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

COPY

Board Room
8800 Cal Center Drive
Sacramento, California

Wednesday, December 15, 1993

10:00 a.m.

Janet H. Nicol
Certified Shorthand Reporter
License Number 9764

APPEARANCES1
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25BOARD MEMBERS PRESENT:

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

STAFF PRESENT:

Garth Adams
Richard Castle
Ralph Chandler, Executive Director
Robert Conheim, Chief Legal Counsel
Catherine Foreman
Judith Friedman
Martha Gildart
Daniel Gorfain
Bill Huston
Marlene Kelly, Committee Secretary
Al Lipson
Doug Okumura
Dorothy Rice
Tom Unsell
Lorraine Van Kekerix

PUBLIC SPEAKERS:

Rick Best
Delwin Biagi
Arthur Boone
Evan Edgar
George Fasching
Bill Harris
Tony Hicks
Yvonne Hunter
Everett Jenkins
Bob Judd
Kathy Lynch
Steve Maguin, LA County
Jack Michael
Mark Murray
Al Marino
Gary Patton
Debra Rohrer
Mike Silva
Kelly Smith
Larry Sweetser
Charles White

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BOARD CHAIRMAN HUFF: I think it's time to get started and I refrain from disturbing everyone's social hour, but we do have all the current members of the board present and at the risk of extending the ex parte disclosures I've let them converse for a while.

Let's have a roll call to establish a quorum, please.

BOARD SECRETARY KELLY: Board Member Chesbro.

BOARD VICE CHAIRMAN CHESBRO: Here.

BOARD SECRETARY KELLY: Egigian

BOARD MEMBER EGIGIAN: Here.

BOARD SECRETARY KELLY: Neal.

BOARD MEMBER NEAL: Here.

BOARD SECRETARY KELLY: Relis.

BOARD MEMBER RELIS: Here.

BOARD SECRETARY KELLY: Chairman Huff.

BOARD CHAIRMAN HUFF: Here.

Quorum is present.

BOARD VICE CHAIRMAN CHESBRO: Boy, Sam, it hurts just to hear you talk.

BOARD CHAIRMAN HUFF: Yes. And let me say something. Mr. Egigian obviously is under the weather and nonetheless he's here to participate and so it's the Chair's intent to give him great latitude in making his opinions

1 known on various items. If he wishes to have someone speak
2 for him the Chair will recognize that person. If he wishes
3 just to throw things, thumbs up, thumbs down, whatever.

4 I think at this point I better announce the items
5 that have been pulled from today's agenda.

6 And I'm informed, unless staff jumps up and
7 corrects me, that the following items are pulled. No. 4,
8 No. 12, No. 13, No. 16.

9 Are there any other items? Did I misstate
10 anything? I got that one right.

11 Okay. The consent calendar. Let me go over the
12 consent calendar. As I understand the consent calendar is
13 the following items are upon it. 5, 6, 7, 9, 11, 14, 17,
14 19, 21 in part, and the part that is not on the consent
15 calendar is the Resolution No. 93-148, which is that part of
16 the item which deals with the source reduction and recycling
17 elements for the Cities of Hercules, Pinole, Richmond and
18 San Pablo. That part of this item is not on consent. The
19 rest of it is as it relates to all the other entities in
20 Contra Costa County.

21 Okay. Continuing with the consent calendar, 22,
22 23, 24, 25, 26, 27, and 28.

23 At this point did I get that right, staff?

24 At this point I would ask is there any board
25 member who wishes any item on the consent calendar removed?

1 BOARD MEMBER NEAL: Yes. I'd like to pull Item 28
2 from consent.

3 BOARD CHAIRMAN HUFF: Such is the order.
4 Is there any other item?

5 Okay. I'm ready for a motion on the consent
6 calendar as read with the exception of Item 28, which has
7 been pulled.

8 BOARD MEMBER RELIS: Moved.

9 BOARD CHAIRMAN HUFF: It's been moved.
10 We'll have a roll call.

11 BOARD SECRETARY KELLY: Board Member Chesbro.

12 BOARD VICE CHAIRMAN CHESBRO: Aye.

13 BOARD SECRETARY KELLY: Egigian

14 BOARD MEMBER EGIGIAN: Aye.

15 BOARD SECRETARY KELLY: Neal.

16 BOARD MEMBER NEAL: Aye.

17 BOARD SECRETARY KELLY: Relis.

18 BOARD MEMBER RELIS: Aye.

19 BOARD SECRETARY KELLY: Chairman Huff.

20 BOARD CHAIRMAN HUFF: Aye.

21 Motion carries.

22 Okay. That takes us then to committee reports.

23 We'll start with Market Development, Mr. Relis.

24 BOARD MEMBER RELIS: We have a number of items on
25 today's agenda so I'll just leave it at that on today's

1 agenda.

2 BOARD CHAIRMAN HUFF: Very well. Thank you.

3 Legislative and Public Affairs, Ms. Neal.

4 BOARD MEMBER NEAL: Only thing I have to report is
5 we will be having our first committee meeting in January,
6 since for a long time in January, since the Legislature will
7 be back so will we.

8 BOARD CHAIRMAN HUFF: Very good. Is it going to
9 be at the Capitol?

10 BOARD MEMBER NEAL: At the Capitol.

11 BOARD CHAIRMAN HUFF: I'll look forward to it.

12 BOARD MEMBER NEAL: I've missed that place.

13 BOARD CHAIRMAN HUFF: Planning, Mr. Chesbro.

14 BOARD VICE CHAIRMAN CHESBRO: We have numerous
15 items that we have taken up but they are all elsewhere on
16 the agenda and I'll have plenty to say but I won't say it
17 twice so we'll wait until those items come up.

18 BOARD CHAIRMAN HUFF: Thank you, Mr. Chesbro.

19 Policy, Mr. Egigian.

20 Do you have a substitute speaker?

21 BOARD MEMBER EGIGIAN: Yes; I do.

22 MR. LIPSON: Yes, he does.

23 The Policy Committee did not meet this past month.

24 BOARD CHAIRMAN HUFF: And then Administration
25 Committee also did not meet this month.

1 Permit Committee, in addition to the item on the
2 agenda today, couple of things.

3 One, the committee in their last meeting viewed a
4 videotape and written materials that make up a new statewide
5 training program to assist fire departments in preventing
6 and fighting tire fires.

7 This program and the materials were the result of
8 a Waste Board contract with the State Fire Marshal's Office
9 using tire funds.

10 I might say that anyone who hasn't seen the video
11 it is well done, we got some good support from CSU Chico.
12 The Fire Marshal is delighted with the tape. And I think
13 it's going to be a positive contribution in training fire
14 departments up and down the State of California in how to
15 deal with tire fires.

16 Then secondly staff gave a progress report on two
17 projects underway to assess the need for new regulations on
18 recycling centers and nontraditional facilities that handle
19 solid waste.

20 Our staff has been working with other state
21 departments and local enforcement agencies. They have
22 identified top priority materials.

23 Next month we will be holding workshops for
24 industry and the public to provide input.

25 And I want to say that, as I stated, it's a joint

1 effort, we've been working with other departments to gather
2 their knowledge and I think it's been a very positive thing
3 and well received by the other departments that we're asking
4 questions about things that we recognize that they know.

5 Thirdly, our compost advisory panel held its first
6 meeting last month to review draft regulations for mixed
7 solid waste and co-composting.

8 These regulations are generating a great deal of
9 discussion within the composting industry, LEAs and local
10 citizens' groups who are concerned with siting, health and
11 marketing issues.

12 We will keep board members informed of the status
13 of these regulations as we move forward with the process.

14 Finally, the committee received a briefing on the
15 working draft of the new LEA evaluation procedure. This
16 will be a central element of the board's ongoing process of
17 certifying and monitoring local enforcement agencies. The
18 working draft will continue to be discussed within the LEA
19 community and the AB 1220 working group and is expected to
20 be implemented beginning this February.

21 With that I'd like to ask the executive director
22 for his report.

23 EXECUTIVE DIRECTOR CHANDLER: Thank you,
24 Mr. Chairman, board members.

25 I have a very brief report today, but I would like

1 to provide a progress report on the communication that has
2 been ensuing between my office and Region IX, U.S. EPA,
3 relative to our approved state status.

4 You may recall that at the last board meeting that
5 you directed that I correspond with the newly appointed
6 regional director, Felicia Marcus, and posed the basic
7 question what happens to our approved state status should
8 California continue to modify its regulations and future
9 statutes come down that modify our approved state program as
10 it was submitted and approved by the U.S. EPA.

11 At that time I proposed a state self-certifying
12 program on an annual basis and that any regulatory or
13 statutory changes conform with Subtitle D and that every
14 third year EPA staff could, if warranted, conduct a program
15 review.

16 I'm pleased to note that on November 24th
17 Ms. Marcus responded and said that she agreed that it was
18 reasonable for the State to inform U.S. EPA on an annual
19 basis of the permit program changes that could have an
20 impact on the adequacy of the State's approved program under
21 RCRA Subtitle D and that the information should contain
22 sufficient detail as to decide if a revised application is
23 necessary.

24 Mr. Chairman and Board Members, I believe that the
25 conclusion of the next legislative calendar year I will be

1 pulling together all of the regulatory changes, statutory
2 changes to the program and transmitting that to Region IX
3 under our agreed upon format that has now been put forward.

4 BOARD CHAIRMAN HUFF: But they didn't buy the
5 three year?

6 EXECUTIVE DIRECTOR CHANDLER: They will look at
7 our program on a three-year basis, but they do want to see
8 the compilation of the changes annually.

9 BOARD CHAIRMAN HUFF: Annually, okay.

10 That's a very good result really. I'm very
11 pleased with that result and pleased that Region IX EPA
12 recognizes the nature of our program as well as the
13 complications that might ensue under other scenarios that
14 would really I think run counter to what everyone wants to
15 accomplish.

16 Okay. With that we need to go to Item 8. That's
17 the first one that's --

18 EXECUTIVE DIRECTOR CHANDLER: Mr. Okumura will
19 make the staff introductory remarks.

20 MR. OKUMURA: Doug Okumura.

21 Item No. 8 is the board's consideration of
22 concurrence in the issuance of a revised solid waste
23 facility permit for the Fink Road Landfill, Stanislaus
24 County.

25 Presentation was made at the Permitting and

1 Enforcement Committee and we were requested to bring it back
2 to the full board and in this case the board is the EA.

3 Mr. Tom Unsell will handle any questions or update
4 you on the issue.

5 BOARD CHAIRMAN HUFF: Tom, just a second.

6 I want to make it clear to board members the only
7 reason that I think that this thing wasn't on the consent is
8 the fact that the board is the EA and I have at least a
9 little concern about putting it on the consent. When we are
10 the EA it looks like we're rubber stamping ourselves.
11 That's why I didn't put it on consent.

12 If board members are ready to go to a vote we
13 don't need to discuss the matter any further. Okay.

14 BOARD MEMBER RELIS: Moved.

15 BOARD CHAIRMAN HUFF: Did you move it?

16 BOARD MEMBER RELIS: Yes.

17 BOARD CHAIRMAN HUFF: It's been moved by Mr. Relis
18 then.

19 We'll have a roll call.

20 BOARD SECRETARY KELLY: Board Member Chesbro.

21 BOARD VICE CHAIRMAN CHESBRO: Aye.

22 BOARD SECRETARY KELLY: Egigian

23 BOARD MEMBER EGIGIAN: Aye.

24 BOARD SECRETARY KELLY: Neal.

25 BOARD MEMBER NEAL: Aye.

1 BOARD SECRETARY KELLY: Relis.

2 BOARD MEMBER RELIS: Aye.

3 BOARD SECRETARY KELLY: Chairman Huff.

4 BOARD CHAIRMAN HUFF: Aye.

5 Motion carries.

6 That will take to us Item 10.

7 MR. OKUMURA: Mr. Chairman, members of the board,
8 Item 10 is for your consideration for amendments to the
9 funding formula for closure and/or postclosure costs.

10 At its December 8th meeting the Permitting and
11 Enforcement Committee considered amendments to the funding
12 formula.

13 Currently the regulations require an operator to
14 fund for closure and/or postclosure at twice the rate of the
15 annual capacity fill.

16 Proposed amendment to this funding formula
17 provided alternative straight line funding method.

18 During the December 8th P and E Committee meeting
19 the committee evaluated staff recommendation of the
20 remaining values formula.

21 We were instructed to bring -- to move forward and
22 make amendments to the regulations.

23 And Mr. Garth Adams and Mr. Richard Castle of the
24 Financial Assurance Section will provide details and answer
25 any questions you may have.

1 MR. ADAMS: In this particular item, as the
2 committee and board members are well aware, there's a couple
3 formalities that we have to go through to do the emergency
4 finding for the committee and the emergency regs.

5 But staff has determined that the issues
6 constitute an emergency of a fiscal and environmental nature
7 and as such the regulations will be submitted as emergency
8 reg to be effective approximately ten days after OAL reviews
9 them.

10 And that staff would recommend that the board find
11 that an emergency exists and approve the foregoing
12 regulation as necessary for the immediate preservation of
13 the public peace, health and safety and general welfare.

14 I believe you have a copy of the emergency regs in
15 front of you. There's a couple pages of them. There's also
16 a copy of the emergency finding that will be forwarded to
17 OAL.

18 BOARD CHAIRMAN HUFF: Okay. Now, if I may, are
19 there any questions of staff at this point?

20 I'd like to -- it's an emergency because there's
21 been legislation telling us to do this with regard to a
22 portion of the landfills throughout the State of California,
23 the small sites; isn't that true?

24 MR. ADAMS: Yes.

25 BOARD CHAIRMAN HUFF: So that's part of the

1 emergency.

2 And the other part of the emergency is that as the
3 current regulation exists landfills will be paying, are
4 paying as we speak, the double-up formula until we change
5 it.

6 MR. ADAMS: Correct.

7 BOARD CHAIRMAN HUFF: So we have a couple elements
8 that do lend some urgency to this.

9 Yet we have to come up with a formula that
10 requires at least the funding that Subtitle D does and just
11 a little bit more; doesn't it?

12 MR. ADAMS: Staff believe that arguably that we
13 have a formula that is equivalent to EPA and when given or
14 asked to go to them we will do so.

15 BOARD CHAIRMAN HUFF: So we don't run afoul of Sub
16 D?

17 MR. ADAMS: We don't believe we do.

18 BOARD CHAIRMAN HUFF: Very good.

19 I do have some requests to speak on this item.

20 Are there any staff, board questions of the staff
21 at this point?

22 I have Evan Edgar and Larry Sweetser both
23 requesting to enlighten us further.

24 MR. EDGAR: Good morning, Board Members and the
25 committee, not committee, full board.

1 My name is Evan Edgar from the California Refuse
2 Removal Council. I'm the manager of technical services.

3 And we appreciate all the efforts the staff has
4 done on this. We feel it's urgent.

5 I've talked to all the CRC landfill members and
6 they really appreciate the matters here today that we have
7 emergency regulations and we're looking forward to the
8 adopting by OAL and implementation of these regs.

9 Thank you.

10 BOARD CHAIRMAN HUFF: Any questions?

11 Larry.

12 MR. SWEETSER: I'll be equally as brief and echo
13 Evan Edgar's comments.

14 We've worked with staff a lot on some of these
15 changes and I think they have done an excellent job of
16 putting forward the proposal and we look forward to having
17 those emergency regulations out there so we can start with
18 the requirement.

19 Urge your adoption.

20 Thank you.

21 BOARD CHAIRMAN HUFF: Any questions?

22 Motion?

23 BOARD MEMBER RELIS: Move it.

24 BOARD CHAIRMAN HUFF: Moved by Mr. Relis.

25 Roll call.

1 BOARD SECRETARY KELLY: Board Member Chesbro.
2 BOARD VICE CHAIRMAN CHESBRO: Aye.
3 BOARD SECRETARY KELLY: Egigian
4 BOARD MEMBER EGIGIAN: Aye.
5 BOARD SECRETARY KELLY: Neal.
6 BOARD MEMBER NEAL: Aye.
7 BOARD SECRETARY KELLY: Relis.
8 BOARD MEMBER RELIS: Aye.
9 BOARD SECRETARY KELLY: Chairman Huff.
10 BOARD CHAIRMAN HUFF: Aye.
11 Motion carries 5-0.
12 That takes us to Item 15.
13 MR. GORFAIN: Mr. Chairman, members of the board,
14 this item is the consideration of an appeal by Alternator
15 and Starter Exchange Inc.
16 Position of staff is that they do not qualify for
17 tax credit.
18 I understand the applicant is not here today.
19 BOARD CHAIRMAN HUFF: Notwithstanding the absence
20 of the applicant, could you at least give us a capsulization
21 of why the staff made this recommendation?
22 MR. GORFAIN: Yes.
23 Mr. Chairman, in essence to recap, the staff
24 denial of this application was based on an interpretation of
25 the Revenue and Taxation Code which defines postconsumer

1 waste as only those products generated within the State of
2 California by business or consumer which have served the end
3 uses and would normally be disposed of as solid waste having
4 completed the useful life cycle.

5 There's also a requirement that the finished
6 product contain at least 50 percent secondary waste
7 generated in California, of which 10 percent must be
8 postconsumer waste generated in California.

9 And we don't believe that SA and E meets those
10 criteria.

11 BOARD CHAIRMAN HUFF: And you believe that they
12 fail not only on the normally disposed of requirement of the
13 statutory definition, but also in the percentages?

14 MR. GORFAIN: That's correct. And the committee
15 concurred.

16 BOARD VICE CHAIRMAN CHESBRO: Mr. Chairman, I'd
17 like to say that I concur with the staff on the normally
18 disposed of question, but I am very concerned with their
19 interpretation of product having reached its, completed its
20 useful life.

21 If that is interpreted broadly then the ability to
22 use the tax credit for source reduction or waste prevention
23 activities could be severely curtailed.

24 And frankly I think from my standpoint if this
25 were a material that weren't normally either rebuilt or

1 recycled as scrap metal then I would be willing to grant it.

2 The real problem with this in my mind is that not
3 very many of these pieces of equipment wind up in landfills
4 and scrap metal in general doesn't wind up in landfills and
5 that's a real solid reason to deny it.

6 On the other question I'm afraid, and I would hope
7 we wouldn't set any precedent on it, I'm afraid that if we
8 use -- hang the decision on that that we may be precluding
9 things in the future that wouldn't be helpful.

10 And I frankly think waste prevention is -- it is
11 the top of the hierarchy and it's something we should be
12 attempting to find ways to use these to encourage, not
13 discourage.

14 So I just wanted to put that on the record and be
15 willing to support a motion to uphold staff's recommendation
16 specifically based on the finding related to normally
17 disposed of.

18 BOARD CHAIRMAN HUFF: Okay.

19 BOARD MEMBER NEAL: I have, before we vote on any
20 motion, I want some clarification on our denial process:
21 I'm not real clear on how that works.

22 MR. GORFAIN: Bill Huston could probably shed some
23 light on that.

24 MR. HUSTON: Good morning.

25 The tax code regulations do not specifically

1 outline a denial or approval process.

2 Basically what we have done in the past at the
3 direction of the Market Development Committee was before
4 staff denies any application we send a letter to the Chair
5 of the Market Development Committee outlining the reasons
6 that we are suggesting denial. If we do not hear back from
7 the Chair of that committee we then issue a denial letter.

8 BOARD MEMBER NEAL: Did the board approve that
9 process?

10 MR. HUSTON: To my knowledge, no.

11 BOARD MEMBER NEAL: How did it get in place?

12 MR. HUSTON: It was the direction of the Market
13 Development Committee Chair.

14 It is the process we've used over the last 18
15 months or so.

16 BOARD CHAIRMAN HUFF: Okay. I was unaware of the
17 circumstance. I assumed that it was in regulation.

18 MR. HUSTON: No; it is not.

19 BOARD CHAIRMAN HUFF: Let's follow up on this a
20 little bit further.

21 Tell me, how is it that this entity, the Waste
22 Board, has such authority over tax matters? Has that been
23 delegated to us by the law or the Franchise Tax Board? How
24 do we make the decision whether a credit is legitimate or
25 not?

1 MR. HUSTON: The Revenue and Taxation Code statute
2 that gives us the authority or that establishes the tax
3 credit for the state identifies the board as the agency that
4 reviews the applications and determines eligibility.

5 So we do not look at the tax aspects of the
6 application. We only look at the equipment and the use of
7 feedstock, the secondary and postconsumer waste, to
8 determine whether or not the equipment and the feedstock as
9 they're used are eligible for the tax credit.

10 BOARD CHAIRMAN HUFF: And how is the credit
11 claimed?

12 MR. HUSTON: Through a separate filing on a
13 separate form to the Franchise Tax Board.

14 So we issue a certification to the applicant if
15 they're approved and we notify the Franchise Tax Board that
16 we have in fact approved that applicant and then the
17 applicant files with their normal tax return a special form
18 that provides the details for tax purposes.

19 BOARD CHAIRMAN HUFF: Okay.

20 BOARD MEMBER NEAL: I'm just a little -- it seems
21 like a bit of a squishy process here. We're talking about
22 impacting people's tax situation and it seems to me that if
23 the board's going to do that we either need to be real clear
24 on what our process is and have that approved by the board.
25 If we want to have a committee sign-off I think that's

1 something we need to all agree on. If that's going to be a
2 staff sign-off we need to all agree on that. I think at
3 least we need to make the decision about where that decision
4 and how it's made.

5 BOARD CHAIRMAN HUFF: Okay. Do you have anything
6 to add?

7 BOARD MEMBER RELIS: I don't frankly recall when
8 we put this into place at Market Committee.

9 Can you go back and resurrect the history?

10 MR. HUSTON: If I go to the cobwebs my
11 recollection was when it was Mr. Chesbro in charge of the
12 Market Development Committee. And that's my recollection.

13 And I think that under the new Market Development
14 Committee that process was simply continued.

15 BOARD MEMBER RELIS: My recollection even back I
16 don't remember the process.

17 BOARD CHAIRMAN HUFF: How is your recollection,
18 Mr. Chesbro?

19 BOARD VICE CHAIRMAN CHESBRO: The committee and
20 the committee Chair have no role other than to make a
21 recommendation to the board. The information relayed to the
22 committee Chair is just that, information. It's not like
23 the committee Chair can say yes or no, it's not okay.

24 It's a staff determination. I believe that's in
25 statute, isn't that what you indicated?

1 And then there's an appeal process to the board.

2 Now how that got established I can't recall
3 either, but I -- it is my recollection that it not anything
4 unilateral. It was at least discussed by the advisors, but
5 the board never formally adopted a process.

6 MR. HUSTON: During the delegation of
7 responsibility and authority that the board undertook two or
8 three years ago, two years ago maybe, approval of tax
9 credits was specifically delegated to the Executive
10 Director.

11 BOARD CHAIRMAN HUFF: Okay.

12 MR. HUSTON: But there was no -- it was silent on
13 what happened with denials.

14 Shortly after that delegation was done we had a
15 denial that we needed to process and it was at that time
16 that a fairly informal process was set up as I described
17 earlier.

18 BOARD VICE CHAIRMAN CHESBRO: I just want to
19 reassure the board members that the Chair of the Markets
20 Committee didn't say to the staff this is the way it's going
21 to be.

22 BOARD MEMBER NEAL: I didn't think anyone was
23 suggesting that. I just wanted to find out exactly what the
24 process was here, particularly with the denial situation
25 because it's kind of loose.

1 BOARD CHAIRMAN HUFF: How many denials?

2 BOARD VICE CHAIRMAN CHESBRO: Not too many
3 appeals.

4 MR. HUSTON: This is our only appeal.

5 And I apologize for not remembering the number
6 exactly, but we've had 15 or 20 denials. About 10 of those
7 as I recall are because of lease purchase arrangements or
8 leasing arrangements for the equipment and we've had some
9 direction from the Franchise Tax Board that they do not
10 consider those kinds of purchase arrangements to qualify,
11 either for the lessee or the lessor.

12 So we've had very few that are based on the
13 equipment itself or the feedstock that they're using.

14 BOARD CHAIRMAN HUFF: Okay. Then fewer yet
15 appeals?

16 MR. HUSTON: Yes. This is the only appeal.

17 BOARD CHAIRMAN HUFF: This is the first appeal.

18 MR. HUSTON: I should also note that as contained
19 in your packet we always advise any applicant that we're
20 denying that there is the Market Development Committee
21 appeal process.

22 And obviously on this first one the committee
23 brought it forward to the board as well.

24 BOARD VICE CHAIRMAN CHESBRO: The committee
25 doesn't have authority, the committee is just in a position

1 to recommend to the board. It's not the Market Development
2 Committee's appeal process. They just review and pass along
3 to the board. Is my --

4 BOARD CHAIRMAN HUFF: That's the way it should be.
5 That's the way it should be. Okay.

6 That clarify matters for you a little bit?

7 BOARD MEMBER NEAL: I'd just like to make sure
8 that there is some communication at the very least that
9 takes place so that we know what is happening with these
10 denials because as I read the item it's just that staff
11 would send the denial recommendation to the Chair and if the
12 Chair didn't respond then it automatically was denied within
13 seven days or at the end of seven days.

14 And with that kind of process we have no clue that
15 anything has gone on until it reaches this point.

16 BOARD CHAIRMAN HUFF: That's true.

17 The counter -- the question on the other side of
18 the coin is have there been instances in which staff was
19 recommending denial and the Chair of the committee thought
20 approval was appropriate?

21 MR. HUSTON: No.

22 BOARD CHAIRMAN HUFF: So nothing has happened
23 there and it may be that what should happen there is not
24 that it go to the Chair of the committee but it go to the
25 committee and then come to the board if there's a

1 disagreement.

2 BOARD VICE CHAIRMAN CHESBRO: This description
3 varies with my understanding of what the board's, what the
4 practice has been. You know, I never understood that the
5 Chair had any -- Chair of the Markets Committee had any
6 particular authority in a situation, that it was intended
7 merely to inform the Chair if there was a denial so that if
8 there's any phone calls or correspondence that the staff has
9 taken an action.

10 Now maybe that information ought to be provided to
11 all the board members and not just the Chair of the Markets
12 Committee.

13 But I always understood it strictly as an
14 informational thing and not that the Chair had any authority
15 to say to staff, gee, that's a good idea or that's not a
16 good idea. That's a delegated matter by the board, the
17 board delegated it to the Executive Director, and that there
18 is an appeals process. And those are the two specific
19 provisions.

20 Then only other thing was an informational
21 informing the Chair of the Markets Committee.

22 I think it would be worthwhile if it's the desire
23 of the other board members to expand that information to all
24 the board members because any of us are just as apt to get a
25 phone call or letter complaining as the Chair of the Markets

1 Committee is.

2 BOARD CHAIRMAN HUFF: Well, I will do this. I
3 would ask that legal staff together with board members and
4 advisors who wish to participate and certainly the Chair of
5 the Market Committee sit down and review the appeal process
6 and the denial process with a mind for establishing some
7 sort of -- I don't want to --

8 BOARD MEMBER NEAL: Also I don't want to make it
9 too complicated. If we're delegating that to the Executive
10 Director then maybe it's just the Executive Director's
11 responsibility to let us know.

12 BOARD CHAIRMAN HUFF: That might be so and that
13 could be the result. Okay.

14 Some sort of communication, appropriate process
15 consistent with the law in terms of informing board members.

16 BOARD VICE CHAIRMAN CHESBRO: Before we spend a
17 lot of time holding meetings, when does the tax credit, the
18 current tax credit expire? Is that the end of this month?

19 MR. HUSTON: 15 days.

20 BOARD VICE CHAIRMAN CHESBRO: Until legislation --

21 MR. HUSTON: We will have additional applications
22 through the major part of next year.

23 BOARD VICE CHAIRMAN CHESBRO: Never mind.

24 BOARD CHAIRMAN HUFF: Because it's for taxable
25 years, okay. So a lot of people will be filing in the

1 spring of 1994 looking for this.

2 BOARD VICE CHAIRMAN CHESBRO: That's right.

3 MR. HUSTON: And the statute dictates that we will
4 review applications through November of next year so we
5 still have another 11 months or so of application review.

6 BOARD CHAIRMAN HUFF: Well, the Chair is directing
7 that this meeting occur to establish a process.

8 The Chair also takes note of the fact there has
9 been no instance in which a staff recommendation of denial
10 has been overturned informally and this is the first
11 instance in which the staff recommendation of a denial has
12 been appealed to the board.

13 So with that I think this matter is before us if
14 there are no other questions of staff.

15 I do have a request form Arthur Boone to speak.

16 MR. BOONE: Staff action on this matter has come
17 up in several discussions among recyclers in the Bay Area
18 and we're concerned about -- I think the major thing we're
19 concerned about is the fact that the definition of
20 postconsumer waste is such that it may deny to reuse
21 industries the opportunity to apply for investment tax
22 credits because of the fact that if we say that glass is no
23 longer normally disposed of because of the fact that all
24 glass is recycled, does it -- then if Encore then applies
25 for tax credits to buy new bottle washing equipment do they

1 qualify under the law? Is that your understanding?

2 BOARD CHAIRMAN HUFF: Well, it may be.

3 BOARD VICE CHAIRMAN CHESBRO: It would be a
4 wonderful day when no glass is disposed of. I hope that
5 happens soon.

6 BOARD CHAIRMAN HUFF: Once upon a time --

7 MR. BOONE: The staff has made an assumption that
8 there is no starters and alternators that are being disposed
9 of. Is that part of what I heard them say?

10 BOARD CHAIRMAN HUFF: Staff, I think what staff
11 said is that historically you do not find this sort of metal
12 in the waste stream to any appreciable extent.

13 MR. BOONE: But the staff definition of normally
14 disposed of several years ago was one-tenth of one percent,
15 if I remember correctly. So if one alternator out of a
16 thousand goes in the dump then we would say it's normally
17 disposed of. Is that still correct?

18 MR. HUSTON: We have a definition proposed in the
19 rigid plastic container program that normally refers to 50
20 percent or more, but that's still, I mean that hasn't been
21 adopted yet.

22 Clearly in some cases the way that the tax credit
23 has been interpreted, reuse may not qualify for the tax
24 credit.

25 But I want to make two comments on that.

1 One is that the board has approved a tax credit
2 for a company that washes wine bottles. And we felt that
3 the wine bottles were never intended for reuse and clearly
4 washing them was using postconsumer waste as their feedstock
5 and the process of washing it would certainly qualify for
6 the tax credit because it was postconsumer.

7 I should also point out that one or both of the
8 bills that are still in the Legislature dealing with the tax
9 credit are focusing, is or are focusing on reuse
10 opportunities. So we're hoping to add reuse to recycling as
11 well.

12 MR. BOONE: Thank you.

13 BOARD VICE CHAIRMAN CHESBRO: Neither this board
14 nor the Markets Committee has ever agreed I think with that
15 staff interpretation that reuse is not what the tax credit
16 was intended for.

17 And I happen to think that there's for some reason
18 at the staff level there's a very conservative -- that is
19 what I was referring to earlier, a very conservative
20 interpretation that attempts to exclude a fair portion of
21 reuse industries.

22 I think there's a legitimate case to be made that
23 there's things that are traditional like traditional
24 industries that have been around for a long time and the
25 intention of the tax credit was not to subsidize. Like

1 antique refinishing, let's say. They don't need a tax
2 credit to be an industry.

3 On the other hand simply because it's reuse there
4 is lots of kind of reuse that we are mandated to be pushing
5 that is at the top of the hierarchy in the form of waste
6 prevention and I've advocated as a member of the Markets
7 Development Committee and a member of this board repeatedly
8 to staff that we try to err on the side of encouraging waste
9 prevention and while at the same time excluding the obvious
10 established industries that don't really need this tax
11 credit.

12 I think we have to look at the purpose of the tax
13 credit which was to attract new investment, not to subsidize
14 existing industries.

15 So if that's the purpose of it then we ought to be
16 trying to interpret it that way but not trying to exclude
17 waste prevention activities.

18 MR. BOONE: I hope that's accurate. I mean, I
19 don't know.

20 BOARD VICE CHAIRMAN CHESBRO: One board member's
21 opinion and I don't think that the board has ever taken, or
22 supported staff's contention about that narrow -- that
23 construction of the law that says that for example in the
24 case, in this case let's assume that scrap metal is normally
25 disposed of or was normally disposed of. Personally, I

1 wouldn't have any problem with the rebuilding of those
2 starters and alternators being considered reuse and waste
3 prevention and ineligible for the tax credit.

4 The issue as far as I'm concerned is normally
5 disposed of. It's not the definition of whether a product
6 has finished its useful life.

7 BOARD MEMBER RELIS: Mr. Chair, I'll use this
8 occasion, I had a discussion with Bernie Myerson on this the
9 other day, he called me. And may as well make it an ex
10 parte now and use this occasion. He raised the same issues
11 you did and I told him that if the meeting were going to
12 hold we'll try to further clarify this, because I know
13 there's confusion and it's not perfect, it's a valuative
14 system.

15 MR. BOONE: Thank you.

16 BOARD CHAIRMAN HUFF: Any other questions?

17 Is there a motion?

18 BOARD VICE CHAIRMAN CHESBRO: I'll move we approve
19 staff's recommendation but for the --

20 BOARD CHAIRMAN HUFF: Based on --

21 BOARD VICE CHAIRMAN CHESBRO: Based on the fact
22 that scrap metal is not normally disposed of in the
23 landfill.

24 BOARD CHAIRMAN HUFF: Okay. That's the motion.

25 Roll call.

1 BOARD SECRETARY KELLY: Board Member Chesbro.

2 BOARD VICE CHAIRMAN CHESBRO: Aye.

3 BOARD SECRETARY KELLY: Egigian

4 BOARD MEMBER EGIGIAN: Aye.

5 BOARD SECRETARY KELLY: Neal.

6 BOARD MEMBER NEAL: Aye.

7 BOARD SECRETARY KELLY: Relis.

8 BOARD MEMBER RELIS: Aye.

9 BOARD SECRETARY KELLY: Chairman Huff.

10 BOARD CHAIRMAN HUFF: Aye.

11 Motion carries 5-0.

12 Next item is Item 18.

13 MR. GORFAIN: Mr. Chairman, this is recommendation
14 to submit a report on mixed paper to the Legislature
15 pursuant to SB 1919 by Senator Hart.

16 The report is due to the Legislature on January 1
17 of 1994.

18 The report was discussed at committee. The paper
19 industry claimed that it did not have enough time to review
20 the recommendations of the report, asked for some more time.

21 My understanding is, although I've not seen them,
22 is that comments were faxed to us by AFPA this morning.
23 These are preliminary comments and the industry would like
24 some more time.

25 It is the recommendation of the committee that the

1 reports be forwarded to the board for appropriate action
2 depending on what happened with the comments submitted by
3 industry.

4 Staff has not had a chance to evaluate those
5 comments.

6 BOARD CHAIRMAN HUFF: Are we at the point where I
7 ask if there are any questions of you?

8 MR. GORFAIN: Yes, sir.

9 BOARD CHAIRMAN HUFF: Are there?

10 BOARD MEMBER RELIS: Well, I read a communique
11 that came from, I think it was James River. Didn't we get a
12 communication from James River on this?

13 It was concerning, the gist of it, as I gather it,
14 was that we did not put -- there isn't enough emphasis in
15 the report on separation. I mean, that's if in the most
16 simplistic direct way I think that's what it's all about.

17 MR. GORFAIN: As I said, the main point is that we
18 are at a bit of a loss as staff because we've not seen the
19 comments that were submitted by industry this morning.

20 BOARD MEMBER RELIS: I haven't seen those.

21 MR. GORFAIN: We're not sure whether we concur
22 with them or whether they present a problem.

23 And perhaps one of the things that the board can
24 do, and I don't believe that it should be a problem with
25 Senator Hart's office, is to put this item over for a month

1 to give a chance for staff and industry to review each
2 other's comments and come back with a final report.

3 BOARD VICE CHAIRMAN CHESBRO: When was this report
4 due?

5 MR. GORFAIN: Originally I believe it was due in
6 January of 1992. There was an extension to January 1 of
7 1994.

8 BOARD VICE CHAIRMAN CHESBRO: Okay. Well, I have
9 a little concern, unless we have heard from Senator Hart's
10 office, with asking for a two-year extension and then still
11 not meeting the deadline.

12 But I don't know whether there's anyone from
13 Senator Hart's office here or whether we've heard anything
14 back from them.

15 MS. RICE: Dorothy Rice.

16 I'm not from Senator Hart's office, but we did
17 send a letter.

18 BOARD MEMBER NEAL: Where are you from?

19 MS. RICE: The board, with the board's legislative
20 office.

21 We did send a letter to the Senator yesterday
22 enclosing the draft report that was discussed by the
23 committee as we generally do as a courtesy since those items
24 are discussed in public.

25 We have not communicated with him concerning any

1 additional delay, but we would be happy to do so if that's
2 the wish of the board.

3 BOARD VICE CHAIRMAN CHESBRO: Well, I would just
4 like to remind the board there's nothing in there that
5 wasn't in our market development plan. It's basically a
6 reflection of items that were adopted a year ago.

7 And so I don't really know what the big issue is
8 and I asked the industry at the meeting to if they found
9 something in there that they really thought was onerous that
10 between then and the board meeting they come forward and let
11 us know.

12 And that was the question I asked and I haven't
13 heard from them.

14 BOARD CHAIRMAN HUFF: We might.

15 BOARD VICE CHAIRMAN CHESBRO: We might. I'm open
16 to hearing it.

17 It's still we're definitely talking about putting
18 out a report that reflects board policy that's a year old
19 and potentially missing a deadline that has already been
20 extended by two years. And so I think we need to be
21 concerned about our respect for the Legislature and their
22 mandates.

23 Let me remind you that the review by Cal EPA and
24 the Governor's office will probably take another six months.

25 BOARD MEMBER NEAL: Or longer.

1 BOARD VICE CHAIRMAN CHESBRO: Or longer. But at
2 least we will have done our duty if we pass it today and
3 hand it over the Senate.

4 BOARD MEMBER NEAL: Or at least let them know that
5 we have done it and is available.

6 BOARD CHAIRMAN HUFF: And Senator Hart does have a
7 draft today.

8 BOARD MEMBER NEAL: Well, I'm always concerned
9 about the precedent we set with all these late reports
10 because we're getting a very bad reputation, I think, over
11 in the Legislature with our reports. And I just think since
12 it's been going on for as long as it has been, let's just
13 get it out.

14 BOARD CHAIRMAN HUFF: Okay. I have a request from
15 Kathy Lynch to speak on this item.

16 MS. LYNCH: Thank you. Good morning. Kathy Lynch
17 representing the American Forest and Paper Association.

18 We did receive receipt of this document the day
19 before Thanksgiving. Staff had made a comment that this is
20 similar to the draft that was distributed last summer. That
21 may or may not be true, but certainly the industry would
22 have liked to have a chance to reconcile that on their own.

23 We did try to put together some comments which
24 were faxed to all of you this morning. I have another set
25 for you here.

1 We do have some concerns in the report that
2 certain principles of recycling do not seem to be included.

3 The need for source separation, as Mr. Relis has
4 pointed out, is a concern, that that's not strongly stated
5 enough.

6 There needs to be increased consumer education and
7 a recognition that different fiber characteristics often
8 necessitate unique processes and treatment in the recycling
9 process.

10 So we believe there are some significant things
11 that need to be modified in the report and this is just an
12 initial look by the industry because there has not been
13 adequate time for us to review the final document.

14 Thank you.

15 BOARD CHAIRMAN HUFF: Any questions?

16 BOARD MEMBER NEAL: No. Again, with my concern
17 about getting things out in a timely manner I think that if
18 we want to we can include a cover letter that says that
19 industry or other interested parties have some concerns,
20 these are the ones that they have raised. In the interest
21 of timeliness we are getting the report to you,
22 understanding that these questions have been raised at the
23 end of our process and, you know, we may continue to
24 consider and review those concerns.

25 BOARD CHAIRMAN HUFF: Is that a motion?

1 BOARD MEMBER NEAL: It's a motion.

2 BOARD MEMBER RELIS: I'll second.

3 BOARD CHAIRMAN HUFF: We'll have a roll call.

4 BOARD MEMBER NEAL: You missed the motion?

5 BOARD SECRETARY KELLY: I missed the motion.

6 BOARD MEMBER NEAL: That we approve the report and
7 we include a cover letter that would reference the comments
8 that we have just received relative to concerns that have
9 been raised, additional concerns that have been raised about
10 the report.

11 BOARD SECRETARY KELLY: Board Member Chesbro.

12 BOARD VICE CHAIRMAN CHESBRO: Aye.

13 BOARD SECRETARY KELLY: Egigian

14 BOARD MEMBER EGIGIAN: Aye.

15 BOARD SECRETARY KELLY: Neal.

16 BOARD MEMBER NEAL: Aye.

17 BOARD SECRETARY KELLY: Relis.

18 BOARD MEMBER RELIS: Aye.

19 BOARD SECRETARY KELLY: Chairman Huff.

20 BOARD CHAIRMAN HUFF: Aye.

21 Motion carries 5-0.

22 That takes us to Item 20.

23 BOARD VICE CHAIRMAN CHESBRO: Mr. Chairman, before
24 staff introduces this, I would like to make a few comments.

25 We took the most significant action of the day

1 with regards to the AB 939 planning mandates and diversion
2 mandates on consent, which was the adoption of the Contra
3 Costa County integrated waste management plan and I didn't
4 think that should pass without noting and commenting that
5 it's the first integrated waste management plan adopted for
6 the State of California. And while it was done rather
7 quietly it was a very significant milestone for us to pass.
8 So I wanted to say that.

9 In doing so, we adopted 55 of the 59 documents
10 that were before us in that plan. I hope we can continue
11 that average during the coming year when we're reviewing
12 hundreds of source reduction and recycling elements and
13 household hazardous waste elements, over a thousand
14 documents will be before us and I hope for the sake of the
15 time that the board has to apply to it and the reassurance
16 to local governments about the level of review and
17 cooperation and partnership we envision that it's going to
18 be this small a number that will be singled out for some
19 special problems and that the vast majority of the documents
20 will be approved on consent.

21 But that is, I hope, a precedent for the coming
22 year.

23 I want to point out also that the rejection of the
24 four SRREs that are proposed for the -- to be disapproved
25 today is not an negative act.

1 In the process of negotiating the law with local
2 governments this is a process and I'm glad Yvonne is in the
3 audience because if there's any questions about this, she
4 may want to confirm this. I hate to put her in that
5 position.

6 But the fact is the process that was arrived at in
7 any disagreements about materials that were --

8 EXECUTIVE DIRECTOR CHANDLER: I hate to interrupt.

9 BOARD MEMBER NEAL: Excuse me. Are we doing Item
10 20 or 21?

11 BOARD VICE CHAIRMAN CHESBRO: I thought we were on
12 21. I'm sorry.

13 BOARD MEMBER NEAL: We're on 20.

14 BOARD CHAIRMAN HUFF: We're on 20.

15 BOARD VICE CHAIRMAN CHESBRO: Why didn't somebody
16 give me a sign?

17 BOARD CHAIRMAN HUFF: We were all --

18 BOARD MEMBER NEAL: We knew that you would tie it
19 all together somehow.

20 BOARD VICE CHAIRMAN CHESBRO: I'm sorry. I
21 thought we had jumped to 21. I apologize.

22 BOARD CHAIRMAN HUFF: That's okay.

23 BOARD MEMBER NEAL: Are we back to 20?

24 BOARD CHAIRMAN HUFF: Yes.

25 BOARD VICE CHAIRMAN CHESBRO: Save all of my

1 comments.

2 BOARD CHAIRMAN HUFF: Okay.

3 BOARD MEMBER NEAL: They've been duly reported by
4 our stenographer. You need not repeat them.

5 BOARD VICE CHAIRMAN CHESBRO: I didn't quite
6 finish, so I'll finish them in a few moments.

7 BOARD MEMBER NEAL: You can pick up where you left
8 off.

9 BOARD CHAIRMAN HUFF: Just make a mark.

10 BOARD VICE CHAIRMAN CHESBRO: Thank you,
11 Mr. Chairman, for having the courage to interrupt me. I'm
12 glad somebody did.

13 BOARD MEMBER NEAL: Before we proceed to the staff
14 presentation on Item No. 20 I would like to do an ex parte
15 reporting.

16 BOARD CHAIRMAN HUFF: Okay.

17 BOARD MEMBER NEAL: And I met yesterday with Tim
18 Trichart, Karen Jerrel, Kathy Lynch, and Phil Schot on this
19 item and have received numerous letters and faxes which I
20 have -- they came in last night and this morning. I've not
21 had an opportunity to compile the list, but they will be
22 contained in my written ex parte report.

23 BOARD MEMBER RELIS: I would make the same comment
24 cutting out the first references, the individuals, because I
25 didn't meet with them yesterday, but numerous materials

1 still comes so there isn't a way to report this yet.

2 BOARD CHAIRMAN HUFF: In fact, I'm told that the
3 fax machine was spitting paper out this morning on this
4 item. So there will be ex partes to follow.

5 Assuming all that, why don't you tell us about
6 this item?

7 MR. GORFAIN: Yes, Mr. Chairman, members of the
8 board.

9 In introducing this item I would like to focus on
10 and review with you the chronology of the process that led
11 the board to this point, beginning with the adoption of
12 strategic plan last January.

13 In January of 1993 the board adopted its strategic
14 plan which included market development for California,
15 postconsumer commodities as a priority issue.

16 In March the board adopted meeting the challenge
17 of market development plan for California which identified
18 mixed wastepaper as a priority market development material.
19 The document includes both commodity specific and generic
20 market development strategies.

21 In April the Market Development Committee
22 sponsored the emerging market development options workshop
23 to discuss various manufacturer responsibility and fee
24 alternatives to stimulating markets for California
25 postconsumer commodities.

1 In July the Market Development Committee directed
2 staff to develop options to stimulate demand for
3 postconsumer OCC and printing and writing papers.

4 In August the board staff presented to the Market
5 Development Committee the draft emerging market development
6 options summary report, the MDO summary report, manufacturer
7 responsibility report, tradeable credit report, and global
8 trade agreement report.

9 In November the board staff presented to the
10 Market Development Committee the revised draft MDO reports
11 and the draft document options to increase demand for OCC
12 and postconsumer printing and writing papers generated in
13 California.

14 The committee accepted the revised draft MDO
15 reports.

16 On November 4th of this year the Market
17 Development Committee held a workshop to discuss the
18 proposed OCC and printing and writing papers options and
19 subsequent to the workshop directed staff to revise its
20 options.

21 The committee directed staff to convene a work
22 group which included all -- which was to include all
23 interested parties to resolve discrepancies in paper
24 generation and diversion among various data sources.

25 On December 1, staff conducted the first meeting

1 of the paper working group and scheduled two more meetings
2 for December 20th and January 14th.

3 A list of the participants in that meeting is
4 included as Attachment 2 to your agenda packet.

5 The first meeting was highly productive and
6 reflected a high spirit of cooperation among the parties.

7 The group concerned -- considered and believes
8 that it would take a total of four or five meetings to reach
9 consensus, which would make it possible to report back to
10 the -- for staff to return to the committee and board with
11 recommendations for utilization of recycling of California
12 postconsumer paper in March or April of 1994.

13 A day later, after December 1st, on December 2nd,
14 the board staff presented to the Market Development
15 Committee revised options to stimulate demand for
16 postconsumer corrugated cardboard and printing and writing
17 papers.

18 At that meeting the committee adopted a motion and
19 forwarded it to the board for consideration at this meeting.

20 The committee's action sets for initial goals for
21 paper utilization for recycling and directs staff to
22 continue to work with the affected parties to resolve
23 differences regarding data acquisition methodologies and
24 establish goals for obtaining the board's mandate.

25 Staff expects to return to the board with

1 recommendations in March or April for strategies for the
2 future.

3 The committee recommendation is, as I said, was to
4 present to this board the motion that's before you.

5 BOARD CHAIRMAN HUFF: Any questions?

6 MR. GORFAIN: I would like, if I may, just to
7 acknowledge the cooperation of the office of Karen Trgovcich
8 in preparing the materials for the workshops and for this
9 meeting.

10 BOARD CHAIRMAN HUFF: Okay. Any questions of
11 staff?

12 Okay. I have a whole bunch of people who want to
13 speak on this, but first let me ask this.

14 I'm not aware if there are any elected officials
15 in the audience. I know that we expected some.

16 BOARD VICE CHAIRMAN CHESBRO: Yes, we do have a
17 county supervisor from Santa Cruz, Mr. Chairman.

18 BOARD CHAIRMAN HUFF: I would like, if that's all
19 right with everyone, to allow any elected official to have
20 the option of being the first speaker on the item.

21 MR. PATTON: Mr. Chairperson, thank you very much.
22 I'm going to stay for the entire item, but I'm happy to be
23 first.

24 My name is Gary Patton. I'm a member of the board
25 of supervisors of Santa Cruz County and have been a member

1 of that board for 19 years.

2 I am also the president of the Planning and
3 Conservation League and am on the board of directors of
4 Californians Against Waste.

5 But I'm very happy to tell you that I am here
6 today representing the California State Association of
7 Counties, CSAC. This is of course one set of local
8 governments that has a major responsibility for carrying out
9 the transformation of our economy and society that's really
10 encompassed in AB 939 over which your board presides.

11 And CSAC is here to tell you that we very very
12 strongly support the recommendations of the Market
13 Development Committee. We would like you to take actions as
14 they have recommended to you and we would like you to take
15 action today.

16 Let me just make perhaps three different points.

17 One is that the goals in the motion of the
18 recommendation made to you we believe are good goals. They
19 are not overambitious, but they were ones that will press us
20 to do something important to change the way we deal with
21 paper.

22 This is a good time to do something to deal with
23 paper. You know around our house and probably around your
24 houses Christmas is when we throw away a lot of paper.

25 We need a chance to begin to force ourselves as

1 consumers, as disposers of materials and as people who can
2 use these materials to remanufacture it into new products to
3 begin taking seriously that obligation.

4 This is a good time to act. The goals are, I
5 think, very very reasonable and again CSAC strongly supports
6 them.

7 Finally, AB 939, which is local government's
8 responsibility to implement and which not everyone is happy
9 with implementing but many of us are delighted to be
10 implementing does require that we find a way essentially to
11 segregate out materials and take them away from the landfill
12 and that costs money.

13 I am the board's representative in our county, in
14 Santa Cruz County, to undertake that process.

15 And we're seriously setting up fee structures to
16 charge all of our consumers more money and our businesses
17 more money and they don't like to hear that, but we are
18 telling them about that, hopefully working with them in the
19 process.

20 We are getting set to buy land to sacrifice
21 probably in our county agricultural land to put together the
22 kind of facility that will be possible to allow us to
23 essentially take waste materials, segregate them into
24 marketable materials.

25 The fallacy in the whole program, as you well

1 understand, is where are we going to get rid of these nicely
2 segregated materials? Burying segregated materials is not
3 going to be something that we're going to look forward to.

4 And we are right at the point, and I just want to
5 emphasize this to you, in our local government and I believe
6 other governments, CSAC believes, other governments around
7 the state, cities and counties, are right at the point of
8 beginning to worry very very significantly about whether AB
9 939 is going to make sense, because we believe market
10 development is lagging.

11 This particular effort has been underway for more
12 than two years. This is the time to begin to -- on really
13 what's a voluntary basis tell the State of California that
14 we are serious about changing the world. We are going to
15 make those changes. Local governments can go forward with
16 their investment both in planning and actual construction of
17 a process that will segregate these materials and make them
18 into marketable commodities because we as society will
19 insist that we use them again as we can use them again.

20 It will be an economic boon for our society. It
21 is something we need to do.

22 Now, as a final closing remark let me say that I
23 one time was very honored to serve on the Air Resources
24 Board for the State of California some years ago. It was
25 not essentially as in a way as a fully developed and

1 important board as yours is, because you are all full-time
2 people, you are presiding over one of the great
3 transformations that our society is doing to react
4 essentially to the future, to the year 2000 and beyond.

5 But I was part of a process in which we challenged
6 industry to make basic changes in the way things are done in
7 order to achieve incredibly social goals.

8 And it is always hard to tell an industry, hey,
9 you can do it, we know it's difficult, we know it's going to
10 require you to make some modifications in how you conduct
11 yourself, but this is going to make a difference to the
12 people of the State of California.

13 And we did that. We did that very successfully.
14 That has been done by the ARB since I followed through them
15 successive administrations.

16 And this is the kind of thing you're called on to
17 do today. I know that it's hard. I know you will hear
18 testimony after me, since I'm the first, about all of the
19 problems, all the procedural difficulties.

20 This is the time to say, hey, we can do this,
21 these goals are reasonable. It is time to begin developing
22 markets and giving assurance to the local governments like
23 the ones I'm representing before you today, you can invest
24 the money of the people of this state at the local level in
25 the techniques that are going to develop these marketable

1 commodities, because we, the Waste Board, is going to insist
2 there be a market for them.

3 Thank you very much.

4 BOARD CHAIRMAN HUFF: Thank you.

5 Any questions?

6 None.

7 Thank you.

8 Okay. It's my habit to take proponents of an item
9 and then hear from the opponents.

10 I have probably about a dozen proponents all lined
11 up to speak. I have right now one opponent, I think.

12 So unless the proponents have some sort of concept
13 that on which order they all want to go in, and I'm not sure
14 that's the case, I'm just going to start calling names of
15 people that I can read as proponents to this one. Okay.

16 The first one I have is Mike Silva.

17 BOARD MEMBER NEAL: Mr. Chair, is it appropriate
18 to request of all the speakers that we not have a lot of
19 repetition in comments?

20 BOARD CHAIRMAN HUFF: It certainly is and I'm sure
21 that the speakers will have that in mind.

22 MR. SILVA: Mike Silva. I'm vice president of
23 CRR. We're a large marketer of recyclables and a large
24 trash collection company.

25 Pretty hard act to follow, pretty much covered all

1 the points.

2 We wanted to come more from the grass-roots side
3 that basically everybody knows that AB 939 is mandatory
4 collection diversion law.

5 Now the industry is doing that part.

6 We're looking for the other half of the equation
7 to step to the table and help us out as we can either
8 collect more and more materials.

9 We also want to make sure the law stayed focused
10 on postconsumer paper, because that's really what the trash
11 industry and the recyclers are picking up. Most of the
12 industrial scrap has never been in the waste stream, it's
13 always been recycled in straight economics.

14 So really that wraps it up. We're just looking
15 for both sides of the equation and industry to step up,
16 because we know we're implementing curbsides and building
17 facilities and I'm sure everybody else is.

18 BOARD MEMBER RELIS: Mr. Silva, how many
19 communities do you serve? I know you're a key agent in the
20 diversion and you're a major marketer, as you see it.

21 MR. SILVA: Yeah. We're probably one of the
22 largest marketers or recyclables in the state, probably
23 marketing about, I'm going to say close to 180,000 tons a
24 year ourselves. We service right now 24 cities, 24
25 different curbside programs, whether we do the collection or

1 they bring the materials to us. And that includes selling
2 materials for the City of LA as well as the City of San
3 Diego, who is our biggest clients. And we do rubbish
4 collection in about ten cities.

5 BOARD MEMBER RELIS: Paper is the majority of what
6 you handle?

7 MR. SILVA: By far. By far. I would say at least
8 say 75 percent of our tonnage is paper.

9 BOARD CHAIRMAN HUFF: Any other questions?
10 Thank you.

11 Larry Sweetser and Deborah Rohrer.

12 MR. SWEETSER: Good morning. My name is Larry
13 Sweetser, director of regulatory affairs for Norcal Waste
14 Systems.

15 As you all know, Norcal has always been supportive
16 of the market development concepts and as a solid waste
17 recycler we collect a tremendous amount of material and we
18 need somewhere to take it and without sufficient markets we
19 have nowhere to go.

20 I won't repeat of lot of what's to come. I'll
21 just basically say that we're going to echo a lot of similar
22 sentiments of the other waste industry folks, local
23 government and environmental groups in supporting the staff
24 concept.

25 And appreciate the board taking a lead role in the

1 market development issue.

2 And that these interim voluntary goals are
3 something that Norcal supports and I think that we can all
4 live with that.

5 With that I'd like to introduce Deborah Rohrer,
6 our vice president and regional general manager for San
7 Francisco operations to give kind of a direct perspective on
8 our San Francisco operations and lot of the impacts that
9 market development has in our large San Francisco recycling
10 program.

11 MS. ROHRER: Good morning, everyone. It's a
12 pleasure to see all of you this morning.

13 San Francisco is probably one of the major
14 recycling cities in the country. In fact we did win an
15 award for being the number one recycling city in 1990.

16 And as you can well imagine with our high-rise
17 office buildings we recycle a huge amount of paper.

18 Last year our West Coast Recycling Company between
19 curbside and all of the various paper programs recycled
20 close to 100,000 tons of paper.

21 This year for the first time we have been in a
22 real bind. We have had to pay a negative value to ship
23 material overseas, making it extremely uneconomical for us
24 to continue for a very long term without a kind of a
25 program.

1 We've had vendors who normally buy our product
2 shut us off for sometimes months at a time, having us
3 scramble for other brokers through other brokers to try to
4 place some of our material.

5 And we are really facing for the first time the
6 prospect that we may have to reduce the amount of recycling
7 that we do in San Francisco because we cannot sell the
8 material. We cannot find a market.

9 A lot of this has been the result of changes
10 overseas. During Desert Storm when we could not get
11 containers to ship our material to the Pacific Rim the
12 Pacific Rim turned elsewhere and now has a fairly steady and
13 stable supply subsidized by government and manufacturers in
14 Germany, for example, who pay to get their material to the
15 Pacific Rim to be utilized.

16 We must have a similar kind of program in this
17 industry and it must encourage domestic mills and domestic
18 production, which is really our best hope.

19 And we think that this voluntary program is just a
20 start, really. It's really a minimum kind of a measure that
21 we hope will encourage the paper industry in this county to
22 relook at its use of resources.

23 We think that obviously there's been discussion in
24 Washington on the federal level regarding subsidies of
25 virgin timber. We think that's another issue that this

1 board ought to be looking at to try to even out the playing
2 field so that recycled materials have a better chance in the
3 marketplace and in fact postconsumer waste becomes the
4 resource of choice not the secondary resource for paper
5 manufacturer.

6 We can't tell you how critical this is becoming.
7 It has been an ongoing battle every day this past year to
8 make sure that we can keep our recycling levels up. And we
9 are concerned that if something doesn't change soon, very
10 soon, that we will have serious problems with all of our
11 programs.

12 So we appreciate the efforts of staff over this
13 last 18 months to try to work something out that would be
14 acceptable and that would be a good start and we fully
15 support the program that they've proposed here today.

16 And thank you very much for your consideration.

17 BOARD CHAIRMAN HUFF: Any questions?

18 Thank you.

19 Chuck White.

20 MR. WHITE: Thank you very much, Mr. Chairman and
21 members of the board. Chuck White, representing WMX
22 Technologies with Waste Management.

23 One of our subsidiary companies, we are one of the
24 largest, not the largest, recoverer of materials in
25 California.

1 And like was mentioned by Ms. Rohrer, we have a
2 problem with trying to find markets for many of these
3 recovered, particularly paper.

4 And what we have before you today we believe to be
5 a very modest proposal, one which does not provide for any
6 mandatory minimum content requirements, no mandatory minimum
7 utilization rates, not hard hammers that have to fall on
8 anybody and there's considerable flexibility built into this
9 proposal.

10 Given it's so modest, why do we think it's so
11 important? We think it's really important for two reasons.

12 One, it's really one of the first steps taken by
13 this board, and we applaud you in your leadership, is to
14 translate the very broad goals of AB 939, 25 percent and 50
15 percent, into really meaningful numbers that on a waste
16 stream and waste category specific basis.

17 And secondly it provides the focal point on how
18 the goals can be realistically achieved by all parties,
19 whether you're a government or industry or recycling, solid
20 waste company or a consumer, this will bring people
21 together, we believe, to provide a focal point in how these
22 goals, AB 939 goals, can be effectively achieved.

23 We believe this effort is completely consistent
24 with your existing authority and will be a key step in fact
25 in the development of the market development plans which

1 were recently mandated by AB 1909, which was signed into law
2 by Governor Wilson on October 2nd of this year.

3 And probably the most important point to
4 emphasize, this is nothing that's set in concrete in this
5 policy. It could be modified at any point in time by this
6 board and in fact it incorporates the very idea of
7 monitoring and adjust. Putting up some interim goals and
8 monitoring and adjust to make sure that those goals, but
9 continuously keeping these goals that you do establish tied
10 back to meeting the diversion mandates of AB 939.

11 One could also say take that there is tremendous,
12 there is already delay built into the motion you have before
13 you, but it does mention some broad numbers. It still
14 delays until April or March the development of further waste
15 component or waste stream specific goals.

16 And one could ask why even this delay, why don't
17 we go ahead and establish some goals, interim goals, today
18 and then monitor and adjust them as we proceed down the
19 path.

20 In parting from you this morning I would say that
21 there isn't any need for further delay than what is already
22 built into the proposal you have before you. It's a very
23 modest one. It provides tremendous flexibility and we urge
24 you to go ahead and adopt this motion so we can start in
25 with some meaningful dialogue and how the diversion goals of

1 AB 939 can be achieved.

2 Thank you.

3 BOARD CHAIRMAN HUFF: Any questions?

4 Thank you.

5 Steve Maguin.

6 MR. MAGUIN: Mr. Chairman, members of the
7 committee, I'm Steve Maguin representing the sanitation
8 districts of Los Angeles County and I've also been asked to
9 represent to you the support of the California Chapters of
10 the Solid Waste Association of North America. For you to
11 today I'm a two-fer.

12 Very quickly we've all been expressing for some
13 time now that the leadership of this board in the area of
14 market development is critical to this state's success in
15 implementing AB 939.

16 Given the preponderance of wastepaper in our waste
17 stream I believe it's especially, this is an especially
18 important step in establishing that leadership role for this
19 board.

20 I especially appreciate the aspect of the Market
21 Development Committee's recommendation that would direct
22 staff to continue to consult with the producers of this
23 material, that is the waste industry and local government,
24 and the processors of this material, the paper industry
25 itself.

1 So again I'd like to express my support and
2 appreciation of this activity. Thank you.

3 BOARD CHAIRMAN HUFF: Any questions?

4 Thank you.

5 Yvonne Hunter.

6 MS. HUNTER: Mr. Chairman and members, Yvonne
7 Hunter with the League of California Cities.

8 And like my colleague, Mr. Patton from CSAC, I
9 don't know if there's any other local government person
10 here, but I'd like to point out that I represent --

11 BOARD VICE CHAIRMAN CHESBRO: I still like to
12 think of myself as a local government.

13 BOARD CHAIRMAN HUFF: We like to think of you that
14 way too.

15 MS. HUNTER: We like to think of you that way as
16 well.

17 What I'm going to say I'm not sure you want to be
18 there.

19 BOARD VICE CHAIRMAN CHESBRO: I guess I should
20 have waited.

21 MS. HUNTER: You should wait. You should wait.

22 I made this similar analogy or statement at the
23 Market Development Committee meeting and someone told me
24 afterwards I should have made it stronger, because people
25 thought I was joking and I'm dead serious on this one.

1 The recommendation that is before you is for
2 voluntary compliance. And I represent a segment of the
3 community that's the only one that has mandatory compliance.
4 No one is going to fine the waste industry or the wastepaper
5 dealers, the compost dealer, we'll get to compost later on,
6 if they don't do their share to meet minimum content and
7 help the State meet the AB 939 goals. So local government
8 is the only one that is on the hook for monetary penalties
9 and we take that very seriously.

10 The League would prefer very very strong
11 legislation passed last year if that was possible that
12 specified minimum content for wastepaper, for all materials.

13 We have very very strong commitment and
14 understanding of the need to enhance the markets for
15 recycled material.

16 And I think everyone in this room and particularly
17 the board members agree with that and are taking leadership
18 in that area.

19 But local government has the mandate to design and
20 implement programs that will achieve the 25 and 50 percent
21 goals.

22 As we all know 939 is really only the collection
23 side of it and without strong markets we might as well go
24 home. It's going to crash and burn. Local governments will
25 not be able to achieve the goals, either that or they'll go

1 bankrupt trying. And it will reflect poorly on local
2 government, there's no question about that, but it will
3 reflect poorly on the State.

4 And therefore we think as a compromise to a
5 legislative solution that the recommendation from the Market
6 Development Committee is a very good and a very fair one.

7 We strongly urge the board to take a leadership
8 role and endorse this.

9 As the other speakers have said, this is not a
10 mandatory goal, it's a voluntary one. There's a lot of
11 flexibility put into it.

12 The task force that has already been established
13 can fit right into that process and as the task force is
14 deliberating if they come up with some better numbers
15 there's nothing to prevent the board, in fact I would
16 encourage the board to perhaps revisit that goal.

17 But local government needs the comfort level that
18 the State of California and in particular the California
19 Integrated Waste Management Board understands the concerns
20 and the needs to have enhanced markets.

21 We're making a good faith. I think everyone else
22 is trying to. But this will be one very strong action that
23 the board can make to exert its leadership in this area and
24 we would strongly urge you to support this motion.

25 Thank you very much.

1 BOARD CHAIRMAN HUFF: Any questions?

2 Thank you.

3 Bill Harris.

4 MR. HARRIS: Good morning. I'm Bill Harris,
5 representing today the City of San Diego and specifically
6 here to deliver the comments of Richard Hayes, the director
7 of the City's waste management department.

8 Rich apologizes for not being able to attend
9 today, but would like me to read to you just a few of the
10 notes that he's made on this issue.

11 Rich says that the City of San Diego strongly
12 urges the board to adopt the recommendations made by the
13 board's Market Development Committee regarding markets for
14 old corrugated containers and postconsumer printing and
15 writing papers.

16 The committee's motion on Item 9 from the agenda
17 of December 2nd, 1993, is an appropriate recommendation for
18 board action.

19 The City of San Diego supports the committee's
20 motion and urges the concurrence of the full board.

21 We at the City of San Diego are concerned that
22 without clear and definite action by the board, markets for
23 recyclable materials will fall short of our needs in the
24 face of 50 percent diversion goals set by AB 939.

25 The board should take all steps necessary to

1 ensure that a comprehensive, aggressive and cooperative
2 market development strategy is adopted for the materials
3 addressed.

4 Rich would also like to reiterate that the board
5 should continue to work with local government agencies when
6 planning and implementing any market development activities.

7 Local governments have borne an inordinate share
8 of the responsibility for meeting AB 939 goals to date.

9 The board should continue their cooperative and
10 successful working relationship with the local government
11 technical advisory committee for one and each of the
12 jurisdictions throughout the state affected by AB 939.

13 Mr. Hayes appreciates the board's continued
14 consideration in these matters and he hopes that these
15 comments and my presence here today will serve to reinforce
16 the City of San Diego's keen interest and support for this
17 matter.

18 Thank you.

19 BOARD CHAIRMAN HUFF: Any questions?

20 Thank you.

21 Al Marino.

22 MR. MARINO: Thank you, Mr. Chairman, members of
23 the board. I'm Al Marino and I represent the California
24 Refuse Removal Council.

25 Since year one most of our companies have been

1 separating reusable materials from the waste stream on a
2 cost-effective basis.

3 Since AB 939 came in we all felt that the time
4 that maybe we were putting the cart before the horse,
5 because we were increasing the supply but not increasing the
6 demand.

7 And because of these laws, while our committee,
8 our association has not taken a formal position on your
9 activities today, by policy we have always supported
10 anything that would increase markets or increase the
11 marketability of recovered materials.

12 We therefore do support the efforts of your
13 committee and the great work that they've done and trying to
14 do and we hope to work with everybody concerned to bring
15 about more practical and cost-effective recycling programs.

16 Thank you.

17 BOARD CHAIRMAN HUFF: Any questions?

18 Thank you.

19 Rick Best, Mark Murray.

20 MR. BEST: Chairman Huff and members of the board,
21 appreciate the opportunity to speak here.

22 It's kind of hard to follow up on all the
23 excellent testimony and support of this what we feel is
24 really an excellent opportunity for the board to take really
25 a first step in creating demand for postconsumer materials

1 wastepaper.

2 As the speaker, as the opening staff presentation
3 said, this has been a fairly lengthy process, almost two
4 years, involving a number of reports, workshops, and
5 committee meetings and we feel it's -- we're pleased to see
6 that the board is coming together with this proposal.

7 I just wanted not to dwell on the process, but
8 highlight some specific actions that the board has taken
9 during the past two years that really demonstrated that this
10 proposal is the product of the board working through a
11 number of options and settling on this voluntary approach.

12 The board has looked at three basic options during
13 this process.

14 It's looked at minimum content in terms of some of
15 the existing minimum content laws we have, looking at other
16 ways to establish mandatory minimum content standards.

17 It's looked at mandatory utilization in terms of
18 some of the ideas of having manufacturers take
19 responsibility for recovering materials from the waste
20 stream.

21 And finally they've looked at a voluntary
22 utilization approach where the industry would come forward
23 with a voluntary program to meet utilization goals, but that
24 the board would have at its discretion the ability to
25 establish mandatory utilization standards if those voluntary

1 goals were not met.

2 I just want to highlight six key steps in this
3 process where the board has specifically identified these
4 three options for consideration.

5 The first was back in the summer of 1992. The
6 staff presented developed reports on each of the different
7 types of materials and one of them being the wastepaper
8 market status report.

9 And the board specifically stated, the staff
10 specifically stated, that more than any other factor minimum
11 recycled content requirements has spurred increased
12 recycling capacity by the industry.

13 As a result of those workshops the board
14 established market development action plans for each of the
15 materials and in those action plans it advocated for the
16 board to pursue legislation that would give it the
17 regulatory authority to establish minimum content standards.

18 The next step in the process was in November when
19 the board contracted with Cal Futures to prepare some more
20 in-depth analysis of market development options for the
21 board and in that it specifically mentioned consideration of
22 making manufacturers responsible for 50 percent of the
23 products, the waste products, that are generated by that
24 industry.

25 Finally the board, through a process of looking

1 through all the market action plans, prepared in February
2 25th of this year the market development plan for
3 California.

4 In that it specifically states that the board
5 shall investigate and where economically feasible and
6 practical initiate and/or support legislation to establish
7 minimum recycled content standards or amend existing
8 standards for selected projects with the option of a
9 tradeable credit system.

10 So clearly here this minimum content standard has
11 been a priority of the board in this market development
12 plan.

13 Once the plan was adopted the board then went in
14 terms of trying to develop some specific proposals for
15 legislation or further efforts by the board. And the board
16 contracted with Cal Futures once again to prepare a cost
17 benefit analysis of six market development policy options.
18 Originally Cal Futures had identified over 20, the board had
19 narrowed it down to six key options to consider, and among
20 those once against manufacturer responsibility for 50
21 percent of the waste stream.

22 The next step after reviewing some of the policy
23 options through the emerging options the board prepared an
24 emerging issues option report on July 29th. And this is
25 where the first time the board specifically stated its

1 consideration of the proposal currently before the board
2 today.

3 In that report the report suggested establishing
4 utilization rate requirements which would, number one,
5 establish a 50 percent utilization goal for specified
6 materials by the year 2000; require manufacturers to present
7 either company specific for a plan for achieving the goal,
8 or demonstrate participation in industry wide plan; and,
9 three, impose backdrop regulation including company specific
10 minimum content or front-end fees if the goals are not
11 achieved or the plans are not implemented.

12 And so clearly this proposal was put on the table
13 back in July of 19 -- July of this year.

14 The final step in this process was October 11th
15 when the board issued its final report and that was B and D
16 options to increase demand for postconsumer corrugated
17 containers and printing and writing paper.

18 In that report it identified three options, the
19 third option being Option C, an industry designed and
20 administered paper recovery program with legislatively
21 authorized board designated fallback option.

22 And at the subsequent meeting it -- in the meeting
23 on November 4th the committee specifically invited the
24 industry to come forward with proposals for implementing
25 Measure C.

1 At the same time the board also directed staff to
2 pursue what was mentioned earlier, the working group, to
3 look at numbers to make sure that we have a common basis for
4 the existing generation, disposal and diversion numbers.

5 But this process was not intended to establish
6 recovery goals, it was merely that we get a basis for what
7 the existing numbers are.

8 And so finally we come to December 2nd when the
9 Market Development Committee made its motion to support a
10 voluntary approach for utilization standards and a process
11 for the board to review the industry's progress towards
12 meeting those goals.

13 And so I would like to turn the remainder of our
14 testimony over to Mark Murray, who will discuss this final
15 option before the board today.

16 MR. MURRAY: Thank you very much.

17 I'm Mark Murray with Californians Against Waste
18 and appreciate the board's attention to this issue.

19 You certainly have heard from a lot of folks today
20 and board and the Market Development Committee have heard
21 from dozens of folks over the past two years on this issue,
22 really emphasizing the importance of this issue to the
23 recycling community and really to the future and success of
24 AB 939.

25 It's critical to us and one of the reasons that

1 you've got a lot of folks here today urging the board to
2 move forward is that we've invested a hell of a lot of time
3 in this process.

4 And we're looking to see and we're hopeful that
5 the board will respect that investment of time and attention
6 and thought that has gone into this process over the past
7 two years by advancing this first step utilization for
8 recycling plan.

9 In terms of I know that a couple of some
10 objections have been raised with regard to this proposal. I
11 want to make a couple points on that.

12 Number one, with regard to the role of the working
13 group.

14 It was our understanding, based on the action at
15 the Market Development Committee meeting in November, and
16 I'm reading from the summary of that meeting, that at its
17 November meeting the Market Development Committee directed
18 staff to work with the affected parties to resolve data
19 discrepancies with respect to existing generation and
20 recovery of OCC printing and writing and paper in general.

21 Additionally, and this was the task for the
22 working group, additionally the working group was charged
23 with developing consensus, methodology for measuring paper
24 generated and recovered.

25 The reason for this was because there was a

1 discrepancy, basically a 50 percent underreporting of
2 disposal, on the part of the paper industry in terms of what
3 was being disposed of, what paper was being disposed in
4 California relative to what the Waste Board was finding when
5 local governments went and looked in their garbage cans.
6 Local governments were finding a lot more paper than the
7 paper industry was claiming could be there.

8 The paper industry's recovery goals were based on
9 underreported disposal numbers.

10 I don't know that it's going to take four or five
11 meetings of that working group to resolve the reason for
12 that. I think that the data that was used by the paper
13 industry, the Franklin and Associates report, acknowledges
14 its deficiency in the area of not including all material
15 that's in the municipal solid waste stream. That's in the
16 introduction to the Franklin data that the paper industry is
17 using.

18 So I think it will be fairly, it will be a fairly
19 quick process for resolving what the problems are with that
20 data.

21 To illustrate what is, why some representatives
22 from the paper industry are surprised by this motion, I
23 think that an example of how that could happen was
24 illustrated by the agenda item earlier this evening, earlier
25 today on this report to the Legislature on the mixed paper.

1 The action plan for mixed paper has been around,
2 as was noted, for more than a year now, and in fact
3 representatives of the paper industry have commented and in
4 fact made the exact same comments that they made today.

5 In fact, we've supported the paper industry in
6 those comments. Those comments are reflected in the report.

7 So in terms of the process that this board is
8 engaged in terms of the development of the action plans, in
9 terms of the development of the California market
10 development plan, there has been a tremendous amount of
11 input, there's been a tremendous amount of contentious
12 debate at the various market development workshops, the
13 various Market Development Committee meetings on the three
14 specific proposals that have been continuously recommended
15 by staff, minimum content, mandatory utilization, and then
16 this past year the voluntary utilization.

17 I would love to be standing up here today urging
18 you to pass minimum recycled content, mandatory utilization
19 instead of simply urging you to pass voluntary utilization.

20 We recognize, though, that the debates, it's the
21 time for debate has long since passed. The time is now to
22 move forward with something.

23 So we agreed to this compromise in an effort to
24 move something forward. We're going to continue to evaluate
25 and monitor that process to make sure that it succeeds in

1 creating the necessary market demand for AB 939 and
2 California's recycling goals to succeed.

3 So this is a critical first step. It is important
4 for this board to recognize and appreciate the investment of
5 time that local government representatives, private
6 recyclers, nonprofit recyclers and the environmental
7 community have put into this process over the past two
8 years, as well as the time and energy that your staff has
9 put into this process.

10 And we urge you to take this important first step
11 and adopt these utilization goals.

12 Thank you very much.

13 BOARD CHAIRMAN HUFF: Any questions?

14 Kelly Smith.

15 MR. KELLY SMITH: Mr. Chair, board members, I'm
16 going to offer testimony for comments for the Recycled
17 Market Development Council of the California Resource
18 Recovery Association.

19 As you know, we have testified before and
20 throughout this process supporting legislated minimum
21 content requirements for materials, especially these
22 materials, or in particular these materials, and CRRA and
23 REMARC will no doubt continue to support minimum content in
24 whatever forum possible.

25 But at the same time we like to support and

1 commend the board and this resolution and urge you to adopt
2 it.

3 There are a couple things I'd like to point out
4 real quickly as features that are positive features about
5 this proposal.

6 The first is the process itself. The lengthy
7 process that you've engaged in, the thoughtful analysis
8 that's been put into it, the open process, the willingness
9 to listen to all parties involved, and consider that input,
10 I think to a great extent probably beyond the patience of a
11 lot of folks, but it's commendable that you've done that,
12 and that should be a hallmark of future efforts that you
13 make.

14 This is just a first step in one material type,
15 but you've learned a lot, hopefully, and it's a process that
16 will be applied in other materials in other areas of market
17 development.

18 It sets a basis for addressing other materials in
19 this fashion.

20 The other feature of this proposal is the aspect
21 of the leadership that's provided by the board and the
22 positive benefit that markets in these materials will get
23 from it.

24 One thing I was just remembering that at the last
25 hearing or one of the hearings the industry was going to be

1 coming forward with voluntary goals and there was supposed
2 announcements at any time on the goals that the industry
3 would seek to achieve and what it had done so far and
4 resolution on the numbers and all that kind of thing. I
5 haven't seen that.

6 And somehow I get the feeling as we go along that
7 the longer this goes on that leadership from the industry as
8 far as some sort of initiative in developing the markets for
9 these materials will not be forthcoming unless it's urged
10 upon them in some form or another.

11 What you have before you, I think, is just simply
12 a good report card, objective report card analysis of the
13 industry that can be put in place easily, that can be
14 referred to and checked on, and that I think, although it is
15 just a report card, will have a lot of benefit, will be
16 productive, because this is the largest state in the union.
17 The industry can't ignore something like this. And that
18 regardless of what you'll be told the difficulties and all
19 that kind of thing that it will have an impact on the
20 industry and then an impact around the country.

21 So I urge you to adopt it and expand this process
22 to other materials.

23 Thank you.

24 BOARD CHAIRMAN HUFF: Any questions?

25 Thank you.

1 Arthur Boone.

2 MR. BOONE: On behalf of the Northern California
3 Recycling Association we urge you to vote affirmative on
4 this.

5 Thank you.

6 BOARD CHAIRMAN HUFF: Great. Great presentation.
7 Okay. That's all of the proponents that I have
8 notifications from.

9 Are there other proponents? Source reduced our
10 process?

11 BOARD MEMBER RELIS: Mr. Chair, I'd just like to
12 read into the record at this point, I don't know if these
13 letters have arrived, but we did receive a letter from the
14 National Recycling Coalition, Washington, D.C., essentially
15 stating that our proposed motion is in line with their
16 efforts.

17 The Natural Resources Defense Council,
18 Browning-Ferris, and the Monterey Regional Waste Management
19 District, these all came in this morning.

20 BOARD CHAIRMAN HUFF: Okay. Thank you.

21 BOARD MEMBER RELIS: In support.

22 BOARD CHAIRMAN HUFF: Okay. Opponents.

23 Kathy Lynch.

24 BOARD VICE CHAIRMAN CHESBRO: While she is coming
25 up, I don't have the folder in front of me but there are

1 numerous cities and local government and city and county
2 officials who also have sent letters to the board that we'll
3 try to get into the record here before it's over.

4 MS. LYNCH: Kathy Lynch, American Forest and Paper
5 Association.

6 And I can assure you I won't be duplicating past
7 speakers.

8 Let me first start by addressing Mr. Smith's
9 comments that the paper industry did announce on December
10 8th their 50 percent national paper recovery goal for the
11 year 2000 and it was carried in several newspapers around
12 the country. I'd be happy to provide Mr. Smith with that
13 packet.

14 The industry also by the year 1995 had projected a
15 40 percent national paper recovery goal and potentially is
16 right there at this time. It's very close. So they went
17 forward and boldly set forth a 50 percent objective for the
18 year 2000.

19 Our concerns here today and I think by hearing the
20 other speakers, some of their comments are very valid. What
21 we're here to talk about today is a process that we were
22 asked to engage in November of this year.

23 Certainly, I'm familiar, Mr. Murray, with how this
24 process works at the board, but the industry's involvement
25 directly was asked in November at a workshop on paper

1 specifically.

2 We willingly participated in that workshop. We
3 provided what we think were a lot of fruitful comments.

4 We subsequently have flown numerous high-level
5 people from the industry out to meet with board and staff to
6 begin the process of exploring a voluntary agreement with
7 the industry.

8 On December 1st we attended your first working
9 group meeting. It was a very successful meeting I believe.
10 It outlined a very good framework. The industry was very
11 pleased to participate and I believe they outlined a
12 framework that can explore the possibility of doing that.

13 On December 2nd the board read into the record a
14 document that had not been communicated to the industry or
15 distributed to anyone in the public and approved a document.
16 We received it after the vote.

17 We are very opposed to this proposal here today.
18 Perhaps this discussion needs to take place three or four
19 months from now. We believe that you're putting the process
20 behind policy and that the policy needs to be a product of
21 the working group.

22 We do not even understand the proposal. We don't
23 know, the working group is challenged with determining what
24 the definitions should be.

25 We know this much, that we read the world in a

1 different way. Our definition of generation is different
2 than yours. Our definition of utilization is different than
3 yours. So we really have to put those things together
4 before we can even comment on this document.

5 So we would urge the board instead of acting on
6 this today to put this aside until such time as the working
7 group has completed its work.

8 The industry would like to continue to work with
9 the board. We have offered to work with the board. We're
10 here in a cooperative spirit.

11 But this proposal going forward today is
12 premature, totally undercuts the process and quite frankly
13 the industry needs to know from the full board what the
14 process is at this juncture.

15 If we're looking at exploring a voluntary
16 agreement with the industry, the industry needs to be a
17 participant in that process.

18 We would like to have that process presented back
19 by the board and we'll work with the board on a realistic
20 time line from the industry's perspective as to what we can
21 turn around statistically to benefit that process.

22 So we're here today asking you to take that action
23 instead.

24 Thank you.

25 BOARD CHAIRMAN HUFF: Any questions?

1 BOARD VICE CHAIRMAN CHESBRO: Do you --

2 BOARD CHAIRMAN HUFF: Ms. Neal.

3 BOARD MEMBER NEAL: Was it your understanding that
4 the working group was formed to work toward determining the
5 goals or to work toward determining the data definition and
6 generation?

7 MS. LYNCH: It was our understanding that the
8 working group's role was to develop a voluntary industry
9 agreement with the board and to explore how that could be
10 done.

11 And what was determined that working group, which
12 we agreed with, was that there needs to be a statistical
13 understanding since there are three or four different number
14 bases that we're looking at. There needed to be a
15 definitional understanding and there needed to be realistic
16 goals established as a result of that.

17 BOARD MEMBER NEAL: So if I'm interpreting your
18 answer correctly, then you were under the assumption the
19 committee was to do both the goals and the data definitions?

20 MS. LYNCH: We believed that the policy would
21 follow the working group's discussion. It's extremely -- we
22 cannot comprehend how a policy, while you may have this as
23 an objective, to put forth numbers and terms that the
24 working group hasn't even identified what they are.

25 BOARD MEMBER NEAL: I like things in very simple

1 yes or no sometime.

2 It was your understanding that you were to do
3 goals and data?

4 MS. LYNCH: And definitions.

5 BOARD MEMBER NEAL: The working group would do all
6 of that?

7 MS. LYNCH: Right. And that would determine where
8 the policy went. It's hard to establish before that
9 discussion takes place. At least the industry can't
10 determine that.

11 BOARD MEMBER RELIS: If I might just enter in at
12 this point.

13 I understand, and I think it was quite clear that
14 the working group would work on the matters of definition
15 and the statistical discrepancy. That was the focus.

16 The goals I don't read it the same way. It was I
17 think quite clear that that's what the working group's focus
18 was the discrepancy in data that we had.

19 MS. LYNCH: But your goals are based on wrapped
20 around definitions that have to be understood.

21 BOARD MEMBER RELIS: I agree.

22 BOARD VICE CHAIRMAN CHESBRO: Mr. Chairman.

23 BOARD CHAIRMAN HUFF: Okay.

24 BOARD VICE CHAIRMAN CHESBRO: I'd like to say that
25 first of all remind the board that it was a process that

1 began at least a year and a half ago when I was chairing the
2 committee, which has been ongoing and been repeated in
3 numerous discussions and opportunities. So it's not as
4 though this suddenly arrived on the scene.

5 Secondly, I agree with Mr. Relis that the
6 committee's direction in terms of its purpose was very clear
7 and in fact a letter to the working group members
8 specifically says because the board interim databases --
9 let's see. To accomplish this we are convening a working
10 group to discuss existing data and methodologies. The
11 purpose of examining existing methodologies is to work
12 towards developing a consensus methodology to obtain future
13 paper generation and recycling data in California.

14 The whole planning process, which the board has
15 been through, was to establish goals.

16 The question is, and the reason why the committee
17 wanted the working group was that the definitions support
18 those goals. And what do you mean by that? When you say
19 you want to divert 50 percent, how do you arrive at those
20 numbers?

21 And that's what definitions and data discussions
22 are about, not whether or not a certain amount of material
23 should be diverted from landfills.

24 And so I think that there's two very distinct
25 functions going on here. One is the policy goals and the

1 other is the definitions of what that means and I think we
2 have been very open and we established the working group in
3 order to give the industry an opportunity to arrive at
4 common consensus definitions with the other interest groups
5 and the board so that we weren't talking about apples and
6 oranges, we were talking about the same thing.

7 And that's my understanding of what the
8 committee's direction was. I thought it was very clear.

9 MS. LYNCH: Again I would like to repeat that
10 while that process has been underway our involvement was
11 asked on November the 4th and we were happy to do that to
12 explore a voluntary agreement with the industry, which we
13 understood to be something we would develop together. So.

14 BOARD MEMBER RELIS: Mr. Chair.

15 BOARD CHAIRMAN HUFF: Mr. Relis.

16 BOARD MEMBER RELIS: At this point I'd like to
17 give you my perspective on the process matter and the
18 decision-making framework.

19 I would, without repeating what's been said
20 earlier, this is really to me today the culmination of about
21 a two-year effort.

22 We've been talking markets for that long, the
23 Market Committee has been in place a little longer than
24 that.

25 Throughout all those discussions fiber has been a

1 key focal point, primary focus, because of the magnitude of
2 its presence and the necessity of addressing it as a matter
3 of meeting the diversion goals.

4 Minimum content and utilization was the focus for
5 a very long time.

6 But in thinking about the motion that is before us
7 we received testimony, and particularly I'm reminded of
8 testimony that Mr. White come forward with back in November
9 and in writing that came from an industry source, not the
10 manufacturing source, but the waste industry, that suggested
11 a regulatory approach that is embodied in the motion before
12 us.

13 That is rather than always beating around this
14 issue of legislation, and the board has within its
15 regulatory authority the ability to measure. That's really
16 what this is is measuring progress.

17 This in my mind fleshed out a cleaner clearer
18 Option C and it was appealing for two reasons.

19 It offered the board a way of pressing ahead on
20 measuring progress without resorting to legislation which
21 frankly is a bottleneck for us right now. And it gave us
22 within our regulatory authority something we can do now in a
23 spirit of cooperation and movement on this vital issue that
24 we've heard almost unanimous testimony on from the people,
25 from the companies, from the cities who are paying the bill.

1 I mean, there's a large bill being paid and they're paying
2 it and they're telling us we need this level of activity by
3 the board.

4 Also I think it was responsive to a wide range of
5 expressed concerns about the board's leadership on market
6 development.

7 Because in my view fundamentally today's motion
8 before us is about leadership. And we are being asked to
9 provide leadership.

10 And the motion sets forth in the most modest terms
11 as has been referred to goals, not mandates, that are
12 supported by staff analysis and consistent with our market
13 plan and our subsequent studies.

14 So there's a whole body and, I mean, just to, I
15 don't normally resort to weights, and but these are all
16 reports that were prepared that led up to today, reports
17 that we've commissioned, which we've spent a lot of money
18 getting expert work done, and they're telling, these reports
19 support the direction we're taking today, I hope we're
20 taking today.

21 And most importantly I think the motion before us
22 establishes what I've heard from the paper industry and I do
23 want to acknowledge at this point, I think the paper
24 industry with its announcements, with its capital expansion
25 plans, is doing something very significant and it needs to

1 be said and I want to state that.

2 But at the same time we are responding to the
3 flexibility issue that was, I think, the largest concern
4 that I heard from testimony presented that what we come
5 forward with be flexible and allow measurement to occur
6 within a not a constrictive way as minimum content would do
7 on product to product or paper grade to paper grade but have
8 the flexibility to cross that with an overall goal, because
9 it's our need to have an overall goal.

10 So while there may be some surprise being
11 expressed here, I think the record is so abundant with a
12 history of paper being our concern, of needing to address
13 this, needing to address it in a timely way that I'm frankly
14 just not persuaded by that process question.

15 I think the process has been an ongoing and open
16 one and there's nothing in the motion that is or should be a
17 surprise.

18 MS. LYNCH: I think what the industry was asked to
19 do was to step up to the plate and explore a voluntary
20 agreement with the industry. That is what we did.

21 If that process is to continue we need to outline
22 that type of a framework.

23 BOARD MEMBER RELIS: I think we have also said in
24 the motion there's this period of time. You're concerned
25 about definitions, about measurements, about rates, we've

1 created a process built into the motion that creates that
2 time frame for the debate necessary, discussion and debate
3 of those issues, included the defining of terms.

4 And I don't know how else to do that. The board
5 is a policy-making body. It doesn't take its direction, in
6 my view, from a technical group. That is a way of providing
7 a check and balance on whether we've picked the right terms
8 and so forth.

9 But it would be backwards to approach it that way
10 and certainly wouldn't speak to our leadership function.

11 I'll just stop there.

12 MS. LYNCH: I would just close, because Mr. Relis
13 and I have had numerous conversations, and I think we agree
14 to disagree. It's the cart and the horse and we believe
15 that you need to let that process work its way out and then
16 obviously you're the body that needs to establish the
17 policy, but taking into consideration what that working
18 group, if it has meaning and it has purpose then it needs to
19 be considered ahead of the policy.

20 We would urge you to not take action on this until
21 such time as you've established a frame work and a time
22 frame work. For the working group to continue, the industry
23 has no choice but to oppose this and withdraw its
24 participation in the working group.

25 Thank you.

1 BOARD CHAIRMAN HUFF: Any questions?

2 Any discussion?

3 BOARD MEMBER NEAL: Is that the last speaker?

4 BOARD CHAIRMAN HUFF: That is the last speaker.

5 BOARD VICE CHAIRMAN CHESBRO: Mr. Chairman.

6 BOARD CHAIRMAN HUFF: Ms. Neal.

7 BOARD MEMBER NEAL: I had some concerns coming
8 into this meeting, not about the content of the motion, but
9 about the process that had gone on relative to the working
10 group. And I sat here and I listened really to two
11 different interpretations about what that working group was
12 supposed to be about.

13 However I've just reviewed the memo that went out
14 to the participants of the working group and I thought it
15 was pretty clear what the working group was asked to do and
16 I did not see in that memo anything about the working group
17 developing goals.

18 So given the fact that I've not seen any evidence
19 which either requested of the working group or stated some
20 mission of goal development then at this point I am prepared
21 to support the motion.

22 BOARD CHAIRMAN HUFF: Okay. Any other?

23 Mr. Chesbro?

24 BOARD VICE CHAIRMAN CHESBRO: Well, I just, I
25 would be inclined, I guess, under other circumstances to

1 agree with Ms. Lynch and those other circumstances would be
2 if cities and county weren't facing a 1995 legal deadline to
3 meet diversion requirements.

4 And I jokingly said earlier to someone who was
5 speaking that, you know, I still think of myself as a local
6 person, well, this board, our regulated constituency, if you
7 will, are the local governments.

8 And 939 and other legislation that was passed at
9 the time made reference to the need for markets to be
10 developed and gave us direction, but it didn't fill in those
11 gaps.

12 And I think the equation is not balanced and local
13 government is not treated fairly until we follow through
14 with requirements for the industry.

15 Frankly, my objection to this thing is that it's
16 too modest.

17 I'm prepared to go along with it and swallow hard
18 a go along with it, but I really feel that it should have
19 happened a long time ago, that it should have been passed by
20 the Legislature and been mandatory.

21 And that's not to cast aspersions on the industry
22 and say that they're bad people and they haven't done a lot,
23 because they have.

24 But it's to say that we have an official
25 state-mandated policy that stays 25 percent is going to come

1 out of the landfills by '95 and 50 percent by the year 2000
2 and we have the obligation to local governments to make sure
3 that they have the markets to accomplish that.

4 And so I will reluctantly support this, but only
5 reluctantly because it doesn't go nearly far enough as
6 quickly as it should.

7 BOARD CHAIRMAN HUFF: Ms. Neal.

8 BOARD MEMBER NEAL: I do have one question about
9 one item that's contained in the motion and one issue that's
10 contained in the motion. Perhaps I can get some explanation
11 from the chair of the Market Development Committee on it.

12 And that is under No. 4 in the motion which speaks
13 to the board proscribing company-specific minimum content,
14 can you explain how you got to that or why you included it?

15 BOARD MEMBER RELIS: Now, the phrasing on this
16 I'll ask staff for clarification on that point, on that
17 specific terminology.

18 MR. HUSTON: This language -- Bill Huston from the
19 staff.

20 The language in No. 4 comes from earlier
21 recommendations made by staff that we want some flexibility
22 in determining whether any minimum content requirements
23 would be company specific. For example each company must
24 meet the minimum content requirement or whether the industry
25 may be allowed to average overall of the producers of a

1 particular product to meet the minimum content.

2 For example --

3 BOARD MEMBER NEAL: We're talking tradeable
4 credits here?

5 MR. HUSTON: It could be tradeable credits so that
6 one company could "buy," quote, credits from another company
7 so that the first company would not have to individually
8 meet the minimum content requirements.

9 BOARD MEMBER NEAL: So that was intended to
10 provide some flexibility to industry?

11 MR. HUSTON: Not only flexibility to industry but
12 also flexibility in how the board might design the minimum
13 content program if we had a minimum content program.

14 But leave that flexibility in there.

15 BOARD MEMBER NEAL: Certainly --

16 MR. GORFAIN: Flexibility is the key.

17 BOARD MEMBER NEAL: -- the way it's written in
18 here.

19 BOARD MEMBER RELIS: Maybe, I must admit that is,
20 it does need to be a bit clearer in that regard or at least
21 your definition, your comments need to be understood in this
22 regard.

23 BOARD CHAIRMAN HUFF: Well, I was wondering and I
24 have had this conversation with Mr. Relis earlier.

25 Mr. Relis, perhaps you can specify what in your

1 mind is the heart of the motion and what is the supporting
2 players.

3 BOARD MEMBER RELIS: Okay. Well, just going back
4 to this, first of all, I consider this a framework, just the
5 motion describes the framework. So if we can get it in a
6 framework I think everyone -- I did look it up in the
7 dictionary this morning, it refers to a structure, okay.
8 It's like a -- put some -- it's skeletal.

9 So the first initial key piece is the goal of the
10 board that utilization for recycling goal is postconsumer
11 wastepaper generated in California by the year 2000 shall
12 not be less than 50 percent. That's a fundamental goal
13 stated.

14 The second part is to provide for monitoring and
15 evaluation of progress, a system of reporting towards this
16 goal. And it sets forth basically an interim, the idea of a
17 40 percent utilization for recycling rate in '95 and a
18 reporting framework.

19 So that would be the second fundamental piece of
20 it, because we can't have a goal unless we have a
21 measurement in it within a time frame.

22 Then it sets forth a process, a work group. I
23 think that's what we're calling it, finally, a working
24 group. That would be inclusive, and I would hope the paper
25 industry would be party to this in spite of the comments

1 made, that would be the players. The local government
2 players, the environmental groups that have been involved in
3 this, the paper industry and the waste management industry,
4 virtually the people we've heard from today, the League, the
5 cities and the counties.

6 So that's described a way of dealing with the
7 technical issues, the definitions, the rates, the
8 measurements criteria.

9 Now, let's see. I'll just try to respond to what
10 you've said.

11 So I'm -- the other portions speak to the, more or
12 less the refinements under that. If I were to describe,
13 these were the key points and then there will be an
14 evaluation of the paper industry's progress towards meeting
15 its final goals on an annual basis.

16 The process and criteria for reporting and
17 evaluation toward meeting the goals shall be presented to
18 and adopted by this board no later than June 30th, '94.
19 That builds in the reporting time frame.

20 And then it establishes, if the principle of
21 flexibility, saying that if there are adjustments in the
22 fiber areas we're not so much concerned about that as the
23 overall 50 percent utilization.

24 But often things need to be reported in a discrete
25 way in order to add them up and see where you are in the

1 overall. So that speaks to the methodology.

2 And finally there is the issue of the option of
3 proscribing what Ms. Neal referred to, the product or
4 company-specific minimum content and/or minimum utilization
5 rates if this overall effort is not successful.

6 And I don't know how to summarize it any more.

7 BOARD CHAIRMAN HUFF: Well, I think what you
8 described is if you look at the first page, 1(a), 1(b), 2,
9 the paragraph that highlighted. You didn't subscribe 2(b).

10 On the back of the -- I'm looking at --

11 BOARD MEMBER RELIS: 2(b).

12 BOARD CHAIRMAN HUFF: 2(b) you didn't mention.

13 BOARD MEMBER RELIS: Okay. That refers, the way
14 it's stated, final paper reduction, recovery and reuse goals
15 on an annual basis to the year 2000 for all major grades of
16 postconsumer waste paper, in order for the board to achieve
17 its -- it refers to mandate, it's not as you pointed out,
18 it's not our mandate, the cities bear the responsibility.

19 BOARD CHAIRMAN HUFF: I think Yvonne pointed it
20 out.

21 BOARD MEMBER RELIS: So that wording is probably
22 not appropriate the way it is.

23 BOARD CHAIRMAN HUFF: I'm not sure that (b) is
24 really essential.

25 BOARD MEMBER RELIS: That's more again, I think I

1 spoke to that as methodology, a way of reporting, but it
2 doesn't, the key motion is that there is a reporting
3 framework.

4 BOARD CHAIRMAN HUFF: That's right. That's right.

5 BOARD VICE CHAIRMAN CHESBRO: Well, I would hope
6 that there would be something built in that would give us
7 feedback about how progress is --

8 BOARD MEMBER RELIS: That's where the June '94
9 date --

10 BOARD CHAIRMAN HUFF: I'm not arguing that.

11 BOARD VICE CHAIRMAN CHESBRO: I mean on an ongoing
12 basis as we proceed, how it's going out there.

13 BOARD CHAIRMAN HUFF: I think that's in here too.

14 BOARD MEMBER RELIS: I think that's what we're
15 assigning the working group to tell us how they'll report
16 back to us and I think the timeliness issue --

17 MR. GORFAIN: I think the intent of the committee
18 was to look at 2 and 3 together and say set standards on an
19 annual basis and have the ability to monitor and adjust,
20 which is the key in number 3. Adjust the annual goal by
21 setting annual goals to adopt to actual progress and looking
22 also further to the ultimate goal.

23 BOARD CHAIRMAN HUFF: Well, my effort here,
24 because I think that there is a lot of items here that will
25 still be discussed by the working group, assuming that there

1 is one, and I don't want to wish to tie their hands, and I
2 want it to be a real working group.

3 BOARD MEMBER RELIS: Yes.

4 BOARD CHAIRMAN HUFF: Therefore am desirous of
5 having a motion that really spells out the framework and use
6 a framework and leave -- framework is like a wall without
7 pictures, leaving the hanging of the pictures to the working
8 group, which we then come and ratify or move.

9 BOARD MEMBER RELIS: Would you regard then, I
10 mean, you asked me to summarize what I thought was the
11 framework. You've said that there's some pieces that are
12 subframework. Is that referring to the (b)?

13 BOARD CHAIRMAN HUFF: That's referring to at least
14 the last half of the (b) statement.

15 The final paper reduction and recovery and reuse
16 goals on an annual basis to the year 2000, period, would
17 be -- or for all major grades, period.

18 I mean --

19 BOARD VICE CHAIRMAN CHESBRO: I think we need to
20 regularly use the word postconsumer.

21 BOARD CHAIRMAN HUFF: Okay. Drop the last anyway.

22 All I'm saying it's called a framework but it's
23 really more than a framework and I want to make it
24 framework.

25 BOARD MEMBER RELIS: I understood it as a

1 framework with your -- I don't have a problem with what you
2 said as long as we leave the postconsumer word in there.

3 BOARD CHAIRMAN HUFF: It's sprinkled throughout
4 the whole thing. It's in 1(a), it's in 1(b). Which is the
5 guts of the thing. And then evaluate establishing goals and
6 2 is how you get the guts. Monitoring. And 3 is almost
7 self evidence. Okay. And then 4 is the stick. The 1, 2
8 and 3 are the carrot. And I accept the stick.

9 But in 1, 2, 3, I don't think we have a carrot, we
10 have carrot cake.

11 BOARD MEMBER RELIS: If you're referring to --
12 let's just walk through this again since I think it's really
13 important.

14 Now No. 1 you're saying there's carrot cake there?

15 I see just --

16 BOARD VICE CHAIRMAN CHESBRO: More like carrot
17 juice.

18 BOARD MEMBER NEAL: Are we hungry?

19 BOARD MEMBER RELIS: Is this lunch time?

20 BOARD CHAIRMAN HUFF: 1, 2, 3 taken as a whole.

21 BOARD MEMBER RELIS: Okay.

22 BOARD CHAIRMAN HUFF: Certainly 1(a) is pretty
23 straightforward.

24 BOARD VICE CHAIRMAN CHESBRO: Personally I think
25 the way it's worded at the beginning of 2 where it says

1 staff in consultation with representatives of the paper
2 industry, waste management industry, et cetera, et cetera,
3 shall recommend to the board. And I think there's a process
4 put in place by which there is --

5 BOARD MEMBER RELIS: There's something additional
6 we should say there?

7 BOARD VICE CHAIRMAN CHESBRO: They come to us, to
8 come to staff and help form the final goals.

9 BOARD CHAIRMAN HUFF: That would be, see, the
10 working group isn't even referenced here in this thing, is
11 it?

12 BOARD MEMBER RELIS: We can insert that, call it
13 the working group and constitute it as such.

14 BOARD CHAIRMAN HUFF: Okay.

15 BOARD MEMBER RELIS: If there's any ambiguity
16 there.

17 BOARD CHAIRMAN HUFF: Right at the highlighted
18 paragraph at 2, bottom of the first page.

19 BOARD MEMBER RELIS: I might add that was one of
20 our, when we adopted our market development plan, that was
21 one of our stated objectives was to form such a working
22 group. So that would be in fulfillment of that.

23 BOARD CHAIRMAN HUFF: And then 2(b), the last
24 clause --

25 BOARD VICE CHAIRMAN CHESBRO: I would hope that if

1 we did that that they would come in understanding that the
2 board had declared its intent to establish goals so that
3 there wasn't, you didn't -- there was no misunderstanding
4 that the purpose of the working group was to debate whether
5 we should have goals or not.

6 BOARD CHAIRMAN HUFF: We have a transcript right
7 here.

8 BOARD VICE CHAIRMAN CHESBRO: Okay. But, I mean,
9 that's the problem we're having in this morning's discussion
10 with them was, gee, was it the basic premises that we asked
11 them to help us with and participate in or was it whether to
12 do it or the what.

13 BOARD MEMBER RELIS: It's my sense that we
14 understand that we've, we're setting the goals. They're
15 said. And now the working group is to report on them and
16 the technical issues related to them.

17 MR. LIPSON: Mr. Chairman, Mr. Egigian has asked
18 me to comment on his behalf that he's concerned about the
19 process of writing a motion this way, and as for
20 consideration whether this is the right process to write a
21 motion that has some broad significance for this board in
22 this matter.

23 BOARD CHAIRMAN HUFF: It is difficult, but not
24 without precedent.

25 BOARD MEMBER RELIS: Mr. Egigian, with all due

1 respect, I think we can work through this and get it behind
2 us now. I think it's important that we do that.

3 BOARD CHAIRMAN HUFF: Certainly shows that we have
4 a open process.

5 Well, what do you think, put the working group in
6 2 at the bottom of page 1, change the comma after "paper" in
7 2(b) to a period, and delete "in order for the board."
8 Okay.

9 BOARD MEMBER RELIS: Yes.

10 Mr. Egigian asked, I'm his voice, if the paper
11 industry --

12 BOARD CHAIRMAN HUFF: Is this a seance?

13 BOARD MEMBER RELIS: No; it's not. It's not even
14 telepathy here.

15 But he's asked whether if the paper industry
16 doesn't participate what's the status of the working group.

17 I don't know how to answer that. I would assume
18 it's still a working group and --

19 BOARD CHAIRMAN HUFF: It's a working group.

20 BOARD MEMBER RELIS: We hope that they'll find a
21 way to participate in it and that they'll be reassured by
22 our process that it is what it is. It's a framework and
23 they have --

24 BOARD VICE CHAIRMAN CHESBRO: Let me once against
25 establish the context here.

1 We're talking about an interim voluntary program
2 to give more time for lots of input to create a permanent
3 voluntary program. I don't understand why, I mean I hear
4 these chuckles out there as though, yeah, we've got some
5 kind of a real wired process that creates, you know,
6 problems. I don't understand why this is considered such an
7 onerous thing. To me it is so modest that it's almost
8 laughable and I have difficulty voting for it because of
9 that. So I don't really understand why, you know, there's
10 some kind of a big fear out there that they're going to be
11 asked to do something voluntarily. I mean, that's really
12 kind of hard for me to understand.

13 I just thought I'd create that context.

14 BOARD CHAIRMAN HUFF: Thank for sharing.

15 BOARD MEMBER RELIS: I'm ready to move this.

16 BOARD CHAIRMAN HUFF: Per my suggestion?

17 BOARD MEMBER RELIS: Yes.

18 BOARD CHAIRMAN HUFF: Ms. Neal, are you ready to
19 say something or to vote?

20 BOARD MEMBER NEAL: The motion is as it stands?

21 BOARD VICE CHAIRMAN CHESBRO: It's been somewhat
22 modified.

23 BOARD MEMBER NEAL: I'm sorry. I was --

24 BOARD CHAIRMAN HUFF: You were having a side
25 conversation.

1 BOARD MEMBER NEAL: Yes; I was.

2 BOARD MEMBER RELIS: Mr. Huff.

3 BOARD MEMBER NEAL: Looking forward.

4 BOARD MEMBER RELIS: Would you repeat --

5 BOARD CHAIRMAN HUFF: Incorporate, take a look at
6 staff's suggestions to motion adopted by. Okay. At the
7 bottom of the page it says staff in consultation with
8 representatives of the paper industry, et cetera, et cetera
9 et cetera, that without saying is the working group. My
10 preference is that it should say that.

11 BOARD MEMBER NEAL: The working group.

12 BOARD CHAIRMAN HUFF: Okay. And then on the
13 second page and at the top of the page (b), the phrase at
14 the end of that sentence that says in order for the board to
15 achieve its mandate under the California Waste Management
16 Act of 1989, as I mentioned earlier, actually the mandates
17 fall on --

18 BOARD MEMBER NEAL: Strike that?

19 BOARD CHAIRMAN HUFF: Yeah. Strike.

20 BOARD MEMBER NEAL: That's fine. I don't have a
21 problem with that.

22 I think since this came out Market Development
23 Committee it's probably more appropriate for a member of
24 that committee to make the motion.

25 However, before that happens I just wanted to make

1 a statement to the potential participants in the working
2 group, particularly to industry, to say that I think what
3 we've done or what we're doing here is we've decided we're
4 going to play a game and we've decided ultimately what it
5 takes to score but we have yet to work out what all the
6 rules of the game are. And any sports aficionados out there
7 understand that it's the rules a lot of times that
8 determines the direction which the game goes and I certainly
9 think it's in your interest to participate in the
10 rulemaking.

11 BOARD CHAIRMAN HUFF: Okay. You move it?

12 BOARD MEMBER RELIS: I move.

13 BOARD CHAIRMAN HUFF: Okay.

14 Roll call.

15 BOARD SECRETARY KELLY: Board Member Chesbro.

16 BOARD VICE CHAIRMAN CHESBRO: Aye.

17 BOARD SECRETARY KELLY: Egigian

18 BOARD MEMBER EGIGIAN: I'll abstain right now.

19 BOARD SECRETARY KELLY: Neal.

20 BOARD MEMBER NEAL: Aye.

21 BOARD SECRETARY KELLY: Relis.

22 BOARD MEMBER RELIS: Aye.

23 BOARD SECRETARY KELLY: Chairman Huff.

24 BOARD CHAIRMAN HUFF: Aye.

25 BOARD MEMBER EGIGIAN: Aye.

1 BOARD CHAIRMAN HUFF: The ayes are five, the noes
2 are none, the motion carries.

3 Item 21.

4 Staff read the brief presentation and then I have
5 a request from Richmond so we want to hear from Richmond.

6 BOARD VICE CHAIRMAN CHESBRO: While staff is
7 coming up maybe I'll complete the statement that I started
8 earlier and being the basic, shy, reticent person, maybe
9 next time I'll skip the extra triple latte before I come to
10 the meeting.

11 Getting back to my earlier comments, I'd just like
12 to remind the board that the rejection of the, the proposed
13 rejection of the four source reduction recycling elements
14 for the reasons specified is not an negative, that it was
15 intended in the law and negotiated with local governments
16 and their representatives to give more time for additional
17 evidence to be presented on whether or not the inerts, scrap
18 metal, et cetera, the other materials that were previously
19 being recycled should be counted or not. We have not told
20 them that they can't. We're simply saying that there's not
21 enough information on the record at this point to support it
22 and this would give them an additional, I can't remember the
23 numbers now, how many days, Judy?

24 MS. FRIEDMAN: 60 and then another 120.

25 BOARD VICE CHAIRMAN CHESBRO: An additional 60 and

1 then another 120 for them to respond to submit that
2 information. I'm just trying to make it clear that from my
3 point of view as committee chairman this was not a slap at
4 the four cities or in any way a commentary on the fact that
5 we've really appreciated the fact that they got their SRRES
6 in, but that we do need adequate time to respond to
7 information to make the determination and we have to vote up
8 or down on SRRES by law at this meeting.

9 So that's the situation we find ourselves in.

10 Once again, as I said earlier, 55 of the 59
11 planning documents from Contra Costa County were approved on
12 the consent agenda, so I'm very proud of that and I hope
13 that it represents the average that we'll be able to carry
14 out during the coming year when we're faced with many more
15 of these documents.

16 BOARD CHAIRMAN HUFF: Okay. I have a question of
17 staff and I think we can get to the heart of the matter with
18 it, I hope.

19 As I understand it, with reference to the specific
20 reason why you're recommending this action today the law is
21 pretty clear. We cannot grant a conditional approval in
22 this circumstance, can we? And in fact the communities
23 asked that we do that.

24 MS. FRIEDMAN: Correct.

25 BOARD CHAIRMAN HUFF: And the law doesn't allow

1 it.

2 MS. FRIEDMAN: Our reading of the law, correct.

3 BOARD CHAIRMAN HUFF: I wanted to make that very
4 clear because I am receptive to the request because I know
5 that they've put in a lot of good faith effort.

6 But as the law is the law, then I think that we
7 might be compelled in the direction that the committee
8 recommended.

9 Okay. I just wanted to make sure that that was
10 understood.

11 MS. FRIEDMAN: I want to keep this very brief.

12 Item 21 is board consideration of a portion of
13 Contra Costa County's countywide integrated waste management
14 plan.

15 As you know, the majority of the plan, that is 55
16 out of the 59 elements, was on the consent calendar and was
17 approved earlier this morning.

18 And as everybody has stated, Contra Costa County
19 and their cities should be commended on this tremendous
20 effort.

21 Four source reduction recycling elements were not
22 placed on consent. These are the source reduction recycling
23 elements for the cities of Richmond, Pinole, San Pablo, and
24 Hercules.

25 And that is because the plans fall below the 25

1 percent mandate due to the exclusion of the certain
2 materials in the baseline.

3 As a result of that, staff has recommended that
4 the board disapprove these four source reduction recycling
5 elements.

6 Staff of the Office of Local Assistance and Plan
7 Implementation Branch have worked together on the review of
8 this plan over the last 120 days.

9 If you would like, Lorraine Van Kekerix will be
10 able to explain the excluded baseline materials for the four
11 cities and the basis for our recommendation.

12 BOARD VICE CHAIRMAN CHESBRO: Okay.

13 MS. VAN KEKERIX: All four of the jurisdictions'
14 solid waste generation studies have problems related to
15 base-year diversion claims for restricted waste types.
16 Those restricted waste types are inerts, agricultural
17 wastes, scrap metals and white coated major appliances.

18 These four jurisdictions' 1995 diversion
19 projections were less than 25 percent and their 2000
20 diversion projections were less than 50 percent when staff
21 excluded base-year diversion claims for the restricted waste
22 types.

23 The four jurisdictions' adjusted 1995 projections
24 are shown in column 4 of the overhead that's on the TV
25 screen and on the adjusted 2000 projections are shown in

1 column 6.

2 You can see that all of those are below 25
3 percent.

4 AB 2494 provided that jurisdictions not be
5 required to change their source reduction and recycling
6 elements prior to board review and it allows jurisdictions
7 to submit documentation that they meet the criteria for
8 claiming base-year diversion credit for these four materials
9 after board consideration of the source reduction and
10 recycling elements.

11 Staff is reviewing documents that have been
12 submitted by the jurisdiction and we will continue to work
13 with the cities in evaluating the information which they
14 provide.

15 BOARD VICE CHAIRMAN CHESBRO: Okay.

16 MS. FRIEDMAN: The staff recommends the board
17 adopt Resolution 93-148, which has been passed out to you,
18 and which disapproves the source reduction recycling
19 elements for, as I mentioned before, Richmond, Pinole, San
20 Pablo, and Hercules.

21 Staff will be issuing notices of deficiency within
22 30 days of this action as required by statute.

23 This concludes staff presentation.

24 BOARD VICE CHAIRMAN CHESBRO: Thank you.

25 Before I call on the speaker that has requested to

1 address us, I wanted to do both an ex parte and also respond
2 to the question I was asked on the side.

3 I had a brief conversation with Yvonne Hunter
4 representing League of California Cities, and she asked a
5 question that I had earlier asked staff and I wanted to ask
6 it on the record here, which is why don't we issue a notice
7 of deficiency without recommending disapproval? In other
8 words, if what I was saying is true that this is not a
9 negative and this is intended as a process for us to
10 receive, give the local jurisdiction time to bring us more
11 information to justify their case.

12 And I can -- my understanding of it basically is
13 that we are under a time frame here to accept or reject the
14 SRREs and that we don't have any other option in terms of
15 extending it, that this was written into the law, might be
16 something that we could address and we've already mentioned
17 that legislatively whether or not a notice of deficiency
18 process, whether that was necessary, maybe there should have
19 been a little off ramp there that took a different route
20 besides having to say rejection because I think the intent
21 was not what a resolution of disapproval sounds like and
22 that's not what I intend, it's not what the board intends,
23 but it's the process that wound up in the legislation and
24 we're dealing with it.

25 Is that a accurate summary or do you want to add

1 anything to that?

2 MS. FRIEDMAN: I don't need to add anything to
3 that.

4 BOARD VICE CHAIRMAN CHESBRO: Mr. Conheim.

5 CHIEF LEGAL COUNSEL CONHEIM: No. That's correct.
6 It's a correct answer.

7 BOARD VICE CHAIRMAN CHESBRO: That being said, I
8 think we just have one speaker who has asked to address us.
9 Mr. Huff handed me the gavel here. I'm scrambling.

10 But Mr. Jenkins representing the City of Richmond.

11 MR. JENKINS: Good morning.

12 I have a couple of documents I have handed out to
13 the board if I might.

14 Good morning.

15 First of all, I'd like to acknowledge the position
16 that the board is under today. We recognize that the board
17 is essentially trying to follow the law as it is written and
18 that you're also in the position of trying to establish a
19 precedent for review of other SRREs that come before the
20 board. So we do acknowledge that and we fully comprehend
21 and understand that position and we're working with it.

22 We'd also like to acknowledge the cooperation that
23 your staff has shown over the last two months essentially
24 with regards to trying to develop some sort of response with
25 our deficiency that you have noticed. They have been

1 cooperative in the stance they've taken and we appreciate
2 that.

3 We would like to confirm our continuing efforts to
4 comply with AB 939 as far as the diversion requirements are
5 concerned.

6 Even on the overhead that you have before you
7 today we'd like to point out that if you look at the big
8 picture the City of Richmond and other communities in West
9 County will reach substantial compliance with the year 2000
10 goal of 50 percent. 46 percent essentially will be
11 Richmond's diversion if the inerts are not counted. So even
12 with the inerts not counted there is substantial compliance
13 with the goal.

14 We would also like to confirm our continuing
15 efforts to work with your staff to try and verify the fact
16 that diversion should be counted in the current accounting
17 for diversion purposes. We are hopeful that we can be able
18 to arrive with the documentation that is necessary to count
19 the diversion.

20 However, if we are unsuccessful we do want to
21 point out some of the problems that have been inherent with
22 complying with the law. And this is for your information,
23 this has been a process of education both at the local level
24 as well as at the board level I'm sure and just to perhaps
25 update you on some of the efforts that have been, I think

1 would be appropriate and helpful here.

2 I've handed out this morning a chronology of the
3 efforts that have been made by the City of Richmond as well
4 as the West County cities over the last three years to
5 comply with AB 939.

6 And one of the things to note is that AB 939 was
7 enacted in 1989. The requirement for diversion that we are
8 being noted being deficient with actually did not take
9 effect until January 1st of 1992. There is that two and
10 three month gap, two years and three month gap of time in
11 which the City of Richmond and other West County cities are
12 taking affirmative steps to try to comply with AB 939 as it
13 was written in 1989.

14 In that light there was a planning process and
15 implementation process that we ventured into. Obviously,
16 the planning process is a long detailed process and it had a
17 cost associated with it.

18 But there was also an implementation process that
19 we had to engage in at the same time due to the fact that
20 our landfill coincidentally will close at the same time that
21 AB 939 is scheduled to take effect as far as the diversion
22 requirements are concerned.

23 So we had these two overlapping processes. One
24 where we had to plan for compliance with AB 939 as well as
25 implementing it, as well planning for the closure of our

1 landfill and the transportation of our waste elsewhere.

2 Those things have all impacted, obviously, the
3 planning process as well as our ability to cope with all the
4 AB 939 requirements.

5 There has been a considerable amount of time and
6 effort expended by the West County cities in complying with
7 AB 939, not only in terms of the costs that have been
8 expended, but also as well as the staff time, just the
9 effort in general to comply. Those are listed in the
10 chronology and I would call your attention to the
11 chronology.

12 It is just one of the oddities of our particular
13 situation that because of the confluence of events that we
14 have had to deal with a number of things and this one
15 particular area we have had this shortcoming so far. We're
16 not conceding it yet, but it is a possibility.

17 What we're not going to be asking is you do
18 anything that staff has not recommended to do today. We
19 understand your position and we understand that there is a
20 possibility that we may be able to work these things out.
21 We do not take the notice of deficiency as a negative,
22 although it could potentially become that if it persists.

23 However, we do ask that the board consider a few
24 things as the process proceeds. We are obviously one of the
25 first and we are obviously the first that you are issuing a

1 notice of deficiency for.

2 We would ask that the board continue to monitor
3 the situation as far as the compliance of the West County
4 cities, that if there is a pattern that develops over a
5 period of time which indicates that cities, such as my city,
6 Richmond, has a difficulty in complying with AB 939 for
7 various reasons, that perhaps some consideration be given to
8 that. There is already consideration given under the law
9 for various other communities and desert and mountain areas,
10 maybe there needs to be some investigation into the reasons
11 for some deficiencies in some communities.

12 We would also ask that some consideration be
13 given, as you've already noted, with the law itself as far
14 as the notice of deficiency process. It is one thing to
15 notify an individual or a city that they're deficient, but
16 keep in mind that our official notification came in October
17 of this year, some four years after we began the process of
18 planning to comply. It is a little late for us to begin
19 shifting our focus in a number of areas to try and satisfy
20 the item that we have been notified that we're deficient in.
21 Nevertheless we will try, but nevertheless it is rather
22 late.

23 We were also asked that, given the efforts that
24 have been expended by the City of Richmond and the West
25 County cities that perhaps some consideration be given to

1 the future for perhaps some mitigation being included in any
2 type of enforcement that is proposed for noncompliance with
3 AB 939.

4 If a city has taken the efforts to comply by
5 expending money, time and effort to meet the requirements,
6 the diversion requirements, and yet still falls short that
7 perhaps a leeway be either being written into the law or the
8 regulations which allow that city to continue in its efforts
9 and not be penalized for noncompliance.

10 That's essentially my presentation for this
11 morning and I'd welcome any questions that you have.

12 BOARD CHAIRMAN HUFF: Any questions of the
13 speaker?

14 Well, thank you for coming down. We appreciate
15 your efforts and we do want to work with you and we do want
16 to reassure the financial community if we need to do that.

17 MR. JENKINS: Based upon the meeting that we had
18 with the committee, I believe there's going to be a letter
19 coming from the board that will help us to finance the
20 facility. That's the other chronology that I've handed out
21 to you this morning indicating that this very month, in fact
22 at the same time that I'm meeting here there are meetings
23 going on right now with the financing committee with regards
24 to financing our integrated resource recovery facility. So
25 we are taking steps --

1 BOARD CHAIRMAN HUFF: That facility is central
2 to --

3 MR. JENKINS: It is the key element to our
4 compliance with AB 939 and obviously there is a great deal
5 of cost and effort that's gone into getting to this point
6 and the next step is obviously getting it financed which
7 should be current this month.

8 BOARD CHAIRMAN HUFF: Good.

9 BOARD MEMBER NEAL: Just an observation.

10 I recognize that the MRF is your key element, but
11 I would encourage you to go back and think of some other
12 creative options for AB 939 compliance which also
13 incorporates reduction strategies and reuse strategies.

14 And I think that if you go back and try to be a
15 little more creative and not rely on just one response that
16 you probably could develop some ways to meet your goals. It
17 could be a combination of working with private industry
18 within the city, developing projects with them to accomplish
19 source reduction. It can be any number of strategies. I
20 would encourage you.

21 MR. JENKINS: We concur with that. It's simply a
22 matter of time and effort that's been needed, quite frankly,
23 to not only get their finance, but to bring the communities
24 together has been a major undertaking in West County and
25 getting them to agree to where we go from here. So we're

1 cognizant of a need to diversify our ability to comply with
2 the diversion requirements. It's just a matter of not
3 enough time.

4 BOARD MEMBER NEAL: I understand.

5 And one of the things is we're starting to get
6 some of the plans in, you might benefit by looking at what
7 other areas are doing so that you don't have to sit back and
8 start totally inventing things on your own. You can look at
9 what other areas are doing and see what would be appropriate
10 to you.

11 MR. JENKINS: One of the benefits of AB 939 has
12 irregardless of the diversion requirements has simply been
13 the educational process. What we need to do in order to
14 achieve the requirements has been very educational I think
15 in both ways. I believe we can meet the requirements and we
16 will be looking at various means of achieving those
17 requirements. Just a matter of that it is only so many
18 hours in the days, dancing as fast as we can.

19 BOARD CHAIRMAN HUFF: Thank you.

20 I'm ready for a motion.

21 BOARD VICE CHAIRMAN CHESBRO: I'm prepared to make
22 the motion.

23 I'd like to make it, but just make a couple quick
24 comments for board members who weren't at the committee.

25 One of them is you made reference, Mr. Chairman,

1 to a letter and I wanted to clarify to the other board
2 members that what that's about is that there was some
3 concern that the financing community might consider the
4 status of the SRRE as some obstacle or problem to siting the
5 facility and it was to just simply make clear that that is
6 not, as far as the board is concerned, does not effect in
7 any way the ability to permit that facility. It's that that
8 will be evaluated strictly on our permit criteria.

9 And the other thing is to make clear that while,
10 you know, we want, the direction is to cooperate, the
11 direction also to staff is to use, they have very specific
12 criteria in the law that they're required to follow in
13 analyzing whether the materials meet that requirement and
14 that's what the, least as chairman, I think the other
15 committee members also expected.

16 So I will, with that, move the item.

17 BOARD CHAIRMAN HUFF: Okay. Roll call.

18 BOARD SECRETARY KELLY: Board Member Chesbro.

19 BOARD VICE CHAIRMAN CHESBRO: Aye.

20 BOARD SECRETARY KELLY: Egigian

21 BOARD MEMBER EGIGIAN: Aye.

22 BOARD SECRETARY KELLY: Neal.

23 BOARD MEMBER NEAL: Aye.

24 BOARD SECRETARY KELLY: Relis.

25 BOARD MEMBER RELIS: Aye.

1 BOARD SECRETARY KELLY: Chairman Huff.

2 BOARD CHAIRMAN HUFF: Aye.

3 Motion carries 5-0.

4 Item 28 is the next one.

5 Ms. Neal, we'd be talking about compost right now
6 if you didn't take this off consent. What do you propose to
7 do?

8 BOARD MEMBER NEAL: I appreciate the board's
9 indulgence in taking this up right now and I know that we
10 are somewhat into the lunch hour, however we have someone up
11 from Los Angeles who wanted to talk on this item and we can
12 dispense with it in the next five to ten minutes, he might
13 to tempted to forego the culinary wonders of this particular
14 geographic area and get back home.

15 BOARD CHAIRMAN HUFF: Excellent Scottish food just
16 down the road.

17 BOARD MEMBER NEAL: This item has to do with the
18 used oil recycling block grants that we are awarding to
19 cities around the state.

20 And I raised some concerns during the committee
21 meeting when we were looking at these grants and subsequent
22 to that meeting got additional information, had the
23 opportunity to review some grant application materials.

24 And essentially I had some reservations about the
25 grant that was submitted by the City of Los Angeles, which

1 had some very clear and definitive statements about granting
2 exclusive rights to one company to operate recycling centers
3 in the city, used oil collection centers in the City of Los
4 Angeles, and also to grant that exclusive ability to do all
5 the public education in Los Angeles, which is a significant
6 portion of the public education in Los Angeles is to that
7 particular company.

8 And I understand that Mr. Delwin Biagi, with the
9 City of Los Angeles, is here to clarify and perhaps bring us
10 up to date with some clarifying information on Los Angeles'
11 grant application.

12 MS. GILDART: I just wanted to run over one little
13 point for those members who were not at the committee
14 meeting, and that's the kind of activities eligible under
15 the block grant.

16 The programs that are eligible under the block
17 grant program for the recycling used oil is establishment of
18 publicly operated used oil collection centers which can be
19 dropoff or the certified, which are run by the waste
20 prevention and education division, continuation or expansion
21 of curbside used oil collection programs, development and
22 distribution of public education materials explaining proper
23 disposal of used oil, assistance to private entities
24 collecting used oil from the public for charge, payment of
25 disposal costs for used oil collected at collection and/or

1 one-day collection events, and funding for local government
2 staff positions implementing oil collection program.

3 As you can see, the development of public/private
4 partnerships was a part of this program and the education is
5 a very important part of the program also, both of which the
6 City of LA grant application did address.

7 BOARD MEMBER NEAL: While he's coming up, just so
8 you understand what it was that raised my concern, in
9 looking through the City of LA's materials there were some
10 specific statements made that Unocal would assume sole
11 responsibility for developing, implementing and managing the
12 public education effort. And then if you go further into
13 the letter of understanding that Unocal would be negotiating
14 an agreement with the City of Los Angeles to service the
15 City's exclusive certified used oil collector.

16 So with that I'd like to --

17 MR. BIAGI: Good afternoon. That's quite a great
18 lead in for me to start talking about.

19 Two documents that are quoted are letters from
20 Unocal to us that were drafted and sent to us at a time when
21 things were not going real well.

22 There are three parties involved in what Los
23 Angeles is trying to do, the City of LA, Unocal Corporation,
24 and the American Oceans Campaign.

25 We were in a little bit of a tug of war, all was

1 not well in the boat for quite some time there. It was
2 rocking around quite a bit as we were trying to iron out
3 exactly who was going to do what and how.

4 Those of you that might wonder how we got to
5 Unocal, we had been working toward applying for this grant
6 for a couple of years with a whole variety of oil companies
7 trying to get a wide spectrum of participation.

8 The whole effort fell apart within two months to
9 go before the application deadline date, primarily falling
10 apart around the liability issue. None of the stations that
11 we were trying to get involved really wanted to do anything
12 to assume the liability for potential hot loads and things
13 of that nature.

14 So Unocal had been standing in the wings
15 indicating that they would be there if we ever needed them
16 to step in and get with us and put a full program in the
17 city.

18 And with two months to go Unocal did step in, they
19 joined with us and with American Oceans campaign and put up
20 the original application that you saw.

21 The application got up here and I might add that
22 the staff when they saw it they were horrified as well.
23 They thought, my gosh, we're going to spend a million
24 dollars in LA telling everyone how wonderful Unocal is.

25 So they fired us a letter back and said we would

1 like to get a little bit more information from you.

2 We gave them that information on December the 3rd
3 in the letter that follows up the application that you were
4 reading from.

5 That in itself did not appear to be enough. They
6 invited us up, so the vice president of communications for
7 Unocal and I came up day before yesterday, met with Daniel
8 Gorfain and his staff, and I think as we presented where we
9 are today with the public education campaign, Unocal is very
10 very interested in having the Waste Board know what they're
11 doing prior to the time that we do it. We want and we've
12 offered to Mr. Gorfain and the staff the opportunity or
13 anyone from the Waste Board who is interested to be involved
14 in the creative work that goes into setting up the message
15 before we do it.

16 We fully intend to provide Daniel or whoever you
17 would like with copy of whatever we intend to put in a
18 newspaper or air on the radio prior to the time that we do
19 it.

20 I think we need to cover Unocal in all of this as
21 well. It would be crazy for them to do something, spend
22 money, and then not have it be reimbursable from you folks.
23 So we need to take care of them on the front end of this
24 thing.

25 At the bottom end of all of our messages there's

1 going to be an 800 number. We have an 800 number that we
2 are putting up within the next month or so for our household
3 hazardous waste mobile program which kicks off in Los
4 Angeles in February of '94.

5 The oil recycling will tag into the same hotline
6 number. People will be able to call, punch in their zip
7 code, and be told the nearest certified collection centers.

8 So we have four Jiffy Lubes in the City of Los
9 Angeles who are currently certified, the 40 Unocal stations
10 will be added to that list. As other centers become
11 certified they will go into our hotline number as well. So
12 no exclusivity for Unocal on advising the people what is out
13 there that they can use.

14 The very end of our advertising will say this
15 program is brought to you by the City of Los Angeles, Unocal
16 Corporation, American Oceans Campaign.

17 Unocal sees this as their way to be a good
18 citizen. They're hoping they will get more people to buy
19 their gasoline, of course, but this is all part of the
20 partnership that we have worked toward and I believe that
21 after we pretty much went through the matter in detail day
22 before yesterday I think it will go very very well. We're
23 really looking forward to doing it. I think public/private
24 partnerships is a major -- is a big deal, it's a big deal in
25 a lot of places and we think this will work.

1 BOARD MEMBER NEAL: You've stated that you have
2 some Jiffy Lubes also coming on line?

3 MR. BIAGI: There are four Jiffy Lubes in Los
4 Angeles that are currently certified.

5 BOARD MEMBER NEAL: My understanding is we may be
6 having more centers from other companies that might be
7 certified. We're certainly going to encourage our staff to
8 go out and market the program.

9 I'm wondering with the tag line when we're talking
10 about, when you have other centers will they feel somewhat
11 unfairly or disadvantaged because Unocal has their name out
12 front with funds that have come from all of the companies?

13 MR. BIAGI: Well, obviously, people have a right
14 to feel the way they're going to feel and some of them may
15 feel that way.

16 I would point out, though, that the relationship
17 with Unocal is one year. The intent is to get the 40
18 centers up and running for this first year and then for year
19 two onward we will not have any exclusive relationship with
20 them.

21 This was an effort to get a program rolling that
22 we could manage. The Unocal dealers are independent owners
23 of their stations, yet they're all under the Unocal
24 corporate management so we believe that this is the best way
25 to get Los Angeles up and rolling quickly in year one and

1 then spread it out for the remaining years.

2 And we will explain to every certified center as
3 best we can that they are in our computer, they are there
4 for the people to find out about when the calls come in.

5 BOARD MEMBER NEAL: Okay. And what resources is
6 Unocal contributing to this? We're giving you the money,
7 what are they putting up?

8 MR. BIAGI: Well, they are essentially putting up
9 the complete program in that they are gathering in all of
10 their dealers, they're signing up their dealers, they're
11 helping their dealers to get through the certification
12 process. They are putting the service, the 40 service
13 centers into operation.

14 That will be accomplished, I'm sure, with a great
15 deal of effort on their part. I don't think we have put any
16 exact numbers on what their contribution will be.

17 They like to view this or they would prefer to
18 view this as they would have zero financial contribution to
19 this program. They would just run it and be reimbursed.

20 Obviously that will never happen because they're
21 going to be doing all kinds of stuff that they will never
22 see reimbursement for.

23 But we don't have a dollar figure on exactly what
24 Unocal would be contributing at this point.

25 BOARD MEMBER NEAL: Okay. So it's not your

1 intent, despite what the materials stated, to have any kind
2 of an exclusive agreement?

3 MR. BIAGI: It is not our intent to ever give
4 anyone the understanding that they can only take used motor
5 oil in the City of Los Angeles to a Unocal certified center.
6 All centers will be included in our advertising material.

7 BOARD MEMBER NEAL: Any kind of exclusive -- is
8 there any kind of exclusive relationship anticipated with
9 your activities with Unocal?

10 MR. BIAGI: I think the only exclusive
11 relationship would be the tag line, "This program is brought
12 to you by the City of Los Angeles, Unocal, and the American
13 Oceans Campaign." That would be the tag line for the 1994
14 program.

15 BOARD CHAIRMAN HUFF: Okay.

16 MR. BIAGI: And if the going gets really tough up
17 here I could say the Integrated Waste Management Board, the
18 City of Los Angeles, Unocal.

19 BOARD MEMBER NEAL: We want to all be named
20 individually. The tag line, you won't have any space on the
21 screen --

22 BOARD VICE CHAIRMAN CHESBRO: George Deukmejian,
23 Willie Brown, David Roberti.

24 BOARD MEMBER NEAL: Et al.

25 I appreciate that there's not an exclusive

1 situation as was originally contemplated.

2 I'm personally still a little bit uncomfortable
3 with, I think, the promotional edge that Unocal gets out of
4 this from dollars that were contributed from a number of
5 sources in the industry. I'm surprised that, I don't know
6 if the rest of the industry knows about this and I'm
7 surprised if they do that they have not said anything. It
8 is a very competitive industry.

9 BOARD MEMBER RELIS: Ms. Neal, I'm not sure I
10 understand this right, because I wasn't at the meeting or
11 have read those letters, but it's my sense is that you were
12 at one point there was this consortium effort attempted and
13 due to reasons of liability concern it fell apart and it's
14 more Unocal hung in there. Is that --

15 MR. BIAGI: That's correct. Western States
16 Petroleum Association and the American Oceans Campaign and
17 the City of LA were the original players and that went on
18 for better than a year and a half and liability became the
19 issue and it all fell by the wayside.

20 BOARD MEMBER RELIS: If they weren't in, there
21 wouldn't be much of a program at this point or would there?

22 MR. BIAGI: There would be, based on the
23 requirements having the 38 centers within the City of LA we
24 would not have been able to come up with another program.

25 BOARD MEMBER NEAL: I would think that what the

1 option would be for us to go out and encourage a lot of
2 centers to sign up and then I would imagine at some point
3 when the City got the grant then they would perhaps go out
4 to a contractor or for the public information campaign or do
5 it in house.

6 I want to see this program get underway and I'm
7 still uncomfortable and I'm not going to pretend that I like
8 this, because there are a number of aspects to it that I do
9 not like. I just, it will be interesting to see if halfway
10 through the year Chevron decides that they want to jump on
11 board and all of a sudden Unocal has all the money and the
12 tag line comes up, what happens.

13 But I will have them call you and not us.

14 MR. BIAGI: Halfway through the year we'll be
15 working hard on '95 so we'll welcome them on board.

16 And I would suggest, I mean I obviously don't need
17 to tell you how do what you're concerned about doing, but
18 Dan Gorfain over here is -- he had the same concerns the day
19 before yesterday, we went through them with him, and I have
20 a very strong feeling that your staff is going to keep a
21 very close eye on us.

22 The bottom line is that you send the checks back
23 down on the reimbursement and if you don't like what you see
24 it's our fault.

25 MS. GILDART: I would also like to offer

1 participation by your staff if possible on the review panel,
2 if your advisor would like to see some of these materials or
3 however any of the board members.

4 BOARD MEMBER NEAL: I want to live. My staff is
5 very close to me and has constant access and I don't know
6 how much I would be imperiling my health and well being if I
7 committed them to that, but let's keep in contact and we'll
8 work together.

9 BOARD VICE CHAIRMAN CHESBRO: I'm going to do a
10 combined ex parte and comment.

11 I had a phone conversation with the chairwoman of
12 the LA Board of Public Works who also assured me that she
13 shared the concerns that our staff had about how the program
14 was set up and that she would make an effort as well and
15 with the understanding that there is going to be board
16 review through our staff and voluntarily if she so chooses
17 from that from Ms. Neal's office, that they will be
18 reviewing the program and that that was agreed to at the
19 meeting earlier this week.

20 I will move the item.

21 BOARD CHAIRMAN HUFF: I have a motion.

22 BOARD MEMBER RELIS: Second.

23 BOARD CHAIRMAN HUFF: Vote.

24 BOARD SECRETARY KELLY: Board Member Chesbro.

25 BOARD VICE CHAIRMAN CHESBRO: Aye.

1 BOARD SECRETARY KELLY: Egigian

2 BOARD MEMBER EGIGIAN: Aye.

3 BOARD SECRETARY KELLY: Neal.

4 BOARD MEMBER NEAL: Aye.

5 BOARD SECRETARY KELLY: Relis.

6 BOARD MEMBER RELIS: Aye.

7 BOARD SECRETARY KELLY: Chairman Huff.

8 BOARD CHAIRMAN HUFF: Aye.

9 Motion carries 5-0.

10 BOARD MEMBER NEAL: Can I say one thing?

11 Staff, as we go forward, I think this is certainly
12 our first round in the grant process and we're inventing
13 some things as we go along. We saw things I think as a
14 result of this situation that there may be some issues that
15 we need to address as we go forward and I'd like you to
16 think about how we make sure in the future that we're real
17 clear that we have a responsibility of equity in the way
18 that we handle these public funds. Keep in mind the
19 discussion we had and figure out how we make sure it doesn't
20 happen in the future.

21 BOARD CHAIRMAN HUFF: Thank you.

22 MS. GILDART: I'm also here for the next item,
23 which is Item 29, consideration of the application package
24 for local government used oil opportunity grant program.

25 BOARD CHAIRMAN HUFF: Why was that not on consent?

1 BOARD MEMBER NEAL: I thought it was with mine,
2 but you didn't name it.

3 BOARD CHAIRMAN HUFF: No. It's not on my list.
4 That's why I didn't name it.

5 MR. GORFAIN: I think what happened, Mr. Chairman,
6 is that some evaluation criteria for these applications
7 added on fairly late in the committee review process and we
8 felt more comfortable if the board had a chance to react to
9 those if there were any questions.

10 BOARD CHAIRMAN HUFF: Are there any questions of
11 this late arrival?

12 BOARD MEMBER RELIS: I have none.

13 BOARD MEMBER NEAL: Move it.

14 BOARD CHAIRMAN HUFF: It's been moved.
15 We'll have a vote.

16 BOARD SECRETARY KELLY: Board Member Chesbro.

17 BOARD VICE CHAIRMAN CHESBRO: Aye.

18 BOARD SECRETARY KELLY: Egigian

19 BOARD MEMBER EGIGIAN: Aye.

20 BOARD SECRETARY KELLY: Neal.

21 BOARD MEMBER NEAL: Aye.

22 BOARD SECRETARY KELLY: Relis.

23 BOARD MEMBER RELIS: Aye.

24 BOARD SECRETARY KELLY: Chairman Huff.

25 BOARD CHAIRMAN HUFF: Aye.

1 Motion carries 5-0.

2 Takes us to 30.

3 EXECUTIVE DIRECTOR CHANDLER: Mr. Chairman, I will
4 introduce this item if I could.

5 And in the interest of moving to the point of
6 discussion I will basically say you know this issue has
7 moved down a long and arduous path to the point where we are
8 today to discuss the policy. I'll bring the audience and
9 the board members up to really the events of the last
10 committee meeting this month, the December meeting of the
11 Planning Committee, where Chairman Chesbro proposed what I
12 would call compromise motion.

13 And this was done after hearing testimony from
14 jurisdictions, landfill operators, composters, environmental
15 groups and the biomass industry.

16 The Planning Committee motion adopted one which
17 first of all allowed a jurisdiction using ADC to meet the 25
18 percent diversion requirement to include not more than five
19 percent through the use of ADC if it demonstrates it has
20 planned for and/or implemented appropriate market
21 development procurement and diversion programs.

22 Secondly, allows a jurisdiction to appeal to the
23 board for an additional disposal reduction of up to 2.5
24 percent for a maximum of 7.5 percent disposal reduction and
25 says that the policy is operative until December 1997.

1 The committee's direction to staff was also to
2 evaluate a proposal by the independent energy producers to,
3 if you will, exclude certain elements of the biomass waste
4 stream, if you will, particularly agricultural waste and
5 woody wastes from being eligible for ADC.

6 In the short period of time that has transpired
7 staff have looked at that proposal and do find some
8 difficulty in ease of administration.

9 Essentially we're being asked or would be asking
10 landfill operators or local governments to try to
11 distinguish between green waste and woody waste.

12 I would like to remind the board that we currently
13 have a legislative requirement to look at agricultural case,
14 in this case it's rice straw and rice hulls, as a suitable
15 alternative daily cover material or as an extender to
16 alternative daily cover.

17 Staff also noted that some jurisdictions in more
18 rural desert or agricultural areas may be penalized under
19 the proposal because green waste may not be a significant
20 part of their waste stream, however wood waste and
21 agriculture wastes might.

22 So I think that brings us to the point of perhaps
23 future testimony and discussion today, but I did want to
24 point out that as it related to that Item No. 7 on the
25 committee's motion, staff does raise some issues and some

1 concerns with the suitability and ease of administration as
2 it relates to the proposed policy.

3 BOARD VICE CHAIRMAN CHESBRO: Mr. Chairman.

4 BOARD CHAIRMAN HUFF: Yes, Mr. Chesbro.

5 BOARD VICE CHAIRMAN CHESBRO: Yes. Mr. Chandler
6 has satisfactorily summarized the content of the proposed
7 position that came out of the committee.

8 I just like to say as the proposer of the motion
9 at the committee that was then somewhat modified, my goal
10 has been to get this thing resolved in a way that first of
11 all could get a majority of board members, hopefully
12 unanimous consent of board members in order to move forward
13 and also to avoid the ends of the spectrum that on the one
14 hand say not counting it whatsoever under any circumstances,
15 and on the other hand respond to the concern that the
16 composers had raised being allowed to be counted in an
17 unlimited way.

18 I think we're very close to that. We probably
19 need to have some fine tuning discussions here. Issues have
20 arisen about the two modifications that the -- that were
21 made at the committee. One was mentioned by Mr. Chandler in
22 regards to the materials that are not on the list and the
23 second was the question that has arisen around if we have an
24 appeals process from 5 to 7.5 percent what is the policy
25 objective and what's the criteria for that appeal or is it

1 just another hoop that we and the local jurisdictions have
2 to jump through. And that's a very good question that I
3 think we need to discuss today.

4 So I present the proposal as approved by the
5 committee. I would hope that whatever modifications,
6 further modifications we make today be made in the spirit of
7 trying to get this thing taken care of once and for all so
8 we can move on to other important issues we have to deal
9 with. Okay.

10 BOARD CHAIRMAN HUFF: Anyone else?

11 I have eight speakers.

12 Yvonne Hunter is first.

13 Unless there's someone you want to designate.

14 BOARD VICE CHAIRMAN CHESBRO: After Kathy's
15 earlier comments about another item that let's, it is five
16 after 1:00 so let's try to -- we've heard this item for
17 since last summer, I think.

18 BOARD CHAIRMAN HUFF: Ad nauseam.

19 BOARD VICE CHAIRMAN CHESBRO: As quickly as
20 possible.

21 MS. HUNTER: I'm hungry so I'll be quick.

22 BOARD VICE CHAIRMAN CHESBRO: It's good incentive
23 to get the thing done quick.

24 MS. HUNTER: Yes.

25 First of all, I understand and acknowledge that

1 this is something that has been hashed over at length. It's
2 a difficult issue and we appreciate the fact that the board
3 is trying to strike a compromise between two extremes.
4 Nevertheless as a representative -- Yvonne Hunter, League of
5 California Cities -- and speaking on behalf of cities, the
6 only level or the only part of the game where we can have
7 monetary penalties for not achieving the goals we think that
8 alternate daily cover should count towards the diversion
9 goals in an unlimited manner relative to the amount of daily
10 cover that you have. Clearly if your daily cover calls for
11 six inches you can't put on four feet of green waste and get
12 credit for it, it has to be on the one for one.

13 We think it's important and that local governments
14 that choose that route because there is no adequate market
15 that is cost effective for them relative to ADC, they ought
16 to be able to get full credit.

17 In the long run we acknowledge that compost is
18 probably the better end use and I think a lot of
19 jurisdictions would acknowledge that and are working towards
20 that.

21 In the interim, in the short term, if we're going
22 to achieve the AB 939 goals we need to be able to get credit
23 for ADC.

24 And we think that contrary to what some may say
25 that these are two conflicting goals, I think there was

1 testimony last week from someone from the City of Woodland,
2 they're setting up the infrastructure, the education
3 processes for their citizens to understand the necessity of
4 collecting material in an appropriate manner that eventually
5 will be appropriate for compost. But until then we need the
6 credit under ADC.

7 So our first choice would be unlimited credit and
8 I can't emphasize that strong enough.

9 The board recommendation is, or the Policy
10 Committee recommendation is five percent plus a two and a
11 half percent appeal. We think if you're looking for ease of
12 administration it ought to be just straight ten percent.
13 Call ten percent, call it good and it's easy to administer.

14 If there is going to be some appeals process,
15 again for the ease of administration, probably a good way to
16 go would be you get whatever percentage, let's for the sake
17 of argument your five percent, and a jurisdiction can
18 demonstrate to the board that adequate markets do not exist,
19 it is meeting the appropriate criteria based on its permit
20 and all of that and it will get the two and a half percent
21 unless the board responds within, say, 45 days that more
22 information is necessary and then you can go into a
23 negotiating posture.

24 But again our preference is unlimited credit. We
25 think it's very very very important. If cities, counties

1 and the state are going to achieve the AB 939 goals we need
2 to have this flexibility.

3 Thank you very much.

4 BOARD CHAIRMAN HUFF: Mr. Egigian.

5 MR. LIPSON: Mr. Egigian wanted to point out this
6 came out of the Planning Committee, not the current
7 recommendation.

8 MS. HUNTER: I'm sorry. I'm still back on waste
9 diversion. It was from the Planning Committee and they did
10 a good job too.

11 BOARD CHAIRMAN HUFF: Anything further? Okay.

12 George Fasching.

13 MR. FASCHING: My Chairman, members of the board,
14 I was here six weeks ago.

15 And sitting in the Burbank Airport this morning
16 for two hours waiting for the fog to lift in Sacramento I
17 was aware of the committee report on the five percent, so
18 coming here I knew this was going to be a little uphill
19 battle once we got into Sacramento if fog lifted, which it
20 did.

21 But nevertheless I want to present to you this
22 proclamation and I'll read it if I may.

23 "Whereas the California Integrated
24 Waste Management Act requires California
25 cities and counties to prepare, adopt

1 and implement source reduction and
2 recycling elements that plan for solid
3 waste diversion goals by 25 percent by
4 1995 and 50 percent by the year 2000;
5 and whereas the cities in Los Angeles
6 County with the assistance of the
7 Sanitation Districts of Los Angeles
8 County have prepared and required and
9 adopted the SRREs that are implementing
10 the programs identified in the SRREs;
11 and whereas green waste represents a
12 significant portion of each city's waste
13 stream; and whereas the successful
14 diversion of green waste is critical in
15 meeting the diversion goals for 1995 and
16 the year 2000; and whereas there are
17 insufficient viable proven and
18 economically feasible alternatives to
19 legally divert green waste effectively
20 in Los Angeles County; and whereas the
21 California Integrated Waste Management
22 Board has approved a cost-effective
23 green waste recycling program whereby
24 green waste material is used as
25 alternative daily landfill cover and

1 this program has been successfully
2 implemented by the Sanitation Districts
3 of Los Angeles County at its landfills;
4 and whereas the allowance of green waste
5 as alternative daily landfill cover by
6 the California Integrated Waste
7 Management Board would stimulate markets
8 for green waste programs, entice cities
9 not segregating green waste to do so and
10 make it possible for cities and their
11 citizens to meet the goals of AB 939.

12 "And now therefore we the
13 undersigned elected officials of 26
14 cities in Los Angeles County do hereby
15 proclaim that a policy modification is
16 needed allowing full credit for legal
17 diversion of alternative daily landfill
18 cover."

19 Dated the 15th day of December, 1993, and signed
20 by Mr. Ed Kurtz, Mayor of the City of Agoura Hills; Barbara
21 Messina, Mayor of the City of Alhambra; Joseph Ciraulo,
22 Mayor, City of Arcadia; James Van Horn Jr., Mayor, City of
23 Artesia; Eugene Moses, Mayor, City of Azusa; Frank Duran,
24 Mayor, City of Bell Gardens; Audrey Chamberlain, Mayor, City
25 of Bradbury; Gary Miller, Mayor, City of Diamond Bar;

1 Margaret Finlay, Mayor, City of Duarte; Patricia Wallach,
2 Mayor, City of El Monte; Robert G. Canada, Mayor, City of
3 Hawaiian Gardens; James Edwards, Mayor, City of La Canada
4 Flintridge; Wayne Rew, Mayor, City of La Mirada; John
5 Blickenstaff, Mayor, City of La Verne; Harold Hofmann,
6 Mayor, City of Lawndale; Charles Belba, Mayor, City of
7 Lomita; Paul Richards, Mayor, City of Lynwood; Robert
8 Bartlett, Mayor, City of Monrovia; Marie T. Purvis, Mayor,
9 City of Monterey Park; Alberto Natividad, Mayor, City of
10 Pico Rivera; Robert Bruesch, Mayor, City of Rosemead; Terry
11 Dipple, Mayor, City of San Dimas; Al Fuentes, Mayor, City of
12 Santa Fe Springs; Clem Bartolai, Mayor, City of Sierra
13 Madre; Carol Churchill, Mayor, City of Signal Hill; and Sal
14 Guarriello, Mayor, City of West Hollywood.

15 In addition to the mayors whose signatures have
16 signed to this proclamation there are also 104 elected
17 officials of those cities representing over one million
18 residents who are also a part of this proclamation.
19 However, with your permission I won't read their names at
20 this time.

21 Many other cities within Los Angeles County have
22 supported this measure asking for full credit of green waste
23 diversion and have submitted their request for this to the
24 board by separate cover.

25 This is a very important issue to our cities. We

1 do not feel that five percent, which we've been aware of was
2 a committee report, will do the job for us in meeting the
3 goals of AB 939, and we request your consideration to our
4 request from our cities representing many millions of people
5 as to the full credit for diversion of green waste.

6 And I thank you for the opportunity of being here.

7 BOARD CHAIRMAN HUFF: Questions?

8 Evan Edgar.

9 MR. EDGAR: Good afternoon, Chairman Huff and
10 board members.

11 ADC many parts are edible, I had every aspect of
12 working with ADC over the last couple of years, worked with
13 many different groups, cities, counties, the haulers, a lot
14 of different people, and from what I've been hearing over
15 the last couple of months is a lot of different coalitions
16 and groups support this ADC as full credit. I'm talking to
17 the CRRA and a lot of composters.

18 So in the spirit of compromise I hear a lot of
19 people wanting full credit, but if we had to get something,
20 10 percent credit would be nice as well.

21 So I'm just here to reiterate from the California
22 Refuse Removal Coalition that we're here to support full
23 credit of ADC.

24 Thank you.

25 BOARD CHAIRMAN HUFF: Any questions?

1 Charles White.

2 MR. WHITE: Charles White, representing WMX
3 Technologies and Waste Management.

4 There's really just three issues that I would like
5 to bring to your attention and I think probably hopefully
6 number one I'd like to bring to your attention is the
7 simplest and perhaps easiest to resolve.

8 We do appreciate the board finally recognizing or
9 recognizing that the materials are legitimate recycled
10 materials, can be used beneficially to meet the goals of AB
11 939 and you have laid out a good framework and structure to
12 create conditions that prevent abuse and this sort of thing.

13 And one of the first statement is that you, board,
14 recognized the need to develop regulations and they'll have
15 to be promulgated to implement the policy and we certainly
16 encourage you to develop regulations that would give further
17 specificity to the criterias you have to meet to use
18 waste-derived materials for ADC.

19 But that leads to my initial concern of
20 subparagraph B of item number three in your proposed policy.
21 It still makes reference to a year-long demonstration
22 project being successful before you would get, apparently,
23 get diversion credit or disposal reduction credit under this
24 policy.

25 And one of the hopes that we have is that

1 regulations that you ultimately adopt would perhaps still
2 provide for certain situations that required a year-long
3 demonstration project or maybe only a six-month
4 demonstration project or various other types of
5 demonstration projects or perhaps even any demonstration
6 project at all because there may be certain materials that
7 the board has had sufficient familiarity with working with,
8 say, other people that have gone through the year-long
9 demonstration project, that there may be specific criteria.

10 So I would hate to have paragraph B of item three
11 somehow still preclude you from getting credit if you had
12 not gone through a year-long demonstration project but it
13 otherwise comply with the regulations that the board
14 hopefully adopts.

15 My specific request would be after the word
16 "successful" in line number three of B 3 to insert the words
17 "and/or" and, slash, or, the use of ADC is consistent with
18 regulations adopted by the board.

19 So in the event that you have to go through a
20 demonstration project you're saying and it also has to be
21 consistent with regulations or in the event that a year-long
22 demonstration is negated by the regulations you just simply
23 have to comply with those regulations. It's a minor detail
24 and I hope the board would concur on making this minor
25 change to make this a little more implementable down the

1 road.

2 Second area of concern again is these limitations.
3 We believe that ultimately a ten percent is more on the line
4 with what, if you are going to put a limitation, ten percent
5 should be the ultimate level. However, we think that the
6 tiered structure that you've suggested that is setting
7 across the board level and then allowing a case-by-case
8 adjustment upwards based upon individual needs of a
9 jurisdiction is appropriate, but we think the base level
10 ought to be more in line with seven and a half percent and
11 within a possible case-by-case upward adjustment of two and
12 a half percent. We still think that there are legitimate
13 uses for recovered waste materials for use of ADC within
14 that range of seven and a half to ten percent.

15 And then final issue has to do with the not
16 specifically including wood and ag waste. We really don't
17 have any problem with the language as it now stands. Sure,
18 I think there might be some interpretation, potential
19 interpretation problems, but the ag waste and wood waste
20 typically would not be considered for alternative daily
21 cover and it does basically set the message that this focus
22 of this policy is for yard waste, food waste, other types of
23 materials, and as specific problems do arise in the future
24 with respect to definitions I think those could be
25 specifically addressed at that time they arise, but until

1 then perhaps we don't need to make a problem unless one is
2 specifically known to exist.

3 But I would encourage you to stay with the
4 language of paragraph number seven.

5 Thank you.

6 BOARD CHAIRMAN HUFF: Any questions?

7 Jack Michael.

8 MR. MICHAEL: Chairman Huff, members of the board,
9 I'm Jack Michael representing Los Angeles County.

10 And today in these comments I've also been asked
11 to represent the California State Association of Counties as
12 well as the County Engineers Association of California.

13 Clearly we are supportive of the use of ADC for
14 daily cover and particularly supportive of the ability to
15 achieve credit in terms of diversion from disposal for that
16 particular use.

17 We believe that under AB 939, not only believe but
18 clearly understand, that local governments are the agencies
19 that are responsible and the only ones upon which sanctions
20 will be imposed, and we find it difficult when we continue
21 to have less flexibility in achieving those mandates.

22 If in fact, and we believe under the statutes, the
23 definitions of the statutes, the use of this material for
24 daily cover is a recycling product, therefore it is not
25 solid waste and do not understand how this particular type

1 of recycling should be restricted from credit versus any
2 other type of recycling.

3 We or I had recommended to the committee in
4 testifying on this matter that there was some question as to
5 why a policy might be necessary in this regard and suggested
6 that based on a technical discussion that the matter could
7 be dealt with absent a policy.

8 In the motion that was adopted by committee we
9 were pleased to see that there is provision on a technical
10 basis for this material to be used as daily cover to the
11 extent that it technically replaces any other material such
12 as dirt that may be used for daily cover. We believe that's
13 sufficient restriction to control any overuse of this
14 material simply for the matter of achieving diversion
15 credit.

16 But the limitation of five percent or even ten
17 percent, we believe, is inappropriate and again would
18 suggest that the matter simply be dealt with as a technical
19 permit issue on a case-by-case basis, facility by facility.

20 Having made that recommendation, I've been advised
21 that chairman of the committee, Board Member Chesbro, has
22 made the statement that without a policy there would be no
23 diversion credit allowed.

24 And in inquiring as to the basis of that statement
25 have been advised that it was based on legal advice from the

1 board's legal department.

2 If I might, I would like to ask what the legal
3 premise is for their being a need for policy on this
4 particular material for this particular use to achieve
5 diversion credit versus any other program or material that
6 local governments might be dealing with to meet the
7 mandates.

8 BOARD CHAIRMAN HUFF: Mr. Conheim, are you
9 conversant in this question or is this one of those
10 complicated things that counsel likes to ponder?

11 CHIEF LEGAL COUNSEL CONHEIM: Yes. It is
12 complicated, but I think the specific question that
13 Mr. Michael asks I can comment on.

14 It's our opinion that without a decision by the
15 board on a policy the board will ultimately be faced with
16 making a decision when the first SRRE claiming substantial
17 diversion from use of ADC comes in. So at some point the
18 board is going to have to make a decision.

19 So that is not exactly accurate, I don't think our
20 advice was and if it was it certainly isn't now, that
21 without a policy no credit is allowed.

22 What our advice is is that the decision will have
23 to be made because there is a contest, there is a
24 disagreement in what the law allows.

25 BOARD VICE CHAIRMAN CHESBRO: May I add that in

1 the absence of a policy it leaves local government guessing
2 as to what the makeup of the board will be and their
3 determination will be down the road. So relative to being
4 able to take the necessary steps to implement programs to
5 know if you're going to be in compliance, the absence of a
6 policy up front provisions no assurance whatsoever.

7 Sooner or later a determination needs to be made
8 and I guess that's that --

9 CHIEF LEGAL COUNSEL CONHEIM: I think that's
10 really what I think is -- we're more comfortable with that
11 advice. If we said the other at some point in the past or
12 been interpreted as --

13 BOARD VICE CHAIRMAN CHESBRO: Well, I think the
14 board make the assumption and the proponents of this concept
15 made the assumption when they brought it forth last summer
16 that it was, the board would have to make some policy
17 decisions in order to give local governments some direction.

18 I don't think there would have been a proposal to
19 act on this affirmatively had there not been an assumption
20 that it was necessary for the board to act.

21 But I concur and I accept the counsel's advice
22 that certainly the board could at a later date on a
23 case-by-case basis make the same decision and either yes or
24 no.

25 MR. MICHAEL: The concern I have was the

1 particular response is that what I understand to be said
2 that any program or any materials diverted to whatever
3 extent may or may not be allowed depending on ultimate
4 approval of the SRREs.

5 The original law --

6 CHIEF LEGAL COUNSEL CONHEIM: Not that's not what
7 I'm saying, Mr. Michael, but go ahead and I'll respond if
8 appropriate or the direction of the Chair.

9 MR. MICHAEL: There's no sense going on if that's
10 not what you're saying, because my understanding was simply
11 that at some point in time the board would make that
12 decision in terms of looking at SRREs as to how much credit
13 would be allowed.

14 CHIEF LEGAL COUNSEL CONHEIM: I'm making the
15 statement with regard to this particular material, because
16 there is a variety or a difference among at least two camps
17 of legal interpretation.

18 Some materials are clearly within the fold, some
19 are not. This one is somewhere in the middle and there has
20 been a dispute as to whether it can be considered. So I'm
21 really only making the statement about this one material and
22 that's what I'm talking about today. I'm not opening up the
23 entire waste stream or stream of divertables by my
24 statement.

25 MR. MICHAEL: All right. I won't pursue that at

1 this time any further other than to indicate that clearly as
2 local governments develop programs and implement them we're
3 seemingly challenged at every turn and it becomes very
4 difficult under our financial circumstances to continue
5 implementing programs that we believe meet the requirements
6 of the law and then ultimately have some further
7 restrictions imposed on us.

8 So in conclusion I'd simply like to say that again
9 we're very supportive of the ability to use this material as
10 alternative daily cover and to get credit.

11 We firmly believe that that credit should not be
12 limited other than to the extent that it's technically
13 required in terms of a permit, that if there is a
14 determination of this board that there be a need for a
15 limitation that it be no less than ten percent.

16 Thank you.

17 BOARD CHAIRMAN HUFF: Any questions?

18 Thank you.

19 Steve Maguin.

20 MR. MAGUIN: Mr. Chairman, members of the board,
21 my name is Steve Maguin, representing the Sanitation
22 Districts of Los Angeles County.

23 This is my seventh opportunity to address the
24 board or one of its committees on this issue and I think I
25 have run out of points to make. I think I have made every

1 point I can possibly make to you, so I will be very brief in
2 a summary format.

3 Before I get to the issues, though, I'd like to
4 take moment to thank you each and every board member who has
5 taken the time to listen to me, I'm sure ad nauseam in some
6 cases, on this issue. You've all been very gracious. You
7 have not always, all of you, agreed with me, but you've been
8 very gracious in giving me plentiful amount of time to make
9 my case on behalf of the cities that are members of our
10 organization on a issue that I think is extremely important
11 to those cities.

12 So I want to thank you personally.

13 I also want to thank the efforts that have gone on
14 at the committee level and the meetings of board member such
15 as just last week and improving compromise positions.

16 Mr. Chesbro's committee last week, one or two of
17 my issues were accommodated with changes to the policy that
18 recently. And I want to thank you for those efforts.

19 So we're down to a very focused small set of
20 issues and I would like to concur with some point the
21 previous speakers have made on the issue that if there must
22 be a limit it cannot be less than ten percent. We have
23 developed for you a consensus among all but one entity that
24 has addressed the board on this issue and ten percent is
25 extremely restrictive. Any numerical limitation less than

1 that is an overly restrictive burden upon local government.

2 And if that limitation must be bifurcated in a
3 two-step process I would certainly agree that the steps to
4 get from step one to step two be an administratable process.
5 I don't think you want hundreds of cities or even tens of
6 cities loading your agenda with appeals on this issue.

7 I certainly would support the idea of putting the
8 burden of proof, the burden of demonstration on cities to go
9 from the lower level to a higher level of credit on this
10 issue.

11 In closing, I would like to reiterate I think in
12 this case with the programs that have been demonstrated to
13 your board we've had the opportunity to go through the
14 permitting review.

15 In the case of our four landfills you know the
16 kind of discretion you can exercise site by site,
17 application by application. Your staff has had the
18 opportunity to see this program in operation, see how well
19 it works, and I certainly would strongly recommend that the
20 ultimate policy from this board concur in unlimited credit
21 to cities of California.

22 Thank you very much.

23 BOARD CHAIRMAN HUFF: Any questions?

24 Thank you.

25 Tony Hicks.

1 MR. HICKS: Mr. Chairman, members of the board, my
2 name is Tony Hicks. I represent a company called BEI out of
3 Southern California. We also operate NFC. That is a small
4 fertilizer company.

5 I think this is my first time to talk before the
6 board.

7 I think I represent a group that you probably
8 haven't heard from before. We're a small fertilizer
9 producer.

10 One of my concerns is the glut of compost on the
11 market at this time in compostable materials. It's severely
12 affected the market, the price, the fines that we produce.

13 We also operate several wood waste receiving
14 locations where we divert that material right now to boiler
15 fuel into fines for composting operations.

16 With the glut of material that's on the market at
17 this time and the lack of a market that we have it's driven
18 the price of both our fines and our fertilizer material down
19 to an all-time low, less than what material was selling for
20 20 years ago, for instance.

21 What I heard earlier, I've been here very few
22 times, but when I heard earlier from Mr. Chesbro was that, I
23 don't want to quote you exactly, but just he stated that
24 the -- felt that it was the board's responsibility in
25 regards to the paper and cardboard industry to develop

1 markets for the wastepaper in order to make it possible for
2 the cities and local government to meet these mandated
3 goals.

4 So from the cities' side I can see where they have
5 a problem meeting these mandated goals without markets.

6 From my side I have a problem that we have no
7 markets for this material and by producing more compostable
8 materials or bringing it into the market at this time is
9 going to affect the market even more.

10 I see in our area a lot of small composters that
11 are operating illegally and fertilizer producers that use an
12 animal waste fertilizers, as we do, leaving the business,
13 going out of business, forced out of business because they
14 cannot make a profit off the materials that they're
15 producing.

16 So to limit available diversions now to only ten
17 percent I think is a real mistake.

18 I think, you know, in closing that the board, if
19 the board would look a little more towards allowing 100
20 percent credit for any viable diversions that are available
21 at this time and then at some point down the line looking
22 back at this, develop the markets as you have done today,
23 taken that first step for the cardboard and paper industry.

24 Have to remember, there is no industry here to go
25 back on to help with this as far as a compost. The compost

1 that's produced we don't have a paper industry that can turn
2 around and start producing a recycled paper instead of new
3 paper. Most of this material is created by households and
4 families and we really need some legislation, some help, to
5 use this material before the board takes any action on
6 taking away from what little reuse is available right now.

7 BOARD CHAIRMAN HUFF: Any questions? Okay.

8 BOARD VICE CHAIRMAN CHESBRO: Let me state that we
9 do in the market development policy, which Mr. Relis may
10 want to speak to, developing compost markets is considered
11 right up there with paper as the second priority. I don't
12 know which one is first, which one is second.

13 BOARD MEMBER RELIS: It's a draw.

14 BOARD VICE CHAIRMAN CHESBRO: In the policy that's
15 proposed there's a restated statement of intent for the
16 board to play leadership role in developing the markets for
17 compost.

18 MR. HICKS: I know there's been a lot of talk
19 today about whether the cart in front or the horse is front.

20 I feel on the paper just from the limited
21 knowledge and time that I've had in these meetings it looks
22 like the paper is going what I would say is the right way.
23 You're putting forth the effort to develop the markets now.

24 And I think that's what you really need with the
25 compost market, as far as green waste or anything that can

1 be used for alternate daily cover, if you could go ahead and
2 allow that to be used now.

3 I don't think it, if anything, it's going to help
4 boost the markets for composting material and that are
5 available now to bring the price back up and make it
6 something that's realistic to continuing.

7 I think otherwise you're going to force what
8 composters you have out of business.

9 Just real quickly, since I got started again, if
10 you're talking about composting, our problem is we would
11 like to go to the composting business but with the
12 difficulty and the expense the way the law is written right
13 now to license a composting facility it makes it
14 unobtainable for a company of our size.

15 If you look at, I don't feel too bad after last
16 week on Tuesday, I was at your committee meeting, and the
17 cities from Contra Costa County apparently have the same
18 problem with the wording and the way the legislation is
19 written now, it's awfully hard to get a composting site
20 sited or permitted.

21 Thank you.

22 BOARD CHAIRMAN HUFF: Thank you.

23 Bob Judd.

24 MR. JUDD: Thank you, Mr. Chairman, members. My
25 name is Bob Judd. I'm here representing Thermo Energy

1 Systems and also speaking for other major biomass power
2 plant operators and the Independent Energy Producers
3 Association, many of whom have contacted members of this
4 board with letters and phone calls on this issue.

5 As brief background our industry in total appears
6 to divert at our best estimates about three and a half
7 million tons of materials from landfill that otherwise would
8 go there. About a third of our fuel supplies is our best
9 estimate, would be materials that would go to landfill, and
10 we use about nine million tons of fuel collectively in a
11 year.

12 We do support the motion that has been brought to
13 the committee from the local government and planning
14 committee with regard to the language that speaks to our
15 interests, and encourage the acceptance of the language that
16 relates to what's contained, or alternatively, as staff has
17 suggested in its notes, if it's preferable for the board to
18 adopt a policy that rather than define what is in ADC,
19 excludes wood waste and agricultural residues, that
20 certainly would be acceptable to us, whichever way is easier
21 for the board.

22 Alternatively, if that can't be accepted, we feel
23 that we would have to recommend that wood waste and
24 agricultural crop residues be withheld from approval at
25 least until the board staff can do an adequate review of the

1 impact on existing markets for these materials and on the
2 demand for these materials as ADC. That seems only fair
3 given the mature market system that currently exists, 200
4 fuel brokers, perhaps 2,000 jobs that provide these
5 materials to our businesses, which are buyers of the
6 processed fuels.

7 We see little reason for controversy about our
8 amendment here. We came into this debate with the goal of
9 protecting our interest without intruding upon anyone else's
10 interest. This is our third presentation before the board.
11 We have heard no opposition from local government, from
12 waste management companies and from other parties who have
13 participated in this. All we have heard is expressions of
14 support from some of them.

15 Including wood waste and ag residues in the
16 approved list of ADC undermines an industry that is part of
17 the solution to protection of landfills in the state. It
18 furthers and creates a new bias against the biomass sector
19 of the energy industry and in effect what it does is
20 substitute a low-value use of materials, that is wood waste
21 and ag crop residues, for alternative daily cover in place
22 of a high-value established market for these materials. And
23 to do that in the absence of need or demand for these
24 materials as ADC seems to be an inappropriate policy choice.

25 There has been a lot of discussion in all of these

1 meetings about market development. We feel that our
2 industry has led the way in market development for materials
3 diverted by landfill and ask that it not be destabilized.

4 We have read the comments from staff on this that
5 you received yesterday and if there's a need to address any
6 of those comments we would be glad to do that, although we
7 would say that some of the comments appear not to be policy
8 items that are appropriate for the board to address, but
9 we'll certainly answer any and all questions.

10 BOARD CHAIRMAN HUFF: Any questions of the
11 witness?

12 BOARD VICE CHAIRMAN CHESBRO: I have a question
13 for staff, while he's here, it's my understanding that there
14 is a jurisdiction, at least one, in the state that he's
15 talking about wood waste as at least part of ADC cover
16 material.

17 EXECUTIVE DIRECTOR CHANDLER: I believe that's
18 correct, Mr. Chesbro. The County of Los Angeles, I believe,
19 excuse me, of San Diego is involved in a demonstration
20 program now that uses shredded wood waste, pallets, and
21 other debris and mixed I believe as well with yard waste as
22 a cover material.

23 BOARD VICE CHAIRMAN CHESBRO: Well, one of the
24 things the committee asked for was the intended consequences
25 and one of the things I had told you previously had to do

1 with wanting to make sure that we weren't, that it wasn't
2 upsetting the balance that we're trying to strike in terms
3 of responding to local government concerns as well as the
4 composting industry and others. So I just be curious if you
5 still think, given that information, that it still meets
6 that, how it still meets that criteria.

7 MR. JUDD: Sure. I'd be glad to address that.

8 The three principal landfills in San Diego County
9 are San Marcos, Sycamore and Otai.

10 Our company buys about 60 tons per month of wood
11 waste from the San Diego landfills.

12 The project to which Mr. Chandler refers is the
13 Miramar Landfill, which is operated by the City of San
14 Diego.

15 We have spoken with them. They have told us that
16 they have an abundance of soil to handle all of their
17 prospective alternative daily cover needs.

18 They are experimenting with this wood waste as a
19 number of experiments that they have underway, but that the
20 policy that we propose would not be a significant impact on
21 their operations.

22 In fact in meeting with them we identified a new
23 source of wood waste materials that we are now in touch with
24 them for purchasing as fuel to provide them a stream of
25 revenue.

1 That's the only one that we can identify it. As
2 part of preparing for this we talked to all of the parties
3 who were involved prior to coming forward with our motion on
4 this to LA, to Yolo County, to waste management companies.
5 We really tried to do our homework on this to make sure we
6 were not intruding on other people's business in doing this
7 or removing options that were important to them.

8 BOARD CHAIRMAN HUFF: Any other questions?

9 BOARD VICE CHAIRMAN CHESBRO: Does this represent
10 any kind of, this is what I think staff alluded to earlier,
11 a management problem relevant to tracking what is wood waste
12 and what is yard waste?

13 EXECUTIVE DIRECTOR CHANDLER: Again, we've only
14 had a week or so to look at the proposal but it strikes to
15 me to put local governments and landfill operators in the
16 position of having to look at a load of material that's
17 coming in and if it's been orchard prunings that have been
18 shredded and mixed with the green waste composting program
19 they have to basically know that and not be put in the
20 position of giving credit to that percentage of the recipe,
21 if you will, that is shredded wood waste, which is excluded
22 by the policy from being eligible.

23 And perhaps I'm making this more complicated than
24 it appears, but I do think that we're now looking at the
25 recipe of material that is going to be used in saying

1 certain components of the green waste stream, agricultural
2 wastes and woody wastes, are not eligible. And I find that
3 contradictory to the premise of having this program easy to
4 administer and I just think it's another tracking and
5 accounting charge that we put on the operators and local
6 governments so that we can make sure that they're not using
7 ineligible material.

8 BOARD CHAIRMAN HUFF: Ms. Neal.

9 BOARD MEMBER NEAL: My concern is that 939 was
10 crafted to divert materials out of the landfill not into the
11 landfill.

12 In the case of wood waste and ag waste there is
13 market that current exists for those materials that keep
14 them out of the landfill and I think that it would be ill
15 advised of us to create a policy that encourages a change in
16 that particular situation and I think that would certainly
17 be contrary to what we're supposed to be about doing here on
18 this board in terms of conserving landfill space for
19 materials that we have, do not have another appropriate use
20 for.

21 BOARD VICE CHAIRMAN CHESBRO: Well, for better or
22 for worse, transformation, which this activity falls within,
23 is on the same level in the hierarchy. I mean, that's the
24 law. That's the way 939 established it and there was a lot
25 of debate about whether that was appropriate or not. But it

1 is what we've been handed.

2 And so from my standpoint that's the rub or the
3 difficulty in trying to resolve in my mind which way to go
4 with this.

5 I mean, if it had been on the hierarchy put on the
6 same level as recycling then it wouldn't be any question,
7 but it's the part of transformation and so we've got to try
8 to wrestle with that fact.

9 MR. JUDD: It's certainly not the same as
10 landfilling, Mr. Chesbro.

11 BOARD VICE CHAIRMAN CHESBRO: I'm not talking
12 about debating the personal views of what is or isn't good
13 form of -- or whether or not some forms of transformation
14 should be called recycling or where they should be on the
15 hierarchy, I'm just talking about what the Legislature did,
16 I'm not -- and that's -- we have to deal with that and
17 confront it as our primary or first line of responsibility.

18 BOARD MEMBER RELIS: Mr. Chair.

19 BOARD CHAIRMAN HUFF: Yes.

20 Thank you, Mr. Judd.

21 BOARD MEMBER RELIS: I would have a point of
22 question and that concerns the language in 7.

23 Where did that come from, because I wasn't --

24 BOARD VICE CHAIRMAN CHESBRO: It was suggested --

25 MR. JUDD: That's language we proposed.

1 BOARD MEMBER RELIS: That had to be --

2 BOARD CHAIRMAN HUFF: When it was put in there
3 there was agreement, I thought, and consensus, I thought,
4 from the members of the committee as to, because it was so
5 last minute to us that if it had unintended consequences, to
6 use Mr. Chesbro's phrase, that we would reconsider.

7 And now the definition of unintended consequences,
8 I guess, is at issue.

9 At any rate we'll wrestle with it in just a couple
10 minutes if we can hear from Mr. Arthur Boone.

11 MR. BOONE: Arthur Boone from the Alameda County
12 Composting Association.

13 I'm sure you all know what I'm going to say before
14 I say it.

15 I appreciate trying to cut the baby in half here,
16 but I certainly never realized where the other people were
17 coming from. I certainly heard a lot listening to them now
18 for the last half hour.

19 We believe in the total composting of organic
20 materials. We don't believe they should be used for ADC at
21 all.

22 We have an initiative in Alameda County in 1989
23 which basically did a lot of -- Measure D, which was
24 basically did a lot of what 939 did. We are now looking at
25 another initiative which will basically try to protect our

1 open spaces from the incursion of multinational garbage
2 companies that want to bring garbage from all over the Bay
3 Area and fill our hills with it.

4 And I assume that we will probably put a section
5 about ADC in that citizen initiative so that we don't have
6 to have yard waste and food waste and those kinds of things
7 being used to fill up our landfills.

8 The point I think I made before with you all if
9 all the organic materials currently buried in America were
10 land applied, we would replace less than three percent of
11 all the topsoil lost. Okay.

12 So what we're looking at is essentially a
13 temporary dislocation in the market that as new materials
14 come on board the same way we doubled the amount of
15 cardboard collected in the last six years we've doubled the
16 amount of newspaper collected in the last six years,
17 probably going to double or triple the amount of organic
18 materials available for composting in the -- probably right
19 in the middle of that.

20 I think anything you do in this area that
21 legitimizes using organic material as ADC is a step in the
22 wrong direction.

23 I appreciate your attempt to make a compromise,
24 but I think it's a negative one.

25 Thank you.

1 BOARD CHAIRMAN HUFF: Okay. That's the last
2 speaker.

3 It's under another piece of paper. I'm sorry,
4 Mr. Best, I did not intend to deny you your time.

5 MR. BEST: Thank you, Chairman Huff, and board
6 members.

7 As Mr. Maguin opened with his statement, I think
8 most of the board members here have been briefed as to CAW's
9 opposition to the proposal to use alternative daily cover
10 towards crediting towards the diversion goals and I just
11 briefly want to mention the three criteria, because there's
12 specific comments I want to say on that.

13 Number one, the issue of whether it's within the
14 intent of AB 939 and whether the board has the ability to
15 grant credit for that diversion activity we think we have
16 some questions about that and some concerns.

17 Secondly, the issue of what the diversion impacts
18 of this sort of activity will be on the overall diversion
19 goals and we believe to for many jurisdictions it will
20 undermine the intent of the AB 939 diversion goals.

21 And I found it interesting that some of the
22 comments made earlier today on this issue are suggesting
23 that ten percent even that is too high of a cap. That's ten
24 percent of 25 percent, that's 40 percent of AB 939 diversion
25 goal being ADC. So I hardly see how, I mean, that's almost

1 half of the jurisdiction's efforts to meet AB 939 would be
2 alternative daily cover so and I hardly see how that is any
3 sort of limitation on the abilities of local governments to
4 meet AB 939.

5 Third issue that we've consistently brought up is
6 the impact of this policy would have on the market
7 development activity of the board.

8 Interesting here at the board today we approved a
9 policy with regards to wastepaper. Wastepaper being one of
10 the priority materials of this board to stimulate market
11 demand for.

12 Compost was another one of those materials and
13 here the first action of the board we see taking on this
14 issue is to allow credit for ADC rather than what's really
15 needed is to create demand for this material.

16 We heard from Mr. Hicks before me that the problem
17 is that there's a lot of supply and we aren't creating
18 demand and that's where the board really needs to focus its
19 attention on is creating demand for materials diverted
20 through compost collection programs.

21 In the interest of reaching a compromise, however,
22 that Mr. Chesbro has brought forth today, we have some
23 interest in trying to get this policy at least onward so
24 that we can put this issue behind us.

25 There's three issues that I want to specifically

1 mention on this policy.

2 The first is we feel it's really important that as
3 the board goes to implement this policy that there be strong
4 regulations to ensure that the crediting of materials is
5 very accurate and specifically meets the whatever diversion
6 criteria the board establishes.

7 There is, the board is going through a process of
8 developing regulations for a disposal-based accounting
9 system and we want to make sure that all materials is
10 accounted for and that the appropriate mechanisms to ensure
11 accuracy are implemented in the regulatory process.

12 Secondly, we want to make sure the board is
13 vigilant in terms of ensuring that the local governments are
14 promoting market development procurement and diversion
15 programs before allowing credit for this type of activity.

16 We have some concern in terms of the way this
17 language is read that board will not be very detailed in
18 terms of looking at local governments' efforts towards this
19 in the sense that they allow, this policy currently allows
20 for a five percent and then on a case-by-case basis an
21 additional two and a half percent.

22 We share, we believe that the five percent should
23 be on a case-by-case basis as well to ensure that local
24 governments are pursuing this program before granting credit
25 for ADC.

1 And finally the issue that we have that forces us
2 to oppose this policy at this point unless further change is
3 that in the committee meeting last week we testified that
4 there's no way we can support any sort of policy that was
5 greater than five percent diversion credit. And as you see
6 here it allows for up to seven and a half percent.

7 In regards to Mr. Chesbro's questions in regards
8 to perhaps some alternative criteria, if the board wanted to
9 establish a baseline and then an appeals process we would
10 suggest that the board consider putting limitations similar
11 to the transformation requirements that are currently in
12 statute where the jurisdiction must pursue all feasible
13 source reduction recycling and composting programs before
14 gaining credit for ADC diversion.

15 If you have any questions I'd be happy to answer
16 them.

17 BOARD CHAIRMAN HUFF: Questions?

18 Thank you.

19 The matter is before us.

20 Is there a motion?

21 I recognize Mr. Lipson to make a motion.

22 MR. LIPSON: Mr. Egigian supports unlimited use of
23 alternative daily cover for green waste, along with the
24 language in the rest of the motion.

25 BOARD VICE CHAIRMAN CHESBRO: Well, not knowing at

1 all, and this again proves that we have an open process,
2 where a majority of board members are on the question of
3 going to 7.5 percent and on the question of excluding the
4 agricultural and the wood waste, I will make a motion that
5 includes everything but those and then let us construct or
6 amend accordingly depending on where members of the board
7 are coming from.

8 BOARD MEMBER RELIS: What is your motion?

9 BOARD VICE CHAIRMAN CHESBRO: It's a motion to
10 adopt the policy, not including the additional 2.5 percent
11 boost and not including the exclusion of agriculture and
12 wood waste. Those are the two things, there were some other
13 modifications but --

14 BOARD MEMBER NEAL: Is your motion to do the five
15 percent?

16 BOARD VICE CHAIRMAN CHESBRO: At this point, yeah.
17 I want to hear what other board members have to
18 say.

19 I started out making the statement that what I'm
20 looking for is a policy that cannot stop this issue so local
21 governments can go forward with some certainty.

22 And so but it's pretty darn hard to figure out at
23 any given time because of the complexity of this issue where
24 four votes are and I think when we made those two
25 modifications that it passed the committee, that's three.

1 But other information has come forward since then
2 that's raised some questions and I'm not clear on where the
3 other board members are on those additions.

4 I guess I'm just trying to get a motion out there
5 for consideration and I certainly would consider modifying
6 it based on what it take to get to four here.

7 BOARD MEMBER RELIS: I'd like to understand one
8 more time. I was following things pretty closely on this
9 until Item 7 popped in and then I kind of -- this added some
10 complexity. I have some problems with that, with 7.

11 Also, before we discuss the motion further, I
12 think there's some considerations here that are at least
13 worth discussing in terms of the market context that has
14 been raised here.

15 I've spent quite a bit of time with the CORC
16 people lately, the composters, and I haven't heard -- the
17 concern about the market development is a very real one, at
18 the same time they haven't said while they want, I think,
19 limits they're not pointing to nothing here.

20 I've always viewed, and still do, if we're going
21 to allow credit in this area to me it's a still a market of
22 last resort and I'll just keep stating that. The idea of
23 using green waste as cover is to me only a transition area
24 issue and that's why this sunset provision is critical to my
25 involvement on this.

1 Also I did have a chance, which I'm happy that I
2 did, I went down to Calabasas last week and saw the green
3 waste application there.

4 And first of all, I'd like to commend, I think
5 what's been created is a partial step towards the composting
6 infrastructure. Green waste that I saw there before it's
7 being shredded is perfectly clean. I mean, it's as clean a
8 material as I've seen. It could have gone right into a
9 composter in my view right there.

10 Also I was struck by I think what Mr. White had
11 said or at least I didn't hear him say this but indirectly,
12 but there is limitation to what you can use this material.

13 The working face at Calabasas was quite small.
14 And I talked to the operator there at some length and he was
15 saying they were using about three of the big trailer fulls
16 ground a day for the cover. So that equated to about, I
17 think it was 15 tons per trailer loaded that way. It's not
18 as heavy as some other materials. So let's call it 50 or 60
19 tons a day was actually being applied out in the working
20 face of Calabasas in a permitted facility of something like
21 2,000 plus tons. So that was quite a small number.

22 And I don't assume or I wouldn't think that that
23 was atypical, because you're not trying to have a large
24 working face.

25 So it helped me understand at least how the

1 material is being applied.

2 I took some reassurance that it isn't an unlimited
3 and that's why it brings me to view that the limitation is
4 appropriate and realistic here.

5 BOARD CHAIRMAN HUFF: Mr. Chesbro, for what
6 purpose --

7 BOARD MEMBER RELIS: I'll just stop right there.
8 Those are observations.

9 BOARD VICE CHAIRMAN CHESBRO: For the sake of
10 moving this thing along and whatever dance we have to go
11 here I'm going to withdraw my motion temporarily.

12 BOARD CHAIRMAN HUFF: Okay. Then have
13 Mr. Egigian's motion.

14 Let's call the roll.

15 BOARD SECRETARY KELLY: Board Member Chesbro.

16 BOARD VICE CHAIRMAN CHESBRO: No.

17 BOARD SECRETARY KELLY: Egigian

18 BOARD MEMBER EGIGIAN: Aye.

19 BOARD SECRETARY KELLY: Neal.

20 BOARD MEMBER NEAL: No.

21 BOARD SECRETARY KELLY: Relis.

22 BOARD MEMBER RELIS: No.

23 BOARD SECRETARY KELLY: Chairman Huff.

24 BOARD CHAIRMAN HUFF: Aye.

25 Motion fails.

1 Mr. Chesbro.

2 BOARD VICE CHAIRMAN CHESBRO: Reinstate my motion
3 to adopt the -- well, as previously stated. I think
4 that's -- and again let me state that I need to hear from
5 other board members about how they'd like to respond to
6 those two issues we added on to the committee at this point.

7 BOARD CHAIRMAN HUFF: So your motion is silent
8 with regard to the additional two and a half, only because
9 we're going to work on it separately?

10 BOARD VICE CHAIRMAN CHESBRO: I need suggestions.

11 BOARD CHAIRMAN HUFF: Up or down.

12 BOARD VICE CHAIRMAN CHESBRO: What we're
13 responding to the questions that have been raised can secure
14 four votes.

15 BOARD MEMBER NEAL: Wouldn't it be cleaner, since
16 we have each of these numbered, to separate out just Items 6
17 and 7 as opposed to a portion of 6?

18 BOARD CHAIRMAN HUFF: That's a good suggestion.

19 Would you accept that, Mr. Chesbro?

20 BOARD VICE CHAIRMAN CHESBRO: I am not sure I
21 understand.

22 BOARD CHAIRMAN HUFF: There are seven items on the
23 page. We can do 1, 2, 3, 4, 5 and then get that cleared off
24 the table. That's an easy slum dunk and then you can go to
25 6 and 7.

1 BOARD MEMBER RELIS: I guess only insofar as on
2 Item 2, what issue --

3 BOARD VICE CHAIRMAN CHESBRO: I know exactly what
4 you're going to say.

5 BOARD CHAIRMAN HUFF: The Chuck White and/or.

6 BOARD VICE CHAIRMAN CHESBRO: That was raised with
7 relation to what we do if we change the policy with regards
8 to when your demonstration being required.

9 I assume that was your question.

10 MR. WHITE: That was my question.

11 BOARD VICE CHAIRMAN CHESBRO: I don't -- haven't
12 had a chance to think through that exact language, but I'm
13 willing certainly to say or whatever regulatory requirement
14 the board, alternative regulatory requirement the board
15 places on it.

16 BOARD CHAIRMAN HUFF: Mr. White is happy. He can
17 live with that.

18 That's part of your motion.

19 BOARD VICE CHAIRMAN CHESBRO: I think it's
20 important to note that as long as that remains in place as
21 long as that's required. Okay.

22 BOARD CHAIRMAN HUFF: That's your motion.

23 BOARD VICE CHAIRMAN CHESBRO: 1 through 5.

24 BOARD MEMBER EGIGIAN: What's the motion?

25 BOARD CHAIRMAN HUFF: The motion is to approve 1,

1 2, 3, 4, 5 and not -- we're going to handle separately the
2 percentages and the wood waste and we have the functional
3 equivalent of Mr. White's language in number 3 B.

4 BOARD VICE CHAIRMAN CHESBRO: Now I hope this
5 isn't a mistake. I want to restate my goal here is to get
6 four votes and I hope we don't wind up squabbling over the
7 other two because we've already taken care of the point.

8 BOARD CHAIRMAN HUFF: You will. Trust me.
9 Vote, please.

10 BOARD SECRETARY KELLY: Board Member Chesbro.

11 BOARD VICE CHAIRMAN CHESBRO: Aye.

12 BOARD SECRETARY KELLY: Egigian

13 BOARD MEMBER EGIGIAN: Aye.

14 BOARD SECRETARY KELLY: Neal.

15 BOARD MEMBER NEAL: Aye.

16 BOARD SECRETARY KELLY: Relis.

17 BOARD MEMBER RELIS: Aye.

18 BOARD SECRETARY KELLY: Chairman Huff.

19 BOARD CHAIRMAN HUFF: Aye.

20 Motion carries 5-0.

21 Which one do you want to handle first, 6 or 7?

22 BOARD VICE CHAIRMAN CHESBRO: I guess we should
23 take them in order. No. 6.

24 BOARD CHAIRMAN HUFF: Number 6.

25 BOARD VICE CHAIRMAN CHESBRO: The question before

1 us is if we are going to allow for an increase to 7.5
2 percent, what policy objective or criteria is attached to
3 that.

4 And I need feedback from board members about
5 whether or not attach a criteria or remove this. I don't
6 know what we'll get four votes here.

7 BOARD CHAIRMAN HUFF: Mr. Egigian, were you about
8 to make a motion?

9 BOARD MEMBER EGIGIAN: 10 percent.

10 BOARD CHAIRMAN HUFF: 10. Okay. Mr. Egigian
11 moves 10. Flat 10. No appeals. Flat 10.

12 Vote.

13 BOARD SECRETARY KELLY: Board Member Chesbro.

14 BOARD VICE CHAIRMAN CHESBRO: No.

15 BOARD SECRETARY KELLY: Neal. I'm sorry.

16 Egigian.

17 BOARD MEMBER EGIGIAN: Aye.

18 BOARD SECRETARY KELLY: Neal.

19 BOARD MEMBER NEAL: No.

20 BOARD SECRETARY KELLY: Relis.

21 BOARD MEMBER RELIS: No.

22 BOARD SECRETARY KELLY: Chairman Huff.

23 BOARD CHAIRMAN HUFF: Aye.

24 Motion fails.

25 Now what do you want to do? Come down to what?

1 BOARD MEMBER NEAL: Next bid.

2 BOARD CHAIRMAN HUFF: Next bid. Come right on
3 down.

4 BOARD VICE CHAIRMAN CHESBRO: I am going to
5 propose, because I think we've attached the criteria to the
6 five percent and it doesn't, I don't really understand,
7 seems like we're creating bureaucratic hoops without policy
8 objective attached to it. I would propose that we go to
9 seven percent without an appeals process.

10 Now I'm doing that as a trial balloon. I'm trying
11 to figure out what gets four votes here.

12 BOARD MEMBER RELIS: Regarding, is that the
13 language that's specifically the under the following
14 condition demonstration that the jurisdiction --

15 BOARD VICE CHAIRMAN CHESBRO: Yes.

16 BOARD MEMBER RELIS: -- has planned for and
17 implemented appropriate --

18 BOARD VICE CHAIRMAN CHESBRO: Yes.

19 BOARD MEMBER RELIS: Are we going to expand upon
20 that at all?

21 BOARD VICE CHAIRMAN CHESBRO: Well, I'm --

22 BOARD CHAIRMAN HUFF: We've already adopted.

23 BOARD MEMBER RELIS: No; we haven't.

24 BOARD CHAIRMAN HUFF: Let's do the percentages.

25 BOARD VICE CHAIRMAN CHESBRO: I guess the motion

1 is -- well --

2 BOARD MEMBER NEAL: As I understand it, the motion
3 is to raise from five percent under No. 6 first sentence
4 from five percent to seven percent and then you would
5 eliminate entirely the second full paragraph.

6 BOARD VICE CHAIRMAN CHESBRO: Right.

7 BOARD MEMBER RELIS: There would be no appeal.

8 BOARD CHAIRMAN HUFF: No appeal.

9 BOARD VICE CHAIRMAN CHESBRO: Now, do I understand
10 that there is a request from you, Mr. Relis?

11 BOARD MEMBER RELIS: I just want to have, I think
12 the point taken earlier by CAW on this about clarifying what
13 they have gone -- that this is real demonstration and of
14 appropriate market procurement, whatever. Such as, I think
15 it could be -- I can't word it right now.

16 BOARD CHAIRMAN HUFF: That's okay. It's not
17 necessary, Mr. Relis. This will be in AB 2494 regulations.

18 BOARD VICE CHAIRMAN CHESBRO: Yeah.

19 BOARD CHAIRMAN HUFF: That come out of the -- this
20 is simply a policy statement.

21 BOARD VICE CHAIRMAN CHESBRO: So the motion is to
22 raise it from five percent to seven percent, eliminate the
23 appeals process.

24 BOARD CHAIRMAN HUFF: Vote.

25 BOARD SECRETARY KELLY: Board Member Chesbro.

1 BOARD VICE CHAIRMAN CHESBRO: Aye.

2 BOARD SECRETARY KELLY: Egigian

3 BOARD MEMBER EGIGIAN: No.

4 BOARD SECRETARY KELLY: Neal.

5 BOARD MEMBER NEAL: Aye.

6 BOARD SECRETARY KELLY: Relis.

7 BOARD MEMBER RELIS: I'll reluctantly support
8 that. I don't like going that high, but that's what I'll go
9 along with.

10 BOARD SECRETARY KELLY: Chairman Huff.

11 BOARD CHAIRMAN HUFF: I reluctantly support that.
12 I don't like going that low.

13 BOARD VICE CHAIRMAN CHESBRO: Mission
14 accomplished.

15 BOARD CHAIRMAN HUFF: There are four votes.
16 Number 7, while you're hot.

17 BOARD VICE CHAIRMAN CHESBRO: Now, we have to deal
18 with this issue of -- personally I'm not going to make a
19 motion on this. I'm just putting it out there.

20 BOARD MEMBER NEAL: I'll make a motion on that one
21 then.

22 Again, like I said, we're concerned about
23 unintended consequences and I think we have some real clear
24 indication that this would have the unintended consequences
25 of diverting some materials into the landfills that are not

1 currently going there and I think that this is anathema to
2 AB 939. So I would move the inclusion in our policy of Item
3 No. 7.

4 BOARD CHAIRMAN HUFF: Okay.

5 BOARD SECRETARY KELLY: Exclusion?

6 BOARD MEMBER RELIS: You mean exclusion.

7 BOARD MEMBER NEAL: Why don't we reword it to
8 exclude wood and ag waste as opposed to --

9 BOARD VICE CHAIRMAN CHESBRO: Let me ask a
10 clarifying question, too, though. I think one of the
11 criticisms that staff made had to do with its effect on
12 question of whether we were preempting the technical
13 question of whether it could be used. And I don't think
14 that's our intent. I think we're just talking about credit;
15 right?

16 BOARD MEMBER NEAL: Yes.

17 BOARD VICE CHAIRMAN CHESBRO: So if someone wanted
18 to use wood waste or ag waste we might approve it from a
19 technical standpoint, but it's the question of --

20 BOARD MEMBER NEAL: Credit.

21 BOARD VICE CHAIRMAN CHESBRO: That's the motion?

22 BOARD MEMBER NEAL: Yes.

23 BOARD MEMBER RELIS: Can I speak to the motion?

24 BOARD CHAIRMAN HUFF: Are you going to change
25 somebody's vote?

1 BOARD MEMBER RELIS: I just have a problem with 7.
2 The way I read it, and I don't know how again the thinking
3 behind it, but am I reading this right that the way it's
4 worded now is yard waste, food waste, tires, rubber, manure,
5 sludge --

6 BOARD MEMBER NEAL: That was not the motion.

7 The motion as I changed it was that the
8 waste-derived materials subject to the policy relative to
9 credit would exclude wood and ag waste.

10 BOARD MEMBER RELIS: But not the other materials?

11 BOARD MEMBER NEAL: Would exclude wood and ag
12 waste. This was an inclusive approach. We are now taking
13 an exclusive approach.

14 BOARD MEMBER RELIS: Yes. And I'm still trying
15 to -- I understand what you're saying. I don't particularly
16 favor 7, period.

17 BOARD MEMBER NEAL: That's your prerogative.

18 BOARD VICE CHAIRMAN CHESBRO: Mr. Huff, it's time.

19 BOARD CHAIRMAN HUFF: It's time to vote.

20 BOARD MEMBER NEAL: I see it as if 7 is not
21 included, again you would be encouraging allowing credit for
22 alternative daily cover for materials that are not currently
23 going to the landfill and I'm not interested in allowing
24 that kind or encouraging --

25 BOARD MEMBER RELIS: No. That's not what I was

1 reading, what I was saying.

2 BOARD CHAIRMAN HUFF: That's contrary to the law.

3 BOARD MEMBER RELIS: Then I have this thing upside
4 down.

5 BOARD CHAIRMAN HUFF: We can't do that, because
6 that's contrary to the law, normally disposed of.

7 Let's vote.

8 BOARD SECRETARY KELLY: Board Member Chesbro.

9 BOARD VICE CHAIRMAN CHESBRO: No.

10 BOARD SECRETARY KELLY: Egigian

11 BOARD MEMBER EGIGIAN: I don't understand the
12 motion.

13 BOARD CHAIRMAN HUFF: You can abstain for a
14 second, Mr. Egigian.

15 BOARD MEMBER EGIGIAN: I'll abstain for a moment.

16 BOARD CHAIRMAN HUFF: Okay.

17 BOARD SECRETARY KELLY: Neal.

18 BOARD MEMBER NEAL: Aye.

19 BOARD SECRETARY KELLY: Relis.

20 BOARD MEMBER RELIS: I'm abstaining. I don't
21 understand it either.

22 BOARD SECRETARY KELLY: Huff.

23 BOARD CHAIRMAN HUFF: I'll abstain.

24 Motion fails.

25 BOARD VICE CHAIRMAN CHESBRO: So let me make a

1 motion to adopt all items that we have voted on as one
2 policy so that we have taken a unified action here instead
3 of a separate action.

4 BOARD CHAIRMAN HUFF: Close the loop?

5 BOARD VICE CHAIRMAN CHESBRO: Yes.

6 Adopt the policy as modified by the previous
7 motions.

8 BOARD CHAIRMAN HUFF: Okay. Now the vote then is
9 on 1 through 7, items as we have modified them. This is the
10 final final for at least a little while.

11 Vote.

12 BOARD MEMBER RELIS: Wait a second. What is 7
13 now?

14 BOARD VICE CHAIRMAN CHESBRO: 7 is not there
15 anymore.

16 BOARD CHAIRMAN HUFF: 7 is not there.

17 BOARD MEMBER NEAL: So what are we --

18 BOARD CHAIRMAN HUFF: Just 1 through 6.

19 BOARD VICE CHAIRMAN CHESBRO: It's to tie all the
20 previous motions together into one, basically 1 through 6.

21 BOARD CHAIRMAN HUFF: 7 is simply an empty cell
22 right now.

23 But 1 through 6.

24 BOARD SECRETARY KELLY: Board Member Chesbro.

25 BOARD VICE CHAIRMAN CHESBRO: Aye.

1 BOARD SECRETARY KELLY: Egigian
2 BOARD MEMBER EGIGIAN: Abstain.
3 BOARD SECRETARY KELLY: Neal.
4 BOARD MEMBER NEAL: Aye.
5 BOARD SECRETARY KELLY: Relis.
6 BOARD MEMBER RELIS: Aye.
7 BOARD SECRETARY KELLY: Chairman Huff.
8 BOARD CHAIRMAN HUFF: Aye.
9 Motion carries.
10 We adjourn.
11 (Thereupon the meeting was adjourned
12 at 2:20 p.m.)
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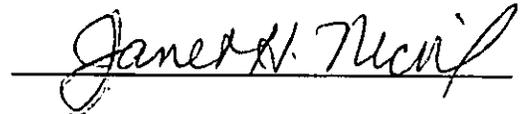
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I, JANET H. NICOL, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing meeting in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of January 1994.



Janet H. Nicol
Certified Shorthand Reporter
License Number 9764