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COMMITTEE MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

SUSTAINABILITY AND MARKET DEVELOPMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

TUESDAY, SEPTEMBER 13, 2005

10:00 A.M.

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Mr. Carl Washington

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Ms. Julie Nauman, Chief Deputy Director

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Ms. Jeannine Bakulich, Executive Assistant

Mr. Eric Bissinger, Staff

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Mr. John Duke, Staff

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Ms. Tara Gauthier, Staff

Mr. Tim Hall, Staff

Mr. Jeff Hunts, Supervisor, Electronic Waste Recycling Section

Ms. Maria Kakutani, Staff

Mr. Jim La Tanner, Supervisor, Loan Program

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Ms. Nikki Mizwinski, Staff

Mr. Phil Moralez, Branch Manager, State and Local Assistance Branch

Ms. Cara Morgan, Branch Manager, Office of Local Assistance

Mr. Kyle Pogue, Staff

Mr. Zane Poulson, Staff

Ms. Yasmin Satter, Staff

Mr. Pat Schiavo, Deputy Director

Mr. John Smith, Branch Manager, Recycling Business Assistance

Ms. Lorraine Van Kekerix, Branch Manager

Ms. Melissa Vargas, Staff

Ms. Shirley Willd-Wagner, Branch Manager

Ms. Tabetha Willmon, Staff

ALSO PRESENT

Ms. Katherine Brandenburg, Institute of Scrap Recycling Industries

Mr. Burnet Brown, Making Ideas Happen

Ms. Linda Ceballos, City of San Bernardino

Mr. George Eowan, CRRC

Mr. Tom Hogyue, ECS Recyclers

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Dennis Holloway, City of Loma Linda

Mr. R. Scott Johnson, Merced County Solid Waste

Mr. Joe Kalpakoff, Mid Valley Disposal

Ms. Sheri Leigh, City of Buellton

Mr. Anthony Lopez, City of McFarland

Mr. Mark Murray, Californians Against Waste

Mr. Mike Pisani, City of Newport Beach

Mr. Ron Proto, E-Recycling

Mr. Renee Salas, Deputy Public Works Director, City of Santa Paula

Mr. Rick Snyder, U.S. Rubber

Mr. Bill Spriggs, Merced County Association of Governments

Ms. Kim Summers, City of Hesperia

Mr. Richard Tsai, Senior Utilities Resource Specialist, Public Works, City of Davis

Mr. Eugene Tseng, City of Loma Linda

Mr. Art Victor, Apple Computers

Mr. John Wankum, Public Works Director, City of Delano

Mr. Chuck White, Waste Management

Mr. Wayne Williams, Planning Coordinator, County of San Diego

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PROCEEDINGS

CHAIRPERSON MARIN: Good morning, and welcome to the Sustainability and Markets Development Committee of the Integrated Waste Management Board. We're having a great meeting today. We have a lot of items.

But before we do that, why don't we take the roll, Jeannine?

EXECUTIVE ASSISTANT BAKULICH: Peace?

COMMITTEE MEMBER PEACE: Here.

EXECUTIVE ASSISTANT BAKULICH: Washington?

COMMITTEE MEMBER WASHINGTON: Here.

EXECUTIVE ASSISTANT BAKULICH: Marin?

CHAIRPERSON MARIN: And I'm here.

Any ex partes, Ms. Peace?

COMMITTEE MEMBER PEACE: I'm up to date.

CHAIRPERSON MARIN: Mr. Washington?

COMMITTEE MEMBER WASHINGTON: I'm up to date.

CHAIRPERSON MARIN: Okay. So am I.

Let's see. Well, we'll just move right in. You're going to go first, Pat.

DEPUTY DIRECTOR SCHIAVO: Sure. Pat Schiavo, Diversion, Planning, and Local Assistance Division.

In the interest of time, I'll just mention one thing we had going on this month, and that was the Alternative Workshops, one that was conducted here in

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Sacramento, and then the other was in Long Beach the next day. They both went very well. We had an opportunity to express what the concept looked like and field questions and have open discussion.

So we're compiling -- we have September 9th as a final date for people to provide us with written comments. And we'll be compiling that and then putting together a draft plan and then get some more comments and bring that before the Board for the Committee. And that concludes my presentation.

CHAIRPERSON MARIN: Okay. Thank you, Pat.

We're going to take one item out of order. We understand that we have a person that needs to get back to his place of origin. We are going to hear Item 21 first, and then we'll continue with the order of the agenda starting with Item Number 13.

Item 35 will be heard at 1:30. If anybody's here for that, you can go and have lunch and then come back at 1:30.

And Item 38 is Committee only. We're just going to hear this item here. We're not going to hear it at the Board, as well as Item 34 and 40.

So we're going to have a very full Committee meeting. For those of you that have never come before the Board, it's very simple. You just fill out a speaker slip

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if you want to address the Committee. And the speaker slips are in the back of the room. Give them to our wonderful Committee Secretary, and she will give them to me.

Okay. Mr. Schiavo, you want to present Item 21.

DEPUTY DIRECTOR SCHIAVO: Item 21 is Consideration of the Amended Countywide Siting Element Summary Plan for San Diego County. And Zane Poulson will present that item.

MR. POULSON: Good morning, Madam Chair and Committee members. In San Diego County's five-year review report, which was approved by the Board at the March 2003 Board meeting, the County identified a need to update the County's Siting Element and Summary Plan.

The County has completed the updates to the County Siting Element and Summary Plan, and has submitted the revised plans along with the documentation showing the County has adequately complied with all the requirements for amending their Siting Element and Summary Plan. Therefore, staff recommends the Board choose Option 1 in the agenda item and approve the County's amended Siting Element and Summary Plan.

Wayne Williams and Willa Deberal are present to represent San Diego County.

This concludes my presentation. Are there any

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questions?

CHAIRPERSON MARIN: Okay. Any questions?

Ms. Peace.

COMMITTEE MEMBER PEACE: I have a few questions.

I was just wondering why it is that the City feels they need to do this now. Is it something that's required by us, or why do they need to do this now? I'm just wondering because removing like the nine other tentatively reserved disposal sites, why they want to do that at this time when Gregory Canyon doesn't have all of its permits. And what happened in court on Friday, you know, can put some question into things. I'm just wondering why they want to, right now, remove all the other tentative disposal sites.

DEPUTY DIRECTOR SCHIAVO: The County representative can go ahead and respond to that.

CHAIRPERSON MARIN: Okay. Who's the County's representative? Welcome. Thank you very much for being here. Would you be so kind to state your name for the record.

MR. WILLIAMS: Yes. My name is Wayne Williams. I'm the Planning Coordinator for the County of San Diego.

About two-and-a-half years ago, the Board of Supervisors decided it was time in our five-year plan to address the Siting Element. We're out for a five-year

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review, and many things happened during that five-year interval. One was that the landfill was privatized, which was a major consideration for our Siting Element to consider that. Gregory Canyon had been approved earlier by mandate of the voters, and we had to consider that.

And during the five-year interval, the regulations say that if a candidate site -- not a proposed, but a tentative site for landfills were suggested in an earlier Siting Element but no action occurred, then they are to be automatically dropped. Now, only one of those sites had a major use permit, and that was at Campbell next to the border. And that major use permit had lapsed. So no action was done on any of those sites. And, therefore, we filed the regulations and dropped them from consideration.

During that time also Sycamore Canyon Allied had proposed an expansion of their -- from one of the canyons, and so we considered that as a tentative. We did not have enough information from the City of San Diego, nor Allied, about the parameters of the landfill at the time to push it up into the proposed classification. So we left that as tentative.

COMMITTEE MEMBER PEACE: I'm sorry. I don't understand what you said about Sycamore. Will this affect what's going on with the expansion that's proposed at

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Sycamore?

MR. WILLIAMS: Okay. Allied wants to expand, and they had started the environmental impact process with the City of San Diego, because that's in the City of San Diego. And they wanted it to be a proposed, but we looked it at, and it wasn't in complete conformance with the City of San Diego's general plan at the time. And it had to be -- the proposed landfill has to be in conformance with the general plan. It was not, so we worked out arrangements with the City agreeing it should be tentative at this time.

CHAIRPERSON MARIN: Let me ask our attorney. This is a local decision, their Siting Element, their plans. The County has already approved this particular scheme, if you will -- that's not the right word -- their plan, is not that the case, it's a local issue?

STAFF COUNSEL BLOCK: Right. The statute provides that the decisions as to what facilities to use or not use or to plan on is a local decision. What the Board looks at is whether that plan adds up to at least 15 years of capacity. So the decision as to whether to add or subtract facilities is theirs to make. And then they review that every five years so they can keep it updated.

COMMITTEE MEMBER PEACE: Would the County have 15 years of capacity without Gregory Canyon?

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MR. WILLIAMS: Yes and no. There's plenty of space. There's plenty of canyon space. The inhibition towards reaching 15 years becomes a function of the daily permitted tonnage at all the landfills.

Now, what's happened is that Allied has applied for an expansion of their Sycamore Landfill up to 6,800 tons per day. That will take care of any slack that might be happening.

Meanwhile, as a part of our plan, we have other alternatives as well. One is recycling at a greater diversion level. And another one is transportation of materials out of county. Allied, I hear, has bought two new landfills in Arizona, and they're looking at transporting any excess beyond their permitted daily tonnage out of state. That and other techniques, such as developing perhaps the Campo Landfill on the Indian reservation, would take care of that. We're just meeting the 15 years, but it is there. So we could without Gregory Canyon.

COMMITTEE MEMBER PEACE: From what I understand, you're saying these regulations require them then to drop all the other nine tentative sites because nothing's been done with them, so our regulations require that?

MR. WILLIAMS: Yes. That's our understanding.

STAFF COUNSEL BLOCK: Let me -- if you'd like me

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just to clarify that. Our regulations and actually the statute provides -- I'll try to do this as quickly as possible. Because the Countywide Integrated Waste Management Plan and the Siting Element requirements came in while they were obviously existing facilities, there was this gap period involved. And there was a recognition that there were going to be plans for new and expanded facilities that might not have all the local approvals necessary. So there's statute.

And then our regulations set up this in-between status, if you will, for facilities that they call tentative reservations, which is if a county picked certain sites that didn't have their local approvals yet, in order to add up to the 15 years of capacity, they could be included in the Siting Element as a tentative reservation. But then the statute also required that if those local approvals weren't obtained within five years, by the time of the five-year review, they would have to come back out of the Siting Element and some other arrangement would be made.

And so as Mr. Williams has explained, they had a number of sites that were originally tentatively reserved because they didn't have these things. And since the local approvals hadn't moved forward, they are required by statute and regulations to come out of the Siting Element.

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COMMITTEE MEMBER PEACE: I was just wondering why, if it was something they had to do. Actually, considering that Gregory Canyon didn't have all the permits yet, I thought it was premature to be removing all the other nine tentative sites.

What happens if for some reason Gregory Canyon doesn't get its permits, if it ends up in lawsuits for several years? I mean, is it hard then for the county to get any of these sites back into their Siting Elements?

MR. WILLIAMS: No. It's not difficult. The Campo site on the border east of Tie Mesa, all they have to do to get it back into the tentative classification is reapply for a major use permit. And they're willing to do that, should the need be there.

COMMITTEE MEMBER PEACE: Okay. Thank you.

CHAIRPERSON MARIN: Mr. Washington, any questions?

Okay. Call the roll, please.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-262.

CHAIRPERSON MARIN: That's right. We need to move it first. Right. And you're not going to call the roll. Thank you, Mr. Washington.

Is there a second?

COMMITTEE MEMBER PEACE: Second.

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CHAIRPERSON MARIN: Moved and seconded.

Jeannine, would you please call the roll?

EXECUTIVE ASSISTANT BAKULICH: Peace?

COMMITTEE MEMBER PEACE: Aye.

EXECUTIVE ASSISTANT BAKULICH: Washington?

COMMITTEE MEMBER WASHINGTON: Aye.

EXECUTIVE ASSISTANT BAKULICH: Marin?

CHAIRPERSON MARIN: Aye.

Thank you very much.

Thank you so much for coming. Don't confuse me when I'm wrong, please.

Item Number 13.

DEPUTY DIRECTOR SCHIAVO: This is Discussion and Request for Direction Regarding the 2004/2005 Adjustment Method Review Working Group Recommendations. And Tim Hall will present this item.

CHAIRPERSON MARIN: Before we move forward, this item will be on consent.

DEPUTY DIRECTOR SCHIAVO: This has been a culmination. This began during the SB 2202 process. One of the recommendations was to improve the adjustment method. And through Tim's hard work and people participating in the group and other staff at the Board working closely with Tim, we've come forward with what you're going to see today.

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(Thereupon an overhead presentation was presented as follows.)

MR. HALL: I'm Tim Hall with the Waste Analysis Branch. This item is a Discussion and Request for Direction Regarding the Recommendations of the 2004/2005 Adjustment Method Review Working Group.

--o0o--

MR. HALL: Originally, the Integrated Waste Management Act required jurisdictions to regularly measure their waste generation and report how much of their waste was diverted from landfills. The law required them to divert 25 percent in 1995 and 50 percent in 2000.

In 1992, AB 2494 changed the measurement system to a disposal based system. AB 2494 required the Board to develop the Disposal Reporting System, or DRS, and a standard methodology for estimating generation without having to measure diversion directly. That's the adjustment method. The Board convened a working group of stakeholders to help develop the adjustment method. And starting in 1995, jurisdictions used the disposal based system to estimate their diversion rates.

--o0o--

MR. HALL: In 2001, the Board convened working groups to review the diversion rate measurement system as required by Senate Bill 2202. The Board's SB 2202 report

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to the Legislature recommended many policy, regulatory, and statutory changes, including the recently approved DRS regulations.

As follow up to SB 2202, in March 2004, the Board approved the contract with California State University of Sacramento and directed staff to convene a working group to see if the adjustment method could be improved.

This adjustment method review working group consisted of a variety of stakeholders, including jurisdictions, industry representatives, consultants, and academic institutions. The working group met four times between September 2004 and June 2005 and discussed many issues that may affect adjustment method accuracy.

--o0o--

MR. HALL: Attachment 1 in your packet is a table of the working group recommendations, including staff recommendations. I'll summarize these recommendations in the next few slides.

The first recommendation is to use the taxable sales deflator, or TSD, as an indicator of inflation as an alternative to CPI, consumer prize index. Current regulations specify that CPI be used in the adjustment method, but the regulations also allow alternatives if specific criteria are met.

TSD meets these criteria. And, therefore, staff

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recommends the use of TSD as an alternative adjustment factor as specified in the regulations. This recommendation was the only one with unanimous support from the working group. The second recommendation is that because many of the 1990 and '91 base years are outdated and/or inaccurate, the working group wanted the Board to recognize that the adjustment method worked better with newer base years.

--o0o--

MR. HALL: Third, the working group recommends that the Board continue to consider alternative employment factors submitted by jurisdictions. Some jurisdictions have submitted employment data by ZIP code from the Employment Development Department, or EDD. This data may not be representative of jurisdiction employment growth rates. However, in many cases, default county level employment is not representative either.

Staff is researching whether a new EDD employment data series could be used in the adjustment method. And the series has the potential to be more representative of jurisdiction growth rates.

The fourth recommendation is to continue development and use of diversion rate accuracy indicators. And the working group suggested we provide that to jurisdictions as well.

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The fifth recommendation, which is the only one that doesn't have full staff support, is to continue researching potential data sources. We do recommend that we continue the research. However, they also -- some of the working group wanted us to do a statewide pilot project to gather data, and we're concerned about the resources that would be required for that. So we don't fully support that.

BOARD MEMBER WASHINGTON: What would it cost to do something like that, for the pilot?

MR. HALL: I could only guess it would be in the millions to gather statewide generation data. Yeah.

CHAIRPERSON MARIN: Is that tens of millions or hundreds of millions? I'm kidding.

MR. HALL: I have an exact figure, but I don't -- I'm teasing. It would be significant.

Number six and seven, the working group wants the Board to recognize that the adjustment method may be more representative for larger jurisdiction areas such as countywide, regional, or statewide; and that it may not sufficiently reflect construction activity. There was a lot of discussion about construction activity and whether or not it's reflected in the adjustment method. Staff believes it is partially reflected by some of the other factors. But it may not be reflected when we have

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construction booms. And so staff recommends that we -- or staff agrees with these recommendations.

--o0o--

MR. HALL: Number eight, the working group wants the Board to continue to recognize there's a potential for significant errors in the measurement system, especially for small and rural jurisdictions.

And, finally, because of the release dates of some of the adjustment factors and DRS data that is submitted to the Board late, diversion rate estimates have recently been unavailable until about December of the following year. The working group wanted data sooner than that and asked if they could have preliminary diversion rates earlier.

We have on our website a calculator where they can actually plug in their own data and do that. And so what we did in our staff report is kind of point out that that is available. And we're updating a website that will give links to the sources of the adjustment factor data so they can go and look at it preliminary, you know, before the final factors are available.

--o0o--

MR. HALL: So the options for the Board today are: To direct staff to implement all of the working group recommendations; direct staff to implement only the

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recommendations that have staff support; direct staff to implement some of the working group's recommendations that you feel we should implement; or direct us to take no further action.

--o0o--

MR. HALL: And we recommend Option 2, which is direct us to implement the recommendations that have our support. And that concludes my presentation. I'm happy to answer any questions.

COMMITTEE MEMBER WASHINGTON: It seems like the only -- I'm sorry, Madam Chair.

CHAIRPERSON MARIN: Yeah. You would like to speak. Why don't you go ahead and tell us what you think.

COMMITTEE MEMBER WASHINGTON: Briefly, so you guys only disagree with one, it sounds like, number five.

MR. HALL: The pilot project.

COMMITTEE MEMBER WASHINGTON: Thank you.

CHAIRPERSON MARIN: Let me ask you this. And I don't know whether there's another item. We received a couple of letters, one from the City of Clayton, and the other one from the City of Concord. Are these related to this particular item?

DEPUTY DIRECTOR SCHIAVO: No. The alternative workshops.

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CHAIRPERSON MARIN: But let me ask you this, because I was thinking of the alternative method, and since we are talking about this, whether that was related to that. But in the working group, were the rural counties represented for this item before us? They were.

MR. HALL: Jim Hemminger was on the working group representing the ESJPA.

CHAIRPERSON MARIN: Did we get the buy-in from the rural counties?

MR. HALL: Yes. From Jim.

CHAIRPERSON MARIN: Okay. All right. Are there any further questions, Ms. Peace? No.

Okay. You do.

COMMITTEE MEMBER WASHINGTON: I do, Madam Chair, just briefly to staff.

Can you further explain the information that you want regarding the EDD?

MR. HALL: Yeah. Currently, what's available for free is county level employment for every county. And that's what we use in our calculator. Some jurisdictions have bought ZIP code level employment from EDD and submitted that. And there's some questions about whether or not that is representative of the jurisdiction because of boundary issues and changes over time in the ZIP codes. There are really no official boundaries for ZIP codes.

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They're based on the routes.

EDD recently has begun to geo code the addresses of businesses. And basically what -- it's GIS. And what they do is they put in the address, and then that can be mapped. And if you overlay that with the jurisdiction boundaries, then you can see which jurisdiction the businesses fall in. So it will be easier to see jurisdiction level employment. But that data series doesn't start until 2003, so it would have to be used with jurisdictions with newer base years.

COMMITTEE MEMBER WASHINGTON: What about the TSB?

MR. HALL: The taxable sales deflator. It's a measure of inflation specific to the transactions that are in taxable sales. So the CPI -- I'll give you a basic comparison. CPI is a measure of all goods and services. So it includes housing, which has gone through the roof recently; medical; fuel; education, along with all taxable items. Taxable sales deflator is an index that the Board of Equalization uses to measure inflation for taxable sales. So it's specific to the factor that we use in the formula. We talked with BOE staff, and they've told us that it's more accurate. And we talked with our contractor at Sac State.

COMMITTEE MEMBER WASHINGTON: So we're using the same formulas?

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MR. HALL: It would be the same formula. We would substitute taxable sales deflator for CPI.

COMMITTEE MEMBER WASHINGTON: Thank you.

CHAIRPERSON MARIN: Well, I have to go back to the working group. The League of Cities was a member of this working group. Did they participate?

MR. HALL: No. The League of Cities did not participate. There were several jurisdictions that were there and consultants.

BRANCH MANAGER VAN KEKERIX: Lorraine Van Kekerix with the Waste Analysis Branch. Typically, we phone Yvonne Hunter before we start these working groups, and she asks us to rely on her member cities for the specific information on these highly technical topics. So we did have many cities who were members and kept her apprised of what was going on. But it wasn't an official League representative. It was the individual cities.

CHAIRPERSON MARIN: Okay. Now, the working group, there was basically consensus except for Item Number 5. Everybody agreed, more or less.

MR. HALL: On many of the items, yes. There was some disagreement on some of the items. In the end, I received no --

CHAIRPERSON MARIN: Opposition.

MR. HALL: -- opposition to the item in front of

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you.

CHAIRPERSON MARIN: And I didn't see, at least, anybody that was really opposed to any of this. And did you also have our haulers represented in the working group?

MR. HALL: Chuck White was on the working group.

CHAIRPERSON MARIN: Oh, well, if Chuck White was involved, that's it. Okay. So we had the haulers. We had LEAs.

MR. HALL: We did not have LEAs.

CHAIRPERSON MARIN: No LEAs. Okay.

MR. HALL: Well --

CHAIRPERSON MARIN: It wouldn't necessarily be relative.

BRANCH MANAGER VAN KEKERIX: Typically, the LEAs are not involved in the diversion rate measurement method development.

CHAIRPERSON MARIN: And I think the point I'm trying to make is I hope we got, you know, a pretty wide consensus that this is the way to move. I don't want to be surprised a week from now when we're at the Board somebody comes out and says, "I never knew and this is terrible." If that's not the case -- and I know you guys have been working on this for a while. So I just want to make sure that the interested parties, the ones that

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really are going to benefit from this and/or -- who wouldn't benefit from this? Are there jurisdictions that would not benefit from this new method?

MR. HALL: Based on the data we have now, no. No. There are no jurisdictions that would be hurt by any of these recommendations.

CHAIRPERSON MARIN: Okay.

DEPUTY DIRECTOR SCHIAVO: And, again, as far as notifications of the workshops, we widely distribute interest letters for who wants to be involved. And then as we're going through the process, we sent out the status of it to everybody involved or interested. We try to solicit as many comments as we can. And as Tim mentioned, we didn't receive any comments here towards the end of the process. And this has been going on informally and formally for several years as a result of 2202 and then subsequent meetings.

CHAIRPERSON MARIN: Now, let me ask you about the increased construction activity. Is there a way that we are going to be able to measure it and --

MR. HALL: We actually did some analysis. Our contractor did some statistical analysis. And we found that the data -- based on the data that we have, we just can't establish a relationship between the construction data that's available and waste generation data that we

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have.

Now, we're not saying that there's not a relationship. We know there's a relationship. It's possible that a lot of the construction activity is reflected in population, for example. Because when you build more housing, your population grows. But the data that's available out there just doesn't correlate with the generation data that we have. We will be doing more research.

CHAIRPERSON MARIN: On that particular area? Because my concern would be for those particular areas of the state that are experiencing incredible population growth, and there are some that are experiencing very significant. How would we be able to account -- is there a provision for staff looking at that particular item, at least on an individual basis? Are there some exemptions? Is there language that will enable staff to address that?

MR. HALL: Do one of you want to address that?

BRANCH MANAGER MORGAN: Yes and no. I mean, as Tim said, you know, right now we have no specific data to be able to correlate to waste generation. But as you know, when jurisdictions are evaluated and if they have been determined not to have met the 50 percent diversion requirement, we look at a number of factors. Statute does allow in the good faith effort designation for the Board

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to take into consideration construction and demolition diversion program implementation. So oftentimes when you see before you a good faith effort analysis, staff have assessed the jurisdiction's program implementation related to that, and that plays into the good faith effort. So data, you know, no direct correlation, but we do use it as part of a good faith effort analysis as well.

DEPUTY DIRECTOR SCHIAVO: When staff is performing their analysis, probably one of the most important factors is looking at disposal trends and then discussing it with jurisdictions if you see a big blip, discussing with the jurisdiction why do you think that existed. There's a big spike, is there a big construction activity taking place? If that's the root cause, then we talk about not only how would it effect their evaluation in the current, but how do you plan on getting it done in the future. So that's another part of the process.

BRANCH MANAGER MORGAN: And one last point I just thought of is the Board did pass a C&D policy for jurisdictions. So in cases where jurisdictions are diverting a lot of C&D material but they're still getting hit with some disposal, we have a system in place where they can claim a disposal modification. We've had a number of cities take advantage of that Board policy that was passed a number of years ago. So there's various

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avenues that we can address it with respect to their evaluation.

COMMITTEE MEMBER WASHINGTON: I guess I'm just having some trouble or difficulty understanding. Because you're saying that you don't have a method in place to deal with the construction piece, at least rapid growth cities, so how do we place this onus on them if we don't have a method to determine how do we find them. I guess I'm missing something here in terms of how do we determine and what measures do we use if a city comes under the 50 percent to find them if there's nothing in place. And this is a new method we're putting together. I'm sure it's not a one size fits all type of method we're going to be using here.

MR. HALL: It is a one size fits all for the adjustment method.

COMMITTEE MEMBER WASHINGTON: For the adjustment method.

MR. HALL: Right. But for the good faith effort, that's case by case.

DEPUTY DIRECTOR SCHIAVO: But, again, there's also the opportunity for a city to perform a new generation study if they would choose to do that.

COMMITTEE MEMBER WASHINGTON: Can that be done at any time?

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DEPUTY DIRECTOR SCHIAVO: That can be done at any time. So you can get at it that way. Again, there's no empirical method within the adjustment factor process at this point in time, but there are other methods. You know, again, you can do a new generation study to do a quick and dirty see if you can pick it up. And then if that doesn't work and they fall below the 50, that's when we kick in the good faith effort. And the way we look at good faith effort is it's not that the jurisdiction is doing any worse of job than somebody over 50 percent. It's just their numbers don't indicate it, and we consider them in compliance as well as other jurisdictions.

COMMITTEE MEMBER WASHINGTON: And that gives me some relief with the good faith effort, because I still should have done the study to figure out some way to measure this thing that really gives the advantage. But if we have a good faith measure there, that does kind of offer some relief for people to kind of try to work through some of this stuff.

MR. HALL: Can I just mention the original working group that developed the method struggled with construction activity back then.

COMMITTEE MEMBER WASHINGTON: You know, it's just growth all over the state of California.

MR. HALL: And they couldn't find a factor that

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reflected that either to put in the adjustment method.

I think this is probably the biggest unresolved issue that came out of this working group, is that there's -- we can't find a factor to reflect that construction activity. And I'm sure it's a huge impact on generation over the last few years specifically. And it's frustrating for us, because we can't reflect it in the adjustment method.

COMMITTEE MEMBER WASHINGTON: And I certainly believe, Madam Chair, as time goes forward and in years to come, Board members -- I certainly probably won't be here to see it. But I believe you will be revisiting this issue, because at some point it's going to be very dangerous in terms of the construction that is happening.

I mean, when I first started coming to Sacramento, off of the 5 freeway from the airport to here, it was nothing but open land. And now all they have is housing being built there. So I mean, it's rapidly growing. And I really believe at some point a study -- you guys really are going to have to do a study to figure this thing out in terms of how we measure, you know, this whole method of using this.

I certainly support this. I support Option 2, Madam Chair, with the staff's recommendation. I don't think we have the resources to be doing all this other

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stuff. But I think the working group did an excellent job, and they've come together and came up with a method for us to use.

MR. HALL: I'm sorry. Can I just say two more things, and then I'll be done unless you have more questions.

CHAIRPERSON MARIN: Okay.

MR. HALL: One, when we did the statistical analysis, we used new base year data. And we found that it explained most of the variation in the generation, that our current factors explained most of that variation. So I think that using those factors does explain some of the construction activity in the newer base years. It's when you've got an older base year that it really becomes an issue.

CHAIRPERSON MARIN: And most of our jurisdictions, are they using the newer base studies?

MR. HALL: I think it's about half.

CHAIRPERSON MARIN: That's an incentive for the other half. Okay. All right.

MR. HALL: And then the only other thing I wanted to do is I wanted to thank all of the working group members and the other staff for participating in this. I really appreciated it. It was a good experience for me, and I think it was a good experience for everybody who was

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involved.

CHAIRPERSON MARIN: Thank you. You guys did a great job.

Any further questions, comments?

You made a motion.

COMMITTEE MEMBER WASHINGTON: Do we need a motion?

CHAIRPERSON MARIN: You just need direction. So go ahead, but no millions of dollars in studies. Okay. Thank you, Tim. Thank you, Lorraine.

Next item, Item Number 14.

DEPUTY DIRECTOR SCHIAVO: John Duke will present this item. It's Consideration of the Amended Nondisposal Facility Element for the City of Fresno.

MR. DUKE: Good morning, Madam Chair and Committee members.

The City of Fresno is amending its Nondisposal Facility Element by identifying and describing the West Code Waste, Incorporated, Green Waste Facility. This facility will process green waste and wood waste materials from the City of Fresno.

The City has submitted all required documentations for this facility. Staff, therefore, recommends approval of this amendment. This concludes my presentation. Thank you.

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CHAIRPERSON MARIN: Okay. Thank you, John.

Let me just ask you. Will this help the city achieve their 50 percent diversion? Was this part in any way, shape, or form of their -- it wasn't a Compliance Order. Their extension, was it their extension? It was a 1066.

BRANCH MANAGER MORGAN: Yeah. This is the City of Fresno. So, yes, by expanding the facility, it helps them increase the amount of green waste that can be diverted.

CHAIRPERSON MARIN: Great. Anybody here from the City of Fresno?

MR. DUKE: No.

CHAIRPERSON MARIN: They're implementing that already. Okay.

Ms. Peace.

COMMITTEE MEMBER PEACE: I have no questions. I'm ready to move the item. I'd like to move Resolution 2005-245.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, we will substitute the previous roll call and it will go on consent.

Okay. Item Number 15.

BRANCH MANAGER MORGAN: I'm going to fill in for

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Pat. Cara Morgan, Office of Local Assistance.

This is Consideration of the Amended Nondisposal Facility Element for the Unincorporated Area of Orange. And Maria Kakutani will be making this presentation.

CHAIRPERSON MARIN: Hello, Maria.

MS. KAKUTANI: Good morning, Committee Chairman and Committee members.

The County of Orange is amending its Nondisposal Facility Element by identifying and describing the CR&R solid waste transfer/processing facility and pilot food waste compost facility, a new facility.

The County has submitted all required documentation for this facility, and therefore, staff recommends approval of this amendment to the County of Orange's NDFE. A County representative is here to answer any questions. This concludes my presentation. Thank you.

CHAIRPERSON MARIN: Okay. Thank you. And Ms. Peace, do you have -- no questions.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-244.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the order. We'll move to the next item. That item will be placed on consent. Item 16.

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DEPUTY DIRECTOR SCHIAVO: This is Consideration of the Amended Nondisposal Facility Element for Kings County Unincorporated. And Eric Bissinger will present this item.

CHAIRPERSON MARIN: Okay.

MR. BISSINGER: Good morning, Committee.

Unincorporated Kings County is amending the Nondisposal Facility Element by identifying and describing the West Lake Farms Co-Composting Facility as a new facility.

The jurisdiction has submitted all required documentation for the facility. Therefore, staff recommends approval of the amendment to Unincorporated Kings County Nondisposal Facility Element. And that concludes this presentation.

CHAIRPERSON MARIN: Thank you, Eric.

Are there any questions? No questions.

Is there a motion? We're leaving all of these people ready to go. Okay. Go ahead.

COMMITTEE MEMBER PEACE: I'd like to move Resolution 2005-246.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the order. And we will put this item on consent. I think Greg was here, Greg Gatzka.

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Thank you for being here. You don't have to testify or come before us. Also want to thank Sue Gordan; right? She was here from Orange County. I think she's left.

Okay. Item Number 17.

DEPUTY DIRECTOR SCHIAVO: This is Consideration of the Five-Year Review Report for the Countywide Integrated Waste Management Plan for the County of Kings. And Eric will present this item also.

MR. BISSINGER: Kings County and the Local Task Force completed its Five-Year Review of the Countywide Integrated Waste Management Plan. Board staff has evaluated the County's Review Report and determined that the required elements have been addressed. Therefore, it is staff's recommendation that the Board approve the County's assessment that no revision is necessary. This concludes my presentation. And Greg Gatzka is here to answer any questions.

CHAIRPERSON MARIN: Okay. Do we have any questions for Mr. Gatzka?

No questions.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-247.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the order, and we will place this

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item on consent.

Next item.

DEPUTY DIRECTOR SCHIAVO: This is Consideration of the Five-Year Review Report for the Countywide Integrated Waste Management Plan for the County of Merced. And Yasmin Satter will present this item.

MS. SATTER: Good morning, Madam Chair and members of the Board.

The County of Merced completed its Five-Year Review of the Countywide Integrated Waste Management Plan and determined that a revision of their plan was not necessary at this time.

Board staff has evaluated Merced's review report and determined that the required elements have been addressed. Therefore, it is staff's recommendation that the Board approve the County of Merced's assessment that no revision is necessary. A representative from the County are available to answer any questions you may have. This concludes my presentation.

CHAIRPERSON MARIN: Thank you, Yasmin.

Are there any questions for the county? No. No questions. We're letting you guys off easy today. Okay.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-248.

COMMITTEE MEMBER PEACE: Second.

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CHAIRPERSON MARIN: Okay. Moved and seconded. Without objection, that will be the pleasure of this Committee, and we'll place this item on consent.

The next item, Number 19.

DEPUTY DIRECTOR SCHIAVO: Is Consideration of the Application for an SB1066 Time Extension by the Merced County Solid Waste Regional Agency. And Yasmin will present this item also.

CHAIRPERSON MARIN: Okay, Yasmin.

MS. SATTER: The Merced County Solid Waste Regional Agency has requested a first SB1066 Time Extension through December 31st, 2005, to provide it with additional time to implement diversion programs. Staff's analysis of their request is that it is reasonable given the barriers the regional agency is facing.

Board staff has determined the information submitted in the application has been adequately documented and recommends the Board approve the time extension request. The Agency's representatives are available to answer any questions you may have. This concludes my presentation. Thank you.

CHAIRPERSON MARIN: Thank you, Yasmin.

I'm sure there are a couple of questions on this one.

Ms. Peace, do I sense that you may have a

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question?

COMMITTEE MEMBER PEACE: It says here they are going to do a C&D ordinance.

CHAIRPERSON MARIN: Let me call -- we have two people, Bill Spriggs from Merced County Association of Governments and R. Scott Johnson. Who's going to come first?

MR. SPRIGGS: Madam Chair, I'm Bill Spriggs. I'm a member of the Merced City Council. And today I'm wearing my Vice Chairman's hat of the Merced County Association of Government.

CHAIRPERSON MARIN: You're the right person to come.

MR. SPRIGGS: Which is kind of like herding cats, because we're six municipalities in the County of Merced forming the Joint Powers Authority that manages our solid waste in Merced County.

And I'm here just to emphasize our commitment as a Governing Board to meet our attainment. The City of Merced, I'm proud to say, has implemented curbside three years ago. We are in the process of doing a pilot program on C&D right now, we'll be starting this month. The County of Merced, which is actually the second largest in terms of population in the county, Unincorporated is the largest in terms of population in the county, is

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implementing C&D program now as an agency. I think we have the political will to move forward.

We recently implemented on another issue a -- we're one of the first agencies in the state to implement a regional transportation impact fee, so we have the ability to work collaboratively countywide. So Scott Johnson with the County of Merced and Margie Kern and Rose Neemi with Merced County Association of Governments are with us, and they're able to answer the technical questions.

CHAIRPERSON MARIN: Well, first of all, let me thank you. As an elected official, I know how difficult it is to move away from your city. I really appreciate you taking the time. I appreciate your efforts on behalf of the entire county on that Council of Governments.

And let me ask you this. Do all of the cities in that county, have they all adopted a C&D?

MR. SPRIGGS: No.

CHAIRPERSON MARIN: But the City of Merced has?

MR. SPRIGGS: The City of Merced is starting a pilot program. It's kind of a catch 22. We're in the process of repermitting our landfill, which is probably 18 months down the road. We need to get the authorization from the State to do a transfer station so we can move C&D outside of the county.

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City of Merced and the County are going to do direct haul. The closest facility to handle C&D is in Fresno. So we have to do direct haul. So it makes it a little more difficult for some of the smaller agencies in the county. We need new transfer stations to move that C&D outside to be processed.

CHAIRPERSON MARIN: Currently, do you have a transfer station that takes care of that?

MR. SPRIGGS: We do not. We do not have a transfer station. So what we're doing is direct haul.

CHAIRPERSON MARIN: Okay. Well, I know Ms. Peace is going to say something, but I'll just let her say it.

COMMITTEE MEMBER PEACE: So when do you plan to have a C&D policy or C&D ordinance?

MR. SPRIGGS: As soon as we can. We've always been very proactive, you know. We approved an expenditure last Monday night for hundreds of thousands of dollars to buy additional recycling cans. So we are committed. I can speak for the community of Merced. We are committed to move forward with C&D. It would be easier if we had a transfer station. That will come down the road with the repermiting of our current landfill facility.

COMMITTEE MEMBER PEACE: Even though this is a regional agency, each jurisdiction then will pass their own C&D ordinance? It's not something you'd make all your

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member jurisdictions do?

MR. SPRIGGS: It's kind of like herding cats.

COMMITTEE MEMBER PEACE: I thought that was the reason for the regional agency is to get everybody on the same page doing the same thing.

MR. SPRIGGS: That is. And we've been successful in getting everybody on the same page. With our regional transportation impact fee, it required the other agencies in the region to implement the same ordinance. So with the exception of one agency, we've all implemented that ordinance and we're moving forward with the regional fee. So I think we've proven that we can work together as a region for these important issues and --

COMMITTEE MEMBER PEACE: It seems like it would make sense for the developers and builders to want a C&D policy that was the same in the whole region.

CHAIRPERSON MARIN: I'm going to put the onus on you since you're here.

MR. SPRIGGS: And that's why I'm here.

CHAIRPERSON MARIN: We would love to see the City of Merced take a leading role and develop and implement your C&D ordinance as soon as possible. It is at the local level. I'm a former mayor of a city myself. When you lead the way, other people will follow.

And I know there are considerations and so forth,

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but we have now many, many cities that have adopted a C&D ordinance. We have it available on our web page. I'm going to ask you when you go back, talk to your colleagues, adopt that C&D ordinance, and then once you do that, I think that you will have a greater influence in all of the other cities that are part of your Joint Power of Authority. So you're here so --

MR. SPRIGGS: Well, I'm here because staff wanted me here, so at our Board meeting next Thursday I can emphasize your concern about C&D and moving forward with -- and our 1066, you know. Traditionally, we run between 43 and 50 percent. So we've been close. But we've experienced significant -- the city of Merced grew by 4.5 percent last year. The city of Los Banos grew by 4.8 percent last year. So we had a significant increase in construction. And I think it's obvious that we need to move forward with C&D.

CHAIRPERSON MARIN: Okay. And can we have Mr. Scott Johnson. Thank you for your time. I really appreciate that.

MR. JOHNSON: Madam Chair, I'm Scott Johnson. I'm the Deputy Director of Public Works for the Solid Waste Division. We handle both landfill facilities as well as we are in charge to do the disposal reporting for the regional agency, present items to them, and hopefully

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move forward with this.

To answer your earlier questions on your C&D issues, the City of Merced is starting a pilot program. They're working with an agency that has a yard in Fresno to direct haul all C&D waste from the city of Merced. City of Merced is rather unique in that they do all their own waste hauling, even their construction and demolition drop boxes. Nobody else goes into the City of Merced, so they have a real captive audience.

Again, they don't have a transfer facility at this time. We are working with them in order to try to create that. But the materials will be -- all the C&D materials will be transferred to a C&D recycling center in Fresno.

Coupled with that, we're going before the Technical Review Board and the Governing Board this week with a request to change the rates. Right now, our rates for mixed C&D materials are standard refuse fees. We're asking to double those. We've got some incentive rates for materials that are source separated. They come into our facility and they separate the waste from the aggregates and other materials. We can deal with that when it comes in next. We just don't have the staff or facilities to take that apart.

So we're going to try this, coupled with the City

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of Merced's planned change in the rates at the landfill. The waste hauler from the Fresno facility is willing to direct haul from county areas also. We're going to go out and talk with all our building departments to explain this information so they can get that information out to the builders. We want to study this for a little bit and see how this works and then come back with a C&D ordinance recommendation for the regional agency that makes a little bit more sense.

We've got again a number of small jurisdictions with very small building department staffs. And to take every building permit and try to get waste plans from each individual builder and stuff seems a little bit onerous at this point in time. We want to see if we can do it this other way first before we come in with an ordinance that's going to be very staff intensive for the smaller communities.

We've got a number of plans that are in place. Part of them are part of the 1066 application. The City of Merced has already made contact with a number of the schools. They're going to start a school recycling program. In the context with the cities, the school system has been very positive. That's due to start up in November. They also have a pilot commercial recycling plan.

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Currently, within the city limits of Merced and the commercial areas, they do have some pick up of cardboard and that sort of thing, but they don't have a full recycling program for the commercial area. They're going to initiate that by December of this year. That's going to help us out, because we go out from our landfill and pick up from a few of the commercial establishments, which is not really cost effective. We're hopeful that's going to increase our diversion.

The City of Livingston is implementing a drop-off program for their community, and they are in negotiations with their waste hauler to start curbside programs. We've got some severe limitations right now. They just lost their City Manager, and they're in a little bit of a disruptive situation right now. But we're working with their staff to get this information to their City Council.

Los Banos is moving forward with their curbside green waste program. And these are very small communities, but they're committed to work with the rest of the agencies within the regional agency to implement some programs.

The County, just in August 16th of this year, the Board of Supervisors approved adding a third can system to the populated areas within Merced County. When we implemented the green waste program four or five years

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ago, that was an additional 10,000 refuse cans of green waste cans. There's going to be another 10,000 cans being put out on the streets of the rural areas of Merced County in about February. We're still working with the waste hauler to get that implemented on time.

Los Banos has a green can program. They are in negotiations with their waste hauler right now. There's a little problem. The waste hauler wants a little more money than the City is willing to expend at this point in time, but they are working on that program.

Coupled with that, we're entering into an agreement. That agreement is going before our Board of Supervisors today to enter into a contract with California Waste Associates, Jim Greco. We are one of those, half of those, agencies that have a base year that's 13 years old. So we want to see what the new base year is. And once we do that, we want Jim to help us look at the waste streams within the regional agency and decide which programs are appropriate to implement for the rest of the agencies within the jurisdiction.

And on top of that, going before the TRB and the Governing Board, this week we have a procurement policy that we're taking forward to them with three different options.

Again, all of the jurisdictions, even though we

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are a regional agency, each individual agency enacts their own regulations, ordinances, and that sort of thing. We are trying to provide them with some examples that have been provided to us by your Waste Board staff as good examples of procurement policies that go beyond just dealing with recycled paper content. And we're going to push forward with that. That's why it's very important that Bill Spriggs is here today, so he can carry that word forward to the Governing Board as an elected official, as a member of that Board, rather than just hearing it from staff.

I'd be glad to answer any questions you may have.

CHAIRPERSON MARIN: Thank you, Mr. Johnson. Thank you very much for being here.

I have a couple of questions regarding the City of Livingston. I understand their City Manager is not there. Don't they have something about the contract language is not conducive for a curbside recycling? What are they going to do? I know that we're saying, well, they need to do something. But what is it that you're going to ask them to do?

MR. JOHNSON: Well, in the downtown area, they have alley services that have 300-gallon containers with absolutely no limitations on what people can put in there. It's amazing what they find in there, engine blocks. It's

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just terrible. And in their contract with the waste hauler, it's been in effect for years. And they're having difficulty getting the waste hauler to commit to changing out those 300-gallon containers and going to individual toters for each residence. They've actually pulled the plug on the contract with their waste hauler because they're not coming forth with a better plan. Now, unfortunately, the window on that is now about seven years away before that contract expires. But they are at the table negotiating with these groups.

One interim plan that they're considering is the newer residential areas of town don't have the alleys. They do have the 90-gallon containers. They can implement some curbside programs with that part of their population. And we're hopeful they're moving forward with that. But they're trying to figure out a solution for the entire community. And it's going to be a little difficult. Again, when you lose your City Manager in the midst of all this, it's going to shift the emphasis a little bit. But we're going to work with their staff and try to help them along.

CHAIRPERSON MARIN: Well, I would appreciate -- and I know for a fact that the hauler's one of the premiere haulers. It surprises me that they have been unable to work something out. I mean, it helps everybody

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to have curbside recycling.

MR. JOHNSON: And they are moving forward. It's just moving forward slower than we would like to.

CHAIRPERSON MARIN: I know with the manager gone it's challenging. But if there's anything we can do, we will help. I don't know how. But it seems to me that that can be resolved, that the language in that contract can be resolved. I'm not an expert, but I think that when there's a will, there's a way. And we would love to work out something. There needs to be -- I mean, I know there's contract language, but it would seem to me there would be willingness from both sides to come to an agreement on that. I know it's beyond your control, but maybe we need to touch bases with Livingston.

The other thing, on your recycled content, so right now none of the cities have a recycled content policy ordinance?

MR. JOHNSON: There is an ordinance within our Association of Governments, but it's more along the lines of just taking care of recycled paper products, that sort of thing. It's one that has been in force and effect for a number of years. Different agencies have different things. But none of them really cover the types of materials that we're really looking forward to putting into a procurement policy.

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CHAIRPERSON MARIN: Okay. Go ahead, Ms. Peace.

COMMITTEE MEMBER PEACE: I just want to say I'm glad that you are mentioning that you're going to be trying to implement a C&D policy and, you know, a buy recycled procurement policy. And to me, the sooner you implement those, the better. The sooner the better. To me, a good faith effort includes at minimum a C&D ordinance and a buy recycled policy. And I will be looking at those two things a long with other things, but those two things in particular for all the jurisdictions that are requesting a 1066.

I'm sure you all realize that the 50 percent diversion that you're required to get to as mandated in AB 939 can only be sustained if you close the loop by buying recycled. And, to me, you're not making a good faith effort at all if you don't do these two things.

And I'm glad you mentioned that you recycle paper and that you are looking to do more, because it does need to be more. You need to be buying recycled content paper and toner cartridges, along with many other things; using re-refined oil and recyclable air filters in your City and County-owned vehicles; using compost and mulch on your roads and in your parks; using recycled road base, that will help your C&D; paving your roads with rubberized asphalt, concrete, or laying rubber sidewalks; using

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recycled paint on your city and county office buildings and on your schools. All these things are things that you can do to help drive the markets for the recycled content products and that will ultimately help your diversion rate.

And like you did mention, the Board does provide a green procurement toolbox on its website. It has a recyclestore.com and a recycled content procurement guide. And I'm sure if any of the jurisdictions want any more information on that, our staff will be glad to give you any more information. And so we have lots of things to help you find those recycled content products. I'm glad you're looking at those things, and I'll be watching to see how soon you can implement those.

CHAIRPERSON MARIN: Mr. Johnson, and that's the way we feel very strongly. The only way that we, as a state, can achieve the 50 percent diversion rate is if every jurisdiction achieves that on their own. And one of the things that we really push for -- because we know what works.

We know the institutions that are getting their 50 percent have all of these things already implemented. We know that works. And the reason why we push for some of these items and some of us sound like parrots over here, we're just repeating. And that's because we know.

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We know that the ones that are successful have done all these things. And the ones that are not yet there need to do some of these things.

So it's not an admonishment, but rather a real desire to help you reach your mandate. And when you reach your mandate, we reach ours. So please take that in the spirit that it's being given. We will help you. We have staff that is willing to come in and work with the local cities so they, in fact, adopt these ordinances. But the County has to be there. The county itself, regardless of the ESJPA, you must show. You must take the lead. And so what Ms. Peace is saying, all of those things that need to be done, you know, you lead by example. So we would appreciate it if you're not doing some of those things, that the county does it themselves. Okay.

MR. JOHNSON: Yes.

CHAIRPERSON MARIN: Thank you so very kindly for your time.

Mr. Washington. No questions.

COMMITTEE MEMBER WASHINGTON: Move adoption of Resolution 2005-249.

CHAIRPERSON MARIN: Thank you.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the pleasure. And we will put

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this item on consent.

Next item, 20.

DEPUTY DIRECTOR SCHIAVO: Is Consideration of the Application for an SB1066 Time Extension by the City of Hesperia, San Bernardino County. Yasmin will present this one also.

MS. SATTER: The City of Hesperia has requested a first SB1066 Time Extension through December 31st, 2005, to provide it with additional time to implement the programs in its Plan of Correction.

Staff's analysis of their request is that it is reasonable given the barriers the City is facing. Board staff has determined the information submitted in the application has been adequately documented and recommends the Board approve the City's time extension request. The City's representative are present to answer any questions you may have. This concludes my presentation. Thank you.

CHAIRPERSON MARIN: Thank you, Yasmin. Who's here from the City? Is it Julie or Kim or Henry?

MS. SUMMERS: They're all here. Hello. My name is Kim Summers, and I'm the Manager of Recycling for the City of Hesperia.

And I just want to assure you that the City of Hesperia is committed to once again retaining our 50 percent diversion rate, and not only achieving that,

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but staying above it in the future. We are one of those cities that's facing unprecedented growth. Our building permits are up 91.6 percent. We recognize that C&D is a very large challenge for us.

We have met with our Council. We have their full support to move forward with implementing new C&D programs and a new C&D ordinance. They've committed resources in staffing as of yesterday. We have our first full-time environmental programs coordinator. So we're very pleased with that. And we have a very good relationship with our waste hauler. So all of the components are in place to move forward to address C&D waste at this time. And we think that we have some good plans in place to do that.

Also with regards to procurement, the City has a long history of not only buying recycled, but recycling our waste as well. We try to be an example to our other agencies within the city. Some of the things that we do is we do reuse our road base and recycle our concrete. We recycle our still water meters in still pipeline. We have a coffee mug program that we use with all City employees. We have purchased hybrid pool cars for our employees. We are going towards a paperless agenda.

We also use grass cycling at all of our facilities. We have a mixed paper program. All of the City's mixed paper is recycled through our waste hauler.

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We also auction off all of our surplus items for reuse. And we purchase recycled paper whenever possible and use recycled toner cartridges.

CHAIRPERSON MARIN: You probably don't know that, but that's music to our ears, especially with Ms. Peace. You're singing a song to her. Okay.

COMMITTEE MEMBER WASHINGTON: You do all that, but you don't require your residents to recycle out of the garbage. They can still put their recyclables in the same trash can.

MS. SUMMERS: We have a materials recovery facility. And so our items are taken and sorted at that facility. But we do have a separate green waste bin that's put out for green waste in targeted areas, and then we've introduced a mixed paper program with a separate waste wooler for that one also.

COMMITTEE MEMBER WASHINGTON: That's in the city itself?

MS. SUMMERS: Yes.

COMMITTEE MEMBER WASHINGTON: I might come by there tomorrow. I'm going to Victorville Landfill tomorrow.

MS. SUMMERS: Come by and see us. We'll be back.

CHAIRPERSON MARIN: What would it take to get a blue bin? We've seen blue bins throughout the L.A. County

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area. Why wouldn't you have that for your residents? What is stopping you from that?

MS. SUMMERS: Prior to my being with the City, a previous Council had moved to going the direction of helping our waste hauler with the material recovery facility. The Council at that time believed that that was the best way to achieve the highest rate of diversion.

And so we have reached our 50 percent, and we've looked at all of our programs. And I think our C&D is our largest issue at the moment. But, again, we are looking at ways to capture more mixed paper, which is a very large component.

CHAIRPERSON MARIN: Do you have an ordinance for construction and demolition?

MS. SUMMERS: We are working on that.

CHAIRPERSON MARIN: When will that be adopted?

MS. SUMMERS: By the end of the year, I hope.

CHAIRPERSON MARIN: How many months is that? Four. You can do better than that.

MS. SUMMERS: Well, we discussed it with our Council, and they are supportive of it. We'd like to hold some workshops with our construction industry and our waste hauler and have public workshops with our --

CHAIRPERSON MARIN: Mr. Washington will go in and meet with the Mayor himself, bang him on the head, and

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say, "You will have a C&D ordinance."

COMMITTEE MEMBER WASHINGTON: At least an emergency one, if nothing else. We sit here and laugh about it, but as you know and you've been listening in, we're very serious about this.

And the thing that scares me is to have a workshops with the haulers -- I don't know what the purpose of the workshop is, because the City itself, the municipality, is the one who we charged with that responsibility. So whether they agree with you or not, it's something you need to put in place, regardless. And it's certainly fine to have workshop with them, and I guess to bring them up to date as to which direction you guys are going in, but certainly if you guys can go -- and I will come by there tomorrow.

I'm serious about that, to talk to the Mayor, the City Manager, whoever I need to talk to to say, "Hey, run an emergency C&D reg or put something in place to show some good faith that you guys are really going forward with this."

MS. SUMMERS: We do have the support of our waste hauler with our C&D ordinance. Our problem has been more we're geographically a very large city. We have a very small staff. And we're just now kind of turning that corner where we have resources and staffing to dedicate to

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this issue. So we're kind of turning a corner.

COMMITTEE MEMBER WASHINGTON: She looks like she's ready to go to work, too.

MS. SUMMERS: She is.

CHAIRPERSON MARIN: Well, please know that a lot of the leg work has already been done by many other Cities that have actually implemented the C&D ordinance. You don't have to start from scratch. And we actually have a template in our Board.

So, you know, again, I don't want to repeat the same thing that I said to the other gentleman, but you know what we're looking for. We really appreciate what you're doing to make that good faith effort. And we want you to succeed. You know, it's in our best interest that you succeed. We'll provide you the tools. We have wonderful staff that will hold you by the hand, step by step. And we want you to achieve beyond your mandate. Okay.

With that, is there a motion?

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-250.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the pleasure of this Committee. And we'll place that item on consent.

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Next item is Item 22.

DEPUTY DIRECTOR SCHIAVO: This is Consideration of the Application for an SB1066 Time Extension by the City of California City in Kern County. And Nikki Mizwinski will present this item.

CHAIRPERSON MARIN: Okay, Nikki.

MS. MIZWINSKI: Good morning, Madam Chair, members of the Board.

Board staff has reviewed and verified the City of California City's request for a first time extension to meet their AB 939 goals and are recommending approval of this agenda item. Representatives from the City could not be present today to answer your questions. However, we are here. This concludes my presentation.

CHAIRPERSON MARIN: Thank you, Nikki.

Hold on one second.

COMMITTEE MEMBER PEACE: Just stress to the City -- you put it that you recommend they have a procurement policy. And I hope you stress to them how important that is.

MS. MIZWINSKI: Yes, they did. They will do a formal procurement policy. Right now, they have a policy, but it is informal.

They asked me to let you know they are very sorry they had a schedule conflict and could not be here.

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CHAIRPERSON MARIN: I'm trying to look at something really quick.

COMMITTEE MEMBER WASHINGTON: Nikki, there's a prison down there?

MS. MIZWINSKI: Yes.

COMMITTEE MEMBER WASHINGTON: Are they doing something with recycling with that prison?

MS. MIZWINSKI: Indeed, they are. All the green waste in the prison is being composed and used at the prison garden. And each month I receive a tonnage report from the prison. It's being recycled; plastic, glass, paper.

CHAIRPERSON MARIN: Any further questions, Ms. Peace?

COMMITTEE MEMBER PEACE: No.

CHAIRPERSON MARIN: I know that at one point they were really doing very well. And then it went down and now it's going a little bit up. Is it the construction and demolition? What was happening?

MS. MIZWINSKI: What's going on there? The entire City's waste stream is running through the Bins MRF. However, when the prison came in, the City thought its waste stream would run through the Bins MRP. That was incorrect. The City did not specify that.

We then realized with the City that it was not

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going through the MRF and quickly made changes to make sure that the prison's waste stream was being recycled to the maximum extent possible. And it's not due to C&D. There are several C&D facilities within range of the city. The closest one is the bins MRF. C&D materials are accepted free and recycled. They're actually sorted twice on the MRF line at bins.

MS. WILLMON: Tabetha Willmon with the Office of Local Assistance.

That's actually what the whole 1066 is for, to continue working with the prison. Because it was in 2000 the prison came on line. They had been up in the 60s. That's when we saw their rates drop. So this is in response to that. They've actually acted very responsibly and implemented prison programs. So we're confident their diversion rate will be going up.

CHAIRPERSON MARIN: Do you know if the prisons are part of the state; right?

MS. MIZWINSKI: No. It's a private prison, actually. However, I've talked to the prison warden, and he is very willing to do recycling. I'd say I talk to him at least once a month about what he can do to recycle. He's always calling me.

DEPUTY DIRECTOR SCHIAVO: Most of the prisons, private or the public, have been very successful with

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implementation. Their diversion rate overall, the prison system is about 60 percent. And, again, the focus of the 1066 is to get at the organic fraction. And, you know, so we feel pretty comfortable they will, based on the history of the other institutions.

CHAIRPERSON MARIN: Okay. So how new is this prison?

DEPUTY DIRECTOR SCHIAVO: 2000.

CHAIRPERSON MARIN: 2000. Okay.

COMMITTEE MEMBER WASHINGTON: What's the population of it?

MS. MIZWINSKI: It's one-third of the population of the city.

CHAIRPERSON MARIN: Okay. Are there any further questions?

COMMITTEE MEMBER PEACE: I'd like to move Resolution 2005-127.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Moved and seconded with the pleasure this Committee. And we'll put this item on consent.

Let's go to Item 23.

DEPUTY DIRECTOR SCHIAVO: Nikki will present this item as well. This is Consideration of the Completion of Compliance Order IWMA BR03-01 for the City of McFarland in

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Kern County.

MS. MIZWINSKI: In January of 2003, the City of McFarland was issued a Compliance Order to implement the additional or expand existing source reduction and recycling programs. The City and Board staff then worked together to establish a Local Assistance Plan.

In July of 2004, because the City had failed to demonstrate a good faith effort to implement the majority of the specific tasks listed in their Local Assistance Plan, the Board imposed administrative penalties against the City of McFarland pursuant to the compliance order. The City has since successfully implemented all of the programs in their Local Assistance Plan. Therefore, it is staff's recommendation that the Board remove the City from Compliance Order BR03-01.

Additionally, Board staff have reviewed and verified the City of McFarland's request for a first time extension to meet their AB 939 goal and are recommending approval of that agenda item. Representatives from the City are here to answer any questions.

This concludes my presentation.

CHAIRPERSON MARIN: Thank you. Anthony Lopez from the City of McFarland.

MR. LOPEZ: Good morning. How are you.

CHAIRPERSON MARIN: Happy to see you again, sir.

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How are you?

MR. LOPEZ: Very well. Thank you. I just wanted to come here real quick. When the word successfully is implied here, I really want to really thank the Board. I want to thank the staff members, especially Nikki and Tabatha. And if you have any questions regarding the activities, the success really also goes to Mario. He's our Recycle Coordinator. He's been on the job now a little over a year.

We went ahead and hired a consultant. We heard about the consultant at one of your workshops on C&D. She was the speaker there. And Mario made me aware of it. So Constant Hornick is here also, and she's our consultant. And she's referred to as the trash attorney, because she specializes in that. And we thought that we need to get everything up and straightened out. But I want to thank the Board sincerely because I'll be leaving soon.

COMMITTEE MEMBER WASHINGTON: Where are you going?

MR. LOPEZ: Well, you know, I'm proud to say --

CHAIRPERSON MARIN: You just got in there.

MR. LOPEZ: I'm proud to say the City doesn't have the Grand Jury problems any more. The budget is in the black, so it's time to -- within five months.

But these are the individuals really that

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everything has turned around, thank God. Thank you.

CHAIRPERSON MARIN: No. I appreciate very, very much you being here. I remember when you came the first time. And, you know, when you were speaking about using the word success, it just gave me the chills, because I remember the first time you came. It was anything but success. And it's truly amazing, you know. I appreciate the fact that you were in a situation that was very difficult and came out with flying colors. We asked you to do a number of things. They have all been done. And we really appreciate that.

And I want you to know that aside from it being a legal mandate, and there was a desire to really do something good, and you did it. And, you know, I just feel very warm about it. And I think this points to other jurisdictions that are not doing so great, it can be done. But you have to have the willingness to do it and you've demonstrated that. We wish you --

MR. LOPEZ: Really, if it wasn't also for the support of the mayor and the Council in allowing us to proceed and -- excuse the phrase -- being gutsy and allowing us to implement the C&D and other activities and such, because those are not popular decisions. But they're necessary. Thank you, all.

CHAIRPERSON MARIN: We thank you. You've done an

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outstanding job, and we really appreciate it.

COMMITTEE MEMBER WASHINGTON: And, Madam Chair, I certainly believe the City of McFarland ought to be the poster child for this year in terms of a city, I do, in terms of municipality.

Those who are listening by way of the computers and audio sounds that those who are having some problems should contact the City itself and really try to figure it out, because you guys had some serious issues and you've completed that. And I think that says value in terms of your commitment to get the job done. And I, too, want to echo and attach myself to the comments of our Chair our greatful gratitude for what you guys have done.

CHAIRPERSON MARIN: We want to keep your feet to the fire with the extension with the SB1066, and I know Mario will continue to do a great job. I understand you were a great find, so I think you're a keeper now.

MR. LOPEZ: Thank you.

CHAIRPERSON MARIN: Thank you. Is there a motion?

COMMITTEE MEMBER PEACE: So good to see. Good work. I'm glad to see you're doing a new base year because your base year is quite old.

With that, I'd like to move Resolution Number 2005-258 and 259.

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COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the pleasure. And we'll put both items on consent and we really don't want to see you. No, we do. Welcome again, and thank you so very much.

All right. Let's do Item Number 25.

DEPUTY DIRECTOR SCHIAVO: Nikki is on the hook for this one as well. This is Consideration of the Application for an SB1066 Time Extension by the City of Buellton in Santa Barbara County.

CHAIRPERSON MARIN: Okay.

MS. MIZWINSKI: Board staff has reviewed and verified the City of Buellton's request for a time extension to meet their AB 939 goal and are recommending approval of this agenda item. Representative from the City is here to answer any questions.

This concludes my presentation.

CHAIRPERSON MARIN: Thank you, Nikki.

Who's here? Sheri Leigh.

MS. LEIGH: Yes.

CHAIRPERSON MARIN: How are you then? Thank you so very much for being here with us today.

MS. LEIGH: Thank you for keeping me entertained for the morning.

I'd like to start out by saying the City of

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Buellton is a relatively new city who started with a high diversion rate and somehow mysteriously worked our way down. But we are attributing that to a building boom. The city is almost built out.

We are in the process of implementing a C&D ordinance, same as the other cities before me, which I know is music to your hearts. We also had a procurement policy in place for several years now so we plan to continue that.

In addition, we are looking at expanding our green waste program. We have mandatory green waste for our residents. And we have some new wineries in the area. And we have Albertsons which I know is disposing of 200 tons of their organic produce -- but their produce is that not utilized or purchased pre-consumer per day. So we are now working with a company in Santa Maria, Ingle and Gray, to amend these issues and start collecting from the new wineries and from Albertsons. And we should have these policies in place no later than the end of the year.

CHAIRPERSON MARIN: Okay. That's good.

Any questions?

Ms. Peace.

COMMITTEE MEMBER PEACE: I was glad to hear you have a procurement policy already. Can you give me some examples of some things, some recycled content products,

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that you buy?

MS. LEIGH: Absolutely. For the city being small and relatively isolated in the San Ynez Valley, it has been working with the County of Santa Barbara to have a mutual purchasing policy to make the prices more effective.

So we're purchasing recycled content paper, recycled content plastic items whenever possible, toner cartridges, paper products that are in the bathrooms, the paper towels, and rubberized asphalt when possible. Otherwise, we just regrind the asphalt we pull up from the streets and relay it. So there's a number of items. And also we purchased a mulcher, and we've been using the mulch from our trees back on to city medians and parks.

CHAIRPERSON MARIN: Your business, your commercial program, tell me a little bit about that, because I think that you have some work to do in that area.

MS. LEIGH: We have a mandatory corrugated program for our businesses. And then the businesses have the option of getting a white bin in addition to their trash so they can -- that material can be taken to a material recovery facility and segregated out. Some of them are very small, and it's difficult for them to do that. It's prohibitive as far as the cost is concerned

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because they have to rent another bin. But some of the larger ones, like Pea Soup Andersons and the Post Office, they have either 300-gallon bins or they have a new dumpster, but they collect for recovery at the materials facility. But the corrugated program is mandatory for all these businesses.

CHAIRPERSON MARIN: Okay. Any further questions?

COMMITTEE MEMBER WASHINGTON: I understand that your green waste compost facility is no longer accepting green waste.

MS. LEIGH: Well, we had a compost facility located within the city limits that was different from our residential recovery. And a lot of the local businesses were taking compost there. They ended up with a -- I'm sorry -- not compost, but green waste to be composted. They ended up with limitations in the materials they could accept. And because other cities -- not other cities, but they were getting material from out of town that was a more economically -- an economic benefit to them, they decided not to take materials from within the City of Buellton any longer. So I think that hurt our diversion effort considerably.

COMMITTEE MEMBER WASHINGTON: Right. I'm glad you said that, because it's in the best interest of the city to keep that green waste diversion going to help with

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your numbers.

MS. LEIGH: Absolutely. And that's why our efforts with Ingle and Gray are so important right now, because we see that as a new avenue that will be more beneficial to us in the long run.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-256.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. We'll substitute the previous roll and we'll place the item on consent.

Item Number 26.

DEPUTY DIRECTOR SCHIAVO: Twenty-six is Consideration of a Request to Change the Base Year to 2000 for the Previously Approved Source Reduction and Recycling Element for the City of Santa Paula, Ventura County. And Tara Gauthier will present this item.

MS. GAUTHIER: Good morning, Committee members.

The City of Santa Paula has requested to change its base year from 1990 to 2000 using the data from the previously approved year 2000 generation based study. The City originally submitted a new base year change request for the diversion rate of 37 percent for 2000. As part of the base year study review, Board staff conducted site visits to verify diversion tonnage claimed.

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As a result, staff is recommending some changes. These changes can be seen in their entirety in Attachment 4 of this agenda item. With these changes, the City's diversion rate for the 2000 new base year would be 30 percent; 32 percent for 2001; and 36 percent for 2002; 39 percent for 2003. Board staff has determined that the base year change request is adequately documented. Staff, therefore, recommends the Board adopt Option 2. A representative from the City of Santa Paula is present to answer any questions.

This concludes my presentation.

CHAIRPERSON MARIN: Okay. Thank you.

Are there any questions? No questions.

COMMITTEE MEMBER PEACE: I'll have questions on the next item.

CHAIRPERSON MARIN: Okay. The City of Santa Paula, anybody who is here, thank you so very much for being here. You've got away free. How's that? Thank you.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-260, Option 2.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the pleasure of this Committee. And our thanks to Renee Salas for being here. We'll place

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this item also on consent. So you don't have to come to the Board meeting.

Item 27.

DEPUTY DIRECTOR SCHIAVO: They're not scott free. They're part of this item. Consideration of a Second SB1066 Time Extension by the Following Jurisdictions: City of Delano in Kern County and the City of Santa Paula in Ventura County. And Tara is going to present this item also.

CHAIRPERSON MARIN: Go ahead.

MS. GAUTHIER: Thank you.

The Cities of Delano and Santa Paula first time extensions have ended. And despite their efforts to meet the time lines in the first Plans of Corrections, they need additional time to implement programs. Board staff has reviewed and verified the Citys' requests for second time extensions to meet the AB 939 goal and are recommending approval of this agenda item.

Representatives from the Cities are here to answer any questions.

This concludes my presentation on this item. Thank you.

CHAIRPERSON MARIN: Okay. Let's take Delano first. Anybody here from the City of Delano? John Wankum, would that be you?

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MR. WANKUM: Yes. I'm John Wankum, Public Works Director for the City of Delano. And I'd be happy to answer your questions or give a brief overview of our next steps.

CHAIRPERSON MARIN: Okay. Do you want to listen to what he intends to do first before we drill you? No. We're actually really nice. Go ahead.

MR. WANKUM: I'm sure you are.

CHAIRPERSON MARIN: Go ahead. Okay.

MR. WANKUM: It's my understanding the city's diversion rate has fallen somewhat to 46 percent. We are in the process of implementing a -- we're looking at a C&D ordinance, and we will also be extending our recycling programs to include businesses and schools. We've also had some difficulties in past years due to contamination issues which we are now in the process of resolving, mainly by increasing our level of public information.

I'd like to add this is my first year on the job there, so there has been turnover of staff and council as well. I believe it is now a much more -- I think these issues will be addressed very directly and immediately.

CHAIRPERSON MARIN: Okay. Do you have any specific questions for City of Delano?

COMMITTEE MEMBER PEACE: I don't see anything about a C&D ordinance. Do you already have one, or do you

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feel like you don't need one?

MR. WANKUM: We don't have one yet. We are in the process of developing one. There are C&D disposal outlets for recycling available both at the nearby transfer station and at the landfill. But we will be looking at a model ordinance here within the next month.

COMMITTEE MEMBER PEACE: Do you have a buy recycled procurement policy?

MR. WANKUM: Yes, we do. We have tires, motor oil, and paper.

COMMITTEE MEMBER PEACE: Thank you.

CHAIRPERSON MARIN: Okay. Is there a motion? One more question.

COMMITTEE MEMBER WASHINGTON: One more question. Do you guys have a state prison in your city?

MR. WANKUM: We now have two.

CHAIRPERSON MARIN: Oh.

COMMITTEE MEMBER WASHINGTON: You have two state prisons?

MR. WANKUM: As of two months ago.

COMMITTEE MEMBER WASHINGTON: And do you guys work with the prison itself in terms of their waste? How do you guys work together with these two prisons?

MR. WANKUM: We are the contract haulers for the prison. I believe they have their own on-site green waste

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program. But what we do there, normal refuse and recycle pickup as part of our programs.

COMMITTEE MEMBER WASHINGTON: Oh, good.

CHAIRPERSON MARIN: On both; right? On both prisons?

MR. WANKUM: I believe so.

CHAIRPERSON MARIN: All right.

COMMITTEE MEMBER WASHINGTON: Madam Chair.

CHAIRPERSON MARIN: Let me now take the City of Santa Paula. Thank you very much for being here with us. Okay. Mr. Salas. We let you easy on the other one.

MR. SALAS: Thank you.

CHAIRPERSON MARIN: Do you want to tell us a little bit about why you need an extension?

MR. SALAS: Yes. My name is Renee Salas. I'm Deputy Public Works Director for the City of Santa Paula.

We do have a C&D ordinance that was adopted last year by our City Council, and we just completed one major component of that City ordinance that's going to be a requirement for the success of this ordinance and process. And that was a signed contract of our revised franchise agreements with both our haulers.

For the past year, we've been negotiating with both haulers for a revised agreement that would put language in a new C&D ordinance. And I'm glad to say last

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week both of them had signed the agreement to -- preferably to our needs for the City of Santa Paula to our language.

CHAIRPERSON MARIN: Does that include the multi-family residential?

MR. SALAS: Yes, it does.

CHAIRPERSON MARIN: Oh, great. Oh, good. Both haulers?

MR. SALAS: Both haulers. It was a big hurdle for us, and successfully completed it last week. And that was one component that was needed for our C&D ordinance to make sure it's carried out.

We do have a procurement policy that addresses purchases. It is a policy that basically identifies steps and measures for -- we call it environmentally preferable purchases. And some of the things that we review are the price and the type of project. And to our surprise, some of the items that we do purchase are very competitive in price.

One thing that we recently did is, as part of our revitalization of our veterans part, we purchased benches and trash receptacles that were made of 90 percent recyclable items. We have seven benches and 12 receptacles for that project, and we are completing our master plan for our parks this fiscal year which goes into

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next year.

And we are identifying items for that as well that include not just receptacles, but play equipment, preferably tot lots, and also using recyclable materials for rubberized asphalt type for those items as well. We see this as a good opportunity because we do have a lot of development coming in in the next couple years, and we need to identify these development fees for those projects as well.

We have a successful three-bin recycling program for our residential customers. We have approximately 4800 residential customers. It was first started in 2001. It's household trash, green waste, and recyclable containers. Both are oversized, they're 100-gallons.

And our drivers do an excellent job in promoting recycling and making sure that customers understand what's recyclable and not recyclable. And some of the ways they do that is they won't pick it up if they see contamination in the can. And you get calls, and we explain the reason why we don't pick them up is they're contaminated. And now we charge them a fee as a go-back fee if they want it that same day, because that's an added burden for us on overhead.

And we continue a lot of our successful programs for education of the city residents on recyclables. We

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have this recycling guide that we've enacted. This is our fourth year we've done this, and it's both in English and Spanish. We actually have English, and then you turn around it's in Spanish. It's very successful. It promotes all our recycling programs. And we also included last year a magnet that shows our schedule for recycling and also our quarterly drop-off bins that we have that are successful in the community.

CHAIRPERSON MARIN: Now let me just -- because you were talking about construction/demolition. And I interjected about your program for your multi-family program. Your contractors agree that that would be a coming program for the recycling program for the multi-family?

MR. SALAS: Absolutely.

CHAIRPERSON MARIN: I just want -- we were talking about construction and demolition and then I jumped in. So I want to make sure that's done. Thank you for that.

Any further questions?

COMMITTEE MEMBER WASHINGTON: I just have one question. I notice that you guys do limited green waste.

MR. SALAS: We do quite a bit of green waste. We have -- in fact, this year California Wood, which is a company that on up a lot closer to accept green waste and

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it saves open our gas mileage, too, because we were having to drive past Fillmore. And now it's closer to our facility.

We do trimmings in the parks. The cycle for those trimmings of the park trees, it's every three years. So we see a bunch one year, and then we don't trim the trees until the cycle is coming up. All our aggregate -- we could do a better job at identifying what we use the chips for that we do for all our stuff. I don't think we quantify all that. We do it on a regular basis, though. But we need to do a better job quantifying.

COMMITTEE MEMBER WASHINGTON: I'm glad to hear that, because I was just sitting here thinking, being an ag city is -- you know, you guys are that -- that would be a huge part of your program for your green waste. So good to know that. Thank you.

CHAIRPERSON MARIN: Thank you, Mr. Salas.

Is there a motion?

COMMITTEE MEMBER PEACE: I was just glad to hear I guess it sounded like you had some problems with negotiating contracts. And I'm glad to hear that has been taken care of. It concerned me when I saw you were only at 39 percent, even with your new base year. So staff really feels like this Plan of Correction is going to help them get to 50 percent?

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DEPUTY DIRECTOR SCHIAVO: The negotiations with the haulers was a real key.

CHAIRPERSON MARIN: Good.

COMMITTEE MEMBER PEACE: I'd like to move Resolution 2005-261.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the pleasure of this Committee. And for sure you don't have to return to the Board. Thank you.

Item Number 28 now.

DEPUTY DIRECTOR SCHIAVO: Item 28 is Consideration of the Application for an SB1066 Time Extension by the City of Newport Beach. And Melissa Vargas will present this item.

CHAIRPERSON MARIN: Thank you, Melissa.

MS. VARGAS: Good morning, Committee members. Board staff has reviewed and verified the City's request for a time extension to meet their AB 939 goal and are recommending approval of their request. A representative from the City of Newport Beach is present to answer any questions.

This concludes my presentation.

CHAIRPERSON MARIN: Okay. Is that Mr. Mike Pisani? Yes. Excellent. Thank you so very much for

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being here with us today. And tell us why you think we should give you this extension.

MR. PISANI: The City of Newport Beach a little unique. We're the only city in Orange County that collects its own refuse. We do about 80 percent of the residential properties. The areas we've annexed from the county in the last five years are collected under contract.

One of the reasons we dropped from 52 percent in '02 to 48 percent in 2003 was that the Newport Coast contractor, Waste Management of Orange County, without letting us know, no longer took the waste that's non-recyclable waste to the MRF Recovery Facility in Long Beach. So we stopped getting transformation credit. They have since been doing that again. As when we prepared this report this year, that's when we found out. We investigated why our tonnage had risen. On the construction/demolition side --

CHAIRPERSON MARIN: Let me just stop. I thought is that -- is that what happens, the credits are given to the individual cities?

DEPUTY DIRECTOR SCHIAVO: Up to 10 percentage points.

CHAIRPERSON MARIN: Okay. I thought the City of Long Beach was the one that would get all of that.

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DEPUTY DIRECTOR SCHIAVO: No. It's where it's generated from. Again, it's up to 10 percent. So you'll see, you know, 2, 3, 4, 5 percent.

CHAIRPERSON MARIN: Okay. All right. Great. Okay.

MR. PISANI: And then also gave us an awakening that we needed to be more vigilant on the haulers. And we can't always, you know, depend on them to do the right thing and keep the programs up. So we need to watch.

On a construction and demolition side, in 2003, with the large-scale tear downs and rebuilding of residential properties in the city, we strengthened our C&D ordinance. We instituted a program that requires a $500 to $1500 deposit with the City at the time the building permit is issued. The contractor must call our General Services Department staff, not the Building Department, but our own staff when they're going to demo a property within 24 to 48 hours before this is done. We then send a staff member out whatever day that's going to occur and verify that the hauler -- that the contractor is using a licensed hauler for the City.

Another thing that makes the City of Newport Beach unique is we have 26 contract haulers under our non-exclusive franchise. That's quite a lot for a small municipality. But roughly 15 of them are straight demo

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haulers with end dumps that are doing these houses. It's big money in the city. Currently, in Newport Beach, we had 125 full-scale tear downs in the first eight months of this year. In a city our size, that's a lot. People tear down small houses and basically build mansions.

COMMITTEE MEMBER WASHINGTON: I know, I mean, really.

MR. PISANI: I don't live there.

But, actually, in 2003, when we initiated the practice, we were having major issues with unauthorized haulers because home tear-down takes roughly four hours to do. They would get end dump companies coming in that weren't licensed and were hauling straight to the landfill. Now that we verify people wanting to get their deposit back, it's stopped that practice considerably. We had the ability to red tag properties that they fill out on their initial demo application if they're going to use the franchises hauler, but then we see they're not using them. So it's been quite successful and we're capturing the C&D waste.

CHAIRPERSON MARIN: Good.

MR. PISANI: We do not have a formal procurement policy.

CHAIRPERSON MARIN: Oh, you're going to have one before you leave.

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MR. PISANI: We were visited by Melissa last month, and she urged us to get one real quick.

COMMITTEE MEMBER WASHINGTON: Good for you.

MR. PISANI: She's doing the Board's work. No.

We have talked to our City Manager, and we're in the process of doing a Council policy for that. The City has had an informal kind of procurement practice, recycled paper products, offices, and rest rooms, recapped heavy truck tires. We've used plastic lumber for piers, floats, dock and hand railing repairs. That seems to last really well in the marine environment. We purchased back road base from the place we take our concrete and asphalt waste. We purchased back mulch from where we take our green waste. We use recycled paint in beach park rest rooms. All will be formalized in our policy for the next month.

CHAIRPERSON MARIN: See. The next month.

MR. PISANI: One final thing we're doing is it's not on our Plan of Correction, but we're working with the County of Orange. There's a problem with large cash transactions and the way they're being allocated to cities. In the first five months of this year, we had 9,000 tons allocated to us and we don't know who hauled them.

The County of Orange, basically if someone pays

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cash, no matter how big or small and they don't have the dump sticker, they can be weighed back out. And those 9,000 tons were 863 loads. So it's like 11 tons a load that we don't know where they're coming from, what the company is, and they just say trash came from Newport Beach. So it's a large amount of trash for five months that we're being traded.

So we have a consultant, as in Costa Mesa, the same consultant that brought that to our attention. So we've met with Sue Gordan who was here earlier and trying to figure out something, even if they write down license plate numbers of who's coming in so we can somehow go back and trace it. But it is coming from Newport Beach, they're escaping our franchises fees, but we have a feeling it's not generated in our city.

COMMITTEE MEMBER WASHINGTON: It could be any one of the 400 millionaires you guys have in that city.

MR. PISANI: They're not doing their own work though, at least not in trash.

COMMITTEE MEMBER WASHINGTON: You're going to see a Rolls Royce pulling up.

MR. PISANI: That's not even talking about the normal pickup truck accounts and people that are paying by the ton.

DEPUTY DIRECTOR SCHIAVO: It has an impact of

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over 10 percent of their total generation tons. So it's a pretty big impact. And we're going to start working with them. We already had contact to deal with the cash account issues.

MR. PISANI: Even if it's half of that, take that 4500 tons and allocate it to someone else.

CHAIRPERSON MARIN: I'm glad you are on top of that. I really appreciate that. And thank you to our staff, for working with you directly.

MR. PISANI: We appreciate it.

CHAIRPERSON MARIN: Okay. Any further questions for Mr. Pisani?

Is there a motion?

COMMITTEE MEMBER PEACE: I'd like to move Resolution 2005-252.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Moved and seconded. We will substitute the previous roll call, and we will place this item on consent.

Let me just get a -- we have a time certain at 1:30. I'd much rather go through as much as possible and maybe just take half an hour lunch. And then I'd like to work through 1:00, get as much of this agenda done. I'm going to try to work as much of the agenda as possible, and then just take a small break, maybe at 1:00, and then

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at 1:30 come back for the 1:30 time certain.

Does anybody need a break right now? We're going to break right now for about five minutes. And we'll be right back, and then we'll go through lunch.

(Thereupon a recess was taken.)

CHAIRPERSON MARIN: Welcome back. Please call the roll.

EXECUTIVE ASSISTANT BAKULICH: Peace?

COMMITTEE MEMBER PEACE: Here.

EXECUTIVE ASSISTANT BAKULICH: Washington?

COMMITTEE MEMBER WASHINGTON: Here.

EXECUTIVE ASSISTANT BAKULICH: Marin?

CHAIRPERSON MARIN: Here.

And any ex partes?

COMMITTEE MEMBER PEACE: No. I have none.

CHAIRPERSON MARIN: Mr. Washington?

COMMITTEE MEMBER WASHINGTON: No, Ma'am.

CHAIRPERSON MARIN: Well, that leads us to Item 29.

DEPUTY DIRECTOR SCHIAVO: And Terri Edwards will present this item. And it's Consideration of an Application for an SB1066 Time Extension by the City of Los Alamitos in Orange County.

CHAIRPERSON MARIN: Okay.

MS. EDWARDS: Good afternoon, Committees members.

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Board staff has reviewed and verified the City's request for a time extension to meet their AB 939 goal and are recommending approval of the request. However, due to limited staff resources, the City was unable to send a representative. But staff is here to answer questions.

This concludes my presentation. Thank you.

CHAIRPERSON MARIN: Thank you, Terri. We'd actually like to talk to somebody. Not that you're not somebody, Terri.

MS. EDWARDS: I understand.

CHAIRPERSON MARIN: I meant from the cities. Because it seems to me that we can really get their commitment if they're here before us. So especially for this item. There are some other items that are very non-controversial and we don't mind that. But I wish they would have been here. I see their numbers are 48 percent. So this plan of action, you guys are pretty confident that --

MS. EDWARDS: Yes, we are.

CHAIRPERSON MARIN: Okay.

COMMITTEE MEMBER PEACE: They're going to have a C&D and adopt a procurement policy.

MS. EDWARDS: Yes. Even though they are currently purchasing some recycled content products, they're going to solidify that with a policy.

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COMMITTEE MEMBER PEACE: I'd like to see the jurisdictions have a representative here, too. But, I mean, in this case it is just their first 1066. If it was a second, I wouldn't like it at all. But since it is a first one and they are at 48 percent, I'm okay with this one.

CHAIRPERSON MARIN: Okay. Mr. Washington.

COMMITTEE MEMBER WASHINGTON: Yes. Again, I just want to just talk a little bit about they have an Air Force or some type of National Guard base in the city.

MS. EDWARDS: That's the City of Tustin, I believe.

COMMITTEE MEMBER WASHINGTON: No. It's this city. I've been on the base, that's why I'm asking. And I just wanted to talk to them a little bit. And I can probably call them and ask them about their -- I don't know if there are any connections in terms of -- because people live on their base. So I was wondering about their waste and things like that. Do they have their own contractor for the Army that hauls their stuff for them? How does that work?

BRANCH MANAGER MORALEZ: If it was the State National Guard, they would have a plan in place for diversion. If it is a federal facility, then they're not subject to any of the --

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COMMITTEE MEMBER WASHINGTON: I think it's state. I attended a graduation ceremony there.

DEPUTY DIRECTOR SCHIAVO: If I remember, it was a smaller facility. The race track is the huge facility out there. And I was just trying to think if it was a munitions dump or -- it's relatively small, I know that. I can't recall.

COMMITTEE MEMBER WASHINGTON: That's fine. We can call them. That's fine.

CHAIRPERSON MARIN: Okay. Without belaboring this, is there a motion?

COMMITTEE MEMBER PEACE: I'd like to move Resolution 2005-153.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Moved and seconded.

Call the roll.

EXECUTIVE ASSISTANT BAKULICH: Peace?

COMMITTEE MEMBER PEACE: Aye.

EXECUTIVE ASSISTANT BAKULICH: Washington?

COMMITTEE MEMBER WASHINGTON: Aye.

EXECUTIVE ASSISTANT BAKULICH: Marin?

CHAIRPERSON MARIN: Aye.

Item Number 30.

DEPUTY DIRECTOR SCHIAVO: We'd like to combine Items 30 and 31. And these are Consideration of the

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Application for SB1066 Time Extensions by the City of San Bernardino and Loma Linda, both in San Bernardino County. And Rebecca Brown will present these items.

MS. BROWN: Good afternoon, Members.

The City of San Bernardino is requesting a first SB1066 Time Extension through December 31st, 2005, to provide additional time to implement the programs in its Plan of Correction. Staff's analysis of their request is that it is reasonable given the barriers the City is facing.

The City of Loma Linda is requesting a second SB1066 Time Extension through December 31st, 2005, to provide additional time as well to implement the programs in its Plan of Correction. The City's first time extension has ended. And despite City staff's efforts to meet the time lines in the first Plan of Correction, they need additional time to implement programs. Staff's analysis of their request is that that is reasonable given the barriers they have faced.

Board staff has determined the information submitted in these applications have been adequately documented and recommends the Board approve each of the City's time extension requests. Linda Ceballos is here representing the City of San Bernardino, and Dennis Holloway and Eugene Tseng are representing the City of

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Loma Linda.

Be happy to answer any questions. And this concludes my presentation. Thank you.

CHAIRPERSON MARIN: Thank you, Rebecca.

We'll take first the City of San Bernardino. And Ms. Ceballos is here. Thank you very much for being here with us today. And just go ahead and tell us why we should grant you the first time extension.

MS. CEBALLOS: I just wanted to assure you the City of San Bernardino is focused on meeting and exceeding the 50 percent diversion goal. We are in the process of establishing a C&D ordinance.

Some of what we've done in the process of the ordinance coming into place is we've taken -- we are a self-haul city, one of three in the county of San Bernardino. And we are segregating our roll-off loads at the transfer station right now to determine what's in them, if there's adequate quantities to divert or if it's really mixed loads that are going to end up going to the landfill.

We're looking forward to San Bernardino County's eventual expansion down to the Mid Valley Landfill with the diversion program there so that we're not having to hunt and search for facilities that will accept the loads that we have.

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The C&D ordinance we're looking at having in place by the end of this year. We're modeling it after what City of Ontario and some of the neighboring cities as well the State model has done. City of Ontario also being a self-haul, so that we can learn from what they've done and not recreate the wheel in that respect.

The other is the buy recycled procurement policy. We've had an informal policy in place for a number of years. We use rubberized asphalt for our paving projects. Road grinding and concrete is recycled. Our fleet was certified in 2004 as a green shop, one of four within the state. So they're doing everything there as far as using less toxic materials. The City purchases recycled content paper.

What we would like to do with the policy is set a little bit higher standard. I know right now it varies especially with office products between 10 to 30 percent postconsumer waste. We'd like to increase it and do some selection of items so that they have basically a menu to choose from, versus everybody kind of looking -- each office has their own person who's doing purchasing. So we're looking at that.

We've used recycled paint in a variety of projects, community centers -- repainting community centers, graffiti paint over. And in addition to those

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two new programs, we're looking at really going after contamination in our green waste program for our residential.

We have a three-cart system in place for all of our residents that we've had in place for a number of years. The highest contamination, we have a very high density area we've been trying to focus on where a lot of times certain routes exceed a 50 percent contamination, which has been a real issue with the green waste.

Our school programs we've had in place for a number of years. But we're looking to really work with the schools in reducing the contamination and also adding some of the new schools. We have several new schools that are being constructed in the next couple years, making sure that all of them are up and running with recycling programs.

That also includes the Cal State San Bernardino. California State University San Bernardino has had a recycling program in place for a number of years. Valley College, our community college, has come on board in the last couple of years. They've been doing a lot of reconstruction and demolition on the site for earthquake retrofit. And we've been phasing in the programs as the new buildings have occurred. We've also tracked all of their construction debris, and we've worked closely with

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them being their hauler.

Do you have any questions?

CHAIRPERSON MARIN: I'm sure we have some questions. Ms. Peace.

COMMITTEE MEMBER PEACE: She covered my questions.

CHAIRPERSON MARIN: She's been listening too long already. She knows exactly what are the areas we're looking for.

COMMITTEE MEMBER PEACE: You said you're going to put out some more guidelines for your green procurement, because the buy recycled policy needs to have more than just recycled paper. You need to look at recycled paint, recycled carpet, and mulch, the compost, all of those different things.

MS. CEBALLOS: And all those items, all of our parks and grass cycle, the mulch is used from our trimming of our trees, our street trees. That mulch is reused in the parks, as well as any landscaping projects within the city. Our tires are retreaded. We're doing a lot of the things informally. I just was kind of touching on a couple of the bullet points where we've had a little bit more success with the higher volumes of use.

COMMITTEE MEMBER PEACE: Thank you.

CHAIRPERSON MARIN: Mr. Washington, any

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questions? No questions.

Okay. Is there a motion?

COMMITTEE MEMBER PEACE: I'd like to move Resolution 2005-254.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Mr. Washington, did I hear you second?

COMMITTEE MEMBER WASHINGTON: Yes.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the pleasure of the Committee. We will put this item on consent.

And then City of Loma Linda which has been presented. Is there a representative? Was it Dennis Holloway that is here and Eugene Tseng? Thank you so very much for taking the trip to be with us. Thank you. Your second time extension, why should we grant it to you?

MR. TSENG: Good morning. The first time extension listed a number of programs which were completed. The second time extension is required because in the first time extension we implemented a wet/dry route, and the wet/dry route did not recover as much as expected. It covered actually less than 10 percent. With the city with only about 400 businesses, this route has to be redesigned primarily because in the first pilot program a lot of the businesses shared bins and had a lot of

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contamination, and also included the multi-family.

So in this 1066 Extension, we're actually splitting the multi-family to a second program and then working with the hauler to have the wet/dry route with the dry material only from non-shared bins. So it would be much cleaner and higher recovery.

The second reason would be construction and demolition within the last two years, huge changes to the general plan. In a very small city, we have 5,000 new homes being built, and they have a very, very strong C&D policy for every tentative tract map that comes in is attached with recycling requirements. And that would be formalized into a mandatory ordinance at the end of the year. But it's actually working pretty well. It's a very small city, and they have very good control over C&D.

The third program is for transformation. The city is currently incinerating about 7 percent of its waste, and we're going to increase that to 10 percent. But we actually found out -- and we sent the data to the Board. Last Friday, we received documentation from the hauler that the transformation credit was actually assigned to another city incorrectly. So those are the three major programs that we're going work on, besides increasing the source separation program for the other commercial businesses not in the wet/dry route.

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CHAIRPERSON MARIN: Okay. So let me understand this. We approved you to do a program and then it didn't work as we have all envisioned. How is it going to work now? You're separating only the multi-family from the regular businesses?

MR. TSENG: Yes. And then for the regular businesses, because they're primarily small businesses, they share bins. And if you have a restaurant next to a real estate office, they mix the waste and it's highly contaminated and you can't recover the paper. So what we're trying to do is redesign the wet/dry route so only the real estate office would have their own bin and then the restaurant would have their own bin so you would have a wet/dry route that would actually work.

CHAIRPERSON MARIN: Have you heard of unicycling?

MR. TSENG: Yeah. That's the Ventura County program?

CHAIRPERSON MARIN: Right.

MR. TSENG: Yes.

CHAIRPERSON MARIN: Is that something that you might consider?

MR. TSENG: Yes. That's another option that's being looked at. That's what I referred to as the source separated program. But you use the residential bins in the smaller businesses. That's what we're looking at is

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spitting, instead of using one larger bin, going into smaller bins.

CHAIRPERSON MARIN: Because in unicycling what they have is all of their recycling -- it's a big bin with the businesses. It's a huge bin, commercial bin. And then the wet trash, if you will, is what is actually in bags. So you're able to just pick up the bag, and everything else is recyclable. I don't know if that would be something that would work for you guys.

MR. TSENG: They looked at -- it's actually a variation on what we call the blue bag program. That's actually been tried and was not successful. So we're actually going to try the wet/dry route and in the redesigned configuration that will actually separate the wet from the dry.

CHAIRPERSON MARIN: Okay. Well, you know, we see all kinds of different programs across the state. And my desire in suggesting something is to take a look at what they're doing, how they're doing it. It may also work for you guys. It may not. But we think that this new program will lead them the numbers that we really desire.

MS. BROWN: Yes. I think they've learned a considerable amount through their efforts of the first program and have worked with the hauler. And the hauler understands the needs and the rerouting issues. And I

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think this is going to prove to be more successful based on the past experience.

CHAIRPERSON MARIN: Okay. We're looking at some very significant percentages that we need.

COMMITTEE MEMBER PEACE: They were given their first time extension in 2002, February 2002. It's been three-and-a-half years, and they're still only at 39 percent. And they're just now saying they're going to have a C&D ordinance at the end of the year. There's no mandatory multi-family recycling. The non-residential generates 72 percent of the waste stream, yet businesses aren't participating in a diversion program. I just wonder what kind of good faith effort they have done for the last three-and-a-half years.

MR. TSENG: There is a residential curbside program and green waste program.

COMMITTEE MEMBER PEACE: For multi-family also?

MR. TSENG: The multi-family, no. That's part of the commercial program. That's why we try to run it with the wet/dry program.

COMMITTEE MEMBER PEACE: What have they done since their first time extension? What was their diversion rate in 2002 when we gave them their first time extension?

MS. BROWN: The 2002 diversion rate was 35

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percent.

DEPUTY DIRECTOR SCHIAVO: But the reality is when the first time extension was given to them it was probably 38 percent because it would reflect the year 2002.

COMMITTEE MEMBER PEACE: So they've gone up 1 percent in three-and-a-half years.

DEPUTY DIRECTOR SCHIAVO: Part of the issue, too, is their total amount of disposal on a daily basis is 30 tons of disposal per day. It's a small community, so there's that potential, especially down there in that region.

BRANCH MANAGER MORGAN: Additionally, Board Member Peace, there have been some allocation issues with respect to the transformation that are fairly significant.

COMMITTEE MEMBER PEACE: That was verified, it says, up to like 9 percent.

BRANCH MANAGER MORGAN: That's just recently. So we've been spending time trying to -- your point being why aren't we seeing the diversion increase. And that was a big part of it. It was being allocated to a different city. So we've just recently resolved that. That, in and of itself, is going to put them in a better spot.

Additionally, the programs they did focus on in the first time extension, as Eugene addressed, did take some time to see what was working and what wasn't working.

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With respect to the question you had about C&D, prior to the second time extension, there wasn't much of any building going on within the city. This is kind of new within the last, probably, year. And that's why we asked the City to target that, to address that new waste stream. So a number of things have changed since the first time extension, and that's why we're recommending it.

DEPUTY DIRECTOR SCHIAVO: And, again, the 39 percent reflects rates before we could even take into account the disposal reporting issues that have been corrected. So we don't know where we are right now.

COMMITTEE MEMBER PEACE: Was it a lot of self-haul errors? What are they trying to try to get a handle on that?

MR. TSENG: There is a tremendous amount of self-haul errors just because dealing with any type of increase in construction you have a lot of self-haul and what we would call bandit haulers. And this is all within the last one to two years because of the change in the general plan. That's where the construction boom came in. It was after the first extension was approved.

DEPUTY DIRECTOR SCHIAVO: So, again, we're looking at 30 tons per day, which is three big truckloads of --

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COMMITTEE MEMBER PEACE: So if now there's going to be 9 percent -- if that waste to energy diversion credit was attributed to the wrong city, and that will be taken away from the City of Moreno Valley, what will it do to their diversion rate?

BRANCH MANAGER MORGAN: It will have somewhat of an impact. They also are on a time extension and have a higher diversion rate. So with the programs that they have put in place and are putting in place, they're prepared to address it. Being that it's the same hauler, that's really helpful. So they've been working with both cities.

CHAIRPERSON MARIN: Okay. Any further questions Mr. Washington? No.

Ms. Peace? One more.

COMMITTEE MEMBER PEACE: Can you tell me what you're doing in terms of a buy recycled procurement policy?

MR. TSENG: Buy recycled policy was implemented during the first time extension in 2001. That was implemented when the City Hall Employee Desktop Recycling Program was put in. And it primarily paper on paper, but Public Works and the Maintenance Department, retread tires, construction, used oil, and construction and demolition, primarily road based material for Pubic Works

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roads.

COMMITTEE MEMBER PEACE: Thank you.

CHAIRPERSON MARIN: Okay. Thank you. Is there a motion?

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-267.

CHAIRPERSON MARIN: Okay.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. We'll substitute the previous roll call and place this item on consent.

This leads us to Item 32.

DEPUTY DIRECTOR SCHIAVO: This is Consideration of a Second Time an Alternative Diversion Requirement Application by the City of Huron and the City of Mendota in Fresno County. And John Duke will present this item.

CHAIRPERSON MARIN: Hello, John.

MR. DUKE: Good afternoon, Madam Chair and Committee members. The Cities of Huron and Mendota both have requested a second SB1066 document in the form of an alternative diversion requirement, or ADR, through December 31st, 2005. Both cities first ADRs have ended. And despite the City's effort to implement all the programs in the first goal achievement plan, they will need additional time to implement additional programs.

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The staff analysis of these requests show that it is reasonable given the barriers for both cities that they have faced. Board staff has determined the information submitted in the application has been adequately documented and recommends the Board approve the ADR request for the Cities of Huron and Mendota. Representatives from the cities are available here to answer your questions.

This concludes my presentation.

CHAIRPERSON MARIN: Okay. Thank you, John.

Let's take first the City of Huron. Is it Joe Kalpakoff?

MR. DUKE: Joe is going to be representing both the cities.

CHAIRPERSON MARIN: So is Ivette Servin.

MR. DUKE: Correct.

CHAIRPERSON MARIN: You guys are not from the City, correct? You guys are the haulers?

MR. KALPAKOFF: That is correct. Good afternoon, Madam Chair, Committee members. Joe Kalpakoff, General Manager for Mid Valley Disposal. We are the exclusive franchise hauler for the City of Huron and Mendota. The City of Huron could not send a representative. They have four people currently working as staff in their City Hall without a City Manager, and they had asked us to go in

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place for them today.

CHAIRPERSON MARIN: I know we have a couple of questions. I have actually one question regarding the other city. But in regards to the City of Huron -- how do you pronounce it?

MR. KALPAKOFF: It's Huron.

CHAIRPERSON MARIN: Huron. Okay. I pronounce it Uron. That's not good. In Spanish you don't sound the "H". So let me ask you this. What is it that you are going to do for the city that -- this is their second time extension? We have problems with second times, and there really needs to be a justification for needing that. It seems to me that --

MR. KALPAKOFF: What we're doing is actually expanding programs from the first ADR which will expire in 2005. One of the biggest challenges that Huron faces is it's a small rural community which is made up of all agriculture.

We have couple big seasons where large packing sheds come into town and set up camp for two months and then leave. And during that time, the population nearly doubles with migrant farm workers. The contamination levels have been shown to continuously increase as the seasons increase and the agriculture base increases. During those four months out of the year, we can see

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contamination levels in the green waste and the commingled container as high as 75 percent.

There's not adequate housing for migrant farm workers. They live in garages, with people, multi-family units, things of that nature. We have started in 2004 sending out bilingual -- we have always done bilingual, but we targeted during the seasons prior to the migrant farm workers coming in, getting the residents brochure program information. We actually just started going into pictures on the colored pictures of what goes in each container rather than writing it down. That seemed -- though that had improved the first part of 2005. We saw less contamination. But that's our biggest barrier.

We have the programs in. And we have the three-can system. We have the commercial recycling programs, school recycling programs, education programs in the schools, in the classrooms, presentations, procurement policy in place. The City just passed a C&D policy, however, there's no construction in the city. We will address it in the future if it does come there, but I think we had two houses built in 2004.

CHAIRPERSON MARIN: Let me ask you. So when they made the application for the alternative diversion requirement, what is it that we are looking for when we grant them? Is it --

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MR. KALPAKOFF: We're going to do a generation study. We're in the process of doing one right now. But looking at the calls from the large packing sheds, I think that's going to make a pretty significant difference.

DEPUTY DIRECTOR SCHIAVO: Their generation is about one in just slightly over 20 tons per day total generation. The other is about 15 tons per day. The last base years were 1990. If you apply adjustment factors with the migrant workers and everything, you really have a mess on your hands. So that's a primary reason for an ADR, is let's get a grasp for what's going on.

CHAIRPERSON MARIN: Are they concerned for -- is this going to make them be considered a rural community for the -- have they --

MS. WILLMON: Both of them qualify as rural.

CHAIRPERSON MARIN: They qualify, but they're not.

MS. WILLMON: They are. They're very tiny rural. Mr. Kalpakoff came in for both of the cities, one of them in 2001, one of them in 2003, and really implemented the programs. That was the focus of the first ADR was to get the programs in place. Their diversion rate was very low at that point in time, but we weren't sure whether it was the rate itself or lack of programs. So that was the focus of the first ADR was to get those programs in place.

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The second ADR is more to fine tune, as Mr. Kalpakoff is saying, any of the issues -- the barriers they've encountered as a result of implementing these programs. But also we are not sure that their diversion rate is accurately reflected, which is the reason the cities are going to look at their -- do new generation studies to look at their diversion.

CHAIRPERSON MARIN: Okay.

COMMITTEE MEMBER WASHINGTON: What's the population in this particular city?

MR. KALPAKOFF: In Huron, it's about 6500. It's actually around 4500 to 5,000, and then jumps up to about 9- to 10,000 during the two agriculture seasons.

CHAIRPERSON MARIN: You know, I've seen this throughout a number of different counties and different communities. It's a real challenge to really -- because they may be doing very, very well, and then they have this influx of people. And then our formula does not really lend itself to those fluctuations.

COMMITTEE MEMBER WASHINGTON: How do we address that for the municipality?

DEPUTY DIRECTOR SCHIAVO: Good faith effort. Generally, we focus on the programs. The other option is ask for a rural reduction. But the problem with that is you're still focused on a number. So let's say -- I'm

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just going to give an example -- they set a rural reduction number of 35 percent. Well, if your numbers are fluctuating all over the place, that doesn't help you that much. So we tend to just focus on the programs and -- yeah.

CHAIRPERSON MARIN: So then the question is the programs that they are implementing, do you think that that is going to be okay? You think it will help, Tabatha?

MS. WILLMON: We went down that last month, June, to take a look, do what we call a needs assessment, which is to go through all of the programs that we know exist, whether they are doing them or not, to try to identify any gaps in their program implementation. And, you know, we really didn't find too much.

What we did find is addressed in the second time extension. Really, it's an issue of looking at the contamination and fine tuning some programs to maybe increase the participation when the migrant farm workers are in town and looking at the diversion rate. Those were the main things that we found.

CHAIRPERSON MARIN: All right. Okay. I don't have any more questions for the City of Huron.

Now the City of Mendota. They're worse. City of Huron is bad, and City of Mendota is worse. So now what

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are you going to do?

MR. KALPAKOFF: The City of Mendota is in a little different situation. It's still a small rural farming community, however, as a hauler, we've only been there for about two years. In 2003, which is the current diversion rate on the table, what we're looking at today, we were awarded the exclusive contract in July of 2003. And before then, there were not any small recycling programs. We implemented a three-can system. We implemented commercial recycling programs and businesses recycling programs, as well as government recycling programs in the city.

We're still in the process of finding the barriers. But as we dig through them, we're finding contamination is still the big ticket with the residential customers. So there's not much construction/demolition going on in there as well. We do have a C&D policy in place as well as a procurement policy, which there has been an informal one since 2000. However, last month I believe they passed a formal procurement policy which includes, obviously, the city buying recycled content paper, toner. Public Works have auctions for used equipment, road base, grasscycling. Those are the main procurement.

CHAIRPERSON MARIN: Well, is their problem

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exacerbated? They're in the same situation as the city of Huron; right?

MR. DUKE: Pretty much. We did notice that the diversion or the disposal -- diversion rate disposal went down since Mid Valley has come on line. So it does appear that they're targeting in the right programs.

MS. WILLMON: It's dropped over 700 tons just from 2003 to 2004. So it appears that the programs are working.

CHAIRPERSON MARIN: Ms. Peace.

COMMITTEE MEMBER PEACE: I guess it's still concerning that Mendota was 10 percent less than Huron, which is smaller and has so many of the same problems. Why is Huron able to get at least to 36 percent when Mendota is only at 26?

BRANCH MANAGER MORGAN: Again, we think there's a number of issues. One is why we feel we need to do the generation study, because we feel there is an issue --

CHAIRPERSON MARIN: You're also doing one for Mendota?

BRANCH MANAGER MORGAN: Correct. And, additionally, we're actually seeing that true disposal reduction from when Joe took over in mid-2003 to 2004. We're actually seeing disposal decrease. So in conducting the generation study, we anticipate that the rate will be

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more accurate and it's not representative, we really believe that, of what's currently going on. That's why we believe the gen study is so important for them.

DEPUTY DIRECTOR SCHIAVO: Again, regarding numbers, because of, as you heard earlier today, the adjustment factors create a lag in the numbers. But what we can see is some preliminary disposal numbers that you've heard today that have shown a decrease. And as we mentioned earlier today, when we do our evaluations, we focus mostly on the disposal trends more than the diversion rate itself because of those lags. And so in real time, we're seeing a decrease in the disposal numbers which should mean an increase in diversion overall. And, again, that's going to be more accurately reflected when we have the gen study come on line, because that will be real time.

CHAIRPERSON MARIN: When do you intend to do the generation study? When will you have the results?

MR. KALPAKOFF: We plan on doing it for the year 2004. So we've started it in Huron already, and we're about halfway done with it. We'll start Mendota soon thereafter.

BRANCH MANAGER MORGAN: It's also a part of the ADR that will be completed by the end of this year.

CHAIRPERSON MARIN: All right. Any further

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questions? Any problems?

Okay. We're ready for a motion on the City of Huron and Mendota, Resolution 2005-255.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I so move Resolution 2005-255.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. We will place this item on consent. Thank you so much. Without objection. Okay.

Item 33.

DEPUTY DIRECTOR SCHIAVO: Item 33 will be presented by Kyle Pogue, and it's Consideration of the Application of an SB1066 Time Extension by the City of Davis in Yolo County.

CHAIRPERSON MARIN: I thought Kyle was going to introduce this at 4:00 in the afternoon.

DEPUTY DIRECTOR SCHIAVO: I thought he was after the time certain that's why I was confused. I'm not sure.

MR. POGUE: Thank you for the opportunity to present before lunch.

Good afternoon, Committee members. Kyle Pogue with the Office of Local Assistance. The City of Davis in Yolo County has requested a first SB1066 Time Extension through December 31st, 2005, to provide additional time to implement the programs in its Plan of Correction. Staff's

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analysis of the City of Davis' request is that it is reasonable given the barriers the City is facing and recommends the Board approve the City's time extension request.

Also, the Board staff recommends the Board select Option 3 and approve the City's application as submitted with the addition of a C&D ordinance to strengthen the City's current C&D waste management efforts.

Richard Tsai from the City of Davis is available to answer any questions you may have. And this concludes my presentation.

CHAIRPERSON MARIN: Okay. Mr. Tsai.

MR. TSAI: Good afternoon, Chairperson and Committee. I'm Richard Tsai, Senior Utilities Resource Specialist for the City of Davis Public Works. I have a short presentation, and I will answer questions afterwards.

CHAIRPERSON MARIN: Perfect. We like that. Go ahead.

MR. TSAI: The Davis curbside recycling program was started in the early 1970s. In the past, collection has been manual and allowed for unlimited garbage. Residents were allowed to use their own containers or trash bags for garbage, optional bins or paper bags for recyclables. Garbage and recyclables were collected

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weekly.

In the last quarter of 2004, a fully automated garbage and recycling pickup system for 13,000 housing units was implemented by the City of Davis and our franchise hauler, Davis Waste Removal. Carts for both garbage, which is 95 gallons default size, and recycling, 64 gallons split cart system, were provided to all curbside customers and became mandatory. Collection continues to be on a weekly schedule with the new program.

We believe the new system will increase our diversion rate for two reasons. Unlimited garbage is now restricted to the size of the carts and recycling is made easier with the new carts. The change from unlimited curbside garbage to the cart system requires all garbage to fit inside the carts, urging people to save space by placing recyclables inside the carts.

The recycling carts make it easier to transport all the recyclables to the curb. Preliminary numbers from our hauler show an increase in recycling for the first two quarters for 2005 with residuals staying at the same range as the old system. A few year's data is needed for a good comparison.

In addition to curbside service, there's a 24-hour drop-off recycling at the Davis Waste Removal site for all recyclables, used oil, filters, and also scrap

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metal. Davis Waste also hosts an annual bulky drop-off event for furniture, salvage, wood, metals, and electronics that are collected and recycled. Davis Public Works offers free compost bins to residents for backyard composting.

On the multi-family side, apartments are required to have recycling carts at all trash enclosures. Some have recycling carts near mailbox clusters, laundry rooms, and next to clubhouse areas. City assists apartments during the move-out time to salvage and divert large furniture from roll-off dumpsters. City connects charities with apartment complexes to remove used clothing, linen, mattresses, and some furniture.

On the commercial side, all businesses in Davis are required to have commercial recycling. Waste audits are conducted to assess garbage subscription level. Businesses may request as many recycling carts as they can fill without an increase in their garbage fees. City assists in training on-site recycling coordinators for large businesses to run their own recycling programs. City works with the Davis Chamber of Commerce to set up recycling as new businesses come on board.

Now on the C&D side, our approach to C&D waste uses a combination of permits with our Planning and Building Department and working with neighboring cities

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and counties to reduce C&D waste. The Public Works Department works with Planning and Building on review of all C&D permits. Outline of a recycling plan is required in the permitting process and weigh tickets are examined.

We also participate in regional workshops with both Yolo and Sacramento Counties and their cities for regional solutions to handle C&D waste. Currently, there is not a C&D recycling facility in Yolo County. And examples of items discussed in our working group are working with haulers, working with our generators, siting of a permanent C&D facility, development of recycling guidelines, and enforcement solutions.

One thing we want to point out is data has shown that since the year 2000 Davis has slowed down in growth, and it is estimated in the next 20 years to be reduced by 50 percent.

On our other programs that I want to highlight is the City of Davis has a procurement policy in its City Code which requires emphasis on purchasing materials with recycled content. The City also requires contractors and consultants of the City to follow such policy. And some examples are grindings are stored and reused on city projects as road base.

In 2005, one of our paving projects used 1800 tons of rubberized asphalt, and that represents 25 percent

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of our total asphalt usage. And 100 percent of our City fleet, which includes our Public Works trucks, our parks trucks, fire engines, and police force run on re-refined oil. Parks also leave their clippings as mulch on the parks and greenbelts.

And with the Davis Joint Unified School District, we work with a program which is recycling is simply elementary. It is a school-based collaborative that places recycling coordinators at each school to help students recycle during breakfast and lunch. Students sort their waste into plastic cans, glass, and paper before heading to the playground for recess. Students also sort their food waste, fruit, and vegetables into a compost bucket and other food waste into the trash.

Source reduction composting recycling in the schools have expanded from nine elementary schools to include three junior high schools this year. Data from 2004 have shown a 50 percent reduction in garbage from the nine elementary schools.

In conclusion, we are applying for the time extension for the first time to request more time for our new programs to mature and to allow for a data collection. Thank you.

CHAIRPERSON MARIN: Thank you so very much for being here, Mr. Tsai.

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I only have a question regarding your construction and demolition. It seemed to me -- explain to me the enforcement procedures are not as clearly stated in the ordinance, it seemed like --

MR. TSAI: Currently, we do not have a C&D ordinance. We have a draft ordinance.

CHAIRPERSON MARIN: So you're going to put some enforcement in there.

MR. TSAI: We need to put some enforcement with working with our Planning and Building Department.

CHAIRPERSON MARIN: When do you expect that C&D ordinance to be adopted?

MR. TSAI: Right now we're not sure, because we're working with the region to sort of site a C&D recycling facility in Yolo County. And with that, it would be easier to enforce such an ordinance.

CHAIRPERSON MARIN: Well, it seems like sometimes it's the chicken and the egg kind of thing. Because we don't have the infrastructure, we're not going to have the ordinance. We don't have the ordinance because we're don't have the infrastructure.

Yes, Mr. Pogue.

MR. POGUE: One quick thing. The discussion that we had was regarding the C&D ordinance is to present something to their City Council, and work with their City

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Council by the end of the year presenting that ordinance. So that's one of the things we had discussed, allowing a little bit of flexibility to ultimately adopt that ordinance.

CHAIRPERSON MARIN: Any further questions? Okay. Ms. Peace.

COMMITTEE MEMBER PEACE: You always think of Davis as being environmental and people really caring about recycling and that sort of thing up. What did you attribute the big decline from 2001-2003, the diversion went down 10 percent? Was it just a bunch of little things?

MR. TSAI: Well, between 1980 and the year 2000, we estimate a growth rate of about 64 percent. Now, so there was a lot of C&D waste that happened towards the tail-end of between 2000, 2001, '02. We have since seen a steady decrease in that C&D waste. So by '05 and beyond, we should see our numbers start to improve just because we're having less construction right now.

CHAIRPERSON MARIN: One of the things I cannot emphasize enough, to us, C&D makes a big difference. To have a good ordinance makes a big difference. And I appreciate that our staff is working with you to develop that as soon as possible. We want to make sure that we have an enforcement capability within it. We don't want

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an ordinance without teeth. We can tell which one has the teeth and which one doesn't. So we would appreciate that. At the end of the year, it gives us four months to do it. That's plenty of time for your City Council to adopt it. So, you know, please take that back. We would love to see that. I know that's their requirement, but don't wait four years to get it done. We need to see it right away.

Okay. Anything else? No.

Okay. Is there a motion to adopt Resolution 2005-215?

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-251 with Option 3.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. We will substitute the previous roll call and we'll place this on consent.

Okay. That does it for you, Mr. Schiavo. He's happy now. He has ten minutes.

COMMITTEE MEMBER PEACE: You know, as we ask all these jurisdictions if they have a buy recycled procurement policy and what kinds of things are they doing and are they buying, is there any way you think -- would it be helpful for our Office of Local Assistance maybe with the Markets Division to put together some sort of a

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recycled procurement policy, some guidelines as to what we consider a good faith effort? Because just to buy paper to me is not a good faith effort. They say it's, great we have a buy recycled procurement policy. We buy paper and toner. To me, that's not a good --

DEPUTY DIRECTOR SCHIAVO: We have to be cautious depending on the circumstance and the jurisdictions. That's why a good faith effort treats every jurisdiction on a case-by-case basis and the Board can make the determination based on a case-by-case assessment. But I'd be real cautious about having any kind of blanket definition of what that means.

COMMITTEE MEMBER PEACE: Maybe some things they can consider. Maybe they haven't considered recycled paint or the compost.

DEPUTY DIRECTOR SCHIAVO: That's on our website.

BRANCH MANAGER MORGAN: Board Member Peace, the OLA staff, within the past year, when they go out and visit the jurisdictions, they're actually doing a verification to what they're doing to buy recycled. When they're in the field, if we feel there's a gap, you know, if they're just doing paper, for example, we actually are providing them all of the resources.

In addition to that, we've also been starting to do peer matching, because we have a number of

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jurisdictions that have found some materials to be more cost effective. So the staff are now doing peer matching, hooking them up with other jurisdictions to the point where the staff actually when they go and visit the jurisdictions, they're looking at the procurement tools that the city uses.

So if they go to Office Depot, for example, we're actually sitting down with the jurisdiction staff to look at those like Office Depot guide books and show them where the materials are. So in the last year, the staff are doing exactly that, providing much more hands-on assistance.

And then with respect to policies, we're working more directly with the jurisdictions to evaluate their existing policy to see if it's strong enough or needs strengthening, and providing them good models to do that.

COMMITTEE MEMBER PEACE: You are suggesting these other things?

BRANCH MANAGER MORGAN: We're taking a higher step for you.

COMMITTEE MEMBER PEACE: I'm glad to hear that. Thank you.

CHAIRPERSON MARIN: Okay. Thank you so very much Pat and Phil and Cara.

No Patty Wohl today. In her stead, we have none

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other than Judy Friedman.

BRANCH MANAGER FRIEDMAN: Good afternoon.

CHAIRPERSON MARIN: We have less than ten minutes to go through -- probably go through Item 36. Do you want to give a report?

BRANCH MANAGER FRIEDMAN: Well, actually, Madam Chair, good afternoon. I wanted to ask you how many items do you want to get done before the time certain item?

CHAIRPERSON MARIN: We're actually going to break at 1:00, Judy. So whatever we can do in the next eight minutes.

BRANCH MANAGER FRIEDMAN: Okay.

CHAIRPERSON MARIN: As fast as possible. Ms. Peace assures me she's not going to ask any more questions. She wants to get through the entire agenda.

BRANCH MANAGER FRIEDMAN: In the interest of time to see if we can get through as many as possible, I'm going to skip the Deputy Director's report and go right into the first item that we have that isn't time certain. And that is Agenda Item 36, which is Consideration of the Recycling Market Development Revolving Loan Program Application for U.S. Rubber Recycling, Inc. And Jim La Tanner will be presenting this item.

LOAN PROGRAM SUPERVISOR LA TANNER: In 30 seconds, 36 is a loan request from U.S. Rubber for $2

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million to purchase a new facility. This will result in the increased diversion of 1,750 tons of tire crumb from landfills annually. Loan Committee met on September 8th and approved the loan as presented. And Rick Snyder, the President, is here should you have any questions.

That concludes my presentation.

CHAIRPERSON MARIN: Okay. Mr. Snyder, where are you? Please come forward. I promised you I was going to visit your facility, and I don't know if I should come before or after.

MR. SNYDER: You should come to the new one if we get the loan.

CHAIRPERSON MARIN: Okay. Thank you, Mr. Snyder.

I know that you are the largest producer of mats, rubber.

MR. SNYDER: Flooring and mat and other rubber accessories, wall trimming, recycled tire material.

CHAIRPERSON MARIN: And $2 million, and we have provided you with a previous loan which you have paid --

MR. SNYDER: Yes.

CHAIRPERSON MARIN: -- timely, and we've no problems with your loans; right?

MR. SNYDER: That's very true. Yep.

CHAIRPERSON MARIN: So you have a record. Are you guys willing to --

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COMMITTEE MEMBER PEACE: I was going to ask him that there needs to be some remediation of the property. You had some contamination.

MR. SNYDER: What is the issue?

COMMITTEE MEMBER PEACE: How long do you think it's going to take? When do you think that will all be cleaned up?

MR. SNYDER: We were told about a year ago it would take like four months. And then we were recently told it could take a year. And then the no further action letter could take up to another year. So we're looking at under two years. But when we signed the LOI for the property, we're dealing with BASF, by the way, a major multi-national corporation. They were remediating it using gasification. And once they signed the lease, they brought in a tractor. So we think it's going to be done within a year.

CHAIRPERSON MARIN: Is that a problem for us?

LOAN PROGRAM SUPERVISOR LA TANNER: No, it's not. Staff has visited the site. There were two contaminated separate areas. One has been completely remediated. The other area is where underground tanks were located. That's been 90 percent completed.

What typically happens is there's ground monitoring wells and a vapor extraction unit that sits

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there on the property. And as the gas vapors come up out of the dirt, it burns it. I used to work at Trade and Commerce on the rust underground tank program. And it's more cost feasible to use this method. There's probably six months left maybe for this ground extraction unit to be done. There's no other work a contractor can come in and do, unless you want to completely excavate the site. And it's not contaminating the ground water. It's not a problem from the loan side.

CHAIRPERSON MARIN: Okay. Any further questions?

COMMITTEE MEMBER PEACE: What are we taking as collateral?

LOAN PROGRAM SUPERVISOR LA TANNER: We're going to take on a second deed of trust on the real estate behind a bank.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-268.

CHAIRPERSON MARIN: Okay. Moved.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, that will be the pleasure of this Committee. We will place this item on fiscal consent. And really there is nothing for you to come to the Board, I don't think.

MR. SNYDER: Thank you very much.

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CHAIRPERSON MARIN: All right. Thank you. And go out there and be successful, okay.

COMMITTEE MEMBER WASHINGTON: Madam Chair, he really does have an excellent facility.

CHAIRPERSON MARIN: You've been to it?

COMMITTEE MEMBER WASHINGTON: Yeah.

CHAIRPERSON MARIN: I'll just wait until you have a new facility. Let's give the money right away, after the Board approves it.

Next item will be Item 37.

BRANCH MANAGER FRIEDMAN: Yes, Madam Chair, Consideration of the Recycling Market Development Revolving Loan Program Application for Grover Landscape Services, Inc. And, again, Jim La Tanner will be making the presentation for staff.

LOAN PROGRAM SUPERVISOR LA TANNER: Thirty-seven is for Grover Landscape requesting a $2 million loan. They've had a prior loan with us, paid as agreed. One loan paid off. Second loan we sold.

This loan will result in additional diversion of 96,000 tons of green waste and wood waste from the landfills. They're going to use it to buy real estate and more equipment. Staff has visited the site and it would be a good one for Board members to visit. Loan Committee met on September 8th and approved the loan as presented.

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That concludes my presentation.

CHAIRPERSON MARIN: Thank you.

Do we have Mark Grover?

LOAN PROGRAM SUPERVISOR LA TANNER: We asked him to come up, but we thought our items would be in the afternoon. So he started to come up, but then we told him to turn around because he wouldn't make it for this hearing.

CHAIRPERSON MARIN: Oh, okay. Where is he at? Where is this at?

LOAN PROGRAM SUPERVISOR LA TANNER: It's south of Modesto.

CHAIRPERSON MARIN: Well, I don't see any problems with this one.

Ms. Peace.

COMMITTEE MEMBER PEACE: Again, what were they going to collateralize the loan with?

LOAN PROGRAM SUPERVISOR LA TANNER: We're taking real estate and equipment as collateral.

CHAIRPERSON MARIN: Okay.

COMMITTEE MEMBER WASHINGTON: Madam Chair, I'd like to move adoption of Resolution 2005-269.

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. We will place this item on fiscal consent, without objection.

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Item Number 39.

BRANCH MANAGER FRIEDMAN: Madam Chair, this item is Consideration of the 2005 Waste Reduction Awards Program, WRAP, Winners and WRAP of the Year Winners. Piper Miguelgorry will be making the presentation for staff.

MS. MIGUELGORRY: Good afternoon, Madam Chair and Board members.

In a quick way, I will simply let you know this item is requesting that the full Integrated Waste Management Board approve the proposed list of Waste Reduction Awards Program winners and the WRAP of the Year winners for the year 2005.

Currently, we have 1871 qualifying applicants receiving scores that have met the criteria for the WRAP award. And in addition, we have proposed five, instead of ten, WRAP of the Year candidates for consideration. In order to meet the requirement -- the suggestion that we -- and direction from the Board was we streamline our programs, we proposed to do this.

And in addition, lastly, we have one out of compliance organization that has been proposed is also qualifying winner, and that is the Albertsons Corporation, representing 772 stores within the state. They have been identified, but are very willing and agreeable to comply

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with the certification process by January 31st of 2006 so that we can then award them the award following that compliance.

CHAIRPERSON MARIN: We have been giving -- they have participated in this award every year for a long, long time.

MS. MIGUELGORRY: And they do outstanding.

CHAIRPERSON MARIN: And the other compliance has to do with plastics; correct?

BRANCH MANAGER FRIEDMAN: That's correct, Madam Chair. It's the RPPC program. We're recommending essentially a stay of their award pending their compliance materials being submitted. And they're actually accelerating -- the award is so important to them, they're accelerating submittal of their materials to get the award.

CHAIRPERSON MARIN: Yeah. Okay. Ms. Peace.

COMMITTEE MEMBER PEACE: I have to ask some questions. I'm really interested in this.

Safeway is one of the five WRAP of the Year winners. Can you tell me what Safeway does that's so much different than other supermarkets that --

MS. MIGUELGORRY: Well, they have a number of programs in place. I'd actually have to pull the application to look at it in comparison to the Albertsons.

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I'm sorry I was not prepared to focus on that particular business at this moment. But I'll be happy to review that and provide you that information, in the interest of time as well.

COMMITTEE MEMBER PEACE: I don't know if anybody else is interested. I mention these five because we have hundreds of applications, and we narrow it down to five. These must be pretty special things, and I would like to hear about them.

CHAIRPERSON MARIN: Okay. Why don't we do this. Let's take a break, if that's okay. We'll come back at 1:30. After the 1:30 time certain, we'll take this item. And maybe you can just answer specific questions about why each one is unique.

MS. MIGUELGORRY: Sure. I'll be happy to.

CHAIRPERSON MARIN: Thank you. Okay. With that, we'll go to lunch, and we will be back at 1:30 on the dot. Thank you.

(Thereupon a lunch recess was taken.)

CHAIRPERSON MARIN: We're going to start. I'm sure Mr. Washington will join us momentarily.

Please call the roll.

EXECUTIVE ASSISTANT BAKULICH: Peace?

COMMITTEE MEMBER PEACE: Here.

EXECUTIVE ASSISTANT BAKULICH: Washington?

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Marin?

CHAIRPERSON MARIN: I'm here.

And do you have any ex partes?

COMMITTEE MEMBER PEACE: No. I'm up to date.

CHAIRPERSON MARIN: And so am I. Okay.

Judy, you want to present the item?

BRANCH MANAGER FRIEDMAN: Sure, Madam Chair.

Agenda Item 35 is the Update on the Implementation of SB 2050, the Electronic Recycling Act of 2003, and Discussion of Stakeholder Concerns and Possible Remedies Regarding Undocumented Covered Electronic Waste. Shirley Willd-Wagner will start the presentation for staff.

(Thereupon an overhead presentation was presented as follows.)

BRANCH MANAGER WILLD-WAGNER: Good afternoon, Committee members. As Judy said, I'm going to present this item. It's been a while since we've seen you, so we'd like to --

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BRANCH MANAGER WILLD-WAGNER: -- keep you up to date on what we're doing in the program.

The purpose of today's item in coming before you is to update you first on our implementation efforts, what we're doing, as well as give you some of the statistics of

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how the program is moving along and what we've accomplished so far. Then we're going to summarize some of the challenges that are facing the program. And we'll spend a lot of time recapping the August 23rd workshop that we had that was the kick off to our formal rule making process.

We're now moving into the next phase really of program implementation. As you remember, we've been operating under emergency regulations. And these have been in place now for almost -- well, the Board adopted them last December. We have until next December of '06 to finalize and have these new final regulations actually effective. So we hope to bring the proposed regulations to the Board in October.

So we're now moving into the phase of trying to get input on the formal rule making process. So August 23rd we held the first stakeholder workshop. And we were looking for comments on the emergency regulations and ideas from the stakeholders. We had a real good session that day.

And for the first time, we were able to video conference in Southern California. We held it at the DTSC facility, and many thanks to our partners in the Department of Toxics. They were able to have one of their facilities in the Cyprus, I believe it was, with a video.

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We could conference with them. They could speak to us live and ask questions and participate fully in the workshop. And we thought that was a real nice outreach to our Southern California stakeholders who sometimes have difficulty traveling to Sacramento.

So we'll describe some of the input we received at that workshop and some of the points that were really brought out by the stakeholders. And then we'll discuss and, you know, present you with some ideas for possible future options and where the program can go from here.

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CHAIRPERSON MARIN: Before you go, let me just for the record reflect that Mr. Washington just joined us. Thank you.

BRANCH MANAGER WILLD-WAGNER: These next slides are background, and I'll go through them really quickly, because you've seen them before. I believe you're pretty familiar with this program. But just to set the context a little bit, if you have anything, wave your hand and I'll see you. Otherwise, I'll just go through really quickly.

The background and the reason we have SB20, there was a DTSC clarification that CRTs are hazardous. It was a significant cost burden to local governments in managing this new waste stream that could no longer be put in the landfill. We noticed an increase in illegal dumping

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because it was costly to dispose of the devices. There was a concern regarding export and hazardous devices being managed in other countries that didn't have the environmental and personal protection that we do. And there were very limited and costly recycling opportunities for the public, which led back to the illegal dumping. So we also had an increase in stockpiling by the consumers.

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BRANCH MANAGER WILLD-WAGNER: The intent of the Act, again for background, was to provide that financial relief so it wouldn't be so costly to manage the electronic waste. We needed to foster cost-free recycling opportunities for consumers throughout the state, reduce the illegal dumping, and eliminate the stockpile of the televisions and monitors. Again, remember this is a hazardous waste. So we need to reduce that illegal dumping. And planning for the future, the Act calls for a decrease in the amount of hazardous materials in the covered products.

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BRANCH MANAGER WILLD-WAGNER: The components of the Act, you know, has an advance recycling fee. The recovering and recycling payments to qualified handlers of covered electronic waste, we'll spend most of our time discussing that today. That's what we'll spend most of

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our time on. Manufacturer labeling is called for in the Act. Product design, consistency with the reduction of hazardous substances act that DTSC will be focusing on and providing regulations on consumer information and state purchasing guidelines. You recall that we came to you to adopt EPEAT to use as a tool for purchasing.

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BRANCH MANAGER WILLD-WAGNER: Back to what is a covered electronic device. These are determined by Department of Toxic Substances Control. Right now it includes CRT television or monitor, liquid crystal display television or monitor, laptop computers. And plasma televisions became effective this past July.

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BRANCH MANAGER WILLD-WAGNER: Some of our statistics. We began revenue collection in January. And as I reported before, the fee collection is going really well. The only complaint we sometimes receive is from consumers who cannot find a place to take their old televisions.

We're still working on additional information and outreach with the retailers. And we'll be coming to -- the Office of Public Affairs will be coming to you soon with a contract to help do some outreach with the retailers and the consumers that have that front

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face-to-face interaction. First and second quarter returns so far are about 30 million. So the program is on track with the projection, so we're actually pretty accurate on that.

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BRANCH MANAGER WILLD-WAGNER: The recyclers, we've approved through the process, of course coordinating with Department of Toxics, to make sure everyone has notified Department of Toxics as a handler. We have over 300 approved collectors in the system now; 39 of those are approved recyclers, which generally means they're dual entities. They're usually collectors also. And as you remember, we pay -- CIWMB pays the recyclers. The recyclers turn around and pay the collectors.

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BRANCH MANAGER WILLD-WAGNER: This summer we had some really good student assistants that helped us design and implement a quick study. We wanted to find out from the recyclers and collectors where are those cost-free opportunities. Are they out there? What's happening on that?

So it showed during the summer this last year that we got -- we talked to 69 percent of the approved collectors and recyclers. Ninty-seven percent of them did offer some degree of cost-free service. But only 64

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percent offer, all the time, complete cost-free opportunities. And, of course, we're not where we want to be. But 64 percent compared with zero percent virtually or maybe 5 percent before the Act started is pretty good. As we were saying this morning, we went from zero to 64 in, you know, eight months. So that was pretty good. But we're definitely not where we want to be.

Cost-free and convenient, we envision hopefully that all consumers will have that opportunity. And a lot of that we'll be able to assess better after we have the first net cost reports. We'll find out a little bit more what are the actual costs of doing the recycling and the collecting. Those net cost reports are due to us in February. And we'll do some analysis then so we can see what those costs are.

And we have a contractor on board who's going right now out in the field to work with the local governments and the private recyclers to help them figure out how to track and report those net costs so we're getting similar information in and so they're truly including all of their costs. So hopefully we'll get some real good data from that.

I guess at this point, unless you have any questions on the background, I'll turn it over to Jeff to talk a little more specifically about the workshop.

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CHAIRPERSON MARIN: Okay. Go ahead.

SUPERVISOR HUNTS: Thank you, Shirley. Good afternoon, Madam Chair, Committee members. I'm Jeff Hunts. I'm the Supervisor within the Electronic Waste Recycling Program.

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SUPERVISOR HUNTS: A little bit more on some stats within the program, our progress. On the collection and recycling side, eligible activities began January 1st as well. Eligible activities meaning devices that were discarded by California sources beginning January 1st began coming into the system. The program has received a little over $10.1 million in claims. Of those claims received -- and we are just about to reach our 100-claim mark. We have 96 claims that have come in. So we're averaging over $100,000 per claim that comes in.

The program has processed 68 percent of the claims that have been received and have approved $5.8 million in payment. It's important to note there that that balance between the 10.1 and the 5.8 are pretty much still in the process of being evaluated. In fact, about half of what's still being evaluated has been thoroughly processed by Program, and we're simply waiting for additional information from claimants to bring those claims to close.

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Of those claims that have been processed, Program is running at about a 91.5 percent approval rate or approval on the payment. So in other words, about 8.5 percent on average of a claim is being backed out due to some deficiency, and usually that's a source documentation issue.

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SUPERVISOR HUNTS: Let's get into some of the program identified challenges that are facing the system. Covered electronic wastes that are simply undocumented or source anonymous, where do these things come from. They may be eligible. They may otherwise have been eligible. They may have been from California sources. But because of lack of documentation, we don't know.

These are items that are resulting from load check activities, illegal dumping cleanup, abandoned waste, anonymous donations. These items have limited access to the system to secure the benefit of payment. There are opportunities, but it's limited access at this point.

Another challenge is uneven interpretation or application of what we're calling the local government agent provision. This is occurring externally from the Board. It's in the field. Our regulations don't define or delineate what exactly an agent is. It's mentioned in

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the provision of the regulations that require source documentation, allowing for those collectors who are local governments or agents thereto to not capture names and addresses. But we don't know on -- the regs don't go on to define who an agent can be. And because of possible liability concerns at the local level, who is designated an agent by what local government has been unevenly applied across the state. Some jurisdictions are more liberal with their designations, and others are very limited in who they designate.

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SUPERVISOR HUNTS: A couple other challenges facing the system; timely payments to recyclers and collectors. There are some structural time delays built into the system with the regulations. A claim is due from recyclers 45 days after the close of a reporting period. So right there we have a month-and-a-half before the program even sees a claim. The program then works hard with the claimant and processes that claim and approves payment. State Controller's Office will cut a check. But it may take several months from the time that a collector originally transfers collected waste to a recycler before that recycler sees a check and moneys are available to pay everybody in the system. Many of our participants are small to medium size businesses who are carrying a

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significant amount of monitory obligation to other non-participants in the system, processors downstream, payroll. It's something we need to keep an eye on.

Also, there's shifting markets for cathode ray tube glass. The glass that that's derived from certain covered electronic waste has limited end use potential. One of those being lead smelting. And the sole U.S. lead smelter is currently not accepting CRT glass. Doe Run in Missouri has suspended receipts as they upgrade their equipment.

Our understanding is that there is significant capacity in what's known as glass-to-glass markets where CRT glass can be turned back into CRTs. But much of this capacity is elsewhere, some of it overseas. And program is having to look at what documentation we can secure to be confident about that end use disposition.

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SUPERVISOR HUNTS: I'm not going to spend a lot of time on the next two slides, but this is where in the regulations we require source documentation. Specifically, there in orange in the middle are those collectors who are not local governments or agents -- this is what the law is -- secure a list of all consumers who transfer covered electronic waste to the collector including name and address of that consumer.

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SUPERVISOR HUNTS: And what a California source is, this was a point of confusion for some participants at the time of start up. A California source is a consumer. The entity that consumes the device, uses the device prior to discarding it. And kind of more importantly here is what in California a source is not. It's not other handlers or collectors who may accumulate discarded or donated materials.

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SUPERVISOR HUNTS: So as Shirley noted, we did have a workshop August 23rd. It was intended to kickoff our final rule making process, aiming towards next October at the latest for adoption. If we can get to final reg adoption before then, that would be great.

Stakeholders were asked to come prepared and to identify key issues that they would like to see addressed in the final regulation. Where did we get it right? Where did we get it wrong with the current emergency regulations? What did we miss?

Some of the concerns raised included, how do we manage undocumented CEWs? How can we bring those, or can we bring those, into the system if they were otherwise eligible? How can we have better equity or even application of the local government agent designation?

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Then because of the source documentation requirements in regulation, there is a significant paperwork burden. That was a point of concern. And there was identification for a need for some better definitions. Everything from, what is an end use destination? What is economic feasibility? And as we noted previously, what's an agent?

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SUPERVISOR HUNTS: Looking ahead from that workshop into the future, Program plans to proceed with final regulations. That will take about a year. We will continue to expand the recovery and recycling system through the processing of applications, bringing more handlers into the system. As Shirley noted, we will be working with Public Affairs to promote the erecycle.org informational website that lists approved participants as well as unapproved participants and handlers of a full range of e-waste. The objective of heightening the awareness of collection opportunities.

We're going to deploy audit functions. We are working with a contractor to work with our participants to standardize net cost reports so we can better understand what the costs really are within the system. And we also want to enforce compliance with the current regulations and to minimize fraud. We are dealing with a lot of money here. And looking to the future, do we address

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stakeholder concerns, some of them that have been raised in the near term or not.

So some of the options for addressing concerns that have been raised include simply administratively clarifying what the regulations intended to mean by the term or concept of agent. And we have Senior Staff Counsel here, Bob Conheim, who can expound upon options available there.

We could possibly adopt minor revisions to the existing emergency regulations, perhaps refining the concept of agent and what its provisions are, delineate its use. Perhaps provide limited options for source anonymous CEWs, otherwise eligible likely California source material that currently doesn't have the required source documentation associated with it. Or we could simply proceed with final rule making over the course of the next year and continue the deliberative process that the Board and program have used to get to where we are now that we used to develop the existing emergency regulations.

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SUPERVISOR HUNTS: Some other stakeholder suggestions that have come up as a part of the workshop in the course of just interacting with them, these are not necessarily tied to a particular identified problem.

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They're more suggestions for improvements to the system or adjustments to the system.

One of the ideas was to allow certain quantities of anonymous material or undocumented material to come to the system, for instance, five, ten items at a time being transferred from consumers to collectors to minimize paperwork, maybe wouldn't have to be recorded. Clearly, that would reduce paperwork. But it was very, I would say, poetically described by one of our participants. We're talking about large volumes of materials that are made up of small increments. And once you have large volumes without documentation, how do you know where they came from.

We've been asked to, or it's been suggested, that we revisit past claims under new rules. You know, if the regulations do change, could we go back, or should we go back and look at claims that have been adjusted or denied or perhaps just simply grant amnesty for accumulated undocumented materials. We can talk about that more if you'd like to ask some questions about that.

And, conversely, some stakeholders are saying, look, that this is a new system. It's complicated. We're dealing with a universal waste here. The challenges that are being faced by some are simply growing pains. People are learning. The participation or performance is

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improving. The program should just maintain course and see where we go from here.

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SUPERVISOR HUNTS: So with that, I'd like to, if there aren't any questions -- I know there are stakeholders in the audience that likely want to address the Board on some of these topics. But are there any questions that we can field first?

CHAIRPERSON MARIN: I know that there were a couple of people that we for sure were expecting that they would speak on this. I'm going to call upon Chuck White first and then Mark and then Art.

MR. WHITE: Thank you, Madam Chair, members of the Committee. Chuck White with Waste Management. I've got some comments to make on some suggested areas of focus on revision.

But, first of all, I really want to indicate that, I mean, all our hats ought to be off to the job the Board and staff have done. To think this program didn't exist at all a few months ago, into something that the whole nation is looking at as an example for possible future things nationwide. So it's to your credit it's been a great program so far. And I don't think anybody is talking about wholesale shifts or changes, but I think it's time to look at some near-term adjustments to

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hopefully make the program, we believe, a little more responsive.

The four areas I'd like to comment on are the agent refinement issue, is number one. Number two dealing with orphan wastes, that is wastes that are from California, or we believe to be from California but for which there is no generator name or address. Number three is a review of past claims. And number four would be enforcement and perhaps a greater degree of emphasis on fines and penalties, or even rewards for people that turn in information for successful prosecution, or perhaps a better way or additional way to ensure there is not fraudulent activities out there.

The first issue is in respect to agent. We commented fairly extensively when the emergency regulations were going through. Jeff pointed out that one section, Subdivision J1, where agent is undefined. We always thought early on when these regulations were adopted that agent would be interpreted very broadly. That is, if you're an approved collector under the system. You're complying with DTSC regulations. You're complying with your regulations. And you become an approved collector. And you're operating as a waste services agent for local government. That is, you're a franchise hauler. You're a contract hauler. You operate a permitted solid

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waste facility, that these kinds of operations would be automatically de facto agents of local government.

And we went along believing that for a number of months into early 2005 until about in the March or April time frame it began to emerge that no, it was unclear whether that was right. There had to be some additional written documentation from local governments confirming that you're an agent. And as staff pointed out in their presentation, there was an uneven response across the state. Some local jurisdictions were willing to write letters saying you're authorized. Others won't.

We would really strongly suggest this Board go back and review that. Whether or not you add clarification as to what constitutes an agent or just throw the term agent and come up with some new language. We believe there needs to be a fix to this, and we believe it cannot wait for final regulation. We believe this is something that needs to be done in the near term as quickly as humanly possible. And we honestly don't have who should be included in this broader interpretation. But at a minimum, from the waste industry standpoint, we believe it ought to be franchised haulers that are providing waste services.

Any hauler that is providing contract services to local government, contract waste services, or permitted

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solid waste facility that's subject to regular inspections and is permitted within the jurisdiction that it resides, we believe those kinds of facilities ought to be able to receive materials without having to worry about absolutely collecting the name and address after every single one. Because we're basically providing services to California customers to those communities in which we have contracts in which we serve. And we believe there's very low risk that you're bringing materials in from out of state to these kinds of operations.

So that's number one. We would urge that you revisit this term agent and hopefully broaden it as I've suggested.

The second issue.

COMMITTEE MEMBER WASHINGTON: Chuck, agent right now is local municipalities?

MR. WHITE: Well, the regulations say local government or their agent. But we believed in good faith when the regulations were adopted -- I think it was late 2004 -- that you were going to interpret agent very broadly as if I'm an approved collector, CEW collector, through your program. I'm complying with DTSC regulations. And I have a contract or franchise or a permitted solid waste facility. I am a de facto agent automatically without having to secure any other

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subsequent approval. It's just I would be an agent. And we actually operated that way for a number of months early on, which I want to come back to when I talk about revisiting past claims.

So but then emerged that wasn't enough, that there was a requirement or suggestion that we had to issue letters. And some jurisdictions were reluctant to issue letters, because they're worried about the liability that might come from issuing a letter. So it's been spotty across the state. But we have letters from many jurisdictions, Waste Management does. But other places we have been unable or just simply haven't been able to secure those. So it remains a question when we bring these units in and we don't have names and addresses, are we eligible for payments?

CHAIRPERSON MARIN: Let me interrupt you, Chuck, because this is very, very important. Walk me through a scenario. You're the hauler, and you by the fact are the agent. The City has said, "Okay. You will pick up my waste." So is it possible that the residents of that area put it on -- the day of their trash pickup, they put their CRTs there and you pick them up?

MR. WHITE: We have to go knock on the front door to get the name and address.

CHAIRPERSON MARIN: You do have the address, but

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you probably would have the name of the person. So it would be a matter of convenience to people if they don't have to haul their waste to one particular site or recycler and so forth; right?

MR. WHITE: That's correct.

CHAIRPERSON MARIN: Is that what you envision?

MR. WHITE: I envision that. I envision if you have a drop-off program at your corporation yard for your citizens of the community you serve drop the units off. You have a permitted facility. As long as you're operating pursuant to a contract, a franchise, or you have a locally and State permitted solid waste facility, it seems to me those operations I would think have a low risk of bringing in wholesale quantities from out of state in a fraudulent manner. We believe that would be very unlikely.

And we believe that this ought to be something you should consider, broadening the scope of agent or whether you redefine it all together, to allow these kinds of operations to receive these devices without having to keep the detailed records. Because it really is putting a damper on the system in terms of recovery of these kinds of units.

CHAIRPERSON MARIN: Because some cities when they have their roundup hazardous waste programs, when they do

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the once a quarter or something, that's when people come in. Cities are exempt from keeping those records, especially if one day they get 2,000 unit. They don't have to keep records. You usually work with the cities. You're working with the city right there and then picking up all of this.

MR. WHITE: We actually have agreements where we're operating dropoff household hazardous waste collection events. We have contracts with local governments. We may have a subcontractor come in and actually do the handling. But the question has arisen, is that sufficient, or do we still need to get a letter of authorization on top of that saying we're an authorized agent in addition to all the contracts and agreements that we've negotiated to provide that household hazardous waste services. So there needs to be clarity in the regulations.

CHAIRPERSON MARIN: I want to discuss this, because it would seem to me that for those cities that have one franchise hauler, that would make perfect sense. And it would seem to me that even the city would -- you know, it's only one person that is responsible for picking up all the waste.

What about we just heard from a city that has 27 haulers. It's a small city, but they have 27 haulers.

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MR. WHITE: But they're operating as waste agents for that city. To the extent they collect these devices, to the extent they're complying with DTSC regulations, to the extent they become an authorized hauler -- which is actually the way the regulations read. If you become an authorized collector and you're an agent of the city -- our agents were operating under contract to collect waste. There shouldn't be any reason. Why can't all 26 of those haulers -- be authorized to do this through your regulations?

CHAIRPERSON MARIN: Why couldn't they? Let me ask my staff. Is that something we have contemplated?

SUPERVISOR HUNTS: There's no reason. There's nothing that prevents a hauler, transfer station, nonprofit from performing the role as envisioned of an agent. What has occurred, or what has evolved, is a need within the system and a need by Program to understand that when an entity, an approved collector, participating in the system is performing this role on behalf of local government, that they are, in fact, designated to do so.

Chuck makes a real good and compelling point, that if you're already providing these services, why not by default be an agent? The thing is a recycler who might be receiving that material from an approved collector doesn't know what capacity that collector is operating in.

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And State Program who will be reviewing the payment claim doesn't know what the existing agreements are. Many of these agreements are decade long or longer franchise agreements that may or may not provide for the handling of hazardous waste and certainly, in many cases, pre-date the establishment or envisionment of SB 20 and the financial benefits that go along with that.

So what Program did is suggested that some documentation be provided that an approved collector who is acting in the capacity of an agent of local government provide evidence. And we did post a sample letter through the website that could be used. It contained areas of delineation, such as scope, time frames, customers, so that any recycler receiving material from that collector could confidently do so, understanding this material and its lack of names and addresses is, in fact, eligible within the system.

CHAIRPERSON MARIN: Okay. So what is wrong with that, Chuck? I mean, I understand -- see, I'm trying to get to the crux of it. Because if what you are advocating, Chuck, is that any and all who are a current contract hauler, any kind of waste, period, automatically, just because they have had a permit to be a contract hauler, they automatically be designated an agent of the city. That's your position.

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MR. WHITE: And the whole purpose of this keeping names and addresses was to make sure it's, number one, a CEW that comes from within California and is generated as a waste after January 1. If you're providing solid waste services under permit or contract with a local government, you're providing it to that community. You're not bringing in waste from out of state. You could lose your franchise contract or be subject to fines and penalties if you violate -- if you're caught violating the law. Bringing stuff from out of state under your agreements, you could lose the ability to provide those services.

So, you know, it's extremely unlikely, in my personal opinion, that franchise haulers, contract haulers are really the problem here. We're not the ones going to be bringing stuff in from out of state. We're going to be bringing stuff and serving the communities for which we have services. And the whole focus of this effort is to make sure you keep materials from out of state.

And I think a refocusing of your program on enforcement and ensuring that it's understood it's illegal to bring in stuff from out of state, that there's fines and penalties associated with that and that there's rewards for people that turn in people that are bringing in stuff from out of state, I think is a much more effective way to ensure compliance with it, rather than

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having everybody write down names and addresses when you're already providing services within a local community for that community.

CHAIRPERSON MARIN: Okay. Bob, you were going to mention something.

STAFF COUNSEL CONHEIM: There are two areas I think we ought to consider as we discuss this.

Number one, use of the term agent as a word causes city attorneys and County Councils to have nightmares and stay up at night, because law surrounding who is an agent of somebody involves a lot more than we ever intended. So one of the concerns that we have is that we clarify either administratively through a listserve memo or an interpretive guideline, not an underground reg, but something that follows the regulation itself and explains what we mean, that all we meant was somebody acting in the capacity as the representative of the local government to perform these services.

Many of those might be -- this is the second point. Many of those might be already permitted, contracted, or franchised haulers or facility operators. I still think that we'd need some additional validation or verification from the local government. Because, otherwise, we become the umpires and referees of whether this particular 400-page franchise agreement actually when

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written in 1980-something or other actually includes the pickup of household hazardous waste or electronic waste. That may be farfetched, but we don't know yet.

So I don't think it's absolutely as simple as Chuck says, although I think he makes a very good point. We're trying in a kind of orderly process to get to clarification so that we can provide the kind of relief to local government. Remember, this was always about encouraging local government.

CHAIRPERSON MARIN: Let me ask you this, and maybe staff would have this figure. Of all the 535 local entities that we deal with, how many of those already have designated at least one agent?

BRANCH MANAGER WILLD-WAGNER: We haven't had the participation we thought we would from the 535 local government designations to begin with. We have not had the kind of participation way we thought we would. I don't think I have the statistics at all on what would be the number that have designated agents.

CHAIRPERSON MARIN: How many agents do we right now have?

SUPERVISOR HUNTS: That's a very good question. And I'll point back to, since we did not see our regulations go into any definition or dileation of the requirement of being an agent and specify that you must

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register with the State, we learn about agents when a payment claim comes in. The letter is associated with a particular collector, approved collector's collection log that documents the activities that resulted in that accumulated material. And, therefore, that recycler who received it could process it confidently and submit a claim with us.

CHAIRPERSON MARIN: What I'm trying to get at here is right now okay -- why we haven't had the cities determine who their agents are? Or why haven't all of these agents or potential agents have gone to the cities to say, "Hey, listen. I need you to declare me an agent so I can do this for you." I mean, it would seem to me that -- I understand the legal ramifications. But on the other hand, it would seem to me that that is something that the cities would want. It's not making sense to me.

STAFF COUNSEL CONHEIM: Madam Chair, city attorneys and County Councils, even when they spotted the problem with the use of the term agent, nothing in our regulations, nothing in anything we ever said to them when they called, would have prevented them from watering down their own letter so that it only gave a designation or an acknowledgement that somebody was providing these services on behalf of the local government.

On the other hand, the city attorneys and County

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Councils are risk adverse and that's their job, as you well know having governed a city, and they found this to be a problem.

So the problem with asking us a question like this, and it's a very good question, is we don't know what we don't know. The information doesn't come in. And what's out there, we don't know what they're thinking. We only hear anecdotes about it was difficult for this city, or this hauler couldn't get a letter.

CHAIRPERSON MARIN: Okay. Well, we obviously need to work on this. We have quite a lot of people that want to -- we have to do something, though. We need to come to grips with it one way or another.

MR. WHITE: There needs to be something done, because there's a million different interpretations out there depending which jurisdiction, what hauler and those kinds of things. It would be helpful if the Board would, to the extent you can, breath some clarity in this issue as to what constitutes an agent or use another term. We simply suggest from the waste industry standpoint it ought to be franchise haulers, contractors, and permitted facilities ought to be considered agent or something like an agent to the extent you're providing services there.

CHAIRPERSON MARIN: I promise you that our legal eagles of our entire department will come up with

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something that will be workable for the cities.

MR. WHITE: The second point I had was with respect to orphan waste. And whether or not you're a contract or franchise or just simply a business out there, you invariably have materials, CEWs that are dropped off that are orphan waste. You don't know who they are. There needs to be some provision that you're able to have a certain percentage or some amount of orphan waste accepted under the program. And to the extent someone is bringing in truckloads of orphan waste, that's obviously a source of concern.

CHAIRPERSON MARIN: I agree. I don't know whether we discussed this, but there is something that retailers do all the time where we have a percentage of their goods that is damaged or percentage --

MR. WHITE: Some kind of de facto percentage like a 10 percent solution like we've had in some discussions. There ought to be some latitude, because this is an emergency rule making process. We're all learning about how this works. If you do allow some 10 percent limit, allow some flexibility. A default, a case-by-case opportunity if someone comes in and they have 12 percent, there's a way to get some authorization of that separate from the default level of 10 percent.

CHAIRPERSON MARIN: Well, I would rather have the

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default be very, very low and then look at it individually. Because what I also can tell you is that there will be people that will automatically claim a 10 percent, and they don't have to do that. We have found when money is involved, people become very creative, I can tell you that.

MR. WHITE: The third point I had was review of past claims. To the extent you do give some clarification in the area of agent or in the area of orphan waste, we would ask that you go back and reapply that criteria to the claims that were submitted from the first of the year.

As I indicated in my opening remarks, we believe coming out in January of '05 this year that agent was going to be interpreted broadly. To the extent we had franchise agreements, to the extent we had contracts, we would be viewed as an agent. And now it turns out those units we collected during that first quarter until March or April are open to some question. And we would like to be able to go back and have those claims revisited under whatever new criteria, new clarification that the Board brings forward, which would be not only going forward but also looking back to the first of the year. We would just simply ask you do that.

And my fourth and final comment briefly is that this idea of collecting names and addresses as a way of

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preventing fraud is fine. But the real focus ought to be on fines and penalties and prosecution of people and I believe modestly some kind of reward systems. To the extent someone turns in someone that is -- and they're successfully prosecuted for a violation of bringing stuff in from out of state, that's what's going to limit your fraudulent behavior.

If there's a threat of penalty and the fact there's a reward system for people turning in fraudulent purveyors that are successfully prosecuted, I would humbly suggest you consider refocusing some of your efforts to prevent fraud in that direction, rather than worry about collecting long lists of names and addresses. I think that would be a better way to go.

Those are the four points. Be happy to work with you. You know, we'd like to have some further discussions on how we can work this out to make sense. We want to have this program be a success. You've collected $30 million. You've only written checks for six or seven. You have claims of ten. We want to have this thing be fully utilized. There's a lot more units out there that aren't being collected. You need to find ways to open up the system to bring in legitimate California CEWs into the system sooner rather than later. Thank you.

CHAIRPERSON MARIN: Thank you.

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I will tell you though that just because we have collected $30 million, it doesn't mean that we need to give back all the $30 million. We know we had some waste out there that it was in people's garages and so forth, but eventually all of those would need to be reimbursed. And that doesn't mean just because we have some money available it should be zero, the account at zero.

MR. WHITE: I agree with you 100 percent there's a huge volume of CEWs out there that are not appearing. My worry is that someone -- and I've heard rumblings to this effect we don't need to have these 6 to $7 fees on the front end. They can be reduced to 3 to $5 at the front end, because we're not spending all the money.

CHAIRPERSON MARIN: Somebody doesn't understand what the program is.

MR. WHITE: By the time it comes, you're not going to have the money. We need to figure out a way to move the money out legitimately to the lowest risk activities that are collecting these devices from within California.

CHAIRPERSON MARIN: We haven't collected all the money all these years for all of this equipment. If one day everybody decides to just get rid of all that, $30 million is not going to be enough. And if somebody doesn't understand that math -- I don't know where the

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rumble is you're hearing, but I can certainly talk to them, because they don't understand. There will be more money we will need, not less.

Mr. Bob Conheim.

STAFF COUNSEL CONHEIM: Madam Chair, just for the record, as long as we're talking about the amount of the funds and its obligations, remember the Board of Equalization gets a huge chunk of that. So what we've collected isn't ours to give away.

CHAIRPERSON MARIN: Okay. Okay. I'm going to ask Mark Murray to come before us.

MR. MURRAY: Good afternoon, Madam Chair, Members. Mark Murray with Californians Against Waste.

I want to just start off by concurring with Mr. White's sentiments that I think your staff and the Board has done a fabulous job of implementing this program to date. Given where we were a year ago, it's really quite amazing that we're left quibbling over some of these details. And I think basically these issues represent a bump in the road. This program has already demonstrated itself to be a successful program.

I think there are folks across the country that are looking at this program as a model. And I know that Shirley has had an opportunity -- we talked to some of those states. I had an opportunity to talk to some of

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those other states. Folks are very interested in looking at this California model and expanding the model to other states.

I think your staff and your presentation today correctly identified the issues that need to be looked at. And Chuck went through that list. I don't think there's any disagreement about what those issues are. I think that what we are asking is that the Board, in addition to pursuing final regulations, permanent regulations that deal with the entirety of the regulations, that there are basically four or five issues that need to be addressed either through a second set of emergency regulations or through some administrative action.

As you may be aware, some three weeks ago, four weeks ago, we approached your staff with a legislative proposal to attempt to fix some of these issues. And Mr. Leary and Mr. Conheim were successful in persuading us that these issues could best and more thoughtfully be developed and addressed through an administrative process, which again might include some combination of administrative re-interpretation as well as a parallel track for emergency regulations. And we are here deferring to that process. We did not pursue the legislation for this year. And, instead, we are deferring to this process, and we think that's the best, most

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thoughtful way of addressing it.

I think staff has correctly identified the issues. On the Power Point presentation, the final -- I've got these listed as the options for addressing concerns. I've got that listed as A. We agree with those issues that have been identified that need to be the subject of this administrative action or emergency regulations.

And we would simply ask that some of the items that are under what I'm calling B, other stakeholders suggestions, that those issues, allowing anonymous transfers of small quantities of CEW from consumers and, number two, revisiting past claims under new rules or grant amnesty and pay for accumulated or undocumented CEWs, we think that those issues should be the subject of an administrative process, a thoughtful process, so we can act prior to permanent regulations.

You've gone through some of the examples. I won't belabor the point other than to mention that Chuck put a lot of time and thought into the local agent issue. I just want to highlight a couple other areas that affect other non-waste hauler entities.

Number one, Good Wills, nonprofits, thrifts who we know were getting stuck with this material, in fact, many of those enterprises had to close their door to

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electronic waste because they were getting inundated with this material prior to the law and were having to incur the tipping fee to deal with it. They've now opened the door to e-waste but are still getting material left at their door overnight. No one is leaving their name and address when they're dropping the materials off at the collector.

So we need to have some mechanism for those nonprofit entities though thrifts that are, for good or ill, presenting themselves as a place to drop off e-waste to recognize that it's not always possible for them to get a name and address for that material. Similarly, there are electronics retailers, folks that have set up drop-off points at their points of sale who are not collecting information from consumers. They're not acting as the handler or collector. They're contracting with a separate collector. In some instances, that collector is actually a manufacturer of devices that is facilitating the recycling of those devices.

Some of those partnership programs we want to encourage don't have a mechanism for collecting the information from consumers.

And finally, as Chuck noted, there are the transfer station situations, some of which are franchisees, some of which are not, whereby these folks

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are operators, these waste handlers are doing what we're asking them to do, pulling the hazardous waste out of the waste stream. And because nobody put their name and address of the material they illegally disposed, there's no mechanism for getting reimbursed for those devices. We believe it was the intent of the legislation to encourage each one of these three activities. And because these folks haven't figured out a way to get a reimbursement for that payment, we're now discouraging that activity. So, again, I think this is a worthwhile issue to be addressed by some combination of administrative action and emergency regulations.

We were very appreciative of Mr. Conheim's creatively in terms of exploring possibilities for addressing this issue when we met with him some two weeks ago on this issue. And we think your staff can continue that creativity in coming up with a solution.

Again, we think the program is working quite excellently, with the exception of these bumps in the road, and we think there are things that can be resolved.

We did do a survey of recyclers in the state to identify what is happening out there as best we could. Obviously, some recyclers are reluctant to provide us with volume and dollar information. But I think there is a finite amount of material right now that is being

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collected and has made its way through the recycling system for which recyclers and collectors are not being eligible for payment. I don't think that amount is anything that's going to create any kind of drain on the fund. I think we're talking about something maybe in the 1 million to $2 million range based on the survey we did.

I would encourage you to maybe ask your staff to do the same kind of survey to just get a sense of the problem and to assure those folks that are paying the fees right now, that addressing this issue is really just a mechanism for smoothing out some of the wrinkles in the program and is not going to create some huge drain on the program. No one wants to see us making payments on devices from out of state. We want to make sure that the devices that are generated in California, that a payment is made on those devices. Appreciate your time and thoughtfulness on this.

CHAIRPERSON MARIN: Thank you. Thank you for your thoughtfulness.

Art Victor, please. You're representing Apple Computers.

MR. VICTOR: Yes. Madam Chair and Committee members, my name is Art Victor. I manage Apple Computers recycling program as a State authorized collector. I'd like to take this opportunity to share our experience and

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data as a State authorized collector.

As a participant in the system for over the last eight months, Apple Recycling has collected 2500 CEWs from 1500 participants totaling over 100,000 pounds. The total number of anonymous source materials dropped off during this time period has been six: four CRT monitors and two televisions. Our collection center is well known to area residents, as this site has served for the City of Cupertino's e-waste collection facility for the last three years serving the areas' residents on Mondays, Wednesdays and Fridays from 8:00 a.m. to 4:30 p.m. The program is well advertised on the City's website as well as local publication.

During this three-year period, the recycling center has served over 3500 residents and processed nearly 300,000 pounds of electronics. Our experience with anonymous source materials over the last three years has been similar to the last eight months, only diminimous quantities. We believe that the success of this program is dependant on keeping fraud out of the system, and have not had an issue with documenting any of the materials that we've collected to this point.

We believe that there is a room for people who are morally or legally obligated to collect materials such as materials that are dropped off on the road sides or

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left at a Good Will collection site during the evening, that there is room for them to have non-documented source material but would suggest -- and it is a very diminimous quantity based on the numbers we've seen over the years. Thank you.

CHAIRPERSON MARIN: It's very impressive what you have done and what you are doing. That's an eye opener. That is amazing. I would tend to agree. I think that for organizations like yours that are a recycler, you're following not only the letter but the spirit of the law. And to see only six items --

MR. VICTOR: Six devices total out of 1500 participants that have dropped off over the eight months.

CHAIRPERSON MARIN: Wow.

MR. VICTOR: And I just wanted to point out this is a well publicized program that all the area residents have known about for three years and is on the City's website, is published in local publications. And so we've had six devices over these years.

CHAIRPERSON MARIN: Wow. Very impressive. Congratulations. You had no problems. We have been paying you your money; right?

MR. VICTOR: Absolutely.

And one more point I'd like to make as well. Even though we are acting as an agent for the City of

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Cupertino, we continue to document every one of the residents that drops off. So we are not using the agent clause, as we feel this information is very valuable to the success of this program and want to continue discouraging fraud through the proper documentation of these devices.

CHAIRPERSON MARIN: Mr. Victor, this is amazing. Congratulations. Thank you so very much for doing such a fantastic job. We can use you as an example now.

MR. VICTOR: Thank you.

CHAIRPERSON MARIN: Thank you for taking the time.

Okay. Mr. Ron Proto from Hayward, California, from E-Recycling.

MR. PROTO: Thank you, Madam Chair and members of the Committee. My name is Ron Proto. My client is E-Recycling of California, and I'm representing them today. But I think I'm also representing unofficially all the recyclers and collectors who face the same problems that we do that aren't here today to speak for themselves.

And basically our issues are not any different than the issues brought up by Chuck White or by Mark Murray. Two basic ones are the logging of the names and addresses and also reimbursement for past claims.

Now, if you recall, on November 9th, 2004, I came

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before the Board and commended your staff for putting together these regulations. I thought they did an admirable job, because many of the meetings, as they can attest to, were contentious at best. However, at that time I cautioned that the names and address issue was going to be a big deal.

When I went outside after the regulations were adopted, I spoke with the staff, and they at that time mentioned -- we are all new to this, remember. They mention, you know, "Ron, we're not concerned with the onesy, twosy. And we're not concerned with the fives and tens. We're concerned with the truckloads." And naively I said, "That's pretty good." But, you know, a lot of the material comes in in ones and twos. And, yes, I think Jeff said or Bob said but, yes, it's accumulated into truckloads.

Now, these regulations contain 16,000 words, actually, 15,820 if you do the word count on Microsoft Word. But there's only three words that are giving us trouble, name and address. Name and address haunts us. It's doubtful that the material that has come into the system that doesn't have names and addresses is really from out of state. I doubt very much that the collectors and recyclers rushed across the border to pick material up and bring it back here because there was a ton of it here

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to deal with. And it's doubtful there were trucks just waiting for this to happen on January 1st.

However, there were opportunities where we, E-Recycling of California, actually turned away truckloads. But that's not where the issue is. That's easy to deal with. It's the transfer stations. It's the landfills. It's the nonprofits.

You know, we get logs from nonprofit groups, and my heart goes out to them. Because at first we weren't getting any logs and have all this material that's in jeopardy of not getting paid for it. Then we're getting logs. And the fellow tells me, "You know, Ron, our people are not literate. Some of them are not literate. They're not even literate in their own language, let alone English. We get logs back, one microwave, popcorn popper. They don't understand what they're trying to get at.

You and I think it's simple. We know what a CRT is. We know what covered electronic waste is. When you get someone from a nonprofit collection station, they may not truly understand what that is. And they have a hard time. In addition to people saying, "I'm not going to give you my name and address." They don't do it so much with the nonprofits, because they don't have to. Now they do.

But when you go to Good Will or Salvation Army,

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they give you a piece of paper. They never used to ask you for your name and addresses. And you can fill it in any way you want. You go to a transfer station -- in all due respect to Apple computer -- and I've been a Mac user since day one when the woman through the chain at the thing in 1984.

But that 2500 is like 15 units a day. I mean, that's a lot. But when we're talking about hundreds and thousands of units coming in, when you're at a transfer station and there are 20, 30 cars in line and somebody is trying to get the name and address for a CEW and the person is saying, "I'm not going to give it to you," well, you don't give it, you can't come in. Thank goodness they took those in. Because what would have happened if they didn't? Would they have found their way on the side streets? At the city park? On rural roads? We don't know that.

I think the staff, and I'm hopeful the Board, gets the message about there has to be some kind of relief on the logging. Because if you take a look --

CHAIRPERSON MARIN: What do you mean by relief?

MR. VICTOR: Relief. What do I mean by relief?

CHAIRPERSON MARIN: No name and address, there should be no logs?

MR. VICTOR: No. Not totally. Like Chuck White

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says, if it's coming from a transfer station that has a solid waste facility permit, you know where the material comes from. They have to report annually where the material comes from. Just generally. I don't know if they have to do it specifically. Transfer stations are the same thing. Good Will, let's take Good Will Oakland. Anthony, he runs Central Supply, is just pleading with me. Do you really think the material that goes into the Salvation Army in Oakland is from out of state. It's doubtful. When you talk to the staff -- and I give them the example San Francisco, Fresno, I agree with you, Ron. It doesn't come from out of state. It's doubtful.

But here come those three little words again, name and address. You don't have them. So there has to be some kind of relief. We have an internal policy. If it's more than ten units from a resident, if it's more than 50 units from a business, we require supplemental documentation. I think that's a fair break. In fact, when I get letters, sometimes I call them. In fact, Shirley has told me her staff, maybe perhaps her, has called customers to make sure they're actually doing it. So there's ways to check and balance it.

I don't want to beat a dead horse -- or I hope it's alive. I believe it's alive, but I don't want to beat this horse about relief on the logs. I think there

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will probably be more said about it. But I do want to turn now and address reimbursement for past claims. When the regulations created this agent, they provided cities and their agents an unfair competitive advantage. If you were lucky enough to get the city to make you an agent, you didn't have to turn away any customers. You didn't have to -- you could take them, because you're an agent.

Those of us that were not agents or cannot become agents didn't have that luxury. So the regulations created an unfair competitive situation. I don't know if there's a law against that, but there ought to be a law against that.

There has to be a way that the staff and the recyclers and collectors can determine if the material truly was a California source. I mean, it's pretty easy to determine most locations. I would imagine there are some locations it would be difficult to determine that. But if that material was a California source, it should be reimbursed.

I had to smile when I read the staff report, and I'm reading the staff report. It talked about some business models, you know, they took the cautious road and maybe they turned away business. And then there were the other business models that violated the regulations and went out and took the material and processed it and can't

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get paid.

I've been dealing with regulations for probably 40 years. This is the first time I have ever heard of someone who has violated a regulation that has benefited the state of California and has benefited the environment. The State, DTSC, the Board got what they were trying to do. And that is to divert material from the landfill. And it's been very successful. There's no question about it. Unfortunately, the first four, five, six months it was at the collectors' and recyclers' expense.

We're not talking about all the big recyclers and collectors. I can give you names of small recyclers and collectors. What about Julie down in Fresno who got her material from Amvex or from the Rice Road Landfill? It's pretty certain that that material is a California source. She can't get reimbursed from it. She's in a world of hurt. And that's just one of many examples.

I would hope that you could find it to give relief to those companies, collectors, and recyclers that truly had California source material, but may not have had those three letters words, name and address. Thank you very much.

CHAIRPERSON MARIN: Thank you, sir.

The next person would be Katherine Brandenburg, then Tom Hogyue, and George Eowan. And you are with the

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Flanigan Law Firm.

MS. BRANDENBURG: I'm Katherine Brandenburg with the Flanigan Law Firm. And I'm representing the Institute of Scrap Recycling Industries.

I'd like to thank staff and also the Board. We think the staff has done an incredible job with these regulations. But I'd like to echo the same sentiments that Chuck White, Mark Murray, and the gentleman right before me with E-Recycling that we do want to have the term agent re-looked at. We believe clarification needs to be made on that issue. We also would like to look at the orphan waste issue, the process. We'd like to just see how the orphan waste, the agent, revisit it. Because we think once that has been revisited, then the past claims that have been denied these last few months should also be re-looked at and taken into consideration with their terms. So without being redundant, restating everything all the previous speakers have said, thank you.

CHAIRPERSON MARIN: Thank you, Ms. Brandenburg. That is difficult. I can't say it, Brandenburg.

I think a couple of things are becoming very clear to me.

Next person is Tom Hogyue.

MR. HOGYUE: Madam Chair, Committee members.

CHAIRPERSON MARIN: I probably mispronounced your

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name.

MR. HOGYUE: It's Hogyue, like sandwiches.

CHAIRPERSON MARIN: Oh. You are with ECS Refining.

MR. HOGYUE: Thank you, ma'am. I'm sure glad I'm not Judge Roberts today. Watched some of that in the lunch room.

I only had three things to say until our previous speaker spoke, and now I have five.

Madam Chair, Members, ECS refining is a fully permitted secondary smelter, a TSDF for lead who has been recycling electronics, cathode ray tubes and all other electronic circuit boards and peripherals into the Silicone Valley for over 25 years in the same place.

Now, it's strange. We are a recycler and we really should be in favor of Mr. Proto's comments and Mr. White's, because we would prefer no documentation or less documentation because of the volumes we could receive with that type of -- we'd have less risk for rejection of payment. And then, of course, we'd have a reduction of paperwork. And our CFO would probably be able to get on with his normal affairs. But, morally, we feel it's incomprehensible to support unscrupulous collectors who usurp the law for whatever reason.

By the way, in defense of Mr. Victor, not that

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I'm -- I don't know if I'm allowed to say this, Art, we did a collection event for Apple -- actually for seven cities which Apple donated a facility. We did over 864 cars in about eight hours. Typically, a collection event does provide service to about 100 cars an hour, about 112 pounds per car. And we collected names and addresses from everybody. No problems. And I would venture to say no one waited more than five minutes to give us that information. We had two grumpy people. One actually was really upset with his wife because she destroyed his favorite headphones.

But let me give you a couple of examples about why we feel unbelievably that source documentation is of grave concern. We had a customer, Express Point. They are a national monitor repair company with two locations, one in California and one in Minnesota. In 2002, summer midyear, we entered a contract with them providing services for electronic waste and monitor recycling, CRT recycling. We charged 40 cents a pound for the sound disposal of those devices. In 2002, we collected 9,227 pounds. It was midyear. In 2003, we collected 33,663 pounds; and 2004, 17,634 pounds.

Beginning in 2005, we went to them and said, hey, we got a new law, SB20. If you have any California source material, we'll provide you with a collection log. You

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provide us with the source documentation. We do not have to charge you for that material any more. They thought it was a pain in the neck. They said, "We don't want to fill out the log. We'll be happy to pay you your 40 cents a pound." So up until March of 25th, 2005, we collected 8,338 pounds, which they paid us for.

Couple months later a collector approached us. We had not seen any shipments from our customer, Express Point. And it turns out the collector was giving us -- oh, about by the way, all this material was out of state, most of it. So then we received a collection log from a collector with Express Point. Same waste we would normally receive, picking it up. We rejected the load. We lost the customer. We lost the collector.

By the way, Trace Lamburg is our payment claims adjuster. And I would venture to say our accuracy has been about 99 percent. And we do a lot of business with Good Will, name and address.

We also had done business with a worldwide electronics OEM, actually make electronic components. Their material was received by us through an environmental services company. This environmental services company did a lot of business with them out of state, Oregon, Arizona, Nevada, and in California. Ironically, the materials we got from them, 90 percent of those materials came from

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Oregon. About 10 percent of those materials came from Arizona. In 2004, Madam Chair, from this company, which is a California company, we recycled 238,648 pounds of monitors in 2004. All of these devices came from out of state.

In 2005, the environmental services company that had that contract lost the contract. We noticed that the materials that we were normally receiving we were not receiving any more. We got a collection log a couple months later with a lot of material from the same corporation. We had to reject the load because we knew that material was from Oregon and Arizona.

In 2005, we actually recycled 53,078 pounds of non-CA devices. The State has records from this company before we lost it to a collector who tried to provide us with a log saying that this material came from California. I think our percentage of abandoned material is about 1 percent.

I can applaud the staff. As a recycler, we'd be happy to have no documentation or less documentation. It would sure make our job a whole lot easier. But we're a fully permitted facility that has a grave concern for the environment and our financial situation here in California. We don't want to make it any worse by allowing other people to provide materials to us

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unscrupulously. Thank you.

COMMITTEE MEMBER WASHINGTON: I have a question for you. What do you do with the abandoned material that you do have, the 1 percent of abandoned material, what happens with it?

MR. HOGYUE: The CRT devices?

COMMITTEE MEMBER WASHINGTON: Yeah.

MR. HOGYUE: We're a permitted lead waste treatment facility. We do the same thing with our abandoned materials that we would -- you mean in processing or payment?

COMMITTEE MEMBER WASHINGTON: Processing.

MR. HOGYUE: Same thing. It's hand disassembly, shredding of glass, shredding of circuit board materials to smelters.

COMMITTEE MEMBER WASHINGTON: What happens, just a quick worst case scenario here. What happens if you go back to your office and there are 50 computers someone just left at your building? You don't have any idea how to get the name and addresses from those folks. What would you do with those 50 computers?

MR. HOGYUE: If they have a date code of 1999 or better, I can sell them.

COMMITTEE MEMBER WASHINGTON: What if they're no good?

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MR. HOGYUE: We'll recycle them. We're running over a million pounds of material through our plant every month.

CHAIRPERSON MARIN: You're not going to request payment from us?

MR. HOGYUE: From our customer, absolutely. We hit them good. We charge them a lot of money.

CHAIRPERSON MARIN: I don't understand. If somebody comes in and drops 50 units in front of your office --

MR. HOGYUE: And we don't know about it?

COMMITTEE MEMBER WASHINGTON: You don't know about it.

MR. HOGYUE: We don't ever get 50, but we'll get two or three or five.

CHAIRPERSON MARIN: And you don't request payment from us for those?

MR. HOGYUE: Ma'am, a million pounds of material a month, you know, when you're talking about -- no.

COMMITTEE MEMBER WASHINGTON: What about if there is 50? Would you request -- or 100, would you request payment?

MR. HOGYUE: My writing instructor used to tell me if a frog had wings, he wouldn't bump his ass on the ground every time he hopped.

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I don't know. If 50 came in the door and they were sitting out there, we would recycle them.

CHAIRPERSON MARIN: Would you request payment?

MR. HOGYUE: What am I going to do? I'm going to go after who?

COMMITTEE MEMBER WASHINGTON: That's my point. That's what I want to know.

MR. HOGYUE: It's not a realistic problem. Right now, anybody can sell 50 monitors to anybody in the country. Jeff knows this quite -- I can give you the e-mail addresses of all the guys that will buy dead non-working monitors all day long.

COMMITTEE MEMBER WASHINGTON: We're trying to make a point here. The point is we're trying to figure out this whole agent process. You walked up handily saying you're glad you're not at the Roberts hearing. This is not a Roberts hearing.

MR. HOGYUE: Yes.

COMMITTEE MEMBER WASHINGTON: And what they're trying to do is figure out how to make this work, because our responsibility is to keep these things out of your landfills.

MR. HOGYUE: And I think you're doing a great job of it.

COMMITTEE MEMBER WASHINGTON: And you're saying

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we do all this stuff, and we're good because what we do is get every name. And we get every log. But everybody doesn't have that capability, because somebody might get 100 computers and don't know what to do with them. And it could be --

MR. HOGYUE: I don't think so.

COMMITTEE MEMBER WASHINGTON: It could be one of the facilities who is permitted. And that's what these folks are saying. If we are a permitted facility, that we should be an agent, and we shouldn't have to go through the process of trying to figure out where these 50 or 100 computers come from.

MR. HOGYUE: I agree on two, five something. Mike at CR&R made a valid point. Even Dennis and Ron makes valid points about some of the load checks where you have two or three devices come off.

But again if the State attaches a number to how many devices are allowed as abandoned material, the point I made at the meeting last month -- I have two customers. They won't call me back because when they call me, they are -- basically what I said is they understand that I'm looking for California source documentation. I'm looking to abide by the law. They won't call me back. If you say we're going to allow ten devices, I can bring that whole trailer load of 200 devices into my facility and feed ten

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devices into every claim every week, so it is a problem.

And Mike at CR&R or as somebody else mentioned about the small recyclers down somewhere where they did pick up material, you're going to have to make a judgment decision. But if you put it in legislation, you're going to see your abandoned material rates go through the roof. So I don't think you're having a problem with 50 or 100. Because if you wanted to, we can sell them. Everybody is.

CHAIRPERSON MARIN: You bring a very good point. That's one of the things I was thinking. For some of the bigger recyclers, I mean, getting rid of even 1,000 would be no problem because they just do it -- oh, don't worry. We'll just get our 10 percent or 3 percent at a time every time they submit it.

MR. HOGYUE: Fifty would hurt us, certainly. It would be a problem. But you are talking about five pallets of monitors -- three to five pallets of monitors depending upon the size. And I think the load checks at landfills are having -- I don't operate a landfill, so I don't want to act like an expert on landfills.

But I do work with municipalities. They have the government exemption. It's a great opportunity for them. They don't have to provide source documentation. The landfill we work with does actually take a name and address from everybody. Do they get everybody? I doubt

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it. Probably have three, five, ten devices at the end of the month that are left at the landfill that don't have any source documentation. And a guy who is running the small landfill like Mike, I felt for him. Because he should be able to get paid for those two or three devices. I think it's a judgment call that the State has to make. But if you put it in writing --

CHAIRPERSON MARIN: Okay. Mr. Hogyue, unless you have any more questions for him. Okay.

COMMITTEE MEMBER PEACE: Mr. Hogyue, where is your facility located?

MR. HOGYUE: In Santa Clara. Right off of De La Cruz and Reed Street. It's kind of the old industrial area of Santa Clara near the San Jose Airport off of Lafayette.

COMMITTEE MEMBER PEACE: Thank you.

CHAIRPERSON MARIN: Thank you so much.

And the last one, but not the least one, George Eowan.

MR. EOWAN: Thank you, Madam Chair and members.

I'm not going to reiterate what everybody said in detail, but I do want to say that -- and I'm representing CRRC -- that we are very impressed with what the Board and staff has done. You've done an incredible job in such a short time. And I think what you're hearing is that, you

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know, there's a few things that we have to clarify and work on, and that's really where we're at, and particularly on the agent area. I mean, that's what we thought was really the original intent and direction seems to have kind of gotten a little bit muddy, and we'd like to work on that with you as well as some of the other issues that both Chuck and Mr. Murray mentioned. So we're in agreement with what they're saying.

CHAIRPERSON MARIN: Okay. George, you've been very involved in all of these issues for a long, long time. Let me ask you this. What if the Board was to request of every city, name your agents, but we do it instead of having individual organizations trying to get that. Why couldn't we -- I'm thinking out loud here, okay, so I have no -- it may make sense. It may not. Tell us who your collectors will be.

MR. EOWAN: This is an off-the-cuff answer and not a legal one. And I would want to, you know, have some time with our counsel. But I guess our position would be even simpler than that. If you're a franchise or contracted solid waste services provider to a local entity, we believe you already are an agent. And that's our understanding of where this language was going originally. And so we would be comfortable if you could administratively or through emergency regs clarify that.

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I think you would accomplish the same thing. Without having to, you know, do maybe a more serious fix on it. But I'm not saying that's a bad idea. I just think maybe there's a way to do it with a little less --

CHAIRPERSON MARIN: Well, it's interesting. I love this saying. It says trust but verify. We trust. I mean, the cities. We trust the major companies, the haulers. They have businesses interests here and so forth. I have a question of just blanketing that. I don't have a problem with the bigger units --

MR. HOGYUE: The rationale is that we're already doing the service of an agent, through load checking, through dumping at the site or whatever. It's already happening.

CHAIRPERSON MARIN: So now let me ask our staff. In the law, does the law request a manifest system? Does the law --

BRANCH MANAGER WILLD-WAGNER: This is not manifested waste because it's universal waste and therefore it is exempt from manifest. It is still universal waste.

CHAIRPERSON MARIN: The reasons why we came up with a manifest system or the log -- to me, the log and the manifest is the same thing.

BRANCH MANAGER WILLD-WAGNER: I'm saying no,

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because in the Department of Toxic Substances Control language it's very different. A manifest has different responsibilities.

CHAIRPERSON MARIN: Well, not manifest.

BRANCH MANAGER WILLD-WAGNER: But logging in the regulations is where --

CHAIRPERSON MARIN: No. In the law. Does the law provide for any particular logging? Does it state where it has to come from? What does the law say? I don't recall.

BRANCH MANAGER WILLD-WAGNER: The SB 2050, it doesn't define California source. Those definitions are in regulations as well as our use of the term agent.

CHAIRPERSON MARIN: So the law is not clear. Bob was going to answer that.

STAFF COUNSEL CONHEIM: The law requires that the material be from a California source. We created in our regulation a mechanism to demonstrate that. And --

CHAIRPERSON MARIN: And so we are the ones that came up with this logging that needs to be provided with a name and address. This is something that we felt that's what will lead us to abide by the law.

SUPERVISOR HUNTS: Over the course of the past year through numerous workshops and discussions with stakeholders, I think it's better portrayed as we

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collectively, not the Board, but participants in the system came up with the emergency regulations as adopted by the Board to document the sources of these materials.

These materials are handled -- historically being handled by a number of different interests, be they local governments providing service to residents, asset recovery, providing services to businesses throughout the United States, or haulers pulling them out of load check right before the working face of the landfill.

In the absence of better evidence or better suggestions, Program proposes the Board adopt regulations requiring name and address as a default source documentation standard. The regulations also provide those materials handled by an approved collector who is a local government or agent of a local government can come into the system and be perfectly eligible without the name and address.

Local governments who were one of the primary -- intended to be one of the primary beneficiaries of the financial benefits of this law secured that through participation in the workshop. A lot of the material flows through California harvested from throughout the western United States with the last stop being California before it's loaded onto boats in our ports and shipped overseas. Where did that stuff come from? What

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quantities? What increments? We don't know.

STAFF COUNSEL CONHEIM: We created a system with you that now had government reimbursing the costs where the costs before were borne by users. And the same businesses that are now being paid because they claim from us, we're having to charge their customers. Suddenly, there's a whole new funding flow in a reverse direction. And it encouraged or at least attracted, theoretically, material that needed to be verified as being from California and paid for by Californians. And so that is the reason why we put the system in place.

And we have the capacity to work with the advocates who have spoken here today and others in clarifying some of this. So we are going to look at this, and we are going to continue to dialogue with them. I would not recommend proposing or directing us to propose to eliminate the documentation system, and I don't think the advocates are asking us to do that either. They're asking for a number of things that are all in increments and fix, as we call them, tweaks. We call them e-tweaks to the system. So Jeff developed that.

CHAIRPERSON MARIN: It's all your fault.

MR. EOWAN: Madam Chair.

CHAIRPERSON MARIN: Go ahead, George.

MR. EOWAN: I would agree with Bob on that. In

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thinking more about your question here, you know, I mean, if somehow you could direct that where it included, you know, the existing contract and franchise service provider for that jurisdiction, that's basically what we're asking for. So, however you -- and it's real easy to start going off into major tangents on this and saying, oh, no. We're going to see major influxes on this and that. I think we've already debated this through many workshops in terms of the local government side. And all we're saying is let's just make sure we recognize existing agents for those local governments. That's all. Thank you.

CHAIRPERSON MARIN: All right. Well, interestingly enough, we didn't have anyone that spoke here from the City's perspective. And I'm wondering why.

BRANCH MANAGER WILLD-WAGNER: I will tell you I spoke with Yvonne Hunter last week, and she was unable to be here this week. She's on vacation. Usually, we have at least some attendees at all of our workshops from local government. They were the ones that were very involved in getting the specific exemption in the regulations, where as the local government or agent of local government they did not have to take the name and address. So they were not be able here today. I'm sure they'll be interested and will continue to work with us on all of this. I don't know if you're ready for a wrap up from me at this point.

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CHAIRPERSON MARIN: We're totally ready for a wrap up. I just want to make sure that what we do -- and this is a work in progress. So I hope everybody appreciates that we don't have all the answers for everything. This is new.

And when you're the pioneer, you're making roads and you don't know. There will be some bumps in the road, and there will be some deviations, but it's with the best intent possible. We will find a solution. It may not be the perfect solution, but we will find a solution together with all of the entities that have come and testified. But we're ready to move on.

COMMITTEE MEMBER WASHINGTON: I just wanted to comment, when Bob said that they would come up with a solution, while I have all the confidence in the world that Bob will come up with the answer, I don't want it to be perceived that this will be on a -- what's the word I'm looking for? Per case basis -- I can't get it out right.

STAFF COUNSEL CONHEIM: Case-by-case basis.

COMMITTEE MEMBER WASHINGTON: Because what happened is we would end up in more trouble -- and I know that wasn't your intent. I just want to make sure it's clear that at some point, because we're working under emergency regs, that this Board has to give some direction

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as to how we want to proceed with this, and that it definitely has to come from the Board so it can be unequivocally clear as to what our intent was and what the intent was and people won't get this idea it is on a case-by-case basis.

STAFF COUNSEL CONHEIM: Mr. Washington, if I could comment, Madam Chair, just for a second.

I think we have to clarify the rule as it applies to everyone, and/or we have to develop as we are going to finalize in our regulations the rule as it applies to everyone. If we have a system that has no rule that is only case by case, that will cause a lot of mischief. So while there's always some discretion in the application of every rule, I want to make it clear I would not recommend creating a system that required a case by case triage of every claim, because I think it would -- number one, it would bog us down to a point when we'd never get anything done, and we would be open to challenge for applying a different rule in every case.

COMMITTEE MEMBER WASHINGTON: Thank you, Bob. Appreciate that.

CHAIRPERSON MARIN: Okay. Shirley, wrap it up.

BRANCH MANAGER WILLD-WAGNER: A couple quick words. I don't have any formal wrap-up here. I want to thank all the stakeholders for coming, because it's

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through working with them we're going to get to these answers. And they have been very helpful in coming up with some ideas.

I think we're very close to being able to answer some of these concerns. We definitely always intended to include illegal abandoned waste, load checks, and Good Will drop-off. Of course, those things need to be brought into our payment system, and we need to find a way to do that without opening it up to the whole world. We need to redefine agent. It should be the designee, not the capital A agent. I think we're close to agreement on that. I don't think that's going to be a problem.

Our goal is to come back to you in October with some specific wording that we've described to you the options. Whether we do it administratively or whether we want to propose emergency regulations, we'll continue to work on that answer. And we'll come back to you in October with some proposals for your consideration.

CHAIRPERSON MARIN: I like the word designee a lot. I really, really like that. I don't think they will have the heart attack -- the cities won't have the heart attack they would if they had agent as the designee for e-waste.

STAFF COUNSEL CONHEIM: And Madam Chair and members and I want to meet with some of the advocates who

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discussed the concept of an automatic consideration of a designation. I need to understand more how that works in the real world and what franchises look like. So we've been in discussion with our advocates, and we appreciate the value of their forceful advocacy before you.

CHAIRPERSON MARIN: Thank you, Shirley. Thank you, Jeff. Thank you, everybody.

You know, there is no doubt in my mind that we will find a just and objective resolution to all of these issues. There is no question in my mind. I just want to make sure we also include Yvonne again on these items.

Piper, would you be so kind to answer the questions that Ms. Peace had suggested?

MS. MIGUELGORRY: Yes. Thank you, Madam Chair. This is Piper Miguelgorry, WRAP Program Coordinator.

And the first question I wanted to respond to was the unique programs that the Safeway, Incorporated, organization has in place. Shall I go ahead?

First of all, it's important to note there are 211,000 employees within this organization. And for this agenda item, we are, in fact, discussing 557 stores statewide. It's important to know they are covering a multitude of counties. And they have diverted over 211 tons of solid waste. Unfortunately, their cost savings right now is proprietary information.

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Some of the programs that Safeway currently has in place is they have a corporate wide composting program. A portion of their composting is actually bagged and resold in the Vons stores. They have a multitude of grocery bags, plastic bags, cardboard that are all made of recycled content. Their packaging policies they have in place is that customers may return paper and plastic bags for reuse. I know that's of particular interest to Board Member Peace. And that wholesalers may also return plastic milk jugs for recycling. Their diverted waste includes cardboard, 280 tons; organic materials, 779 tons; plastic and film bags, 7300 tons; paper, bone, and fat with the total diversion of over 210,000 tons.

They have a very aggressive food waste management program. In particular, they donate over $50 million worth of food to food banks. Part of that program is over 1100 bread and dough donations to the food banks. And they also use a filler that they provide for their livestock feed for a cattle ranch and a pig ranch. They donate furniture to nonprofit organizations. And I think one really cool thing is they have electric powered trucks for their home delivery service.

So it looks as if they've managed to tap into a multitude of waste reduction practices. And that's, in a nutshell, some of the reasons that we've chosen them as a

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potential WRAP of the Year candidate.

CHAIRPERSON MARIN: Thank you.

COMMITTEE MEMBER PEACE: Thank you. And the other four, could you give us -- is there one thing that really stood out that made them special?

MS. MIGUELGORRY: Sure. Agilent Technologies, which is a Sonoma County operation, we're talking about Santa Rosa and Rohnert Park facilities. They have two. They are a leading manufacturer of high performance test and measurement equipment. And they are ISO 14001 environmental management system standard organization. That's, I think, critical to know.

Another thing I feel is really a leader in their industry is they have a program called First Time to Work Program for developmentally challenged adults. They incorporate them into their recycling centers and so forth. They have diverted over 994 tons of solid waste material, with a savings of over $138,000.

Second one, Byers' LeafGuard Gutter Systems is located in Grass Valley, Nevada County. And they actually take their scrap metal products, their gutter work, and they remanufacture it. They gather it from homes, and they actually remanufacture it into more metal products. They also have a large diversion for their kind of business. And I meant to indicate the number of

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employees. Byers' has 18 employees.

So not only do we have representation of the large business, we also have the small business entities that we've covered. And they use postconsumer recycled paper. In fact, all five of these businesses either have a recycled content product procurement policy and/or they, of course, use recycled products in their purchasing and selling in their office operations, and if they have products they actually manufacture.

And then moving on to Trinchero Family Estates located in Saint Helena. They actually have six facilities in the Amador, Napa, and San Joaquin Counties. And they are, of course, a wine company. They ultimately reuse over 50 million gallons of wastewater and compost 24,000 tons of pumas and an addition 1,000 tons of diatomaceous earth.

They have upgraded their bottling lines to incorporate over 50 percent cullet, which is recycled glass materials, to remanufacture their wine bottles. They've won, by the way, five years in a row the WRAP awards. They diverted over 25,000 tons of solid waste materials, and they've saved over $750,000.

Last, but not least, Walsers, which is a very small business, family-owned business that has been diverting waste and won our award for over six years.

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They actually have only ten employees. And they are located in Torrance, Los Angeles County. One of the things they are most successful in is the recycling of their cardboard.

They have a multitude of programs that they implement working primarily with their customers. They offer free products within their organization so that no product goes to waste. They actually have a take-out program where people can come in and retrieve materials they consider old or not as popular as some others. And they encourage their employees to bring in items to contribute to their programs.

So we've got quite a few things going on here. A quick synopsis, we'll give you a highlight. But I'll be happy to retrieve more information if you'd like. I must say they also are successful in diverting nine tons of materials and saving $3,000.

CHAIRPERSON MARIN: So we have a gamut.

MS. MIGUELGORRY: We have a gamut, yes, we do.

COMMITTEE MEMBER PEACE: They all -- they can be good to the environment and also good to their pocketbook at the same time.

MS. MIGUELGORRY: Absolutely. And we like to tap into not only the statewide cities and counties, but we also like to see the small businesses as well as large

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businesses doing their part.

CHAIRPERSON MARIN: Thank you. I really appreciate it.

COMMITTEE MEMBER WASHINGTON: I'd like to move adoption of Resolution 2005-272.

CHAIRPERSON MARIN: Is there a second?

COMMITTEE MEMBER PEACE: Second.

CHAIRPERSON MARIN: Moved and seconded. Without objection, we will call the roll.

MS. MIGUELGORRY: There's two Resolutions.

COMMITTEE MEMBER PEACE: I'd like to move Resolution 2005-271 Revised.

COMMITTEE MEMBER WASHINGTON: Second.

CHAIRPERSON MARIN: Okay. Go ahead.

EXECUTIVE ASSISTANT BAKULICH: Peace?

COMMITTEE MEMBER PEACE: Aye.

EXECUTIVE ASSISTANT BAKULICH: Washington?

COMMITTEE MEMBER WASHINGTON: Aye.

EXECUTIVE ASSISTANT BAKULICH: Marin?

CHAIRPERSON MARIN: Aye.

Okay. That was for the first motion, and then we will substitute the previous roll call on consent.

We have one last item.

BRANCH MANAGER FRIEDMAN: That's correct.

CHAIRPERSON MARIN: Item Number 38.

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BRANCH MANAGER FRIEDMAN: That's correct, Madam Chair. Item 38 is Oral Presentation which is an Update on RecycleStore Activities. And Steve Boyd will introduce the contractor who will make the presentation.

(Thereupon an overhead presentation was presented as follows.)

MR. BOYD: Good afternoon, Madam Chair, Committee members. I'm Steve Boyd. I'm the Task Manager of the RecycleStore project. And in the interest of time, I do have a prepared overview here and recap of RecycleStore. If you would like, we can just go ahead and go directly to our presenter. He's flown in from Los Angeles and is on a time commitment himself.

CHAIRPERSON MARIN: Okay. Who is the person that is going to speak?

MR. BOYD: I am going to just very briefly tell you a little bit about him. Our speaker is Burnet Brown. And it's fun to speculate how, and more importantly why, one person might possess the unique experiences of serving as an advisor to a California Energy Commissioner, backpacking the 2,600 mile length of the Pacific Crest Trail solo, and spending a year at the frozen South Pole.

In addition, Mr. Brown has developed and managed marketing initiatives with Fortune 500 companies such as 3M, Saturn, Reeboks, QVC, and even Pepsi-Cola. In the

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environmental area, he has worked in Washington, D.C. with Booze, Allen, and Hamilton as a consultant to the U.S. EPA, the Energy Research and Development Administration, and the Department of Energy. With A National Marketplace for the Environment, he worked with the Federal General Services Administration developing and implementing the planning GSA Green Procurement Program.

Mr. Brown of Making Ideas Happen totally exceeded our contract deliverables and expectations. He taught us a lot about strategic marketing and the difference between promotion and marketing effectively. His work resulted in a number of success stories for some of our pilot project businesses. And with that, I'd like to bring Mr Burnet to the podium.

CHAIRPERSON MARIN: Okay, Mr. Burnet. Just think of it as going high solo on that mountain high -- what one was it?

MR. BROWN: The Pacific Crest Trail. I will, thank you.

I want to go on record saying what a pleasure it's been working with Patty Wohl and her staff in the Market Development Division. And for that matter, all the folks I've worked with at the Integrated Waste Management Board. And so my hats off to you for managing such a fine organization.

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CHAIRPERSON MARIN: Thank you.

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MR. BROWN: I also want to say what a great opportunity it has been for me to work with all of these entrepreneurs, these companies, their companies that aim higher than the bottom line. And having seen the full breath of the marketplace, it's a great inspiration. And I know you've seen that as well. And so that's another great thing that came out of this 18-month contract.

What we'll cover -- and, again, we're going to go through this out of respect for your long day. I have new admiration for public service. In any event, we're going to start out with outcomes and measures. That was very clearly a rigorous part of the contract. We're going to talk about the implications for waste diversion of RecycleStore, support for local government efforts. What does RecycleStore mean for local government efforts? And then we're going to show you the results, the aggregate results, and then results disaggregated by RecycleStore manufacturers in their local areas, as well as I'll kind of walk through the program strategy and elements. And then finally the findings and recommendations.

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MR. BROWN: Again, they wanted this to be a quantifiable results driven program, so they set very

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clear measures. One was to increase RecycleStore traffic measured in hits. A second was to deliver quality buyer referrals. And we measured these through buyer click-throughs and e-mails to manufacturers. Finally, this was very impressive when I saw this. You know, having worked at a wide variety of government levels, to see the breath of actually targeting retail mass merchandise buyers as well as individual consumers and government buyers. So those were the priority target buyers. And this is essentially what, you know, drove how this strategy was implemented.

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MR. BROWN: What RecycleStore does, it attracts buyer referrals from all over the U.S. and delivers them to California manufacturers in participating local RMDZs. And I must say that's a very innovative program doing both that and then accelerating market penetration of California recycle products and beyond California borders. Most of the states I've seen really focus within their state borders. And I think this slide shows what implications for waste diversion --

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MR. BROWN: -- and that is dramatically increases potential opportunities for diverting waste. I mean, this is a much larger area moving you beyond the borders of the

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state of California. And so all of those are opportunities for waste diversion. That is basically a picture of a typical day of Internet traffic.

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MR. BROWN: We have, how does it help local governments? And this is something I want to walk through. It enables the Waste Management Board to support local governments by stimulating demand for products made in their area. I listened with great interest today as you walked through and had local communities talk about a lot of their problems. And, of course, one of the solutions is, of course, increased demand. And I must say I was impressed with how you tenaciously made the case for a green procurement and buy recycle. I think there's enormous potential there and a key opportunity for RecycleStore there.

Going to support local governments, you're also providing a technical assistance. Search engine optimization is a very complex area. There was just a piece in Business Week about how a number of smaller companies have surpassed Fortune 500 companies because Fortune 500 companies have not mastered this. And as a result, these smaller companies are outperforming in e-commerce the larger companies.

Thirdly, there we're talking about you will be

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able to bring to the table free marketing assistance. We wrote draft press relieves tailored to local communities about these entrepreneurs as well as creating partnerships, which I'm going to discuss a little bit later.

And, finally, good news, channeling sales revenues into their markets. And along with that, generating positive publicity by saluting the achievements of these green entrepreneurs. So that's quite a package to go in to assist these local governments, local communities.

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MR. BROWN: Now, local impact, this basically summarizes the top ten companies and what kind of impact. This does not include all the 60-so companies. But you can see that one company in Oakland, Berkeley, 5,700 buyer referrals. And in the top ten accounted for 22,000 buyer referrals that this program that you developed delivered to stimulate demand for recycled content products. Again, coming from the private sector, I would dearly love to have this kind of assistance.

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MR. BROWN: The program results quantified. This is an 18-month program. You can see on the left -- just show you the chart in the background, which we'll see a

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little bit clearer later, is where we started. And at the end of the contract period, we had a 241 percent increase in traffic over the baseline. So we went from 10,000 hits per month to 35,000 and averaging about 22,000. We are on track -- or you are on track, rather, by April of this year to pass the one million mark. So an occasion worth noting.

We generated during that time 400,000 hits, which is about 60 percent of the site's total recorded hits. So there was quite -- as you can see, quite a growth there. And two records were set. The new record high was 36,000 hits in a single month. And more important, of course, than the hits were the buyer referrals, and those were about 15,000 during the contract period. And then first time expansion into mainstream markets.

As you know, many of these companies have focused -- RecycleStore in the past has focused on the green buyer. We moved into mainstream markets no longer limiting to nitch markets. So we went from RecycleStore to arts and craft furniture, recycled trash bins to lockable security documents containers. And I'll go into that in a moment.

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MR. BROWN: But the question -- this is, you know, why mainstream? And it's graphically presented

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here. This is four groups of products. And the reason why mainstream is because mainstream buyers are not buying recycled gifts or recycled furniture. You can see in that second column recycled gifts in one month is about 175 per month. Whereas, people that are searching for the gifts you're talking about half a million. Gift baskets, another half a million searching for those. So in implementing this strategy, one of the things that we did was to begin to access that market. Obviously, there are much greater opportunities for waste diversion in that respect.

So there you have that same is true with furniture. We had 306 folks search for recycled furniture. Almost a million people search furniture; 221,000 search for office furniture. Interestingly enough, I noted more people searched for used furniture than they do search for recycled furniture. That's sort of a summary of what, you know, Jim Collins would call the brutal facts. This is, in the minds of mainstream consumers, that's where they are in terms of buying recycled product contents. And that's the challenge that we face.

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MR. BROWN: So this is the results over the 18-month period. You can see we have a big spike in the

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Earth Day campaign.

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MR. BROWN: And I'm going to move in the spirit of moving forward.

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MR. BROWN: These are a couple of companies I was going to showcase. But when you meet with local governments and you're asked and they present challenges they face and, you know, they look to you for assistance, here's a case where we had -- this company in the Bay Area, number one beneficiary of RecycleStore buyer referrals. In 2001, RecycleStore delivered six buyer referrals. In 2004, almost 1500 buyer referrals.

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MR. BROWN: Similar case with a company, Plastopan, $3 million company based in Los Angeles. They have 30 products. You can see their products. They have done something what I think is very smart. They are now competing with companies not just on the recycle aspect of it, but also in the areas of quality, service, and innovation. They have tracked this whole trend towards security and understanding there is a liability now associated -- or companies are liable for the threat of documents in their possession. They are the only makers of this differentiated lockable container in the country.

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MR. BROWN: And it's very impressive how they have succeeded in marketing their product beyond their original recycle content focus, which has been critical to their success and something we want to do with other companies, and which this key word search has enabled us to do. So you can see again here is another example of a company, 2001, we had 30 buyer referrals, and we had a 3,000 percent increase in that in terms of delivering buyers to their site.

CHAIRPERSON MARIN: She wants to ask you a question.

COMMITTEE MEMBER PEACE: Maybe you haven't come to it yet. You can see where the hits and referrals are way up. Do you have any idea what percentage of their sales increase is attributed that's coming --

MR. BROWN: That's a very good question. And we're going to look at sales and revenues as issues. Thank you for asking that.

So that's fundamentally the question. Yes, we have all these --

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MR. BROWN: -- buyer referrals, but what does it mean? Does it really mean anything? We have one company this is a company out of Glenn County. They make anchors,

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basically float tube anchors out of recycled zinc. And here he's saying he has received revenues from the state of Texas and also from the state of Alaska. And we continue to get that. So we are making out-of-state sales, in-state sales, and to your point, real sales.

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MR. BROWN: Last year, RecycleStore generated over $9,000 in sales for recycled content. This is a company in the Shasta metro RMDZ. Sales is a critical issue. Unfortunately, you know, you cannot coerce companies to provide the sales information. But the buyer referrals do a very, very good job. And I think this --

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MR. BROWN: Yes. As decision makers, you want to look at your -- one of the things you're entrusted to do is look at how these programs, whether they're good cost effective results. You can see on the left this is a paper click figure comparing to direct mail. For direct mail for $10, one lead -- and as you know by all the junk mail you get in your mailbox, you know, they get a 2 percent rate, they're happy. It's one of the few things I've ever seen where people are happy with an 98 percent failure rate.

So the difference with the Internet, of course, is that you are proactively seeking this information. And

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if you optimize your site for these key words, then you're going to get a much higher quality buyer referral. They want your product. They entered the information. They've gone to your website. And so, you know, that's a very, very important asset there that you're offering.

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MR. BROWN: So this was a strategy. One was to mainstream recycled content products. And I'm going to go into this in a little more detail. Reposition them as high value added products, continue to grow your affinity markets, which are the traditional markets of people that are interested in sustainable products. We adopted a category by category phased approach, which I'll talk about.

Effectively, there are 14 product categories. We started out with gifts. Certainly, there will be green building products as another category, green furniture products, and so forth.

A really key component of the strategy was to create partnerships with organizations to leverage the assets and the networks with these various other organizations, particularly what we focus on was specialty retail buyers, mass merchandise buyers, and government buyers. And then we also have a celebrity endorsement component and a PR campaign. And, of course, search

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engine optimization, which is probably the most critical in terms of self-sustaining traffic to your site without repeatedly making large investments.

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MR. BROWN: So this is what we talk about, the strategy of re-positioning. You can see high quality, high value added. As I dealt with buyers, whether QVC or Wal-Mart or whatever, there still continues to be the perception of recycled product as a commodity. So this is one of the things that doesn't seem to be a great awareness of some of the caliber of these products and very, very high quality products.

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MR. BROWN: Celebrity endorsement, this is the partnership we put together with the Environmental Media Association, which was at no cost whatsoever to the project or the State of California. This is a terrific organization that works with celebrities to promote awareness of environmental problems.

This is Mimi Kennedy, "I went to the RecycleStore website thinking I'd be looking at good intention and found gorgeous artistic products," which precisely embodies the problem that we face with buyers of recycled products, this perception they are not high quality products. And that was the experience she had. She had

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expectations of good intentions, and she found great products. So you can be very proud of your entrepreneurs in that regard. If you're not familiar with her, she played in Erin Brockovich, a character in there, and she was also Abby Finkelstein in Dharma and Gregg. So she did a real terrific job and gave us quotes which we used in our work.

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MR. BROWN: These are some of the articles, some of the news media that picked up articles about RecycleStore. Interestingly enough, the one that appeared in the Sacramento Bee was picked up by the Miami Herald.

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MR. BROWN: So this component, partnerships created. This is probably one of the most valuable things. In terms of speaking to Board Member Peace's question, and that is closing sales. We put together a partnership with NMOA, the National Mail Order Association. They have buyers who are QVC, Home Shopping Network, infomercials, online catalogs, and wholesale buyers that go to them that look for product.

And they are critical because they aren't familiar with recycled products. They certainly aren't familiar with the caliber. And this organization went ahead and built a portal on their website showcasing

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RecycleStore, sending out e-mails to their buyers, and channeling that buyer traffic directly to your site. So that's a very, very high quality buyer.

Government buyers, I was involved with some work implementing the Executive Orders 12873, 13101. And so I'm very familiar with some of the challenges you face. And I'm not sure if that was around when you were at the Treasury, but anyway, it's still around. And that is one of the areas that we were going to work with. We did put together a partnership with Air Force Center for Environmental Excellence.

The problem we ran into was Recycle Store companies -- and I hope you do address this issue -- I think a lot of companies in California are not EPA product designated. They don't even enter the shopping list, and that's what federal government buyers use. They use it in their databases. And once you get into a GSA database, you will fly. But that's a hurdle that I think needs to be addressed and does appear in my recommendations.

So another partnership we created was product placement. I'm sure you're all familiar with the stories of how these products appear on TV. Reeses Pieces went through roof with the great Spielberg movie there, ET. The Environmental Media Association, which I discussed earlier. The Green Restaurant Association, which

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obviously has buyers there as well is of value to us.

What remains to be done? This is the final slide. We need to complete the search engine optimization for the remaining RecycleStore businesses. This is a terrific competitive advantage. We're on this arc of the learning curve where there are many companies, as I said, including many Fortune 500 companies who are not capitalizing on the opportunities offered by this and the criteria that Google and a lot these other search engines use. There are ways that you can use search engine optimization to get the higher page ranking.

And, secondly, in terms of working with -- we need to create some portal pages to meet professional buyer requirements in terms of volume. When you have a buyer from the government, a buyer from Wal-Mart come to these sites, they have high expectations, and they can easily shop elsewhere. So they have volume requirements. And so that's another recommendation that I would make continues to be done.

We need to move beyonds the gift, the greengifts.com, to building and green furniture and the full horizon of products. And then as I mentioned earlier, qualify RecycleStore companies for EPA product designation.

The full list is in this report. And at this

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final hour of the day, thank you for giving me the opportunity to work with all these fine people and this fine company. And congratulations to you. Any questions?

CHAIRPERSON MARIN: We probably have a few. Thank you, Mr. Brown, for being here. We really appreciate all your hard work.

I just have one quick question. What was the last time that the web page was updated?

MR. BROWN: The last time the web page was updated?

MR. BOYD: Are you talking about the home page or product pages? We add products to it all the time. We've had some other priorities, and there hasn't been anything in the last few weeks. But the home page, we've added new categories several months ago.

BRANCH MANAGER FRIEDMAN: Madam Chair, are we talking about the RecycleStore page itself?

CHAIRPERSON MARIN: Yeah.

MR. BOYD: Mr. Brown's contract ended in December, so we haven't been doing a lot of activity in the recent months.

CHAIRPERSON MARIN: Okay. Because I think the last date that it shows in all the pages is 2004, August 19th, 2004. So I'm wondering if it was just --

MR. BOYD: That would have to be the home page.

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There's product pages added all the time.

MR. BROWN: Just as a point along that, that was not part of the contract, to look at web design, although we did make some recommendations. I think that's an area that could use some work. And we actually did create one for greengiftworks.com along that line. And the idea was to roll those out for the various areas. And the reason, again, is because, you know, Wal-Mart doesn't have a recycle product buyer, per se. QVC doesn't have -- they have a gardening buyer. They have a furniture buyer. That's how buyers buy their products. And they have, you know, the feedback that we got was that that was an area that needed to be addressed.

CHAIRPERSON MARIN: So where are we with this particular item? I know it was just an update of what it was, but the contract already ran out. And so what's the next step, or where are we on that?

BRANCH MANAGER FRIEDMAN: Well, I think John Smith is going to answer that question.

BRANCH MANAGER SMITH: What this presentation was today was to summarize the work of that contract. We are looking to, the Board willing, expanding the project with a contract concept that's coming before you in September. We'll be doing some similar things.

CHAIRPERSON MARIN: So this is done with.

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BRANCH MANAGER SMITH: That part is done.

CHAIRPERSON MARIN: But there are no updates to the -- is somebody managing that internally?

BRANCH MANAGER SMITH: Right. Yes. We do it, as Steve said, on a regular basis we add product.

CHAIRPERSON MARIN: But we do that?

BRANCH MANAGER SMITH: Right. In terms of the very sophisticated work, we're finding the very best way to get our customers to our site, that was the work of that contractor and the next contractor, whoever that might be.

CHAIRPERSON MARIN: Okay. All right. Well, thank you for your work. Thank you for everybody's involvement. This is very, very interesting.

Questions? Mr. Washington first.

COMMITTEE MEMBER WASHINGTON: Not so much, Madam Chair, questions. I just want to thank the staff for bringing -- when I first came to this Board, I had the opportunity to see the minimum product they were producing. And now to see it has grown to the point it is at this point, and I certainly believe in the years to come, this will certainly be a huge store for people to shop out of and to buy their products. And, again, from what I saw when I first came to this Board to now, you guys have done a great job. And I want to thank staff for

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putting this store together for us.

BRANCH MANAGER SMITH: This was the brain child of Steve Boyd. He saw his businesses in the rural area were barely surviving. So he persuaded us to use this as a pilot tool. It was so successful we've now expanded it to all our zones and, actually, we'd like all the products of our manufacturers, those producing finished products included in there. Mr. Steve Boyd is the one who really deserves the credit.

CHAIRPERSON MARIN: Well, consider this a standing ovation, Mr. Boyd. None of us are standing, but just consider it.

COMMITTEE MEMBER PEACE: I think just getting the recycled product out of the recycle category and into the mainstream categories is huge. We should be looking at, really, all those recycled products as just good products, not necessarily recycled products. That's what people are looking for.

As far as this goes, the RecycleStore only features products produced in an RMDZ?

BRANCH MANAGER FRIEDMAN: That's correct.

COMMITTEE MEMBER PEACE: So even if we had, say, grants that we've given to tire producers to make recycled products out of tires, they wouldn't be --

BRANCH MANAGER SMITH: Unless they're in an RMDZ.

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There are a number of tire companies in RMDZs?

COMMITTEE MEMBER PEACE: Did I hear you say you want to expand this some day to include all recycled products, or will this only just be for products that come out of an RMDZ.

BRANCH MANAGER FRIEDMAN: I believe John mentioned we would like to expand it to all the products that come out of the RMDZs, because it doesn't currently include that. So it needs to be expanded at a minimum to include all the products that come out of RMDZs as a way to, you know, drive the market pull for those products which increases diversion.

CHAIRPERSON MARIN: I know that there's going to be an Item 42 that will deal with some of the market concepts that will include with a portion of this.

BRANCH MANAGER FRIEDMAN: That's correct. That's next week.

CHAIRPERSON MARIN: Now, what are we going to do with the set of recommendations? Let's just say that for whatever reason we don't allocate another grant, but there is work to be done, for example, trying to get the designation from EPA. Could we do that? Have we thought about that?

BRANCH MANAGER SMITH: What we have to do if we don't get the next contract is we prioritize those things

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based on the resources we had and start with the top priority and go down that list with staff resources.

CHAIRPERSON MARIN: All right. Okay. Any further questions? Comments?

BRANCH MANAGER FRIEDMAN: Madam Chair, I just want to clarify that this presentation was for the Committee only.

CHAIRPERSON MARIN: Yeah. There won't be another presentation at the Board. There will be one item that will be recommended for this.

Okay. That's it. Nobody else wants to address the Board on any urgent matters? No. The committee.

Well, at 3:50, a very short meeting of the Sustainability and Market Committee -- this Committee ends. I'm tired. Whatever the Committee is. Thank you. We'll see you all next month.

(Thereupon the California Integrated Waste Management Board, Sustainability and Market Development Committee Adjourned at 3:52 p.m.)

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CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day September, 2005.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
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