that indeed the issues within the evaluation report did need
2 to be addressed and did send us a nine-page document via fax
3 the day before the administrative conference in recognition
4 and acknowledgement of those issues as well as possible
5 corrective actions for each of those issues.

6 Within that same document, the Local Enforcement
7 Agency requested that they develop a work plan with the
8 citation of significant issues and the comment and
9 commitment by the local governing body and the operators at
10 the local level.

11 Hence, then the staff's recommendation has been
12 changed to reflect that commitment by both the Local
13 Enforcement Agency as well as the documentation that they
14 provided at the administrative conference.

15 Mary Coyle has distributed that recommendation and
16 will read that into the record.

17 MS. COYLE: Mr. Chairman and Members, just as
18 background, when we did the evaluation --

19 COMMITTEE CHAIRMAN HEIDIG: Please, restate your
20 name.

21 MS. COYLE: Mary Coyle, Permitting and Enforcement
22 Division, LEA Section.

23 When we did the evaluation, there were three areas
24 that we found pursuant to statute that the LEA was not
25 fulfilling its duties and responsibilities.

1 Essentially, those three areas were that they had
2 failed to inspect all solid waste facilities and disposal
3 sites. They had failed to prepare or cause to be prepared
4 permit revisions, permits or closure/post-closure
5 maintenance plans, and they had not taken appropriate
6 enforcement actions.

7 The details of those findings are contained in
8 your Agenda Item on page 106 and 107, and unless there are
9 questions, I won't go into the details of those findings.
10 But as Mr. Unsel has talked about, pursuant to our
11 administrative conference and the local's commitment to
12 remain, and, as mentioned in the previous item, their
13 resolve to take care of the issues, both operational and
14 with the LEA, we have modified our recommendation.

15 Our recommendation is now to move forward with the
16 staff recommendation to decertify the LEA pursuant to Public
17 Resources Code 43216.5, however, based on the information
18 that we have today staff furthermore recommends that, based
19 on discussions held during the administrative conference on
20 February 10, that the effective date of this decertification
21 be staid until March 31, 1995, the period of 45 days from
22 the date of this Committee meeting and that date.

23 During the period between the February meeting of
24 Permitting and Enforcement Committee and the effective date
25 of decertification, staff furthermore recommends that the

1 LEA be directed to prepare a corrective work plan addressing
2 what actions and time lines the LEA will take to correct
3 their program deficiencies. This work plan is to be
4 approved by Board staff on or before March 31, 1995.

5 Staff will report back to the Board at its March
6 '95 meeting, and if the work plan has been submitted and
7 approved, staff will recommend that the Board reconsider the
8 effective date of decertification.

9 If by March 31 the work plan is not approved,
10 decertification shall become valid, and the Board will
11 become the enforcement agency.

12 We do have representatives here from Madera
13 County, who, I'm sure, would like to speak to this, if there
14 are questions.

15 COMMITTEE CHAIRMAN HEIDIG: Any questions of
16 staff?

17 Hearing none, I only have one card, and that's
18 from Jill Nishi, representing the LEA.

19 MS. NISHI: Correct.

20 Again, good afternoon, Chairman Heidig, Members of
21 the Committee.

22 I would like to state that I am fortunate that I
23 had so many eloquent and articulate speakers before me on
24 this similar matter. We would like to emphasize some of
25 those comments.

1 As Mary had eloquently stated in her report, we
2 feel that there has been some major positive changes that
3 have allowed us as the LEA to a means to become a more
4 effective enforcement agency, and some of those positive
5 changes that have occurred, as Mr. Okumura stated in his
6 report, that we now have a Board of Supervisors resolution
7 stating that commitment that the operator and the operator's
8 consultants cooperate with State agencies and regulatory
9 agencies to obtain permitting or permits for the facilities.

10 As Mr. Okumura also mentioned, one of our biggest
11 problems we had with working with the County was the
12 County's past consultant. That consultant is no longer
13 providing those services for the County.

14 We feel that has opened a door to meeting
15 compliance with the Regional Water Quality Control Board and
16 also meeting compliance with necessary evaluation and
17 monitoring reporting requirements.

18 I believe also a firm has been contracted to
19 prepare the closure reports that has been long standing in
20 violation. Again, we feel at this point that we are finally
21 at a point where we can facilitate compliance with the
22 facilities and be an enforcement again with the Waste
23 Board's assistance and providing guidance to do that through
24 a corrective work plan.

25 COMMITTEE CHAIRMAN HEIDIG: So, you would speak in

1 favor of the staff's amended recommendation?

2 MS. NISHI: We agree.

3 COMMITTEE CHAIRMAN HEIDIG: Thank you very much.
4 Any questions for the LEA?

5 COMMITTEE MEMBER RELIS: So, it's possible this
6 can work out?

7 MS. NISHI: Very possible.

8 COMMITTEE CHAIRMAN HEIDIG: I think we're seeing
9 real progress here.

10 That's very positive, and we want to encourage
11 that.

12 MS. NISHI: I believe, Mr. Pearce, also, if he
13 would like to step up and say something as far as confirming
14 the changes that have taken place.

15 MR. PEARCE: Wayne Pearce, Phase-3 Environmental.

16 Again, Jill has given you some of the things that
17 have been going on. In the whole process of bringing the
18 landfill into compliance, the very first step here is to
19 bring some groundwater issues into compliance and to move
20 new waste discharge requirements through the Regional Board.

21 To this point they have been somewhat reluctant to
22 move in the direction, but given the new resolution and some
23 of the other changes that have taken place and some meetings
24 that we have had very recently with the Regional Board, they
25 are looking very favorably on these changes, and we're

1 moving down the road on a program that should get some
2 groundwater compliance as quickly as possible, but it
3 certainly will take some time.

4 Then, once we can get through the process of
5 initiating the WDRs, then we will be bringing the landfill
6 permit back through with new RDSI and closure plans and
7 everything. It's a fairly big step at this point to bring
8 it all into compliance, and it will take a little time, but
9 there is a very affirmative action going on right now to
10 make sure that keeps moving.

11 COMMITTEE MEMBER RELIS: Mr. Chair, as a point of
12 information, in reading the earlier or in our earlier
13 discussion over at the transfer station, looking at the
14 connection to the landfill operation, I assume the concerns
15 raised in that report were part of your discussions, bales
16 sticking out of the side and so forth, so I'm happy to hear
17 that the resolution on this is on the way.

18 COMMITTEE CHAIRMAN HEIDIG: Good.

19 Do we have anybody else from the public who wishes
20 to speak?

21 Hearing none, I open it up for Committee
22 discussion.

23 COMMITTEE MEMBER EGIGIAN: Mr. Chairman, inasmuch
24 as the lady has said she would go along with the item that
25 was presented, I move that we do exactly what that

1 recommendation says.

2 COMMITTEE MEMBER RELIS: Is that Agenda Item 8,
3 the one that --

4 COMMITTEE MEMBER EGIGIAN: Item 8, yes.

5 COMMITTEE CHAIRMAN HEIDIG: The Chair hears that
6 you are moving Agenda Item 8 as the amended staff
7 recommendation that was passed out, is that your motion?

8 COMMITTEE MEMBER EGIGIAN: Correct.

9 COMMITTEE CHAIRMAN HEIDIG: It's been moved.
10 Is there any discussion on the motion?

11 Hearing none, we'll take a roll call vote.

12 MS. LOWAS: Member Egigian.

13 COMMITTEE MEMBER EGIGIAN: Aye.

14 MS. LOWAS: Member Relis.

15 COMMITTEE MEMBER RELIS: Aye.

16 MS. LOWAS: Chairman Heidig.

17 COMMITTEE CHAIRMAN HEIDIG: Aye.

18 Motion carries three-zero.

19 MR. CHANDLER: Mr. Chairman, one quick comment.

20 As painful as these last two decertification
21 issues have been for the Board, or at least for the
22 Committee, I do think it's important to note that I feel
23 we're starting to make progress as the evaluations come
24 forward.

25 I don't think it's not just coincidental that the

1 consultant is no longer on board and the resolution has been
2 passed by the Board of Supervisors. So, while this is at
3 times difficult to bring forward and reach resolution, I
4 think the State's interest is being met by having these
5 types of changes made.

6 The operator and the City on the earlier item left
7 recognizing that they need to now sit down at the table and
8 start discussions. Clearly we saw today that progress is
9 being made, so, on balance, I think the evaluation process
10 is proving to be fruitful and productive.

11 COMMITTEE CHAIRMAN HEIDIG: I agree.

12 Thank you, Mr. Chandler.

13 Is there anyone from Colusa County in the
14 audience?

15 Yes, there are.

16 I think that we will not put the last item on
17 consent because of the nature of it being a decertification.

18 Let's take Item 9, first. We would like to get
19 out of here by 5:00, if possible, but I do want to
20 accommodate the people from Colusa who have the drive.

21 Staff report. Please, reintroduce yourself.

22 MS. COYLE: I'm Mary Coyle, the Manager of the LEA
23 Section, Permitting and Enforcement Division.

24 This item is consideration of the Status of Colusa
25 County's LEA designation. As you will recall, at the

1 December Board meeting because of issues that we found
2 during a recent evaluation of Colusa County in that the
3 County no longer had the staff required to perform their
4 duties, they could not perform their duties.

5 So, the Board gave them a 30-Day Notice of Intent
6 to withdraw their designation. If within the following 90
7 days they had not been able -- and then within 90 days they
8 had not been able to redesignate, we would have become the
9 enforcement agency.

10 I am happy to state that there is some progress
11 being made locally by the previous Local Enforcement Agency
12 to try to fill that staffing position, but I also want to
13 note that effective January 30 the designation was withdrawn
14 of the Colusa County Health Department as the LEA.

15 They are moving forward and hope to be recertified
16 by the date of May, which would be the date we would have to
17 step in as the enforcement agency.

18 We are conducting inspections in the interim to
19 ensure that the facilities and all public health and safety
20 threats that could exist are taken care of.

21 Jaime Favila, the Director of the County Health
22 Department, is here to update on the status that's going on
23 locally.

24 COMMITTEE CHAIRMAN HEIDIG: Are there any
25 questions of staff?

1 Okay. Mr. Favila, if you would come forward.

2 MR. FAVILA: Jaime Favila, Director of
3 Environmental Health.

4 The County of Colusa is appreciative of the fact
5 that you've given us the maximum amount of time to come into
6 compliance to be able to maintain the local enforcement
7 program for solid waste.

8 The Board of Supervisors just a couple of weeks
9 ago created the new job classification for an Environmental
10 Health Specialist III that would manage the solid waste
11 program. So, it is our attempt to meet our goal for
12 compliance in solid waste.

13 COMMITTEE CHAIRMAN HEIDIG: Thank you.

14 I think we are appreciative, and we felt that from
15 the beginning that you were moving in that direction. We
16 appreciate the update, because I think it's important that
17 the enforcement program that we set out sometime before is
18 now starting to kick in, and we want to work cooperatively
19 and fix the problems if possible, and I think we are seeing
20 indications three different ways of that happening.

21 That's what's useful is to see the problems get
22 solved not necessarily go into some sort of litigation
23 strategy.

24 So, thank you very much.

25 Any other questions?

1 No.

2 Hearing none, we will move to Agenda Item 6, which
3 is the consideration of New Sites for the Solid Waste
4 Disposal and Codisposal Site Clean-up Program, under Delane
5 Easton's AB-2136.

6 MR. OKUMURA: Staff presentation will be made by
7 Ms. Marge Rough and Charlene Herbst.

8 MS. ROUGH: Good afternoon. Does this mean we're
9 last but not least?

10 COMMITTEE CHAIRMAN HEIDIG: You are definitely
11 last but not least.

12 MS. ROUGH: Today, Corrective Action Section staff
13 are bringing four sites to this Committee for consideration.

14 Proposed funding for two of the sites is by
15 matching grants, and the other two sites would be
16 Board-managed clean-ups. All four of the sites fit the
17 Solid Waste Disposal and Codisposal Site Clean-up Program
18 criteria set by law and adopted by this Board.

19 The law states that this Board may expend funds
20 directly for clean-up and provide matching grants to local
21 governments to assist in site remediation. These sites meet
22 the program's criteria as threats to public health and
23 safety and the environment.

24 The inability of the owner to clean-up the site
25 without financial assistance and the ability of the Board to

1 clean-up the sites with available funds.

2 The first site I would like to discuss is the Mt.
3 Shasta, Roseburg Forest Products Mill, in Siskiyou County
4 with the photographs in front of you. Originally this site
5 was a log pond and eventually was filled with wood waste to
6 25 feet above the pond levee. This site was given to the
7 City of Mt. Shasta by Roseburg Forest Products in 1987.

8 The Regional Water Quality Control Board is
9 requiring Mt. Shasta City to clean-up this pond under the
10 site's waste discharge requirements. Wood waste generally
11 is not a serious environmental threat, however, placing a
12 large, concentrated amount of wood waste in a pond where
13 surface waters and subsurface waters flow through the waste
14 pile and then drain into a tributary of Coal Creek has
15 caused problems.

16 The site has caused the groundwater to become
17 degraded above secondary drinking water standards from
18 leachate release. The site is bordered on three sides by
19 residential and commercial developments.

20 The City is asking for funds to move the wood
21 waste to Black Butte Landfill for use as daily cover.

22 The next site is the Crescent City Landfill, in
23 Del Norte County. This landfill operated as a burn dump,
24 accepted municipal solid waste and other waste, such as
25 cheese whey, digested sewage sludge and fish processing

1 waste. The shallow aquifer underlying this site has been
2 contaminated by percolation of leachate through the site.

3 Leachate generation problems at the site are
4 compounded by an average rainfall of 65 inches. There are
5 homes near the landfill, and the site has the highest
6 ranking score on the solid waste ranking system for sites
7 that have been evaluated to date.

8 The County is asking for funds for slope
9 regrading, landfill cover installation and installation of a
10 gas system.

11 The other two sites are tire pile sites. While
12 the tire clean-up program is under development, the Board
13 has the ability to also clean-up tire sites using AB-2136
14 money.

15 In order to expedite the tire site program
16 development process and to start cleaning up sites, AB-2136
17 program staff are working with the tire site program staff
18 to establish protocols and procedures and evaluating sites
19 that also fit the AB-2136 program, that is tire sites which
20 are illegal disposal sites.

21 This has been done, and AB-2136 staff are bringing
22 two tire sites to the Committee for consideration for
23 clean-up. These two tire sites have gone through the same
24 evaluation process as other 2136 sites and meet the criteria
25 of illegal disposal sites that are a threat to public health

1 and safety and the environment.

2 Tire program legislation states that tire sites
3 may be cleaned up using any funds available. We would be
4 able to pursue cost recovery for these two tire sites.

5 The first tire site, clean-up site is the Wilson
6 Waste Tire site, in Tehama County. This is a 2.8-acre site,
7 intended for use as temporary storage of waste tires.

8 The site is the residence for the owner and there
9 are three other residences and a place of business within
10 1,000 feet of the property.

11 Approximately 10,000 tires have been stockpiled.
12 The waste tire operator has made no effort to remove the
13 tires. However, the owner has removed approximately 39
14 pick-up loads to a permitted landfill.

15 The owner and operator have failed to provide a
16 corrective action plan by the deadline as required by the
17 Board's Letter of Violation.

18 Also, effective January 1, 1995, more than five
19 tires cannot be transported by other than a registered waste
20 tire hauler. It appears that the owner is no longer willing
21 or able to remove the remaining tires.

22 A Notice and Order has been prepared for this site
23 for removal of the tires. AB-2136 funds would only be used
24 if the Notice and Order deadline is not met.

25 If this site is approved for clean-up, NorCal San

1 Bernardino, the Board's Northern California clean-up
2 contractor, will remove the tires to a permitted facility.

3 The second tire site at the bottom of the board is
4 Lankershim Waste Tire site. This waste tire pile is located
5 in a residential and business area in North Hollywood.

6 The property was leased to a tire hauler who has
7 been evicted and has left approximately 24,000 tires.

8 This tire pile presents a severe threat to the
9 health and safety of the nearby residents. The owner does
10 not have the funds necessary for the tire removal.

11 However, this afternoon staff is negotiating an
12 agreement with Mr. Tolen, the site operator, with interim
13 and final deadlines for removal of the tires.

14 We would like approval of the site to use AB-2136
15 funds only if the deadlines are not met. If this site is
16 approved for clean-up, the Board's Southern California
17 clean-up contractor would remove the tires to a permitted
18 facility.

19 I am asking the Committee to approve all four
20 sites for funding from the Solid Waste Disposal and
21 Codisposal Clean-up Program.

22 Mr. Kevin Hendricks, the Director of Solid Waste
23 from Del Norte, is here if you'd like to talk to him about
24 Crescent City Landfill, and Mr. Tolen is in the audience, if
25 you want to talk about the tire site.

1 COMMITTEE CHAIRMAN HEIDIG: Thank you very much.
2 We do have a card from Mr. Tolen.
3 Would you like to address the Board at this time?
4 While you're coming up, I'll ask my colleagues if
5 there's any questions of staff?

6 Mr. Relis.

7 COMMITTEE MEMBER RELIS: Before he speaks, I was
8 just going to say I'm supportive of all these.

9 I think it's a good way to end the day, at least,
10 these corrective actions.

11 I'd just ask in the tires, when you say go to a
12 permitted facility, I assume that's either a landfill or a
13 energy recovery?

14 MS. ROUGH: Yes.

15 For the Northern California site, it's possible
16 that the tires would go to the Calaveras Cement Company, and
17 in Southern California, if we clean them out, it would
18 either be the nearest landfill or a tire burning facility.

19 COMMITTEE CHAIRMAN HEIDIG: You are orally
20 changing the staff report and suggesting a staff
21 recommendation that we allow the operator -- we prefer the
22 operator to clean-up the site on a time-specific date, and
23 if that date is not met, then we will go in?

24 MS. ROUGH: Yes.

25 COMMITTEE CHAIRMAN HEIDIG: Thank you.

1 Mr. Tolen.

2 MR. TOLEN: Good afternoon, Chairman and Members.
3 My name is Garnet Tolen, with the GT Bravada Company.

4 I propose to move those tires within the time that
5 she suggested. I am going to take those tires to BFI, which
6 is in Azuza. I think it's called Azuza Landfill Recreation
7 Company.

8 I spoke to Mike and Mr. Bill Polaro there in
9 reference to these tires. I would have moved these tires a
10 long time ago -- asking to extend my time, but seeing that
11 the landlord and I can't come to an agreement, because at
12 the time I did not have my bond. I didn't have my -- not my
13 bond. I didn't have my manifest. He requested a manifest.

14 He wants a manifest to see where the tires are
15 being disposed. So, we've been fighting back and forth for
16 the past two months in reference to this, and that's why
17 we're here today. Our intent is to move them.

18 We put them there. We own them, and we want to
19 clean the mess up. We don't want the taxpayer's money
20 taking care of our mess. We would like to do it within a
21 90-day period.

22 Thank you.

23 COMMITTEE CHAIRMAN HEIDIG: Thank you very much.

24 Any questions?

25 Mr. Egigian.

1 COMMITTEE MEMBER EGIGIAN: Where in Lankershim is
2 this located?

3 MR. TOLEN: Between Oxnard and Victoria.

4 COMMITTEE MEMBER EGIGIAN: That's in what city?

5 MR. TOLEN: North Hollywood.

6 COMMITTEE CHAIRMAN HEIDIG: The City of Los
7 Angeles.

8 MR. TOLEN: That's the County of Los Angeles.

9 COMMITTEE CHAIRMAN HEIDIG: It's in the County.

10 MR. TOLEN: It's the city too. We have a license
11 to cover the City of Los Angeles, too.

12 MS. ROUGH: Mr. Tolen, was given status to be a
13 tire hauler, too.

14 COMMITTEE CHAIRMAN HEIDIG: What is the staff
15 report on extending the date?

16 MS. ROUGH: We would like to see him move a third
17 of the tires by March 15, the second third by April 13 and
18 the last third by May 15.

19 COMMITTEE CHAIRMAN HEIDIG: Tehama, when was that?

20 MS. ROUGH: It has interim of the same order.

21 It may not be exactly the same.

22 COMMITTEE CHAIRMAN HEIDIG: About the same.

23 MS. ROUGH: We can make it the same time frame.

24 MR. TOLEN: Thank you, sir.

25 COMMITTEE CHAIRMAN HEIDIG: Anybody else wish to

1 speak on this item before the Committee?

2 Thank you very much.

3 MR. HENDRICK: I appreciate your objective of
4 getting out by 5:00.

5 I thank you for the opportunity to address you
6 briefly and the opportunity to submit this grant
7 application. As you may be aware, Del Norte County has been
8 struggling with a landfill problem for quite a few years.

9 I'm Kevin Hendrick, Director of Solid Waste, which
10 was formed in October 1992 to help the county and city work
11 together to get on top of the problems.

12 I'm happy to say today that we have developed or
13 are in the process of developing plans and design to mediate
14 the landfill and working with the staff to secure the design
15 approval, and I have four minutes of video in case you want
16 to see what it looks like.

17 It's very motivating, and I have maps available if
18 that is helpful to help you go further.

19 We have made good progress, I'm happy to say that
20 we're going to make significant progress this year and next
21 year, but the county has been struggling with the means to
22 take care of this for a long time.

23 With this jump start, this helps us get momentum,
24 and we'll take care of it from this point on. It's
25 important for the county to make good progress to take care

1 of our waste, and today I'm happy to say that we have not
2 failed, and we do not plan to fail with your assistance.

3 COMMITTEE CHAIRMAN HEIDIG: It's too bad with an
4 action in North Coast, no motion pending, if Mr. Chesbro
5 were here, he could have spoken positively of your efforts
6 to clean-up the site.

7 Are there any questions? Thank you.

8 COMMITTEE MEMBER RELIS: Move the item, the
9 recommendation.

10 COMMITTEE CHAIRMAN HEIDIG: Would you move staff
11 recommendation as orally amended?

12 COMMITTEE MEMBER RELIS: As orally amended.

13 COMMITTEE CHAIRMAN HEIDIG: Thank you.

14 There is a motion on the Floor to move staff
15 report orally amended, providing for the Lankershim tire
16 facility to be cleaned up in the time certain.

17 Any discussion of the motion?

18 Hearing none, I ask that Jane Lowas call the roll.

19 MS. LOWAS: Member Egigian.

20 COMMITTEE MEMBER EGIGIAN: Aye.

21 MS. LOWAS: Member Relis.

22 COMMITTEE MEMBER RELIS: Aye.

23 MS. LOWAS: Chairman Heidig.

24 COMMITTEE CHAIRMAN HEIDIG: Aye.

25 Do we want that on consent?

1 Fine. No objection, it's on the Consent Calendar.

2 Any other public discussion?

3 Anyone wishing to speak or address the Committee?

4 Hearing none, we stand adjourned.

5 (Thereupon the Permitting and Enforcement

6 Committee meeting was adjourned at 5:05 p.m.)

7 --oOo--

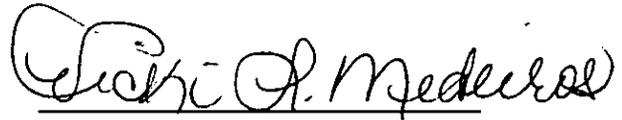
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That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Vicki L. Medeiros, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of March, 1995.



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