

MEETING
STATE OF CALIFORNIA
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
MARKET DEVELOPMENT COMMITTEE

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Board Room
8800 Cal Center Drive
Sacramento, California

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THURSDAY, DECEMBER 2, 1993

10:10 A.M.

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A P P E A R A N C E S

Committee Members:

PAUL RELIS, Chairman
WESLEY CHESBRO, Member

STAFF MEMBERS PRESENT:

ROBERT F. CONHEIM, Legal Counsel
DANIEL GORFAIN, Director, Market Development
SHARON WADDELL, Committee Secretary

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P R O C E E D I N G S

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3 COMMITTEE CHAIRMAN RELIS: Call to order the Market
4 Development Committee. Ms. Waddell, would you call the roll
5 please?

6 MS. WADDELL: Board Member Chesbro.

7 COMMITTEE MEMBER CHESBRO: Here.

8 MS. WADDELL: Chairman Relis.

9 COMMITTEE CHAIRMAN RELIS: Here.

10 Now I'll just point out this is the Market
11 Development Committee under the restructuring of the
12 committees that occurred on Monday. So this is a two-member
13 committee awaiting some determination in the future about who
14 will fill the absent position on the Board. So this is it,
15 Wesley and I.

16 Today I'd like to note at the outset that we would
17 like to take items eight and nine and take them to the top of
18 the agenda. And we're pulling item two, although we'll
19 have -- I guess, rather we'll have a short discussion of that
20 item, but we're not, it's not going to be a consideration
21 item. So I'll clarify that point.

22 And I wanted to ask if there are any ex parte
23 communications that Committee Members want to state?

24 None at this time? Okay.

25 COMMITTEE MEMBER CHESBRO: I guess I could, yeah.

1 Let me say, I was in San Francisco yesterday at the CSAC
2 conference, and I talked to two representatives of CRRC, Dave
3 Vakraza and Patty Garbarino, about the recycled content for
4 paper on the agenda, committee's agenda today.

5 COMMITTEE CHAIRMAN RELIS: Okay. And also note
6 that we've received a written communication concerning item
7 five from CAW regarding the recycling equipment tax credit.
8 That came in, I believe, this morning.

9 Okay. Let's move to the agenda and then take item
10 eight.

11 DIRECTOR GORFAIN: Mr. Chairman, the item eight is
12 the status of the Compost Market Program. And the item will
13 be presented by Pat Paswater.

14 MR. PASWATER: Good morning, Committee Members. I
15 would like to present the Compost Market Program progress
16 that's been made in the last year. I'm Pat Paswater from the
17 Public Private Procurement Section. As you're aware, there
18 were state mandates, and the SB 1322 chaptered in 1989 that
19 relate to the Compost Market Program, that was the title of
20 that legislation. Public Resources Code 42240 and 42242 have
21 been accomplished to date, and I'd like to report on those
22 this morning.

23 The first one dealt with the Department of General
24 Services in cooperation, and the Board in cooperation with
25 affected state agencies, would work with other state agencies

1 in the evaluation of compost. There was four entities that
2 were contracted with the Board made available approximately
3 \$35,000 to each study.

4 The first one I'll address will be the one with the
5 California State Polytechnic University in Pomona. The
6 evaluation compared economic effect of different compost
7 blends. Two compost products containing sewage sludge and a
8 walnut tree compost were utilized. The final report was
9 submitted July 1992, and you did receive the previous
10 information on this study.

11 The result showed significant difference among
12 green house plants, compost, and the interactions of those.
13 Greater yield was noted from the compost sludge that
14 contained highest levels of nitrogen. The researcher Dr.
15 Barnes made recommendations relative to his evaluation that
16 product standards be developed while addressing pesticide
17 residue and potential phytotoxicity of materials.

18 In addition, he recommended development of new
19 markets. He did work in conjunction with the Santa Barbara
20 County officials prior to development of their contract with
21 the Board. And some of that ongoing work is a result of
22 suggestions that Dr. Barnes made.

23 The next agency that I will report on, on their
24 compost evaluation is the Department of Transportation. They
25 conducted evaluations in Sacramento and San Diego. They

1 primarily used mulch, and some compost on roadside plantings,
2 mulch wood waste or yard trimmings and compost derived from
3 yard trimmings were the materials per se. Their report was
4 submitted to the Board staff in August, 1993. The results
5 are as follows: The term "composted mulch" was defined by
6 Caltrans to mean applied material used as mulch rather than
7 as a soil amendment and this was done because of the variety
8 of materials utilized. The product was deemed to be
9 beneficial in retaining soil moisture, reducing soil
10 temperature extremes and increasing plant growth when used on
11 highway landscape planning.

12 It was noted that material depths of 12 inches
13 suppressed wheat growth in the San Diego area, but was not
14 satisfactorily suppressing wheat growth in the Sacramento
15 area. Caltrans has suggested they will continue the research
16 for another two years before any policy decisions are made by
17 that agency. They did recommend in the interim that Caltrans
18 districts be encouraged to use compost.

19 COMMITTEE MEMBER CHESBRO: Two years, huh. Sort of
20 like some day 10, 20 years down the road we might have a real
21 program, you know, meanwhile we got mandates that are 1995
22 and the year 2000. That's disturbing to me.

23 MR. PASWATER: In all fairness to Caltrans they are
24 the primary procurer of compost and municipal mulch products
25 in the state at present. They are continuing to purchase

1 additional quantities aside from what was used in these
2 evaluations.

3 COMMITTEE MEMBER CHESBRO: That's good there.

4 COMMITTEE CHAIRMAN RELIS: Do you have any
5 assessment of what the quantities that Caltrans does purchase
6 at this time on annual basis for their highway program?

7 MR. PASWATER: No, I do not at this point in time,
8 but we do have representatives from Caltrans present here.

9 COMMITTEE CHAIRMAN RELIS: Oh, they are here.

10 MR. PASWATER: And possibly that can be addressed
11 at this point or if you would prefer I can continue?

12 COMMITTEE CHAIRMAN RELIS: I would like to, you
13 know, hear from them while they're here. Let's take
14 advantage of their presence.

15 MR. PASWATER: Okay. If I could ask possibly Dan
16 Pollock could you come up to the podium and address the
17 procurement by contrast.

18 COMMITTEE CHAIRMAN RELIS: Could you just state
19 your name?

20 MR. POLLOCK: Sure my name is Dan Pollock. I'm a
21 Superintendent with the Department of Transportation and my
22 office is in Woodland here in the Sacramento area.

23 COMMITTEE CHAIRMAN RELIS: Glad to have you here.

24 MR. POLLOCK: Thank you. With respect to your
25 question about continuing procurement, we procured about

1 30,000 cubic yards in use in this particular study. And in
2 prior years we purchased anywhere from five to 10,000 cubic
3 yards with the initiation of our own program. Prior to using
4 the composted material we were using mostly wood chipped
5 material. Some of it waste wood chipped material, but using
6 it primarily as a mulch. And I can only really speak for my
7 own district which is Sacramento, Marysville, Yuba City,
8 within the counties in this area, I can't speak for the other
9 districts in the state.

10 COMMITTEE CHAIRMAN RELIS: Oh, that's right, I know
11 how territorial that issue is, Caltrans.

12 MR. POLLOCK: Right. But we have been really, I
13 think, pretty much involved in utilizing waste materials for
14 some time, and I think we'll continue to use that. All of
15 the sources that we produce ourselves in terms of the
16 material that we generate on our roadsides are going back
17 into the areas of landscape and other areas that they can be
18 utilized.

19 As far as the, the direct procurement of additional
20 compost as green waste from curbside pick up, I think we're
21 committed to doing what we can, but due to budgetary
22 restraints there may be some restrictions on the amount of
23 materials that we can purchase. I know that in my case,
24 personally, the dollars that I have to purchase materials
25 with this year has been cut. And so I have to kind of sort

1 out exactly how much I'm going to have to purchase and
2 continue to purchase, and continue to purchase materials for
3 this coming year.

4 But, you know, I want to make it very clear that at
5 least from those that I'm in contact with in the department
6 throughout the state are very much committed to the use of
7 these materials, and if the dollars are there to purchase and
8 haul and transport these materials for use in our highway
9 system we'll continue to do so.

10 COMMITTEE CHAIRMAN RELIS: Well we would like to, I
11 know, stay in very close touch through our staff with you on
12 this question because Caltrans is obviously from the state
13 perspective and in light of AB 11 we've established the green
14 waste is a state procurement priority.

15 MR. POLLOCK: Right.

16 COMMITTEE CHAIRMAN RELIS: And we're to report on
17 the legislature annually on this. And to do this in
18 conjunction with the Department of General Services and we
19 really need to accelerate the demand for our green waste
20 mulch and green waste compost or all compost. And we need to
21 know what the barriers are. If you're seeing that there is
22 a -- well we need very close interaction with you on this.
23 This is a priority of our Board to get this green waste
24 material out of the landfill and composted. And the state
25 has now made a new commitment to this with the passage of AB

1 11 and so we have a vehicle.

2 Is there anything our staff would like to say about
3 the interaction with Caltrans on this matter apart from the
4 report?

5 Because the two-year issue is lengthy for us, I
6 think both Wesley and I would agree that it seems like a long
7 time to make an evaluation with all the information that's
8 known about green waste we have probably every permit meeting
9 now. One compost facility that's being approved in the state
10 they're regionally all over the place now and they always ask
11 us, "Well how's it going with the state procurement?" And --

12 MR. POLLOCK: Well I think Paul --

13 COMMITTEE CHAIRMAN RELIS: You are where the rubber
14 meets the road.

15 MR. POLLOCK: Right, that's true. I get an awful
16 lot of calls from the industry and other agencies too because
17 I think personally kind of tried to take a lead role in this
18 as much as I can. I'm very committed to the use and
19 recycling of some of these waste materials which I feel we
20 really have to do and it's very important.

21 But there are some financial, fiscal restraints.
22 The transportation, hauling, and spreading material is not
23 cheap. And so that's going to really limit, I think, what we
24 can do. We were really happy and pleased and I'd like to
25 thank the Board and the Waste Management Board for the chance

1 to use some of the monies that were available to do this
2 project.

3 One of the reasons this project needs a little bit
4 more time is to really do an honest evaluation from a
5 biological point. We only gathered maybe two, two and a half
6 to three months of information from the material that we
7 applied to the respective areas. And it's just not possible
8 really to come up with some definite data that will show
9 increased rates of growth, better disease resistance among
10 the plants, suppression of weeds. Yes.

11 COMMITTEE CHAIRMAN RELIS: Excuse me for
12 interjecting here, but are you aware of our compost research
13 work that's underway under contract that addresses a
14 different set of plants because I know you're dealing with
15 the landscape, this is dealing with floriculture and with
16 crops, asking those very questions about --

17 MR. POLLOCK: Right.

18 COMMITTEE CHAIRMAN RELIS: -- health and safety,
19 water retention, growth character particulars.

20 MR. POLLOCK: I personally would be very much
21 interested in that. I'm not aware of it.

22 COMMITTEE CHAIRMAN RELIS: Because I hate to think
23 that we're, like you're on a research path and we've already
24 got financed research that speaks to those qualitative and
25 measurement issues which I would hate to see us take two

1 years to then say well you're doing your independent study,
2 they've compiled a whole literature research base for that,
3 so let's make sure that we're in sync on this. And if we can
4 affect with that information your timetable.

5 COMMITTEE MEMBER CHESBRO: When you read the
6 literature, you know, it's real obvious, too, that there's
7 research going on all over the country.

8 MR. POLLOCK: Absolutely. Absolutely.

9 COMMITTEE MEMBER CHESBRO: I know our conditions
10 aren't identical --

11 MR. POLLOCK: Right.

12 COMMITTEE MEMBER CHESBRO: -- and so, you know, we
13 need to probably try to focus on how these things apply to
14 us, but to some degree it seems like we try to avoid
15 reinventing the --

16 MR. POLLOCK: Yes, I agree. Our uses are a little
17 different than other areas. We're not using it in a typical
18 horticultural application such as an amendment or a plant
19 soil mix or other uses. We're using it as a mulch on the
20 surface of the ground because that's the only practical way
21 we can actually apply the material to our right of way on the
22 highways. So it's, there are some different factors there.

23 COMMITTEE CHAIRMAN RELIS: Are you saying also that
24 the equipment distribution is, that is the application of the
25 material is the hang-up at this point? You don't have the

1 right equipment or --

2 DIRECTOR GORFAIN: In our report you'll notice we
3 really lean very much upon the California Conservation Corps,
4 upon probationers and others that have had, we've had
5 contracts with to do work for us to apply the material. If
6 we had to rely upon our own work force the cost would be
7 significantly more for the, you know, the application of the
8 material to the areas. And with the Conservation Corps it's,
9 we have a reimbursement program, but a lot of the work that's
10 been scheduled for that reimbursement program wasn't really
11 scheduled for the spreading of mulch.

12 Now we've managed to make some adjustments and
13 changes so that we can utilize them, but there's some
14 limitations there and --

15 COMMITTEE CHAIRMAN RELIS: Is equipment, would, is
16 it possible that a piece of equipment or a number in the
17 fleet --

18 MR. POLLOCK: Very helpful.

19 COMMITTEE CHAIRMAN RELIS: -- could, well I would
20 just say for the purpose, we should establish some small
21 effective work group with you to identify if there is a piece
22 of equipment or some, something that would leverage your
23 ability to use this material in your cost framework. I think
24 we would like to know about that because there may be
25 something we can do in an interagency capacity to --

1 MR. PASWATER: Mr. Chairman, I would like to point
2 out that Caltrans has been actively involved in several
3 demonstrations of equipment that pneumatically can apply
4 material such as this to landscapes. As a matter of fact, I,
5 I'm not sure, but, Dan, I believe you attended one
6 demonstration in Los Angeles and there was at least another
7 one, I think, held in San Diego.

8 There's also a lot of work that they have done with
9 Prison Industry Authority and UC Davis. They're not just
10 concentrating on what work was done under the interagency
11 agreements with us. They have branched out considerably in
12 all fairness to Caltrans and Dan they are supporters of use
13 of this material.

14 MR. POLLOCK: But there needs to be more
15 development in the terms of the equipment. From the
16 equipment that I've seen, you know, there's been some
17 problems in the spreading of the material and hopefully we're
18 going to do a demonstration up here. We left some of the
19 compost in a giant stack in a couple of locations just so
20 that we could do that, get some of these industries who are
21 developing equipment for the spreading to come out and
22 demonstrate their machinery, which --

23 COMMITTEE CHAIRMAN RELIS: Well I hope we'll be
24 kept updated on this and that you, you know, this idea of a
25 small working group just keep regularly reporting back to

1 this committee on advances and again if we can find a way to
2 a piece of equipment or something that would accelerate this
3 we want to know about it.

4 DIRECTOR GORFAIN: Very good.

5 COMMITTEE MEMBER CHESBRO: I'd just like to say I
6 very much appreciate your personal commitment and involvement
7 in this.

8 COMMITTEE CHAIRMAN RELIS: Yes.

9 COMMITTEE MEMBER CHESBRO: My earlier comment is
10 based on frustration in a general sense that if you're a city
11 council member or a supervisor out there and you've got all
12 these mandates that say divert material, set up your own
13 procurement program in the city or county and that's the law,
14 and they look up to the state and they see that we aren't
15 fully implementing those by the same deadlines that they're
16 required to implement, then I think there's a great deal of
17 frustration, so I was expressing that frustration.

18 MR. POLLOCK: I Understand.

19 COMMITTEE CHAIRMAN RELIS: But, and I also
20 understand that, you know, within Caltrans there's a lot of
21 priorities and, you know, you got to fight to make this a
22 priority. But we're certainly with you and want to see that
23 that happens.

24 DIRECTOR GORFAIN: Great. Thank you.

25 COMMITTEE CHAIRMAN RELIS: Thank you. Pat, you

1 want to go on?

2 MR. PASWATER: I will continue now with the other
3 agencies evaluations of compost. Department of Forestry
4 conducted a --

5 MR. DUNN: Excuse me, I wanted to make a point of
6 clarification. My name is Tim Dunn, I work in the Public
7 Private Procurement Section. As a point of clarification the
8 research that each one of these, that Pat Paswater is
9 reporting on should be maybe defined not as research, but as,
10 but as a product demonstration. And each one of these
11 agencies except for Cal Poly, which was more of a research
12 aspect, is a qualification of product. And the issues that
13 Dan brought up were that to demonstrate a policy decision,
14 the effectiveness of how it's applied and what are the
15 different materials need to be known for each state agency.

16 Pat Paswater and Pat Jones have been working with
17 agencies to do just that. But the clarification I wanted to
18 make is this, this project is really not a research project,
19 but a product demonstration for evaluation.

20 COMMITTEE CHAIRMAN RELIS: Okay. Thank you for the
21 clarification.

22 MR. PASWATER: The next product demonstration was
23 conducted in Ione at the Forestry Academy. They evaluated
24 yard trimming compost used on landscape trees that were
25 planted in conjunction with a small business administration

1 grant and their own funding. The report was submitted to the
2 staff in July, 1993. They found no significant height or
3 diameter differences when using the compost. The results of
4 that study were probably similar to the Caltrans situation,
5 very short for the biological time frame to see any
6 significant difference.

7 They did make some recommendations. They professed
8 that normally wood chips are less expensive than compost or
9 mulch, last longer, and are more easily transported and
10 applied. Therefore they are continuing to recommend wood
11 chip use instead of the compost or mulch to landscape
12 situations, particularly forests that they manage.

13 Transportation is an extremely important aspect of
14 the cost of applying these materials as another aspect is not
15 taken into consideration often. The cost of compost is just
16 about one-third usually of what we're talking about. The
17 larger distance you had to transport the material
18 significantly the price increases accordingly.

19 The last state agency that was actively involved in
20 these product demonstrations was Department of Parks and
21 Recreation at the Prairie City facility near Folsom. They
22 have a basic problem associated with the use of these
23 off-vehicle facilities. And they had proposed to do two, but
24 unfortunately with the climate of Parks and Rec at the time
25 they did not have a lot of personnel available. There was a

1 number of people that I dealt with before we finally ended up
2 with a project manager, and fortunately his tenure was long
3 enough to complete the study.

4 Basically they utilized the compost in a land
5 restoration after installation of an underground pipe. The
6 compost was derived from yard trimmings and the report was
7 submitted to staff in July, 1993. The results of the study
8 indicated the compost is beneficial as a soil amendment for
9 aiding revegetation with grasses especially in areas lacking
10 top soil relative to grounds that are under Parks and
11 Recreation's authority.

12 They are recommending the use of compost in
13 revegetation efforts at their various facilities and
14 considering possible erosion control projects utilized in the
15 material as well. Funding is also an issue with this
16 department and if funds were available I feel that they would
17 do considerably more. They do have some desire to do
18 additional work, but funding may be the issue.

19 COMMITTEE CHAIRMAN RELIS: Okay. Well at this
20 point, does that, do you have one more?

21 MR. PASWATER: Now I would like to go into the last
22 part of my presentation relative to bid specifications of
23 compost products that was formalized by the Department of
24 General Services. And I'll proceed through that very
25 quickly.

1 COMMITTEE CHAIRMAN RELIS: Go ahead.

2 MR. PASWATER: Okay. The scope was to cover any
3 compost product that may be used as a soil amendment ground
4 cover or growing medium feed stocks could include, but not be
5 limited to municipal yard trimmings, plant debris, grocery
6 culls, cannery discards, wood by-products, manure, or
7 biosolids.

8 All state and federal regulations that are
9 applicable must be complied with. The baseline minimum
10 standards proposed in the product requirements were that it
11 be primarily derived from source-separated organics and that
12 the ingredients be specified under material safety data
13 sheet, which shall be available from the producer upon
14 request.

15 The color of the loose uniform product would be
16 dark brown, particle size not greater than two inches in
17 diameter, and have an earthy aroma. The pH of the product
18 shall be in a range of six to eight, and with a maximum
19 moisture content of 40 percent by weight. And it should not
20 contain viable wheat seeds. And the maximum amount of inert
21 matter including, but not limited to rocks, plastic, pieces
22 of metal or glass be two percent by dry weight.

23 The California Code of Regulations Section 17887
24 specifies maximum acceptable metal concentrations and path
25 gen reduction requirements. The staff in Market Development

1 would like to develop fact sheets relative to the compost
2 evaluations and a separate fact sheet relative to the compost
3 products bid specification. These would be in conjunction
4 with Waste Management and Educational Division and would be
5 used for an outreach to state agencies and local government
6 to promote compost procurement and use. Updates of the bid
7 specifications would be coordinated with DGS as necessary.

8 In addition to these fact sheets we also are
9 proposing tracking of state procurement of compost products,
10 most of the compost purchased is under delegated authority
11 from the Department of General Services. Staff would
12 contract the appropriate state procurement staff and agencies
13 that have purchased compost and report the results of that
14 annually to the committee. And that concludes my
15 presentation.

16 COMMITTEE CHAIRMAN RELIS: It sounds like compost
17 standard isn't overly demanding and it should leave a lot of
18 latitude for use, at least the way I read it. So you want to
19 prepare, as a next step, these facts sheets?

20 MR. PASWATER: Yes. We would like to proceed with
21 that, working in conjunction with the other division.

22 COMMITTEE CHAIRMAN RELIS: Okay. And I suppose at
23 some point are we to regard these as reports representing
24 interagency agreements, and do they need acceptance?

25 DIRECTOR GORFAIN: Yes, Mr. Chairman, I was going

1 to suggest that the first step be to accept the reports and
2 forward them to the Board for acceptance and follow-up with
3 the rest of the recommendations in the agenda item.

4 COMMITTEE CHAIRMAN RELIS: Okay.

5 COMMITTEE MEMBER CHESBRO: So moved.

6 COMMITTEE CHAIRMAN RELIS: Second.

7 So we'll act on that now. Okay. You move that?

8 COMMITTEE MEMBER CHESBRO: If that's what the
9 staff's asking for, yeah.

10 COMMITTEE CHAIRMAN RELIS: Okay. So let's move the
11 second and call the roll.

12 MS. WADDELL: Board Member Chesbro.

13 BOARD MEMBER CHESBRO: Aye.

14 MS. WADDELL: Chairman Relis.

15 COMMITTEE CHAIRMAN RELIS: Aye.

16 And this would be consent. Consent. Okay, thank
17 you very much. Thank you, Pat.

18 MR. PASWATER: Thank you.

19 COMMITTEE CHAIRMAN RELIS: Okay. We'll move onto
20 item nine.

21 DIRECTOR GORFAIN: Item nine, Mr. Chairman, is the
22 consideration of staff recommendations to increase the use of
23 OCC and post-consumer printing and writing papers generated
24 in California. The presentation will be made by John Smith
25 who is the Market Development Branch Chief and Brian Foran.

1 MR. SMITH: Good morning, Chairman Relis, and
2 Committee Member Chesbro. At the, this item was heard at a
3 workshop on November 4th, and at that workshop the committee
4 directed staff to come back with two items, a progress report
5 on resolving the numbers between the Board and industry on
6 recovery rates. And also a refinement of the proposals.

7 Relating to the first issue, I would like to
8 provide you with that progress report. There was one meeting
9 yesterday with the task force and Pat Schaivo will be
10 providing that update.

11 But before turning it over to Pat, I'd just like to
12 thank his staff in the Planning and, Office of Planning and
13 Policy for taking the lead on this issue for quickly
14 selecting appropriate candidates for this numbers task force,
15 and for providing information to those Committee Members. I
16 just thought a very excellent job was done and we look
17 forward to working with them on this project.

18 COMMITTEE CHAIRMAN RELIS: I'd also like to add I
19 know this was put together on very short notice and for all
20 the parties, industry, environmental groups and for our
21 staff, thanks for pulling it together and I look, I think we
22 both look forward to now hearing what your sense of that
23 meeting was.

24 MR. SCHAIVO: Okay. Pat Schaivo, and I represent
25 the Planning and Analysis Office. Yeah, I think we had

1 excellent representation yesterday, everybody seemed to be
2 very open and willing and the meetings stayed very focused.
3 So I thought we were able to accomplish a lot of material
4 yesterday. This is the first of perhaps four meetings, maybe
5 there'll be more, maybe there'll be less, it depends on our
6 progress in the future. We want to try to wrap this up by
7 February, at least that's our goal. Yesterday's meeting
8 consisted, I'll go just a little bit over what took place in
9 the meeting. We discussed the framework for yesterdays
10 meeting plus future meetings. We discussed defining
11 characteristics which comprised an acceptable methodology.
12 And we also discussed the different data sets that currently
13 exist out in the field.

14 Going back to acceptable -- what we considered an
15 acceptable methodology is one that has to be accurate, it
16 must be timely, and it must be cost effective. And then from
17 those major headings we further broke that down into, we
18 further broke that down into subcomponents within the
19 committee framework.

20 We also -- and I appreciate everybody's effort
21 yesterday, we had presentations regarding all the different
22 methodologies that currently exist, you know, that's the
23 Emerging Market Development Study Effort, the RW Beck Effort,
24 the Interim Data Base Effort that we have here, and then in
25 addition we have the American Forest and Paper Association

1 Statistics. So we had a major discussion regarding all of
2 those different methodologies at this particular meeting.
3 And that's pretty much where we concluded the first meeting
4 is going over again the baseline, kind of breaking down
5 everything that, you know, currently exists.

6 For the future meetings what we want to do is
7 establish more precisely what our goals are and objectives of
8 this effort and then we also want to begin breaking down the
9 components of each of those methodologies and start reviewing
10 each component against the characteristics that we developed
11 in trying to evaluate the methodologies or the components of
12 the methodologies against each of the characteristics.

13 And then in future meetings it's going to be
14 incumbent upon us to come up with a set of definitions that
15 will be agreed upon by everyone also. So that's envisioned
16 down the road. The next meeting is anticipated to take place
17 December 20th.

18 COMMITTEE CHAIRMAN RELIS: Good.

19 MR. SCHAIVO: And then after that we have another
20 planned for January 10th. So we have the first three
21 meetings already planned out.

22 COMMITTEE CHAIRMAN RELIS: Well I think your time
23 layout is very good as far as, I think you'll be real busy.

24 MR. SCHAIVO: Yeah. We have a little bit of work
25 to do. Again I really appreciated everybody's efforts in

1 even making it in such a short time frame and then being able
2 to attend these next meetings.

3 COMMITTEE CHAIRMAN RELIS: Do we think -- do we
4 have everyone at the table that can give us the clarity or
5 their perspectives that we need. Are we missing any.

6 MR. SCHAIVO: There were a few people missing
7 yesterday, they had, you know, other agendas that they had to
8 attend, but they'll be attending the future meetings --

9 COMMITTEE CHAIRMAN RELIS: Okay.

10 MR. SCHAIVO: -- we'll have in December.

11 COMMITTEE CHAIRMAN RELIS: But the interest groups
12 are all represented?

13 MR. SCHAIVO: The interest groups are all --
14 represented.

15 COMMITTEE CHAIRMAN RELIS: Okay.

16 MR. SCHAIVO: I felt pretty comfortable with that.

17 COMMITTEE CHAIRMAN RELIS: I got very positive
18 feedback on that meeting and am very pleased.

19 COMMITTEE MEMBER CHESBRO: When do we expect
20 completion of this?

21 MR. SCHAIVO: We're shooting -- the goal is
22 February, again that's the goal, and it's just a product of
23 how well, you know, we accomplish what we're trying to do.

24 COMMITTEE CHAIRMAN RELIS: Thank you.

25 MR. SMITH: Okay, now I'll proceed with the rest of

1 the item. Before I get into the item I'd like to --

2 COMMITTEE CHAIRMAN RELIS: John, before you go
3 ahead I failed to announce that our procedure here at
4 committee meetings and board meetings is if you wish to speak
5 on an item we have a form at the back of the table, and if
6 you would just bring that form up to Ms. Waddell, here, then
7 we'll get you on the speaking agenda.

8 MR. SMITH: Another procedural issue. There are
9 copies of the agenda item on the back table for those that
10 would be interested in pursuing it -- for using it rather.

11 Since the, again since the November workshop we
12 looked at the comments received from all parties and although
13 there wasn't overall consensus on the best approach, we took
14 the best direction we could in developing two approaches.

15 Also during this process, the original -- let me
16 step back.

17 We originally had five options for OCC and three
18 for mixed paper and writing grades. We've condensed those
19 options and we've also tied them more closely together. The
20 proposal we have for you today talks about two approaches.
21 One, a regulatory approach. And two, a voluntary approach
22 with a regulatory set back. And they both could be tied very
23 closely together. Now I'll go through the, and give the
24 highlights of each for you.

25 First, the regulatory approach, which would require

1 legislative authority would have the following provisions:
2 An 80 percent utilization rate for OCC generated in
3 California. Would also have a 40 percent minimum
4 post-consumer content for OCC sold or used in California.
5 And it would have a 50 percent minimum utilization rate for
6 selected printing and writing grades. All these goals would
7 have to be met by the industry by the year 2000.

8 We would propose having interim goals for measuring
9 progress in complying with those requirements. Those interim
10 dates possibly could be 1995, 1997 and 1999.

11 The second approach would be a voluntary approach.
12 Industry would be asked to develop their program for meeting
13 a minimum utilization rate of 24 percent by 1995 and 50
14 percent by the year 2000. The -- we would still in, with
15 this approach use, hold back our regulatory approach if the
16 industry was complying with the requirements of that
17 voluntary program. And at any time we could, if they weren't
18 through their progress reports meeting the requirements then
19 the regulatory program I just described would then set in.

20 Now some of the highlights of that regulatory
21 program would be, in addition, meeting the 24 percent
22 utilization goals by '95, and 50 percent by the year 2000, we
23 would have, in using this utilization rate it could be
24 applied to all paper grades.

25 Second, industry could be given credit for reuse

1 and source reduction if that led to --

2 COMMITTEE MEMBER RELIS: I'm sorry, could you go
3 over that previous point, I just want to hear that again?

4 MR. SMITH: When we're looking at this minimum
5 utilization rate it would apply to all paper products. So it
6 could be feed stock in any of those products as long as they
7 met the overall goal of 25 percent, 24 percent by '95, and 50
8 percent by the year 2000.

9 And again credit could be given for reuse or source
10 reduction that was implemented by industry to reduce the
11 amount of material going to landfill. Also this approach
12 would require, would require periodic review by the board to
13 make sure that they complied with the goals. And those would
14 be -- the target dates would probably be again '95, '97 and
15 1999.

16 The, a proposal could also look at strategies for
17 wastepaper demand enhancement, and supply enhancement, and
18 also a public information and education effort to increase
19 recovery and diversion.

20 In order for either of these proposals to move
21 forward we need either the regulatory program or voluntary
22 program. We need to really resolve the numbers issue because
23 the recovery rates are what industry will be judged upon
24 whether it's a regulatory program or a voluntary program.

25 So it's very essential that we, in a timely way get

1 some resolution on these numbers. And as early as, and has
2 already been indicated by Pat Schaivo, I think we're on
3 target in getting that task force moving.

4 Now in terms of how we visualize the next step in
5 the development of the proposal, we would see first that
6 today the listed input from you the committee members and the
7 interested party in the audience, that again we continue to
8 get quick resolution on the discrepancy and diversion
9 numbers.

10 That we review the industry pronouncement on
11 expected, on their December 8th pronouncement where they
12 expect to expand the goals for recovery, and to look to see
13 if that does have some applicability to the State of
14 California. This will be a standard that will be nationwide.
15 So we look to see if there's anything in that that could help
16 us in more fully developing a voluntary proposal. And then
17 we would bring back a fully developed proposal at a
18 subsequent committee meeting.

19 Both I and Brian Foran will be here to answer the
20 questions that you and the audience may have about this
21 revised proposal. But before turning the floor open for
22 questions I would like to add that there's a member from the
23 American Forest and Paper Association to talk a little more
24 about the issues of using recovered post consumer waste in
25 the printing and writing grades. We felt that that issue

1 probably didn't get equal attention that OCC did, so we would
2 ask that Virgil Horton be allowed to speak to that issue
3 today if possible.

4 COMMITTEE CHAIRMAN RELIS: Fine. Thank you very
5 much. Comment.

6 COMMITTEE MEMBER CHESBRO: I'd just like to say
7 that going back, I guess it's been a year, there was a
8 struggle to get that, this conceptually included in the
9 Market Development Plan. And it wasn't clear at all how
10 committed my fellow Board Members and the staff were, and I'm
11 very pleased that we're at the point with a proposal
12 beginning to come together, and I'm very excited that it's
13 happening. I was a little worried. I'm not pointing fingers
14 any place in particular, but just in general I was a little
15 worried that we weren't gonna be able to get it this far
16 along and I'm excited about the prospect of the board
17 providing the leadership to the legislature to take this very
18 important step forward.

19 I mentioned earlier that I was talking about the
20 compost. The need to respond to the needs of local
21 governments and I think that applies every bit as much here
22 when we're talking about the paper stream and the need to
23 assist those who have been given the liability and the
24 responsibility for getting the materials out of the waste
25 stream with making sure that there's a use for these

1 materials. So that's my take on it for the moment.

2 MR. SMITH: Thank you.

3 COMMITTEE CHAIRMAN RELIS: Well let's go on then to
4 the presentation. So if we could begin now with that. Did
5 you hear me? Let's go forward with the presentations from
6 the American Forest Products people. Please come to the mic
7 here. Who's doing this?

8 MR. HORTON: Can we change the order just slightly
9 because our representative from the FDA just arrived.

10 COMMITTEE CHAIRMAN RELIS: Okay. Well you work out
11 the order, just, let's get going, though.

12 MR. HURLEY: I've signed a, --

13 COMMITTEE CHAIRMAN RELIS: Ed Hurley, yes. Just
14 state your name again for the record.

15 MR. HURLEY: Ed Hurley with Jefferson Smurfit
16 Corporation. And I wanted to start off by reemphasizing what
17 was initially reemphasized about the absolutely first class
18 job that the staff has done with Brian and Pat and John and
19 the various task force. The meetings were well prepared, got
20 us a good kick start, very cooperative and it's really
21 helped, and I think it's going to help us down the road.

22 And I'm gonna make my remarks rather brief because
23 we have had a number of discussions a couple of weeks ago and
24 yesterday and so forth, and my remarks will be directed
25 really at the regulatory option. And for that I just want to

1 very quickly, if I may for the group here, to show you where
2 the paper industry is and has been.

3 In 1992 nationally we recovered almost 34 million
4 tons of paper and we had a recovery rate of almost 39
5 percent, and if you'll look at, from 1982 when we were about
6 26 percent, we're now at 38 percent utilization. Now
7 utilization is a very, very rough estimate of what the
8 overall recycled content is of the paper produced in the
9 United States. And we went from about 24 percent in 1982 as
10 you can see to 31 percent in 1992.

11 Now I don't have the growth rates in there, but the
12 growth rates are seven or eight percent just in tonnage
13 recovery. At the same time the U.S. economy was growing at
14 three or four percent. And the production of paper was
15 growing at about the same rate. So what we've had is a rate
16 of growth almost double what the production rate was. So
17 there is a commitment from the industry. So, and this
18 occurred without any government mandates. It occurred
19 because of market forces and customers coming to us saying
20 that's what they wanted, and we were putting, we were
21 developing products for them that met their requirements,
22 their engineering requirements, their customer needs.

23 And I will tell you just very quickly a very
24 anecdotal story. Last week I was with a buyer of corrugated
25 packaging from the largest consumer manufacturer in the

1 United States. And he had a very simple question for me. He
2 said, "Ed, what's the benchmark for content?"

3 And I said, "There is no national standard," I
4 said, "But the EPA guidelines was 35 percent postconsumer."
5 And I said, "A lot of people have followed that as just a
6 benchmark. And they have since 1988 from the time that those
7 guidelines were enacted. And that probably has been a
8 stimulus as much as anything. It wasn't a mandate, it was
9 just a benchmark. And it was a technically achievable
10 benchmark." And I just throw that out for, as an anecdotal
11 example.

12 But I will also give you just a quick background on
13 the paper that's been collected in the State of California.
14 Now this is just California, this is corrugated collected in
15 California and shipped either, used in state or shipped
16 overseas 2.2 million tons from 1980. We've had about a four
17 percent, just under a four percent growth. So again in
18 California what we had is we have all of the potential
19 consumers today of corrugated boxes. I should say all the
20 potential consumers, yeah, all the potential consumers are a
21 hundred percent recycled already. There isn't any virgin
22 that's going to be displaced.

23 So we, when we get into the minimum content we have
24 a question of whether that is going to do anything to
25 stimulate additional recovery because we have a very high

1 recovery presently.

2 And the other issue that I addressed in a workshop
3 a couple of weeks ago was in fire degradation. And I have
4 for the staff two research papers, one from Great Britain and
5 one from the Forest Services Laboratory of the U.S.
6 Department of Agriculture that talks about degradation on
7 recycling and a number of recycling cycles, so to speak, that
8 the paper goes through. And I will give that to the staff,
9 and I think it's very illuminating.

10 And right now our overall content for corrugated in
11 the United States is about 30 percent, and we don't know what
12 the optimum is because we still make the world's best quality
13 boxes for corrugated boxes. But that corrugated also is the
14 feed stock for recycled box board which is cereal boxes,
15 construction board, gypsum board and even tissue. When they
16 bleach the tissue or they make the tissue brown, but that is
17 the feed stock for a tremendous amount of the paper
18 recovered. Domestically we recovered last year 27 million
19 tons, 17 or 16 million tons of that was corrugated.

20 So we don't think with the recovery rates, and I
21 will say that we believe that the recovery rate
22 conservatively in California right now on OCC is over 60
23 percent. We don't believe that a government mandate, a
24 regulatory scheme is going to help the issue of market
25 development. Market development will occur because of the

1 market forces that have developed. The new capacities that
2 have come on outside the date, but are sourced from within
3 California.

4 But I will add in closing that no matter what
5 scheme we come up with or we talk about, whether it's the
6 regulatory scheme or the voluntary scheme that we've talked
7 about with staff and discussions are ongoing. We still have
8 what I consider our major problem and that's the flow control
9 issue. As I've said in earlier testimony here my company
10 Jefferson Smurfit who has three mills in this state, we are
11 basically on hold right now on any expansions of our mill
12 capacity until that particular issue is resolved. And that
13 has to get resolved if we're going to move forward. Thank
14 you.

15 COMMITTEE CHAIRMAN RELIS: Thank you. Virgil
16 Horton, please.

17 MR. HORTON: Good morning to each of you. My name
18 is Virgil Horton, I'm vice president of the paper group of
19 the American Forest and Paper Association, which I'll refer
20 to from now on as AF and PA because it's easier to say.

21 Paper group consists of four major divisions,
22 Printing and Writing Group, tissue Papers, News Print and
23 Speciality Industrial Packaging. This morning I'm here to
24 talk more about the Printing and Writing Division of AF and
25 PA. They represent 52 companies that manufacture over 23

1 million tons of printing and writing paper annually, or
2 that's over 30 percent of the total U.S. paper and paper
3 board manufactured in the United States.

4 Before I discuss the specifics of printing and
5 writing papers I would like to talk about the paper industry
6 in general. I know that you've heard, and I understand that
7 you've had some of the status of paper recovery and recycling
8 already shared with you. Let me take just a minute to
9 remind, if I may, on the progress that has been made. It was
10 nearly four years ago that the U.S. Paper Industry
11 established its 40 percent goal to collect all paper, paper
12 board that would be consumed, 40 percent of that in, by the
13 year of 1995.

14 I would like to point out and I know you're aware
15 that we are two years ahead of schedule. And in 1993 for the
16 first time in history there will be more paper that will be
17 recovered than is actually going to the landfills. What did
18 it take to achieve this goal? And what will it take to
19 continue this progress? One key factor in our ability that
20 contributed to this progress is the flexibility that the
21 manufacturers demonstrated in how best to add value and
22 utilize recovered paper.

23 We feel there must be a continuation of the market
24 driven recovery based approach to recycling expansion that in
25 the recent years I feel this led to extraordinary growth in

1 paper recovery and reuse.

2 In addition, we hope policies must allow
3 manufacturers access to the recovered paper supplies, a major
4 growing raw material source, very important to us. Flow
5 control policies constitute barriers to our efficient
6 recycling expansion.

7 Second, I think the U.S. Paper Industry has made
8 unprecedented investments to expand recycling capacity, and
9 we did this by retrofitting and building new paper making
10 machines that can utilize the additional amounts of recovered
11 paper that we've been, having collected. Because of this
12 commitment, recovered paper is expected to supply more than
13 40 percent of all of our fibers supply that will be used in
14 the U.S. paper, paper board production at the turn of the
15 century. That's up from 27 percent in 1990. So we've been,
16 gone from 27 percent in 1990 to 40 percent by the year 2000.

17 Finally on collection, I feel that each American
18 must continue their vital role in the source separating of
19 paper for reuse. AF and PA appreciates the importance that
20 the California Integrated Waste Management Board has placed
21 on recovery by establishing a state mandated recovery rate
22 for 1995 and 2000. By setting and achieving the industries
23 voluntary 40 percent recovery goal, we believe that the paper
24 industry has gone a long way in assisting your state in
25 reaching the goals that you have had.

1 We are concerned, however, that the market
2 development options that currently are under consideration by
3 the board do not really further our ability to recover and
4 recycle more paper, but may be counterproductive to those
5 efforts.

6 Additionally, it's our concern that such proposals
7 for the State of California could be devastating to the
8 state's business community. Recognizing that the board has
9 already heard a great deal about the industries aggregated
10 efforts on recycling and progress in the corrugated division
11 of our industry, I would, therefore, like today to focus on
12 the printing and writing papers.

13 First, and I think this is very important, and let
14 me say we share the same goal. The printing and writing
15 paper segment of the industry is also committed to increasing
16 the recovery of paper for recycling and the diversion of
17 paper from landfills and other disposal. We are concerned,
18 however, that the proposals do not meet the criteria listed
19 in the November 4th report on recycling options. Printing
20 and writing place marketplace initiative that we believe will
21 maximize recycling and meet customer demand for recycled
22 products. We announced this at the beginning. I will
23 discuss this in more detail as we go a little farther along
24 in a few minutes.

25 As a background, the industry has made considerable

1 progress in recovery and the utilization of recovered fiber
2 in recent years. I might point out that this is in spite of
3 a recession that has tremendously limited our capital
4 availability. There are over 145 new expansion projects for
5 the recycling of paper, recovered paper that are in place or
6 have been announced for completion by 1995.

7 In the period of time between 1988 and 1995 the
8 industry has spent over 7.5 billion dollars or it will be
9 expended by the time we hit 1995.

10 COMMITTEE MEMBER CHESBRO: Nationally? Is that a
11 national figure?

12 MR. HORTON: National figure. Thirteen new
13 projects, and again this is national, are designed to produce
14 printing and writing papers containing recycled fiber. These
15 are either under construction or in the final phases of
16 planning.

17 In addition to that there are another 33 projects
18 that are slated to be producing recycled pulp, and that pulp
19 will be used for conversion into recycled printing and
20 writing grade as well as other types of products. More will
21 be announced. We issue a book about every six months that
22 lists the additional site improvements, site planning, and
23 the types of paper, recovered paper and the amount of tons
24 that will be used. This expansion will result in the use of
25 40 percent more recycled fiber in our printing and writing

1 products by 1995 than we actually used in 1991.

2 I would like to restate that. By 1995 we will have
3 increased our use of recycled fiber by 40 percent than what
4 was used in 1991. Putting it another way, in the area of
5 collection, printing and writing papers were being recovered
6 in 1990 at a rate of 28 percent. With the growth and
7 recovery of office, and this was spearheaded by the National
8 Office Paper Recycling Project which was endorsed by EPA and
9 that particular group was resident and kind of overseen by
10 the conference of mayors.

11 We expect a recovery of printing and writing papers
12 will increase to at least 38 percent by 1995. This is close
13 to the industry goal that we had set of 40 percent of all
14 paper consumed in this country on a national basis. I think
15 it's also important to note that the versatility of the use
16 of these prime fibers to make paper products including
17 tissue, recycled paper board, printing and writing papers,
18 and a range of other products.

19 I stand here before you today and I say very, very
20 clear and with commitment, that the U.S. printing and writing
21 manufacturers are committed to recycling and they are, in
22 fact, investing in recovered paper processing operations.
23 The industry is really pursuing a three part strategy.

24 First, we're working with business and the public
25 so that we might recover more clean, high quality paper that

1 is suitable for making use in recycled content printing and
2 writing papers. That is, of course, expanding and taking
3 place largely through the expanded office sort programs and a
4 number of the magazine catalog-type collection programs that
5 are being started and generated around the country.

6 Second, the industry is researching and investing
7 in new processes to provide more flexibility in its use of
8 recovered papers. I will insert here that a very major mill
9 in this country is now producing printing and writing papers
10 with a hundred percent recycled fiber making use of old
11 newspapers in a printing and writing products. Flipping that
12 around it seems a little unusual because most of the time our
13 printing and writing products were going the other way.

14 COMMITTEE CHAIRMAN RELIS: Excuse me, has that ever
15 been done before? Is that the first such plant worldwide?

16 MR. HORTON: I'd say worldwide because I'm not
17 sure, Paul, but it's something that's taken on added
18 significance in this country. It's allowing a printing and
19 writing sheet of paper through technology and used to do some
20 things that we just haven't done. And that flexibility, I
21 think, is very important for us to maintain. It allows us to
22 search out other types of technology to accomplish what we I
23 think share as a common goal which is making use of the
24 technology as much as we can. We're making, we're making use
25 of technology, we're learning more, we are continuing to

1 work. The cost of the particular project was a hundred
2 million dollars, it's going to use roughly 105 tons of
3 recovered paper annually.

4 And third, manufacturing and encouraging the print
5 communications industry, there I'm talking about publishers,
6 envelope people, printers, and what have you to make their
7 performance quality products when they put it together to
8 think in terms of using inks, toners, glues and adhesives,
9 that will be more recyclable. This will allow us to
10 facilitate greater paper recyclability.

11 We're working with them. It's an education thing
12 we're trying to help people help us. Your value added
13 processes need to be friendly to our recycling process so
14 that we will be able use more fiber without some of the
15 adverse impacts that go along with it.

16 Printing and writing papers are high quality
17 papers. They're used to carry printed information. Much of
18 our printing and writing papers is, in fact, uncoded papers
19 used for books, used for stationary, used for that thing that
20 we all have which is copying machines and the like. The rest
21 are coded papers and they're used for magazines, catalogs,
22 brochures, and various other types of printed pieces.

23 In all, the thing to remember is there are
24 thousands of different types or grades of printing and
25 writing papers of which all of 'em have varying degrees of

1 performance or manufacturing specifications that will be
2 designed and tailored to meet stringent requirements. And
3 these requirements carry a very broad array of in use
4 markets.

5 When you hold up a piece of paper it's easy to say
6 a piece of paper is a piece of paper is a piece of paper --
7 it's not. There are certain in uses, certain standards and
8 requirements that it must, in fact, be able to meet in the
9 performance quality requirement. Runability, printability,
10 and those type of things generally necessitate that we use
11 higher quality fibers and a uniform and reliable source for
12 those fibers in printing and writing grades.

13 Given our industries current economic condition
14 there have been really very few totally what we call, quote
15 "green field" unquote, brand new sites that will be built
16 over the next five years. Therefore, the increased capacity
17 for the use of recovered paper will have to come at existing
18 mills and this happens by either our installing on-site
19 de-inking or purchasing recovered market pulp. In either
20 case it does take a significant investment. Significant
21 investments are required.

22 And the mill can take as much as a, green field
23 mill can take as much as five years to bring on stream. To
24 make this an economical investment the paper maker must have
25 a reliable fiber supply to feed the mill to get the peak

1 efficiencies that are demanded by the very heavy, heavy fixed
2 costs we have in terms of investment.

3 The pulp paper industry is the most capital
4 intensive manufacturer in the U.S. With a historical
5 operating rate we run at about 92 percent. Uninterrupted
6 operations then are profit imperative. And that's one of the
7 things that we factor in.

8 Recovered paper suitable for printing and writing
9 grades have been used primarily on the smaller, the slower
10 paced machines. Those that typically find niche-type
11 products in markets. Those machines usually are 200 tons or
12 less per day. They're often non-integrated. They're
13 normally mills that do not have primary pulping capability,
14 and they do produce premium grades.

15 For these machine's mill operations the operators
16 can buy recycled market pulp or process sufficient paper
17 on-site through the inking facilities to maintain a
18 significant recycled content level in a product over a
19 sustained period of time. That accounts for roughly
20 one-third of the printing and writing segment of the
21 industry.

22 Two-thirds of our industry consists of high
23 productive paper machines. These are generally integrated
24 with pulping operations and they have very high capacity on a
25 daily basis. They're the most cost efficient, and probably

1 the least involved in point of manufacturing of recycled
2 content printing and papers today.

3 The use of the machines, typical large machines,
4 some of them can produce as much as 1,200 tons of paper a day.
5 These are the machines that can not generally utilize large
6 amounts of recycled paper over a sustained period of
7 production. They can come in and they can make some grades,
8 but they cannot necessarily do it over a sustained period of
9 time.

10 The U.S. Printing and Writing Paper Manufacturers
11 know their customers want recycled content papers, and we
12 have worked together to voluntarily development a marketplace
13 initiative and that is to maximize our production of recycled
14 content papers.

15 We have voluntarily agreed that the public should
16 be able know. We'll voluntarily use the three chasing
17 arrows. They have put a floor that no paper will be
18 considered a quote "recycled content paper" unless it has a
19 minimum threshold of making use of ten percent recycled
20 fiber.

21 We have over 407 machines in the printing and
22 writing industry, 120 of those machines are the ones that are
23 producing these large volumes. And I think if you see we
24 make it easy and they can do that and you kind of grab them
25 and pull it in, these machines using 10 percent, 12 percent,

1 15 percent, 20 percent will utilize a significant amount of
2 recovered fiber just based on the very volume that they are.
3 Most of these machines are located in mills that are in the
4 North East and the Midwest. A few of them are located in the
5 South, Northwest, and in California. But most of 'em are in
6 the North East and Midwest.

7 And based on the geographic distribution of these
8 mills and the distance of these mills from California, as a
9 recovered material source, it's difficult to understand the
10 economic incentive for these mills to use California
11 recovered papers.

12 These mills would most probably have urban source
13 of recovery material within a shorter shipping distance. In
14 this respect the content standard for printing, writing
15 papers proposed by California would appear to create minimal
16 diversion of recovering material from state landfill. And it
17 would serve to increase the cost of products being shipped
18 into businesses in the state.

19 Since the volume of California landfill diversion
20 would not increase the division higher levels of employment
21 in California, recovery processing firms would probably not
22 materialize as you may think it would, and that's under some
23 of the options that we have been reviewing.

24 The certification procedures proposed for paper
25 being sold in California would also necessitate a costly and

1 cumbersome administrative burden for paper mills. And what
2 I'm trying to do is address the various options that were on
3 your agenda when I say this.

4 To encourage sustainable markets for printing and
5 writing papers with recycled content, the existing world
6 class machines that I mentioned, the very large paper
7 machines, commodity mills, need the flexibility and the
8 amount of type of recycled fiber which can be used.

9 This is how the recycling can be maximized and we
10 believe that the weight increase recovery of paper from
11 California's landfills is to encourage source separation of
12 all recyclable papers including high quality papers to be
13 used to feed the raw material needs of all paper products
14 including the less technically demanding paper and paper
15 board operations.

16 I made a comment earlier to some people, and I'll
17 make it now. When you have mills that are located nearby
18 that are having to reach geographically very far from your
19 state to get certain types of recovered fiber, then that's an
20 area I think we need to look at and work together to figure
21 out why is that necessary, why can't we use fiber that's much
22 closer to home.

23 We do have mills -- I believe you have heard from
24 some of them, that are reaching from Oregon all the way to
25 the State of Texas to get certain types of recovered fiber.

1 So we have to figure out what that problem is. Because if
2 you have that fiber here and it has to do with some
3 regulations or definitions, then that's something that we
4 must factor in, figure out what can we do to improve that.

5 In summary, the response to the criteria that was
6 posed I would say and I applied it to all options, does the
7 option increase demand for California secondary materials to
8 help achieve statewide waste division goals? We think
9 generally not since most printing and writing mills that
10 serve California are located in the North East the Midwest
11 and the South, most of the recovered paper used at these
12 mills is collected from the urban areas much closer to the
13 mill site. That's if you keep it strictly in saying that you
14 want it to be used by a printing and writing mill.

15 There are other mills that obviously can use the
16 fiber. The option practical to implement, administer, and
17 enforce, definitely not. You do not have laboratory tests
18 that will be able to really verify the recycled content of a
19 sheet of paper, reliance on mill records and certification
20 really becomes the only alternative at that point, and this
21 will be a cumbersome and costly procedure for the state as
22 well as for the mills, and it would then continue to
23 contribute to higher cost of doing business in the state.

24 Are the option impacts on business reasonable and
25 appropriately targeted? Looking at it we really don't think

1 so. We think the options would increase the cost of doing
2 business in California and it would affect both printing and
3 writing paper companies as well as companies that are
4 currently located in your state doing business here. The net
5 effect could be higher cost of printing and writing paper
6 shipments and a resulting loss of competitiveness by business
7 within the state.

8 Does the option have a net positive economic impact
9 on California? As stated above we really think that just the
10 opposite would probably take place or occur. Is the option
11 consistent with or promote waste prevention and other
12 Integrated Waste Management goals. We agree with the board's
13 goal of reducing solid waste, but we believe it's really best
14 achieved by allowing the industry to use the types and the
15 amounts of recovered paper in products which respond to
16 customer demand.

17 As already demonstrated the industry is actively
18 meeting this challenge, this opportunity. Does the option
19 equitably distribute the pricing system for waste management
20 services? We think it definitely does not. The entire
21 burden of compliance would fall on the printing and writing
22 industry and its customers in California. These options may
23 lead to higher prices, possibility of loss of competitiveness
24 by California businesses, with a corresponding impact on
25 employment and economic activity. Now everything that you

1 have heard me say is based on the idea that the
2 recommendations would go strictly to the printing and writing
3 segment of the industry. What I am pleading for and what I
4 am saying is the flexibility for the paper industry as a
5 whole when you look in the aggregate of paper, paper board,
6 would allow us to do a number of the things that we have
7 common goals and share common goals in terms of diverting the
8 paper from the landfill.

9 Again I remind you that this year, 1993, we expect
10 for the first time in history to do, to divert more paper
11 from the landfill than to collect more paper than is actually
12 going to the landfill. And the total amount of paper going
13 into the landfill will, in fact, be much less. AF and PA
14 really appreciates, I personally appreciate the opportunity
15 to work with the board as you develop your recommendations,
16 and certainly our meetings with you earlier this week and the
17 discussions here today hopefully will go a long way to
18 answering the many questions surrounding a very complicated
19 issue.

20 Paper is not just paper, there is a tremendous
21 amount of difference. My companies do not make paper from
22 trash, they make paper from good source separated, high
23 quality fiber. It's extremely important to us, we do want
24 it, we want it in a way that we can use it. As you move
25 forward in the development of these proposals I personally,

1 and the industry as a whole, hope that this dialogue can
2 continue. And that we will continue to recognize that the
3 industry has some very aggressive and voluntary efforts
4 already underway and that we will not, in working together,
5 we're hopeful that recommendations will not be made that
6 would mitigate the current progress that we're trying make.

7 Thank you for your time today. Thank you for
8 including us in today's workshop. And I would be happy to
9 answer any questions that you might have.

10 COMMITTEE CHAIRMAN RELIS: I don't have any
11 questions at this point. I think we'll, in order to get
12 through our agenda at this point we'll ask the next speaker
13 to come forward, unless staff has a comment here. Brian.

14 MR. FORAN: Mr. Horton, could you repeat the
15 statement regarding the amount of paper produced? I believe
16 it was, you were saying from U.S. paper producers and the
17 amount landfilled? Could you just repeat that statement?

18 MR. HORTON: I said for the first time in history,
19 1993, is that the statement?

20 MR. FORAN: Yes.

21 MR. HORTON: Okay. We will be recovering more
22 paper than is actually going to the landfill. It's estimated
23 and we'll know in the next few weeks that we will recover
24 36,700,000 tons. And that going to the landfill would only
25 be 34,200,000 tons, and that comes from Franklin and

1 Associates study that has been completed. I might point out
2 that the high point in recent history for paper being
3 landfilled was in 1987, and at that point 47,100,000 tons was
4 actually going to the landfill. So you can see there's,
5 since 1987 to 1993 there's been a significant decrease in the
6 amount of paper going into the landfill.

7 COMMITTEE CHAIRMAN RELIS: Brian, does that cover
8 your --

9 MR. FORAN: Thank you.

10 COMMITTEE CHAIRMAN RELIS: Okay. Well I'd like to
11 thank you for a very comprehensive account of where the paper
12 industry is today. And I think this, if I heard one comment
13 that, or theme that it was the flexibility?

14 MR. HORTON: Yes.

15 COMMITTEE CHAIRMAN RELIS: Would that be a fair
16 statement?

17 MR. HORTON: The one thing we need is flexibility
18 to make and utilize the most recovered fiber we can to where
19 we can do it best. And I think what that allows us to do as
20 an industry is help you meet your goal as well as our own
21 goal. I think the two will mesh very well, and that is to
22 recover more and more usable source separated fiber in the
23 manufacture of paper.

24 COMMITTEE CHAIRMAN RELIS: Thank you.

25 MR. HORTON: Thank you.

1 COMMITTEE CHAIRMAN RELIS: Now in the presentation
2 by American Forest Products is there a Kathy Lynch here? Are
3 you part of the presentation?

4 MS. LYNCH: I just have a question.

5 COMMITTEE CHAIRMAN RELIS: Okay.

6 MS. LYNCH: I thought that was the proper time.

7 COMMITTEE CHAIRMAN RELIS: Is there anyone else
8 who's part of this presentation or are we -- okay, is -- do
9 you have a question at this time?

10 MS. LYNCH: I think it's relevant to this, yeah.

11 COMMITTEE CHAIRMAN RELIS: Okay. Go ahead.

12 Identify yourself.

13 MS. LYNCH: Yes. Kathy Lynch, with the American
14 Forest and Paper Association. And really my question, first
15 of all I very much appreciate the working relationship we
16 have with the board and staff and the process that we're
17 going through in determining where we go from here. I know
18 that option C seems to be what we're focusing on and I guess
19 at this point I have a question about the process and what
20 the perception of the board and the staff is about the steps
21 and if option C were what went forward from the board, what
22 do you perceive that to be? Regulatory, legislative, if, we
23 really need to know that. It's real unclear.

24 COMMITTEE CHAIRMAN RELIS: Well I think as is the
25 nature of what we've been trying to work out here it's a

1 combination of the two. I think we would prefer to move
2 ahead with what we can do regulatorily, but to understand the
3 relationship between the regulatory push and the hammer side
4 of it, and I think we'll get to that in due course.

5 MS. LYNCH: I'd like to put it out there as
6 something I think soon we need to have a clear understanding.

7 COMMITTEE MEMBER CHESBRO: I think I made my
8 intentions clear at the last meeting, so, as far as where
9 this board member is coming from.

10 COMMITTEE CHAIRMAN RELIS: I think we'll be clear
11 by the end of the day.

12 COMMITTEE MEMBER CHESBRO: Let me qualify that by
13 saying I think there's a greatly improved dialogue going on
14 here so I don't want to make that sound like some sort of
15 threatening comment, I mean, but I do think that we respond
16 to the legislative, the legislative mandate and in our
17 options as a board are limited without going through the
18 legislative process and they really, they and the governor
19 are who we take our direction from and so I think any
20 leadership we provide needs to be aimed at recommendations to
21 them. And that's the way I see it.

22 COMMITTEE CHAIRMAN RELIS: Okay. I'd like to, at
23 this time, call on Mark Murray from CAW.

24 MR. MURRAY: Thank you, Chairman Relis, and Board
25 Member Chesbro. I want to just note -- Mark Murray, I'm also

1 representing the Curbside Recycling Coalition as well as
2 Californians Against Waste. I represent both organizations
3 on recycling market development issues. And I would like to
4 reiterate the reiteration of the reiteration of complimenting
5 staff on their excellent work on this work product. And
6 state that, you know, we obviously have long since passed a
7 time for action on this and as Mr. Chesbro noted in the
8 earlier discussion about composting, we really can't afford
9 to continue to evaluate and to study these issues, we really
10 need to move forward. Grasping with whatever authority that
11 we have to move forward on this.

12 I mean local government, private recyclers, and
13 California citizens have been saddled with the responsibility
14 of cutting their waste in half since 1989, and yet we all
15 collectively, those of us involved in the policy-making
16 process have failed to follow through on the meaningful
17 market development actions that are needed.

18 I want to just, three quick comments on some of the
19 points that were noted earlier, and when it was noted that
20 the great progress the paper industry has been making in the
21 last couple of years I would state first that I finally got
22 around to reading William Rathje's book "Rubbish" and he
23 notes at the turn of the century the recycling rate for waste
24 paper was 15 percent.

25 So if we begin at that point at 15 percent at the

1 turn of the century our level of progress up to almost the
2 end of the century is not as successful as one might think.
3 We've got, we've got 21 percent recycling rate for waste
4 paper in California that the board data is indicating. The
5 EPA data suggests it's 30 percent, you know, it's probably
6 somewhere in the middle there and the problem, looking at the
7 course of this century we haven't made that much progress.

8 In terms of the progress we seemed to have made
9 between 1990 and 1992 in terms of the recovery and the
10 utilization of wastepaper, I would note that I'm sure it has
11 nothing to do with that jump, but that happens to coincide
12 with the time that California and many other states passed
13 minimum recycled content laws on newsprint.

14 In terms of the Franklin numbers, in general, that
15 were referenced earlier, if California was to use the
16 Franklin numbers in evaluating our waste stream we wouldn't
17 have a solid waste problem because the Franklin numbers so
18 understate the amount of waste that's being generated in the
19 nation, and if you extrapolated the amount of waste that's
20 being generated in California.

21 So the Franklin numbers don't show, don't even
22 measure how much waste is being disposed, and what they
23 suggest is being disposed based on what is generated is
24 substantially less than what is actually being reported is
25 being disposed by local governments across the country.

1 So in terms of the place for regulatory action, the
2 place for voluntary action, the board local recyclers can't
3 wait for legislative action. We've been working on
4 legislative approaches for the past couple of years, and
5 we've got to move forward with something now. We can't just
6 sit around and wait for the legislature to figure it out.

7 Secondly, we've recognized that the voluntary
8 approach up to this point hasn't lived up to expectations.
9 Basically the voluntary approach that has been in place has
10 failed. It hasn't done the job. So something is needed in
11 the middle and I think that the, this board has the authority
12 really as specified recently in AB 1909, the board has the
13 authority to take an action that is really a middle ground
14 between legislative action and just allowing voluntary
15 approaches to continue.

16 And we would suggest that that action that's needed
17 is for, that this Board should immediately establish total
18 postconsumer wastepaper utilization for recycling goals kind
19 of a long statement. But utilization for recycling of
20 wastepaper. Those should begin in 1994, those goals, those
21 should continue to the year 2000. The utilization for
22 recycling goals must be at least 40 percent total
23 postconsumer wastepaper generated in California in 1995.
24 They must increase to at least 50 percent of total
25 postconsumer wastepaper generated by the year 2000.

1 Following the establishment, that's the first step,
2 to establish those goals. This Board should establish those
3 goals. Following the establishment of these overall
4 wastepaper utilization for recycling goals the Board should
5 work with the paper industry, with recyclers, with local
6 government, and environmental organizations to establish
7 annual subgoals for the various categories of wastepaper.
8 The subgoals, though, have to, in their total, add up to in
9 1995 not less than 40 percent and in the year 2000 not less
10 than 50 percent.

11 And by utilization for recycling goals we're
12 referring to the amount of postconsumer wastepaper generated
13 in California that the paper industry or other recycling end
14 users are able to find a home for. And this is, this might
15 be considered a voluntary approach. It's, rather than having
16 a legislative framework in place, it's saying the Board is
17 going to establish these goals, but in order for this
18 non-legislative approach to work, it's essential that the
19 paper industry and the other recycling end users of
20 wastepaper be responsible for disclosing the total amount of
21 California postconsumer wastepaper utilized by these end
22 users for the various categories of wastepaper.

23 So what will these goals get us? Number one, these
24 goals will get us end use markets for wastepaper collected
25 for recycling. That's the number one need of recyclers and

1 local government right now.

2 Number two, it will give us a yard stick, a way of
3 measuring the progress that the paper industry claims that
4 they're making. And I think the paper industry does have a
5 good track record in recent years of recycling, but we need a
6 way of measuring their postconsumer recycling efforts in
7 California. Overall recovery goals for the nation don't do
8 us any good here in California.

9 Thirdly, we need to have a signal to wastepaper
10 collectors in the public and private sector as to which paper
11 grades hold the greatest recycling potential. And by
12 "recycling," potentially I mean are there going to be markets
13 for this material. In terms of, you know, this is the
14 approach I think we need to move forward with now. I think
15 the Board has to continue the process that they've begun in
16 terms of developing regulatory and basically minimum recycled
17 content mandatory utilization legislation.

18 But rather than wait until that process is finished
19 and rather than having to sit through presentation after
20 presentation of why it can't be done, the Board needs to move
21 forward immediately with goals that respond to the goals that
22 local governments and private recyclers have to deal with,
23 and California citizens have to deal with right now.

24 So I think it's imperative that we do continue to
25 work on the regulatory approach, the minimum recycled content

1 approach and figuring out how to make that happen in terms of
2 which grades of paper. In terms of, so you could describe
3 this as the voluntary approach, although I think it really
4 demands the Board setting, establishing some very specific
5 goals and a very specific disclosure process for the paper
6 industry.

7 I want to make a couple of points with regard to
8 the staff, the staff report as it was describing the
9 voluntary approach and one point that was made, that we
10 disagree with, and that is the need to come up with the
11 numbers first. We've got goals in place that local
12 governments have to meet by the end of this decade, and we
13 think it's appropriate to establish wastepaper utilization
14 for recycling goals based on those goals, and that's why we
15 were proposing not less than 50 percent by the year 2000, not
16 less than 40 percent by 1995. So we would disagree with the
17 motion that we have to pin down these numbers first.

18 Secondly, the staff report references recovery in
19 the voluntary approach and all you need to do is go out to
20 the City of Folsom in the warehouse where they keep the
21 material that they've recovered from the City of Folsom waste
22 stream and know that recovery is not utilizing this material
23 for recycling. So what we need to be measuring, what we need
24 to be having the paper industry disclose is the amount of
25 postconsumer wastepaper that they are using.

1 Finally, I also want to disagree with the notion, I
2 agree with the staff report and I really applaud them for
3 taking that step away from just corrugated and printing and
4 writing paper to looking at the overall wastepaper stream.
5 But clearly right now wastepaper equals 54 percent of
6 California's existing diversion. It's going to be essential
7 that wastepaper and other recyclable materials exceed the 25
8 and 50 percent goals that we've established for local
9 government.

10 So we believe that it's going to be imperative that
11 we go beyond the 24 percent recovery goal that's suggested in
12 the staff report and at minimum given the paper industries
13 stated goal of 40 percent recovery by 1995, we think it's
14 appropriate to establish a California postconsumer wastepaper
15 utilization for recycling goal of not less than 40 percent by
16 1995.

17 So just in closing we think that the Board has the
18 authority to move forward on this approach. We think that we
19 have to continue in terms of the regulatory approach. We
20 have to continue in terms of the number crunching, finding
21 out where we are and how paper is broken down in terms of the
22 different wastepaper categories, but we need to move forward
23 immediately in terms of establishing utilization for
24 recycling goals. Thank's a lot.

25 COMMITTEE MEMBER CHESBRO: I got a question for you

1 Mark. I'm -- maybe I'm misunderstanding what you're saying,
2 but maybe we're in disagreement here. Are you saying that
3 that the Board should adopt utilization goals and not pursue
4 the legislative backup for it?

5 MR. MURRAY: No. No. I'm saying that having been
6 involved in pursuing legislation in the minimum recycled
7 content front I recognize that the time that is associated
8 with that process and the debate that ensues with that
9 process. So I am saying the Board should immediately, as a
10 first step, establish utilization for recycling goals.

11 COMMITTEE MEMBER CHESBRO: That's not exclusive of
12 legislative?

13 MR. MURRAY: Absolutely not. No. We have to
14 continue on this process of moving forward and the regulatory
15 approach, but not get bogged down in the regulatory approach
16 which, where we have one annual shot to try and get say a
17 minimum recycled content or a mandatory utilization approach
18 through. And I'm suggesting that now, with the passage of AB
19 1909 the Board has the authority now, we believe, to
20 establish the utilization for recycling goals.

21 There's a question as to whether the Board has
22 existing authority to establish minimum recycled content
23 goals and so we would suggest that we continue to flush that
24 issue out, but first let's make sure we get those goals in
25 place.

1 COMMITTEE MEMBER CHESBRO: Well my earlier comment
2 about needing to respond to legislature, that did have to do
3 specifically with mandatory, the fact that I felt that, you
4 know, from every indication I've had we don't have the tools
5 to create a mandatory utilization rate, and so it's my hope
6 that that is a component in the strategy we develop.
7 Although I also think that the concept of going ahead and
8 using the Board's authority to make waste policy for this
9 state irregardless of what the tools are for carrying it out
10 to set a goal is a very good suggestion and one that we ought
11 to --

12 MR. MURRAY: Yeah. And let me just kind of follow
13 up because I think that the notion that the industry is
14 suggesting that, you know, they need flexibility I think
15 that, you know, we appreciate that. And, for example, we
16 have minimum recycled content standards in place now for
17 glass. Those postconsumer minimum content mandates are
18 insufficient to create markets for the amount of glass that
19 we're collecting. So they're on paper, but they don't really
20 do anything for us in terms of creating market demand. So I
21 think that, for example, rather than pursuing specific
22 minimum content legislation, the Board may want to pursue the
23 authority to establish minimum recycled content legislation.

24 So that, you know, that would be the legislature
25 giving the Board the authority to set those goals based on

1 market conditions. And that may be the appropriate way to
2 pursue the legislation. I don't know that we've figured out
3 the specific appropriateness. We certainly know that minimum
4 recycled content works, but can we set in place in 1994
5 minimum recycled content standards that take us through the
6 year 2000 that are going to be at the appropriate level to
7 pull material through. We know it works, we know we need it,
8 but how did we actually structure it.

9 Ideally from my perspective the Board will have the
10 authority to set that minimum recycled content standard
11 rather than, you know, waiting for it to go through the
12 political process over at the legislature.

13 COMMITTEE CHAIRMAN RELIS: Mark, did I hear you say
14 that in your view though the principal of flexibility is an
15 important one?

16 MR. MURRAY: Yeah, I think it is. I mean we're
17 talking about hopefully, hopefully recycling will cause a
18 change in the economy. Hopefully it will create greater
19 reliance on secondary resources than on virgin resources.
20 And so that's gonna throw this very large sector of the
21 economy in flux as they shift from being dependents on virgin
22 resources to being increasingly dependant on recycled
23 resources. And so to think that we could in 1989 or 1994 say
24 where we're going to go --

25 COMMITTEE CHAIRMAN RELIS: Yeah.

1 MR. MURRAY: -- then I think it's appropriate to
2 have flexibility.

3 COMMITTEE CHAIRMAN RELIS: Any other comment?

4 MR. MURRAY: Thank's a lot.

5 COMMITTEE CHAIRMAN RELIS: Thank you very much.

6 Brian, you have a question for Mr. Murray?

7 MR. FORAN: Yes, Mr. Murray you were recommending
8 establishing utilization subgoals for individual paper grades
9 and I was wondering if you were, if the Board were to
10 establish an overall utilization goal for all paper grades in
11 a particular -- and we also established these subgoals, but
12 one particular grade of paper were to fall short of those
13 goals, what did you have in mind as far as recourse to that
14 if the individual grade not meeting its specific goal the
15 industry still has met the overall paper utilization goal
16 that we had established?

17 MR. MURRAY: Well again, you know, this goes to the
18 flexibility of, you know, the Board would make an assessment
19 if the overall goal has been met the commodity specific goal
20 hasn't been met the Board can weigh whether or not the
21 hammers should come down in that circumstance.

22 And let me give you, in one circumstance, I think
23 the Board could say hey, overall we met it, no harm done,
24 let's move forward. At the same time if we signaled and in
25 conjunction in terms of developing those subgoals with the

1 paper industry we have suggested, for example, that the
2 subgoal for corrugated should be at a certain level. And
3 that goal is missed and we had a whole bunch of local
4 governments and a whole bunch of private recyclers invest in
5 collection programs for that corrugated material, I think
6 that, you know, there's a need to have goal, you know, if the
7 paper industry has said this is part of the goal, I think
8 there's a need to have a hammer that comes down to protect
9 that investment.

10 MR. FORAN: Thanks.

11 COMMITTEE CHAIRMAN RELIS: Glen Sheeren, is that
12 right?

13 MR. SHEEREN: That's correct.

14 COMMITTEE CHAIRMAN RELIS: Thank you.

15 MR. SHEEREN: Thank you for the opportunity to
16 speak today. I attended the last meeting that was on policy,
17 and listened to this one. And I work for Inland Container
18 Corporation, and we're a major paper recycler of old
19 corrugated boxes. And we make new boxes from that. We have
20 200 percent recycled mills here in California and ten box
21 points, and I'm sure the staff's quite aware of who we are,
22 etcetera. But one of the things I wanted to point out and
23 I'll make my comments brief, I wanted to go back to a point
24 that seems to be getting lost in the discussion and that is
25 the question of barrier to investment.

1 If we talk about mandated programs and we talk
2 about flow control, you're talking about the raw material,
3 the life blood of a factory, and getting involved in the
4 relationship between that factory and its end customers and
5 how that product is made for the end customer. Does that
6 create a barrier to investment? Well we built a hundred
7 percent recycled mill here in 1985 in Ontario, California.
8 We also spent in 1992 another \$40 million expanding capacity.
9 So we put 500 tons a day capacity on-line in '85, and in 1992
10 we put another 300 on-line. We made those two investments
11 and I can tell you having been personally involved in the
12 performance and the financial justifications of both those
13 investments that if we had in place flow control and a
14 mandated program we would not have made those investments.
15 That is a reality. It would have created too much
16 uncertainty. It would have created a real hurdle, and we
17 would not have made those investments. And you would not
18 have the Ontario mill chewing up 800 to 900 tons of old
19 corrugated boxes a day in Ontario, here in California.

20 COMMITTEE MEMBER CHESBRO: I've heard the argument
21 about why flow control did that, I don't really understand
22 why a mandated requirement would cause you to not do what the
23 law requires? In the second part it --

24 MR. SHEEREN: Content, minimum content?

25 COMMITTEE CHAIRMAN RELIS: Minimum content.

1 requirement. Why would that prevent you from doing minimum
2 content?

3 MR. SHEEREN: Minimum content would basically be a
4 drop in to our relationship between us and our customer, and
5 if we can avoid that in any way I build a factory someplace
6 else to supply raw materials or not make the investment at
7 all. That uncertainty of having somebody else telling the
8 two parties, the producer and the customer, what will be in
9 the box that the customer will ultimately buy, what product
10 mix and how will that be configured is not something that's
11 truly free market, and I don't think our company would make
12 that investment.

13 COMMITTEE MEMBER CHESBRO: It seems to me it would
14 give you an advantage over out-of-state competitors who
15 weren't producing recycled content products.

16 MR. SHEEREN: You would think so, and in our case,
17 and it's especially important when you think about Inland
18 Container it's almost 45 percent recycled right now in terms
19 of all its mass material flow. So if anyone who would
20 benefit you would think I would stand up here and encourage
21 you to do this. But I'm telling you no, that that's a
22 discouragement for investment.

23 COMMITTEE MEMBER CHESBRO: I'm mystified by the
24 argument. I don't really get it, understand it, you know,
25 why that would discourage, put you at a disadvantageous

1 position?

2 MR. SHEEREN: It creates an uncertainty that our
3 Board of Directors would not want to see in the marketplace
4 with regards to our relationship with our customers. And we
5 would not make that investment.

6 COMMITTEE MEMBER CHESBRO: That certainly hasn't
7 been the case in the newsprint industry.

8 MR. SHEEREN: I can't speak for them. I can only
9 speak for Inland Container. I'm not speaking for the
10 industry, I'm not speaking for anybody but my particular
11 company and my experiences with my Board of Directors. And
12 I've personally worked on the venture of getting investments
13 here in California, and I can tell you that this would create
14 the uncertainty that they would not make the investment again
15 because of -- now something that would encourage them is
16 continuing to incur and move along the stream of voluntary
17 program and we compete very well with virgin sheets and
18 virgin products coming into the state. We continue to
19 compete again.

20 COMMITTEE CHAIRMAN RELIS: Could you speak up just
21 a little bit?

22 MR. SHEEREN: Sure, I'm sorry. We continue to
23 compete very effectively as a recycler, and we would
24 encourage voluntary programs to continue to move forward that
25 are jointly done by, that are jointly, targets are jointly

1 developed by the government and the private sector.

2 Now one of the things that you might consider doing
3 in enhancing the voluntary program is a recognition program.
4 A recognition of those people who have made investments, who
5 have met targets and do it in a very simple fashion. Don't
6 make it an accounting nightmare where you do content per box.
7 Do it on a mass material flow basis so an individual company
8 like Inland Container or Container Corporation of America or
9 somebody like that could come into the staff and say this is
10 our material balance flow, we are over the targets. Go ahead
11 and recognize as one of the positive contributors and indeed
12 reward us by publishing and publicly acknowledging the
13 achievements and the investments made by individual
14 companies. That's one way of indeed encouraging.

15 But I don't think the process is broken, I think
16 people are making investments, the fact that we've built the
17 Ontario Paper Mill. The fact that we expanded mills here in
18 California, made investments, says that under the voluntary
19 program investments are being made, investments continue to
20 be made. And my fear is that with the intent and good intent
21 of trying to expand capacity we not do something that may
22 indeed accomplish the opposite objective and that is strand
23 investments and make a disincentive.

24 COMMITTEE CHAIRMAN RELIS: Thank you. Any further
25 questions. Okay. John Greenberg, representing BFI.

1 MR. GREENBERG: I'm John Greenberg with BFI.
2 Thanks for the opportunity to come before you today. I just
3 have a few simple points to make, and let me just begin with
4 that. The issues that you're working on of market
5 development that is the single most important issue facing
6 recycling today and that is improving demand for recyclables.
7 I think over the past several years and this is not just
8 California, but across the country, and I think it's
9 important nevertheless you've seen legislation, mandating
10 supply in this country for recyclables yet you've not seen
11 complimentary legislation or policies that bring supply and
12 demand into sync.

13 So I think the work of this committee and the
14 timing is extremely important. You've got to bring supply
15 and demand together and hopefully the kind of work that
16 you've been pursuing here will lead to that for California
17 and also perhaps provide some leadership to the country as a
18 whole.

19 I'm not going to offer any detailed comments on the
20 report that you've done. I will submit those in writing. As
21 a general matter we sort of like option C. And instead of
22 talking about option C in any detail I'm gonna just give you
23 a very brief overview of sort of a broader option that BFI
24 has been working on and that has to do with disclosure,
25 mandatory disclosure of postconsumer content by commodity by

1 grade by commodity manufacturers.

2 And the purpose behind that would be; one, to get
3 data to show what's happened to give credit where progress
4 has been made and also to highlight areas where progress has
5 not been made and point to practical solutions to make
6 progress. We think that this kind of approach coupled with
7 the fall back position of minimum content utilization
8 standards would provide a lot of flexibility, it would allow
9 time for manufacturers to demonstrate progress and also
10 pursue creative solutions, and that's partly in recognition
11 that while supply has been relatively easy to produce and
12 certainly has been well demonstrated throughout the state
13 across the country creating demand is a bit more complicated
14 and it does require flexibility.

15 And my final point here, and I just can't read my
16 own handwriting here. Actually that is my final point.
17 That's my simple comments before the Board. Are there any
18 questions to that, to what I've said?

19 COMMITTEE CHAIRMAN RELIS: No. I think the notion
20 of disclosure I think is just a fundamental principle in its
21 own right, and I think that's what you're getting at in --

22 MR. GREENBERG: Yeah, I think disclosure is
23 important.

24 COMMITTEE CHAIRMAN RELIS: -- reporting mechanism.

25 MR. GREENBERG: The reporting mechanism is

1 important in a couple of key ways; one, if you have to tell
2 people what you're doing, you're gonna think about what
3 you're doing. And not unlike the toxic release inventory
4 reporting that goes on for chemical companies, that's
5 inspired a lot of voluntary behavior without cumbersome sort
6 of specifications of exactly what they need to do, and we
7 think that same principle can be also applied toward
8 manufacturers. They'll be able to report what they've been
9 doing, if there's a problem there will be data there to show
10 what the problem is and possibly what the solutions are, and
11 you'll be able to measure progress and see what kind of goals
12 that are necessary and obviously in California you have
13 pressing goals before you.

14 COMMITTEE CHAIRMAN RELIS: And I assume this is a
15 broad, what you're referring to as a broader framework?

16 MR. GREENBERG: Yeah, I'm sorry, what I'm talking
17 about in the proposal that I'll submit to you is across all
18 commodities and is not just focused on printing and writing
19 paper and cardboard.

20 COMMITTEE CHAIRMAN RELIS: Well I'm just saying I
21 think that's intriguing and I think that perhaps you could
22 share that with our staff and then we could get a report back
23 soon on that particular venue then, that whole disclosure
24 venue and understand it in its full context.

25 MR. GREENBERG: Yeah, our hope is there are some

1 ideas here that would dovetail very nicely.

2 COMMITTEE CHAIRMAN RELIS: I mean it seems
3 consistent with some, very much with this whole idea of
4 getting the information out and the progress, try to
5 understand it and measure, measure how we're doing.

6 MR. GREENBERG: Right.

7 COMMITTEE CHAIRMAN RELIS: We need that. That's
8 what we just heard in the previous testimony from Mr. Murray.
9 So okay, thank you very much.

10 MR. GREENBERG: Thank you, too. All right.

11 COMMITTEE CHAIRMAN RELIS: Our next speaker is
12 Charles White with WMX is it? I'm trying to, I always mix up
13 the --

14 MR. WHITE: I always debate whether I should just
15 say WMX and try to explain what WMX is, but suffice it to say
16 I'm here speaking for waste management. We do appreciate the
17 opportunity to speak to you. We did provide some written
18 comments.

19 COMMITTEE CHAIRMAN RELIS: Yeah, and by the way I
20 wanted to thank you very much for the detail of those written
21 comments. It was very helpful.

22 MR. WHITE: Well we hope to provide a constructive
23 role, but it's really a role that we can certainly
24 participate in, but the real effort it takes to make
25 recycling work really is a joint partnership with shared

1 responsibility which I think we're gonna keep harping on time
2 and time again. There certainly is a role for government and
3 your current process is clearly demonstrating a leadership
4 role and from the standpoint of government, but it also
5 involves consumers, manufacturers, and providers like
6 ourselves of waste collection and recycling services.

7 And the big question that we have before us is how
8 do we make these AB 939 goals work. And they're pretty stark
9 numbers when you think about it. 50 percent, 25 percent and
10 the big dilemma we're facing is how is this going to work.
11 How do you translate this into reality. And clearly there
12 are many ways you can proceed legislatively. And I suspect
13 in the upcoming years we are going to see some debates in the
14 legislature in terms if mandatory disclosure as a
15 representative from BFT just mentioned, minimum content,
16 those debates can proceed in this role with this Board and
17 waste management and the paper industry and others can
18 certainly conduct that discourse before the legislature as
19 appropriate.

20 I really think what the Board should focus on now
21 and I think you are doing that to your credit, is look at
22 those ways under your existing authority that you can help
23 translate this stark very simple claim, 50 percent and 25
24 percent numbers into something that is more manageable and
25 more realistic with respect to the individual types of

1 materials in the waste stream. And the big question is what
2 role should paper play. And I think it's appropriate to
3 focus on all grades of paper which seems to be the interest
4 of the paper industry and certainly ourselves and this Board
5 as well. Is take a look at all paper, look at postconsumer
6 papers, preconsumer papers, and try to establish what role
7 should paper play in meeting the overall 25 and 50 percent
8 goals.

9 And really the clear thing that you need to proceed
10 on right now and you have complete authority to do it under
11 recent legislation, and legislation that's been in place for
12 quite some time is start taking that 50 percent number and
13 translating that, what that means in terms of paper for the
14 year 2000. But don't stop at 2000, take a look at what that
15 means to reach that point from where we are today to the year
16 2000.

17 And we think the idea of establishing annual goals
18 for the various types of paper, and sure we've got work to do
19 on some definitions, but really need to be focusing on
20 postconsumer types of papers. And for OCC for printing and
21 writing and for mixed paper. And by the way, mixed paper is
22 the area we struggle with the hardest in trying to find
23 markets. Not only do we have to, it cost us money to
24 collect, to sort, to package, to local transportation costs,
25 but then right now in California we have to pay \$25 to have

1 it shipped overseas for use.

2 Something needs to be done here to help stimulate
3 that market for mixed paper. And that's going to involve an
4 effort of all players in the program. But what the Board can
5 do is take a look at mixed paper these other grades and say
6 here's what we think the role of mixed paper should be before
7 the year 2000 and all the years intervening that. And
8 establish these goals today. And we don't need to wait for
9 better data to establish these goals. Well sure these goals
10 we establish today may not be the exact numbers we would
11 ultimately choose as we proceed in the upcoming years, but
12 they'd be based on the best available information that we
13 have today.

14 And then we can monitor and adjustment -- in fact,
15 we had a meeting yesterday which I think was just absolutely
16 helpful in understanding what the various perspective of
17 industry and recycling and waste companies such as ourselves,
18 what were, where the real problems with some of the data is.
19 We can collect data on an annual basis and then take a look
20 at what we have achieved, compare that to the goals, and if
21 we need to adjust categories, if we'd estimated, put a goal
22 too high in OCC or too low in another category we can adjust
23 that. But with never losing sight that we need to make the
24 50 percent total waste diversion goal by the year 2000 work.
25 And focusing on what is the role that paper should play.

1 And then we can, in this monitoring and adjustment
2 would provide that flexibility on an ongoing basis. And if
3 we fall short of meeting these goals then we can really start
4 the serious debate of what we need to enter into the
5 marketplace if necessary or what other types of tools would
6 be available to stimulate that market demand necessary to
7 bring it back into line with these goals that this Board
8 achieved. So the bottom line and very simply stated is we
9 urge you to proceed, to go ahead and adopt some interim goals
10 for the various types of graded paper, hopefully on an annual
11 basis, leading us to the year 2000 based on the best
12 information that you have before you today. And we'd be
13 happy to participate in any further discussions you may wish
14 to convene on this matter.

15 COMMITTEE CHAIRMAN RELIS: Well thank you. Thank
16 you very much. Any comments?

17 COMMITTEE MEMBER CHESBRO: Well again, as I
18 indicated when Mr. Murray was up there, it seems to me that
19 we should be talking a little more specifically about what
20 happens if the goals aren't met. We should be talking about
21 it early on, not moving to that date in the future and saying
22 well if they don't meet it then let's start talking about
23 what would happen, you know. The notion of waiting till then
24 to discuss it bothers me because again from a local
25 government standpoint, you know, they don't give voluntary

1 compliance with AB 939, you know, they're on the line.

2 And so it seems to me we need to try to put a
3 little more teeth into this concept. I'm more than willing
4 to try to build flexibility and recognize the industry is
5 making progress and that we don't want to over mandate the
6 situation, but it seems to me they also need to understand
7 that there's something real out there that is more onerous
8 should the voluntary approach not be successful. And so I --

9 MR. WHITE: I'm not disagreeing with you, there may
10 be opportunities for legislation to help move the course of
11 recycling diversion along. But I guess my point to you is
12 don't give up in favor of seeking legislation. Don't lose
13 sight of the thing you can actually do today.

14 COMMITTEE MEMBER CHESBRO: Well I think that
15 point's been made, it was made by CAW, you're making it. I
16 think it's a well taken point that we shouldn't delay the
17 broad official state goal that says this is the goal and have
18 that dependant on the success of legislation. I agree with
19 that. But I also, the flip side is that we shouldn't drop
20 pursuing something with teeth because we've got this next
21 goal, you know.

22 MR. WHITE: Great.

23 COMMITTEE CHAIRMEN RELIS: All right. Brian.

24 MR. FORAN: Mr. White, I was wondering if you had
25 envisioned what, how the goals would be measured, whether

1 they would be as a straight amount disposed in landfills or
2 as a diversion or recovery goal such as AB 939 goals are
3 measured?

4 MR. WHITE: Well I think all types of paper ought
5 to be considered, but I think the focus ought to be in, on
6 postconsumer papers. And I think you can establish the goals
7 based upon best available information. Now how you measure
8 that, I think you rely on the paper industry and information
9 you get from the local governments and do that in an open
10 forum say every year.

11 We heard from the paper industry, for example,
12 yesterday that for the data collected in the previous year it
13 takes a while to synthesize that information and work it
14 through and say by May or June that information would be
15 available. Then the Board can hold a hearing and all
16 players, consumer groups, environmental groups, the paper
17 industry, the waste industry, the recycling industry could
18 come forward and give their perspective on whether these
19 goals are being met. And through that process the Board can
20 sit in judgment then and make a best case judgment as to
21 whether or not they think, the Board thinks those goals are
22 being attained. Does that answer your question?

23 MR. FORAN: Well partly, but were you envisioning
24 that the goals would be diversion goals similar to those
25 required by the jurisdictions in California, that is, we'd be

1 comparing amount of material diverted over that generated, or
2 were you envisioning simply a threshold of material disposed
3 in landfill for particular paper types?

4 MR. WHITE: Well I would envision at least three
5 numbers total of, what you, the amount of waste that's being
6 generated and percentage, break that into percentage
7 diversion, and that could be either sheer reduction or
8 recycling, or recycling or recovery activities. And then the
9 other part of that would be the amount that ended up going
10 to, I think you need to have both parts to really get a clear
11 picture of what's going on.

12 MR. FORAN: Okay, thank you.

13 COMMITTEE CHAIRMAN RELIS: We have one other person
14 who is requested to speak, and I would remind people in the
15 audience if you do wish to speak on this matter you should
16 get your little sheet up to us right away. So Rick Best from
17 CAW.

18 MR. BEST: Thank you, Mr. Chesbro, and Mr. Relis,
19 for the opportunity. Mr. Murray permitted pretty much, you
20 know, CAW's interest in our, in some of our ideas in terms of
21 where the Board should go on this issue. I wanted to kind of
22 elaborate on a few specific concerns that you had, that had
23 been brought up by the committee here.

24 First of all, we feel that really this is something
25 that really needed, as we all know, I think, been done early

1 on, you know, right after the passage of AB 939 that it's
2 really necessary for the Board to establish a blueprint, a
3 framework on how the Board sees its role in terms of the role
4 of creating demand for recycled materials. And a blueprint
5 for what materials are going to be, you know, specifically
6 pursued by recyclers and local government programs and, you
7 know, what are the needs in terms of developing markets for
8 those materials.

9 And in that sense I think the ideas of establishing
10 utilization goals by the Board is more of a blueprint and a
11 framework in terms of where the Board is going to go and not
12 necessarily an end all in terms of this is the solution. We
13 see it as more of a blueprint. And now we need to look at,
14 you know, are there mechanisms that the Board needs to then
15 use to create the demand for those materials. And so we feel
16 the Board needs to continue to work on its current progress
17 in terms of looking at legislative perhaps solutions in terms
18 of minimum utilization rate or mandatory recycled content for
19 recycled materials.

20 We see really two needs. Number one, I mean
21 certainly is to create a hammer in terms of making sure that
22 the voluntary goals that are being considered would, would
23 be, you know, recognized and pursued by the paper industry
24 with the understanding that there would be a regulatory or
25 legislative regulatory framework as a backup afterwards.

1 Secondly, we think utilization goals aren't the
2 only thing that should be considered, as the staff proposal
3 showed this month a combination of both utilization rate and
4 a minimum content approach in terms in the example for OCC of
5 having the 80 percent utilization rate and a 40 percent
6 minimum content is something we feel should be considered in
7 that utilization simply, as soon as the material gets pulled
8 out of the waste stream. But we also want to ensure that
9 that material goes into high value products. And we feel a
10 minimum content approach is a direct way as we've seen with
11 the recycled content for newsprint a way of developing,
12 making sure that material goes into high value products.

13 Finally, I just simply want to reiterate, I guess,
14 our interest in terms of on the flow control issue that it's
15 been brought up a couple times during the debate here today
16 and then last month. CAW has been involved in a coalition
17 with both the paper industry, but also recyclers and
18 generators on this issue and we feel, our interest is in
19 terms of ensuring the long term viability of recycling here
20 in California, and so it's, we feel this is, it's certainly
21 necessary to look at this issue.

22 But we feel the direction thus far in terms of
23 preserving the industry that currently exists is the best way
24 to ensure that we meet the recycled, the recycling goals that
25 we have and to make sure that the industries, both paper

1 industry, the recycling industry, that exists will be, remain
2 viable in the future is critical to meeting these goals. And
3 I thank you.

4 COMMITTEE CHAIRMAN RELIS: Thank you. Comments?
5 Thank you. Okay. We have Yvonne Hunter from the League of
6 Cities.

7 MS. HUNTER: Thank you, Mr. Chairman. Yvonne
8 Hunter, with the League of California Cities representing the
9 only form of the community that has any enforcement penalties
10 for not meeting goals, financial penalties, so I'd sort of
11 like --

12 COMMITTEE CHAIRMAN RELIS: Well welcome, we're glad
13 to have you here.

14 MS. HUNTER: So we think other folks should have
15 financial penalties as well.

16 (LAUGHTER.)

17 COMMITTEE MEMBER CHESBRO: I'm not joking.

18 MS. HUNTER: Unless of course we want to switch and
19 make the local government goals for AB 939 voluntary? Or
20 make everybody voluntary. Anyway, we have a very, very
21 strong commitment, as you might understand, because of AB 939
22 and the fact that we are the only ones on the book except for
23 possibly the Waste Board, and I'll get to that. We have a
24 very, very strong commitment in supporting increased markets
25 for recycled material.

1 We support almost any bill or any program that
2 looks like it stands a chance to increase the markets. And
3 I'm sure the Board Members and others in the audience, and
4 Board Staff have been at meetings like I have with local
5 officials, whether they're elected or they're staff, and the
6 question asked at every single meeting is markets, what's
7 happening? What's doing? What's going on? What is the
8 State doing? What is the Waste Board doing? What's the
9 League doing? We are collecting all that material and it,
10 it's gonna, unless there are markets there our programs that
11 will become so expensive because they'll just have to pass
12 the cost on to the rate payer unless there is a viable market
13 for which to, for these diverted materials to go to.

14 Local governments reputation and financial well
15 being is on the hook as it relates to AB 939, but I think
16 indirectly and it's, I know, discussed at a number of board
17 meetings, the Waste Board's reputation is on the hook as
18 well. I know Chairman Huff, Chairman Huff has raised that
19 issue as well down the line in '95 or the year 2000 if
20 California statewide isn't at 25 and 50 percent, sure, we can
21 point fingers at individual jurisdictions, but it's also the
22 State and the Waste Board that will get tarred and feathered
23 as well rightly or wrongly, because of the fact that the
24 goals aren't met.

25 Therefore we think that it's very appropriate for

1 the Board to take a very strong leadership role in enhancing
2 the markets for recycled material. We the League, I think,
3 we'd still prefer legislative solution. We'd prefer to have
4 it like Wesley has said in statute, thou shalt have minimum
5 content. And if there's legislation introduced we'll
6 probably support it. But we're also realistic and you
7 probably need to act on two fronts.

8 We think it's appropriate for the Board to take a
9 leadership role. The idea of the voluntary program with
10 flexibility and goals and all that's been discussed, and I
11 won't go into it anymore is conceptually all right with us.
12 As long as there is a real strong commitment on behalf of the
13 Board, and the indication is there is, to pursue that. I
14 think if we all sit down together, industry, the various
15 segments of the industry, local government, the Board, I
16 think we can come up with something quite good, and frankly
17 it could be a model to be used in other areas even in
18 non-recycling areas.

19 We think that the Board does have the existing
20 authority to do that in three places, the O'Connell bill that
21 was enacted last year, but also tripping through the
22 statutes, AB 440 added a section, that's section 40911 says,
23 blah di blah di blah, amending regulations, the Board shall
24 take into account all of the following: The shared
25 responsibility that exists between the Board and local

1 agencies for activities such as the development of markets
2 for materials diverted from disposal facilities, etcetera.

3 And the League was very insistent in this section
4 to point out that it wasn't just our responsibility, local
5 government's responsibility to develop the markets, it's way
6 beyond local government. Similarly in 1989 a bill that
7 passed at the same time as AB 939 was SB 1322 by Senator
8 Ferguson and there's some language that says,

9 "The intent of the legislature to
10 implementing state programs place the
11 following, accomplish the following
12 objectives: Increase the procurement of
13 recycled materials and by the State
14 improve the markets for recycled
15 materials; conduct research and
16 development to improve the technology of
17 recycled materials manufacturing
18 processes."

19 So I think their clear intent and direction from
20 the State that this is an appropriate activity for the Board
21 to take, and where there are some additional authority we
22 would be happy to work with you on legislation. So we urge
23 you to move aggressively ahead in this.

24 That really was going to be all I was going to say
25 until a couple of the speakers threw out the phrase "flow

1 control." And I can't, I can't not respond to it because
2 clearly it's a hot button for all sorts of people. And the
3 question, I mean several of us in the room sat, what do they
4 mean, you know, flow control? And without debating the issue
5 because this is, I don't think this is the time, I'm still
6 not sure what they mean. Do they mean flow control in the
7 sense of everything is going to go to this MRF? Or do they
8 talk about flow control which is what I prefer to call local
9 regulatory authority for solid waste and recyclables whether
10 you have a business license, contract permit, nonexclusive
11 franchise or exclusive franchise? That's something entirely
12 different.

13 One of the speakers was talking about barriers to
14 investment. Flow control is a barrier to investment. An
15 example of, from a different perspective of barrier to
16 investment is in many instances as you well know to get
17 financing from a MRF, the banks won't give you the financing
18 unless you can demonstrate there's an adequate waste stream.
19 So, I mean, that's a flip sided barrier to investment. And
20 again I simply want to point out that at least the position
21 we have taken and currently I don't know of anywhere where
22 it's not acceptable, anyone can come and buy or take away for
23 free wastepaper, corrugated cardboard, scrap metal, glass,
24 bottles, anything they want.

25 The examples that have been given for corrugated

1 cardboard, anyone can operate under the so-called donator
2 sell provision so again that's not an issue to debate here.
3 But I just couldn't let it go without commenting on it.
4 Thank you very much.

5 COMMITTEE CHAIRMAN RELIS: Thank you. Well now
6 just looking at the time, we're moving right along. I wonder
7 if we should break or we could just perhaps wrap this up if
8 you'll be patient. We only have two more speakers. We'll
9 take a two minute break and then we'll proceed.

10 (Thereupon there was a brief recess.)

11 COMMITTEE CHAIRMAN RELIS: Back to order. Our
12 next -- if I could get everyone to sit down and we'll resume
13 this meeting.

14 Denise Delmatier representing Norcal.

15 MS. DELMATIER: Mr. Chairman, and members of the
16 committee. Denise Delmatier with the Gualco Group on behalf
17 of Norcal Waste Systems. I'm going to try and be real brief
18 because obviously we've had a lot of discussion on this this
19 morning, and quite frankly I agree with many of the speakers
20 this morning, and I don't want to reiterate all that's been
21 said, but including, of course, the comments that were made
22 by Ms. Hunter, Mr. White, Mr. Murray, the representative from
23 BFI. And also I want comment that I also agree with many of
24 the statements that were made by Mr. Horton on behalf of the
25 paper industry. But I just want to cut real quick to the

1 chase here and get to the bottom line and the bottom line is
2 what are we really about in AB 939, we're talking about
3 recycling. What happened in 939 was half a loaf. We're got
4 a collection process. We've got local governments who are on
5 the hook. We've got collectors, recyclers, both private and
6 public who are on the hook to collect. We are out there
7 collecting. We are out there collecting madly and we need
8 markets. If we don't get markets we might as well just pack
9 it all up and go home. It's not going to work, we're going
10 fail, the Board's going to fail, the industry is going fail,
11 and none of this is going to work. So we've got to have
12 markets.

13 And the Board is as Yvonne alluded to is in a head
14 cheerleader position. You've got to establish the incentives
15 for those markets and it's the Board's responsibility as
16 Yvonne pointed out in the statutes, 1909 the O'Connell Bill
17 charges the Board with that responsibility legislatively.
18 And so we'd strongly concur that the Board must immediately
19 take the lead role. We can't wait any longer. We're out
20 there collecting, the stuff is starting to build up, we could
21 build more warehouses to house all this stuff, but that's not
22 what 939 is all about.

23 We also agree that flexibility is important for the
24 paper industry. And it's not in the best interest of any of
25 us including local government and environmental community

1 recyclers to do, or to mandate programs that are going on be
2 so onerous for the paper industry that it becomes a problem
3 for them in implementing and ensuring that markets are, in
4 fact, developed. So we have to be sensitive to providing the
5 built-in flexibility provisions of the staff proposal.

6 And I would agree with the previous speakers that
7 under the current staff proposal that's under consideration
8 today those flexibility provisions are built-in and so we
9 strongly support the staff proposal as the, as it pertains to
10 the voluntary goals, the voluntary rates, and the target
11 dates that the staff has outlined.

12 The final statement I wanted to make is that we
13 also wanted to mention that we think the staff proposal and
14 what's been discussed here this morning makes good sense not
15 only for AB 939, but the California economy in general. And
16 we also think it makes sense for the paper industry in
17 general as far as their economic recovery, as far as our
18 economic recovery, as far as recyclers and private industry
19 and also government in general.

20 And so I just wanted to close with just a quick,
21 quick statement from a sister agency on this very subject as
22 far as what recycling means to California and how we're going
23 to get where we need to be in 1995, which is a year away, and
24 the year 2000 which is only six years away. So it's not too
25 soon, in fact, we should have been doing this yesterday as

1 far as ensuring those markets. But a sister agency, the
2 Department of Conservation, basically said that researchers
3 agree that resource recovery does carry enormous economic
4 development potential because of the abundant resources it
5 unlocks for industry feed stock.

6 "Recycling promotes economic
7 diversity, reduces pollution, prolongs
8 landfill capacity, counters resource
9 depletion, and creates lasting jobs. It
10 has emerged as an integral part of
11 California's economic and environmental
12 future."

13 So we want to also agree with the Department in
14 their pronouncement that recycling makes good economic sense
15 for the future of California. Thank you.

16 COMMITTEE CHAIRMAN RELIS: Appreciate your reading
17 that into the record. That is a good statement and we often
18 lose site of that in these discussions.

19 MS. DELMATIER: Thank you.

20 COMMITTEE CHAIRMAN RELIS: We have one other
21 speaker. Bernard Meyerson representing EMS.

22 MR. MEYERSON: I'll be very brief. I just wanted
23 to make a few points to counter some of the, some of the
24 presentations that were made today and some of the positions
25 taken. I say we, I've been in the paper business and the

1 wastepaper business on and off for about 20 years, and I want
2 to say although the markets have been, have been fluctuating,
3 quality paper can always be moved, quality fiber can always
4 be moved. And I see a real strong inconsistency here in the
5 Board, on one hand to try to encourage a greater use of
6 wastepaper by the paper industry, and at the same time
7 increasingly approving increasing numbers of dirty MERFs,
8 which by their very design and nature really cannot produce a
9 quality product.

10 I see a lot of tail wagging the dog, of collection
11 economics, and of high numbers in waste characterization
12 studies, pushing for the collection of mixtures of fiber
13 which are increasingly difficult for the mills to utilize,
14 and then, but with the, but with the collectors and the
15 public agencies saying this is, this is the way we've
16 collected it, this is the condition it's in, use it paper
17 industry and, you know, it's your burden to try to use it
18 that way.

19 I also see very little study of what the
20 implications of that are from an environmental standpoint.
21 What happens to the mill that is increasingly required to use
22 more and more contaminated fiber in its process, what does
23 that do to the environmental quality at the mill site. I
24 don't think it's appropriate for us to transfer one
25 environmental problem here to an environmental problem for

1 the, an increasing environmental problem for the paper
2 industry. But I don't see anybody doing great studies of
3 that.

4 Mr. Horton referred briefly to this issue of fiber
5 degradation. It's a very significant issue and people who
6 know, you talk about OCC, people who talk about, you know,
7 Taiwanese, OCC and most of the people don't even want it in
8 their mix, well I haven't seen any long term analyses of what
9 all these numbers that are being thrown out so cavalierly, 20
10 percent, 30 percent, 50 percent, 80 percent, what is this
11 going to mean to the quality of North American wastepaper and
12 what impact is that going to have on the export market for
13 example.

14 Is that going to close off significant export
15 markets? Is the domestic market going to be able to absorb
16 that additional tonnage if the export markets are foreclosed
17 by increasingly poor quality? I mean I think these are
18 things that have to be looked at. It's not such a simple
19 issue.

20 And one final thing also, I didn't hear one word
21 today from either side about the economic conditions that
22 relate to the marketing to the end product of the paper
23 mills. You know you can talk about requiring mills to take
24 in so much wastepaper, so much wastepaper. But the bottom
25 line is if they don't have useful markets and good markets

1 for their end product they're going to be limited in whatever
2 feed stock they can take. Whether that be pulp or
3 wastepaper, because the bottom line is they have to sell
4 their finished product. So I just think there are a lot
5 issues that still need to be dealt with. Thank you.

6 COMMITTEE CHAIRMAN RELIS: Thank you very much. I
7 think that concludes all those who wish to speak. And I'd
8 like to now move towards a motion here, and before we do I'd
9 like to offer some perspective on what we've heard today and
10 previously.

11 At least based on my reading of the testimony and
12 various discussions both in this room over a number of
13 meetings, and in other discussions with a wide range of
14 players, it's evident to me that our rates and dates approach
15 needs to be established for California postconsumer
16 wastepaper as a whole with specific rates for all of the
17 major classes.

18 The Board in my view should adopt an overall
19 minimum 50 percent goal for the recovery and utilization of
20 all paper grades. The Board has, I believe, sufficient
21 information to establish interim reduction recovery reuse
22 goals for the major classes of postconsumer wastepaper, and
23 as a starting point for delineating those interim goals I
24 would point to the path towards 50 percent paper that was
25 prepared or the analysis prepared by this staff of our Board

1 earlier this year in which specific targets were suggested
2 for major classes based on staff's understanding of current
3 and potential market conditions for these materials.

4 At the same time I recognize that we are engaged
5 with representatives of the paper industry and other stake
6 holders in trying to reach some consensus on just what those
7 current recovery rates and market conditions are, and that
8 was, I think that process was begun in earnest yesterday at
9 the data gathering meeting or discussion.

10 I, too, as Wesley mentioned earlier, welcome this
11 issue finally being before us in a quantitative sense. I've
12 looked forward to this day as a Board Member to, for this
13 Board to get very serious and focused on its market goals and
14 to quantify. It does us no good to stay in the realm of
15 generalities and platitudes and so forth. This is a real
16 down to earth mill by mill, ton by ton development effort and
17 we need to know where we are, and we need to hold everyone
18 accountable who has a role in this. And who's industry and
19 who's local governments and we have to do our part as a board
20 to provide the leadership. And that with a big "L"
21 leadership on this.

22 So I'm prepared to make a motion and I'd like to
23 read this into the record now.

24 I would move that the following framework for
25 interim and final rates and reporting mechanisms be adopted

1 by this committee and forward to the Board for approval at
2 its December 16 meeting, two weeks, not quite two weeks,
3 15th, is it the 15th?

4 LEGAL COUNSEL CONHEIM: 15th.

5 COMMITTEE CHAIRMAN RELIS: Okay, sorry. The first
6 point of this motion would be to establish interim
7 utilization recycling goals for California postconsumer
8 wastepaper. The Board shall establish an overall utilization
9 for recycling goal of not less than 50 percent of the
10 postconsumer wastepaper generated in California by the year
11 2000. The Board shall establish an overall utilization for
12 recycling goal of not less than 40 percent of the
13 postconsumer wastepaper generated in California by 1995. The
14 Board shall establish interim annual reduction recovery and
15 reuse goals for all major classes of postconsumer wastepaper
16 by March of '94.

17 Secondly, we move beyond these interim goals to
18 evaluate and establish final goals. The following
19 establishment of interim goals and building on the work of
20 the task force just established to resolve data differences,
21 representatives of the paper industry, waste management
22 industry, recyclers, and local government as well as the
23 environmental community and other interested parties shall
24 continue to meet with staff.

25 That is this process we've begun is now an

1 iterative one, and all the parties we've heard are at the
2 table that we need to be at the table, so they are to refine
3 the existing California paper generation disposal recovery
4 data and develop final reduction recovery disposal and reuse
5 goals by, I believe, no later than this Spring, and that
6 would be, oh, I don't know the exact date, March, April or
7 May, somewhere in there, I'll refine that, be willing to
8 refine that as, if necessary.

9 These final goals would include yearly, yearly
10 goals for each class of California postconsumer wastepaper,
11 such that the total goal is 50 percent or greater.

12 Now in making that point I understand and heard
13 very carefully the flexibility issue and while we will have
14 columns and suggested numbers, goals for each grade,
15 understand there's going to be movement in those goals, but
16 the real issue is that 50 percent minimum number, but that's
17 the one that we need to meet the needs for local government
18 and give us a marketplace. Without that we don't have it.

19 Now the third point would be monitoring and
20 adjusting the figures. Once these final goals have been
21 established the Board shall annually evaluate the voluntary
22 progress of the paper and wastepaper recycling industry in
23 attaining these goals on at least an annual basis. Working
24 in conjunction with the ongoing task force. The Board shall
25 develop reporting and review procedures for this purpose by

1 the summer of '94. If some paper classes show greater
2 progress than originally projected others show less, than
3 appropriate adjustments in the target percentages could be
4 made.

5 And then speaking to the minimum content and
6 utilization issue. Number four, the product and company
7 specific minimum content or minimum utilization rates will be
8 prescribed unless the Board determines that sufficient
9 voluntary progress is being made in meeting the targeted
10 goals. In other words, that's the provision about the
11 legislative option. We need to connect the two and that is
12 the motion that I wish to put forward.

13 COMMITTEE MEMBER CHESBRO: I'll second the motion.

14 COMMITTEE CHAIRMAN RELIS: Okay. The motion has
15 been seconded. We'll call the roll.

16 MS. WADDELL: Board Member Chesbro.

17 COMMITTEE MEMBER CHESBRO: Aye.

18 MS. WADDELL: Chairman Relis.

19 COMMITTEE CHAIRMAN RELIS: Aye.

20 This motion or this action will be forwarded to the
21 full board for action on the 16th, 15th. That completes this
22 aspect of our meeting.

23 And we will adjourn for lunch. We'll come back at
24 1:30.

25 (Thereupon the lunch recess was taken.)

A F T E R N O O N S E S S I O N

--oOo--

1
2
3 COMMITTEE CHAIRMAN RELIS: We'll reconvene the
4 meeting of the Market Development Committee. And since it's
5 getting late in the day I guess I need to ask whether there's
6 anyone that had planned a flight to get out of here by a near
7 term, next hour or so, and who must be before us to make that
8 flight?

9 Okay, well then you're on schedule anyway, I
10 believe. So we'll take up item one, oh, I'm sorry, number
11 four.

12 COMMITTEE MEMBER CHESBRO: This would be a tax
13 credit.

14 COMMITTEE CHAIRMAN RELIS: Okay. Then we'll take
15 one and four in that order.

16 DIRECTOR GORFAIN: Item one, Mr. Chairman, is the
17 consideration of Log World's application for a loan. And
18 Christine Yee and Ed Wilson will present the item.

19 MS. YEE: Good afternoon, Chairman Relis and
20 Committee Member Chesbro. I'm here to present the item
21 considering a loan to Log World.

22 Log World submitted an application to the Board on
23 September 9th, 1993, and it was reviewed by staff and
24 determined to be complete and eligible. And so it was
25 presented before the Loan Committee on November 1st, 1993, to

1 evaluate its financial soundness. And the loan was approved
2 and recommended by the Loan Committee and recommended for
3 approval by the Market Development Committee and Board.

4 Now Log World is requesting a loan for \$250,000 and
5 the company projects to be using 18,000 tons of postconsumer
6 waste which includes waste paper, wood and plastic. And they
7 expect to create 20 new jobs. So staff is recommending that
8 the Market Development Committee approves and forwards this
9 item to the Board for consideration at the December 15th,
10 1993 Board Meeting. So that's all I have to present. I can
11 answer any questions if you like, and also Steve Boyd who's
12 the president of Log World is here to answer any questions.

13 COMMITTEE CHAIRMAN RELIS: Any comments at this
14 point or should we hear from Mr. Boyd?

15 COMMITTEE MEMBER CHESBRO: We can hear from Mr.
16 Boyd, sure.

17 COMMITTEE CHAIRMAN RELIS: Okay. Mr. Boyd.

18 MR. BOYD: I brought you a sample of it so you
19 could take a look.

20 COMMITTEE CHAIRMAN RELIS: Thank you.

21 MR. BOYD: My name is Steve Boyd. I'm from Log
22 World. We're a company that was originally formed by our
23 recycling group to try to provide a better use for our
24 recycled materials and try to provide a little bit more value
25 added for the material that we are presently recycling.

1 We're also looking at developing an outlet for our waste
2 stream that we can have some sort of long term control over,
3 which is not the present situation we have right now.

4 What we've done is to develop a unique and patented
5 process that has used completely recycled materials as a
6 product for burning and wood stoves, and fireplaces, camp
7 fires. What we're doing is asking the Board for support to
8 introduce this project into Yosemite National Park. The
9 National Forest Service in Yosemite has identified air
10 pollution as the single biggest problem facing the park.
11 That air pollution comes primarily from cars and from camp
12 fires. This product has been designed to burn approximately
13 60 percent cleaner than wood, it burns approximately twice as
14 long as wood, and after the burn you have a small fine
15 powdery ash that produces much less clean up than the typical
16 wood that's used in the park right now.

17 Last year Yosemite asked us to introduce this
18 product into the park, however we did not have sufficient
19 volume and production in California to do that. This year
20 we're now in a position where we have the volume, where we
21 have the production capacity to do it. From the consumer's
22 point of view the advantages of this product are; first it
23 will dramatically reduce pollution in the park.

24 Secondly, it's going to allow the park to maintain
25 what the public views as sort of a wilderness experience

1 where you can go into the park in the evening, you can burn a
2 camp fire, you can sit around with your son or your family or
3 whatever. And that's the scenario that they're looking at
4 perhaps having to ban right now because of the problems with
5 pollution that they presently have.

6 And thirdly, it's going to improve park maintenance
7 and the environment in the park because you don't have the
8 problems with charcoal, wood residue with that product that
9 you would have with the traditional wood fire. The
10 advantages that this product has for our company and I hope
11 for the Board also is first it develops a new national outlet
12 for recycled materials that don't presently exist. It
13 develops a new customer base for us, and it makes us stronger
14 as a recycler.

15 Secondly, it increases the value of the recycled
16 materials. The consumer will pay more for the recycled
17 material that we're producing than will the industrial user
18 which presently is receiving that material. That makes
19 recycling as a business for us much more attractive.

20 Thirdly, this product is going to bring national
21 attention and exposure to us as a company and to the project.
22 It's helping to solve a pollution problem in probably the
23 nation's best known national park with completely recycled
24 materials. I'd like to point out that this is not a project
25 that's encouraging transformation. What we're doing is we're

1 substituting our product for the product that's presently at
2 use to reduce the amount transformation that's going on in
3 the park.

4 Secondly, it's going to reduce the harmful effects
5 of the transformation process. That's a process that's
6 taking place. Our goal is to reduce in-the-park pollution by
7 approximately by 50 percent by camp fires, and to reduce the
8 amount of wood and product that are burned in the park by
9 approximately 50 percent.

10 I'd like to point out, too, I think, probably some
11 of the most impassioned pleas I heard here before lunch had
12 to deal with the desire to create new marketplaces for this
13 product. We as a recycler and a receiver of waste have a
14 tremendous problem with finding opportunities and markets to
15 direct our waste to. We look at that as a wonderful
16 opportunity for us as a recycler to encourage us to do that.
17 The lady from the California Cities, there was another lady
18 also that got up here and read a little quote from the
19 Department of Conservation where she said recycling promotes
20 economic diversity, which is key to our business. It reduces
21 pollution, prolongs landfill capacity, counters resource
22 depletion, and creates lasting jobs. And that's precisely
23 what we're attempting to do with this project in creating
24 this new marketplace.

25 COMMITTEE CHAIRMAN RELIS: Thank you very much.

1 Mr. Chesbro.

2 COMMITTEE MEMBER CHESBRO: Well this project
3 confronts us with, I think, a real difficult dilemma because
4 I think it's clearly a beneficial product and it's hard to
5 say otherwise, but we also need to look at our specific
6 mandates and I can quote from the code here relative to what
7 the priorities of the program are supposed to be and the best
8 I can tell and we probably need feedback from our legal
9 staff, but the best I can tell whether we like it or not this
10 winds up constituting transformation and that's, it's very
11 different than the kind of transformation that I think is
12 considered onerous and that, by some, and it has put
13 transformation at the bottom of the waste management
14 hierarchy along with disposal.

15 But the definitions in the law are what we have to
16 deal with, and the two sections of the statute that refer us
17 to what we should be, how we should be prioritizing our use
18 of the funds is that the Board should be complying with
19 section 40051 to promote the IWM hierarchy, that's one.

20 And secondly, that we are supposed to be assisting
21 cities and counties in complying with the diverse goals. And
22 even though from an accounting standpoint there's no way as
23 there would be at a waste energy plant for us to determine
24 whether waste that is diverted is going to this product or to
25 a recycling product and therefore kept out of the landfill,

1 it's none the less I think under the legal definition winds
2 up being transformation.

3 And I hate being in the position of being a legal
4 narrowly constructed legalistic interpreter of the law, but
5 I'm afraid that the hierarchy is pretty clear, and we need to
6 concern ourselves with the question of precedent. If someone
7 comes in the door tomorrow and wants to produce fuel pellets,
8 that's a consumer product which I think we'd have a real hard
9 time making a distinction between this product and that
10 product, you know. And so it's a very awkward and difficult
11 position for us to be put in. And I also feel bad that these
12 questions are being raised now and that, you know, the
13 process has, we didn't get involved in asking these questions
14 at an earlier stage. But nonetheless it is a concern.

15 COMMITTEE MEMBER RELIS: I'd like to ask Mr.
16 Conheim if what you're reading is on this? I know staff has
17 debated this somewhat.

18 LEGAL COUNSEL CONHEIM: When you take a look at, in
19 a difficult situation what the law, what the limits of the
20 law are, you look at the plain words in the law, you try and
21 define the legislative intent, and all of that analysis has
22 been done. And so what I want to say is that on two counts I
23 have to advise the Board that the better reading of the law
24 is that this most likely constitutes a transformation.

25 On the one hand, those who are responsible for the

1 legislative intent as I understand them to have spoken have
2 said that that's what this law was intended to embrace. And
3 when I look at the actual language of the law itself unlike
4 the definition of composting, unlike the definition of
5 disposal as it's used to define disposal facilities, all of
6 those other statutes reference solid waste. Transformation
7 doesn't limit its reach to just solid waste.

8 The definition of transformation as I understand it
9 was intended and written by the legislature is much broader,
10 and therefore it goes to incineration not just waste energy,
11 but it goes to the incineration, incineration broadly,
12 gasification, chemical transformation, etcetera, but it
13 leaves out the words solid waste which would help us, it
14 would allow us to take a look at, if it was in there, it
15 would allow us to take a look at products and maybe stop the
16 definition of transformation at the waste side. But in this
17 case the unequivocal, I-guess, the unarguable intent of the
18 drafters, and as they have reported it to us goes to support
19 better reading the law that this is, at this time this is
20 transformation.

21 COMMITTEE CHAIRMAN RELIS: We have essentially the
22 same problem with energy generation from wood waste, you
23 know, which is put into the same category with mixed waste
24 incineration and you can certainly argue that there's a world
25 of difference, but the law doesn't make the distinction. And

1 there's arguments being made and have been made in the
2 legislature and will be made to be, those distinctions should
3 be made, but I don't think we've been given those
4 distinctions today.

5 LEGAL COUNSEL CONHEIM: And Wes, Mr. Chesbro has
6 really stated it better than my trying to dance around it.
7 The distinctions are simply not made in the definition of
8 transformation. It is written extremely broadly.

9 COMMITTEE CHAIRMAN RELIS: Do you have any further
10 comment? I'm sure you do.

11 MR. BOYD: Yeah, I don't, it's very difficult to
12 argue what a definition of transformation is, I mean that's
13 not certainly my field. I know that the net impact of this
14 whole procedure is to reduce the transformation that's going
15 on in the environment right now.

16 COMMITTEE CHAIRMAN RELIS: Right.

17 MR. BOYD: If we're not successful at that the
18 product won't be accepted into the marketplace because that's
19 why it's being accepted. The alternative for the product is
20 to go to a co-gen plant, which is also transformation, so the
21 net benefit to the public is several fold in terms of
22 pollution, in terms of reducing transformation, in terms of
23 creating jobs to the public. And that's the whole intent of
24 the process and why it's so attractive to a lot of different
25 people and what we're doing. If you're going to interpret

1 transformation as any time, I guess it sounds like any time
2 something catches on fire that's transformation, I know that
3 our product --

4 COMMITTEE CHAIRMAN RELIS: It's even more complex
5 than that.

6 MR. BOYD: Broader?

7 LEGAL COUNSEL CONHEIM: Yeah, it's more complex and
8 what I'm saying is when you interpret a law you have to pay
9 attention to the legislative intent and we still, we have the
10 drafters of the law, we have people here who are able to
11 speak to that, so combining the legislative intent with the
12 way I am charged with actually reading the words of the law,
13 if you put both of those together that's why I'm advising the
14 Board this way. If, if we didn't have our spokesman for
15 legislative intent you can always make an argument, you can
16 make an argument on any side of an issue, especially the
17 meaning of a statute. But here we have evidence on one side.
18 If the issue, I guess, if the issue is unclear as to whether
19 or not the legislature is, would permit this type of
20 transformation, or have they specifically said --

21 COMMITTEE CHAIRMAN RELIS: No.

22 COMMITTEE MEMBER CHESBRO: Well we're supposed to
23 be encouraging with our programs.

24 COMMITTEE CHAIRMAN RELIS: The way I view it is, I
25 mean, part of the issue here is timing. I mean we're trying

1 to meet the 25 percent diversion mandate, use our loan and
2 money in support of that. The transformation deals with the
3 above 25 percent, it's perfectly allowable, and it would be
4 part of the integrated waste system, but we're not at that
5 stage yet. And for me it's a timing issue. And I think that
6 we're not ready to deal with, I'm not ready to deal with the
7 transformation portion yet in our loan program. So I don't
8 know what else to say.

9 I think it's just a, it's a facing problem. If you
10 were here a year and a half or so from now maybe we would
11 entertain that, but we haven't resolved this issue to the
12 point where I'm prepared to take on transformation.

13 COMMITTEE MEMBER CHESBRO: Ten percent of the, I
14 don't know if you --

15 MR. BOYD: I'm familiar with the --

16 COMMITTEE MEMBER CHESBRO: Ten percent of the 50
17 percent is, of transformation is allowed. So when I read
18 that the Board is supposed to assist cities and counties in
19 complying with the diversion goals, that the most immediate
20 diversion goal that's facing us is the 25 percent, and
21 legally this diversion to this product doesn't constitute
22 accountable diversion for 1995. So it could be argued that
23 it would go to support the 50 percent goal in the year 2000,
24 but in terms following the direction of the code to, to
25 assist local governments I think the most immediate goal they

1 face is the one that we have to --

2 MR. BOYD: Perhaps as a last question, if it did
3 solve that 25 percent problem or help to solve that problem,
4 would it --

5 COMMITTEE CHAIRMAN RELIS: It can't do that under,
6 by definition. Transformation only counts after a
7 jurisdiction has reached 25 percent, so unless the whole
8 context were such that this is building above the 25 percent
9 it doesn't fit our scheme, our system, and that's the
10 problem. I, too, think you've got a great product. And I
11 love Yosemite and I want to see it cleaned up. It's not
12 that. It has nothing to do with your product. It's the
13 definitions we're dealing with and the statutory intent.

14 COMMITTEE MEMBER CHESBRO: Well I think the best
15 thing for us to do and this is a final determination by the
16 Board, I understand from counsel it's not determined at this
17 point is for us to go ahead and move a recommendation to not
18 fund to the full Board with regret and, and not in any way
19 reflecting on the quality of the product or the personal
20 enthusiasm for that. It sounds sort of the hypocritical, I
21 think, but I think we do have to look at what our mandate is
22 and try to act within that.

23 COMMITTEE CHAIRMAN RELIS: Okay. We'll call the
24 motion. Call the roll.

25 MS. WADDELL: Board Member Chesbro.

1 COMMITTEE MEMBER CHESBRO: Aye.

2 MS. WADDELL: Chairman Relis.

3 COMMITTEE CHAIRMAN RELIS: Aye.

4 COMMITTEE MEMBER CHESBRO: The motion was for a
5 negative recommendation.

6 LEGAL COUNSEL CONHEIM: Yes means no.

7 COMMITTEE CHAIRMAN RELIS: Will you call my name
8 again?

9 MS. WADDELL: Chairman Relis.

10 COMMITTEE CHAIRMAN RELIS: Aye. So this will be
11 forwarded as a non-recommended item and it will be taken up
12 by the full Board.

13 LEGAL COUNSEL CONHEIM: At next weeks --

14 COMMITTEE CHAIRMAN RELIS: At the Board meeting.

15 LEGAL COUNSEL CONHEIM: At the Board Meeting on the
16 15th, yes. As long as the applicant understands that that's
17 when it is going to be taken up before the full Board, okay.

18 COMMITTEE CHAIRMAN RELIS: Okay. We're now going
19 to take item four.

20 DIRECTOR GORFAIN: Mr. Chairman, while the
21 applicant is coming up and staff is coming up, in the
22 interest of time let me just introduce the item and say that
23 this is an appeal of staff determination that Starter
24 Alternator and Alternator, Inc. does not qualify for
25 certification for tax credit. John Smith will present the

1 item.

2 COMMITTEE CHAIRMAN RELIS: John.

3 MR. SMITH: Chairman Relis and Mr. Chesbro. The
4 original application for the tax certification we're
5 considering today was, the original application was received
6 on March 10th of this year. There are four applications for
7 various equipment totalling approximately \$210,000, that's
8 the total purchase price of the equipment that we're seeking
9 the credit for. This business is one which rebuilds
10 starters, alternators and generators.

11 They get their source of materials from two
12 sources; one, the scrap metal, the auto dismantlers, and the
13 auto parts distributors. The auto part distributors give
14 them the materials that are turned in by the customers.
15 Based on the information in the application staff denied that
16 original application on May 25th based on three reasons and
17 this is critical here.

18 First of all, the materials processed through the
19 recycling equipment, those materials by the scrap industry
20 have never been considered waste. For a long time there have
21 been established markets for these materials. A very small
22 percentage of these materials that are processed through this
23 recycling equipment ever goes to a landfill. And related to
24 that, the second point is the materials were not considered
25 by staff to be waste since they hadn't completed their

1 intended end use.

2 And the code section requires that for an item to
3 be considered part of the waste stream it must have completed
4 its intended end use. With these, with this material is used
5 more as a commodity, it never, these units are rebuilt again
6 and again and it's only after several rebuildings that they
7 would be either given to the scrap dealer or just in for
8 disposal. In a lot of cases the scrap dealer then takes
9 those discarded materials and those are used for another
10 metal use. So they could be recycled even then.

11 And the third reason for denial was that the source
12 the exchanged alternator generators and starters came from
13 not only California sources but six other states. And the
14 code is specific that the recycling equipment use the waste
15 that just is generated within the State of California. So it
16 was based on those three reasons that staff denied that
17 application.

18 And on October 25th, the applicant then, or the
19 Committee Chairman received an appeal for that decision and
20 then we've proceeded to bring that at the Committee
21 Chairman's direction to this committee today. In the process
22 of preparing the agenda we rereviewed all the information we
23 had and any new information about the applications and we
24 found that for the same reasons the application should be
25 denied and that's what we'd recommend to the committee also

1 concurring.

2 COMMITTEE CHAIRMAN RELIS: We have two parties who
3 wish to speak to this item.

4 Eric Sato.

5 MR. SATO: Yes.

6 COMMITTEE CHAIRMAN RELIS: Is that correct?

7 MR. SATO: Yes, that's correct. You pronounced it
8 very well.

9 Gentlemen, thank you for this opportunity to
10 respond to the reasons for denial.

11 COMMITTEE CHAIRMAN RELIS: Mr. Sato, could you just
12 identify who you're with for the record?

13 MR. SATO: Yes, my name is Eric Sato. I am the
14 accountant for Starter and Alternator Exchange, Inc. The,
15 let me respond to each reason, each of the three reasons for
16 denial in the order given. The first would be the, would be
17 that the feed stock, the course are not considered to be
18 normally disposed of as solid waste. And have been
19 considered by the remanufacturing industry as not to be waste
20 by the remanufacturing and scrap industry. Start that
21 disposition on that issue is that if it were not for
22 remanufacturers such as Start Tax, the course would probably
23 end up in landfills.

24 The remanufacturers, the remanufacturing industry
25 makes the market for these courses which prevents the course

1 from becoming waste and ending up in landfills. And as for
2 the process of the scrap metal issue, the remanufacturers
3 process these cores so that they're in a condition that the
4 scrap dealers will accept them. They won't accept a
5 completed core unless its torn down, cleaned up and the
6 components are separated by type.

7 And this last point is probably the crux of the
8 entire difference, at the heart of the matter, is that the,
9 and this is key, the taxation code as we have read it does
10 not define normally as it appears in normally disposed of as
11 solid waste in the landfills. That's, I think, if you would
12 agree that's where we sort of come to a difference, what,
13 what does normally mean as, as ending up in a landfill.

14 COMMITTEE CHAIRMAN RELIS: If I could just
15 interject or maybe, normally means do we usually see these
16 things in the landfill. So when we do a characterization the
17 Board and AB 939 required each jurisdiction in California to
18 go and measure at the landfill, watch what was coming out of
19 the trucks, and from that determined what was normally
20 disposed of, and a huge amount of work has gone into this.
21 And that's where I believe --

22 MR. SMITH: We -- even in those guidelines release
23 generation studies attempted to even quantify how much
24 material had to be going to landfills --

25 COMMITTEE CHAIRMAN RELIS: That's right.

1 MR. SMITH: -- to be determined to be normally
2 disposed.

3 COMMITTEE CHAIRMAN RELIS: I mean your logic is
4 impeccable except for the way that our law, our law has its
5 own logic and its own way of defining what normally disposed
6 of. And it was an objective analysis done 500 times roughly
7 throughout the State of California, but because of the
8 jurisdictions, and it was from that that we defined what was
9 normally disposed, including the way the statute was written.

10 MR. SATO: Well in reading the statute itself and
11 looking for a definition of normal, or normally we couldn't
12 find anything.

13 COMMITTEE MEMBER CHESBRO: Well we also have in the
14 form of AB 1220 --

15 COMMITTEE CHAIRMAN RELIS: That's right.

16 COMMITTEE MEMBER CHESBRO: -- a bill that refers to
17 the recycling of scrap metal and basically determines that it
18 is not, you know, it's a material that is not normally
19 disposed of, and that it's to be limited in its counting, you
20 know, and so that, I think, also was another example of which
21 side of intent where they said that it's not counted in the
22 same way as, unless it's a result of a specific local
23 government sponsored diversion program, so --

24 COMMITTEE CHAIRMAN RELIS: That's where the rub is
25 and --

1 COMMITTEE MEMBER CHESBRO: Because of the
2 assumption that the scrap metal industry is a pretty well
3 developed industry and the metal had value, significant value
4 and therefore very little of it was going into landfills, and
5 so I think there was fear that if you were Oakland and you
6 had Snitzer Steel on your waterfront you could claim that
7 your diversion was at 800 percent or something because all
8 the scrap metal in California was being recycled in Oakland,
9 you know. I mean I'm exaggerating of course, but the point
10 being that there was an indication by the legislature to
11 treat scrap metal somewhat differently, and to determine that
12 it is not normally disposed of in significant quantities in
13 landfills.

14 MR. SMITH: Right. An amendment was passed to
15 exclude it further.

16 COMMITTEE CHAIRMAN RELIS: Do you have anything to
17 add John or Mr. Conheim about this?

18 MR. SMITH: No.

19 COMMITTEE CHAIRMAN RELIS: Okay. Well I can see in
20 this case just as with the previous, I mean it's part of
21 rubbing up against what the, the sort of nature this law is,
22 now I can see it very logically from your end, you read it
23 and it says this is not going to a landfill now and we're
24 saving it.

25 COMMITTEE MEMBER CHESBRO: The second rationale, I

1 have some greater level question about, you know, the
2 intended life question seems to me to be one that is a hard
3 one for us to call, and I have more problems with than the
4 normally disposed of question that --

5 MR. SATO: May I respond to that?

6 COMMITTEE CHAIRMAN RELIS: Sure.

7 MR. SATO: As far as the intended use, again if it
8 were not for the remanufacturers what would be done with
9 these cores. The reason the cores can be used again is
10 because of the remanufacturing process.

11 COMMITTEE CHAIRMAN RELIS: That's correct.

12 MR. SATO: The cores are remanufactured due to the
13 ingenuity of remanufacturers, not because original equipment,
14 original equipment manufactures intended cores to be rebuilt,
15 in fact, original equipment manufacturers attempted to
16 prevent remanufacturing as in the case of alternators. So it
17 would seem that the original equipment manufacturers had,
18 would not want, would not intend for these items to have a
19 life beyond their original manufacture.

20 COMMITTEE CHAIRMAN RELIS: Well and all that is
21 laudable, I mean that's a reuse function and we, the problem
22 is that the purpose our, AB 939 was to stimulate new
23 diversion, and that's the, this is a preexisting activity of
24 reclaiming these, what are they called?

25 MR. SMITH: Starters, generators, and alternators.

1 COMMITTEE CHAIRMAN RELIS: Thank you. Again and
2 again and again and that's been a long standing practice as
3 with batteries and with other materials. So again I don't
4 know how we can push.

5 LEGAL COUNSEL CONHEIM: I might add one thing.
6 Based on the instruction that we got from the State Taxing
7 Authority in talking to their lawyers unlike program laws AB
8 939 where you might interpret them as broadly as possible to
9 give purpose and effect to the law, tax laws that give
10 credits and provide exemptions are to be interpreted narrowly
11 so that only those who are, who actually meet the intent of
12 the law and no more. They are to be interpreted narrowly and
13 that's why as Chairman Relis has just said the purpose of AB
14 939 to which the tax code sections are an adjunct was to
15 stimulate new diversion.

16 What we've got here is an established process and
17 market for these materials and the scrap metal industry in
18 general argued very, very forcefully to kind of leave them
19 alone, that they were, they'd been in business for 90 years
20 and they themselves advocated a hands off approach to, to
21 whether they were part of the waste stream or not. And they
22 generally advocated that they were not part of the waste
23 stream.

24 COMMITTEE MEMBER CHESBRO: Did I say 1220? I said
25 1202 earlier, I think I got the wrong law.

1 COMMITTEE CHAIRMAN RELIS: That's all right.

2 COMMITTEE MEMBER CHESBRO: I get 'em mixed up,
3 2494.

4 LEGAL COUNSEL CONHEIM: That's right. I wrote that
5 note down, Mr. Chesbro.

6 COMMITTEE MEMBER CHESBRO: Well the thing I was
7 going to say to staff about this is I think there's a danger
8 in this intended, what's the word, intended life, is it?

9 MR. SMITH: Intended use.

10 COMMITTEE MEMBER CHESBRO: Intended use.

11 MR. SMITH: End use

12 COMMITTEE MEMBER CHESBRO: I figure it a danger if
13 we interpret that too broadly in really discouraging waste
14 prevention activities. I think it's a distinction that's
15 going to be a hard one to make, in some cases it might seem
16 real obvious, you know and obviously refinishing antiques is,
17 something's not, you know, keeping something out on a
18 landfill because there's so much value in the, on
19 remanufacture of product. But on the other hand I think we
20 need to make sure that we don't, you could if you took that
21 phrase and you interpreted it as broadly as possible on a
22 caption that widely you would probably, very little waste
23 prevention type of activities would be eligible, you know.
24 If it's an activity that involves trying to recondition or to
25 bring back to life something that is, that has, that would

1 otherwise be worthless, you know. But I think it's a, that's
2 one that we need to spend some more time on. I'm not worried
3 about that one in this case, if these things were going to
4 landfill normally, if that wasn't a problem, then I would say
5 that this was waste prevention.

6 If this was stuff that was being thrown out I think
7 it would meet the criteria, I think he's right, the
8 manufacturer didn't design it to be rebuilt and the
9 manufacturer is not rebuilding it, it's a different business
10 to see an opportunity to take something that is going to be
11 discarded, but the trouble is that it is apparently a
12 business where there's not a history of it being disposed of.
13 It's been being pulled out for some time by a number of
14 different kinds of business as a fairly well established
15 industry.

16 And I do think we have a problem with that part of
17 the criteria. But I just wanted to express that concern
18 about the intended use or life criteria and that we really
19 think hard about how we apply that in the future so as to not
20 discourage, you know, non-recycling but rather waste
21 prevention type reconditioning businesses, you know.

22 MR. SMITH: Okay.

23 MR. SATO: May I make an additional point? When
24 Star Texas's individual case, in its case scrap sales is a
25 minute percentage of its total revenue. It's major business

1 is remanufacture recycling. So I'd like to look at it from a
2 different point in that way. And then, and while I was
3 saying then, I forgot what I was going to say as my next
4 point.

5 Asphalt. In the summary report I think, I guess it
6 was, it was on the back table it was, I guess it was written
7 by the staff regarding the status of the recycling program.
8 And it referred to an industry, the asphalt concrete business
9 as being the major industry that received the credits. It
10 also referred to the asphalt and concrete and steel metal
11 businesses as being established industries and that the tax,
12 as being established industries which would be in line with
13 the remanufacturing industry as being an established
14 business. And the credit was allowed in the asphalt,
15 concrete, and steel metal businesses.

16 COMMITTEE CHAIRMAN RELIS: Maybe staff could
17 refresh our memory on the decisions or the thinking that went
18 into those uses.

19 MR. SMITH: Right. In those cases the, they had to
20 demonstrate that, their program for diverting both secondary
21 and postconsumer waste and there are, there is still a lot of
22 asphalt.

23 COMMITTEE CHAIRMAN RELIS: That was normally being
24 disposed of, correct?

25 MR. SMITH: Disposed of.

1 LEGAL COUNSEL CONHEIM: Mr. Chairman.

2 COMMITTEE CHAIRMAN RELIS: Mr. Conheim.

3 LEGAL COUNSEL CONHEIM: Mr. Chairman and Mr.

4 Chesbro, if you do read the section out of 2494 that resolved
5 issue of what counts 4178112, I want to just iterate what Mr.
6 Chesbro said that scrap metal is not counted as a sold waste
7 unless it has been disposed of in a quantity that is being
8 claimed by the local jurisdiction as being diverted.

9 In other words, it really, the local jurisdiction
10 has to be claiming diversion for scrap metal, and the scrap
11 metal has to be being diverted by an action of the local
12 government. So what it did was it limited the counting of
13 scrap metal products waste from scrap metal very, very
14 severely to being counted as solid waste.

15 So sample analysis is consistent with that and
16 their recommendation to deny the tax credit is consistent
17 with the fact that it is not normally disposed of because the
18 law moved from 1989 to the point where it's, it really
19 resolved --

20 COMMITTEE CHAIRMAN RELIS: Yes.

21 LEGAL COUNSEL CONHEIM: -- that very little scrap
22 metal was going to be considered.

23 COMMITTEE CHAIRMAN RELIS: I remember our long
24 discussions on that.

25 LEGAL COUNSEL CONHEIM: So I'm comfortable in, as a

1 lawyer in supporting staff's determination on balance rather
2 than picking apart at this particular definition or that
3 particular definition, although I think they're all met.

4 COMMITTEE CHAIRMAN RELIS: Okay. I think with all
5 due respect, do you have one more point?

6 MR. SATO: One more point. This is the last point.
7 In reading the section 236 the revenue and taxation code, the
8 applicable section I won't give you the exact numbers, it
9 does not seem to have been written in a specific manner as
10 far as what, as far as to exclude specific industries and to,
11 in fact, it sort of went the other way in saying that, and
12 when it did list certain types of industries that would be
13 considered that this credit would be applicable to, it went
14 to say that it did not exclude other industries, but these
15 would be considered.

16 So it seemed to go the other direction as to be a
17 broader interpretation of what would qualify for this credit.
18 So I guess that's our confusion and I guess the comment would
19 be, why wasn't it written to say what it meant?

20 COMMITTEE MEMBER CHESBRO: So are you --

21 COMMITTEE CHAIRMAN RELIS: Well.

22 COMMITTEE MEMBER CHESBRO: Are you claiming that if
23 the, if your company was, if this company was not
24 reconditioning these, this equipment that it would be going
25 in a landfill?

1 MR. SATO: Well what would happen if the
2 remanufacturing industry shut down today, or were not a
3 viable industry, what would happen to these things? What
4 would you as a consumer --

5 COMMITTEE MEMBER CHESBRO: What commonly happens to
6 them? Obviously this company doesn't deal with all them in
7 the world? I mean are there other companies that are doing
8 something similar?

9 MR. SATO: Yes. There's an entire industry
10 throughout the United States.

11 COMMITTEE CHAIRMAN RELIS: Unfortunately again just
12 to try to bring this to a close, this law wasn't set up to
13 unfortunately reward so much the existing activity as much as
14 that it is very worthy and is keeping material out of the
15 landfill, been doing that for a long time. But we're not set
16 up to assist that particular historical function and I really
17 don't know what more to say. I mean we just are going to end
18 up just endlessly going around on this.

19 MR. SATO: I understand.

20 COMMITTEE CHAIRMAN RELIS: I would like to ask
21 Michael Liechstein --

22 MR. LIECHSTEIN: Liechstein.

23 COMMITTEE CHAIRMAN RELIS: Oh, I'm sorry.

24 MR. LIECHSTEIN: That's okay. Eric's pretty well
25 said everything I had to say so it would be redundant for me

1 to repeat everything, but it was our feeling that we did
2 fulfill the requirements.

3 COMMITTEE CHAIRMAN RELIS: So thank you very much.

4 MR. LIECHSTEIN: Thank you.

5 COMMITTEE CHAIRMAN RELIS: We'll ask for a motion.

6 COMMITTEE MEMBER CHESBRO: Mr. Chairman, we do have
7 coming up shortly here a discussion of the tax credit. And
8 what I'm going to say then, and I'll say real briefly now is
9 that our problem in even keeping this tax credit in place is
10 trying to structure it and convince the legislature that it's
11 targeted on creating new activity. It would not otherwise
12 take place.

13 That we're attracting capital to create diversion
14 and if that's our criteria I'm afraid that we can't, if
15 that's the policy criteria aside from all the legal arguments
16 we made, I don't think that's what we're dealing with here,
17 so I will move, with all due respect for the business, I
18 think it's again, it's like the other one earlier, it's a
19 very worth while activity, but I will move that we forward
20 this to the Board with a recommendation to not approve.

21 COMMITTEE CHAIRMAN RELIS: Call the roll.

22 MS. WADDELL: Board Member Chesbro.

23 COMMITTEE MEMBER CHESBRO: Aye.

24 MS. WADDELL: Chairman Relis.

25 COMMITTEE CHAIRMAN RELIS: Aye.

1 This will go also to the Board?

2 LEGAL COUNSEL CONHEIM: Yes, it will. Mr.
3 Chairman.

4 COMMITTEE CHAIRMAN RELIS: Okay. Thank you and
5 regrets. We will, we now move to item two. We were going to
6 just take that up briefly for discussion. It's listed as a
7 consideration item, but we're not, we don't feel it's quite
8 baked yet, and Mr. Chesbro, I think, you had some comment?

9 COMMITTEE MEMBER CHESBRO: My comment was just
10 directed at staff and also to, I guess, us as Committee
11 Members to realize the importance of moving forward with
12 these as quickly as possible even though we aren't prepared
13 to go into them in depth today. I'm concerned that we are
14 going to wind up, if we take too long doing this, and we
15 don't send the signals early, as early as possible about what
16 our intensions are that we will have some loan applications,
17 some more difficult loan applications like some of the
18 businesses that we had today. And so we need to get those
19 signals out there as soon as possible so we're not faced with
20 the kind painful dilemmas that we've had to mess with.

21 COMMITTEE CHAIRMAN RELIS: Now my understanding is
22 that our staffs will work very closely together over the next
23 week or two and bring, this item will come back in January
24 ready to act on at that point?

25 MR. GORFAIN: Yes, Mr. Chairman.

1 COMMITTEE MEMBER CHESBRO: In the mean time I
2 certainly hope staff's figured out that if there's any that
3 are on the borderline, that are tough dilemmas that we will
4 get sort of early notice so we can try to send, not get in
5 the position where we're having to wrestle late in the
6 process like this with any business proposals or loan
7 proposals.

8 COMMITTEE CHAIRMAN RELIS: Okay. So we'll hear
9 from you in January and you'll get this on the calendar?

10 MR. GORFAIN: Yes, sir.

11 COMMITTEE CHAIRMAN RELIS: Thank you. We'll move
12 to item five. That's Jan Welsh I think is presenting this
13 item. I don't know, is that right? Mr. Gorfain.

14 MR. GORFAIN: Excuse me, I think we have not done
15 number three yet.

16 COMMITTEE CHAIRMAN RELIS: Oh, did I miss three?

17 MR. GORFAIN: Which is the award of contract for
18 initial services.

19 COMMITTEE CHAIRMAN RELIS: You're absolutely right.
20 And I can't imagine why we missed it. We really fooled
21 around with the --

22 MR. GORFAIN: It's a lucky number too.

23 COMMITTEE CHAIRMAN RELIS: Maybe the contractor
24 isn't here and worried that we were ignoring.

25 MS. FORD: Good afternoon. You have before you

1 this afternoon the staff recommendation to award a contract
2 for financial technical assistance. This is for the loan
3 program. As you recall our current contract is with the
4 National Development Council and it expires in December, at
5 the end of December. When we brought it back for an
6 amendment we, the Board directed us to readvertise and do a
7 competitive process for the contract for the next six months.
8 Staff did that, we issued an RFP in October. We received 27
9 to 30 requests for the proposal and one bid response.

10 COMMITTEE CHAIRMAN RELIS: Only one bid?

11 MS. FORD: Only one bid. It was from the National
12 Development Council with Gainer and Associates as the
13 subcontractor. The loan staff evaluated this proposal and
14 ranked it. It received an average score of about 95 points
15 out of a hundred possible and we are recommending it for
16 approval.

17 COMMITTEE MEMBER CHESBRO: So moved.

18 MS. WADDELL: Board Member Chesbro.

19 COMMITTEE MEMBER CHESBRO: Aye.

20 MS. WADDELL: Chairman Relis.

21 COMMITTEE CHAIRMAN RELIS: Aye.

22 And that will be consent. Now I believe we're on
23 item five. Jan Welsh will present this item.

24 MS. WELSH: Is this on? Good afternoon Committee,
25 my name is Jan Welsh with the Market Development Branch. And

1 I'm here to present the findings that are required by statute
2 in evaluating the recycling equipment tax credit program.
3 Ordinary taxation code section 17052.14 and 23612.5 allow a
4 40 percent tax credit for equipment purchased and placed into
5 operation between January 1, '89, and December 31st, '93.
6 The statute for the tax credit program will sunset January 1,
7 of '94.

8 The statute requires the Board to submit a report
9 to the legislature by March 1st of '94 evaluating the impact
10 of the tax credit and the effectiveness of the program to
11 encourage recycling. The report is to include information
12 about the number of taxpayers claiming the credit, dollar
13 amount allocated, type of equipment credit was used for, and
14 to what extent the credit increased recycling activities in
15 California.

16 We have received, to date, 104 applications. We've
17 issued 70 certifications and denied 25. I'd like to note
18 here that ten of those that were denied were for some type of
19 a lease agreement. And there are still right now nine
20 pending that are going through the review process. This adds
21 up to an estimated allowable credit of 6.8 million with an
22 expected 4.5 million tons of secondary materials used
23 annually.

24 The type of equipment used that we've allowed it
25 for has been for grinders and crushers to reclaim old

1 concrete and return it into a marketable aggregate.
2 Specialized asphalt milling equipment which takes in old
3 asphalt and returns it into new asphalt. Still an aluminum
4 furnace is to produce ingot and billet to be used in the
5 manufacture of new products. In grinders and chippers for
6 producing compost and mulch. And plastics extruders and
7 equipment to purchase glass culets.

8 On page two of the report, and I believe in your
9 agenda packet it's page 29, you can see that 60 percent of
10 the equipment purchased along with 58 percent, those same
11 dollars expended is within the asphalt, and concrete, and
12 metals industries. This also accounts for 93 percent of the
13 tons secondary materials that are used annually. To
14 determine the extent the tax credit increased recycling in
15 California, staff's findings were based on field visits to
16 manufacturers in the recycling industry, industry workshops
17 that were put on both by staff and committee, and two
18 telephone surveys. The first survey was to other states with
19 recycling tax credit programs to compare the effectiveness of
20 their program to our program.

21 The second survey was to the applicants applying
22 for certification to determine the influence the tax credit
23 had on purchasing equipment and hiring new employees.
24 Through this two major points emerged after completing the
25 surveys and the workshops and the visits. And those were

1 that number one, the tax credit has not been a major
2 influence to encourage taxpayers to purchase equipment. In
3 fact 53 percent of the equipment was purchased prior to the
4 applicant knowing about the credit at all. They basically
5 found out about the tax credit when it came around time to
6 file for their taxes, and they were informed by their
7 accountant that this was out there. These businesses stated
8 that they would purchase the new equipment or added the new
9 manufacturing lines without the incentive of the credit.

10 The second was that the tax credit is not a major
11 incentive for start up businesses since most of these firms
12 have little profit during the first few years, and have a low
13 tax liability. Rather, funding would be necessary, is
14 necessary to purchase the equipment. And many small
15 businesses do not have funds to purchase the equipment, so
16 they obtain equipment through private investors or lease
17 agreements. As currently worded the tax credit cannot be
18 claimed by either the lessee or the lessor since the
19 equipment must be both owned and operated by the same
20 taxpayer.

21 While the purchase of the new equipment has
22 increased, recycling research indicates that the availability
23 of the credit has had little impact on this increase. The
24 survey indicated that four employees were hired by taxpayers
25 who did consider the tax credit prior to purchasing the

1 equipment. Although most of the applicants were not aware of
2 the tax credit until after the equipment was purchased and
3 put into operation, I'd like to let you know that they did
4 indicate that if the program is extended they would consider
5 purchasing additional equipment.

6 What we're asking today is for Committee's approval
7 to move the report on for Board approval to carry it over to
8 the Cal EPA and the legislature. That concludes.

9 COMMITTEE CHAIRMAN RELIS: Thank you. Mr. Chesbro.

10 COMMITTEE MEMBER CHESBRO: Yes. I feel that it's a
11 pretty biased report. I think that the staff has sort of
12 viewed the tax credit from a fairly negative perspective, and
13 I think there's clearly things wrong with it. But as the
14 Board, the Committee had discussed in the past and also the
15 Board's action to endorse legislation this past year, the
16 approach that we had been taking is to try to come up with a
17 modification that would target and solve the problems that we
18 had discovered were wrong with the tax credit as opposed to
19 sort of indicting it as ineffective.

20 And I think my feeling and I think the Board's
21 official position as a result of legislative support of that
22 bill is to try to reform it. And the last sentence of the
23 the report says that although it's held to the very last
24 sentence that most applicants were not aware of the tax
25 credit until after the equipment was purchased and put into

1 operation. The applicants did indicate that if the program
2 is extended they would consider purchasing additional new
3 equipment.

4 And it's my sense that we need to solve the problem
5 of it not being constructed in a way that helps new
6 businesses by, by focusing on, on the least purchase or third
7 party investor approaches so that it does help attract
8 capital for new businesses. I mean I think that's a valid
9 criticism of the existing tax credit, but the remedy is not
10 for the tax credit to go away, the remedy is for us to fix
11 it. That's my opinion. I don't know if the legislature
12 would agree with this, but I think we should try.

13 And the other problem is we have to make sure that
14 it is properly focused so it doesn't just subsidize an
15 activity that would have taken place anyway and that's
16 obviously a major problem and I don't think we can defend
17 such a tax credit in this budgetary climate unless we can
18 really get more more focused and targeted. In my opinion
19 that should be our goal. And I hope that we could have a
20 report that would focus that way.

21 COMMITTEE CHAIRMAN RELJS: We've received as well,
22 we received a letter from CAW on this, going into some
23 length, I think we discussed earlier the, this background
24 that the Board has taken a position, and there is language
25 related to Bowen bill and I can't remember the number.

1 MS. WELSH: 6838 and 1263.

2 COMMITTEE CHAIRMAN RELIS: And if the language, and
3 the approach that was, the Board put into that process was
4 reflected in this report then I think I'd be more satisfied
5 with it as well. So if that's satisfactory --

6 COMMITTEE MEMBER CHESBRO: Is it okay to ask for a
7 redraft to make it clear what the Board has endorsed?

8 COMMITTEE CHAIRMAN RELIS: Yeah, that's consistent
9 with our previous stated actions related to in that
10 legislation.

11 COMMITTEE MEMBER CHESBRO: And I want to
12 encapsulate that again by saying that the basic position is
13 to reform the tax credit, to focus it on where it can most
14 effectively carry out the original intent.

15 MS. WELSH: Right. And I'd just like to add it's
16 not that we're trying to be negative here, this part of the
17 law did not require for the Board to include in the report
18 recommendations for improvements. But although I do, to go
19 on with that, I do want to note that the Public Resources
20 Code does require the Board in its annual report to make
21 recommendations.

22 COMMITTEE MEMBER CHESBRO: I just don't want a
23 report that we write to be used to undercut our position in
24 the legislature, you know. I don't want us to be saying over
25 here things that make it impossible to accomplish or make it

1 difficult for the Board to accomplish one of its --

2 MS. WELSH: Oh, no, staff would definitely work
3 with the direction from the Committee.

4 COMMITTEE CHAIRMAN RELIS: Well if that's clear
5 then I think we will --

6 COMMITTEE MEMBER CHESBRO: What do we do?

7 COMMITTEE CHAIRMAN RELIS: We're moving it that
8 you, I guess, what's the, consideration of the staff report
9 with the recommendations we've made that you incorporate the
10 Board's --

11 MR. SMITH: Committee's direction.

12 COMMITTEE CHAIRMAN RELIS: -- historical position.

13 COMMITTEE MEMBER CHESBRO: What happens if we don't
14 pass this on the December 15th board agenda, are we missing
15 the deadline?

16 MS. WELSH: No. This report is due March 1st, so
17 we should be able to bring it back on the January Committee.

18 COMMITTEE MEMBER CHESBRO: All right.

19 COMMITTEE CHAIRMAN RELIS: So it won't go to the
20 Board, it'll come back to Committee next month?

21 COMMITTEE MEMBER CHESBRO: So the motion would be
22 to refer it back to staff?

23 DIRECTOR GORFAIN: I don't really have a good sense
24 whether it's enough time or not. If John says it's enough
25 time, it might be, but if we have the time, if we have the

1 time to wait till February I think that might work, I would
2 prefer to do that.

3 COMMITTEE MEMBER CHESBRO: Okay. Well I'll leave
4 it to staff to establish the schedule for coming back, but I
5 would recommend or make the motion that we refer this back to
6 staff, bring it back to the Committee as soon as possible
7 with the emphasis being on trying to reform the tax credit to
8 make it, you know, more targeted and effective to carry out
9 and adopt the Board objectives.

10 MR. SMITH: Maybe if we're able to get, I don't
11 know how much work will be involved in that, but if we had an
12 opportunity to well --

13 COMMITTEE CHAIRMAN RELIS: Okay. That's fine.

14 COMMITTEE MEMBER CHESBRO: Thanks.

15 COMMITTEE CHAIRMAN RELIS: Do we have to call the
16 roll on this one? I mean it's just coming back.

17 LEGAL COUNSEL CONHEIM: No.

18 COMMITTEE CHAIRMAN RELIS: It's just coming back so
19 there's no action.

20 Okay. Item six, if we could just start into this.

21 MR. STORELLI: My name is Steve Storelli and I will
22 be presenting this item on Secondary Materials Market
23 Assessment Study.

24 COMMITTEE CHAIRMAN RELIS: Steve, can I get an idea
25 about the time factor, cause I'm going to have to catch a

1 flight a little later, and I really need to get a sense of
2 how long you think this will take.

3 MR. STORELLI: Well, initially what I was going to
4 do was represent the projection technique and then rerun over
5 the results.

6 COMMITTEE CHAIRMAN RELIS: What we went over
7 previously.

8 MR. STORELLI: Right. Right. And additionally
9 show how your original concern was that the, you know, was
10 the German Green Dot Program effect included in the
11 consultants.

12 COMMITTEE CHAIRMAN RELIS: Oh, in terms of the
13 export market?

14 MR. STORELLI: Right.

15 COMMITTEE CHAIRMAN RELIS: What would be the
16 fallout if -- yeah, if we could focus on that because I
17 believe, let me just ask Mr. Chesbro, the issue here is
18 whether we want to go back through this whole presentation on
19 methodology and, well this is item six. This is the back,
20 secondary, we did hear it and the focal point that they were,
21 we could do is just hear what was the effect of the German
22 Green Dot system on the export market on impacting the export
23 market in the, in the concern over time I would prefer that.

24 COMMITTEE MEMBER CHESBRO: The only other concern
25 that's out there is when we do, the only other concern that's

1 out there is what do we do with a report that apparently is
2 considered not quite everything we'd like it to be, but
3 whether it can be just left in limbo or whether we should
4 officially accept it or what the Committee and Board action
5 are in relation to the report.

6 COMMITTEE CHAIRMAN RELIS: Well maybe we can ask.
7 Were there specific concerns about the report not, I mean my
8 question if that could be answered I didn't have problems
9 with the report.

10 COMMITTEE MEMBER CHESBRO: Referring it for board
11 approval.

12 COMMITTEE CHAIRMAN RELIS: That was just a, you
13 know, well --

14 COMMITTEE MEMBER CHESBRO: Somehow from the last
15 discussion I had the impression that there was a feeling that
16 it didn't --

17 COMMITTEE CHAIRMAN RELIS: Well I think what
18 happened partly was that the item wasn't, remember the
19 noticing issue, and I think that was one of the concerns of
20 the Board was as Neal mentioned that this was an item of some
21 importance because and it had not been duly noted and so we
22 were bringing it back.

23 COMMITTEE MEMBER CHESBRO: Right.

24 MR. SMITH: Right.

25 COMMITTEE MEMBER CHESBRO: So the intention here is

1 for us to then send it to the Board for acceptance as a
2 report?

3 COMMITTEE CHAIRMAN RELIS: Yes.

4 COMMITTEE MEMBER CHESBRO: That's what I wasn't
5 clear on.

6 MR. SMITH: Yes.

7 MR. STORELLI: In a nut shell I could present one
8 graph that would show --

9 COMMITTEE CHAIRMAN RELIS: Yeah, let's see it.
10 That's what I hoped to hear.

11 MR. STORELLI: Your question was, was whether the
12 Green Dot Program was specifically included in the future
13 projections. And because of the timing of the report the
14 report was done in the fall of 1992.

15 COMMITTEE CHAIRMAN RELIS: That's right.

16 MR. STORELLI: And also of the sort of inception of
17 Green Dot which took place towards the, late 1992 early '93,
18 the specific effects of Green Dot were not included in the
19 report, but from a generic perspective, generic international
20 supply disruptions were included in the PET beverage
21 projections and also in paper, and in addition, the
22 consultant was required to make an optimist projection which
23 was, you know, a best estimate and then a pessimistic
24 projection, which was a gloomier economy, lower demand,
25 domestic demand for secondary materials and a contracting

1 export market mainly due to increased competition
2 internationally.

3 So what I'd like to show is what we call the best
4 estimate on the year 2000 versus the low scenario for
5 California and then the western region.

6 And if I can just flip to my notes here I can
7 quickly indicate where the consultant shows that if you're
8 comparing the best estimate in the year 2000 for PET versus
9 the low scenario which incorporates we feel international
10 supply increases, a PET recovery is reduced to 6,000 tons in
11 the low scenario which represents about a 18 percent
12 reduction in recovery and then the western region there's
13 about a 28 percent reduction in PET recovery.

14 And sort of the driver behind this is that when the
15 projected increase supplies in California and in the western
16 region they reduced the factor that represents access to
17 markets. So the access to market value was reduced trying to
18 take into consideration those global effects. And so
19 therefore we get less domestic PET consumption and then also
20 a reduction in exports from California and in the western
21 region.

22 COMMITTEE CHAIRMAN RELIS: And that's what we're
23 seeing pretty much, if I recall, in that particular scenario
24 throughout the other commodities there's this constricted --

25 MR. STORELLI: That's true.

1 COMMITTEE CHAIRMAN RELIS: -- access to the market
2 and thus the export market becomes less of a factor.

3 MR. STORELLI: That's true.

4 COMMITTEE CHAIRMAN RELIS: And now we have to
5 compensate.

6 MR. STORELLI: Well it makes our job harder.

7 COMMITTEE CHAIRMAN RELIS: Harder.

8 MR. STORELLI: Because both the domestic and the
9 export markets are restricted due to a low scenario.

10 COMMITTEE CHAIRMAN RELIS: Yes.

11 MR. STORELLI: So you know staff recommendation is
12 to ask the Committee to consider accepting this report and
13 forwarding it to the Board for acceptance.

14 COMMITTEE CHAIRMAN RELIS: I found the report, you
15 know, of considerable interest and of course it's even of
16 more interest now that the groups, in light of our earlier
17 action we're now in the process of making these real world,
18 these general numbers more real world, and so this is
19 something to build from, or at least as a reference document.
20 I hope it will be useful in that regard.

21 MR. STORELLI: It's a methodology actually that's
22 out there for consideration among others.

23 COMMITTEE CHAIRMAN RELIS: Uh-huh. And staff.

24 COMMITTEE MEMBER CHESBRO: Well I guess my only
25 concern with it is to make sure that in forwarding it to the

1 Board and adopting it we don't over emphasize its role in the
2 larger statistical situation. That we not sort of place it
3 up there as the definitive --

4 MR. STORELLI: I mean it wasn't, I mean, it was one
5 set of numbers among many.

6 COMMITTEE MEMBER CHESBRO: That's what I'm getting
7 at.

8 MR. STORELLI: Oh, okay.

9 COMMITTEE CHAIRMAN RELIS: Did staff find the
10 report from your perspective satisfactory.

11 MR. STORELLI: I did and also a lot of the
12 paperwork was used to develop the paper proposals.

13 COMMITTEE CHAIRMAN RELIS: Oh, excellent.

14 MR. STORELLI: That's where it tied in mostly.

15 COMMITTEE MEMBER CHESBRO: Okay, well I would move
16 we forward it on to the Board.

17 COMMITTEE CHAIRMAN RELIS: Call the roll.

18 MS. WADDELL: Board Member Chesbro.

19 COMMITTEE MEMBER CHESBRO: Aye.

20 MS. WADDELL: Chairman Relis.

21 COMMITTEE CHAIRMAN RELIS: Aye.

22 And this will be consent on the 15th. That takes
23 us to our last item number seven.

24 DIRECTOR GORFATN: Go ahead, Brian.

25 MR. FORAN: I'm here today to present staff's draft

1 report prepared for the state legislature on recommendations
2 to increase recycling of mixed paper generated in California.
3 This report was required originally by, let's see, I don't
4 know what the updated bill, Senate Bill 960 in, by Senator
5 Gary Hart in 1991 subsequently revised by Senate Bill 1919 in
6 1992. And this report required the Board to submit
7 recommendations to the legislature by January 1st, 1994,
8 concerning programs which are needed to develop markets and
9 encourage high levels of recycling for mixed paperwaste. In,
10 last year the staff prepared an action plan for mixed paper
11 in the process of our overall market development activities
12 to identify barriers to increasing higher levels of mixed
13 paper and, and also making recommendations as to how those
14 barriers can be overcome.

15 The body of that action plan was essentially the
16 body of the report before you today with, with significant
17 adjustments to the data as in the body of the report to
18 reflect current market conditions both supply and demand.

19 The barriers and recommendations in the report
20 however are essentially the same as those in the action plan
21 with some of the barriers and recommendations removed based
22 on new information that we've received in the course of time
23 such as, well, for example, one of the recommendations in the
24 action plan was to identify, or one of the barriers was
25 subsidies to virgin materials extraction industries that

1 essentially discourage the use of secondary materials.

2 Since that time there's been a full report that has
3 addressed this issue, so we removed that as both a barrier
4 because the Board report, which addressed the issue,
5 identified it as not a significant barrier and also removed
6 the recommendation that we investigate that as a barrier.

7 So again essentially there is no new
8 recommendations or barriers in the body of the report to the
9 legislature beyond those that were in the action plan. I'd
10 like to briefly just identify the primary, well it's been
11 awhile since the action plan was gone over so what I'll do is
12 I'll just summarize the barriers to increasing consumption of
13 mixed paper and also summarize the recommendations to
14 overcome those barriers.

15 We grouped the barriers according to general
16 categories, one of those categories was statutory and
17 regulatory barriers. The first barrier identified was a
18 vague definition of mixed paper and that has certainly come
19 up again as a stumbling block in our working group that's
20 identifying how to come up with better waste, or paper
21 diversion and generation data. The recommendation within the
22 report was to establish separate categories of mixed paper
23 within the interim data base reporting regulations to break
24 that down into residential mixed paper and office mixed
25 paper.

1 And in the body of this report a little bit
2 different from the action plan I break mixed paper down into
3 office mixed paper and then all other mixed paper which
4 includes residential mixed paper. The reason for doing this
5 primarily is we have data from the secondary materials
6 assessment study that was just described that breaks the
7 paper down into those same categories. And when the total
8 mixed paper is actually added up it is very similar to the
9 numbers that we have in our interim data base. The next
10 barrier was Week Postconsumer Recycled Content Standards in
11 California Statutes. Governing state procurement of paper
12 and paper products, recommendation was to, was to actually
13 establish standards specific to various paper products not
14 just a 50 percent secondary ten percent postconsumer overall
15 standard.

16 Economic barriers were identified. The first was
17 poor economy of scale for recycled paper mills, and there was
18 no recommendation for that item because it's simply beyond
19 the scope of the Board to do anything about that.

20 The other economic barrier was the high cost of
21 postconsumer paper yanking and recycling equipment and a host
22 of recommendations there was to provide certain types of
23 financial assistance to the recycling industry to help
24 overcome or help defer some of those high costs of adding
25 recycling capacity.

1 And of course the tax, the recycling investment tax
2 credit was one of those, one of those incentives that was
3 already put in place.

4 Supply related barriers included high recovered
5 paper transportation costs. One of the recommendations,
6 initial recommendations was to look into deregulating freight
7 of wastepaper, that is shipments of wastepaper by rail and
8 ironically that's already happening at, at the national
9 level.

10 Another, another supply-related barrier was poor
11 recovered paper quality. And I think from the item
12 discussing our market development proposal on corrugated and
13 printing and writing papers you can see that that's still
14 very much an issue as Mr. Bernie Meyerson discussed when you
15 have a quote "dirty MRF" that's separating paper from mixed
16 waste it's very difficult to market that material and some of
17 our recommendations to overcome this barrier were to do
18 research and development projects to identify how we could
19 best recover mixed paper from the waste stream in a
20 marketable form.

21 And then we also had institutional and attitudinal
22 barriers and one of those was excessively stringent aesthetic
23 product quantity standards. Now these standards are set by
24 manufacturers in response to what they believe their
25 customers expectations are. Now those things are not mostly

1 set in concrete, but it's also not something that we can
2 easily manipulate, however, the recommendations in the report
3 is that we do work with the consumers of the products to
4 emphasize to them that aesthetics are not necessarily one of
5 the primary factors that they need to look in, need to look
6 at in purchasing a product in that recycled content is a very
7 important aspect as well, and ultimately the performance of
8 the product is the most important factor and that aesthetics
9 through the use of secondary materials do not necessarily
10 need to effect performance.

11 And then finally the last barrier was a
12 misunderstanding of Federal Food and Drug Administration food
13 packaging regulations where product manufacturers who
14 potentially could be making food packaging either direct
15 contact or non-correct contact packaging for food products
16 are under the impression that they cannot use recycled
17 materials or cannot purchase packaging that is made from
18 recycled materials and, in fact, that is not the case.

19 The recommendation is simply to inform these
20 product manufacturers of the actual FDA regulations so that
21 it could perhaps encourage them to purchase packaging that is
22 made from recycled paper for food products, which is really
23 one of the sectors which could be expanded into some products
24 that could use mixed paper.

25 That's essentially the body of the report. We, as

1 far as the barriers and the recommendations I don't really
2 feel a need here to go into the actual supply demand status
3 of mixed paper at this time, however if you do have specific
4 or general questions about what that status is, I'd be glad
5 to address them at this point.

6 And then finally our recommendation is for the
7 Committee to consider forwarding this report to the Board for
8 approval at the December 15th Board Meeting.

9 COMMITTEE MEMBER RELIS: We have a number of people
10 who wish to speak on this item. So we have four and Virgil
11 Horton has asked to speak first. Okay, Mr. Horton.

12 I'm wondering just for the interest of time if we
13 could all be as specific as possible. I'm going to have to
14 leave here by 4:00.

15 MR. HORTON: I will be very specific.

16 COMMITTEE CHAIRMAN RELIS: Thank you. Thank you.

17 MR. HORTON: First, the industry, paper industry
18 has not really had an opportunity to study this particular
19 report in depth. It was not put out until Thanksgiving
20 Holidays, and therefore my comments are going to be very
21 specific, very brief. But I would request that it not go to
22 the Board at that point because I feel we need to do a more
23 in-depth study.

24 I would also say that as I had mentioned to some of
25 you earlier, sitting here in California you have to ask

1 yourself the question why mills are going 1,200, 1,500, 2,000
2 miles away to pick up paper. If you've got that much paper
3 here. I will turn to my statistic book which I will give
4 back to you if I may. I mentioned earlier about the large
5 printing and writing paper machines and when I look at the
6 high grade de-inking can hopefully be a value added that will
7 bring more money to the municipalities and others who do
8 that, that has grown significantly and in high grade
9 de-inking for 1991 the printing and writing sector alone used
10 over two million tons of that on a national basis. When you
11 get into mixed paper we used 73,000 tons, a mere pittance.
12 So the report just a very quick glance at it back there
13 indicates that it, it continues to encourage possibly some
14 lack of source depravation which would be better value added,
15 which would also allow us to use more of the paper on the
16 high speed, high productive machines where we need some of
17 that type of thing.

18 I want to go to the quality aspect. I personally
19 get very hyper when I hear anybody talk about recycling,
20 having less aesthetic value, or quality than a virgin sheet.
21 That is not necessarily true. I have mills that make very
22 good quality in terms of a virgin sheet. I have mills that
23 make a very good quality in terms of a recycled sheet. And
24 the same is true in not so good quality. I have virgin mills
25 that don't make very quality and I have recycled mills that

1 don't make very good virgin quality, so your quality issue
2 and aesthetics is there for the end use, the performance
3 characteristics of a sheet of paper for a particular end use.

4 So I would encourage the Board, if I may suggest,
5 give the industry a chance to work with you on that. We have
6 not had that opportunity. And the first thing I see wrong
7 with the report from my perspective is that it encourages the
8 continued non-separation for quality fiber. Thank you.

9 COMMITTEE CHAIRMAN RELIS: Thank you. Before I ask
10 for any comments from staff, I'd like to get all the comments
11 from the industry representatives here who are lined up, I
12 guess, to speak on this. Next is Ed Hurley.

13 MR. HURLEY: Again I will be brief, but one aspect
14 that Brian touched on, and I have to have a slight
15 disagreement, the FDA, he's right, there aren't any
16 regulations, they're called guides, they are a major
17 impediment to increase recycling and we don't have to go into
18 the details and I'll provide the details as best I can, but
19 basically the FDA breaks down intimate contact with food in
20 two areas, dry food and acquiesce and greasy foods. There
21 is --

22 COMMITTEE MEMBER CHESBRO: Is that true? Is that a
23 term of art?

24 MR. HURLEY: Well they talk about acquiesce and
25 greasy.

1 COMMITTEE MEMBER CHESBRO: And greasy.

2 MR. HURLEY: That means it's either wet or greasy.

3 COMMITTEE MEMBER CHESBRO: It goes from the
4 ridiculous to the sublime or something.

5 MR. HURLEY: No, that's true. There are, and if
6 you look at food packaging, packages that are intimate
7 contact with acquiesce and greasy food there is virtually no
8 content in them, no recycled content. Where there is foods
9 in contact with dry foods you do see it, you do see it in
10 some cereals, in fact. White Castle is a little paper board
11 container that they have, we've been making for 30 years.
12 The report talks about the poisonous and deleterious in the
13 guides. And that's the problem, there is a perception out
14 there that when they talk about guides the FDA says Mr.
15 Manufacturer and Mr. Packager you're on your own. You cannot
16 let that migrate those poisonous, deleterious materials
17 migrate into the food. We're not going to give you an out by
18 setting regulations or thresholds, and you're on your own and
19 you're a hundred percent liable for that and that literal
20 interpretation has scared away packagers from doing that.

21 Now at this very moment I guess two days ago there
22 was a meeting with AFPA and some of the food marketing
23 people, there's a meeting, well with AFPA. There is a
24 meeting either later this week or early next week with the
25 FDA to try to come up with some more concrete guidelines,

1 guides whatever they do, so we can get some guidance on this
2 whole area.

3 But I guess the point I'm trying to make is that as
4 you look at this mixed paper this FDA issue is a very, very
5 key issue. It's got to be developed more. Thank you.

6 COMMITTEE CHAIRMAN RELIS: Thank you.

7 COMMITTEE MEMBER CHESBRO: Could I ask, do you know
8 if any migration studies have been done for the contaminants
9 to see if there's actual --

10 MR. HURLEY: Yes. Yes, they have. They do have
11 what they call an extraction technique, which you can get
12 certification, as long as you can certify that you're using a
13 certain type of recycled paper and it doesn't migrate. But
14 that is just starting. But there's still a great deal of
15 reservation out there, but yeah it does migrate quite a bit.

16 COMMITTEE CHAIRMAN RELIS: Brian, if you could.

17 MR. FORAN: Mr. Hurley, what, do you know the date
18 of that meeting, would, is it with AFPA the food marketing
19 people and FDA?

20 MR. HURLEY: No. It was the former two first, and
21 that occurred last week and they are trying to set up now
22 with FDA a meeting. But I also have some reports from other,
23 I guess, packaging councils that address this FDA thing,
24 Brian, that I can send you, at least for some background.
25 Thank you.

1 COMMITTEE CHAIRMAN RELIS: Thank you, Kathy Lynch
2 and then Katie Cutler.

3 MS. LYNCH: Kathy Lynch, American Forest and Paper
4 Association. I guess my role today is process and we did
5 just receive this final report last Wednesday, late
6 afternoon. Several of the companies aren't even in receipt
7 of it yet, and I think you'd have many more people here to
8 contribute. We want to be supportive of the study going
9 forward, but we think we have some valuable things to add and
10 if it goes back to the legislature in this form perhaps
11 they'll be some misinformation that, you know, certainly we
12 aren't in agreement on, and I don't think is in your goal.
13 So we'd like just to have, at least till your next meeting to
14 get you some written comments and some thoughtful --

15 COMMITTEE CHAIRMAN RELIS: Yeah. Legislative
16 deadline, but of course we've missed those before, but I
17 definitely want, we want to pay deference to the author in
18 terms of whether that was considered satisfactory.

19 MS. LYNCH: We appreciate that, but on the other
20 hand we just got the documents. We'd like to have a couple
21 of weeks, so.

22 COMMITTEE CHAIRMAN RELIS: I'm not disagreeing with
23 you, I'm just bringing up another problem.

24 MS. LYNCH: Right, I understand. It's supposed to
25 be back to the legislature in January, so.

1 COMMITTEE MEMBER CHESBRO: So we'll have to like,
2 you know, look into that.

3 MS. LYNCH: We can do, you know, kind of a quick,
4 I'm sure if we had a couple weeks, that would be helpful to
5 get some written comments into you, so that's all we'd be
6 asking for.

7 COMMITTEE CHAIRMAN RELIS: Okay.

8 MR. FORAN: Could I make a comment?

9 COMMITTEE CHAIRMAN RELIS: Quickly.

10 MR. FORAN: Again, Kathy, I just want to reiterate
11 that there are no changes to the barriers identified except
12 deletions of, and the recommendations from my mixed paper
13 action plan which received considerable industry review as
14 you'll recall last year. And if you were, unless there were
15 problems that you had with the recommendations and barriers
16 in that action plan that were not addressed in this report
17 then I would say that this, that there really shouldn't be
18 any concerns about this report moving forward to the
19 legislature in essentially the same form with only changes in
20 supply demand status.

21 COMMITTEE CHAIRMAN RELIS: Let's just hold there
22 and then we'll here from Katie and then we'll go back if we
23 have to.

24 MS. CUTLER: Thank you, I'm Katie Cutler from James
25 River and, Brian, I'd like to say that all of these things

1 start looking familiar and you're not sure what you've
2 reviewed and what you haven't. And you do have to take the
3 time to go through it just to make sure that you understand
4 the intent. I, too, will keep my comments very brief, but
5 just looking at the first page again today it reminded me
6 that it seems really unhealthy to put an emphasis on unsorted
7 mixed paper. And I believe and I think that my company
8 shares this point of view that the very best way to reduce
9 the volume of mixed paper that's in the waste stream is to
10 source separate at the earliest possible opportunity.

11 Printing and writing papers high grade become mixed
12 paper if they haven't been separated out. Juice boxes or
13 milk cartons become part of that mixed paper stream. In my
14 home I separate out the milk cartons and I take them, milk
15 cartons only, in their own container down to my recycling
16 center.

17 Secondly, I, James River is probably the countries
18 largest manufacturer of packaging papers, and therefore I'm
19 very interested in the point of view on recycling of
20 packaging papers and, you know, the use of recycled content
21 in them. Ed gave a good overview. There are many
22 innovations that are taking place in this in terms of use
23 barriers and creative ways of constructing packaging so that
24 we can expand the use of recycled content.

25 And we would like to have the time to thoughtfully

1 comment on this report and make sure that the latest, because
2 it's a very rapidly developing area of concern. So with that
3 I'll thank you. If there are any questions I'd be happy to
4 take them.

5 COMMITTEE CHAIRMAN RELIS: Well I was just going to
6 ask in light of the, I think that completes the comments, we
7 have a couple of choices. One is, okay, we're behind on our
8 submittal. It's a relatively short report. What would be
9 the chance of your reviewing in the next week before we bring
10 this to the full Board. I mean, we're not talking about a
11 lengthy.

12 MS. CUTLER: Right now we have one copy to share
13 among us.

14 COMMITTEE MEMBER CHESBRO: We will loan you a
15 photocopy machine.

16 COMMITTEE CHAIRMAN RELIS: We haven't checked with
17 the author's office, we don't know whether they're going to
18 be put out.

19 COMMITTEE MEMBER CHESBRO: It seems to me we ought
20 to, until we've talked to the author's office, at least have
21 it on the Board's agenda and allow you all to take a look at
22 it and see if you feel that your comments are such that you
23 wouldn't have major objections to having another chance to
24 comment at the Board and propose any modifications that you
25 want at that point in order to try to stay on deadline then

1 if something really --

2 COMMITTEE CHAIRMAN RELIS: If it doesn't work then,
3 you know, probably it won't get approved.

4 COMMITTEE MEMBER CHESBRO: And we could talk to the
5 author's office about that.

6 COMMITTEE CHAIRMAN RELIS: Yeah, that would be if
7 you could check with the author and we can, I mean we have
8 the option of pulling it before agenda or.

9 MS. CUTLER: I'm sorry I forgot when the deadline
10 to the legislature is, can you, is it January?

11 MR. SMITH: January 1st.

12 COMMITTEE CHAIRMAN RELIS: Yeah, could you comment
13 on that? On the deadline issue?

14 DIRECTOR GORFAIN: I can comment to some extent. I
15 can only say that the deadline is January 1st. Typically
16 what we do is we send a draft of the, once the Committee has
17 acted, send a draft of the report to the author's office and
18 once it has gone through the Board it goes to Cal EPA and the
19 Governor for approval and then to the legislature. So it
20 will be some time before it gets to the legislature formally.

21 COMMITTEE CHAIRMAN RELIS: Could be a long time.

22 MS. CUTLER: You just want to make sure you've done
23 your part on time.

24 COMMITTEE MEMBER CHESBRO: The Governor gets as
25 long as he wants to comment on it.

1 MS. CUTLER: We can read it quickly, we can
2 circulate it within my company quickly.

3 COMMITTEE CHAIRMAN RELIS: I mean I'm open to, I
4 just don't want to run a foul, too, of the author.

5 COMMITTEE MEMBER CHESBRO: If there's major issues
6 I think the author would say, "fine," you know, so if you, I
7 guess, the point is if you see things here that you think are
8 really, that really require some time and you let us know
9 that, I think we could talk to the author about it.

10 COMMITTEE CHAIRMAN RELIS: We'll go ahead anyway, I
11 mean if we can talk to him right away.

12 COMMITTEE MEMBER CHESBRO: And really that's a
13 possibility.

14 MS. CUTLER: I personally had concern like the
15 first page.

16 COMMITTEE CHAIRMAN RELIS: You only read the first,
17 right?

18 MS. CUTLER: That's as far as I got.

19 COMMITTEE CHAIRMAN RELIS: I think we hear you. I
20 think I'd like to keep it on the calendar, but I'm open to
21 pulling it.

22 COMMITTEE MEMBER CHESBRO: My impression from
23 reading the proposed actions is that there's virtually
24 nothing there that wasn't in the Board's Market Development
25 Plan, so I think it's, you know, we could sort of re-fight

1 some of the battles we fought in trying to develop the Market
2 Development Plan. But I think it's mostly consistent with
3 the existing Board Policy. I don't think it's breaking major
4 new ground in terms of policy. But on the other hand, I
5 mean, process is important and we're not trying, I don't
6 think the author would want us to, and we're not trying to
7 like jam something, you know, that's not the point.

8 MS. CUTLER: We're not looking to fight you, we
9 just believe it's important to start from here.

10 COMMITTEE CHAIRMAN RELIS: I think we can agree
11 that, to a process between now and the Board time leave it on
12 calendar, but be prepared to recommend pulling it if the
13 author will concur with us and, and if we get a negative on
14 that then we're going to, there are two options, it won't get
15 forwarded from the full Board or input could be received
16 prior.

17 COMMITTEE MEMBER CHESBRO: Okay well --

18 COMMITTEE CHAIRMAN RELIS: If that is satisfactory.

19 COMMITTEE MEMBER CHESBRO: I will move that we
20 forward this to the Board without a recommendation at this
21 point, so it would be listed on the agenda, and that we ask
22 the legislative office to contact the author's office about
23 the possibility of a delay and then we encourage the, the
24 public and the industry to review it, and if possible make
25 their comments by the Board meeting. But if there's major

1 issues we will consider recommending to the Board that
2 they'll, we'll, it will carry over.

3 COMMITTEE CHAIRMAN RELIS: So that's forwarding it
4 without recommendation.

5 COMMITTEE MEMBER CHESBRO: At this point, yeah.

6 COMMITTEE CHAIRMAN RELIS: Okay. Would you call
7 the roll?

8 DIRECTOR GORFAIN: Mr. Chairman, can I just ask
9 that any comments be gotten to us by the 10th. Can we have
10 them by the 10th?

11 COMMITTEE CHAIRMAN RELIS: Well I, that's up to --

12 DIRECTOR GORFAIN: If that's possible.

13 COMMITTEE CHAIRMAN RELIS: That may be the issue,
14 but we'll have to see.

15 UNIDENTIFIED SPEAKER: Can I get a copy by the 9th?

16 MR. SMITH: You'll probably get a copy today.

17 COMMITTEE CHAIRMAN RELIS: Can we make sure that
18 before they leave that they all have copies?

19 MR. SMITH: Yes, Mr. Chairman.

20 COMMITTEE MEMBER RELIS: You want another, I got
21 one right here. We're recycling as we speak.

22 COMMITTEE MEMBER RELIS: Okay. Ms. Waddell, would
23 you call the roll?

24 MS. WADDELL: Board Member Chesbro.

25 COMMITTEE MEMBER CHESBRO: Aye.

1 MS. WADDELL: Chairman Relis.

2 COMMITTEE CHAIRMAN RELIS: Aye.

3 All right, that concludes our meeting for today
4 unless there's something else, which I hope there isn't.

5 Thank you.

6 (Thereupon the foregoing meeting was
7 concluded at 3:47 p.m.)

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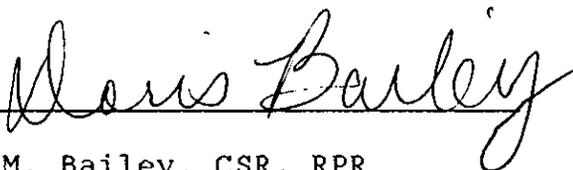
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1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER
2

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

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

12 IN WITNESS WHEREOF, I have hereunto set my hand as
13 a Certified Shorthand Reporter on the 2nd day of January,
14 1994.

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17 Doris M. Bailey, CSR, RPR

18 Certified Shorthand Reporter

19 License Number 8751
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