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

COPY

Board Room
8800 Cal Center Drive
Sacramento, California

Wednesday, September 22, 1993

10:00 a.m.

Janet H. Nicol
Certified Shorthand Reporter
License Number 9764

APPEARANCES

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BOARD MEMBERS PRESENT:

Michael Frost, Chairman
Wesley Chesbro, Vice Chairman
Sam Egigian
Jesse Huff
Kathy Neal
Paul Relis

STAFF PRESENT:

Ed Boisson
Ralph Chandler, Executive Director
Robert Conheim, Chief Counsel
Don Dier
Lloyd Dillon
Dorothy Rice
Tom Unsell
Patty Zwarts

PUBLIC SPEAKERS:

Steve Archibald, representing Assemblywoman Hilda Solis
Marlena A. Fox, RR&C Development Co.
Steve Maguin, LA County

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P R O C E E D I N G S

1
2 BOARD CHAIRMAN FROST: Good morning. Welcome to
3 the monthly meeting of the California Integrated Waste
4 Management Board.

5 Could we please call the roll to establish a
6 quorum.

7 BOARD SECRETARY REID: Board Members Chesbro.

8 BOARD VICE CHAIRMAN CHESBRO: Here.

9 BOARD SECRETARY REID: Huff.

10 BOARD MEMBER HUFF: Here.

11 BOARD SECRETARY REID: Egigian.

12 BOARD MEMBER EGIGIAN: Here.

13 BOARD SECRETARY REID: Neal.

14 BOARD MEMBER NEAL: Here.

15 BOARD SECRETARY REID: Relis.

16 BOARD MEMBER RELIS: Here.

17 BOARD SECRETARY REID: Chairman Frost.

18 BOARD CHAIRMAN FROST: Here.

19 Any board members have any ex parte announcements
20 they'd like to make at this time?

21 Mr. Huff.

22 BOARD MEMBER HUFF: Yes. I had two conversations
23 with Mr. Steve Maguin yesterday relative to the Puente Hills
24 item on today's agenda. The substance of the conversation
25 was about how many votes there might be for the item.

1 BOARD CHAIRMAN FROST: Okay. Anyone else like to
2 be that explicit in the ex parte?

3 BOARD MEMBER EGIGIAN: Mr. Chairman.

4 BOARD MEMBER NEAL: I'm probably doing this on
5 behalf of everyone.

6 We received a fax from the attorney, Ms. Fox, I
7 think it was yesterday relative to Puente Hills.

8 BOARD CHAIRMAN FROST: Right. That's for
9 everyone. Yes, thank you, Ms. Neal.

10 Anyone else?

11 BOARD MEMBER EGIGIAN: Mr. Chairman.

12 BOARD CHAIRMAN FROST: Mr. Egigian.

13 BOARD MEMBER EGIGIAN: I talked also to Mr. Maguin
14 and Mr. Al Marino. Said good morning to him and told him I
15 thought this was going to be a nice day.

16 BOARD CHAIRMAN FROST: Thank you. All right.

17 Now, before we begin I'd like to announce that if
18 there are any members of the public who wish to speak to the
19 board today on any item, you need to fill out a request
20 slip, which is available at the back of the room, and give
21 it to our administrative assistant up here in the front. So
22 that request slips are in the back and just bring it up
23 front and give it to Cathy.

24 Now, I'd like to make a few announcements about
25 today's agenda.

1 First, items which are pulled from today's agenda
2 are Items 14, 16 through 19, 22 and 24. So I'll go through
3 that again. Items that are pulled from today's agenda are
4 14, 16, 17, 18, 19, 22, and 24. All right.

5 Now, today our consent calendar consists of Item 4
6 except for A and B, as well as Items 5, 6, 10, 20 and 21.
7 So all of Item 4 except for A and B, items 5, 6, 10, 20 and
8 21 are on the consent calendar.

9 Does any member of the board wish to pull any item
10 from the consent calendar?

11 All right. If not, could we have a motion,
12 please.

13 BOARD MEMBER NEAL: I'll move approval.

14 BOARD VICE CHAIRMAN CHESBRO: Second.

15 BOARD CHAIRMAN FROST: Okay. Moved and seconded
16 that the consent calendar be approved.

17 Call the roll, please.

18 BOARD SECRETARY REID: Board Member Chesbro.

19 BOARD VICE CHAIRMAN CHESBRO: Aye.

20 BOARD SECRETARY REID: Huff.

21 BOARD MEMBER HUFF: Aye.

22 BOARD SECRETARY REID: Egigian.

23 BOARD MEMBER EGIGIAN: Aye.

24 BOARD SECRETARY REID: Neal.

25 BOARD MEMBER NEAL: Aye.

1 BOARD SECRETARY REID: Relis.

2 BOARD MEMBER RELIS: Aye.

3 BOARD SECRETARY REID: Chairman Frost.

4 BOARD CHAIRMAN FROST: Aye.

5 All right. That moves us to Item 2, reports from
6 the board's committees and we'll start with Ms. Neal. Do
7 you have a report from the Legislative and Public Affairs
8 Committee?

9 BOARD MEMBER NEAL: Yes; I do.

10 In addition to the legislative report, which I
11 will get to in a minute, I'm going to just combine all of
12 that.

13 Let me first start with the public education
14 information activities.

15 We had a briefing by DDB Needham on the outcome of
16 the pilot projects for our source reduction public education
17 campaign yesterday. And essentially what the data informed
18 was that overall the pilot did show a degree of success. We
19 compared, as you know we did the two rollouts in Sacramento
20 and Bakersfield. And as a point of comparison we compared
21 that data with the rest of California as a whole on certain
22 measurement criteria.

23 What we found generally was in the State of
24 California awareness and focus on and specific actions
25 directed to minimizing waste on the part of the citizens

1 actually decreased in the state. So we're losing ground, if
2 you will, in the State of California as a whole.

3 However, in the two areas where the pilot programs
4 were rolled out we saw that not only did we hold ground but
5 we made progress in terms of informing the public about the
6 problem, making the public better educated on the true
7 nature of the problem of excess packaging and certain
8 purchasing practices and its impacts on the solid waste
9 stream.

10 We had actually better results however in
11 Bakersfield than we did in Sacramento. We attributed that
12 to several factors.

13 One, in Bakersfield we had a more intensive
14 in-store presence so that we learned you impacted the
15 consumer at the point of their decision-making and certainly
16 saw some results that came as a result of having that
17 in-store presence.

18 Secondly, we looked at what other messages were
19 going out at the time of our rollout. In Sacramento we had
20 a lot of things going on in the capital that we think
21 distracted from the message and probably made the general
22 public a little more skeptical.

23 But even with all of that we had success and
24 progress in each of those markets and we are very pleased
25 with the outcome of that program.

1 Secondly, I would like to say that we have had a,
2 I think, a very successful year in terms of our public
3 education information and outreach. So successful that at
4 some point I think we're going to have to buy a trophy case
5 for the board, because we continue to rack them up.

6 I reported at our last LPAC meeting that we won
7 two well-recognized awards for our three videos that were
8 done in conjunction with our source reduction DDB Needham
9 campaign.

10 The American Advertising Federation is the trade
11 group for all of the advertising companies and they have a
12 contest each year for best commercials or best public
13 service spots. We won two of those awards, first place.
14 One was for the three videos that we did in combination,
15 first place best in the West for the entire package of the
16 three videos. And then we won a second award, best in the
17 West, for the shopping cart video for ones -- for a single
18 production.

19 So those spots now go on to the national
20 competition. I understand it's very steep competition and
21 there's usually lots of prejudice in favor of New York
22 agencies, but I think we have got some good chance with our
23 spots and hope that we do well.

24 We also won for our composting video. The
25 International Teleproduction Society gave the body a merit

1 award and that video, I will note, was produced by Jeff
2 Hunts, our contractor at the Video Ranch.

3 It got the award as one of the top three best
4 directed videos in the public sector information category.

5 Also we will be receiving two national prizes next
6 month for the work performed by the Waste Prevention and
7 Education Division.

8 The National Association of Environmental
9 Communicators has acknowledged two of our projects, our
10 curriculum compendium project and our waste prevention
11 communications program.

12 The National Association of Environmental
13 Communicators is comprised of public and private sector
14 companies engaged in information and education programs.

15 And our board was the only California agency or
16 company to receive any special acknowledgement.

17 Our curriculum compendium took first prize as the
18 single best communication tool.

19 And our waste prevention communication program,
20 which includes a local government support kit, as well as
21 the pilot education campaign, received a second prize in the
22 communications program category.

23 And we will be awarded these prizes at their
24 national conference in San Francisco in November.

25 So I think that we need to congratulate and give a

1 big hand to all of the Waste Board staff who was involved in
2 all of these projects. They have certainly helped to show
3 the world all of the good work that we are doing here at the
4 board and I'd like to give them a hand.

5 (Applause.)

6 BOARD MEMBER NEAL: And I'm very pleased and proud
7 to be working with all the folks who were involved in all of
8 these projects.

9 I will now, if there are any questions, if not --

10 BOARD CHAIRMAN FROST: No. I'd just like to say
11 since you have been the person that's been following this
12 most closely and supervising it most closely that a lot of
13 those awards are a direct result of the work that you have
14 done and I'd just like to say congratulations to Board
15 Member Neal.

16 BOARD MEMBER NEAL: Thank you.

17 (Applause.)

18 BOARD MEMBER NEAL: At times it's felt like an
19 uphill battle, but eventually and I think very graciously
20 I've gotten support of all the board members because I can't
21 authorize the spending all by myself. So thanks.

22 And I certainly hope that that support by the
23 other board members will continue.

24 And I'll bring you more prizes.

25 BOARD CHAIRMAN FROST: At least three.

1 BOARD MEMBER HUFF: Keep the trophies coming.

2 BOARD VICE CHAIRMAN CHESBRO: Ask Jesse how his
3 vote counting is coming.

4 BOARD MEMBER NEAL: Since the legislative session
5 has ended we thought that I would just go on and report on
6 significant bills that are currently sitting on the
7 Governor's desk. We have no action to take today on any
8 legislative matters.

9 I would note that the Governor has 12 days to sign
10 or veto bills which have reached his desk before September
11 10th.

12 BOARD CHAIRMAN FROST: Which would be today. That
13 would be today.

14 BOARD MEMBER NEAL: Yes.

15 On or after September 10th he has until October
16 11th to sign, veto, or allow to become law without his
17 signature any bills still sitting on his desk.

18 I have a note here there can be several days
19 between the date a bill is passed and sent to enrollment by
20 the Legislature and the date a bill actually is enrolled and
21 therefore before the Governor.

22 So we don't know what all the dates are on all of
23 these. I think we do.

24 AB 11, Eastin, was sent to the Governor on
25 September 9th and deals with the requirements for state

1 agencies to purchase recycled content paper and other
2 products. It's funded by AB 1220 Eastin dollars and oil
3 dollars, which are 225,000 and \$75,000 respectively.

4 And the board is officially on record as
5 supporting this bill.

6 AB 54, Sher, was sent to the Governor on September
7 8th. It contains a number of important technical amendments
8 to the integrated waste management planning laws. We are on
9 record as support.

10 AB 440, Sher, was sent to the Governor on
11 September 10th. It's a significant bill which revises the
12 dates for submittal of the source reduction and recycling
13 elements. It makes necessary changes to the
14 closure-postclosure requirements for Sub D conformity and it
15 authorizes the board to delegate authority to the executive
16 director on certain matters.

17 This is a board-sponsored bill.

18 AB 712, Sher, sent to the Governor on September
19 10th. Contains cleanup to be used -- to the Used Oil
20 Recycling Act, including abolishing the separate promotion
21 account to assist the board in expending funds for the
22 promotion account purposes this year.

23 And we are in support.

24 AB 1220, Eastin, one that you probably are not
25 very familiar with, sent to the Governor on September 8th.

1 This is the board and water board sponsored bill which deals
2 with overlap between the two agencies and fee consolidation
3 and reform. We are anxiously awaiting signature so that we
4 can plan the party.

5 BOARD CHAIRMAN FROST: Are there any bills double
6 joined to that?

7 BOARD MEMBER NEAL: AB 11.

8 BOARD CHAIRMAN FROST: Is double joined?

9 BOARD MEMBER NEAL: I believe is double joined.

10 EXECUTIVE DIRECTOR CHANDLER: 2136.

11 BOARD CHAIRMAN FROST: Double joined both ways?

12 MS. ZWARTS: Yes.

13 BOARD CHAIRMAN FROST: So that they all have to be
14 signed?

15 BOARD VICE CHAIRMAN CHESBRO: 1220 wouldn't go
16 if --

17 MS. ZWARTS: 1220 is double joined with AB 2136,
18 therefore both measures need to be signed for them to be
19 effective.

20 BOARD CHAIRMAN FROST: But not AB 11?

21 MS. ZWARTS: Not AB 11. No. That's on its own.

22 BOARD CHAIRMAN FROST: Okay.

23 BOARD VICE CHAIRMAN CHESBRO: Isn't it dependent
24 on 1220, but 1220 isn't dependent on AB 11?

25 BOARD MEMBER NEAL: Right.

1 BOARD CHAIRMAN FROST: On the Boatwright bill,
2 that was amended, wasn't it, rather significantly in the
3 last couple of days of the session? And I'm not sure
4 whether it -- I was under the impression there was a
5 consensus of support for that bill when it finally did go to
6 the Governor.

7 MS. RICE: The bill was amended considerably, I
8 guess, a couple times in the final weeks of session. It was
9 not brought back to the committee.

10 BOARD MEMBER NEAL: Consensus of support on the
11 part of the board?

12 BOARD CHAIRMAN FROST: No. All the interest
13 groups that had been fighting over that bill.

14 BOARD VICE CHAIRMAN CHESBRO: They didn't
15 necessarily all endorse it, but I think they withdrew their
16 opposition. It was sort of like a standoff so it was not
17 significant opposition remaining.

18 And frankly we might want to at least go neutral
19 on it. I'm not sure if we want to endorse it or not, but I
20 don't see it as a great step forward, but it is a
21 compromise.

22 BOARD CHAIRMAN FROST: No. Are we asking for a
23 veto?

24 MS. RICE: The position of record at this time is
25 opposed.

1 And we're happy to take your additional input.

2 BOARD VICE CHAIRMAN CHESBRO: I'll move that we
3 withdraw our oppose and go to the neutral position.

4 BOARD MEMBER NEAL: Is that based on the fact that
5 the opposition backed off or based on the substantive
6 amendments?

7 BOARD MEMBER RELIS: I'd like to hear an update on
8 it because I haven't followed the last on that.

9 BOARD VICE CHAIRMAN CHESBRO: I'll hold that then
10 until we hear some specifics.

11 BOARD MEMBER HUFF: Question. When is the EBR due
12 to the Governor's office?

13 MS. RICE: They're all due now.

14 We would be happy to get you our revised draft
15 analysis, which is probably coming into the form of an
16 enrolled bill report to look at.

17 BOARD VICE CHAIRMAN CHESBRO: Mr. Huff said he
18 wanted an update, I assume we could get the update now. I
19 wasn't talking about putting the decision off into the
20 future.

21 BOARD MEMBER RELIS: Can we get an update now or
22 later in the meeting or come back to it?

23 BOARD VICE CHAIRMAN CHESBRO: A decision at a
24 future date, it would be too late.

25 BOARD MEMBER NEAL: Would you like some time?

1 MS. RICE: Yeah.

2 BOARD MEMBER NEAL: Can we put that to the end of
3 the meeting?

4 BOARD CHAIRMAN FROST: We'll go back to this item.

5 BOARD MEMBER NEAL: Other than that, have nothing
6 else to report other than to also thank our legislative
7 director and all of the excellent people that we have down
8 in the legislative unit. You certainly -- I don't want to
9 say you saved us this year --

10 BOARD VICE CHAIRMAN CHESBRO: But you did.

11 BOARD MEMBER NEAL: But you did.

12 So I think that the entire board, six board
13 members and entire board, meaning all of our staff, owes you
14 a big debt of gratitude for the work that you've done this
15 year. I know that there were many nights that I know what
16 you were doing 3:00 o'clock in the morning and at 4:00
17 o'clock in the morning and we certainly do appreciate that.

18 MS. RICE: Thanks. We really appreciate your
19 support of all the board members, all your help this year.

20 And I really thank my staff. They worked really
21 hard. Thank you.

22 (Applause.)

23 BOARD MEMBER EGIGIAN: Kathy, what was she doing
24 at 3:00 and 4:00?

25 BOARD MEMBER NEAL: She was up trying to write

1 amendments and legislation and figuring out how she's going
2 to take a couple hours' nap so she'd get up in the morning
3 and get her kids off to school.

4 BOARD VICE CHAIRMAN CHESBRO: And knowing how
5 seriously Dorothy takes all this, I think even on the nights
6 she wasn't up wide awake writing I can assure you she was
7 worrying about how to trying to figure all this out for us.

8 BOARD CHAIRMAN FROST: Okay.

9 BOARD MEMBER NEAL: That concludes my report.

10 BOARD CHAIRMAN FROST: Thank you, Ms. Neal.

11 Mr. Relis, do you have report from --

12 BOARD MEMBER RELIS: I have a very short report
13 today.

14 We have several items that are on our agenda
15 relating to the loan program.

16 And the zone, we have discussed how to protect the
17 monies in the loan program. That was a discussion at our
18 meeting last week.

19 And we will be taking up at our next meeting and
20 then we'll have a lengthy report next time on legislative
21 concepts for minimum content and other indoor utilization.

22 BOARD CHAIRMAN FROST: Thank you, Mr. Relis.

23 Now, Mr. Chesbro, do you have a report from the
24 Local Assistance and Planning Committee?

25 BOARD VICE CHAIRMAN CHESBRO: The action items

1 that were on our agenda are placed elsewhere on the board's
2 agenda this morning, so that's the extent of my report.

3 BOARD CHAIRMAN FROST: Thank you.

4 Mr. Huff, do you have a report from Permitting and
5 Enforcement Committee?

6 BOARD MEMBER HUFF: Yes; I do. Thank you.

7 We met in Whittier this month in response to the
8 fact that several of our permit items related to facilities
9 in Southern California.

10 That is, as you know, a practice that we've done
11 in the past and we will continue to do in the future.
12 Whenever there are items of significant local interest we'll
13 try to make ourselves accessible to the community.

14 We will be hearing those items later, so I'm not
15 going to take any time right now to talk about them.

16 But I did want to mention two other items that are
17 not coming to the full board today and I wanted to apprise
18 board members of them.

19 First, we had a discussion of possible changes to
20 our existing financial assurance requirements for landfills.

21 Under our current regulations operators must begin
22 funding closure costs at double the annual rate, beginning
23 late this month.

24 Recognizing the hardship that this creates on
25 operators, and we've particularly heard from public

1 operators and rural operators, so in recognition of that
2 hardship we've asked staff to develop options that would
3 relieve this burden.

4 We have also directed staff to work with Region IX
5 EPA to ensure that any changes would not conflict with
6 Subtitle D.

7 At present our regulations require financial
8 assurance far in excess of the requirements of Subtitle D.
9 So I don't think that there's a problem there. That is the
10 problem, in fact, that we require something far in excess of
11 Subtitle D.

12 But what we want to make sure is that in effecting
13 this change we don't have any negative implications for the
14 continued progress on the Subtitle D area, because we don't
15 want to jeopardize that.

16 So we will contact Region IX and work with them to
17 make sure that we don't upset anything.

18 Once these steps are taken the issue will be back
19 before our committee and ultimately to the full board for
20 action.

21 I think that it's very clear that there is the
22 votes -- there are the votes at the committee to make
23 this -- some change and provide some relief in this area.

24 Secondly, our committee approved membership of the
25 new compost advisory panel. Over the next several months

1 this group will assist our board in developing compost
2 regulations for mixed waste, sludge and co-composting.

3 Finally, I wanted to mention that we have now
4 completed two of the eight Subtitle D workshops that we are
5 co-sponsoring with the water board.

6 Board Member Relis attended last Friday's workshop
7 in Ventura and Board Member Neal spoke at the Alameda County
8 workshop earlier this week.

9 I also wanted to take the opportunity to commend
10 our staff for the outstanding job they have done in
11 organizing these workshops and getting the Subtitle D
12 message out. They had a very short time frame in which to
13 put all this together and they have responded in a team
14 effort with a great deal of hard work and the utmost
15 professionalism.

16 BOARD CHAIRMAN FROST: Thank you, Mr. Huff.

17 Now, Mr. Egigian, do you have a report from the
18 Policy Committee?

19 BOARD MEMBER EGIGIAN: Yes; I do, Mr. Chairman.

20 The Policy, Research and Technical Assistance
21 Committee met on September the 14th and considered several
22 important items.

23 We referred the issue of tiered permitting and the
24 place of recycling-related facilities in the tiered
25 permitting structure to the Permits Committee.

1 We discussed fees on out-of-state waste export and
2 requested staff to study the possibilities of leveling fees
3 that differentiate between level of service provided for
4 waste landfills in the state as opposed to export waste.

5 We also considered the problem of classifying
6 plastic beverage containers as degradable under legislation
7 passed in 1980 and decided that this item needed more staff
8 work.

9 Mr. Chairman, I have a suggestion on how we might
10 handle the plastic connectors item. I recommend that the
11 Administration Committee refer this item to the Planning
12 Committee.

13 As you know, Mr. Chairman, the Planning Committee
14 has considered other plastic issues and we all know the fine
15 job they have done. I strongly believe they can perform
16 equally on this item.

17 This reassignment will also be consistent with the
18 Administration Committee's action to allow Planning
19 Committee to take on alternative daily cover after it was
20 first heard by the Policy Committee.

21 And so this action on plastic connectors would not
22 be in conflict with the give and take philosophy established
23 on alternate daily cover.

24 But more importantly, Mr. Chairman, I hope the
25 Administration Committee will take this opportunity to

1 critically review the committee structure of this board.

2 It has already been demonstrated that issue
3 overlapping is occurred.

4 Further, the existing structure does not -- does
5 impose hardship on the regulated community and our own
6 staff. These folks must follow the actions of six separate
7 entities that spin a complex web of issues.

8 I ask the Administration Committee review the
9 committee structure to determine whether any revision is in
10 order or whether we need any committees at all.

11 For my part, I plan to look at how other boards
12 conduct their business.

13 I also intend to begin a dialogue on this subject
14 as a discussion item at our next meeting of the Policy
15 Committee on October the 6.

16 Thank you, Mr. Chairman.

17 BOARD CHAIRMAN FROST: Thank you, Mr. Egigian.

18 If, of course, we abolish all the committees then
19 there won't be an Administration Committee to hear your
20 request for this item.

21 BOARD MEMBER EGIGIAN: I'll take that chance.

22 BOARD CHAIRMAN FROST: Okay. Finally, the
23 Administration Committee heard a number of contracts which
24 are among the consent items this morning.

25 However, we still have a few other contract items

1 to hear this morning, including the market development loan
2 program.

3 Now we will move to Item 3 and hear from our
4 executive director, Ralph Chandler.

5 EXECUTIVE DIRECTOR CHANDLER: Thank you,
6 Mr. Chairman.

7 I will have a very brief report today, three items
8 that I'd like to touch upon.

9 But first I would like to acknowledge and thank
10 the comments from Board Member Neal and Board Member Huff
11 regarding staff work that was done this preceding month,
12 both throughout the year on legislation and our public
13 awareness campaign, but on the Sub D workshops.

14 Similarly, I wanted to thank Mr. Relis and
15 Ms. Neal for providing the opening and introductory remarks
16 at those workshops.

17 As you know, we are making an intensive effort to
18 continue those workshops throughout the state the duration
19 of this month and early into next month and I'd encourage
20 all those in the audience who wish to attend those workshops
21 to talk to Mr. Dier in the audience and he can give you a
22 schedule for when those will be later this month.

23 I would like to note that I don't think we were as
24 successful as we had hoped to be in targeting the audience
25 of attracting public officials or their representatives.

1 The attendance appears to be a mix of again LEAs
2 and the regulated community. As you know, we were very
3 desirous of trying to get to local officials or their
4 representatives to make them more aware of the program. And
5 we'll be looking at what we can do in the remaining days to
6 try to improve that target audience.

7 I'd also just like to mention regarding the two
8 key bills we heard earlier, 1220 and 2136.

9 I have assembled a team for the implementation of
10 2136. It will be cross-divisional team. Mark De Bie, a
11 senior in the Permits and Enforcement Division, will lead
12 the technical staff work, and Debra Covin within the
13 Government and Regulatory Affairs Division will head up --
14 will be co-captain on that team to ensure the legislative
15 intent and consistency as we move forward on the
16 regulations.

17 I plan on reporting next month on the team that
18 will be assembled for 2136. We have a meeting this week to
19 finalize those personnel.

20 So I'm -- I know we're awaiting signature on both
21 bills, but we are not waiting to beginning the staff work
22 and will be providing this board with periodic updates.

23 Lastly, let me just say that I'm pleased to note
24 that we will be coming out tomorrow with another LEA
25 advisory. These advisories, as you may recall, are notes

1 designed to guide and assist the local enforcement agencies.
2 They're not intended to supersede statute or regulation.

3 This advisory centers on the permitting of fuel
4 contaminated soil and treatment and processing facilities.
5 As this board is well aware, this continues to be an area
6 where LEAs are asking for clarification and direction and
7 this advisory provides an interim policy on how to view
8 those permitting facilities.

9 And I look forward to bringing LEA advisories not
10 only to the LEA community but to this board as we attempt to
11 clarify our guidance and oversight responsibilities for that
12 community.

13 With that, Mr. Chairman, I conclude my remarks.

14 BOARD CHAIRMAN FROST: Thank you very much,
15 Mr. Chandler.

16 Mr. Relis.

17 BOARD MEMBER RELIS: If I could I would just note,
18 coming from the Subtitle D workshop in Ventura, I would
19 verify if we were after local elected officials or their
20 staff we're not seeing them at the hearing. It is pretty
21 much the technical people. There was a good turnout and it
22 was good to see the interaction between our staff and the
23 water board staff and one of the members of the state water
24 board was at that meeting as well. So we had a chance to
25 share a perspectives. I think they were quite good.

1 EXECUTIVE DIRECTOR CHANDLER: Right.

2 BOARD CHAIRMAN FROST: Mr. Chesbro.

3 BOARD VICE CHAIRMAN CHESBRO: I'd like to echo the
4 comments that Mr. Relis made, but add that I think that I
5 believe the three remaining workshops are basically in the
6 Valley here from, what, Fresno, Sacramento, and Redding.

7 Is that correct?

8 EXECUTIVE DIRECTOR CHANDLER: Well, we have more
9 than three, Mr. Chesbro.

10 BOARD VICE CHAIRMAN CHESBRO: Three of the six, I
11 believe.

12 EXECUTIVE DIRECTOR CHANDLER: We've added one in
13 San Diego, I believe, in the first week in October. I
14 believe we have one up in Redding.

15 BOARD VICE CHAIRMAN CHESBRO: So I think three of
16 the six are more accessible to where most of the rural
17 counties are.

18 And the original, at least part of the original
19 concern was that the rural counties were the ones that stood
20 to be potentially the most severely impacted with small
21 landfills that might be less apt to be in compliance with
22 Subtitle D, and also with a less -- a smaller staff to
23 handle all these issues.

24 So I would hope that we would maybe think of some
25 additional efforts for those three workshops in trying to

1 perhaps through our CRC or CSAC or some other vehicle
2 contact the elected officials in the smaller counties to let
3 them know about those three workshops, because again they're
4 the ones who I think are perhaps the most exposed to
5 problems here.

6 BOARD MEMBER RELIS: If I can say just one more
7 thing on that.

8 One landfill operator in the framework that there
9 was concern Subtitle D would lead to the closure of some
10 small landfills, I experienced that directly where one
11 private operator was there and came up to me and indicated
12 that probably under the new requirements they would close
13 their landfill in the north San Luis Obispo area. So there
14 could be some fairly dramatic near term --

15 BOARD VICE CHAIRMAN CHESBRO: I guess I'm saying
16 it's more understandable that in the urban larger counties
17 that you'd expect to have a staff representation more
18 likely, but we might have a greater success at targeting the
19 policy makers in the smaller counties if we really make sure
20 that they know about this.

21 BOARD MEMBER HUFF: I agree.

22 I would also think that you would use your
23 extensive network of contacts with local officials too. I'm
24 sure they have no better friend.

25 BOARD CHAIRMAN FROST: Okay.

1 BOARD VICE CHAIRMAN CHESBRO: Other than you.

2 BOARD CHAIRMAN FROST: That concludes your part,
3 Mr. Chandler?

4 EXECUTIVE DIRECTOR CHANDLER: Yes.

5 BOARD CHAIRMAN FROST: Thank you.

6 Item 4, this was a consent item except for our
7 annual Item A and B, which is the interagency agreements
8 with the Department of Finance and the Governor's Office of
9 Planning and Research and we will need a separate roll call
10 on those two items.

11 So somebody would like to make a motion.

12 BOARD MEMBER HUFF: I move 4 A and B.

13 BOARD MEMBER EGIGIAN: Second.

14 BOARD CHAIRMAN FROST: Items 4 A and B moved and
15 seconded.

16 BOARD MEMBER NEAL: I have a question.

17 BOARD CHAIRMAN FROST: Ms. Neal.

18 BOARD MEMBER NEAL: What benefit have we derived
19 from these expenditures in the past, because I've not been
20 able to determine any.

21 BOARD MEMBER HUFF: Well, Ms. Neal it's good that
22 you asked.

23 BOARD MEMBER NEAL: And I knew you'd want to
24 answer.

25 BOARD MEMBER HUFF: I think -- of course.

1 I think that particularly when we were going
2 through the Subtitle D business with EPA that we found a
3 great deal of assistance through the Washington office.

4 And you may recall that Mr. Chandler was back in
5 D.C. talking to EPA officials. Mr. Strock also went back
6 there.

7 And that the Washington office really was a focal
8 point of our efforts vis-a-vis, not Region IX, of course,
9 but the real force behind it all, EPA in D.C.

10 So I think that there's very clearly a
11 demonstrated benefit that we received in the last few months
12 from the D.C. office.

13 Now, the Governor's office --

14 BOARD MEMBER NEAL: What specifically did they do?
15 We have Mr. Chandler back there doing the work and the
16 talking for us. Did they facilitate setting up meetings
17 or --

18 BOARD MEMBER HUFF: They were great facilitators,
19 provided great liaison and communication and all those words
20 that you can use.

21 BOARD MEMBER NEAL: I'd like to volunteer then,
22 because I am no stranger to Washington, perhaps we can save
23 that money and I would certainly volunteer to facilitate any
24 future meetings we need to set up in Washington.

25 BOARD MEMBER HUFF: Well, we might have to

1 consider that. I'm sure that you probably have a good
2 handle on the current administration.

3 BOARD MEMBER NEAL: Yes.

4 BOARD MEMBER HUFF: How to approach them.

5 BOARD MEMBER NEAL: And regardless of how some of
6 us might feel about that, they're the ones in charge right
7 now and so it seems like we would want to play to our
8 strength.

9 BOARD MEMBER HUFF: Be glad to do it.

10 Do you want to take this contract?

11 BOARD MEMBER NEAL: I think that there may be some
12 conflict there. I think we can save the money and I would
13 just do it voluntarily.

14 BOARD MEMBER HUFF: I wouldn't want to stretch you
15 that thin.

16 BOARD MEMBER NEAL: I've got a good staff. It's
17 not a problem.

18 BOARD VICE CHAIRMAN CHESBRO: The Department of
19 Finance and the Office of Planning and Research have no
20 better friend on this board than Mr. Huff.

21 BOARD MEMBER HUFF: Thank you.

22 BOARD CHAIRMAN FROST: All right. Any further
23 discussion? Okay.

24 It's been moved and seconded.

25 Call the roll, please.

1 BOARD SECRETARY REID: Board Members Chesbro.

2 BOARD VICE CHAIRMAN CHESBRO: No.

3 BOARD SECRETARY REID: Huff.

4 BOARD MEMBER HUFF: Aye.

5 BOARD SECRETARY REID: Egigian.

6 BOARD MEMBER EGIGIAN: Aye.

7 BOARD SECRETARY REID: Neal.

8 BOARD MEMBER NEAL: No.

9 BOARD SECRETARY REID: Relis.

10 BOARD MEMBER RELIS: Aye.

11 BOARD SECRETARY REID: Chairman Frost.

12 BOARD CHAIRMAN FROST: Aye.

13 BOARD MEMBER HUFF: Touch and go there for a
14 minute.

15 BOARD CHAIRMAN FROST: Now we'll move to Item 7,
16 which is consideration of a 1993-94 contract concept for
17 financial services to market developments loan program and
18 approval of scope of work for competitive bid.

19 Ed Boisson will make this presentation.

20 EXECUTIVE DIRECTOR CHANDLER: Mr. Chairman, I'll
21 rely on Ed if you have any technical questions. Let me just
22 remind the -- I won't remind, but I'll mention to the board
23 and remind the Administration Committee that was not on
24 consent because we did have some discussion about it, I
25 think relative to the annual support that goes to the market

1 development loan program.

2 For background purposes we do have the financial
3 services in place on this program through the end of the
4 calendar year, December.

5 This item is actually a contract concept that will
6 allow the staff to begin working with the committee to get
7 an invitation for bid out and continue to keep those
8 services available to the program after December.

9 Mr. Egigian had recently asked that we not use a
10 sole source approach in the future on this contract but put
11 it out to bid and that is what staff is doing here.

12 So it's a contract concept to move forward.

13 BOARD CHAIRMAN FROST: Mr. Huff.

14 BOARD MEMBER HUFF: Yes. If I recall correctly, I
15 in fact was the person in Admin Committee that raised some
16 question about the overhead involved with this program and
17 on further consideration and thought about that concern, I
18 think that it's probably not the proper time to raise it in
19 connection with this contract and so therefore I'm prepared
20 to roll over on this one.

21 BOARD CHAIRMAN FROST: Is that a motion?

22 BOARD MEMBER HUFF: Yes.

23 BOARD MEMBER NEAL: We move that Jesse rolls over.

24 BOARD CHAIRMAN FROST: Moved to approve Item 7 --

25 BOARD MEMBER RELIS: Second.

1 BOARD CHAIRMAN FROST: -- staff recommendation.

2 Seconded By Mr. Relis.

3 Call the roll, please.

4 BOARD SECRETARY REID: Board Members Chesbro.

5 BOARD VICE CHAIRMAN CHESBRO: Aye.

6 BOARD SECRETARY REID: Huff.

7 BOARD MEMBER HUFF: Aye.

8 BOARD SECRETARY REID: Egigian.

9 BOARD MEMBER EGIGIAN: Aye.

10 BOARD SECRETARY REID: Neal.

11 BOARD MEMBER NEAL: Aye.

12 BOARD SECRETARY REID: Relis.

13 BOARD MEMBER RELIS: Aye.

14 BOARD SECRETARY REID: Chairman Frost.

15 BOARD CHAIRMAN FROST: Aye.

16 Now, Item 8, interagency agreement with DEO,
17 recycling market development loan funds.

18 EXECUTIVE DIRECTOR CHANDLER: Mr. Chairman, I will
19 have Mr. Boisson make this presentation and this is a
20 renewal, if you will, of the interagency agreement to
21 encumber those dollars.

22 MR. BOISSON: Thank you and good morning.

23 We are requesting approval to amend our existing
24 interagency agreement with the Department of Economic
25 Opportunity.

1 The contract has been in place for two years and
2 what we're requesting is an additional 12 months.

3 Department of Economic Opportunity has played --
4 the primary purpose of the agreement is for them to disburse
5 our funds as well as play an administrative role in
6 disbursing checks, monitoring loan funds, monitoring
7 repayment, et cetera, other services connected with the
8 accounts.

9 In addition by encumbering the money we do receive
10 some measure of protection from legislative sweeps on an
11 annual basis with the loan account.

12 This agreement again would take us for another 12
13 months. The total amount of the agreement would now be 15
14 million, and there would be a \$50,000 fee associated with
15 the services.

16 And that really summarizes the agreement.

17 BOARD CHAIRMAN FROST: Okay. Any discussion on
18 Item 8?

19 BOARD MEMBER RELIS: I'll move it.

20 BOARD VICE CHAIRMAN CHESBRO: Second.

21 BOARD CHAIRMAN FROST: Moved and seconded.

22 Call the roll, please.

23 BOARD SECRETARY REID: Board Members Chesbro.

24 BOARD VICE CHAIRMAN CHESBRO: Aye.

25 BOARD SECRETARY REID: Huff.

1 BOARD MEMBER HUFF: Aye.

2 BOARD SECRETARY REID: Egigian.

3 BOARD MEMBER EGIGIAN: Aye.

4 BOARD SECRETARY REID: Neal.

5 BOARD MEMBER NEAL: Aye.

6 BOARD SECRETARY REID: Relis.

7 BOARD MEMBER RELIS: Aye.

8 BOARD SECRETARY REID: Chairman Frost.

9 BOARD CHAIRMAN FROST: Aye.

10 Okay. Next we have Item 9, consideration of
11 concurrence in a revised solid waste facilities permit for
12 Sunset Environmental material recovery facility and transfer
13 station in Orange County.

14 Don Dier will make this presentation.

15 BOARD MEMBER HUFF: Mr. Chair.

16 BOARD CHAIRMAN FROST: Mr. Huff.

17 BOARD MEMBER HUFF: This one wasn't on consent.

18 If I recall correctly it came out of committee 3-0.

19 Correct. But we had a member of the public speak in
20 opposition to this item. I don't know if you've had any
21 requests.

22 BOARD CHAIRMAN FROST: I have no speakers on this
23 item.

24 BOARD MEMBER HUFF: But that was the only reason
25 it wasn't on consent is because a member of the public, I

1 think a member of the public who actually operates a
2 competing facility.

3 MR. DIER: I believe a hauler in Orange County.

4 BOARD MEMBER HUFF: So that was the reason we
5 didn't put it on consent.

6 MR. DIER: And I don't believe that person is
7 present this morning.

8 BOARD MEMBER HUFF: Okay. So unless committee,
9 board members really want to hear the item, I'd move it.

10 BOARD CHAIRMAN FROST: All right. Mr. Huff moves.

11 BOARD MEMBER EGIGIAN: Second.

12 BOARD CHAIRMAN FROST: Item 9.

13 Second by Mr. Egigian.

14 Any discussion?

15 Call the roll, please.

16 BOARD SECRETARY REID: Board Member Chesbro.

17 Huff.

18 BOARD MEMBER HUFF: Aye.

19 BOARD SECRETARY REID: Egigian.

20 BOARD MEMBER EGIGIAN: Aye.

21 BOARD SECRETARY REID: Neal.

22 BOARD MEMBER NEAL: Aye.

23 BOARD SECRETARY REID: Relis.

24 BOARD MEMBER RELIS: Aye.

25 BOARD SECRETARY REID: Chairman Frost.

1 BOARD CHAIRMAN FROST: Aye.

2 That moves us to Item 11, which is a revised solid
3 waste facilities permit for Calabasas Sanitary Landfill in
4 Los Angeles County.

5 Mr. Huff, you want to make your remarks on this
6 item?

7 BOARD MEMBER HUFF: Well, this one likewise wasn't
8 on consent because we had some members of the public speak
9 in opposition.

10 The board has heard the arguments previously
11 because they deal with the issue of using shredded green for
12 alternative daily cover.

13 And we heard that with regard to Scholl Canyon
14 when we were in Los Angeles.

15 There are no other issues with regard to Calabasas
16 other than the use of alternative daily cover. This is true
17 for Calabasas and another one here, Spadra. So they're
18 identical to Scholl Canyon.

19 The argument against it is identical to the
20 argument in Scholl Canyon, so you can just search your
21 memory banks and remember what was said in Los Angeles about
22 Scholl Canyon.

23 I didn't put it on consent even though it was
24 unanimous with the committee, again because a member of the
25 public spoke against it and so it's been my practice not to

1 put those sorts of things on consent.

2 Otherwise, I don't think there are any issues.

3 BOARD CHAIRMAN FROST: Mr. Relis then Ms. Neal.

4 BOARD MEMBER RELIS: Mr. Chair, on this point on
5 both items related to the green waste issue as alternate
6 daily cover, I just wanted to state for the record that
7 while I was supportive of this, the proviso in my view is
8 that no policy decision has been made about whether this
9 material will count towards diversion. I have very
10 significant concerns on that. And I will repeatedly bring
11 these up as we go through these items.

12 So while it's acceptable to me at this point to
13 look at it as an alternate daily cover issue, I just
14 wanted -- I noted at the time of the meeting that several of
15 these jurisdictions have very low diversion rates and they
16 will depend heavily on green waste in some way to meet their
17 goals. So I wanted to note this.

18 BOARD CHAIRMAN FROST: Okay. Any further
19 discussion?

20 BOARD MEMBER NEAL: My comment was essentially the
21 same that any positive vote on these permits today in no way
22 imply a decision by this board relative to the policy of
23 diversion.

24 BOARD CHAIRMAN FROST: Okay.

25 BOARD VICE CHAIRMAN CHESBRO: Was that point made

1 part of the committee's action?

2 BOARD MEMBER HUFF: That was discussed at the
3 committee; yes.

4 BOARD VICE CHAIRMAN CHESBRO: But I in the
5 actual --

6 BOARD MEMBER HUFF: Paul said it.

7 BOARD VICE CHAIRMAN CHESBRO: The motion we made
8 somehow incorporated that provision into the motion?

9 BOARD MEMBER RELIS: Well, at the time I voted
10 that's what I said.

11 BOARD MEMBER NEAL: I would like to ask a question
12 of the staff.

13 At the meeting in Los Angeles we did give some
14 direction to provide written communication to those
15 jurisdictions who had demonstrated that they were under some
16 impression that approval of the demonstration project
17 somehow implied diversion credit for the green waste cover
18 and I'm wondering if that communication to those
19 jurisdictions has been done yet.

20 MR. DIER: I don't know that myself. Perhaps if
21 there's someone from local planning here that might have
22 communicated that to the cities.

23 BOARD MEMBER RELIS: If I could to speak to that.
24 I addressed a SWANA group last week in Southern California
25 and one of the people at that meeting did seem to infer that

1 they had received information from the staff, at least, that
2 it would count and I tried to disabuse them of that notion.

3 BOARD MEMBER NEAL: There was some communication
4 that had gone out a few years ago from some board staff that
5 did imply or state that approval of the demonstration
6 projects would in fact impact their ability to gain
7 diversion credit.

8 And if you'll recall at our Los Angeles meeting I
9 did request that we go back through the files, figure out
10 who might be operating under that impression and do a formal
11 communication to them to clear the record on that.

12 MR. DIER: I'm not aware of any formal
13 communication, but we'll certainly make sure that that
14 happens.

15 BOARD CHAIRMAN FROST: That causes me to have to
16 make my point again that there's no such thing as diversion
17 credit anymore. We went to --

18 BOARD MEMBER NEAL: Disposal.

19 BOARD CHAIRMAN FROST: -- disposal based system
20 and all this discussion about whether it counts or doesn't
21 count, I think is irrelevant. There's nothing to count for.

22 BOARD MEMBER NEAL: I think there's still a lot of
23 confusion out there and my intent was to try to make sure
24 that everyone out there in the world of waste understood.

25 BOARD CHAIRMAN FROST: I think the only thing it

1 could count, if you're counting it, is against the capacity,
2 the landfill capacity, that it could count for, but not for
3 diversion credit. We're now on a disposal based system.

4 Okay.

5 MR. DILLON: I'm Lloyd Dillon with the Office of
6 Local Assistance and we did get that direction. We waited
7 until after the Planning Committee meeting to see what the
8 policy would be or what changes are so we could communicate
9 that to them. We do have a letter drafted and it's in
10 internal review. We're ready to send that out just about
11 now.

12 When we reviewed the SRREs that came in it was
13 noted in there that if a jurisdiction used approved --
14 board-approved alternative daily cover it may count towards
15 diversion goals, but how much was not decided at that time.

16 And we are going back to those jurisdictions.
17 We'll be sending that letter communicating to them.

18 BOARD MEMBER NEAL: Saying that it may?

19 MR. DILLON: No. That there is a policy change or
20 something changed undergoing right now.

21 BOARD MEMBER NEAL: It's not a policy change,
22 because it was never a established policy of the board.

23 MR. DILLON: Right.

24 But we are doing that communication right now that
25 it may or may not count and various levels may or may not be

1 critical.

2 Right. It's not diversion credit, but it could
3 count towards disposal reduction.

4 BOARD MEMBER NEAL: Capacity.

5 MR. DILLON: Goals. And increasing capacity of
6 the landfills and that type.

7 BOARD CHAIRMAN FROST: That's right. It can count
8 for that.

9 BOARD MEMBER NEAL: But there's just a lot of
10 confusion. I think we need to clear that up.

11 MR. DILLON: We would hope to have that to you
12 shortly.

13 BOARD CHAIRMAN FROST: All right. Any further
14 discussion on Item 11?

15 Are we considering 11 and 12 together?

16 BOARD MEMBER HUFF: We didn't pick them up that
17 way. We can if you wish.

18 MR. DIER: The issues are identical.

19 BOARD CHAIRMAN FROST: It's up to whoever makes
20 the motion.

21 BOARD MEMBER HUFF: Well, I'll move both Item 11
22 and Item 12, approval of Calabasas and approval of Spadra,
23 both of them being permit revisions to allow the use of
24 shredded green as alternative daily cover.

25 BOARD CHAIRMAN FROST: Right.

1 in the issuance of solid waste facilities permit for Puente
2 Hills Sanitary Landfill in Los Angeles County.

3 Mr. Huff, would you like to open this item?

4 BOARD MEMBER HUFF: I could try.

5 We heard this item at length in Whittier and this
6 was the primary reason we went to Whittier.

7 I think it's important and that's why staff has
8 prepared a visual to keep in mind what this permit is about
9 and what it isn't about.

10 Let me be very clear on what it isn't about and
11 that is the very bottom sentence on the visual, this is not
12 about the expansion. The expansion issue of Puente Hills
13 hasn't reached us yet. It's going through the process. It
14 will reach us at some point in time. When it reaches us I
15 have already publicly said that we will have a hearing in,
16 if not Whittier, somewhere just as close to Puente Hills.
17 The Whittier facility was really pretty good. But,
18 wherever, we will have a hearing in Southern California on
19 Puente Hills to afford the local community with input and be
20 accessible to the local community at that time.

21 This is not about expansion. This is about
22 alternative daily cover, just like Spadra, just like
23 Calabasas, just like Scholl Canyon.

24 This is also about incorporating into the permit a
25 change in the date that is picked up from the land use

1 permit. The previous land use permit for this facility had
2 a cutoff date in it of October 1, 1993. The current land
3 use permit does not contain that date.

4 I don't know, Mr. Counsel, does it contain another
5 date or does it contain no date?

6 MR. DIER: The date is November 1, 1993. The
7 revision of the permit action would remove that date and
8 would not --

9 BOARD MEMBER HUFF: No date.

10 MR. DIER: No date.

11 BOARD MEMBER HUFF: But this permit in front of us
12 with the change or the elimination of the date affects only
13 the current approved footprint of Puente Hills, it does not
14 go beyond the current permit in terms of the boundary.

15 MR. DIER: That's correct. This is the footprint
16 that was approved in 1983.

17 BOARD MEMBER HUFF: Okay. I just wanted to make
18 sure that we had that issue before us.

19 We will hear testimony from opponents. They are
20 eloquent and have a legion of facts.

21 We have heard matters in committee.

22 It is fair to say that there are people opposed
23 and in support of this item who have differing perceptions
24 of historical events and differing interpretation to the
25 meaning of words.

1 I think that when we hear all that it's fair to
2 keep in mind what we're talking about is alternative daily
3 cover and incorporating a change in a date that is
4 ministerial in action.

5 MR. DIER: Mr. Chairman, if I may, I may not have
6 an opportunity later once the facts start flying so I
7 thought I would now.

8 The staff recommended to the committee adoption of
9 Resolution No. 93-93, concurring in permit 19-AA-0053.

10 As a footnote the committee sent the item to the
11 board with no recommendation based upon some pending action
12 on some litigation action. So I just wanted to make sure
13 that you understood it came to the board with no
14 recommendation.

15 BOARD MEMBER HUFF: That's right. I forgot to
16 mention that.

17 There were court proceedings that were unfolding
18 as we met last Wednesday and there were only verbal
19 representations as to the significance of that court action.
20 And very limited information really even in those verbal
21 representations.

22 We now have had the opportunity in the intervening
23 days to actually read what the court did and I'm sure
24 Mr. Conheim can elaborate.

25 But that was the reason why the committee sent

1 this thing to the board with no recommendation. It was
2 simply because of the volatility of the events last
3 Wednesday.

4 I think that -- I know that there would have been,
5 because I can count votes, I know that there would have been
6 a committee recommendation to recommend concurrence were it
7 not for the uncertainty of what it was that the court had
8 done and the verbal representations of what it had done.

9 BOARD CHAIRMAN FROST: Okay. Thank you.

10 Mr. Dier, did you want to make any further
11 comments?

12 MR. DIER: I have none at this time.

13 BOARD CHAIRMAN FROST: Okay. Thank you.

14 Then I have one speaker on this item, Marlena Fox.

15 MS. FOX: Good morning, Mr. Chairman and members
16 of the board, ladies and gentlemen.

17 Mr. Chairman, if the board is going to hear a
18 presentation on behalf of the Sanitation Districts, I would
19 respectfully request that I be given the opportunity to
20 follow that presentation so that if necessary I may comment
21 on that.

22 But may I please understand what your procedure
23 would be?

24 BOARD CHAIRMAN FROST: I'm sorry. Would you
25 repeat your question?

1 MS. FOX: I asked if the Sanitation Districts as
2 the operator and the applicant is going to do a presentation
3 on this agenda item, if I could do my presentation following
4 the presentation by the Sanitation Districts. I may want to
5 add to my presentation and comment on anything that is said
6 by the Sanitation Districts.

7 But if that's not appropriate procedure, I
8 understand.

9 BOARD CHAIRMAN FROST: I actually have no request
10 from the Sanitation District. There's somebody here --

11 MS. FOX: Mr. Maguin.

12 BOARD CHAIRMAN FROST: Is he from the Sanitation
13 District?

14 Mr. Maguin, do you have any objection to
15 testifying first?

16 MR. MAGUIN: No, Mr. Chairman.

17 BOARD CHAIRMAN FROST: All right. Mr. Maguin, why
18 don't you come up and testify, then.

19 MS. FOX: Thank you, Mr. Chairman.

20 MR. MAGUIN: Mr. Chairman, members of the board,
21 my name is Steve Maguin representing the Sanitation
22 Districts of Los Angeles County, the owner and operator of
23 the Puente Hills Landfill.

24 I'd like to reiterate the point that was made very
25 well by Mr. Huff that the issue before you today besides the

1 green waste is the continued operation of the current fill
2 area.

3 And by the way, for Ms. Neal's point on the
4 notification, I might just add on the green waste issue for
5 our part we have notified all 79 member cities of the
6 Sanitation Districts back in August of the current policy
7 evaluation by the two committees and ultimately by the full
8 board on the issue of whether alternate cover is disposal or
9 not.

10 So for that much, they have had some notice.

11 BOARD MEMBER NEAL: Thank you.

12 MR. MAGUIN: On the primary issue before the board
13 on the continued operation of the Puente Hills Landfill, I'd
14 like to elaborate a bit on this issue.

15 In 1983 when the County of Los Angeles issued a
16 land use permit for the current operation they limited that
17 operation in two ways. They limited it by a fill volume
18 that was defined by a topographic map and they also limited
19 it by a date certain, the November 1st, 1993.

20 That date is upon us, but the fill volume has not
21 been filled. There's beyond the November 1st, 1993,
22 approximately 15 months of operating capacity under that
23 original limiting topographic map and it is that remaining
24 volume that is in essence before you today.

25 In essence the ministerial action to replace that

1 date certain in your permit is a reflection of the fact that
2 the County of Los Angeles, both the Planning Commission and
3 the Board of Supervisors, have made a land use decision on
4 July 20th, 1993, issued a new conditional use permit for the
5 landfill with a new termination date of November 1st, 2003.

6 For the current operating area that is the subject
7 of the permit, we have all of the necessary permits except
8 the solid waste facility permit revision.

9 We have active waste discharge requirements in the
10 regional board. We do not have those waste discharge
11 requirements for the expansion area and that's why we're not
12 before you today on that issue.

13 By the way, we are on the regional board's agenda
14 for November 1st and have tentative waste discharge
15 requirements for the expansion area, so that we have an
16 ongoing process to move that, the bigger issue to ultimately
17 get before this board and we anticipate returning early in
18 1984 for the bigger question.

19 The big issue that came up last week that
20 prevented in essence Mr. Huff's committee from taking a vote
21 on this issue was the testimony by Ms. Fox, who you'll hear
22 from next, that the court had in fact issued a final order
23 negating the EIR.

24 I think you're now aware, and Mr. Conheim can
25 advise you, that that is not the case. As of this time

1 there has been no final judgment issued by the court,
2 Superior Court, Department 86, which is hearing the two
3 lawsuits on the EIR for Puente Hills.

4 That action has yet to be taken and until the
5 court issues a signed final judgment, none of us will know
6 the disposition of the certified environmental impact
7 report.

8 But as of this time the EIR certified in November
9 of 1992 is still a certified environmental impact report
10 governing both the continuation of the current operation and
11 the expansion of the landfill.

12 I wanted to spend just a moment of your time
13 discussing the issues, because I know some of you members
14 have concerns about the issues that the court addressed,
15 since it did express dissatisfaction with one section of the
16 EIR relative to the landfill and one section of the EIR
17 relative to the proposed rail haul concept.

18 Relative to the landfill itself the issue centered
19 on the discussion in the EIR on groundwater quality
20 protection.

21 In essence, the court had two subissues here.

22 First, the court saw no significant difference
23 between the mitigation for groundwater quality protection
24 purposes, between the old unlined area of the landfill and
25 the proposed expansion area, which will be equipped with a

1 double liner in compliance with Chapter 15 of California
2 regulations and Subtitle D of federal regulations.

3 Obviously, we disagreed with that conclusion that
4 we feel that there is a substantial difference in that
5 mitigation aspect.

6 Secondly, the court was apparently influenced, and
7 again I'm not an attorney, I'm sure Ms. Fox will give you
8 her legal description of it. The court was apparently
9 influenced by the somewhat infamous now Stetson report which
10 is still in a draft form, has never been published, to my
11 knowledge, as a final report by a local consultant in the
12 Los Angeles area.

13 That draft report, I should mention, was published
14 several months after the entire CEQA process was complete
15 and the document had been certified back in late '92.

16 That report was also the subject of a hearing by
17 the Select Assembly Committee chaired by Ms. Solis,
18 Assemblywoman from the Los Angeles area.

19 And I might point out that Mr. Stetson himself
20 testified at that hearing and upon questioning by the
21 committee did state that the report is only in draft form,
22 will be revised per the extensive comments that were
23 received on it, and that upon subsequent questioning did
24 state that his report never said that that landfill is
25 leaking.

1 In addition, the regional water quality board
2 spent a great deal of time evaluating the Stetson report and
3 did submit detailed written comments.

4 And I would like to just read one paragraph of the
5 letter of transmittal by the executive officer of the Los
6 Angeles Regional Water Quality Control Board transmitting
7 his agency's comments on the Stetson report.

8 "In these comments we have
9 addressed only the major inadequacies
10 and misinterpretations of the Stetson
11 report. There were many other
12 deficiencies related to the basic
13 geology of the site, well data, data
14 interpretations, and regulations
15 governing landfills that were too
16 numerous to comment on. The Stetson
17 report in general conveyed a lack of
18 basic understanding of groundwater
19 occurrence and movement in a canyon
20 situation. It provided no new or
21 meaningful information regarding
22 groundwater quality at the Puente Hills
23 Landfill. Several of the conclusions
24 and recommendations of the authors of
25 the Stetson report are based upon

1 erroneous statements. Had regional
2 board staff been allowed to review this
3 document before it was released in draft
4 form, as was promised by Stetson
5 Engineers, many of the
6 misinterpretations could have been
7 dispelled and those comments would be
8 unnecessary."

9 Add one other footnote. This report did get
10 published in draft form during the evaluation of the Puente
11 Hills project by the LA County Board of Supervisors and they
12 did solicit comments on the Stetson report and they
13 specifically asked for comment by the regional board
14 subsequent to its review of the Stetson report in the
15 context of the land use decision.

16 At that point in time the regional board
17 reiterated its opinion that the report provided no new or
18 meaningful information and reiterated their position that
19 the existing landfill has not impacted the beneficial use of
20 groundwater surrounding the site.

21 As far as the lawsuit itself, our current
22 situation is we'll probably find the quickest solution to
23 keep the business moving and then to fix any issues the
24 court ultimately finds with this analysis.

25 We are going to be asking the court to

1 specifically allow the addressing of any issues while
2 allowing for a continued operation of the landfill,
3 consistent with our request for your approval today.

4 BOARD MEMBER HUFF: Mr. Chairman.

5 BOARD CHAIRMAN FROST: Mr. Huff.

6 BOARD MEMBER HUFF: Mr. Maguin, I'm going to have
7 to be critical of you, I think.

8 In my comments I told the board that the issues
9 before us today were alternative daily cover and the
10 ministerial action of a date.

11 We spent, you've spent considerable time talking
12 about something call the Stetson report, but those are water
13 quality issues; aren't they?

14 MR. MAGUIN: They are.

15 BOARD MEMBER HUFF: Do we look like the water
16 board? Does Mr. Frost look like John Caffrey?

17 BOARD CHAIRMAN FROST: Not much. Not much.

18 BOARD MEMBER HUFF: He's got more hair than
19 Caffrey.

20 BOARD CHAIRMAN FROST: That's first time you ever
21 said I had hair.

22 BOARD MEMBER HUFF: Okay.

23 BOARD CHAIRMAN FROST: The point is well taken.

24 BOARD MEMBER HUFF: I'm making some humor but, you
25 know, these are water issues.

1 BOARD CHAIRMAN FROST: This is not the water
2 board.

3 BOARD MEMBER HUFF: And particularly with the
4 Governor's anticipated signature on 1220, these are not our
5 issues at all. They aren't our issues in any case. And
6 particularly not with this permit, because we're talking
7 about the existing footprint.

8 We're talking about activities, are we not, that
9 are controlled by a 1983 EIR?

10 MR. MAGUIN: That is correct.

11 BOARD MEMBER HUFF: The EIR that was certified in
12 whenever it was is not part of the underlying documentation
13 that is supportive of this permit revision; is it?

14 MR. MAGUIN: You're correct, sir.

15 BOARD MEMBER HUFF: Okay.

16 MR. MAGUIN: And I will cease any discussion of
17 irrelevant water quality issues. I know that you had
18 received a lot of testimony on those issues and I just
19 wanted to give you some additional background to put the
20 issue to rest should it be brought up again.

21 Let me return then to the specific issue of the
22 ministerial action of reflecting the land use decision and
23 speak to the impact should you vote in the negative and
24 speak to what happens should Puente Hills Landfill cease
25 operation November 1st, 1993, either due to a negative

1 decision by this board today or some subsequent negative
2 decision in a form of a final judgment by the court.

3 According to the Los Angeles County --

4 BOARD CHAIRMAN FROST: I think that's almost as
5 irrelevant as your last discussion.

6 BOARD MEMBER RELIS: Well, I don't know. Let's
7 hear it.

8 BOARD CHAIRMAN FROST: All right. Go ahead.

9 MR. MAGUIN: Very quickly.

10 BOARD CHAIRMAN FROST: Dealing with the issues
11 that are before us.

12 But go ahead.

13 MR. MAGUIN: Both the Los Angeles County
14 Integrated Waste Management Task Force and this board in its
15 own independent study of remaining residuals and management
16 capacity have found that in the case of a closure of Puente
17 Hills Landfill there is inadequate capacity in Los Angeles
18 County.

19 In closing, Mr. Chairman, and sticking strictly to
20 the issue, I ask that for your positive action on this
21 permit and I ask that you not react in a negative fashion in
22 anticipation of some subsequent judicial action.

23 Thank you, Mr. Chairman.

24 I'd be glad to answer any questions.

25 BOARD CHAIRMAN FROST: Thank you, Mr. Maguin.

1 Come back again any time.

2 All right.

3 CHIEF COUNSEL CONHEIM: Mr. Chairman.

4 BOARD CHAIRMAN FROST: Yes, Mr. Conheim.

5 CHIEF COUNSEL CONHEIM: Before you call on the
6 next speaker, I think that maybe if you let me enter into
7 the record a letter that was addressed to me in support of
8 the project since it follows Mr. Maguin.

9 Yesterday afternoon a letter was faxed to me by
10 the director and business agents of the Local 670, Service
11 Employees International Union.

12 And the tone of the letter was that they wanted to
13 disavow a statement of one of the homeowner opponents to the
14 landfill, a statement that was made at the committee meeting
15 saying that this union agreed with the homeowners about
16 limiting the use of the landfill.

17 Purpose of this letter and was asked to be entered
18 into the record was to state the Local 660 support for the
19 ongoing project and all they wanted to do was put this
20 letter into the record.

21 BOARD CHAIRMAN FROST: Okay. Thank you,
22 Mr. Conheim.

23 Now, there is one other person.

24 Ms. Fox, if you want to speak last, is that -- was
25 that your request to speak last?

1 MS. FOX: No. I just wanted to follow Mr. Maguin.
2 He's the only one I worry about.

3 BOARD CHAIRMAN FROST: All right. Come up.

4 MS. FOX: Mr. Chairman, members of the board, my
5 name is Marlana Fox. I'm an attorney. My office address is
6 2031 Orchard Drive in Santa Ana Heights, California.

7 I've been a practicing land use environmental law
8 attorney in California for 22 years.

9 I represent a number of private entities.

10 I also represent and am special counsel to a
11 number of public entities, having also served as an
12 assistant city attorney for a city in San Bernardino County
13 for three and a half years.

14 Today I represent RR&C Development Company. They
15 have the Crossroads Business Park, which is located right
16 along the 60 Freeway. Many of the parcels are immediately
17 adjacent and share a common boundary and common property
18 line with areas of the Puente Hills Landfill, particularly
19 along Crossroads Parkway South and Workman Mill Road.

20 At build-out this business park will have
21 somewhere in the neighborhood of 1,500,000 square feet and
22 somewhere between 15, 16 hundred to 2,000 employees housed
23 there with the various tenants and people who occupy the
24 park.

25 Also RR&C Development Company is headquartered at

1 this place.

2 I think it's significant to understand who I
3 represent and why they would go to the time and trouble to
4 ask to participate in these proceedings as we have.

5 BOARD CHAIRMAN FROST: Could I interrupt and ask a
6 question.

7 Was the park, was the business park there prior to
8 the landfill?

9 MS. FOX: No. The business park started, the land
10 was purchased from the City of Industry around '72, '73 and
11 the Puente Hills Landfill, the predecessor was the San
12 Gabriel Dump or something. That goes back to the '50s.

13 The only thing that was there even prior to the
14 landfill were some of the residents in Hacienda Heights.

15 So, no, the business park started in the '70s and
16 when the property was originally acquired from the City of
17 Industry urban renewal agency, which is that city's
18 redevelopment agency, the representations both in writing
19 and in print were that the landfill would close in 1983.

20 And just for your information, very quickly, when
21 the Sanitation Districts went for an -- not an expansion,
22 excuse me -- a continuation of or a continuation of their
23 conditional use permit to operate the Puente Hills Landfill
24 in 1983, RR&C Development Company did not object at that
25 time because obviously if you're building a business park

1 that has 1,500,000 square feet with somewhere in the
2 neighborhood of 2,000 employees and you are in the business
3 of being in business and dealing with real estate you're not
4 into the not-in-my-backyard syndrome. You very well could
5 not afford to be in that syndrome. And that is not a
6 businessman's occupation anyway, as I'm sure you do know.

7 It's extreme circumstances that have driven my
8 client to this point.

9 But at any rate, that gets off the subject, and I
10 want to bear in mind the cautionary remarks that were made
11 to Mr. Maguin and not wander too far afield.

12 But I do think it's important that you do
13 understand who I represent and why we would even be here to
14 begin with because of the stereotype and the labeling of
15 opponents and proponents, that doesn't really quite tell the
16 story. I think it's unfortunate. I understand for purposes
17 of identification that that assists the board, but it's a
18 little bit misleading.

19 At any rate, I understand what the permit is
20 before you.

21 I also understand how the court operates.

22 And I did send a letter, Mr. Chairman, to you
23 asking you to remove this from the agenda today on the basis
24 of the final decision that was made by Judge Wayne.

25 And I did also send to you and to each board

1 member here with a copy to your counsel the decision that
2 was signed by Judge Wayne on September 16.

3 This is a final division. It is not a tentative
4 division. It is final. She has made her ruling. And it's
5 a ten-page long ruling and at the top of page two there's a
6 paragraph that continues over from page one on to page two
7 and she says in the middle of that paragraph:

8 "The court finds that the record
9 does not contain substantial evidence to
10 establish that the real parties," that
11 being the Sanitation Districts, "did not
12 abuse their discretion in approving the
13 project and certifying the EIR."

14 "The real parties are ordered," that is not a
15 tentative word, that is a court order.

16 "The real parties are ordered to
17 set aside the certification of the EIR
18 and approval of the project and conduct
19 proceedings in accordance with CEQA and
20 this court's ruling."

21 Now, Mr. Maguin has pointed out to you that there
22 has to be a final judgment prepared. That is true.

23 The only purpose the final judgment serves once
24 you have this court order is to wrap up the proceeding in
25 the Superior Court to start the clock running for the

1 purpose of filing an appeal in the event anyone wishes to do
2 so.

3 I also pointed out in my letter that there is a
4 companion lawsuit, it was actually consolidated with this
5 one, that was filed on behalf of my client, RR&C Development
6 Company, challenging the EIR, that raises a number of issues
7 that were not addressed in the litigation that was filed on
8 behalf of the school district and the homeowners.

9 And that is going to be addressed by the court on
10 the 28th.

11 There is no possibility that the court is then
12 going to turn around and say I changed my mind, this EIR is
13 now adequate.

14 The only thing this court is going to do at this
15 point is say that she has found other grounds to rule that
16 this EIR is inadequate.

17 And I know Mr. Huff has said that this EIR does
18 not pertain to the application before you for the use of an
19 alternative cover and to extend that date beyond November 1.

20 That's not true.

21 I look at your graphic. That is absolutely an
22 incorrect statement from a legal point of view.

23 Your first point on the graphic, the proposed
24 permit would, No. 1, incorporate the July 20, 1993,
25 conditional use permit, and it doesn't say approved by the

1 County of Los Angeles, which allows for site operations
2 beyond November 1.

3 If you look at the ruling by the Board of
4 Supervisors when they conducted the appeal and when they
5 announced their decision, which was announced not on the
6 20th, it was announced on July 6th and then the formal
7 findings as drafted by the county counsel were adopted on
8 July 20th, that decision says that they incorporate and rely
9 on the 1992 EIR. They are -- as a responsible agency,
10 certified by the Sanitation Districts, that they incorporate
11 as a matter of law the findings from the Sanitation
12 Districts from November 25, 1992.

13 That CUP falls with this EIR and this court
14 decision.

15 You have no jurisdiction to take this action
16 today.

17 I understand that you're concerned about the green
18 cover.

19 You're talking about -- you're talking about a
20 landfill that as a matter of law at this point in time can
21 operate another 39 days. Beyond that point this landfill is
22 closed until further action.

23 There is nothing pending in the court. There has
24 been no motion by the Sanitation Districts' attorney, as
25 well there can't be, because there is no authority to

1 support it.

2 In my letter to you and I asked that the matter be
3 removed from the agenda I gave two appropriate citations
4 from a long line of California cases that say if you don't
5 have, ladies and gentlemen, if you don't have a project
6 description in an EIR, you don't have anything. You can't
7 discuss impacts on traffic, you can't discuss air, water
8 quality, noise, geology, seismicity, nothing. You can't do
9 it because you don't have an adequate description and the
10 whole of the EIR and all of the impacts in there are based
11 upon that description.

12 So our position is, Mr. Chairman and members of
13 the board, when you act today, if you do, on this permit to
14 approve it, if you do you're thumbing your nose at this
15 court. Now, you may be doing that inadvertently, but that
16 nevertheless is what you're doing and you're in contempt.
17 You don't have the right when a judge writes and signs an
18 order, and you have it in front of you, because I provided
19 it to you, and she says it is ordered that that EIR be set
20 aside, County of Los Angeles can't turn around and tell you
21 their CUP is good because it's not.

22 Now, there are a number of things that Mr. Maguin
23 mentioned to you that are off the topic today that I'd
24 really like to respond to, but to show you how well I can
25 restrain myself because of so many misstatements of fact

1 that were made, I won't. I'll save those for another time.

2 But this is a point you have to deal with, that
3 there is no approved CUP, there's no land use approval that
4 allows the Puente Hills Landfill to operate beyond November
5 1, 1993.

6 And you can't change that by taking a vote today.
7 All you can do is demonstrate to the court that you have
8 utter disregard for this court's authority. If you don't
9 think that court will remember that, you underestimate this
10 lady in this courtroom. I'll tell you, she's something
11 else. It takes a lot to intimidate me, but she's done a
12 good job since February.

13 Really, I don't -- I had other things. I think
14 there are a lot of other issues, but I don't really think
15 based on your cautionary comments that this is the
16 appropriate time to raise them.

17 I think it's been demonstrated and we can
18 demonstrate if there's any question in your mind that there
19 is the capacity to handle what's going to happen when Puente
20 Hills closes.

21 And just for your information, Mr. Williger, the
22 chairman of the Los Angeles County Planning Commission, when
23 they took their final vote on the land use permit, he stated
24 unequivocally that there was no question in his mind that
25 there was not going to be garbage on the streets, that all

1 these panic buttons that people were trying to push were not
2 convincing. There was no clear and convincing evidence of
3 that.

4 He also stated unequivocally that he didn't think
5 the EIR was adequate, but they voted to approve the project
6 and, of course, it went before the board.

7 There is one thing I do have to say to you. When
8 you have representations before you about this and they --
9 and you hear comments about what the Los Angeles County
10 Board of Supervisors did with regard to this project and the
11 CUP and anything else, let me be the first to say, and it
12 won't be the last time I'm going to say it, but I want the
13 record to be real clear, there isn't any difference at all
14 between the county government of Los Angeles and the county
15 Sanitation Districts. I mean they're just siamese twins.
16 They share offices, they share everything.

17 That was no quasijudicial proceeding that occurred
18 before the county. That in the true sense of the Old West
19 was the best casebook demonstration of a kangaroo court that
20 anybody could ever see and I can support that because I've
21 got all the tapes and all the transcripts.

22 So for what it's worth.

23 And I'd like to hear, if I'm not out of order and
24 I don't mean to be, but I'd like to hear what the board
25 thinks about this ruling in terms of this date. This date

1 on your chart is wrong. It's wrong as a matter of law and I
2 don't know how you can get around that.

3 And I understand you can't split your permit.

4 So they're using green waste as cover since 1989,
5 but you feel you have to issue a permit for 39 days because
6 you can't split the permit.

7 The judge is going to find it very interesting.

8 I'd be happy to respond to any questions.

9 BOARD CHAIRMAN FROST: Okay. Mr. Huff.

10 Ms. Neal.

11 MS. FOX: Yes, ma'am.

12 BOARD MEMBER NEAL: I'm not an attorney, so you
13 have to forgive me. I'm now a bit confused and maybe you
14 can help me understand.

15 MS. FOX: Sure.

16 BOARD MEMBER NEAL: You say that there is a final
17 order from the court?

18 MS. FOX: Yes.

19 BOARD MEMBER NEAL: What is the practical effect
20 of that order?

21 MS. FOX: The practical effect of that order is
22 the judge has told the Sanitation Districts that the project
23 they approved on November 25, 1992, which is the Puente
24 Hills Landfill expansion and construction of the material
25 recovery and rail loading facility, that they have to set

1 aside that approval and set aside the certification of the
2 EIR.

3 BOARD MEMBER NEAL: Okay.

4 MS. FOX: Now, wait. That's only --

5 BOARD MEMBER NEAL: Let me get a little more
6 basic.

7 MS. FOX: No. But you didn't let me finish,
8 because the other half of that is when the County acted in
9 the summer of 1992 on the land use approval, they acted on
10 that approval relying as a responsible agency on that EIR.
11 So neither one of those approvals stands and what you have
12 now at Puente Hills is a conditional use permit that expires
13 November 1, 1993, and that's all you have and that is the
14 practical effect.

15 BOARD MEMBER NEAL: Let me get a little more
16 basic.

17 MS. FOX: Sure.

18 BOARD MEMBER NEAL: Is it a true assumption that
19 the court would be the higher authority in saying, yes, this
20 landfill operates or, no, this landfill does not operate?

21 MS. FOX: Well, I don't know what you mean by
22 highest authority, but that court at this point in time has
23 jurisdiction over this board, over the County and over the
24 Sanitation Districts.

25 BOARD MEMBER NEAL: That to me is a higher

1 authority.

2 MS. FOX: That is a higher authority, yes. I
3 believe that.

4 BOARD MEMBER NEAL: So if you can follow me, if
5 there's a final order that from what I think I understand
6 you saying beyond November 1st the landfill cannot operate?

7 MS. FOX: That's correct.

8 BOARD MEMBER NEAL: Is that correct?

9 MS. FOX: That's correct.

10 BOARD MEMBER NEAL: Then what difference does it
11 make what we do here today?

12 MS. FOX: Because if you issue a permit that tells
13 them they can operate beyond November 1, 1993, you're
14 setting yourself above this court.

15 BOARD MEMBER NEAL: But if the court is the higher
16 authority and has the jurisdiction, I don't understand that.

17 MS. FOX: Well, I don't either, because I don't
18 know why a public agency would want to do something like
19 that in light of a court order.

20 BOARD MEMBER NEAL: But I'm talking about the
21 practical effect of law. The court has the authority no
22 matter what we do here today to say you do not operate
23 beyond November 1st. Is that right?

24 MS. FOX: But I think you have an obligation as a
25 board, as a statutory board, to follow the law and the law

1 is not only statutes and regulations but it's court orders.
2 And we have a valid court order.

3 So what is the practical effect if this board
4 turns around and says we're above you and we don't have to
5 follow you.

6 BOARD MEMBER NEAL: Do you have a copy of that,
7 can we --

8 MS. FOX: I do. I have only one, but I Federal
9 Expressed a letter to the chairman and every board member.

10 BOARD MEMBER NEAL: Was that the final order?

11 MS. FOX: Yes. That's the final ten-page order.

12 BOARD MEMBER NEAL: That was not --

13 MS. FOX: No. That is the final order.

14 BOARD CHAIRMAN FROST: You did the ex parte on it
15 earlier.

16 BOARD MEMBER NEAL: Right.

17 Then I'm confused about this whole final order
18 issue and what constitutes -- again, because I'm not an
19 attorney.

20 BOARD CHAIRMAN FROST: Mr. Huff.

21 BOARD MEMBER HUFF: I wanted to wait until all
22 questions of the witness had come to a conclusion because I
23 had several questions of Mr. Conheim, because he is our
24 counsel, and I listen to him very carefully all the time.

25 And so I wanted to explore that with him. I just

1 wasn't sure that the time was ripe yet. Maybe it is.

2 BOARD MEMBER NEAL: I'm trying to figure out first
3 of all this final order and this final order --

4 MS. FOX: If you look at the bottom of the page.

5 BOARD MEMBER NEAL: Let me finish.

6 MS. FOX: Excuse me.

7 BOARD MEMBER NEAL: If the final order is the
8 final word then I'm not sure that legally it makes any
9 difference what we do here today.

10 And if I'm misunderstanding that then I need to
11 know why.

12 BOARD MEMBER HUFF: Well, it also gets you to a
13 conversation about 60-day clock and the fact that the law --

14 BOARD MEMBER NEAL: I understand.

15 BOARD MEMBER HUFF: Okay. So but those are
16 questions I want to direct to Mr. Conheim, because he is
17 knowledgeable in these areas and deals with this stuff every
18 day because we ask him these questions every day.

19 BOARD MEMBER NEAL: Mr. Conheim, can you help me
20 with this?

21 CHIEF COUNSEL CONHEIM: Mr. Chairman, Ms. Neal,
22 Mr. Huff, members, Ms. Fox is also quite knowledgeable. We
23 have a difference of opinion as to the board's authority
24 today.

25 The bottom line is that I believe that the board

1 has authority to act on this permit and this permit today
2 for a number of reasons.

3 It is my opinion that while this is the judge's
4 minute order it by its own terms requires before a written
5 judgment to be submitted by the homeowners and circulated to
6 the respondents, the San Districts' attorneys for approval
7 as to form and content, and then presented to the board for
8 signing as a practical matter perhaps they won't agree and
9 two versions of an order will go before the judge and the
10 judge will pick one and sign it.

11 At that date, at that time and date it is my
12 opinion, and I differ from Ms. Fox, the judgment in this
13 case will be final.

14 CEQA, Public Resources Code 21167.3, tells
15 responsible agencies, like this board, assuming this board
16 were using this EIR -- I'll get to that, it is not -- that
17 it must consider the EIR valid until there's a final
18 judgment.

19 In my opinion the judgment is not final until the
20 actual words of the judgment are written, are presented to
21 the judge for signing.

22 We know what this judge feels about this case and
23 I don't deny that there's a greater likelihood than not that
24 the judge will sign an order that looks very much, signing a
25 judgment that looks very much like this.

1 But at this time my opinion is that that event has
2 not occurred and you are not barred from acting on the
3 assumption, that you were using this challenged EIR, which
4 you are not.

5 Second, the second point on this is that even when
6 this order is finalized, even if it were finalized today, a
7 judgment finalized today, in the manner that Ms. Fox has
8 stated to you, argues to you, the County of Los Angeles, who
9 is not a party to this lawsuit but is a respondent or
10 defendant in another lawsuit, the County of Los Angeles must
11 take action to rescind its use permit.

12 And until it does that or until a court does that,
13 that use permit is legally valid even though we know that
14 eventually it won't be.

15 So there's a kind of a two-step process, neither
16 step of which has occurred.

17 And the reason that's occurring, the reason those
18 facts are playing out here is that in the normal landfill
19 project that you see, the norm -- the more common one, a
20 private operator has applied to, say, the County of Los
21 Angeles and the County of Los Angeles would be the lead
22 agency, would have the EIR prepared and do the use permit.

23 In this case facts are different. Under CEQA the
24 lead agency in this case is the Sanitation Districts, who is
25 the public agency carrying out the project.

1 So this lawsuit had to be filed against the
2 Sanitation Districts to invalidate the EIR.

3 There's another lawsuit against the County of Los
4 Angeles, for which there is not a judgment, to invalidate
5 the use permit.

6 And in any event, based on this lawsuit, when the
7 judgment is final the CUP is still floating out there until
8 the County of Los Angeles rescinds it.

9 BOARD VICE CHAIRMAN CHESBRO: Its validity does
10 not depend on a valid EIR?

11 CHIEF COUNSEL CONHEIM: It absolutely does, but
12 the way the process occurs is that because they're not a
13 party of this lawsuit they then have to take an action to
14 rescind the EIR. It doesn't fall off the face of the earth.
15 They have to take an action. Rescind the CUP, I'm sorry. I
16 misspoke. Ralph caught me at it.

17 California Rule of Court 2(b) tells us that where
18 there are orders like this that by their own terms require
19 somebody to submit a written judgment, judgment isn't final
20 until that judgment is signed.

21 So one, two, three, four, and the fourth point I
22 want to make to you is that notwithstanding all of this
23 discussion, staff has not presented to you a proposed permit
24 or asked you to make a decision which uses the EIR in
25 question.

1 BOARD MEMBER HUFF: Say that again, Mr. Conheim.

2 CHIEF COUNSEL CONHEIM: Nothing in the permit
3 before you is asking you to make a discretionary decision,
4 only a ministerial decision to incorporate by reference
5 because of our process to incorporate all the existing
6 permits that use permit, which changes the closure date, you
7 are not being asked nor did -- the LEA did not submit to
8 you, nor has our staff asked you to consider, neither the
9 LEA nor our staff have reviewed the challenged EIR for
10 purposes of proposing this permit to you.

11 Now, I'm not going to sit here and tell you that
12 they're not related. Ms. Fox has amply explained to you
13 that the November -- the removal of the November 1st date is
14 a creature of the new use permit which is based on the
15 challenged EIR. And I'm not arguing that point.

16 But what I am telling you is that you are not
17 making a land use decision about November 1st, you're merely
18 the bookkeeper for checking a box saying that this valid use
19 permit, which is still valid, is incorporated by reference.

20 The other thing you're doing is you're being asked
21 to decide to approve a permit which simply removes reference
22 on its own, a textual reference to a closure date.

23 The new permit before you simply allows the
24 closure date to be -- to stay where it belongs as a textual
25 reference inside the use permit.

1 Nothing you do here today can create the right for
2 this landfill to operate beyond November 1, if all of
3 Ms. Fox's pieces fall into place, as well as the other
4 lawyers and the other parties' lawsuits, invalidating the
5 EIR and getting that use permit rescinded. If those things
6 occur nothing you do today can allow this landfill to
7 operate beyond November 1st.

8 BOARD MEMBER HUFF: We are not setting ourselves
9 up above the Superior Court of the County of Los Angeles?

10 CHIEF COUNSEL CONHEIM: The way I have advised you
11 I have least put you in a position where I hope the court
12 would understand that you are not being contemptuous of its
13 authority, that if anything one might argue that your lawyer
14 gave you the wrong advice and then you can blame me and I
15 can be held in contempt, but not you. And I don't think
16 I've given you the wrong advice.

17 BOARD MEMBER HUFF: Okay. Another question.

18 I was described as having misled the board in one
19 of my statements and that's a charge that I take quite
20 seriously.

21 Did I do so, Counselor?

22 CHIEF COUNSEL CONHEIM: I don't believe so,
23 Mr. Huff. I certainly didn't understand it to be
24 misleading.

25 BOARD MEMBER HUFF: Now, if I could continue,

1 let's talk about the 60-day clock set. You didn't talk
2 about that.

3 Is it true -- these microphones. Is it true that
4 if we don't take action today by virtue of Public Resources
5 Code whatever, at the expiration of 60 days this permit is
6 deemed as concurred in by the operation of law?

7 CHIEF COUNSEL CONHEIM: Mr. Huff, I like to refer
8 to the section as Public Resources Code 44000 whatever.

9 BOARD MEMBER HUFF: Okay.

10 CHIEF COUNSEL CONHEIM: And it actually is 44009,
11 I think. I just turned to it.

12 You're absolutely correct. If the board takes no
13 action to concur or object to this permit and 60 days runs
14 from the time the permit was submitted, stamped in for the
15 board's consideration, it is deemed to have been approved by
16 this board, to have been concurred in by this board by
17 operation of law.

18 BOARD MEMBER HUFF: 60 days expires when?

19 CHIEF COUNSEL CONHEIM: Approximately October
20 15th.

21 BOARD MEMBER HUFF: That was my understanding,
22 too.

23 CHIEF COUNSEL CONHEIM: Somewhere in that, one day
24 or so.

25 BOARD MEMBER HUFF: Close enough for government

1 work. Okay.

2 Could it be that this law is also contemptuous of
3 the authority of this Superior Court?

4 CHIEF COUNSEL CONHEIM: The law has no, itself, no
5 emotion or feeling.

6 BOARD MEMBER HUFF: You're a good straight man.

7 BOARD VICE CHAIRMAN CHESBRO: Mr. Chairman, what
8 about intent? Mr. Counsel, what about intent? Does the law
9 have intent?

10 CHIEF COUNSEL CONHEIM: The Legislature has intent
11 and I would wager to say that the Legislature was not aware
12 of --

13 BOARD VICE CHAIRMAN CHESBRO: It didn't intend to
14 be contemptuous.

15 CHIEF COUNSEL CONHEIM: Of Judge Wayne when --

16 BOARD MEMBER HUFF: They all intend to be judges.

17 BOARD MEMBER RELIS: Mr. Chair, I have a question
18 to pursue Ms. Neal's point.

19 She's basically, at least if I follow you, Kathy,
20 it's that we could find ourselves where we, depending on how
21 we were to vote, our vote could be viewed as simply advisory
22 if the court takes a position. We would just be, this is
23 our opinion of what should go on.

24 Is that a fair statement if the court decides --
25 well --

1 CHIEF COUNSEL CONHEIM: I see what your --
2 Mr. Relis, the decision you make is to concur in a permit
3 and allow its issuance. But I think you're saying in
4 another way what I tried to say is that the permit has
5 absolutely no effect if all of the other pieces fall into
6 place later. The site can't operate if the land use
7 decision doesn't stand, allowing it to go beyond November
8 1st.

9 And that may very well occur. As a matter of fact
10 if I were a betting man I would bet that way, based on what
11 this judge has said.

12 However, the last chapter hasn't been written. We
13 know from the record of the proceeding in court that the San
14 Districts' lawyers first asked the judge if they could make
15 a motion that day when I was there to limit the application,
16 the impact of the regs. She said no, make your motions
17 afterwards, and let me make one ruling at a time.

18 Now, they still hadn't done that because they have
19 an opportunity, I presume, to at least show their objection
20 to what I would believe to be the language to be submitted
21 by the homeowner and school district opposition.

22 And lots of things could play out between now and
23 November 1st.

24 But when this order is final and when the County
25 rescinds the use permit for purposes of the entitlement to

1 operate, it's over, unless the San Districts is able to go
2 to another court or that court or the appellate court and
3 get a stay and I don't want to speculate on that. There's
4 no point in it.

5 BOARD MEMBER RELIS: Just one more point now.

6 Not speaking to the process but speaking to one of
7 the issues of the permit. The fact is that the space didn't
8 fill in the time that it was anticipated. So we have this,
9 you know, maybe because of AB 939 hopefully, but anyway it
10 didn't fill within that time. And that's our issue, isn't
11 it? I mean, it's the air space over the existing permitted
12 area and solely that. I mean, separating the green waste
13 issue. And that it's to me somewhat of, you know, that
14 could have filled by now and we wouldn't have been dealing
15 with this matter. Correct?

16 CHIEF COUNSEL CONHEIM: Based on -- pardon me.

17 BOARD MEMBER EGIGIAN: You said this is dealing
18 with this mess?

19 BOARD MEMBER RELIS: No. I didn't say that.

20 CHIEF COUNSEL CONHEIM: Based on the terms of the
21 old use permit, yes, that could have happened. This would
22 not have even been here, the capacity could have been
23 reached.

24 BOARD MEMBER RELIS: So it's coincidental, would
25 you say that?

1 CHIEF COUNSEL CONHEIM: I --

2 BOARD MEMBER RELIS: I mean, we're here today on
3 this issue over a preexisting capacity matter that was
4 approved long ago that some air space that remains, and
5 that's the 15-month question or whatever we want to call it.

6 BOARD MEMBER HUFF: I think it's the fruits of AB
7 939.

8 BOARD MEMBER EGIGIAN: It is.

9 CHIEF COUNSEL CONHEIM: What may not be
10 coincidental is the fact that it didn't fill as fast as ten
11 years ago they estimated it would.

12 BOARD MEMBER HUFF: It's not as much garbage as
13 ten years ago people thought. I think that's because 939 is
14 working and I'm proud of it.

15 BOARD CHAIRMAN FROST: Any other questions,
16 Mr. Huff?

17 BOARD MEMBER HUFF: None.

18 BOARD CHAIRMAN FROST: Okay.

19 BOARD MEMBER HUFF: I would move the item,
20 Mr. Chair.

21 BOARD CHAIRMAN FROST: I have another speaker that
22 wishes to speak.

23 MS. FOX: Mr. Chairman, I've come a long way,
24 could I just finish my record? I can do it very briefly,
25 because I can read the vote, I know what's happening, but if

1 I could just be allowed to complete my record since I came
2 this far.

3 BOARD CHAIRMAN FROST: Go ahead.

4 MS. FOX: Thank you.

5 I just need to respond to a couple points to be
6 sure they're there.

7 Public Resources Code 21167.3, the language does
8 not say, talk about a responsible agency pending final
9 judgment. The operative phrase and the exact quote is
10 "pending final determination." The word is "determination"
11 not judgment, and the court ruling I've given you is a final
12 determination.

13 Number two, you've been told by your counsel that
14 you're not using the challenged EIR to the point -- to the
15 extent that you are going to change a date relying on a new
16 CUP issued by the County in 1993, you most definitely are
17 using and relying upon the validity of the challenged EIR.

18 Number three, the County, I disagree that the
19 County has to take an affirmative action or some position to
20 rescind the CUP. It's already been done by the court.

21 Number four, number four is again the same as
22 number two, this permit before you does pertain to the EIR
23 that's been overturned and the fact that this has now been
24 characterized as a, quote, "ministerial decision," unquote,
25 to change a date, I don't believe -- I don't believe

1 responds to it. You had a land use decision that at one
2 point said November 1, 1993.

3 It's the only land use decision that's in effect
4 at this time and by you saying, trying to characterize your
5 decision as ministerial, I don't believe that legally it
6 would be viewed that way.

7 Thank you very much for this opportunity to appear
8 in front of you and for your courtesy. I very much
9 appreciate it.

10 If at any time we can provide any information or
11 respond to any questions anyone might have, we would be
12 happy to do it.

13 Thank you.

14 BOARD CHAIRMAN FROST: Thank you, Ms. Fox.

15 Yes, Ms. Neal.

16 BOARD MEMBER NEAL: You had some more?

17 BOARD CHAIRMAN FROST: There's another speaker.

18 BOARD MEMBER NEAL: Why don't we finish the
19 speakers.

20 BOARD CHAIRMAN FROST: Mr. Steve Archibald, from
21 Assemblywoman Hilda Solis.

22 MR. ARCHIBALD: Thank you, Mr. Chairman, members.
23 And I will be brief and hopefully very relevant.

24 On the matter before us today, I think we would
25 suggest that while the Waste Board certainly does have the

1 authority to act that the action to concur is inappropriate.

2 And Ms. Fox has very eloquently and potently
3 discussed the matter.

4 This request to the board, this agenda item, is
5 predicated on LA County's issuance of a conditional use
6 permit. When all the signatures are signed on this final
7 judgment, and hopefully that would be within the next
8 several days, we will not have a conditional use permit
9 available for this site.

10 The final and signed, sealed judgment is a
11 ministerial action that will be taken, like I said,
12 hopefully in the next several days, hopefully before October
13 16, which is the 60-day limit.

14 And we would prefer that the item be removed. In
15 fact we would request a motion for that in some form to be
16 removed from the agenda, to be delayed, with the hope that
17 the matter will be resolved at the local level within the
18 court by October 16th.

19 Failing that, we would ask that the Waste Board
20 not concur in request for this permit.

21 And I believe I adequately represent Assemblywoman
22 Hilda Solis.

23 I failed to mention beforehand at the beginning
24 that I am the consultant to the Assembly Select Committee on
25 Groundwater Contamination and Landfills and have been with

1 the Assembly for 12 years on environmental matters.

2 And so I'm representing Hilda Solis as the chair
3 of that Select Committee. She in turn represents Hacienda
4 Heights, which is the most affected immediate neighborhood
5 adjacent to Puente Hills.

6 Our request today is, number one, take this item
7 off the agenda with the hope that there will be final
8 judgment within the 60-day period.

9 Number two, if not, please do not concur in this
10 request.

11 Thank you.

12 BOARD CHAIRMAN FROST: Mr. Huff.

13 BOARD MEMBER HUFF: Yes. Question.

14 Now, Assemblymember Solis was at our committee
15 hearing and if memory serves me correct her testimony that
16 day, the essence of it was a request that we condition our
17 concurrence on a couple of operational aspects at the
18 landfill relative to I believe canyons four and five and
19 consideration of alternative plans of operation.

20 I do not recall that on Wednesday last she made a
21 request that we either remove this item from today's agenda
22 or not concur.

23 Am I to understand then that her position has
24 changed or did I misunderstand her position originally?

25 MR. ARCHIBALD: There are two factors involved

1 there.

2 Number one, you so graciously, as chair of the
3 committee, allowed Ms. Solis, Assemblywoman Solis, to
4 testify before the rest of the individuals, before I believe
5 it was Item 5 --

6 BOARD MEMBER HUFF: That's correct.

7 MR. ARCHIBALD: -- came forward.

8 She testified in the morning and presented her
9 statement without any knowledge of whether or not there
10 would be a court decision of some form coming down later
11 that day.

12 In fact that decision did come later that day,
13 which pretty much changed the ground rules under which we
14 were operating at the time.

15 This second thing I would point out is that the
16 gist of her comments were that if there was going to be a
17 recommendation to the full Waste Board to concur with the
18 request for permit, that at least that ought to be
19 predicated, ought to be conditioned upon the Sanitation
20 Districts taking greater opportunity to review and to
21 analyze alternatives that the local folks had provided
22 through an engineer for design of the expanded landfill.

23 So I don't want to get into a discussion of the
24 expanding landfill too much, because that's been deemed
25 rather irrelevant at this point.

1 But those are the two main reasons why she spoke
2 in that manner.

3 I imagine if she had spoken during the regular
4 discussion on Item 5 and with the knowledge of the court's
5 final decision, final order, having come down, she might
6 have made some changes.

7 BOARD MEMBER HUFF: But you can understand my
8 surprise in your statement this morning?

9 MR. ARCHIBALD: Uh-huh. Well, no, I think a
10 person would understand that Ms. Solis who spoke, I believe
11 around 11:00 o'clock, which predated or pre-houred the
12 decision of the court, was not given an opportunity to
13 really absorb what the court later came out with.

14 BOARD MEMBER HUFF: That was then and this is now.

15 MR. ARCHIBALD: Right.

16 And the fact is that had we all had that knowledge
17 at 11:00, the statement would have been different because
18 the circumstance would have been different.

19 BOARD MEMBER HUFF: Okay.

20 BOARD CHAIRMAN FROST: Thank you. Now, any
21 further discussion by board members on this item?

22 BOARD MEMBER RELIS: I have, but go ahead,
23 Ms. Neal.

24 BOARD CHAIRMAN FROST: Ms. Neal and then
25 Mr. Relis.

1 BOARD MEMBER NEAL: I've been sitting here today
2 listening to all the comments and we have been discussing it
3 around the board over the course of the past several days
4 since the Permit Committee and there's been a lot of law
5 thrown around.

6 We, I think, fully respect and acknowledge the
7 fact that this board is not a court of law and we do not
8 hand down judicial decisions. We are a policy board that
9 directs statewide policy relative to solid waste.

10 And although there have been numerous citations,
11 we also operate under another law, AB 939, which gives some
12 very broad but also some very specific direction in terms of
13 what this board is supposed to be about.

14 We have a little running tag, I guess it goes back
15 and forth in this board, that depending on the circumstance
16 certain interest groups have no better friend than specific
17 members of this board.

18 I think that we can probably state with a high
19 degree of certainty that landfills certainly do have better
20 friends than me on this board. I think that's something
21 that I would not get a lot of disagreement on.

22 However, with this particular situation I've
23 listened to all the details and then I took a step back and
24 said how does this all work with 939 and what we are
25 supposed to be about on this board relative to 939.

1 And it occurred to me that the whole foundation of
2 939 is to extend the life of our landfills.

3 And we have a situation here where a permit was
4 written, which as I understand all the requirements in there
5 predated AB 939, and a date was established for closure
6 based on a best guess at that time of when that landfill
7 would reach its full capacity.

8 We have a situation now where we're coming up on
9 the date, however this landfill has not reached its full
10 capacity.

11 I would like to think that the reasons for that is
12 because this board is doing such a good job. However, I
13 think right now the reasons why the capacity has not been
14 reached is not the real issue. The real issue is the fact
15 that it has not.

16 So for whatever reason, the life of this landfill
17 has been extended and that's what AB 939 is supposed to be
18 about.

19 Given that we are the policy board who is supposed
20 to move the AB 939 agenda, it seems to me that artificially
21 set dates such as this fly in the face of what we're trying
22 to do with AB 939.

23 Because I'm sure that were I a landfill operator
24 looking at this November 1st date knowing that I have an
25 awful lot of capacity left that will not be available to me

1 after this date, I'm putting up the sign you all come. You
2 know, may even try some 24-hour operation. Sure will be a
3 violation of the permit but we don't have that much longer
4 that we have to worry about it. By the time they really
5 close us down we'll be closed anyway.

6 So the logic fails me in this particular
7 situation.

8 I think it is our responsibility to make our
9 decision today based on what is sound AB 939 policy.

10 And again recognizing that ultimately the courts
11 will have the final say on the date issue, respectfully
12 acknowledge that and understanding that if in fact the court
13 decides that the date issue ought to be the issue that
14 prevails, what we do here today is not going to make a
15 difference one way or another.

16 I think that we need to make, base our decisions
17 on what is sound AB 939 policy.

18 BOARD CHAIRMAN FROST: Thank you, Ms. Neal.

19 Mr. Relis.

20 BOARD MEMBER RELIS: Some comments that in part go
21 along with that.

22 But let me preface by just saying I took the time
23 to read this body of Stetson and all that and the water
24 issues are outside our discussion today, but I was curious
25 because it obviously is a very big matter for the EIR

1 purposes in the expansion.

2 Clearly, most of the issue is water and the
3 description of what will be AB 939 related facilities in the
4 expansion, the MRF and the intermodal system.

5 So there are questions down the line that I think
6 are very relevant to this board.

7 But in the interim I see it this way.

8 A vote against concurrence, and we're balancing
9 the drive to reduce and recycle, that's the area I'm most
10 interested in, I think it's the area Ms. Neal has spoken to,
11 but we also have some obligation on the capacity question
12 and I just want to say a few words about that.

13 Whether a no vote on this facility, on
14 concurrence, or nonconcurrence, would be tantamount to a
15 closure from this board, based on a very unresolved debate I
16 think over water issues that haven't been engaged in by this
17 board and nor is it our responsibility. So I can't support
18 closure. I couldn't do that for several reasons.

19 First of all, I think that where the waste would
20 go is completely speculative. I mean, you could take the
21 view that we've been very successful on diverting and that
22 there's far more capacity than we ever dreamed exists. I
23 think that's very speculative, just as the LA San's
24 projections that we would be in a capacity crisis today have
25 not played out.

1 But we have some responsibility, a significant
2 one, to make sure that issues of 12,000 tons a day have
3 to -- we as a board, I think, have to take some
4 responsibility for that.

5 The environmental impact of 12,000 tons per day of
6 trucks going every which way throughout the southland to
7 undetermined sites to potentially even more problematic
8 landfills is unacceptable to me from that perspective. This
9 would be equivalent, I think, to a capacity meltdown for the
10 Southern California area in question.

11 And that's serious whether I'm -- I'm not a
12 landfill proponent, but it's still a serious situation.

13 Our concurrence would be simply if we were to vote
14 to concur would be simply, as I see it, to fill an area
15 which Ms. Neal amply described in the way she did, so I
16 won't repeat that.

17 I think the more important issue for this board
18 and to carry the 939 consideration forward is the permit --
19 when the permit expansion comes before this board within a
20 relatively short period, probably less than a year, I think
21 there are some very substantial issues related to 939.

22 And I'd just like to highlight those for all of us
23 here and for the district.

24 At that time the Stetson report concerns and all
25 the water issues will be thrashed and must be in an approved

1 format within the EIR if it's going to come to us.

2 At that time I will be evaluating the submittal on
3 the environmental issues that we generally take on with
4 special emphasis on LA's diversion for the proposed MRF that
5 it is building or proposing to build.

6 I have concerns about LA's dependence on our green
7 waste for a diversion on that issue. That will be a big
8 concern.

9 I'm very concerned on the slow progress that has
10 been set forth by LA County on the MRF and dependence of
11 that on the expansion approval being hand in hand. Because
12 if there's a delay on one it could seriously impact the
13 diversion.

14 And I note in this regard that there are many
15 cities within the serviced areas that have very low
16 diversion levels at this point. And so I have a large
17 concern there.

18 I'm also looking for more leadership and
19 initiative from LA County on diversion, reduction, and
20 recycling and market development.

21 We have had long discussions with LA County on
22 some of these matters and I think we need more effort from
23 that.

24 And finally I'm concerned about the relationship
25 between the district and its neighbor, its immediate

1 neighbors. The association and the parties around it
2 that -- what we heard last week in Whittier I thought were
3 reasonable statements made by the group, that these were
4 well reasoned. And we have heard such comments made in
5 other hearings where there has been successful resolution
6 and I pointed out at that time the Lopez Canyon discussion.

7 So I would just simply offer that as a perspective
8 and laying out where I'm coming from on this.

9 BOARD MEMBER EGIGIAN: Mr. Chairman.

10 BOARD CHAIRMAN FROST: Mr. Egigian.

11 BOARD MEMBER EGIGIAN: I feel I have to say a few
12 words, after all I'm the one --

13 BOARD MEMBER HUFF: Very few, Sam.

14 BOARD CHAIRMAN FROST: I'd like to say right now
15 I'm not going to explain why I'm voting the way I am.

16 BOARD MEMBER EGIGIAN: I'm not going to explain
17 why I'm voting, but I just wanted to say here that the
18 landfills have no better friend than me, because I used to
19 haul to them, I know how necessary they are, and I know that
20 we have a capacity problem regardless of what anybody tries
21 to say about it.

22 So, Mr. Chairman, now that I've served my
23 constituency, I can go ahead and vote on this thing.

24 BOARD CHAIRMAN FROST: All right. Anyone else
25 have a constituency to serve?

1 Mr. Huff.

2 BOARD MEMBER HUFF: Well, I serve the public,
3 Mr. Chairman.

4 BOARD CHAIRMAN FROST: All right.

5 BOARD MEMBER HUFF: As does Ms. Neal, as does
6 Mr. Chesbro, as do you. Okay. By law we are
7 representatives specifically of the public, whereas --

8 BOARD VICE CHAIRMAN CHESBRO: This public has no
9 better friend than the four of us.

10 BOARD MEMBER HUFF: That's right.

11 BOARD CHAIRMAN FROST: What do you have to say on
12 behalf of your constituents?

13 BOARD MEMBER HUFF: Not much.

14 I just wanted to make the point, because I really
15 do listen to input provided by both the community as well as
16 legislative members, I was a little surprised at the shift
17 in position, but I did want to make the point that with the
18 approval of alternative daily cover the operator will be
19 able to reduce the borrowing of virgin soil from surrounding
20 hills, which was an issue to Assemblymember Solis and the
21 surrounding homeowners in the testimony that we heard
22 Wednesday.

23 And so I'm not going to represent that it's a
24 cure, but it does at least serve to mitigate one of the
25 concerns that were raised last Wednesday about the

1 continuing operation.

2 And I just wanted to mention that for the record,
3 since everyone is mentioning everything for the record. I
4 hate to be the person that has to read this record at some
5 point in time in the future.

6 With that, I'll move approval of the staff
7 recommendation, which is concurrence.

8 BOARD MEMBER EGIGIAN: I second it.

9 BOARD VICE CHAIRMAN CHESBRO: Mr. Chairman.

10 BOARD CHAIRMAN FROST: Mr. Chesbro.

11 BOARD VICE CHAIRMAN CHESBRO: Before we vote, you
12 probably assumed I wouldn't go down without any comment at
13 all.

14 BOARD CHAIRMAN FROST: You leave me all alone
15 then.

16 BOARD VICE CHAIRMAN CHESBRO: I'm going to vote no
17 on the motion, not because of the merits of extending the
18 date. I don't -- haven't really formed a firm opinion on
19 that from a policy standpoint and were it not for the issues
20 I'm going to mention in a moment I probably would be
21 supporting, and not because I oppose the alternative daily
22 cover continuing for operational purposes. I support that.

23 The problem is that the date extension is based on
24 a date in, a date extension and a conditional use permit or
25 a change in the conditional use permit that is also

1 predicated upon an environmental impact report which very
2 likely is going to be declared invalid by a court. Whether
3 we've had a debate here whether it already has or whether
4 it's going to be, but there seems to be very little
5 disagreement that the court's going to rule that the EIR is
6 invalid.

7 So if it were up to me I would prefer that we wait
8 on this decision until such a time as we had the judge's
9 ruling.

10 In any case obviously we have a deadline of
11 October 15 if we're going to have a vote on this.

12 But it seems to me there's some chance that there
13 would a signed opinion by the judge and we could then act
14 accordingly or not act accordingly and that would be my
15 preferred approach.

16 So it's not a vote on the merits of the case, it's
17 a vote on whether or not we think we have a -- we likely
18 have a valid CUP with a change in date that then would
19 trigger our response which would extend the date in the
20 permit, the board's permit. I don't think we do.

21 BOARD CHAIRMAN FROST: Okay. Mr. Huff.

22 BOARD MEMBER HUFF: Yes. I want to be precise.

23 My motion is to concur in issuance of Solid Waste
24 Facilities Permit No. 19-AA-0053 and to adopt Permit
25 Decision No. 93-93.

1 Did I do it right, Counsel?

2 CHIEF COUNSEL CONHEIM: Perfectly, Mr. Huff.

3 BOARD MEMBER HUFF: As usual.

4 BOARD CHAIRMAN FROST: I just want to offer one
5 observation. If we're guessing what the court is going to
6 do, and I suspect that you're all right in predicting what
7 the court is going to do, you can also probably predict that
8 that order will be stayed almost immediately by an appellate
9 court and that would also be a pretty good guess of what's
10 likely to happen if people want to guess on what's going to
11 happen on future court decisions.

12 But we have a motion and a second.

13 Would you call the roll, please.

14 BOARD SECRETARY REID: Board Member Chesbro.

15 BOARD VICE CHAIRMAN CHESBRO: No.

16 BOARD SECRETARY REID: Huff.

17 BOARD MEMBER HUFF: Aye.

18 BOARD SECRETARY REID: Egigian.

19 BOARD MEMBER EGIGIAN: Aye.

20 BOARD SECRETARY REID: Neal.

21 BOARD MEMBER NEAL: Aye.

22 BOARD SECRETARY REID: Relis.

23 BOARD MEMBER RELIS: Aye.

24 BOARD SECRETARY REID: Chairman Frost.

25 BOARD CHAIRMAN FROST: Aye.

1 Okay. We're now going to break for lunch. We've
2 got the Subtitle D. Okay. 2:00 o'clock.

3 (Thereupon the lunch recess was taken.)

4 BOARD CHAIRMAN FROST: Okay. The California
5 Integrated Waste Management Board is back in order.

6 We have one item.

7 BOARD MEMBER HUFF: We were never out of order.

8 BOARD CHAIRMAN FROST: We were never out of order.

9 We have one item remaining, Item 15, consideration
10 of policies and procedures for implementation of Subtitle D,
11 flexibility and alternatives.

12 Tom Unsell will lead this presentation unless
13 Mr. Huff wishes --

14 BOARD MEMBER HUFF: No, no. I've had lunch.

15 MR. UNSELL: Thank you.

16 BOARD MEMBER HUFF: Blood sugar is up.

17 MR. UNSELL: This item is a follow-up to last
18 month's presentation.

19 We're -- there's been an identification of
20 implementing the alternatives under the areas of flexibility
21 afforded under Subtitle D in the State's program.

22 Within the packet is a resolution numbered 93-102
23 with the staff recommendation that that delegation of
24 authority be given to the executive director.

25 In reality, the processing procedures identified

1 in that summary table on page 235 of your packet is an
2 identification of existing procedures and policies where
3 that authority already exists.

4 By putting it on to one table and having a clear
5 resolution design we feel that it would be an example of
6 streamlining the processing and a clear identification of
7 all participants on how those would be processed.

8 The one item on the summary table, again page 235,
9 the first item is an extension of closure date. We are
10 recommending that that stay with the board for its
11 processing. It has significance in permit issues and is
12 actually a permit type issue and we are recommending that
13 that stay with the board.

14 The other issues then would be delegated to the
15 executive director or his designee.

16 I should also identify that the second item known
17 as the use of alternative covers is processed under the
18 existing alternative daily cover policy and procedure
19 adopted by the board. That is for the authorization of a
20 demonstration project, not of a permit change.

21 If there are any questions at this time?

22 BOARD CHAIRMAN FROST: Any questions on this item,
23 any board members?

24 BOARD VICE CHAIRMAN CHESBRO: Seems pretty
25 straightforward.

1 BOARD MEMBER HUFF: Mr. Chairman.

2 BOARD CHAIRMAN FROST: Mr. Huff.

3 BOARD MEMBER NEAL: You should have checked.

4 BOARD MEMBER HUFF: I'm glad that there are no
5 questions.

6 The reason I didn't put this on consent in the
7 committee, because no one spoke against it, it was a 3-0
8 vote. It was perfect consent bait.

9 But I didn't put it on consent because I want
10 everyone to understand that this is a delegation, that at
11 some point in time in the future I'm convinced someone is
12 going to say why did the executive office or so and so do
13 that and the answer is going to be, well, because it was
14 delegated to them. And they're going to say when did we do
15 that?

16 BOARD VICE CHAIRMAN CHESBRO: And you're going to
17 say?

18 BOARD MEMBER HUFF: The answer is September 22nd,
19 1993.

20 BOARD VICE CHAIRMAN CHESBRO: At 2:20.

21 BOARD MEMBER HUFF: Yes.

22 BOARD CHAIRMAN FROST: 2:00-ish.

23 BOARD MEMBER HUFF: 2:10.

24 BOARD CHAIRMAN FROST: Okay. All right. Any
25 other discussion on this item?

1 BOARD VICE CHAIRMAN CHESBRO: The one question I
2 had was clarified and answered. I had asked staff earlier
3 and they clarified it on the alternative daily cover.

4 BOARD CHAIRMAN FROST: All right. Anybody ready
5 to make a motion then?

6 BOARD MEMBER HUFF: I'll move it.

7 BOARD MEMBER RELIS: Second.

8 BOARD CHAIRMAN FROST: It's moved and seconded.
9 Call the roll, please.

10 BOARD SECRETARY REID: Board Members Chesbro.

11 BOARD VICE CHAIRMAN CHESBRO: Aye.

12 BOARD SECRETARY REID: Huff.

13 BOARD MEMBER HUFF: Aye.

14 BOARD SECRETARY REID: Egigian.

15 BOARD MEMBER EGIGIAN: Aye.

16 BOARD SECRETARY REID: Neal.

17 BOARD MEMBER NEAL: Aye.

18 BOARD SECRETARY REID: Relis.

19 BOARD MEMBER RELIS: Aye.

20 BOARD SECRETARY REID: Chairman Frost.

21 BOARD CHAIRMAN FROST: Aye.

22 BOARD VICE CHAIRMAN CHESBRO: Before we move on to
23 the next item, Mr. Chairman, can I ask that my vote on
24 Item -- the Chairman asked that I vote on Item 9 this
25 morning, be recorded as an aye. I was out of the room.

1 BOARD CHAIRMAN FROST: Record Mr. Chesbro's aye on
2 Item 9.

3 BOARD VICE CHAIRMAN CHESBRO: Thank you.

4 BOARD CHAIRMAN FROST: Okay. Any other business?
5 Ms. Neal.

6 BOARD MEMBER NEAL: We were going to have Ms. Rice
7 come back at the end of the meeting to give us some updated
8 information on the Boatwright bill and the last minute
9 amendments which were made to that bill.

10 I'd like to have her do that now.

11 My recommendation would be, however, since this
12 was not a noticed consideration item for the board today
13 that we deal with this bill the same way that we have done
14 in terms of the delegation that was previously approved for
15 enrolled bill reports.

16 BOARD VICE CHAIRMAN CHESBRO: Well, maybe I can
17 simplify things a little bit by saying that I've had some
18 reconsideration since this morning's discussion and had a
19 chance to look at and be reminded of the content of the
20 amendments to the bill and the bill itself and I do have a
21 real problem with it and I think we should probably still
22 have an opposed position.

23 The main problem is that I think it would continue
24 to be or -- in fact it would be an increased cost to the
25 board in terms of the amount of staff time that would be

1 involved in reviewing compliance by a significant portion of
2 the industry and I don't think it accomplishes any greater
3 flexibility or successful progress in recycling plastics,
4 so.

5 BOARD CHAIRMAN FROST: According to Ms. Neal's
6 statement, though, we're not considering our position at
7 this time. We're only getting an update on the amendments.

8 BOARD VICE CHAIRMAN CHESBRO: I'm making it clear
9 that I don't intend to push the issue.

10 BOARD MEMBER RELIS: It just stands?

11 BOARD CHAIRMAN FROST: Yeah. We're not taking any
12 action on our position, we're only getting an update.

13 I would like to get clarification on what our
14 position was. Was it --

15 MS. RICE: It was an oppose.

16 BOARD CHAIRMAN FROST: Not oppose unless amended?

17 MS. RICE: That's correct.

18 BOARD CHAIRMAN FROST: Okay.

19 All right. Go ahead.

20 MS. RICE: The version of the bill that was
21 enrolled to the Governor was amended a couple times in the
22 last week of session. The final version exempts until
23 January 1, 1997, rigid plastic packaging containers from the
24 requirements of this law if they are used for food or
25 cosmetics.

1 Instead, those specific manufacturers of those
2 food and cosmetics containers would be required to submit a
3 report to the board by January 1, 1995, describing and
4 demonstrating that they are taking and will continue to take
5 all feasible actions to ensure the reduction, recycling or
6 reuse of the containers that are used with food and
7 cosmetics.

8 We are then required to review and approve or
9 disapprove the reports that come in.

10 And because of this new reporting requirement,
11 staff did identify a fiscal impact to the bill of anywhere
12 from two to five PY to review and make recommendations to
13 the board on these reports that will be submitted by food
14 and cosmetics manufacturers.

15 The reason for the variation is that the bill does
16 contain a feature which says that trade associations that
17 represent these folks should seek to get agreements with the
18 manufacturers to do one report for the trade association
19 covering a whole group of manufacturers, for example. But
20 we have no way of knowing how many trade associations will
21 choose to do this, how many manufacturers may still wish to
22 do the reports on their own. It's pretty hard at this point
23 to know how many reports we would actually get in and have
24 to review if the bill were signed into law.

25 There's also a requirement that we draft

1 regulations to govern this report submittal process and what
2 they're required to have in it, how we would approve and
3 disapprove these reports, and how -- there is still a
4 potential if we disapprove a report, there are two options
5 for a manufacturer. They either -- and they select the
6 disciplinary option, we do not. One is a fine provision,
7 which is similar to the current law, which gives us the
8 ability to levy up to \$100,000 fine. So there is that
9 option of fines.

10 Or that they can come up with other ways in which
11 they will continue to further exercise means to reduce or
12 recycle or try to meet the intent of this law.

13 So it's taken the burden off them for two years
14 and instead they're reporting to us and we're approving or
15 disapproving these reports.

16 BOARD MEMBER HUFF: Manufacturers like this?

17 MS. RICE: The manufacturers, this is their bill.

18 BOARD CHAIRMAN FROST: This is their amendment.

19 BOARD MEMBER RELIS: Just leave it alone.

20 BOARD CHAIRMAN FROST: Can you tell me, did

21 Senator Hart end up supporting this bill?

22 MS. RICE: My understanding is he is not pleased
23 with the final version of the bill.

24 BOARD CHAIRMAN FROST: So he didn't vote for it?

25 MS. RICE: I did not check his vote. We called

1 his office and were told that they were not happy with the
2 final version of the bill.

3 BOARD MEMBER NEAL: I have to imagine that he
4 didn't.

5 BOARD CHAIRMAN FROST: I think, though, the bill
6 is going to be signed, so we probably ought to be prepared
7 to --

8 BOARD MEMBER HUFF: We could have anywhere between
9 zero and 200 PYs devoted to this bill.

10 MS. RICE: That was the staff concern, that it's
11 an unknown.

12 BOARD MEMBER HUFF: I would suggest that we have
13 closer to zero.

14 BOARD CHAIRMAN FROST: Okay.

15 BOARD MEMBER RELIS: Thanks for the information.

16 BOARD CHAIRMAN FROST: Thank you for the
17 information. Okay.

18 Any other items to come before the board? Okay.

19 If not, we are adjourned.

20 (Thereupon the meeting was
21 adjourned at 2:15 p.m.)

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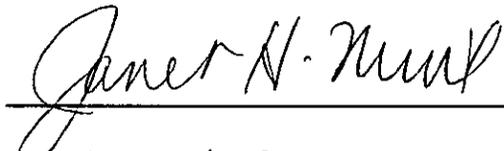
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I, JANET H. NICOL, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing meeting in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of October 1993.



Janet H. Nicol
Certified Shorthand Reporter
License Number 9764