

PUBLIC MEETING
BEFORE THE
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD

In the Matter of:)
)
Public Meeting)
_____)

CENTRAL COAST WATER BOARD
CONFERENCE ROOM, SUITE 101
895 AEROVISTA PLACE
SAN LUIS OBISPO, CALIFORNIA 93401

PARTIAL TRANSCRIPT - 10:05 a.m. - 4:09 p.m.

FRIDAY, APRIL 28, 2006

10:05 A.M.

Reported by:
Peter Petty

BOARD MEMBERS PRESENT

Jeffrey S. Young, Chairperson

Russell M. Jeffries, Vice Chairperson

Gary C. Shallcross

Daniel M. Press

John H. Hayashi

Leslie S. Bowker (Recused)

Monica S. Hunter (Absent)

BOARD ADVISORS and ASSISTANTS

Michael Thomas, Assistant Executive Director

Carol Hewitt, Executive Assistant

John Richards, Counsel
State Water Resources Control Board

WATER BOARD PROSECUTION STAFF

Roger Briggs, Executive Officer

Lori Okun, Senior Staff Counsel

Matt Thompson, Project Manager

Sorrel Marks, Project Manager

Allison Millhollen

LOS OSOS COMMUNITY SERVICES DISTRICT

Stephen R. Onstot, Attorney
Gregory M. Murphy, Attorney
Burke, Williams and Sorensen, LLP

Daniel M. Bleskey, Interim General Manager
Willdan

LOS OSOS COMMUNITY SERVICES DISTRICT

Lisa Schicker, President, Director

Steven Paige

Daniel Wickham

DESIGNATED PARTIES

William Moylan

Beverley DeWitt-Moylan

Alan Martyn

Robert Shipe

Dustan Mattingly

Lawrence Bishop

Christopher Alabe

Lawrence Kleiger

Bruce Payne

Katherine "Kitty" Thomas

Laurie McCombs

Tim Rochte

Antoinette Payne

Richard Sargent

Donna Kirtley

INTERESTED PARTIES

Joey Racano

Shirley Bianchi

Maria Kelly

INTERESTED PARTIES

Joyce Albright

Ann Calhoun

Keith Wimer

Jim Hensley

Lacey Cooper

Bo Cooper

Dianne Burke

David Duggan

Gewynn Taylor

Assemblyperson Sam Blakeslee

George Taylor

Alon Perlman

Pat Renshaw

Lawson Schaller

Julie Tacker

Anton Vesely

Joe Sparks

James Tkach

Chuck Cesena

Richard Margetson

Marla Jo Bruton

Tom Hollis

Gail McPherson

Elaine Watson

INTERESTED PARTIES

Al Barrow

Barbara Akle

Richard Sadowski

Geri Walsh

Linde Owen

Judy Vick

Carol Cribbs

ALSO PRESENT

Reginald Fagan

Sheila Cinderson

R. Wyatt Cash, Chief Deputy Counsel
County of San Luis Obispo

Kathy Bouchard, Deputy Counsel
County of San Luis Obispo

Steve Carnes
County of San Luis Obispo

Larry Allen
Air Pollution Control District

I N D E X

PARTIAL TRANSCRIPT - 10:05 a.m. - 4:09 p.m.

	Page
Proceedings	1
Roll Call	1
Introductions	2
Enforcement	
Los Osos Individual Septic System Dischargers, San Luis Obispo County	3
Opening Remarks	3
Chairperson Young	3
Procedural Objections and Issues	20
Comment of Interested Parties	136,191,238,244
Comment of Government Agencies	174
San Luis Obispo Air Pollution Control District	174
Public Comment	234,241
Adjournment	247
Reporter's Certificate	248

1 P R O C E E D I N G S

2 10:05 a.m.

3 CHAIRPERSON YOUNG: I'm Jeff Young,
4 Chairman of the Central Coast Regional Water
5 Quality Control Board. Today is April 28th. Ms.
6 Hewitt, would you like to call the roll.

7 MS. HEWITT: I'm having a bit of a
8 technical problem with the recorder.

9 CHAIRPERSON YOUNG: You are. Okay.

10 MS. HEWITT: -- hold for a second?

11 CHAIRPERSON YOUNG: We'll wait for that
12 to be corrected.

13 Folks in the back of the room, would you
14 please remove the placards. I don't want them in
15 sight in the hearing room. They serve as a
16 distraction. Please leave them outside. Thank
17 you very much.

18 (Pause.)

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

20 CHAIRPERSON YOUNG: Okay, are you ready
21 now? Why don't we proceed with the roll call.

22 MS. HEWITT: Daniel Press.

23 BOARD MEMBER PRESS: Present.

24 MS. HEWITT: Gary Shallcross.

25 BOARD MEMBER SHALLCROSS: Here.

1 MS. HEWITT: Jeffrey Young.

2 CHAIRPERSON YOUNG: Here.

3 MS. HEWITT: Russ Jeffries.

4 BOARD MEMBER JEFFRIES: Here.

5 MS. HEWITT: John Hayashi.

6 BOARD MEMBER HAYASHI: Present.

7 MS. HEWITT: Monica Hunter. Absent.

8 Les Bowker.

9 BOARD MEMBER BOWKER: Here.

10 CHAIRPERSON YOUNG: Michael, would you
11 like to introduce everybody that needs to be
12 introduced.

13 MR. THOMAS: Okay.

14 AUDIENCE SPEAKER: (inaudible).

15 CHAIRPERSON YOUNG: Thank you for
16 letting us know that. And remind us if we talk
17 too softly.

18 MR. THOMAS: I'm Michael Thomas, the
19 Assistant Executive Officer for the Water Board.
20 I'll introduce staff who are at the meeting here
21 today. And also -- well, first, John Richards,
22 Board's Counsel, is to my right. At the
23 prosecution table is Sorrel Marks, Project Manager
24 with the Water Board.

25 Prosecution Staff attorney, Lori Okun.

1 Matt Thompson, Project Manager with the Board.
2 And to my right is Carol Hewitt, Executive
3 Assistant.

4 And we'll have some folks in the back
5 handing out cards. These cards are colored.
6 We're this experiment. If you're opposed to the
7 cease and desist orders, fill out a red card, a
8 speaker card, that is. If you're in favor, fill
9 out a blue card. And if you're Switzerland and
10 you're neutral, fill out a white card.

11 The bathrooms are through the door to
12 the rear and to my left, to your right, out
13 through with the exit sign above it. And I --

14 AUDIENCE SPEAKER: (inaudible).

15 MR. THOMAS: You don't have to; you can
16 fill out a white card if you prefer.

17 CHAIRPERSON YOUNG: That's just to make
18 it easy to categorize visually, that's all.

19 MR. THOMAS: And as AGP Video announced
20 earlier, there is a camera out in the atrium area.
21 And this room does have a limit, obviously, so
22 we're going to be asking people to go out to the
23 front and watch the broadcast from there so that
24 we don't get too many people in this room.

25 CHAIRPERSON YOUNG: Folks, what I want

1 to do is take a few minutes to describe what's
2 going to be happening today procedure-wise so that
3 everybody at least has some idea of when things
4 are going to happen, when they're not going to
5 happen, and try to accommodate any special needs
6 that may exist.

7 I want to start off with going over the
8 order of presentation. By the way, Mr. Onstot,
9 would you like to introduce the members at your
10 table?

11 MR. ONSTOT: Yes, Mr. Chairman. My name
12 is Stephen Onstot, O-n-s-t-o-t, with Burke,
13 Williams and Sorensen, representing the Los Osos
14 Community Services District. And to my right is
15 Gregory Murphy, also the same firm, representing
16 the CSD.

17 CHAIRPERSON YOUNG: Thank you. What I
18 want to do, folks, so that everybody can see
19 what's going to happen, is go over how we're going
20 to handle the order of presentations. And we are
21 going to, early on, go over and discuss the
22 preliminary procedural matters.

23 We've had a number of evidentiary
24 objections and other types of objections that have
25 been raised that need to be taken care of before

1 we actually get into witnesses speaking.

2 And it occurred to me, Dr. Bowker, and
3 maybe before we go any further, that you would
4 like to --

5 BOARD MEMBER BOWKER: Make a statement.

6 CHAIRPERSON YOUNG: -- make a statement,
7 and then --

8 BOARD MEMBER BOWKER: I live in Los
9 Osos, but not at the prohibition zone, I do my
10 shopping and so forth. So, it's almost impossible
11 for me to avoid what is called ex parte
12 communications, communications on an issue outside
13 of a full quorum. So, on advice of legal counsel
14 and staff, I'm recusing myself from this issue.
15 Thank you.

16 CHAIRPERSON YOUNG: Okay. Thank you,
17 Dr. Bowker. That means you'll be stepping down.

18 BOARD MEMBER BOWKER: Yes.

19 CHAIRPERSON YOUNG: All right. Better
20 take your chair with you, Les.

21 (Laughter.)

22 CHAIRPERSON YOUNG: Our first witnesses
23 are here, but I'm just going over the order that
24 we're going to do this thing. And I want people
25 to know, because we may set some things that might

1 be somewhat more time-certain for some people.
2 And I'd like everyone to know where we're headed
3 and when they may be speaking.

4 We have different categories of
5 presenters. The first group of people that are
6 going to be addressing the Board are going to be
7 non-(inaudible) comments by government agencies.

8 And along with those presentations will
9 be what we would consider public comment of
10 interested persons.

11 And that will be followed by
12 presentation of evidence by the Water Board Staff
13 Prosecution Team. We've estimated that time at
14 one hour. And the previous group of speakers that
15 I mentioned, the government and public comments
16 speakers, we've allocated about an hour and a half
17 to them.

18 And if people feel that - I don't have
19 any speaker cards for that at this point, but,
20 Michael is just going to have to tell me, we're
21 just going to divide that number of speaker cards
22 into the hour and a half and that's how much time
23 the public is going to be given --

24 (Audience speaking simultaneously.)

25 CHAIRPERSON YOUNG: If people do not

1 like that, they can discuss amongst themselves, if
2 they know that their comments are going to be
3 similar to others, the possibility of --

4 (Audience speaking simultaneously.)

5 CHAIRPERSON YOUNG: Excuse me. No one
6 is required to present anything today from the
7 public or interested persons. An hour and a half
8 is plenty of time in my opinion for those comments
9 to be presented to the Board.

10 If people feel they need more time than
11 that they don't have to speak, and that would
12 allow other people with the same comments to have
13 more time. That is up to you. An hour and a half
14 is all that we're going to allow for that.

15 One hour, as I said, for the prosecution
16 team's case. Approximately a one-hour lunch break
17 probably starting at 1:00.

18 Within this timeframe we are going to
19 probably take a break every hour and a half for
20 about 15 minutes or so.

21 When we return from lunch we will have
22 the Los Osos Community Services District put on
23 its case. And we estimate that will be about two
24 hours of time. Up until the completion of the
25 CSD's case, all of those comments are going to be

1 incorporated automatically. And all that, any
2 evidence that has been put into the record at that
3 point will automatically be included in each of
4 the individual hearings we will have for the
5 individual property owners.

6 I worked this out to try to facilitate
7 the order of testimony and evidence to make it as
8 workable as possible.

9 Okay. Then after that point in time we
10 will have presentation of property-specific
11 evidence with respect to the proposed cease and
12 desist orders. We're estimating 15 minutes of
13 time by the prosecution staff to only present
14 property-specific information.

15 We will then have the individual
16 property owners with their presentation of
17 evidence. We're estimating about 15 minutes of
18 time for each of them. If any of the individual
19 45 property owners can make a case for needing
20 additional time for specific issues that they feel
21 are very important, the Board will listen to that
22 and consider whether additional time is warranted.

23 We do encourage people to incorporate by
24 reference comments and evidence made by previous
25 speakers.

1 We will then have cross-examination by
2 designated parties. And that means the
3 prosecution staff, the CSD staff members, and that
4 means the individual property owners. I don't
5 know how long that will take, but we'll see what
6 happens.

7 We will then have rebuttal testimony by
8 the same designated parties. And then we will
9 have closing arguments by these same parties. And
10 the closing arguments, we'll proceed by the Water
11 Board Prosecution Staff, followed by the Los Osos
12 CSD Staff, and then the individual property owners
13 named in the proposed cease and desist orders.

14 After that we're then going to have
15 Board deliberation and consideration of the
16 proposed orders in front of us.

17 I don't know how many of you had a
18 chance to review the notice that I'm reading from
19 now. It did go out (inaudible), but there are
20 issues that the Board feels are relevant to what's
21 happening today.

22 This is not the same hearing that we had
23 before where there was an administrative civil
24 liability before us against the District. This is
25 an entirely different hearing. The issues that

1 were presented in that hearing are not necessarily
2 relevant to what's being proposed as an
3 enforcement item in this hearing.

4 The first issue that we think is
5 important is the following: Are persons who own
6 or occupy each property, that is the persons named
7 in the proposed cease and desist orders,
8 discharging or threatening to discharge in
9 violation of the Los Osos Baywood Park prohibition
10 in the basin plan.

11 The second issue is the following: Is
12 the requirement for pumping or an alternative or
13 equivalent corrective action with each proposed
14 cease and desist order the appropriate remedy for
15 violations of the prohibition. The specific
16 circumstances of each discharge are relevant only
17 to the remedy the Board may adopt if the Board
18 finds that violations are taking place or
19 threatening to take place.

20 I encourage everybody to try to focus
21 their comments to us on these issues. I'm not
22 going to get in the way if you want to use up your
23 time getting into other issues that you deem are
24 important. I'll let that happen. But I'm not
25 going to extend time so that you can incorporate

1 and get into other areas.

2 The big area that is not at issue here
3 as far as the Board is concerned is the legality
4 or the validity of the prohibition zone, itself.
5 If people feel that that should be challenged, and
6 that there is something wrong with it, there are
7 other forums for that challenge to take place. It
8 is not going to take place here at this hearing.

9 I anticipate that we're not going to
10 complete all of these proposed CDOs today. I just
11 don't think it's possible to do it. And I don't
12 know how many we're going to get done, we're going
13 to get some of them done. I just don't know what
14 number we will complete.

15 If we come to that point that we will
16 continue the hearing, there may be a subpanel of
17 the Board that's appointed to continue with that
18 effort. Or maybe the entire Board of five. But I
19 want you to know that I'm well aware that it's a
20 daunting task to tackle all 45. I don't want to
21 rush through going through these simply for the
22 sake of completion.

23 Okay, one thing I would like to know
24 about, and this has to do with the individual
25 property owners. If there are any of them that

1 have any pressing health issues or childcare
2 issues or anything that we should consider in
3 terms of how we want to prioritize the individual
4 CDO hearings. And you guys --

5 AUDIENCE SPEAKER: -- pick up our
6 daughter by 5:00, so it would be great if we left
7 before 5:00.

8 CHAIRPERSON YOUNG: Okay, and your name,
9 sir?

10 MR. STOLEY (Phonetic): James Stoley
11 (phonetic.)

12 CHAIRPERSON YOUNG: Okay.

13 AUDIENCE SPEAKER: Does hair loss count
14 in this whole --

15 (Laughter.)

16 CHAIRPERSON YOUNG: Well, if it did, I'm
17 going to check into it.

18 Okay, I just want to make sure we got
19 that first individual. Okay. Anyone else that
20 has any pressing -- yes, sir, can you stand up so
21 we can hear you?

22 MR. MOYLAN: Yeah, my name is Bill
23 Moylan. I've arranged to go see my father who's
24 in Illinois. He's in an urgent care facility.
25 I'm leaving Monday and going to be gone for a

1 week, so if this hearing goes beyond the
2 parameters of today, then I wouldn't be able to
3 attend next week. And I definitely want to
4 attend, so.

5 CHAIRPERSON YOUNG: Okay.

6 MR. MOYLAN: Thank you.

7 CHAIRPERSON YOUNG: Thank you. Anyone
8 else? Yes, sir.

9 AUDIENCE SPEAKER: I'm disabled; I can't
10 stand and I can't see because everyone's standing
11 (inaudible) -- back here and got here early --

12 AUDIENCE SPEAKER: He can have my chair.

13 CHAIRPERSON YOUNG: Okay. Sir, why
14 don't you come up here.

15 AUDIENCE SPEAKER: Well, I've got a
16 special chair. I can't sit in those chairs --

17 AUDIENCE SPEAKER: Can I move my chair?

18 CHAIRPERSON YOUNG: Do you have you
19 chair with you?

20 AUDIENCE SPEAKER: Yes, I do.

21 AUDIENCE SPEAKER: Is it okay if we roll
22 it right up here?

23 AUDIENCE SPEAKER: Sure.

24 CHAIRPERSON YOUNG: Mr. Briggs.

25 MR. BRIGGS: Mr. Chairman, as of a few

1 minutes ago there was still about ten chairs
2 available out in the atrium area. And we are
3 trying to bring some more chairs down, so --

4 CHAIRPERSON YOUNG: Well, I understand
5 we may have some designated parties who are
6 standing.

7 AUDIENCE SPEAKER: We're sitting up
8 here.

9 CHAIRPERSON YOUNG: Okay. Well, can't
10 we get those other chairs in here so at least the
11 designated parties have a seat.

12 UNIDENTIFIED SPEAKER: Sure.

13 CHAIRPERSON YOUNG: Okay. If you're a
14 designated party and you're standing, would you
15 raise your hand.

16 (Pause.)

17 AUDIENCE SPEAKER: Mr. Chairman.

18 CHAIRPERSON YOUNG: Yes.

19 AUDIENCE SPEAKER: I'm an ex-fireman,
20 retired. I think this room is overloaded and
21 we're violating the fire regulations of the City
22 and the state. So I would ask that you address
23 the overcrowding in this room. It's overloaded.

24 (Parties speaking simultaneously.)

25 CHAIRPERSON YOUNG: Mr. Briggs, what is

1 the loading requirement for this room? And is
2 that an issue --

3 (Pause.)

4 CHAIRPERSON YOUNG: Let's do this. If
5 there are people who aren't designated parties,
6 I'm going to ask you to get up and go into the
7 overflow room. Those people that are designated
8 parties can have a seat. And I would like then to
9 reduce the number down. I prefer we not have any
10 more than about a half-dozen people standing. Do
11 we have all seats taken up at this point? Okay,
12 are there people that are not designated parties
13 sitting in the audience?

14 (Pause.)

15 CHAIRPERSON YOUNG: Why don't you come
16 to the microphone so everybody can hear.

17 UNIDENTIFIED SPEAKER: We have a party
18 here, Lucianne Colin; she's nearly 80 years old
19 and doesn't have a way to get back here if the
20 hearings go past today. So she would like to be
21 heard today.

22 CHAIRPERSON YOUNG: Okay, then, what is
23 the last name?

24 UNIDENTIFIED SPEAKER: Colin. That's
25 1036, is her number. 1036.

1 CHAIRPERSON YOUNG: Okay, we --

2 UNIDENTIFIED SPEAKER: Thank you.

3 CHAIRPERSON YOUNG: Mr. Briggs has
4 informed me that the capacity for this room is 200
5 people, according to the Fire Marshal. And so
6 he's taking a quick count right now to see if
7 we're okay.

8 Okay, 150. All right.

9 Now, what we will do then, we're going
10 to have Stonemans and Moylan and Colin, they're
11 going to be put on this priority. But I've also
12 decided to move two presenters up that had quite a
13 more extensive and comprehensive comments in
14 evidence. And they were Mr. Shipe and
15 DerGarabedan. So they actually will be the first
16 two that go, and then will be followed by these
17 three parties.

18 And then we will proceed through
19 alphabetically. That will give people some idea
20 as to when they may come up and when they may not
21 come up. In that regard, to the latter group, the
22 latter half of the designated parties, about the
23 last say 20 or 25 or so, once you have heard all
24 of the preliminary presentations, it may be that
25 you want to leave and come back about 4:00 or so.

1 But I will leave that up to you.

2 MS. MOYLAN: Excuse me, I --

3 CHAIRPERSON YOUNG: One thing I want
4 to --

5 MS. MOYLAN: -- I have a question
6 about --

7 CHAIRPERSON YOUNG: Why don't you come
8 up here so we can all hear you. And then identify
9 yourself.

10 MS. MOYLAN: I'm Beverley DeWitt Moylan.
11 And my question is that my husband and I are
12 designated parties. And it isn't clear whether we
13 both have the opportunity to speak for 15 minutes
14 or if only one of us has that opportunity, or that
15 we have to split that 15 minutes somehow.

16 CHAIRPERSON YOUNG: It would be shared
17 between the two of you.

18 MS. MOYLAN: I'm sorry?

19 CHAIRPERSON YOUNG: It would be shared
20 between the two of you.

21 MS. MOYLAN: Thank you.

22 CHAIRPERSON YOUNG: Okay. I want to
23 next address the room, and everybody, those that
24 were here for the ACL hearing, by and large I
25 think the hearing went pretty well. I expect the

1 same to happen today.

2 We have many different points of view
3 that have been expressed, not only by the Board
4 and the community. I want everybody to allow
5 others to express themselves. I don't want to
6 hear sniping or comments or sighs and things like
7 that. Not only because it's disrespectful to the
8 speaker, and I don't frankly care which side
9 you're on when I make these comments. It's
10 distracting to me and the other Board Members.

11 I want to focus on who is speaking to
12 me. I don't want to be distracted by someone
13 jumping up in the back of the room, raising
14 placards, or trying to get my attention. I don't
15 like that and it's distracting.

16 And cellphones, yeah, let's take care of
17 our cellphones and put them on vibrate or silent.

18 And is Mr. Racano here?

19 AUDIENCE SPEAKER: Yes.

20 CHAIRPERSON YOUNG: Joey Racano?

21 AUDIENCE SPEAKER: He's here.

22 CHAIRPERSON YOUNG: He is? Okay. All
23 right, well, if he can hear me --

24 MR. RACANO: I'm here.

25 CHAIRPERSON YOUNG: Okay, hang on. No

1 photographs today.

2 MR. RACANO: I didn't bring my camera,
3 Mr. Young.

4 CHAIRPERSON YOUNG: Okay.

5 MR. RACANO: But you look good.

6 (Laughter.)

7 CHAIRPERSON YOUNG: I wish I looked as
8 good as you do, Mr. Racano.

9 (Laughter.)

10 MR. RACANO: I did bring copies of the
11 Constitution of the United States, though.

12 CHAIRPERSON YOUNG: Well, I think I can
13 get those online -- but thank you for the offer,
14 anyway.

15 You've been very good in terms of
16 respecting decorum. I just didn't want you to be
17 running up again and trying to take photos or
18 distracting what's going on.

19 MR. RACANO: Right.

20 CHAIRPERSON YOUNG: Okay. So, if anyone
21 has some burning comment to make when they hear a
22 speaker give his or her presentation, please keep
23 it to yourself. Or if you can't do that, and I
24 hear you start to express it, I'm going to ask you
25 to leave the room. And if that doesn't help, then

1 Officer Hedges is going to help me get that done.

2 I don't think that's going to be
3 necessary, but I don't want anyone to be surprised
4 if it should come to that.

5 Okay, we're now going to address some of
6 the procedural objections and issues that have
7 been raised. And the first one I want to address
8 has to do with the three subpoenas that the CSD
9 served and issued on Mr. Jeffries, myself and Mr.
10 Shallcross.

11 So, Mr. Onstot, I think they came from
12 your office. Why don't you tell the Board -- I
13 haven't seen anything in writing as to what the
14 purpose is of the subpoenas. Are you trying to
15 get the Hearing Officers to testify as witnesses
16 in your case?

17 MR. ONSTOT: Well, Mr. Chair, there's no
18 requirement that written explanations be served
19 along with subpoenas. But, as you know, from the
20 comments in our case, we raised due process
21 objections based upon the comments at the ACL
22 hearing that the three Board Members who were
23 subpoenaed made. And we have the transcripts of
24 those. Basically concluding that individual
25 dischargers were liable for violating the basin

1 plan.

2 And the reason that the subpoenas were
3 issued is that because of those comments, those
4 three Board Members are material witnesses. And
5 as such, we have both a legal and ethical
6 obligation, in defending our client, as well as
7 the legal right to call material witnesses in our
8 defense to further flesh out the extent of that
9 perceived bias, based upon the offer of proof of
10 the transcript statements made by the three Board
11 Members.

12 That's the reason that --

13 CHAIRPERSON YOUNG: So the issue is
14 bias --

15 MR. ONSTOT: Correct.

16 CHAIRPERSON YOUNG: -- that you want to
17 address. All right. Well, it's always
18 appropriate to inquire into any bias of any
19 hearing officer in any proceeding. I don't think
20 it needs to be done with subpoenas. We have
21 addressed it in other ways in other hearings. But
22 I will have each of the Board Members, including
23 myself, given an opportunity to address those
24 issues and concerns that you have stated.

25 I have read through the transcript,

1 myself, and I can put my own comments in context
2 of what was said.

3 But I'll start with Mr. Shallcross. If
4 you'd like to address Mr. Onstot's concerns.

5 BOARD MEMBER SHALLCROSS: Sure. Well,
6 the main part of the statement is the CSD, that I
7 made that the CSD seemed particularly concerned
8 about was, and I'm going to quote, "So hopefully
9 going after individual dischargers may create the
10 political will for something to happen in a
11 reasonable amount of time."

12 The CSD made a lot of this in response
13 about the comment of creating political will. I
14 probably should have been clear when I made the
15 statement that my concern was the possibility of a
16 failed 218 vote if that were required.

17 And also the Measure B requirement, that
18 the electorate be allowed to vote on it. And the
19 site of any project.

20 And if you'll recall, it concerned
21 earlier in the hearing that this requirement of
22 Measure B could result in a stream of failed
23 elections in which no site was ever voted, or
24 supported by the electorate.

25 It was not expressing bias that the

1 community took any particular path, but that,
2 quoting again, "Something happen in a reasonable
3 amount of time." I have no bias in this matter
4 against or for any party.

5 CHAIRPERSON YOUNG: Mr. Jeffries. And,
6 by the way, do you have your subpoena?

7 BOARD MEMBER JEFFRIES: Yes.

8 CHAIRPERSON YOUNG: I'd like you to hand
9 it to me.

10 BOARD MEMBER JEFFRIES: I don't know
11 exactly what comments they are considering as
12 bias, but I -- let me just state for a fact that I
13 don't live in the area; I don't have any bias one
14 way or the other. I'm here to hear all the
15 information that's provided to us. And I have no
16 perceived notions or ideas before coming to any of
17 these hearings on how I will vote on one side or
18 the other.

19 You have to have an open mind when
20 you're dealing with these types of issues. And
21 you have to hear all the information before you
22 can make up your mind. So I come with a clear
23 conscience, I come with a clear mind. And at the
24 previous hearing I did the same thing and I heard
25 all the information.

1 And I don't know exactly what phrase or
2 comment that I made that was considered to be
3 biased one way or the other.

4 CHAIRPERSON YOUNG: Mr. Onstot, do you
5 have any particular evidence or statements that
6 this particular Board Member made that you're
7 concerned about?

8 MR. ONSTOT: the general context in
9 which the statements were made, as the Chair will
10 recall, was when, after the Board deliberated and
11 came back with its decision on the ACL. Basically
12 to direction, if you read the transcripts as a
13 whole, was this doesn't go far enough; we need the
14 individuals; we need them to be held accountable.

15 So, while we did take some specific
16 comments out of the transcript, if you view them
17 as a whole in the context of where we were going,
18 at least it's our view that the clear import of
19 the Board in directing Mr. Briggs to issue these
20 prosecutions against these individual homeowners,
21 was because the Board wanted them held
22 accountable.

23 And whether it's to increase the
24 political will or some other specific comments, I
25 understand the explanation for that.

1 But, before the Board went into
2 deliberations there was no intent that at least
3 was expressed to these 150-or-so people that they
4 would be dragged before the Board. And the Board
5 came back after deliberating. Clear direction
6 from the Board was putting these people in the
7 pipeline.

8 CHAIRPERSON YOUNG: Let me offer my
9 explanation for your concerns about my bias. And
10 I read through the transcript and what I said.
11 And I think what you're forgetting to publicly
12 acknowledge, Mr. Onstot, is the role that Mr.
13 Seitz and yourself had at that hearing in
14 suggesting that the proper individuals or entities
15 for any enforcement action on discharge violations
16 were the individual property owners, themselves.

17 That was not an issue by the Board
18 Members. But it was simply a reaction to the
19 evidence that we heard at that hearing.

20 And the comments that I made, and the
21 exchange I had with Mr. Briggs, was simply to tell
22 him that appears to be the next step with this
23 community.

24 And I've read through my comments. I
25 only directed him or asked him to go to the next

1 step, which would be to look at individual
2 enforcement actions, and then tell us what he's
3 got planned, if anything. When and how and what
4 types of measures he had planned.

5 I learned for the first time some of the
6 information to those questions that I had. But in
7 terms of those comments suggesting that I'm biased
8 against these 45 individuals, I don't know any of
9 them. I recognize Mr. Payne's name because he
10 comes to the Board a lot, so I know him. And I
11 think Mr. Sargent has been before us a couple of
12 times.

13 I don't know these individuals. I don't
14 have any bias one way or the other. I'll tell
15 you, Mr. Onstot, I have a lot of sympathy for
16 them. And I don't relish or take any pleasure in
17 the position that they've been put into because of
18 circumstances.

19 But I have not made up my mind as to
20 what I'm going to do today because I haven't heard
21 any oral testimony. I have reviewed and read all
22 of the documents that have been presented to me.
23 And based on that I have some preliminary thoughts
24 and opinions, but I haven't had a chance to
25 deliberate with my fellow Board Members to see

1 what their reactions are to the evidence, to come
2 up with any type of appropriate remedy whatsoever.

3 So I will ask Mr. Shallcross whether he
4 feels that anything that's happened with respect
5 to himself that would preclude him from rendering a
6 decision in this case in an unbiased fashion.

7 BOARD MEMBER SHALLCROSS: No, none at
8 all.

9 CHAIRPERSON YOUNG: And, Mr. Jeffries, I
10 ask you the same question.

11 BOARD MEMBER JEFFRIES: No, I have no
12 perceived conclusions until I hear all the
13 evidence.

14 CHAIRPERSON YOUNG: And that is my
15 response to that question. I will quash these
16 subpoenas, Mr. Onstot, and will return them to
17 you. Of course, that is something you can bring
18 up on appeal if there is an appeal, that is your
19 right.

20 MR. ONSTOT: Thank you, Mr. Chairman.

21 CHAIRPERSON YOUNG: Okay. Now, we have
22 some other subpoenas that have been issued, and I
23 want to address those issues. The one that pops
24 to mind is this individual that served Supervisor
25 Bianchi with the subpoena here.

1 That was you that served the subpoena,
2 or had it served?

3 MS. WATSON: I served it.

4 CHAIRPERSON YOUNG: Okay. Would you
5 come up to the podium and identify yourself.

6 MS. WATSON: Yes. My name is Elaine
7 Watson.

8 CHAIRPERSON YOUNG: Watson, --

9 MS. WATSON: Yes.

10 CHAIRPERSON YOUNG: -- okay. And can
11 you tell me -- by the way, folks, I'm going to
12 simplify this. I will consider the subpoenas were
13 validly issued because I think they would have
14 been had these individuals come to the Board and
15 asked that they been issued. So I'm not going to
16 make a technical issue about that, to say that
17 they're quashed for that purpose.

18 But I am going to find out what the
19 reason is for your need for this particular
20 witness.

21 MS. WATSON: This witnesses needed to
22 hear Ms. Bianchi's testimony, and I was asked to
23 deliver the subpoena to her.

24 CHAIRPERSON YOUNG: Oh, you're the
25 process server. Okay. What I'm interested in --

1 okay, who's the individual that wanted the
2 service?

3 MS. WATSON: Alan Martyn.

4 CHAIRPERSON YOUNG: Where is Mr. Martyn?
5 Mr. Martyn?

6 MR. MARTYN: I'm right here.

7 CHAIRPERSON YOUNG: Okay. Would you
8 come to the podium, sir.

9 MR. MARTYN: I'd like to ask a brief
10 question of you before you ask me questions, Mr.
11 Chairman. Your Board Members, have they been
12 sworn to tell the truth, the whole truth and
13 nothing but the truth so help them God?

14 CHAIRPERSON YOUNG: Sir, we're not
15 testifying today. That's the whole point of --

16 MR. MARTYN: Oh, I see.

17 CHAIRPERSON YOUNG: -- we are hearing
18 officers.

19 MR. MARTYN: Oh, you were asking some
20 questions of the Board Members. I didn't know if
21 they had been sworn in. That was my question.

22 CHAIRPERSON YOUNG: Mr. Shallcross, do
23 you affirm what you said is the truth?

24 BOARD MEMBER SHALLCROSS: I affirm it.
25 I so affirm.

1 CHAIRPERSON YOUNG: Mr. Jeffries, do you
2 affirm that the statement you made regarding your
3 possible bias is true?

4 BOARD MEMBER JEFFRIES: Absolutely
5 correct.

6 CHAIRPERSON YOUNG: Okay, and I affirm
7 that same statement I made earlier.

8 MR. MARTYN: Thank you, Mr. Chairman.

9 CHAIRPERSON YOUNG: Okay. Now would you
10 please tell us, Mr. Martyn, of the need for these
11 particular witnesses that you subpoenaed?

12 MR. MARTYN: The need for these
13 particular witnesses, that they're very key
14 witnesses in the saga and that has brought this
15 meeting to a head, Mr. Chairman.

16 They have been critical players in
17 bringing about this particular cease and desist
18 order issue that is before you. They are top
19 witnesses to these entire proceedings, Your Honor.
20 And we have testimony. We have not only
21 testimony, but we have evidence to present to you
22 to corroborate that.

23 CHAIRPERSON YOUNG: Well, I'd like you
24 to give me an offer of proof that specifically
25 what Supervisor Bianchi is going to testify to

1 that is relevant to the issues in this cease and
2 desist order hearing.

3 MR. MARTYN: You want me to present that
4 to you at this particular time?

5 CHAIRPERSON YOUNG: Yes, I want an offer
6 of proof. I want to know more specifically what
7 you think this witness is going to present for
8 you, and that any other witness could not present.

9 MR. MARTYN: I have a voluminous file
10 here, Mr. Chairman, to present to you regarding
11 these three individuals. It would take most of
12 your morning for me to present most of the
13 evidence that I have. I thought that that was
14 going to be done when the witnesses came to take
15 the stand, Mr. Chairman. And my understanding is
16 that that would be the proper procedure, when they
17 come up to testify.

18 And I can assure you that it's very
19 relevant; it's very meaningful. And very
20 supportive of our defense.

21 CHAIRPERSON YOUNG: Well, when you
22 mention their testimony's important to lay out the
23 saga of this, by saga you're referring to the
24 history that goes back 20, 25 years of the Los
25 Osos wastewater situation? Is that what you are

1 referring to?

2 MR. MARTYN: I'm saying to the recent
3 developments that have brought about what is
4 happening here today, Mr. Chairman. We have
5 corroborative proof that the key role that these
6 people brought in bringing this disaster on the
7 community of Los Osos That we're here, which, you
8 know, we feel, you know, we don't deserve. We
9 feel we're not in violation of your order. And
10 we're here to defend it. And we're going to
11 defend it as best as we can. And we have enough
12 testimony.

13 Why you're questioning me about my
14 witnesses, I find it very disturbing, because that
15 will come out in the proceeding here, Mr.
16 Chairman.

17 CHAIRPERSON YOUNG: It's my role, also,
18 to make these proceedings as efficient as possible
19 in not duplication of testimony, And when it
20 comes to elected officials, I want to know why you
21 need Ms. Bianchi to testify about whether your
22 particular property is or is not violating the
23 prohibition in the basin plan.

24 Does she have testimony that's relevant
25 to that issue?

1 MR. MARTYN: Yes. We're talking about
2 CDOs, isn't that correct?

3 CHAIRPERSON YOUNG: Okay. What do you
4 think she's going to say? Have you talked to her
5 about it?

6 MR. MARTYN: No, I have not talked to
7 her about it because I wanted it to come out in
8 public. And I have evidence that I want to
9 present to all the Board Members of her stance
10 regarding, you know, the effect of our septic
11 tanks, Mr. Chairman.

12 I have it in black and white in her
13 testimony, you know, testifying and making it very
14 relevant that our septic tanks, you know, would do
15 the job very adequately. And that is our belief,
16 and it was her belief. And we have evidence to
17 present to support that stance that she took, Mr.
18 Chairman.

19 CHAIRPERSON YOUNG: Mr. Martyn, I don't
20 believe Ms. Bianchi is an engineer or a soils
21 expert. And she may have expressed an opinion at
22 some point in the past. I don't know that that's
23 critical for your case, or even relevant to the
24 issues that are before you.

25 Ms. McPherson, are you --

1 MR. MARTYN: Well, Mr. Chairman, I feel
2 intimidated by your requesting, you know, I
3 brought a witness that I think is a very viable
4 witness to these proceedings. Why there has been
5 a push to make me declare the relevancy of her --
6 I wouldn't have brought her here, and I'm not the
7 only one with that opinion. We have several other
8 people that are of the same opinion, Mr. Chairman.
9 That she is a relevant witness to these
10 proceedings.

11 And I know she has power and influence.
12 I know she's one of our supervisors. And I know
13 that she's been criticized for, you know,
14 neglecting Los Osos, just at her convenience, you
15 know. And I think that her testimony is very very
16 critical. And we will prove it is critical, Mr.
17 Chairman.

18 AUDIENCE SPEAKER: Heaven forbid our
19 supervisor be asked to speak.

20 AUDIENCE SPEAKER: How about a vote --

21 CHAIRPERSON YOUNG: Okay, I asked for no
22 public comments if you're not at the podium. Who
23 just said that?

24 (Audience speaking simultaneously.)

25 CHAIRPERSON YOUNG: Sir, if you do that

1 again, I'll ask you to leave the room. Please
2 don't do it.

3 All right, Mr. Martyn, who are your
4 other two witnesses that you --

5 MR. MARTYN: Jerry Gregory is another
6 witness, and Pandora Nash-Karner.

7 CHAIRPERSON YOUNG: Do you need these
8 witnesses for the same testimony that you need Ms.
9 Bianchi?

10 MR. MARTYN: No, no, this is for
11 different testimony.

12 CHAIRPERSON YOUNG: Okay, and what is
13 that?

14 MR. MARTYN: The testimony is the
15 relevancy of the fact that addressing Mr. Jerry
16 Gregory, that he has, in many instances,
17 proclaimed that we should be fined, et cetera, et
18 cetera, et cetera. He's been basically very
19 deleterious to the community, to his fellow
20 citizens, to all the people that received the
21 cease and desist orders, and to the community, at
22 large.

23 CHAIRPERSON YOUNG: Is that what you
24 need his testimony for?

25 MR. MARTYN: That's part of it, Mr.

1 Chairman.

2 CHAIRPERSON YOUNG: And what is the rest
3 of his testimony going towards?

4 MR. MARTYN: Excuse me for a second.
5 Well, I think that we're looking at a real estate,
6 so-called real estate expert. And I think that
7 the harmful effects that he has helped to create
8 on the community on the values in Los Osos and on
9 our own properties and our well being, have been
10 very deleterious.

11 And I intend to prove conclusively to
12 every member of this Board that he has been a part
13 and parcel, you know, of the CDOs that we're, you
14 know, receiving today. And I think that we have
15 enough proof, between him and Mr. Briggs, to
16 substantiate our evidence.

17 CHAIRPERSON YOUNG: And the last
18 subpoena was issued to who?

19 MR. MARTYN: Pandora Nash-Karner. And
20 if you ask me why we need her here, I think would
21 be a rather unwarranted question.

22 CHAIRPERSON YOUNG: Well, tell me what
23 her evidence is going to tend to prove or
24 disprove.

25 MR. MARTYN: I mean I'm trying to --

1 CHAIRPERSON YOUNG: Folks, I know that
2 there's a lot of history here. No one on this
3 Board is stupid about that. But we're not going
4 to open up the entire history of Los Osos and all
5 the problems that it has shared as a community.
6 It's not relevant to the cease and desist orders.

7 If you feel that it is, you'll have the
8 opportunity to take it up on appeal, or present it
9 in a different forum. It's not going to be
10 presented here.

11 As to Mr. Gregory's subpoena, I'm
12 quashing it. It's not relevant to what's going on
13 today. I don't care about the comments people
14 have made in the community about what we should or
15 shouldn't do. It doesn't address the issues about
16 the ongoing --

17 MR. MARTYN: Even to Mr. Briggs, Mr.
18 Chairman?

19 CHAIRPERSON YOUNG: You can ask Mr.
20 Briggs anything you want in terms of the issues
21 that are at stake here. Definitely. But I don't
22 see the need for that particular witness --

23 MR. MARTYN: That he -- that he's
24 insisting that we be fined to the fullest?

25 CHAIRPERSON YOUNG: You'll have your

1 opportunity to cross-examine Mr. Briggs, and
2 you'll have freedom there.

3 Let's take the third one, Pandora Nash.
4 Does Pandora Nash have any evidence as --

5 MR. MARTYN: Mr. Chairman, can I ask you
6 a question, if I may respectfully submit a
7 question to you. Why are you questioning me about
8 my witnesses? For what reason and what purpose?
9 You haven't clarified that, Mr. Chairman.

10 CHAIRPERSON YOUNG: Because I have the
11 obligation to make sure that we don't have
12 testimony and evidence being offered that is not
13 relevant to the proceedings. The Hearing Officer
14 always does that. There needs to be an offer of
15 proof for everything that's being presented. In
16 some cases, that evidence is self evident as to
17 what its relevancy is.

18 MR. MARTYN: I thank you for your
19 response.

20 CHAIRPERSON YOUNG: Otherwise, I would
21 have 500 witnesses lined up to testify and it
22 would be cumulative, duplicative and unnecessary
23 to prove points that are in dispute.

24 MR. MARTYN: Well, we didn't call 500
25 witnesses, and I didn't call -- I just called

1 three witnesses. And I believe in my honest heart
2 -- from my heart, this is nothing but political
3 pressure. But, go again, Mr. Chairman, --

4 CHAIRPERSON YOUNG: Tell me about your
5 last subpoena and why you need Pandora Nash. Is
6 it just for the history of how we got to this
7 point in time today? Or does Pandora Nash have
8 testimony about the specifics of your property?

9 MR. MARTYN: Okay, excuse me for a
10 second.

11 CHAIRPERSON YOUNG: Are you consulting
12 with your attorney?

13 AUDIENCE SPEAKER: No, it's not an
14 attorney.

15 AUDIENCE SPEAKER: Assistant attorney.

16 AUDIENCE SPEAKER: Coach.

17 MR. MARTYN: Because I can't afford an
18 attorney, and I did have an advisor who has been
19 an advisor to all of us here, why we have the CDOs
20 and why we are here, that is the reason why, you
21 know, we feel that Pandora --

22 CHAIRPERSON YOUNG: Why Pandora Nash --

23 MR. MARTYN: Yes, um-hum.

24 CHAIRPERSON YOUNG: -- I'm quashing that
25 subpoena --

1 MR. MARTYN: Pardon me?

2 CHAIRPERSON YOUNG: I'm quashing the
3 third subpoena.

4 MR. MARTYN: Well, I haven't told you
5 that we have document on document in the fact that
6 we feel that the Water Quality Control Board has
7 been kowtowing, in other words, to Pandora Nash-
8 Karner, not the community of Los Osos. And we
9 have prima facie evidence, you know, reams of
10 paperwork that show, you know, the deleterious
11 effect she has had on bringing these CDOs to the
12 community that are so blatantly abusive of the
13 community.

14 And it seems like the Water Quality
15 Control Board, you know, has been pandering to
16 Pandora and not to the community of Los Osos
17 trying to help solve their problems. Because
18 she -- I could go on, but I'm liable to lose my
19 cool, Mr. Chairman, because, you know, I think
20 that this woman has, from the very beginning, has
21 wreaked havoc on this community.

22 She lied to the community when the CSD
23 was formed. She told us that a certain ponding
24 solution --

25 CHAIRPERSON YOUNG: Mr. Martyn, I think

1 you're making my point as to why I want to quash
2 the subpoena. That testimony is not relevant to
3 the issues before us today.

4 Now, as to Supervisor Bianchi, --

5 MS. OKUN: Mr. Chair, can I address that
6 quickly. One thing is that in the caption of that
7 subpoena it also mentions William Moylan, so I
8 don't know if you want to hear from him, as well.
9 The subpoena appears to be on behalf of Mr.
10 Moylan, also.

11 Also, Supervisor Bianchi, I don't know
12 if she's here, but she has the opportunity to make
13 comments during the public comment part of the
14 hearing. And the Board will have the opportunity
15 to ask her questions at that point. And perhaps
16 you could rule after that.

17 CHAIRPERSON YOUNG: That's right, it
18 would not subject her to cross-examination, which
19 is what, I think, Mr. Martyn and the other
20 designated party would like to do.

21 MS. OKUN: Right.

22 CHAIRPERSON YOUNG: So, at this point, I
23 don't know. I'd like to hear from my colleagues
24 as to what we should do about enforcing the
25 subpoena.

1 MR. CASH: Mr. Chairman, could I --
2 Wyatt Cash from the County Counsel's Office --
3 could I make a comment about --

4 CHAIRPERSON YOUNG: Of course.

5 MR. CASH: -- Supervisor Bianchi's --

6 CHAIRPERSON YOUNG: Of course.

7 (Audience speaking simultaneously.)

8 MR. MARTYN: All right, I would like to
9 ask the Committee to (inaudible) and to address
10 the Board after this gentleman gets through, Mr.
11 Chairman.

12 MR. CASH: Good morning, Mr. Chairman,
13 Board. Thank you for allowing me to address this
14 issue. The subpoena that is at issue was, as has
15 just been pointed out, was issued by Mr. Alan
16 Martyn and Mr. William Moylan.

17 And we join in the Chairman's concern
18 about the irrelevance of any testimony that
19 Supervisor Bianchi could present. And I would
20 point out, as I'm sure your Board has noticed,
21 that when you asked for an offer of proof there
22 was really no reason given, other than some
23 information about a statement perhaps that
24 Supervisor Bianchi made about the adequacy of
25 septic tanks.

1 And if that's the only testimony that
2 these parties expect to elicit, then I would say
3 that it goes back to Mr. Chairman's original
4 comments, that the justification for the
5 prohibition order is not at relevance in this
6 hearing.

7 And we would ask you to quash the
8 subpoena for those reasons.

9 CHAIRPERSON YOUNG: Okay. If I could,
10 I'd like to ask Supervisor Bianchi a few
11 questions, if she wouldn't mind coming to the
12 podium. Good morning.

13 SUPERVISOR BIANCHI: Good morning.

14 CHAIRPERSON YOUNG: Supervisor, do you
15 have any specific information about --

16 SUPERVISOR BIANCHI: Do you want my name
17 for the record?

18 CHAIRPERSON YOUNG: Please.

19 UNIDENTIFIED SPEAKER: -- would you
20 speak up into the mike.

21 SUPERVISOR BIANCHI: Sure. Oh, okay.
22 Is that better, is that better, whoever said that?

23 UNIDENTIFIED SPEAKER: Yes.

24 SUPERVISOR BIANCHI: Okay. My name is
25 Shirley Bianchi, District 2 County Supervisor.

1 CHAIRPERSON YOUNG: You're the
2 Supervisor for the Los Osos area?

3 SUPERVISOR BIANCHI: Yes.

4 CHAIRPERSON YOUNG: Okay. Ms. Bianchi,
5 do you know Mr. Martyn?

6 SUPERVISOR BIANCHI: I've known Mr.
7 Martyn casually for many years.

8 CHAIRPERSON YOUNG: Okay. Do you affirm
9 that the statements you're going to make today --

10 SUPERVISOR BIANCHI: Yes.

11 CHAIRPERSON YOUNG: -- are true and
12 correct?

13 SUPERVISOR BIANCHI: Yes.

14 CHAIRPERSON YOUNG: Okay. Do you know
15 Mr. Martyn?

16 SUPERVISOR BIANCHI: I've known Mr.
17 Martyn casually. You know, we're not close
18 friends, but I know who he is; he knows who I am.
19 We've spoken upon occasion over the last 25, 30
20 years.

21 CHAIRPERSON YOUNG: Okay. Have you been
22 to his property, his house?

23 SUPERVISOR BIANCHI: No, I've never been
24 to his house. I have no idea where he lives.

25 CHAIRPERSON YOUNG: Okay. Do you have

1 any information as to the specifics of his
2 individual onsite disposal system?

3 SUPERVISOR BIANCHI: None whatsoever.

4 CHAIRPERSON YOUNG: Okay. And as for
5 the other designated party, that's Mr. Moylan, do
6 you know Mr. Moylan?

7 SUPERVISOR BIANCHI: I met Mr. Moylan
8 for the first time this past Tuesday during our
9 Board meeting.

10 CHAIRPERSON YOUNG: Have you ever been
11 to his property in Los Osos?

12 SUPERVISOR BIANCHI: No.

13 CHAIRPERSON YOUNG: Do you have any
14 specific knowledge or information with respect to
15 the operation or maintenance of his onsite
16 disposal system?

17 SUPERVISOR BIANCHI: None whatsoever.

18 CHAIRPERSON YOUNG: Okay.

19 MR. SHIPE: Point of order. I'm sorry,
20 I have a question here.

21 CHAIRPERSON YOUNG: In that case I'm
22 going to quash the subpoena for Ms. Bianchi.
23 However, Ms. Bianchi, we do have a interested
24 public speaking part in our proceeding today if
25 you care to address the Board at that time.

1 You're welcome to do that. But, I don't see where
2 your particular testimony is relevant to the
3 issues that the Board has defined as at issue here
4 today.

5 SUPERVISOR BIANCHI: I had not planned
6 on making any comments. I've been here as an
7 observer.

8 CHAIRPERSON YOUNG: Okay. Well, I'm
9 just suggesting if you wanted to, you could do
10 that. Before I finalize that, I do want to hear
11 from Mr. Martyn, and I want to hear from Mr.
12 Moylan.

13 SUPERVISOR BIANCHI: I will go into the
14 back of the room.

15 MR. SHIPE: I have a point, because I
16 have a question regarding --

17 CHAIRPERSON YOUNG: -- please, you're
18 Mr. Shipe?

19 MR. SHIPE: Yes, my name is Robert
20 Shipe. CDO number is 1024, the last four. I have
21 a question because you continually say does it
22 have anything to do with his specific site. And
23 my question is are we individuals only going to be
24 allowed to talk to our specific sites?

25 Because I believe there were two parts

1 to this, and one is are CDOs the correct response
2 from this Board. And if that is one of the
3 questions, then it is my belief that we should all
4 be able to speak directly to whether or not the
5 CDOs are applicable to us.

6 And the point I'm trying to make is the
7 prosecution staff, in their documents, have stated
8 time and time again that there is no current
9 project for sewer in Los Osos, as a part of the
10 reason why they're undertaking this.

11 And the history of Los Osos, especially
12 the recent history, specifically addresses why we
13 do not have a sewer project. And these people all
14 specifically talk to that end.

15 CHAIRPERSON YOUNG: I don't see how
16 that's relevant to --

17 (Audience speaking simultaneously.)

18 MR. SHIPE: I understand, Mr. Chair, I
19 understand that. My only -- my question is if
20 it's not relevant, then I ask that you strike all
21 comments made by the prosecution staff regarding
22 the fact that we have no sewer system.

23 Because if that is not relevant to the
24 testimony, then that should be struck, as well.

25 CHAIRPERSON YOUNG: Thank you for your

1 comments. Let's get back to --

2 (Applause.)

3 MR. SHIPE: I'm sorry, did you rule on
4 that, Your Honor? I'm sorry, how should I address
5 you, sir?

6 UNIDENTIFIED SPEAKER: Mr. Chairman.

7 MR. SHIPE: Mr. Chairman.

8 CHAIRPERSON YOUNG: Mr. Young is fine.

9 MR. SHIPE: Okay.

10 CHAIRPERSON YOUNG: Thank you for you
11 comments. Please sit down. Mr. Martyn, do you
12 have any comments after Ms. Bianchi spoke?

13 MR. MARTYN: Yes, I do, Mr. Young, but
14 I'd like to defer to Gail McPherson. I think she
15 can probably elaborate -- I don't have an attorney
16 here. And she can probably elaborate better than
17 I can. So, with your kind permission, I'd like to
18 have Gail McPherson address this.

19 CHAIRPERSON YOUNG: Fine, go ahead.

20 MS. McPHERSON: Gail McPherson, Los
21 Osos. The reason that he's deferring to me is
22 that there's many many people who got CDOs that
23 don't feel comfortable coming to the podium. I
24 can't tell you that I feel any more comfortable
25 standing before your smiling faces.

1 And I think that it's important to note
2 that throughout this process I may be helping them
3 in talking to them. There's nothing improper in
4 that. We have an 80-year-old woman who doesn't
5 speak very clear English, and so I'm going to be
6 assisting. And I hope that that's going to be
7 okay.

8 I'm familiar with some of their
9 conditions. I'm probably more familiar with their
10 homes and conditions than Mr. Briggs or any of the
11 staff, because they've never come to Mr. Martyn's
12 home or Mr. Moylan's home.

13 Further, the documentation that we have
14 is about why we don't have a sewer, and it's not
15 about 30 years. It's about less than 30 days.

16 CHAIRPERSON YOUNG: Okay, let's get back
17 to where we were --

18 MS. MCPHERSON: Where we were was on Ms.
19 Bianchi. She is material to that. The reason
20 that we don't have a sewer is because of a failed
21 compromise that Assemblyman Blakeslee led. And
22 she was part of why we don't have that.

23 She sent documentation to discourage and
24 actually quash a plant being placed out of town.
25 And she sent letters on the County letterhead to

1 that effect. And there's much information between
2 the State Water Board and Ms. Bianchi and the
3 other party that was subpoenaed.

4 Now, the other people here, designated
5 parties, also have witnesses that were not
6 subpoenaed. They have a long list of them. And
7 they were going to be calling them, and I don't
8 know if you need a copy of that, as well.

9 CHAIRPERSON YOUNG: Right now the only,
10 there's three subpoenas before us. Mr. Moylan,
11 would you like to address --

12 MR. MOYLAN: Yes, I would.

13 CHAIRPERSON YOUNG: -- Ms. Bianchi's
14 comments?

15 MR. MOYLAN: Ms. Bianchi's comments?

16 CHAIRPERSON YOUNG: Yes. Supervisor
17 Bianchi. In other words, the need to justify
18 compelling her to appear as a witness in these
19 proceedings.

20 MR. MOYLAN: Basically it's just that we
21 would like to get the truth out.

22 CHAIRPERSON YOUNG: The truth about
23 what?

24 MR. MOYLAN: The truth about her role in
25 quashing the sewer project after it was stopped

1 and how it was quashed before it could be put
2 outside of town.

3 CHAIRPERSON YOUNG: Okay. Thank you for
4 your comments --

5 MR. MOYLAN: But I have another comment,
6 sir.

7 CHAIRPERSON YOUNG: Yes.

8 MR. MOYLAN: You keep referring to, is
9 this site-specific, does Ms. Bianchi have anything
10 site-specific, has she ever been to your house.
11 No. And so you want to quash her as a -- or quash
12 the subpoena of Ms. Bianchi and the other people,
13 Jerry Gregory and Pandora Nash-Karner.

14 If you quash those subpoenas, sir,
15 you're going to be eliminating a lot of the truth
16 regarding the existing CDOs that we have. And
17 it's relevant. It's absolutely relevant. Their
18 testimony is relevant. And if you do that you
19 wouldn't be giving us a fair hearing.

20 And as far as site-specific, if
21 everything's just site-specific I don't believe
22 that the Board has any site-specific information
23 on any of our septic systems. Is that true?

24 CHAIRPERSON YOUNG: Well, that is part
25 of what --

1 (Audience speaking simultaneously.)

2 (Applause.)

3 MR. MOYLAN: Is that true, sir?

4 CHAIRPERSON YOUNG: Okay, Ms. Tacker, I
5 know you, I can identify you. I don't want
6 clapping, either.

7 MS. TACKER: (inaudible).

8 CHAIRPERSON YOUNG: This is not an
9 athletic competition.

10 MS. TACKER: I did not clap --

11 (Audience speaking simultaneously.)

12 CHAIRPERSON YOUNG: This is what this
13 hearing is about.

14 MR. MOYLAN: I know, and I just --

15 CHAIRPERSON YOUNG: -- for the
16 prosecution team to make their case as to each
17 individual property.

18 MR. MOYLAN: Well, then allow the people
19 that are subpoenaed to speak, and get the truth
20 out.

21 CHAIRPERSON YOUNG: I'm not. I'm
22 quashing all three subpoenas --

23 MR. MOYLAN: Are you saying you don't
24 want the truth to come out, sir?

25 CHAIRPERSON YOUNG: I'm saying that the

1 evidence that you think they are going offer at
2 this hearing is not relevant to proving --

3 MR. MOYLAN: How can it be -- how can it
4 be deemed relevant or irrelevant before it's
5 heard, sir?

6 CHAIRPERSON YOUNG: You told me --

7 MR. MOYLAN: I didn't tell you what
8 they're going to say. I haven't told you what
9 they're going to say. I don't know what they're
10 going to say, but we need to hear what they're
11 going to say.

12 CHAIRPERSON YOUNG: Mr. Moylan, thank
13 you for your comments. I've made my decision.
14 The three subpoenas are quashed.

15 (Audience speaking simultaneously.)

16 CHAIRPERSON YOUNG: If you disagree with
17 it, you can --

18 MR. MOYLAN: I disagree vehemently.

19 CHAIRPERSON YOUNG: That's fine. You're
20 entitled to.

21 MR. MOYLAN: I would like the truth to
22 come out.

23 MR. ONSTOT: Mr. Chairman, --

24 AUDIENCE SPEAKER: -- CDOs that we could
25 work before the project and (inaudible).

1 (Laughter.)

2 CHAIRPERSON YOUNG: All right.

3 MR. ONSTOT: Mr. Chair, may I make a
4 comment, please?

5 CHAIRPERSON YOUNG: Yes.

6 MR. ONSTOT: The CSD, we did not issue
7 the three subpoenas, but for the record, we would
8 note that one of the considerations that this
9 Board is to make is the remedy. And it seems to
10 us, based on what was just said here, that the
11 real estate person who would testify as to the
12 decline in property values, attaching a CAO or
13 cease and desist order to individual properties,
14 especially as 150 of them, would logically be an
15 impact that the Board would want to consider in
16 making its decision as to remedies, or whether to
17 issue a type of enforcement order.

18 So for that purpose the CSD would like
19 to go on record as saying that we believe that
20 information is relevant.

21 CHAIRPERSON YOUNG: Well, and I can
22 appreciate that. And I think that any of these
23 individuals can certainly tell the Board that, in
24 their opinion, the issuance of the CDOs will have
25 a negative impact on their property values. Okay.

1 By the way, this is our Board Attorney
2 from the State Water Resources Control Board, John
3 Richards. He's been appointed to advise the Board
4 since we don't have the services of Ms. Okun and
5 the prosecution staff, who are all separated from
6 their functions.

7 Mr. Richards has some comments to make
8 that I think will tie this up with the subpoenas.
9 Mr. Richards.

10 MR. RICHARDS: Mr. Young, the discussion
11 right at the moment is focusing on the validity of
12 the subpoenas. And witnesses have the ability, or
13 parties have the ability to compel the testimony
14 of witnesses who have direct personal knowledge of
15 relevant evidence.

16 You have given the parties an
17 opportunity to offer proof that the evidence of
18 the people subpoenaed would be relevant to this
19 proceeding. And they have essentially failed to
20 do so.

21 This does not preclude the people --
22 which justifies your decision to quash the
23 subpoenas and not compel testimony of these
24 witnesses.

25 However, the parties are free to call

1 any of those witnesses and present the evidence
2 that they want them to present during the
3 proceeding as part of their own case.

4 It is just the issue here is whether the
5 parties have provided sufficient evidence that the
6 testimony of these witnesses would be relevant in
7 order to compel their attendance, to force their
8 attendance.

9 These individuals, the designated
10 parties, can call the people that were served
11 subpoenas in their own presentations if those
12 witnesses want to come and testify for those
13 individuals. The issue is whether the Board is
14 going to compel, to mandate and force their
15 attendance to testify. And that would be resolved
16 in quashing the subpoenas because there's been an
17 inadequate showing of relevance for issues at
18 stake here.

19 CHAIRPERSON YOUNG: Okay, thank you.
20 We're going to go on --

21 MR. MARTYN: One last question, Mr.
22 Chairman, with your kind indulgence. What if
23 these witnesses are not here? Addressing your
24 counsel's question that --

25 MR. RICHARDS: Well, it's up to the

1 parties to produce their own witnesses.

2 MR. MARTYN: They came reluctantly, sir.

3 MR. RICHARDS: You have the opportunity
4 to compel them through a subpoena. But in order
5 to get the subpoena, you must be able to show the
6 Presiding Officer that the evidence that you're
7 going to be putting on through that witness will
8 be relevant to the issues that are presented
9 before the Board.

10 And as ruled by the Chair, you have
11 failed to do that, at least to the satisfaction of
12 the Chair.

13 MR. MARTYN: Thank you, Mr. Richards. I
14 don't think they have the guts to stay here.
15 Thank you very much, though.

16 CHAIRPERSON YOUNG: Okay, moving on to
17 our next procedural issue. I didn't have a chance
18 to completely review the Prosecution Team's
19 objections to the CSD exhibit list, but let me --
20 and I did review the entire CSD exhibit list last
21 night. I made a cursory review of the objections.

22 And I don't want to spend a lot of time
23 on this. What I'm proposing to do, and I'll hear
24 from Mr. Onstot and Ms. Okun about this. Mr.
25 Onstot, I reviewed that list. It seems like you

1 could have pulled everything off of the shelves in
2 the CSD library. There's videotapes of CSD Board
3 meetings; there are newspaper articles; there are,
4 is it 800 documents?

5 MS. OKUN: I think it's 847.

6 CHAIRPERSON YOUNG: A lot of them are
7 not completely irrelevant to what's going on,
8 unless you subscribe to -- that this proceeding is
9 supposed to be a rehash of the saga of the Los
10 Osos wastewater -- which I do not.

11 I'm going to ask that during the lunch
12 break you go through that list. I don't want to
13 do it now. And pay attention to the Prosecution
14 Team's objections to exhibits which you are
15 proposing. I want you to go through and decide
16 those documents you really feel are necessary to
17 make your case.

18 I don't want to take time now to go
19 through line by line, and make that decision. I
20 think you can do a better job at that. I want it
21 to be on your time, not the Board's time.

22 MR. ONSTOT: Mr. Chair, I understand
23 that. And like we did last time, we have a very
24 inclusive list. As a defendant here and
25 respondent, we don't know what the prosecution

1 case is. We don't know exactly what would be
2 relevant.

3 So, just like last time, we had a very
4 exhaustive exhibit list, and we only presented a
5 handful, both in terms of our case-in-chief, as
6 well as in response to the prosecution case. That
7 is our strategy here again.

8 Most of these, the vast majority, will
9 not be presented, probably won't be presented.
10 But rather than to be precluded at the outset, not
11 knowing what the prosecution's going to put on the
12 table, it would be premature to do that. I
13 understand the concern for the exhaustiveness.

14 CHAIRPERSON YOUNG: Okay. Well, I
15 appreciate that. And I understand why you want to
16 be inclusive and not leave anything out. I have a
17 problem with that, but I will tell you there are
18 some things that don't belong in there to begin
19 with. And that's newspaper articles and CSD
20 videotapes and hearings and the (inaudible).

21 But I want you to really look carefully
22 at that list and pare it down to what you really
23 think is important to prove or disprove any of the
24 issues in contention here.

25 MR. ONSTOT: Okay.

1 CHAIRPERSON YOUNG: We can finalize that
2 list at some other time, but I would like you to
3 take the labor, and in response to Ms. Okun's
4 objections, and try to get that straightened out
5 amongst the two of you before we take Board time
6 to do it.

7 Ms. Okun, do you have any comments about
8 that?

9 MS. OKUN: I just have a couple of
10 comments. One is that my objections incorrectly
11 stated that we didn't have a copy of document 133,
12 which is ACL-185. It's is quarterly progress
13 reports on the progress of the wastewater
14 treatment plant. And we do object to those as
15 irrelevant, but we do have them.

16 There is also a document that was left
17 off because I hadn't had a chance to review it,
18 and I couldn't tell from the description what it
19 was. It's ACL-119, document 86 in this
20 proceeding. It's the response to Julie Tacker's
21 Public Records Act request, and the subject matter
22 is limited to the Tri-W project and the
23 construction contracts related to that.

24 There were a few documents that were
25 incorrectly described in the CSD's document list

1 so that I would ask when they go through that list
2 to keep that in mind.

3 CHAIRPERSON YOUNG: Okay. Well, I would
4 like the two of you to work to pare down that
5 list. Do you have any objections to the
6 Prosecution Team's list?

7 MR. ONSTOT: No.

8 CHAIRPERSON YOUNG: Okay. I think we
9 are ready.

10 MS. OKUN: Excuse me. Someone from the
11 County Counsel's Office handed me an objection to
12 a subpoena duces tecum issued by Gregory Murphy
13 for the CSD. I haven't seen a copy of that
14 subpoena, but apparently it's asking for
15 information regarding a complaint to County
16 Environmental Health Services.

17 I'm not sure what that subject matter
18 is. The County is objecting, based on the
19 official information, privilege evidence from
20 1040. I don't know if you have a copy of this
21 objection.

22 CHAIRPERSON YOUNG: I have not seen the
23 subpoena.

24 MS. OKUN: I haven't seen the subpoena,
25 but I can give you a copy of the County's

1 objection if you want to see it. I don't know if
2 somebody's here from the County to address that.

3 CHAIRPERSON YOUNG: Who was the
4 individual who issued the subpoena? Isn't that
5 CSD?

6 MR. ONSTOT: Mr. Chair, if I can address
7 that. We did subpoena the Director of the
8 County's Environmental Health Program for the
9 purposes of testifying as to the County's active
10 involvement in regulating the septic tank systems,
11 which are directly at issue here.

12 We did issue a subpoena for him to
13 testify personally, as well as for documents
14 relating to these properties. We were served with
15 an objection only as to some of those documents
16 that are confidential because they may be privacy
17 or enforcement concerns.

18 We have no objections to those
19 objections raised by the County. We are not
20 asking for confidential information.

21 CHAIRPERSON YOUNG: Is this the
22 individual that supervises the septic tank
23 oversight?

24 MR. ONSTOT: Correct.

25 CHAIRPERSON YOUNG: Well, I think he

1 would be an important witness. Is he here?

2 MS. BOUCHARD: Your Honor, my name is
3 Kathy Bouchard. I'm Deputy County Counsel.

4 CHAIRPERSON YOUNG: Okay.

5 MS. BOUCHARD: And I am representing the
6 County of San Luis Obispo Environmental Health.

7 CHAIRPERSON YOUNG: Okay.

8 MS. BOUCHARD: And with me today is Mr.
9 Steve Carnes, who we have designated our most
10 knowledgeable person.

11 I did make the objection to the
12 subpoena. The subpoena is dated April 20th,
13 issued by Mr. Murphy. Apparently, I just heard --

14 CHAIRPERSON YOUNG: Can you speak
15 louder.

16 MS. BOUCHARD: Apparently, I just heard
17 that they did not seek information that is
18 confidential. Do we have any information that is
19 not confidential?

20 MR. CARNES: No, and I can explain that.

21 MS. BOUCHARD: Okay. The only
22 information we have is confidential, the entirety
23 of the records and the identity of the informants.
24 The records that they seek are records of
25 complaints of discharge failures from septic

1 systems in Los Osos.

2 And because of my pleading all of the
3 information that they seek is privileged and
4 confidential.

5 I understand about the issue of
6 relevance, but when something is privileged then
7 normally under 1040 and 1041 it would require you
8 to do a balancing test. That balancing test under
9 Evidence Code 915(b) needs to be done out of the
10 public purview, like in chambers.

11 I have copies of 1040, 1041, and 915 for
12 your --

13 CHAIRPERSON YOUNG: I don't think I need
14 to look at those. It's my understanding of what
15 the County can do is just simply strike the names
16 of the people filing the complaints.

17 MS. BOUCHARD: That's a 1041 objection.
18 We also made a 1040 objection. When people give
19 their information to Environmental Health, they do
20 so under a promise of confidentiality. That
21 promise of confidentiality is consistent with
22 public policy to encourage people to report, as we
23 are an enforcement agency, as well.

24 CHAIRPERSON YOUNG: But if their names
25 are not disclosed how is their confidentiality

1 breached?

2 MS. BOUCHARD: The data -- this isn't
3 just something that's a personal privilege; it's
4 also the data, because the data, itself, may lead
5 to identity and information about the person
6 disclosing.

7 CHAIRPERSON YOUNG: Okay, well, I'm not
8 going to be able to resolve this --

9 MS. BOUCHARD: I understand.

10 CHAIRPERSON YOUNG: -- but I have to
11 have the lawyers take a look at this and tell me
12 what they think about it. I will tell you that I
13 think that this gentleman's testimony may be
14 relevant to issues with respect to septic tanks in
15 the area.

16 MS. BOUCHARD: Clearly relevancy is an
17 issue in balancing, I understand. We have to make
18 the --

19 CHAIRPERSON YOUNG: And the actual
20 reports, themselves, -- when did you -- did you
21 want those for your case?

22 MR. ONSTOT: Yes, Mr. Chairman, again,
23 I'll reiterate. We're not asking for confidential
24 information. We're not asking for names. We're
25 asking for the County's regulatory program and how

1 it is coordinated with this Board's efforts in
2 managing septic tanks.

3 CHAIRPERSON YOUNG: But did you ask for
4 individual complaints?

5 MR. ONSTOT: No, the request for
6 documents was quite broad. We did receive the
7 objections. We have no problem with the
8 objections. We're not going to ask that any
9 confidential documents be produced.

10 CHAIRPERSON YOUNG: Okay.

11 MS. BOUCHARD: Okay, we understand.
12 We've narrowed the scope, then.

13 CHAIRPERSON YOUNG: Okay. Good.

14 MS. BOUCHARD: Thank you.

15 CHAIRPERSON YOUNG: Thank you.

16 MR. CARNES: Mr. Young, may I clarify
17 something because it's pretty significant. Steve
18 Carnes, County Environmental Health.

19 Unlike many counties in the State of
20 California, Environmental Health Services in this
21 County does not -- is not the administrative
22 authority for septic tank installation and
23 repairs. We do not issue permits; we do not
24 review construction; we do not size them.

25 This authority rests in this County with

1 the building official. So my ability to clarify
2 issues would be limited only to complaints that
3 are reported to us. And even then if we find a
4 failure we report that to the building department
5 or code enforcement for them to secure and obtain
6 compliance.

7 So I don't think that I will be that
8 helpful to the proceedings here.

9 CHAIRPERSON YOUNG: I understand that,
10 you can only testify as to what you personally
11 know, anyway.

12 MR. CARNES: Exactly.

13 CHAIRPERSON YOUNG: Okay. All right,
14 thank you.

15 MS. BOUCHARD: Thank you.

16 MR. CARNES: Thank you.

17 CHAIRPERSON YOUNG: All right. Any
18 other objections?

19 MS. McPHERSON: Excuse me, I have to
20 tell you that he's on our witness list, as well,
21 for several of the designated parties. And they
22 just wanted to ask him some questions about septic
23 tanks.

24 CHAIRPERSON YOUNG: That's fine.

25 MS. McPHERSON: I just wanted to make

1 sure that that was on the record.

2 CHAIRPERSON YOUNG: Okay. The
3 designated parties can call any witnesses that
4 they want. The only issue we were dealing with
5 before whether the Board was going to force people
6 to testify that didn't necessarily want to do it
7 voluntarily. That was the issue of the subpoenas.

8 This is the preferred way to get
9 witnesses in to testify, is if they come
10 voluntarily. We got that resolved. Okay, any
11 other objections? This is all with respect to
12 witnesses, documents --

13 MR. SHIPE: Mr. Chairman, --

14 MR. ONSTOT: No, Your Honor, but we do
15 have one motion to make before we get into the
16 actual substance of the case today.

17 CHAIRPERSON YOUNG: Okay, let's take
18 that up after we get this resolved. Ms. Okun, any
19 other issues? Okay. Any other designated parties
20 have any issues? Mr. Shipe, go ahead.

21 MR. SHIPE: Yes, Mr. Young. First I'd
22 like to also apologize for kind of how loud I got
23 last time. We're all individuals, we aren't used
24 to this. And the adrenalin is running really
25 high. And so I just kind of -- I felt a little

1 aggressive, and that was not my point at all. So
2 I just wanted to clarify that.

3 A couple questions I had going back to
4 the yellow, I mean, I'm sorry, the white and blue
5 cards and the red cards. You mentioned that time
6 will be divided between the different cards. And
7 I wanted to find out if you were going to be
8 dividing that time equally between the different
9 cards, or are you going to divide the time
10 proportionately between the different cards?

11 CHAIRPERSON YOUNG: As to the -- you're
12 talking about --

13 MR. SHIPE: For interested parties.

14 CHAIRPERSON YOUNG: For interested
15 parties we're just adding up the total number of
16 cards.

17 MR. SHIPE: Yes.

18 CHAIRPERSON YOUNG: Dividing them into
19 an hour and a half.

20 MR. SHIPE: Okay, but what I'm saying is
21 when you divide that, there are people speaking --
22 we were told to fill out blue cards if we were in
23 favor of the action --

24 CHAIRPERSON YOUNG: Color, this is not a
25 discriminating -- this issue. I don't care what

1 color the card is.

2 MR. SHIPE: Okay, --

3 CHAIRPERSON YOUNG: No one is getting
4 more time because they're on the red side --

5 MR. SHIPE: -- so, no, what --

6 CHAIRPERSON YOUNG: -- or the blue side.

7 MR. SHIPE: Okay, so the reason why I
8 brought that up is because we were specifically
9 told if we wanted to speak on one side, fill out
10 this card. And so I just wanted to make sure
11 you're getting a representative of the --

12 CHAIRPERSON YOUNG: The answer to that
13 is if people feel that someone else -- other
14 people can just as well, or better, make their
15 point, that perhaps they would like to step aside;
16 that does donate time to everybody
17 proportionately. Everyone else is --

18 MR. SHIPE: Okay, so --

19 CHAIRPERSON YOUNG: All right, so I'm
20 not trying to find --

21 BOARD MEMBER PRESS: Mr. Chair, perhaps
22 to clarify a little bit, you might make a
23 distinction between interested parties and
24 designated parties.

25 CHAIRPERSON YOUNG: Yeah, and we're all

1 referring to the interested parties --

2 MR. SHIPE: Right, yes.

3 BOARD MEMBER PRESS: And so you want to
4 reiterate the designated parties are going to have
5 their -- more time than any particular interested
6 party.

7 CHAIRPERSON YOUNG: Thank you.

8 MR. SHIPE: Okay. Second, I wanted to
9 ask again, so when, looking at the timeline of
10 events it appears the CSD is going to have two
11 hours to speak on behalf of a joint defense on
12 everybody. And then each individual is going to
13 have 15 minutes to speak on property-specific
14 information only.

15 And the vast majority of evidence that I
16 have to submit is essentially the same type of
17 evidence that the CSD is submitting. But I am
18 very confident that a lot of it is not what they
19 are submitting.

20 And so I noticed that you said I'd be
21 able to speak early on. And I'm just hoping that
22 I'm going to be able to speak, and I believe
23 everybody should be able to speak to the issue to
24 everybody, instead of just everybody having to
25 address property-specific issues.

1 CHAIRPERSON YOUNG: And perhaps I wasn't
2 clear earlier. But I'm going to let people use
3 their 15 minutes any way they want to.

4 MR. SHIPE: Okay.

5 CHAIRPERSON YOUNG: If they don't to
6 even get into specific property issues, that's
7 their choice.

8 MR. SHIPE: Okay.

9 CHAIRPERSON YOUNG: I'm only suggesting
10 that when we come to the specific issues of each
11 CDO that it would be most helpful to the Board is
12 to hear some of the specific facts and evidence
13 with respect to each individual CDO.

14 If they want to discuss other issues,
15 I'm not going to cut them off, I'll --

16 MR. SHIPE: Okay.

17 CHAIRPERSON YOUNG: -- let them get into
18 that.

19 MR. SHIPE: Okay, thank you. Another
20 question is regarding the time. I submitted my
21 evidence jointly with Mr. Bob Borthwick, who is
22 1048. And he does not live in the area. And we
23 submitted evidence jointly, hoping that we could
24 join our evidence and our time.

25 So I'm requesting that I be given the

1 full half hour.

2 CHAIRPERSON YOUNG: Where is he?

3 MR. SHIPE: He lives in Huntington
4 Beach. He purchased this property out here last
5 August, and he bought it to eventually retire up
6 here. He does not have the ability to come up
7 here and represent himself. And we submitted our
8 evidence jointly, and we're making our argument
9 jointly, just as the prosecution staff requested.

10 BOARD MEMBER PRESS: Mr. Chair, wouldn't
11 you need some kind of proxy request --

12 MR. SHIPE: I believe the evidence
13 packet that I submitted was submitted jointly by
14 both of us. Both of our names are on it. Both of
15 our names signed for all evidence within that
16 packet.

17 CHAIRPERSON YOUNG: I didn't anticipate
18 a request like this. What I did put in the order
19 was that a individual property owner did not have
20 to come and make an oral presentation.

21 MR. SHIPE: Yes.

22 CHAIRPERSON YOUNG: Okay.

23 MR. SHIPE: But he --

24 CHAIRPERSON YOUNG: That the Board could
25 act solely based on their written submission. So,

1 in terms of cobbling time together, --

2 MR. SHIPE: Well, Mr. Young, the
3 prosecution staff specifically -- okay.

4 (Pause.)

5 CHAIRPERSON YOUNG: Go ahead.

6 MR. SHIPE: Okay, so basically I was
7 just asking, I mean because, like I said, the
8 prosecution staff, in their documents over and
9 over again, they say please make argument and
10 evidence jointly. And I --

11 CHAIRPERSON YOUNG: That was not meant
12 to say you would be given additional time.

13 MR. SHIPE: I'm not ask --

14 CHAIRPERSON YOUNG: -- to coordinate the
15 presentation.

16 MR. SHIPE: Okay.

17 CHAIRPERSON YOUNG: What we will do is
18 see how your presentation goes, --

19 MR. SHIPE: Okay.

20 CHAIRPERSON YOUNG: -- and if you can
21 tell us how you would use the additional time with
22 respect to that property --

23 MR. SHIPE: Not -- well, hold on, but we
24 can talk on any issue --

25 CHAIRPERSON YOUNG: I understand that.

1 But you're making a request -- I would prefer to
2 have this done in advance of the hearing, to take
3 up right now.

4 MR. SHIPE: Okay, I'm sorry.

5 CHAIRPERSON YOUNG: So, --

6 MR. SHIPE: Mr. Young, --

7 CHAIRPERSON YOUNG: -- I'd like to hear
8 what you have to say once we get towards the end
9 of your --

10 MR. SHIPE: That's fair.

11 CHAIRPERSON YOUNG: -- use it wisely.

12 MR. SHIPE: Oh, I definitely will. And
13 I believe you'll be very interested in what I have
14 to say.

15 CHAIRPERSON YOUNG: Okay.

16 MR. SHIPE: A couple other questions.

17 Because we have not been granted individual
18 hearings, then it is my belief that no CDO should
19 be issued until all have been heard.

20 To quote Mr. Jeffries just now, you have
21 to hear all the info before you can make up your
22 mind.

23 (Laughter.)

24 CHAIRPERSON YOUNG: Okay.

25 MR. SHIPE: Would you be willing to --

1 that is my request that you don't -- because you
2 had said earlier that you planned on ruling on
3 some today, and coming back probably next week on
4 others. And I'm asking that you wait till you
5 hear everybody, because we have all asked to
6 submit our evidence jointly.

7 CHAIRPERSON YOUNG: Well, you guys are
8 very creative. I've --

9 (Laughter.)

10 CHAIRPERSON YOUNG: -- got a lot of
11 energy. Due process does not require what you're
12 asking, okay. I went through this procedure,
13 myself. I laid out the order of presentation as I
14 see fit in terms of trying to accommodate what we
15 need to do today or in another day or two.

16 People are going to be given the chance
17 to present their individual situations and cases.
18 I made the decision not to wait until the very
19 end, but to take these one at a time when that
20 evidence is most fresh in our mind. I'm hoping
21 we're going to see property-specific evidence.

22 MR. SHIPE: Okay.

23 CHAIRPERSON YOUNG: And I want the Board
24 to be able to consider that at that moment
25 because, Mr. Shipe, after 20 or 25, I'm liable to

1 forget some of the pertinent facts that happened
2 early on in the proceeding.

3 And especially because we will most
4 likely continue this, --

5 MR. SHIPE: Yes.

6 CHAIRPERSON YOUNG: -- it's even more
7 important that we at least deal with everything
8 that's presented to us and it's fresh at that
9 moment. That's why I want to do it in this
10 fashion.

11 MR. SHIPE: Okay.

12 CHAIRPERSON YOUNG: Excuse me, let me
13 just hear from Mr. Shallcross.

14 BOARD MEMBER SHALLCROSS: Yeah, I think
15 we need to make something clear, is that each
16 individual party who is subject to a cease and
17 desist order, their particular individual case
18 that they put on after the main case has been put
19 on, are not part of each other's case.

20 In other words, when you put on your
21 case, and then someone else puts on theirs, we
22 don't take into consideration what you said in
23 your case when we go to rule on their case.

24 MR. SHIPE: So, are you saying that
25 basically since the CSD has asked to become a

1 designated party, you have granted them all of the
2 authority in representing the entirety of Los
3 Osos?

4 BOARD MEMBER SHALLCROSS: They're not
5 representing the entirety, they're representing --

6 CHAIRPERSON YOUNG: I (inaudible) --
7 (Parties speaking simultaneously.)

8 MR. SHIPE: Okay, sorry.

9 CHAIRPERSON YOUNG: We didn't give them
10 any authority to represent anybody.

11 MR. SHIPE: Okay.

12 CHAIRPERSON YOUNG: Frankly, as far as I
13 know, the lawyers at this table only represent the
14 CSD. So if you're telling me that they're also
15 representing individual property owners, that's
16 new to me.

17 MR. SHIPE: Okay. Then I'm --

18 CHAIRPERSON YOUNG: The reason why I
19 gave them designated party status was because I
20 thought they have some legitimate and important
21 issues that they could put before the Board for
22 consideration, and probably have the most
23 wherewithal to do that, to make a presentation.
24 And that they could most efficiently cobble that
25 information together and make a presentation that

1 most of the individuals would have the benefit of
2 simply incorporating by reference.

3 MR. SHIPE: Okay.

4 CHAIRPERSON YOUNG: That was my
5 decision.

6 MR. SHIPE: Okay, I object to it, but I
7 accept it.

8 CHAIRPERSON YOUNG: Okay. Next point?

9 MR. SHIPE: That was basically it, so I
10 look forward to speaking with you this afternoon.

11 CHAIRPERSON YOUNG: Okay, fine. All
12 right. Any other designated parties have any
13 issues that they would like the Board to consider?
14 Yes, sir.

15 MS. McPHERSON: Can I --

16 CHAIRPERSON YOUNG: -- we're going to be
17 on a first-name basis --

18 MS. McPHERSON: Go ahead.

19 UNIDENTIFIED SPEAKER: Go ahead.

20 MS. McPHERSON: I am working with
21 designated parties who I'm speaking for about the
22 documents. Are we on documents?

23 CHAIRPERSON YOUNG: Which designated
24 party?

25 MS. McPHERSON: I'd have to go get the

1 list.

2 CHAIRPERSON YOUNG: Well, Mr. Moylan --

3 MR. MOYLAN: She's the coach.

4 MS. McPHERSON: I thought we were
5 talking about documents, and I just wanted to --
6 like to hear --

7 CHAIRPERSON YOUNG: Sir, what is your
8 name?

9 MR. BEARDSLEY: Are you talking to me?

10 CHAIRPERSON YOUNG: Yes, I am.

11 MR. BEARDSLEY: Jack Beardsley
12 (phonetic) with The Bay News.

13 UNIDENTIFIED SPEAKER: Oh, you're press?

14 CHAIRPERSON YOUNG: Yeah, okay.

15 (Laughter.)

16 CHAIRPERSON YOUNG: I had asked earlier
17 no photos, but the media is not included in that.

18 (Audience speaking simultaneously.)

19 CHAIRPERSON YOUNG: Please don't do that
20 while we are in the middle of discussing things
21 with people. I would appreciate that; it just is
22 distracting.

23 MS. McPHERSON: Let me know when I can
24 mention --

25 CHAIRPERSON YOUNG: Documents

1 (inaudible). Okay, Mr. Moylan.

2 MR. MOYLAN: Yes, I have an objection
3 about an email that was sent to designated parties
4 last night.

5 CHAIRPERSON YOUNG: From who?

6 MR. MOYLAN: Kelley Blacksher.

7 CHAIRPERSON YOUNG: Who's this person?

8 MR. MOYLAN: Apparently she works for
9 your Board.

10 CHAIRPERSON YOUNG: Okay. Okay, go
11 ahead.

12 MR. MOYLAN: This is at the eleventh
13 hour, 23 hours before this meeting, she said that
14 they were objecting to certain kinds of evidence.

15 One of the kinds of evidence that was
16 being objected to by your Board was newspapers,
17 articles. Now, everybody reads the newspapers and
18 we're not talking about yellow journalism
19 newspapers like The Globe or The World or
20 whatever. We're talking about TT and The Tribune.

21 At any rate, I just had this objection,
22 and it's the last-minute objection to evidence
23 presented to you over three weeks ago. It's
24 objectionable to me. The proper time to elicit
25 your objections to any evidence presented was

1 April 19, 2006 when you submitted your rebuttal to
2 all the evidence that we presented on April 5th.

3 Sending out prosecution staff evidence
4 objections just 23 hours before our hearing date
5 in time is unjust and reprehensible. I do not
6 accept this inappropriate eleventh hour
7 submission.

8 MS. OKUN: Would you like me to respond
9 to that?

10 MR. MOYLAN: No, --

11 (Laughter.)

12 CHAIRPERSON YOUNG: Ms. Okun, did that
13 come from the prosecution staff's --

14 MS. OKUN: I believe he's referring to
15 the prosecution staff evidence objections which we
16 did provide to everyone that we had email
17 addresses for. I confirmed with Mr. Thomas before
18 the hearing that there was no due date for the
19 evidence objection, so we actually could have
20 showed up today and made them today.

21 I wanted to provide as much notice as
22 possible to the Board and to the parties. And
23 unfortunately, it took me much longer than I
24 expected because of the extraordinary length of
25 the submission from the CSD. And the fact that

1 some of those 849 documents weren't actually
2 documents. They were files consisting of hundreds
3 of pages. Some of them were mislabeled. It took
4 a very long time to go through those documents.

5 I could have gotten the objections in
6 earlier had they done a better job of refining
7 their evidence list.

8 Also, in terms of --

9 (Audience speaking simultaneously.)

10 MS. OKUN: -- the speaker referring to
11 your objections, I did want to point out again
12 that those objections were from the prosecution
13 staff and not from the Board team. The Board
14 actually hasn't ruled on those objections, as you
15 said earlier; and hasn't thoroughly reviewed them,
16 either.

17 On the issue of accepting newspaper
18 articles, these are hearsay. They're not the type
19 of materials that people are accustomed to rely on
20 in the conduct of serious affairs, which is the
21 evidentiary standard for this hearing. And for
22 that reason we move to exclude all newspaper
23 articles, and similarly, press releases and blogs
24 (inaudible).

25 MR. MOYLAN: I'd like to rebut that.

1 CHAIRPERSON YOUNG: Go ahead.

2 MR. MOYLAN: As far as newspaper
3 articles being hearsay, it's actually how truthful
4 the person writing the article is. Later on,
5 after a person reads an article they may find out
6 that there was an omission or an error in the
7 newsprint.

8 But generally when you read a good
9 newspaper article by whom you consider good staff
10 on the writing staff, you believe it pretty much.

11 And as far as dismissing it just as
12 hearsay, Roger Briggs, Executive Officer, said
13 that there's no reason why people of Los Osos
14 shouldn't have known about the cease and desist
15 orders or the prohibition zone, even if they
16 bought their property after 1988, because it's
17 been all over the press.

18 So he expects us to get our information
19 from the press, but then we can't use other
20 information from the press that you don't want to
21 allow us.

22 CHAIRPERSON YOUNG: Mr. Moylan, first of
23 all the newspaper articles are hearsay without
24 anyone making an issue about it. These are out-
25 of-court, out-of-proceedings statements, period.

1 Read the definition of that.

2 Just like you go outside and have some
3 conversation with somebody, that's a hearsay
4 statement to this proceeding. So, they're
5 hearsay.

6 The question is is it the type of
7 hearsay that people would take into consideration
8 in a proceeding like this. I'm saying no because
9 maybe 80 percent of an article is true, depends on
10 who the writer is, as you say. But it is full of
11 opinion and facts that are not accurate.

12 MR. MOYLAN: That could also be said for
13 testimony or opinions by the Board, correct?

14 CHAIRPERSON YOUNG: Any testimony is
15 subject to impeachment, that's correct.

16 MR. MOYLAN: Okay.

17 CHAIRPERSON YOUNG: And if you have
18 issues with whatever Mr. Briggs has said, you are
19 free to ask him that when it's your time to do so.

20 MR. MOYLAN: Thank you.

21 CHAIRPERSON YOUNG: But a newspaper
22 article is just naturally untrustworthy for this
23 type of hearing. That's why they're excluded.

24 Thank you for your comments.

25 MR. MOYLAN: Okay, thank you.

1 CHAIRPERSON YOUNG: Does anyone else
2 have any procedural evidentiary issues? Okay, Mr.
3 Pearson, are you represented?

4 MS. McPHERSON: I'll be happy to get a
5 list of people at the break, if you'd like that.
6 It wasn't requested. And unless you want all of
7 them to weigh in here, I can probably make it more
8 efficient. You did mention that that was part of
9 your goal.

10 If you want to call each one, --

11 CHAIRPERSON YOUNG: I didn't want to do
12 that, but I would like that --

13 MS. McPHERSON: Okay, I just want to --

14 CHAIRPERSON YOUNG: I would like a list
15 later of who you're representing.

16 MS. McPHERSON: Okay.

17 CHAIRPERSON YOUNG: Go ahead.

18 MS. McPHERSON: You'll have that.

19 I apologize that defendants in these
20 proceedings don't understand evidentiary standards
21 and some of the issues surrounding documents. The
22 documents were compiled by the CSD, but also by
23 the defendants. And so many of them here, and
24 there's very very many that have been knocked out,
25 off the list, and these are documents that are

1 being used by all 45, at least 23 I know of.

2 And each has had a chance -- has not had
3 a chance to object to Ms. Okun knocking those off.
4 And they probably will need to.

5 But one of the things that's really
6 difficult is that the documents that were removed,
7 they were not aware of that. It's not on the
8 website. And the information came to the CSD.
9 So, many of the people here are depending upon
10 using documents that are removed. And so they're
11 going to have to sit down at lunch, also, at a
12 very large table, I would say, and go through each
13 of these documents and say, oh, that's one I'm
14 using.

15 In addition to that, in addition to that
16 in order to have a fair hearing, I think if it was
17 too difficult to get this out in time, that
18 prosecution certainly would have had a good reason
19 for a continuance. We really begged for a
20 continuance because we felt like we needed at
21 least a week to figure out how to regroup since
22 the CDOs had changed and the documents that we
23 would use to make a defense had changed.

24 And if it's too difficult for the
25 prosecution to pull that together, I suggest we do

1 have a continuance in the interests of justice.

2 And in the press, our own CSD Members
3 have been quoted in the press as doing all kinds
4 of things which then have made their way into
5 staff reports and positions by the Board, Board
6 Staff, in taking action against the community.

7 So, there's actually action taken
8 against the citizens. Whether we would even have
9 CDOs today for individuals is questionable. And
10 that's the reason question, why are we here. Why
11 are we getting CDOs. And I think some of these
12 documents are necessary in order to demonstrate
13 that.

14 And I also wanted to just add that the
15 taped information to hear the cases and then rule
16 on them all afterwards, in the procedures it was
17 very unclear whether these people were supposed to
18 somehow consolidate their testimony without
19 knowing who the other ones were, just as you're
20 asking them to consolidate their interested
21 parties' comments without knowing -- I mean
22 they're not psychic. They can't tell what the
23 other one's going to say.

24 It's impossible. And so they are joined
25 in using one another's testimony. I believe the

1 procedures say that, that all of this would be
2 considered together for each case. And it would
3 all be incorporated.

4 Now, are they to say, when they come up
5 here, incorporate everything that was said from
6 this time to this time, or do they have to specify
7 that, or is it all going to be incorporated?

8 That's very unclear at this point. And
9 I think that the procedures are convoluted for the
10 average citizen. And you probably heard from the
11 ones that had the best grip. So, you know, hold
12 on for the rest of the --

13 CHAIRPERSON YOUNG: Anything else?

14 MS. McPHERSON: Probably, but I'll --

15 CHAIRPERSON YOUNG: Okay, let me take
16 these one at a time.

17 MS. McPHERSON: Okay.

18 CHAIRPERSON YOUNG: As to the exhibits,
19 I think it's entirely appropriate for the other
20 designated parties to be able to review the CSD's
21 exhibit list when the prosecution team does so,
22 and so they get to weigh in if they feel that any
23 of those exhibits that Ms. Okun feels should be
24 stricken, if any of the other designated parties,
25 and not -- Ms. McPherson may not be speaking for

1 you, there may be others out there, it is entirely
2 appropriate for you to have some input into any of
3 those exhibits that you feel are -- that you need
4 or want to rely upon.

5 So, I will let you take that up, you can
6 take that up with Ms. Okun, Mr. Onstot in terms of
7 how that's to be coordinated.

8 MS. MCPHERSON: And that's to be done at
9 lunch?

10 CHAIRPERSON YOUNG: Well, I think it
11 should start at some point, not while we're all
12 sitting here waiting for it to happen. Okay, so I
13 think possibly at lunch.

14 MS. MCPHERSON: Well, I was up until
15 3:00 in the morning just drawing lines through
16 everything, and then trying to get kind of a grip,
17 myself. So I don't know how it's going to be able
18 to have people who -- it's going to be incredibly
19 difficult to come back and say that something
20 should be allowed out of the record, and not be
21 allowed as evidence.

22 CHAIRPERSON YOUNG: Okay, well, let me
23 think about that, and the other Board Members
24 think about it and our counsel, Board Counsel.
25 We'll revisit that issue as to how to coordinate

1 that.

2 All right, secondly, as to a
3 continuance, the prosecution team simply removed a
4 recommendation that they had put into the
5 prospective CDOs. That's all that they did.

6 MS. McPHERSON: They also took out other
7 language, lots of other language in the CDO
8 besides just the pumping requirement.

9 CHAIRPERSON YOUNG: Okay, well, I don't
10 see that as a need for a continuance, that they
11 hadn't serving anything new that you would have to
12 respond to it. The alternative for a designated
13 party to come up with an alternative to pumping
14 has always been there.

15 MS. McPHERSON: Just the time to compare
16 the two documents, and look through them and make
17 sure that -- the staff report also changed. And
18 then there was a rebuttal that came out from the
19 19th, it was posted. And people went through
20 that. Then things changed, and they have to go
21 back and take a look at how they were going to
22 present their defense in light of all of these
23 changes up to, and some of them, most of them
24 don't know about the document changes.

25 I mean I got them literally at 2:00,

1 hand-carried from somebody who had them at the CSD
2 office. I didn't have those. The designated
3 parties did not have those.

4 So it does go to a fair defense, because
5 they don't know how. I guess they don't know what
6 they're giving away by going along with what you
7 say is not a problem.

8 CHAIRPERSON YOUNG: No, I didn't say
9 it's not a problem. What I said was staff's
10 recommendation to the Board on a specific remedy
11 is then deleted. Part of that is still in effect.

12 MS. McPHERSON: They put -- they put --

13 CHAIRPERSON YOUNG: So I don't see that
14 as a need for a continuance.

15 MS. McPHERSON: Are you familiar with
16 what came out last night in our emails that said,
17 in fact, pumping is there? And yesterday it
18 wasn't there. And this morning on the news it
19 wasn't there. But in the press it was there.

20 We are so confused. What we think is
21 that you probably have taken the pumping out so
22 that you can add it back in, or -- I mean, we just
23 don't even know.

24 CHAIRPERSON YOUNG: Okay, well, there
25 was a -- the Board issued its own response, if

1 that's what we want to call it, -- the first time
2 we heard about the prosecution team's changing any
3 part of the CDOs is when everyone else did. I
4 read that and wasn't quite sure what that was all
5 about.

6 But I wanted the public to know that the
7 Board can fashion its own remedy irrespective of
8 what the staff is recommending. It is based on
9 facts presented before us. And so staff is not
10 recommending pumping, but the Board is free to
11 fashion any remedy, including pumping, if it puts
12 its reasoning on the record. And so --

13 MS. McPHERSON: And what part does the
14 designated party play in that decision, since
15 they're recommending something that you are going
16 to --

17 CHAIRPERSON YOUNG: They are going to
18 have a part in that that is changed.

19 MS. McPHERSON: Well, they have to
20 present that information to you.

21 CHAIRPERSON YOUNG: What information?

22 MS. McPHERSON: As to a remedy.

23 CHAIRPERSON YOUNG: That's always been
24 there.

25 MS. McPHERSON: Apparently that's not

1 really there, either. What is says is that, when
2 we've made calls, is that you can bring that to us
3 after you get your CDO. You accept the CDO as you
4 get it, and if you have another remedy then you
5 bring it to us to review after. I had --

6 BOARD MEMBER PRESS: Mr. Chair, I think
7 we're getting into the hearing, itself. I think
8 that what the speaker was suggesting is that we
9 have the hearing, that staff makes its
10 recommendation. The Board will consider the
11 evidence and fashion its own remedy. It's not --
12 I'm getting the sense that you are suggesting that
13 a remedy has been decided upon, and that the Board
14 is --

15 MS. McPHERSON: No, we --

16 BOARD MEMBER PRESS: -- going to be
17 basically --

18 MS. McPHERSON: But we're --

19 CHAIRPERSON YOUNG: -- or not, so I
20 think that we have to wait and hear what all sides
21 have to say. And then we have to deliberate. I
22 don't think that -- I mean it's an infinite
23 regress to have proposals and counterproposals
24 back and forth. And then never hold a hearing
25 because you want to respond --

1 CHAIRPERSON YOUNG: I think what she's
2 saying is that if the CDO is to be accepted that
3 there has been -- staff is not recommending that
4 people put forth any alternative --

5 BOARD MEMBER PRESS: I think we need to
6 hear the staff's presentation.

7 MS. McPHERSON: I think that the people
8 have 15 minutes to make a case, and there's a
9 moving target, and we don't know what the staff is
10 going to recommend. And so we don't know what
11 we're supposed to be defending or what we're
12 supposed to be presenting. It's a moving target;
13 keeps going back and forth. And it's being
14 reported all over one way and another. And
15 there's so much confusion out there.

16 Each person has 15 minutes, and that's
17 not enough to defend themselves and then try to
18 figure out what they say today and what you may
19 come up with as a remedy.

20 And so what I'm saying is that people
21 have done -- some people have done hundreds of
22 hours of research, only to be told by staff that
23 that would be considered afterwards. After we get
24 our CDOs.

25 So, we're really unclear on that 15

1 minutes and how best to use that time.

2 CHAIRPERSON YOUNG: Well, I don't know
3 what staff has told anybody, because they're not
4 talking -- so I need to hear what staff has to say
5 about this. And we'll revisit this issue --

6 MS. McPHERSON: Should some use their
7 defense time to show emails to confirm what I'm
8 saying or what?

9 CHAIRPERSON YOUNG: I'd like to take a
10 look at the emails that you're referring to at
11 lunch. Not right now. Your request, I'm not
12 going to grant that. I'm interested to know what
13 your concern is --

14 MS. McPHERSON: I'm concerned --

15 CHAIRPERSON YOUNG: I want to see that
16 email, and I want to see what was put -- I want to
17 take a look again at the CDOs.

18 MS. McPHERSON: Okay.

19 CHAIRPERSON YOUNG: So, --

20 MS. OKUN: Yeah, I can provide some
21 clarification on this. The original proposal was
22 to require bimonthly pumping of the septic tanks,
23 or to propose an alternative that would achieve
24 equivalent water quality protection.

25 The way the CDOs were drafted the Board

1 didn't have to approve those alternatives. They
2 could adopt the CDOs and the parties could provide
3 their proposals later to be approved by the
4 Executive Officer.

5 I think that's what Ms. McPherson is
6 referring to about the people being told that they
7 could bring their evidence of alternatives later.

8 We changed our proposal as requested by
9 virtually all of the parties who submitted
10 comments to remove the pumping requirements and
11 the requirement to propose an alternative for
12 parties who didn't want to be pumping.

13 So, if the CDOs are adopted as currently
14 proposed, proposing alternatives isn't an issue.
15 That requirement's been deleted from the proposal.

16 CHAIRPERSON YOUNG: All right, I've got
17 it.

18 MS. MCPHERSON: Okay, so some of these
19 people didn't get it.

20 CHAIRPERSON YOUNG: Well, I'm afraid
21 that that's always the situation in many different
22 kinds of proceedings. I can't go through, myself,
23 individually, and advise people. People do have a
24 responsibility to get competent consultation and
25 counsel. That's just how these proceedings work

1 in many --

2 MS. McPHERSON: When the --

3 CHAIRPERSON YOUNG: So, let's --

4 MS. McPHERSON: When the last change
5 occurred --

6 CHAIRPERSON YOUNG: Ms. McPherson, we're
7 not going to continue on --

8 MS. McPHERSON: Okay.

9 CHAIRPERSON YOUNG: Let's go to the next
10 issue, where someone confused about
11 incorporation --

12 MS. SCHICKER: Mr. Young.

13 CHAIRPERSON YOUNG: Excuse me. Ms.
14 McPherson, your last point had to do with
15 incorporation. And the point was that the
16 proceeding testimony from the CSD could be
17 incorporated by the individual designated
18 homeowners if they wanted to incorporate it so
19 they didn't have to repeat that testimony, and
20 they wanted to rely upon it.

21 MS. McPHERSON: And so they need to
22 track what's being --

23 CHAIRPERSON YOUNG: No, it's
24 automatically done.

25 MS. McPHERSON: It's automatically done.

1 CHAIRPERSON YOUNG: Automatically done.

2 They don't have to worry about mentioning it.

3 Go ahead.

4 MR. RICHARDS: The Regional Board
5 Chairman and its Advisors, which is Mike Thomas
6 and myself, in conjunction with Mr. Young, decided
7 that the testimony that would be presented -- all
8 the interested parties, all the interested
9 persons, excuse me, all the interested persons'
10 commentary and all the testimony presented by the
11 Regional Board Prosecution Team and all of the
12 testimony presented by the Community Services
13 District would be automatically included in the
14 record of the proceedings for each individual
15 cease and desist order.

16 So, the designated parties who are
17 subject to these proceedings today don't have to
18 do anything in order to have that testimony, those
19 arguments and those comments, incorporated into
20 the record of their proceedings.

21 The Chair has also ruled that individual
22 designated parties may incorporate, by reference,
23 testimony offered by other designated parties.

24 So, if the first designated party who
25 takes his or her 15 minutes and presents evidence

1 that can be deemed relevant to a subsequent
2 proceeding, that subsequent designated party can
3 ask that the prior testimony be incorporated into
4 the record for their proceeding.

5 MS. McPHERSON: So that's not automatic.

6 MR. RICHARDS: If it is relevant. No.
7 That is not automatic. In each case the person
8 asking to incorporate must show the Board how the
9 evidence that they seek to incorporate by
10 reference is relevant to their particular
11 proceeding.

12 And that's the way the procedure has
13 been set up today. And that's how it's going to
14 be addressed as the hearing goes on.

15 MS. McPHERSON: So, if they're asking to
16 have -- they need to keep a scorecard, pretty
17 much, I'm just talking to the benefit, and correct
18 me if I'm wrong, they basically have to keep a
19 score of who's saying what that might apply to
20 them, which they're not aware of as of now. And
21 seek to incorporate that by reference at the
22 beginning of their 15 minutes. And then if you
23 have questions as to the relevancy, then you would
24 ask that. That wouldn't come out of their 15
25 minutes, correct? The questions? And to

1 establish the relevance of that.

2 And then they would go ahead and then
3 give their presentation. Is that the -- is that
4 how it works?

5 CHAIRPERSON YOUNG: I would say that
6 that is pretty much the way I see it. They're
7 going to have to keep track of what testimony they
8 want to incorporate.

9 MS. McPHERSON: Okay.

10 CHAIRPERSON YOUNG: They're going to
11 have to listen and keep notes. And if there's
12 things, if there's evidence submitted that they
13 feel is relevant and important and they want to
14 incorporate it, they're going to have to let us
15 know about that.

16 MS. McPHERSON: Okay. I just didn't
17 want them to think it was automatic for them.

18 CHAIRPERSON YOUNG: That's not.

19 MS. McPHERSON: The record, itself, is
20 automatic.

21 CHAIRPERSON YOUNG: The CSD's testimony,
22 the prosecution staff's testimony, that's
23 automatically being incorporated into all the
24 individual property owners case, yes.

25 MS. McPHERSON: Okay.

1 CHAIRPERSON YOUNG: Okay.

2 MS. McPHERSON: Okay, I hope that's
3 clear with --

4 CHAIRPERSON YOUNG: All right. Ms.
5 Schicker, you --

6 MS. SCHICKER: Yes.

7 CHAIRPERSON YOUNG: -- have an attorney
8 here --

9 MS. SCHICKER: I know.

10 CHAIRPERSON YOUNG: -- and you're not --

11 MS. SCHICKER: I need to be able to
12 speak to you for a second, please.

13 My name is Lisa Schicker; I'm the
14 President of the Los Osos Community Services
15 District. And I was directly involved in the
16 preparation of the documents, which our attorneys
17 were not. I work full time. And I have not had a
18 chance to review the rejection list, except
19 briefly.

20 And there are documents on there that I
21 completely object to being removed. And they are
22 not hearsay and newspaper articles, et cetera.

23 And I request time to be able to consult
24 with our attorneys before, to go through that 850-
25 document list where many documents were removed.

1 And I don't know about them yet. I didn't receive
2 anything from Ms. Okun. I have email, too. And I
3 need some more time. That's all I'm asking.

4 CHAIRPERSON YOUNG: Well, you have an
5 attorney that's representing you, Ms. Schicker --

6 MS. SCHICKER: I realize that.

7 CHAIRPERSON YOUNG: -- your attorney is
8 who should be handling this objection for you.

9 MS. SCHICKER: I want to be able to --

10 CHAIRPERSON YOUNG: Excuse me. I've
11 asked the attorneys to please meet and confer over
12 this issue. Consult with your attorney, Mr.
13 Onstot, and allow him to do that for you.

14 I've given time for that. I haven't
15 created a deadline for that to take place. I'm
16 encouraging it to happen over the lunch hour.

17 MS. SCHICKER: I don't believe -- I just
18 would like to object to the amount of time. It
19 would take longer than that.

20 CHAIRPERSON YOUNG: I note your
21 objection and --

22 MS. SCHICKER: Thank you.

23 CHAIRPERSON YOUNG: All right, then.

24 Any other objections we need to take up? Okay.

25 UNIDENTIFIED SPEAKER: I just wanted to

1 clarify one issue.

2 CHAIRPERSON YOUNG: Your name?

3 UNIDENTIFIED SPEAKER: My name is
4 (redacted.)

5 CHAIRPERSON YOUNG: Okay.

6 UNIDENTIFIED SPEAKER: We received one
7 of the CDOs.

8 CHAIRPERSON YOUNG: Yes.

9 UNIDENTIFIED SPEAKER: The last
10 discussion still left me a little bit confused.
11 And I would just like to ask the Board if during
12 our testimony we would choose to offer a remedy
13 instead of CDO, would the Board consider that at
14 this time.

15 The written materials we have received
16 and the last few minutes of testimony have still
17 left it unclear. And I apologize if I'm being
18 repetitious, but if you could just give me a clear
19 answer so I would know.

20 CHAIRPERSON YOUNG: Well, the answer is
21 the Board considers everything that's submitted to
22 us within your presentation. And certainly, as
23 part of it, if you want to propose anything to the
24 Board, we're all going to be open ears to it.

25 I can't tell you how we're going to

1 respond to it, but I can tell you we're going to
2 listen to it and consider it.

3 UNIDENTIFIED SPEAKER: Okay, and I
4 appreciate this. That's because one of the first
5 documents did state that basically the CDOs would
6 be issued if they were to be decided upon, and
7 then we could come back with alternatives. So,
8 you're saying we could present an alternative now
9 that you may consider?

10 CHAIRPERSON YOUNG: I would say that
11 anything like that is possible. I'm saying the
12 Board can act upon the proposed CDOs and fashion
13 some remedy if it sees fit, as long as its
14 conclusions are based on facts in the record. And
15 the Board has to state what those would be, why
16 they're doing whatever they want to do. So,
17 you'll have an opportunity to make that pitch to
18 the Board.

19 UNIDENTIFIED SPEAKER: Okay, I
20 appreciate that. The first documents made it
21 sound as though we wouldn't even be allowed to
22 present that argument at this time. I appreciate
23 your clarification, thank you.

24 CHAIRPERSON YOUNG: Ms. Okun, do you
25 want to clarify any confusion that may be there?

1 Are individuals permitted to make pitches to the
2 Board?

3 MS. OKUN: Of course.

4 CHAIRPERSON YOUNG: Yeah. There's
5 nothing that the prosecution team has issued that
6 can prevent that from happening, is that right?

7 MS. OKUN: That's correct.

8 CHAIRPERSON YOUNG: Okay. All right.
9 Any other objections?

10 MR. MATTINGLY: My name's Dustan
11 Mattingly and --

12 CHAIRPERSON YOUNG: Are you a designated
13 party?

14 MR. MATTINGLY: Yes, sir.

15 CHAIRPERSON YOUNG: Okay, --

16 MR. MATTINGLY: I know I don't look like
17 it. But, as you can see, I have been pulling my
18 hair out, so I am a local lucky lottery winner --

19 CHAIRPERSON YOUNG: Okay. Your address,
20 sir?

21 MR. MATTINGLY: 440 Woodland.

22 CHAIRPERSON YOUNG: Okay.

23 MR. MATTINGLY: And that is in Los Osos,
24 California.

25 CHAIRPERSON YOUNG: Okay.

1 MR. MATTINGLY: Not Los Grosos. I'd
2 just like to see a show of hands of anybody else
3 in here that maybe has been pulling their hair out
4 or is completely confused --

5 CHAIRPERSON YOUNG: Sir, do you --

6 MR. MATTINGLY: I would like it on the
7 record to see how man of these people are confused
8 about this recent document that came to us saying
9 that -- and all this jargon. I'd like some time
10 to go over it with my attorneys, too.

11 CHAIRPERSON YOUNG: Okay. Can you
12 please state --

13 MR. MATTINGLY: Show of hands? Can I
14 have a record of this, sir? I think it's a --
15 that everyone here should be recorded that is
16 confused. Because maybe you're not confused, but
17 I know damn right I'm confused. And all these
18 other people are. Okay, you have elderly people
19 in here, you have young people like myself that
20 aren't into the political game. We just want to
21 live in Los Osos. We've paid our money; we've
22 paid our dues to live in Los Osos.

23 Because we have people that decided to
24 jump the gun on starting a project does not mean
25 that we should be punished for it. So I think we

1 should have ample time to review all of the
2 documents and everything else, besides a two-day
3 notice that was dropped at my door. I would have
4 liked a certified letter, personally. Thank you.

5 CHAIRPERSON YOUNG: Thank you for you
6 comments.

7 (Applause.)

8 CHAIRPERSON YOUNG: Does anyone else
9 have any objections? How could I think we were --

10 MR. BISHOP: We can't be done yet.

11 CHAIRPERSON YOUNG: Sir, your name for
12 the record?

13 MR. BISHOP: My name's Larry Bishop, and
14 I have the CDO.

15 CHAIRPERSON YOUNG: Okay.

16 MR. BISHOP: I come with a solution
17 rather than problems and accusations.

18 CHAIRPERSON YOUNG: Is this something
19 you can share with us during the presentation?

20 MR. BISHOP: I would -- it's probably
21 going to take a lot longer than 15 minutes to
22 share with you. I would like the opportunity, if
23 it has to be over lunchtime, to meet with whoever
24 can look at my idea and bring it back to you, and
25 say, yes, it's a very workable solution, to end

1 all this.

2 CHAIRPERSON YOUNG: Is this something
3 that you put in writing to us as part of your
4 package?

5 MR. BISHOP: Part of it was, and it has
6 changed over the time because of the pumping
7 requirements and all that. And more thought to
8 it.

9 I think I really have an idea of how you
10 can solve this whole problem very quickly if you'd
11 just do a quick little math. If you take five
12 minutes for every CDO, the Board Members are going
13 to sit here for 400 hours. And I can save you
14 that time.

15 CHAIRPERSON YOUNG: Thank you for your
16 comments.

17 MS. McPHERSON: There's somebody who
18 wanted -- you had asked earlier for people who had
19 to leave and needed to have, kind of for the
20 record, who could have some kind of special, I
21 guess, consideration.

22 CHAIRPERSON YOUNG: Pertinent health
23 issues, --

24 MS. McPHERSON: yes.

25 CHAIRPERSON YOUNG: -- or --

1 MS. McPHERSON: This lady would like to
2 speak.

3 CHAIRPERSON YOUNG: Okay.

4 MS. McPHERSON: She's on dialysis.

5 MS. CINDERSON: I don't know what to say
6 very much, but I'm on dialysis. I've been in Los
7 Osos, it's been 30 years. My name is Sheila
8 Cinderson. I'm fighting for my life on my
9 kidneys. My husband works -- people know it's
10 from here, from Los Osos. I've been out there 30
11 years. I don't have a CDO yet. I pump my septic
12 tank every three years, so I don't know what you
13 want.

14 CHAIRPERSON YOUNG: Ma'am, you have not
15 received --

16 MS. CINDERSON: Not yet, but it's making
17 me sick. I'm on the deathbed almost. I mean I
18 can't even -- the stress of this is killing me.

19 CHAIRPERSON YOUNG: You don't have to be
20 here today.

21 MS. CINDERSON: I know I don't have to
22 be here, but I don't know how to do it.

23 (Parties speaking simultaneously.)

24 MS. CINDERSON: I'm sorry --

25 CHAIRPERSON YOUNG: Okay, I suggest you

1 contact Ms. Okun or the prosecution team staff --

2 MS. CINDERSON: To do what?

3 CHAIRPERSON YOUNG: To present your
4 questions if there's something you don't know how
5 to do. You should seek competent advice.

6 UNIDENTIFIED SPEAKER: The Board can't
7 give that to you.

8 MS. CINDERSON: I know.

9 CHAIRPERSON YOUNG: Okay?

10 MS. CINDERSON: But I would like you to
11 know that people are -- it's not just me. I know
12 there's other people out there that are sick.
13 Maybe I'm not important, but I feel that I might
14 be important --

15 CHAIRPERSON YOUNG: You are important.

16 (Audience speaking simultaneously.)

17 (Applause.)

18 MS. CINDERSON: And I do appreciate what
19 everybody's trying to do. I do pump my septic
20 tank out every three years. And I don't know what
21 to do. And I hope that you guys decide the right
22 decision. And I hope that you take consideration
23 about other people. Thank you. That's all I
24 wanted to say.

25 CHAIRPERSON YOUNG: Thank you very much,

1 okay.

2 (Applause.)

3 CHAIRPERSON YOUNG: Folks, please.

4 MS. McPHERSON: I apologize. She just
5 needed to make her public comments, and she asked
6 if she could do that. She has to leave.

7 CHAIRPERSON YOUNG: She's not even a
8 designated party.

9 MS. McPHERSON: No, no, she can't be
10 here. She wanted to be here for her --

11 (Audience speaking simultaneously.)

12 MS. McPHERSON: She just wanted to be
13 here for public comment and she could not be here,
14 that's all.

15 CHAIRPERSON YOUNG: Okay.

16 MR. ALABE: My name's Chris Alabe, CDO
17 victim. I have submitted my statements for the
18 Board, along with Mr. Payne's. And will we get 30
19 minutes for our presentation, or 15 total?

20 CHAIRPERSON YOUNG: You're both here.

21 MR. ALABE: Right.

22 CHAIRPERSON YOUNG: So you can have your
23 15 minutes each.

24 MR. ALABE: Each. Okay.

25 CHAIRPERSON YOUNG: Okay?

1 MR. ALABE: Thank you.

2 CHAIRPERSON YOUNG: If you want to stand
3 up here together and give evidence, that's fine
4 with me. All right?

5 MR. ALABE: Okay, thank you.

6 CHAIRPERSON YOUNG: Any other issues?
7 Okay. We are going to take a break and come back
8 at 12:30. Then we'll resume with public comments/
9 interested party presentations.

10 MR. PAIGE: I have one other point of --
11 one other issue.

12 CHAIRPERSON YOUNG: What is your name?

13 MR. PAIGE: My name is Steven Paige, and
14 I live in the prohibition zone.

15 CHAIRPERSON YOUNG: Sir, let's take it
16 up at 12:30. I'll let you begin at 12:30.

17 MR. PAIGE: Okay, thank you.

18 (Brief recess.)

19 CHAIRPERSON YOUNG: It's 12:30, why
20 don't we resume. If everybody would come in and
21 find a seat we can begin with our interested
22 persons. But before we do that, I believe Mr.
23 Paige had a few comments.

24 Mr. Paige, are you a CDO recipient?

25 MR. PAIGE: No, I'm basically a witness

1 for the CSD.

2 CHAIRPERSON YOUNG: Okay. Can that
3 wait, then, until they've put on their case,
4 what --

5 MR. PAIGE: Well, I just don't know how
6 to describe what I'm going to describe to you,
7 whether it's something that's already approved or
8 not approved.

9 CHAIRPERSON YOUNG: Well, we will deal
10 with that when it comes up.

11 MR. PAIGE: Okay, that's fine.

12 MS. OKUN: Mr. Young.

13 CHAIRPERSON YOUNG: Yes.

14 MS. OKUN: I had a question at the break
15 from one of the people who had requested to have
16 their names and address redacted for safety
17 reasons because of their profession. And they
18 were asking how that's going to be handled at this
19 hearing.

20 In terms of our presentation we have a
21 map showing approximately where the locations of
22 all the CDOs are. We're not planning on stating
23 any addresses.

24 But I was wondering if you could respond
25 to their concerns about what was going to be

1 public. Obviously, this is a public hearing, and
2 it's being broadcast on cable tv. So if people
3 stand up and choose to give certain information,
4 it's public.

5 I don't know if the Board's going to be
6 stating any other additional information, or
7 requiring any other additional information. But
8 those concerns have been expressed.

9 CHAIRPERSON YOUNG: Well, I'd ask Mr.
10 Richards maybe to assist me on that. We're
11 dealing with site-specific properties. And so I
12 don't know how we can't get that information into
13 the record in front of the public. Any thoughts?

14 (Pause.)

15 CHAIRPERSON YOUNG: We will allow those
16 individuals to just identify themselves by their
17 order number, and they won't have to state what
18 their address is, if that's their preference, they
19 may put that on the record.

20 Okay, folks, Ms. Hewitt handed me a
21 sign-in sheet. I'm not quite sure what this is.

22 MR. SHIPE: That's mine.

23 CHAIRPERSON YOUNG: Okay. I just wanted
24 people to know that this is not the Regional
25 Board's sign-in sheet. Mr. Shipe, you are

1 circulating this?

2 MR. SHIPE: Absolutely.

3 CHAIRPERSON YOUNG: Okay.

4 MR. SHIPE: And I told the first people
5 that -- it's a telephone -- and it didn't get
6 around, I guess.

7 I'm sorry, I told the first few people
8 that I handed it to, but I guess that didn't go
9 around with it.

10 CHAIRPERSON YOUNG: Okay, why don't you
11 just -- I'm going to hand this back to you --

12 MR. SHIPE: Okay.

13 CHAIRPERSON YOUNG: -- and you could
14 label it so it's self-identifying.

15 MR. SHIPE: My apologies. And if
16 anybody wants to take their name off the list,
17 feel free to contact me.

18 CHAIRPERSON YOUNG: Okay. Yes, ma'am.

19 MS. MOYLAN: Excuse me, Mr. Young. I'm
20 Beverley DeWitt-Moylan, and --

21 CHAIRPERSON YOUNG: Right.

22 MS. MOYLAN: -- I just wanted to lodge
23 an objection before we moved along.

24 CHAIRPERSON YOUNG: Okay.

25 MS. MOYLAN: You had mentioned that my

1 husband and I would have to consolidate our time.
2 And I just would like to object to that. He and
3 I, both, prepared presentations.

4 And because I am also a designated
5 party, I had assumed that I also had the 15
6 minutes, so that between us we would have 30
7 minutes to present.

8 CHAIRPERSON YOUNG: Okay; your objection
9 is noted. Thank you.

10 All right. Interested persons --
11 actually, is the Assemblyman still here, or
12 someone from his office? Not here. Okay. We
13 didn't let him know we were going to let him go
14 first. I understand he had a hearing --

15 MR. ONSTOT: Mr. Chairman, we did have
16 two points before --

17 CHAIRPERSON YOUNG: Okay.

18 MR. ONSTOT: One is that the individual
19 dischargers have retained an expert, Dr. Daniel
20 Wickham, who's President of ABG Wastewater
21 Solutions. And he's out of Sebastopol, and he's
22 on the clock. So he asked to be put on a priority
23 status, along with the others, as well, since he
24 traveled a long way to be here today. And
25 obviously has relevant testimony, since he has a

1 PhD and is an expert in septic tank pumping and
2 its affect on the environment.

3 CHAIRPERSON YOUNG: Okay.

4 MR. ONSTOT: So that's one request --

5 CHAIRPERSON YOUNG: He's not retained by
6 the CSD, but retained by individual --

7 MR. ONSTOT: Dischargers.

8 CHAIRPERSON YOUNG: -- dischargers,
9 okay. And where is he?

10 MR. ONSTOT: He's here.

11 CHAIRPERSON YOUNG: Where?

12 (Parties speaking simultaneously.)

13 CHAIRPERSON YOUNG: Okay, as long as
14 he's at hand, that's fine.

15 All right, Michael, how many cards do we
16 have?

17 MR. ONSTOT: The other --

18 CHAIRPERSON YOUNG: Go ahead.

19 MR. ONSTOT: The other thing, Mr.
20 Chairman, is the CSD does have a motion to dismiss
21 that I would like to make at this time.

22 CHAIRPERSON YOUNG: Okay.

23 MR. ONSTOT: As you know, we submitted
24 extensive comments relating to what we perceive
25 are due process violations. And unfortunately, we

1 felt so strongly about this that our President,
2 Ms. Schicker, wrote to the State Board asking the
3 State Board to intervene and stop these
4 proceedings today.

5 We received yesterday a reply from the
6 Chairwoman of the State Board, and I'll read it.
7 It's only one paragraph:

8 "Thank you for your email. The State Water
9 Resources Control Board takes due process
10 concerns very seriously. While it cannot
11 actively intervene in the ongoing process
12 before the Central Coast Water Board, I have
13 relayed your concerns to the Water Board
14 Staff. I've also requested that they
15 carefully consider all procedural requests
16 such as your request for a continuance, and
17 insure that their hearing procedures protect
18 the due process rights of all individuals."

19 And that's signed by Chairwoman Doduc.
20 Now, the reason that's important is because we
21 have a brand new court case that is directly on
22 point. And it is called the Morongo Band of
23 Mission Indians v. The State Water Resources
24 Control Board. The decision is of January 2006.
25 And in that case the due process aspects of having

1 a prosecution team was directly at issue. And the
2 court found, along with another court, that when
3 you have a prosecution team that has members that
4 also advises a water board, even on different
5 matters, that that is a violation of due process
6 and the proceedings cannot go forward.

7 The case number, for those of you who
8 want to write it down and for the press at home,
9 is case number 04-CS-00535. And the specific
10 facts in that case dealt with a enforcement team
11 that went before the State Board. And the
12 attorney on the enforcement team was also an
13 attorney that advised the State Board on other
14 matters.

15 The court found that that was a
16 violation of due process because it imputed bias
17 on the part of the proceedings because board
18 members naturally, maybe not consciously, give
19 greater credibility to the professionals that
20 advise it on a regular basis, as opposed to other
21 people who appear before the board.

22 Now this court case relied upon another
23 decision called the Quintero v. City of Santa Ana
24 case. It's a 2003 case at 114Cal.Ap.4th, page
25 810. And in that case we had a city attorney's

1 office, where the deputy city attorney worked both
2 the personnel board prosecution team, as well as
3 advised the personnel board, itself. And in that
4 case it was also held to be a violation of due
5 process for that to happen.

6 The bottomline is that this case holds,
7 as did Quintero, that the quote-unquote Chinese
8 wall that is set up with regional boards for
9 prosecution teams that are regional board staff
10 members that also advise the board, are a
11 violation of constitutional due process.

12 In this particular case Mr. Briggs is
13 designated to be on the prosecution team. We have
14 ample evidence that Mr. Briggs advises this Board
15 on a number of other matters.

16 In addition, Ms. Okun is the attorney
17 designated on the prosecution team. And Ms. Okun
18 routinely advises this Board on other matters.
19 Even on today's agenda, in closed session there's
20 at least 20 different cases that Ms. Okun will be
21 advising this Board on.

22 Because Mr. Briggs and Ms. Okun have
23 submitted comments to this Board on behalf of the
24 prosecution team, and have been major players thus
25 far, the imputed bias to this Board is clearly

1 established by their conduct thus far.

2 Accordingly, based upon the Morongo Band
3 of Indians v. State Water Resources case, and the
4 Quintero v. City of Santa Ana case, the Community
5 Services District hereby moves that these
6 proceedings be dismissed immediately.

7 CHAIRPERSON YOUNG: Okay. Ms. Okun, any
8 comments?

9 MS. OKUN: Well, first of all, the
10 Morongo case is a trial court decision which I
11 believe is on appeal. In terms of the Quintero
12 argument we have complied with all requirements of
13 the Administrative Procedure Act that apply to
14 state agencies. Those procedures don't apply to
15 cities that weren't considered in the Quintero
16 case. And therefore this case is distinguishable
17 from Quintero on that basis.

18 I haven't had any communications with
19 any of the Board Members or their Advisors other
20 than regarding noncontroversial procedural issues
21 since this matter started. And, in fact, we
22 retained the separation wall that we established
23 for the cease and desist order, even though that
24 wasn't required.

25 So, we've complied with the applicable

1 requirements. I don't think that the appropriate
2 response would be a motion to dismiss. I think
3 that you should hear from you attorney. And if he
4 has any concerns about this objection, the
5 appropriate response would either be to continue
6 this case, or I guess to proceed without Mr.
7 Briggs and I, although I would object to that. I
8 don't think it's necessary, and I don't think it's
9 fair to the prosecution staff.

10 CHAIRPERSON YOUNG: Okay, well, let me
11 hear from Mr. Richards.

12 MR. RICHARDS: Well, we are, of course,
13 familiar with both the Quintero case and the
14 Morongo case.

15 CHAIRPERSON YOUNG: By we you're
16 referring to?

17 MR. RICHARDS: The Office of Chief
18 Counsel, which provides all of the attorneys for
19 the regional boards, including myself and Ms.
20 Okun. And we have, in fact, reviewed these cases.
21 And it is our conclusion that this manner of
22 proceeding is an appropriate mechanism to deal
23 with the problems associated with having --

24 AUDIENCE SPEAKER: Higher, please.

25 AUDIENCE SPEAKER: Would you speak a

1 little higher, please.

2 MR. RICHARDS: The protocols that the
3 Regional Board is using in this case are an
4 appropriate response to the need to separate
5 functions between the prosecution and the advisory
6 roles that the Board Staff sometimes has to deal
7 with in complex enforcement actions. And
8 therefore it is not appropriate to dismiss this
9 action at this time.

10 The separation that has been maintained
11 between the prosecution staff and the advisory
12 staff is sufficient to insure that the Board's
13 decision will not be tainted by the fact that some
14 of its staff has engaged on each side.

15 CHAIRPERSON YOUNG: Okay. Mr. Onstot,
16 is it true that the Morongo case is a trial court
17 decision?

18 MR. ONSTOT: Yes, but --

19 CHAIRPERSON YOUNG: Okay, and that has
20 no precedence, does it, throughout the State of
21 California?

22 MR. ONSTOT: No, it does, it does, Mr.
23 Chairman.

24 CHAIRPERSON YOUNG: Is it a Superior
25 Court case?

1 MR. ONSTOT: It's a Superior Court case.
2 The Superior Courts are superior jurisdiction over
3 all tribunals unless there's specific exceptions
4 carved out like for the Public Utilities
5 Commission. And even though I understand Mr.
6 Richards --

7 CHAIRPERSON YOUNG: Wait, wait, excuse
8 me. Are you saying you can cite a trial court
9 decision as precedence in a legal brief?

10 MR. ONSTOT: Sure.

11 CHAIRPERSON YOUNG: Go ahead.

12 MR. ONSTOT: And even though I
13 understand Mr. Richards' opinion, and I will give
14 the copy of this case, and I know we have
15 attorneys on the Board to read it, and I'll quote
16 one line from it: "In the instant matter the
17 facts fall squarely within the Quintero's bright
18 line rule that an attorney may not simultaneously
19 represent both a board and the litigants who
20 appear before it, even on difference matters."

21 That was the legal issue in Quintero.
22 That's the legal issue here. And I think that we
23 could save ourselves a whole lot of time,
24 regardless of what the attorneys believe, because
25 the Court of Appeals decision in Quintero is

1 definitely binding. And we would argue that the
2 trial court is definitely persuasive, and that is
3 why we're citing it.

4 The State Board lost in this case, and
5 of course, the State Board, Mr. Richards has to
6 defend the State Board's position here on the
7 record now because the case is on appeal. But
8 regardless of those arguments, the state is 0-and-
9 2 on procedures such as these where you have
10 people wearing two hats.

11 And, again, here's a copy of the case
12 for the press and any of the Board Members who'd
13 like it.

14 CHAIRPERSON YOUNG: Okay. Well, on
15 advice of our Board Counsel, I will deny the
16 motion. But your objection is preserved for any
17 appeal that you may wish to bring. Thank you.

18 Okay, back to Mr. Thomas. How many
19 speaker cards do we have?

20 MR. THOMAS: I have 37 cards from folks
21 who want to speak, and marked the card that they
22 want to speak, that they want to testify. I have
23 21 cards from folks where they marked that they
24 did not want to testify. I'm not sure if people
25 understand the difference between testifying and

1 speaking. These are public speaker cards, even
2 though it says testify on here. This is the
3 public speaker time for this particular item.

4 And I'm not sure if some people marked
5 "I do not wish to testify" but they actually did
6 want to speak during public comment period. So,
7 we have to clarify that.

8 CHAIRPERSON YOUNG: Okay, do you have
9 another group of cards?

10 MR. THOMAS: I have a group of cards
11 from the designated parties. I have 27 cards from
12 the designated parties, but this is not the time
13 for the --

14 CHAIRPERSON YOUNG: For the designated
15 parties.

16 MR. THOMAS: -- designated parties to
17 speak.

18 CHAIRPERSON YOUNG: Yeah, because their
19 items are on the agenda.

20 Okay, let's proceed then with the 37
21 that have indicated that they wanted to speak --
22 the 21 --

23 MR. THOMAS: Mr. Chairman, 37.

24 CHAIRPERSON YOUNG: Are there --

25 BOARD MEMBER PRESS: Mr. Chairman.

1 CHAIRPERSON YOUNG: Yes.

2 BOARD MEMBER PRESS: Could you make it
3 clear if you are asking designated parties not to
4 speak during the interested public comment,
5 interested party public comment period?

6 CHAIRPERSON YOUNG: Well, that --

7 BOARD MEMBER PRESS: Would you clarify?

8 CHAIRPERSON YOUNG: If you're a
9 designated party, like Mr. Moylan is, and his
10 wife, he's not going to be permitted to speak at
11 this initial phase. He has his own time slot
12 designated for him.

13 It's people that are interested parties;
14 these are the ones that have not received a
15 proposed cease and desist order, but want to
16 address the Board on what's being presented today.
17 Those are the people that are going to speak at
18 this point in time.

19 Now, we have 21 cards where people put
20 they did not want to testify. I'd like to maybe
21 figure out if those individuals didn't want to
22 speak to the Board at this time, and they got
23 confused over testifying and speaking.

24 Sir, tell us who you are.

25 MR. KLEIGER: Yes, sir; my name's

1 Lawrence Kleiger. And I do have a cease and
2 desist order. And my wife and I both,
3 inadvertently filled out a red card --

4 CHAIRPERSON YOUNG: Okay.

5 MR. KLEIGER: -- and so --

6 CHAIRPERSON YOUNG: Okay. Good. He has
7 a -- well let's take -- did you find his card?
8 Has anyone that has received a cease and desist
9 order, have any of you filled out a speaker card,
10 thinking that you needed to? Okay.

11 Why don't we just go down the line and
12 we can get your names and we can pull your cards
13 out.

14 MR. SHIPE: We were told to.

15 CHAIRPERSON YOUNG: Okay.

16 (Audience speaking simultaneously.)

17 CHAIRPERSON YOUNG: Oh, those have
18 already been pulled out. Okay. All right, so
19 there is a group of 21 that put on their cards
20 they did not want to testify. Do you know who you
21 are? Okay. Do you mind --

22 (Parties speaking simultaneously.)

23 CHAIRPERSON YOUNG: What I want to do is
24 divide their time up now. So, if I know who's
25 going to speak, everyone's going to know what

1 their time is. I don't want to chop it up for
2 them. So that's why I need to know who it is.

3 Dr. Press?

4 BOARD MEMBER PRESS: What you say is
5 anyone who is not a designated party who filled
6 out a card and wants to speak, if you could
7 corroborate or correlate your number of cards --

8 CHAIRPERSON YOUNG: How about -- you
9 know what I'm going to do --

10 BOARD MEMBER PRESS: -- you could get a
11 show of hands --

12 CHAIRPERSON YOUNG: Where are the ones -
13 - is this the whole stack?

14 MR. THOMAS: These are the folks that
15 want to speak, and --

16 CHAIRPERSON YOUNG: Okay, give me the
17 21. Okay. Took me awhile to figure this out, but
18 bear with me.

19 UNIDENTIFIED SPEAKER: Can we get a
20 month continuance to figure this out --

21 CHAIRPERSON YOUNG: Hang on. Thomas
22 Dempset (sic) are you here, sir? Mr. Dempset?

23 AUDIENCE SPEAKER: Just a quick point to
24 ask, I mean earlier you asked -- only because the
25 room was crowded, there were fire concerns, you

1 asked all but the designated parties to leave. So
2 they may be out of the room.

3 MR. THOMAS: Yes, but our audio --

4 CHAIRPERSON YOUNG: The audio feed goes
5 in there.

6 (Audience speaking simultaneously.)

7 CHAIRPERSON YOUNG: So if there's
8 anybody in the other room, in the overflow room
9 who is not a recipient of a cease and desist order
10 I would appreciate it if you would come into the
11 hearing room at this point in time. Okay?

12 (Parties speaking simultaneously.)

13 CHAIRPERSON YOUNG: Okay, I'm going to
14 go through the cards I have so I can get this
15 clarified. Thomas Dempset, or Dempsey? Is he
16 here? Okay. Oh, and Josephine Dempsey? Okay.
17 Mr. Braverman, I know you're here. Is he here?
18 He was. Betty Braverman. Okay. Charles Kostas.
19 Mr. Kostas, are you here? Okay. Shirley Norman,
20 Ms. Norman, are you here?

21 Sandra Stilts or Saundra Stilts? Okay.
22 Did you wish to speak?

23 AUDIENCE SPEAKER: No.

24 CHAIRPERSON YOUNG: It's up to you.

25 MS. STILTS: No, I pass.

1 CHAIRPERSON YOUNG: You pass, okay.
2 Hans Schwarz, Dr. Schwarz, are you here? Dr.
3 Schwarz. Okay. Mark Connelly, Mr. Connelly, are
4 you here? Okay. Elaine Watson. Okay. Ms.
5 Watson, do you wish to speak?

6 MS. WATSON: I will speak.

7 CHAIRPERSON YOUNG: You do?

8 MS. WATSON: I will, yes.

9 CHAIRPERSON YOUNG: Okay. All right,
10 Merrie Pastel? Ms. Pastel, are you here? Okay.
11 Rose Povero?

12 MS. POVERO: I pass.

13 CHAIRPERSON YOUNG: You pass, okay.
14 Leonard --

15 MR. AMBRUSO: Ambruso.

16 CHAIRPERSON YOUNG: Yes.

17 MR. AMBRUSO: I pass.

18 CHAIRPERSON YOUNG: You pass, okay.
19 Mark Robinson? Mr. Robinson, are you here? Okay.
20 Darlene Reynolds? Ms. Reynolds, are you here?

21 AUDIENCE SPEAKER: She left.

22 CHAIRPERSON YOUNG: She left, okay.

23 Barbara Akle or Akle? Yes, do you wish to speak?

24 MS. AKLE: Yes.

25 CHAIRPERSON YOUNG: You do, okay. Carol

1 Cribbs? Are you here, Ms. Cribbs?

2 MS. CRIBBS: Mr. Chairman, I'm one of
3 the 45 who has a CDO, and I'm just wondering if
4 earlier you had said something about how maybe
5 people need to come back after 4:00 because that's
6 when things --

7 CHAIRPERSON YOUNG: Yes.

8 MS. CRIBBS: -- are really going to get
9 started. So I'm just wondering, since a lot of
10 people have left, maybe they're under the
11 impression that they're not even going to have a
12 chance to speak until after 4:00.

13 CHAIRPERSON YOUNG: Okay, well, that --

14 MS. CRIBBS: I would just like to make
15 that noted for the record, please.

16 CHAIRPERSON YOUNG: Okay. Well, those
17 comments were directed only to the recipients of
18 CDOs, not to interested persons. If they
19 misunderstood --

20 MS. BRUTON: Point of order, Chairman.
21 I've found that --

22 CHAIRPERSON YOUNG: Excuse me, --

23 MS. BRUTON: No. We were told after
24 3:00 would be public hearing by your staff. Now
25 you cannot bring all these people in here and then

1 look at the trouble -- how are you going to make
2 decisions --

3 CHAIRPERSON YOUNG: Excuse me, excuse
4 me, --

5 MS. BRUTON: -- you can't even do this
6 part --

7 CHAIRPERSON YOUNG: -- excuse me, excuse
8 me --

9 MS. BRUTON: -- of it.

10 (Laughter.)

11 CHAIRPERSON YOUNG: Excuse me.

12 MS. BRUTON: I mean do you know how
13 ridiculous --

14 CHAIRPERSON YOUNG: Excuse me, I'm going
15 to ask --

16 MS. BRUTON: -- you look?

17 CHAIRPERSON YOUNG: Okay. Officer,
18 please. I want you out.

19 (Audience speaking simultaneously.)

20 CHAIRPERSON YOUNG: She has done this
21 before at other hearings.

22 MS. BRUTON: Excuse me, but you are
23 hijacking the public due process.

24 CHAIRPERSON YOUNG: Okay, please remove
25 yourself from this room.

1 MS. BRUTON: I have a right to speak to
2 that.

3 CHAIRPERSON YOUNG: Please remove
4 yourself from this room. If you submitted a
5 speaker card, that'll be your opportunity to
6 speak. Have you?

7 MS. BRUTON: Yes.

8 CHAIRPERSON YOUNG: Okay. Thank you.
9 Carol Cribbs. Ms. Cribbs, are you here? Susan
10 McGinty. Are you here Ms. McGinty? Jay Harding.
11 Mr. Harding, are you here?

12 AUDIENCE SPEAKER: Some of these folks
13 could be out in the area; you can't run all the
14 way --

15 CHAIRPERSON YOUNG: Okay. Joan
16 Anderson. Ms. Anderson, are you here? And
17 Sharlot Sunshine. Are you here, Ms. Sunshine?

18 Okay, well, I have a group of cards.
19 You've heard who did not respond. We'll take them
20 up at the last moment, but now how many -- we have
21 41, so divide that into an hour and a half. What
22 is that?

23 And is Mr. Blakeslee here, Assemblyman
24 Blakeslee? Is that you?

25 AUDIENCE SPEAKER: No.

1 CHAIRPERSON YOUNG: Are you a recipient
2 of a cease and desist order?

3 AUDIENCE SPEAKER: No, I'm not.

4 CHAIRPERSON YOUNG: Okay. Why don't you
5 come up here. Oh, did you check off that you
6 wanted to speak?

7 AUDIENCE SPEAKER: Yes, I did.

8 CHAIRPERSON YOUNG: Okay, well, you're
9 in the stack. It's those that put they did not
10 want to speak, okay, that we're trying to deal
11 with.

12 Okay, folks, those that are going to be
13 speaking, you're going to have two minutes to
14 address the Board. Is the Assemblyman here?

15 AUDIENCE SPEAKER: Yes, he is, he's
16 going out the door.

17 CHAIRPERSON YOUNG: He's going out the
18 door?

19 AUDIENCE SPEAKER: No, he's our --

20 CHAIRPERSON YOUNG: Okay. All right.
21 Okay, Supervisor Bianchi. Okay, Ms. Bianchi, like
22 everyone else you'll have two minutes for your
23 comments.

24 SUPERVISOR BIANCHI: My comments will be
25 very brief. They're just simply that I'm here to

1 answer any questions that the Board might have,
2 that's all.

3 CHAIRPERSON YOUNG: Okay.

4 AUDIENCE SPEAKER: Don't answer the
5 public.

6 (Audience speaking simultaneously.)

7 SUPERVISOR BIANCHI: And I commend you
8 on your patience.

9 CHAIRPERSON YOUNG: Well, they're
10 testing me, I think, with this.

11 Folks, please keep it down.

12 All right, thank you. And thank you for
13 being here.

14 SUPERVISOR BIANCHI: I'm going to be
15 leaving shortly, so if there's any questions I'd
16 just as soon have them now. I have an agenda to
17 read for next Tuesday.

18 CHAIRPERSON YOUNG: Okay. Well, let me
19 ask the Board. Does the Board have any questions
20 of Supervisor Bianchi?

21 Okay, I guess not.

22 SUPERVISOR BIANCHI: Okay, thank you.
23 Thank you very much.

24 CHAIRPERSON YOUNG: Okay. All right,
25 next speaker is Jack Pastel. I'll read four names

1 off in a row so you can get ready. Jack Pastel;
2 Dustan Mattingly; Steven Paige; and Maria Kelly.
3 If I butchered those names, I apologize. And, Mr.
4 Racano, you're the fifth one.

5 MS. OKUN: Mr. Chair, Mr. Mattingly is a
6 designated party.

7 CHAIRPERSON YOUNG: Okay. All right.

8 MR. ONSTOT: Mr. Chair, I'm also
9 informed that Assemblyman Blakeslee is on his way.

10 CHAIRPERSON YOUNG: Okay. Well, when he
11 comes then we'll just insert him.

12 MS. SCHICKER: Fifteen to 20 minutes.

13 CHAIRPERSON YOUNG: He'll be here in 15
14 to 20 minutes?

15 MS. SCHICKER: Yes.

16 CHAIRPERSON YOUNG: Okay. All right.

17 Jack Pastel, Steven Paige, Maria Kelly, Joey
18 Racano. Mr. Racano, there's two cards for you. I
19 don't believe you're really trying to get in extra
20 time. There's a red and a white card.

21 All right, Mr. Pastel, Jack Pastel.
22 Okay. All right, Steven Paige. Yes. Then Maria
23 Kelly, then Joey Racano, then Joyce Albright.

24 MR. PAIGE: Excuse me, Mr. Young, how
25 much time do we get?

1 CHAIRPERSON YOUNG: Two minutes. Two
2 minutes.

3 MR. PAIGE: Okay. I submitted a
4 voluntary plan to source sequester the solid
5 waste, the solid human waste on my property. And
6 I gave the plan to Harvey Packard over 34 days
7 ago.

8 And his initial response in his email
9 said that the plan was very viable; in so many
10 words he said that.

11 My plan reduces the total nitrogen
12 emission on an individual property by 58 percent.
13 It cuts shipping wastes by 90 percent, thus
14 cutting the air pollution by 90 percent. And it
15 also causes no water withdrawal from the aquifer
16 at all.

17 It is based on a Swedish system. I was
18 just wondering if you had an opportunity to review
19 it. I took the plan into the San Luis Obispo
20 Building Department and they kicked it upstairs to
21 your guys. And I've been waiting to hear back
22 from them on my plan.

23 It's also posted on your website, my
24 plan is posted on your website. I think it's a
25 viable alternative to hauling 9000 gallons of

1 waste per year per household. You reduce that
2 down to about 400 to 600 gallons. And you
3 certainly cut the truck APCD issue by about 90
4 percent, 80 or 90 percent.

5 I would like to have an opportunity to
6 hear back from your Board. I assume, at this
7 point I assume my plan is approved under CalCode
8 section 65943 because since the plan was kicked
9 out of the building department and sent to you
10 I've not heard, over 30 days I've not heard from
11 your Board. And I assume that my plan, at this
12 point, is approved because it's gone past that 30
13 days.

14 CHAIRPERSON YOUNG: All right, time's
15 up. Thank you for your comments. The Board,
16 itself, has not seen anything you have presented.
17 I'm looking in my interested party section of my
18 package. I don't see any written comments by you.

19 MR. PAIGE: It's emailed and was posted
20 on your website.

21 CHAIRPERSON YOUNG: Okay, well, --

22 MR. PAIGE: No, this is posted in the --

23 CHAIRPERSON YOUNG: Okay, anyway, the
24 proper thing is to submit it to the staff for
25 their analysis and review, and then

1 recommendations.

2 MR. PAIGE: Yes, I did submit it on the
3 23rd.

4 CHAIRPERSON YOUNG: Okay. Well, I can't
5 tell you right now where that is in the process,
6 but you can take that up with staff afterward.
7 And maybe somehow that falls into the, you know,
8 recipe for what to do.

9 MR. PAIGE: Okay.

10 CHAIRPERSON YOUNG: Okay?

11 MR. PAIGE: Yeah.

12 CHAIRPERSON YOUNG: Thank you for your
13 comments.

14 I did want to, and I'm addressing
15 something else right now, with Mr. Pastel, I did
16 note he had some comments on the back of his card.
17 And I overlooked that, and I think he wants me to
18 read this, so I will do it on his behalf.

19 Thank you, Mr. Paige.

20 MR. PAIGE: Okay.

21 CHAIRPERSON YOUNG: And then Maria Kelly
22 can come up while I read this. This is from, I
23 believe, Jack Pastel: "I am a local resident for
24 11 years and have seen a positive change with our
25 new CSD Board. At last we have a CSD that is

1 working toward a common goal to have a sewer plan
2 outside of town. Please allow them to get the job
3 done within a reasonable timeframe. This current
4 action is slowing down the process. You can see
5 by the turnout today we want to move forward.
6 Thanks." Most likely it's his signature, Jack
7 Pastel.

8 Okay. Maria Kelly.

9 MS. KELLY: I'm Maria Kelly. I have no
10 public comment at this time. I just wanted to put
11 in a comment. So I don't want to take your time.
12 I just wanted to let you know.

13 CHAIRPERSON YOUNG: Okay, all right.
14 Mr. Racano, followed by Joyce Albright, and then
15 Ann Calhoun. And then Keith Wimer, Wimer, I'm not
16 sure. Mr. Shallcross.

17 BOARD MEMBER SHALLCROSS: Yeah, I think
18 there has been some confusion on this part of the
19 proceedings. Because the public forum, which is
20 different than what we're doing now, the public
21 forum is after 3:00, and is noticed after 3:00.
22 And that's for folks to speak on any item not on
23 the agenda. So, you know, it's unfortunate if
24 folks didn't understand that. But these folks are
25 speaking on an item on the agenda, so they have to

1 speak within the item.

2 CHAIRPERSON YOUNG: Yeah.

3 BOARD MEMBER SHALLCROSS: And I think
4 that's where the confusion came.

5 CHAIRPERSON YOUNG: Okay. All right,
6 Mr. Racano.

7 MR. RACANO: Honorable Board, staff,
8 friends, friends at home, Joey Racano, the Orange
9 County Ocean Outfall Group.

10 It is the position of the Ocean Outfall
11 Group that individual cease and desist orders by
12 this Board leveled at the good citizens of Los
13 Osos violates them of their constitutional right
14 to equal protection under the law. This because
15 you have selected individuals and not all
16 individuals.

17 Cease and desist orders were meant to be
18 leveled at organizations, agencies, industries,
19 but it seems that we've found a new way to attack
20 the citizenry.

21 It is not the fault of the citizens of
22 Los Osos that the former CSD Board, who was
23 recalled in disgrace, chose to attempt to spend
24 the community into submission, their own words,
25 and begin the project, spending millions, with

1 only 27 days before a recall election that would
2 ultimately recall them all.

3 It is my knowledge that the regional
4 boards were created in the '70s from the state
5 boards, who were in turn created in the '40s from
6 the old rancher boards that made sure there was
7 water for cattle.

8 So never has the regional board served
9 the needs of the people or clean water.
10 Historically, you have served the needs of
11 industry, and it is the Ocean Outfall Group's
12 position that you continue to do so.

13 CHAIRPERSON YOUNG: Time's up; thank you
14 for your comments.

15 MR. RACANO: I thank you for this
16 opportunity to address you, and I urge you to
17 recognize the attempts by the community to remedy
18 any water quality situations.

19 CHAIRPERSON YOUNG: Joyce Albright; Ann
20 Calhoun; Keith Wimer --

21 AUDIENCE SPEAKER: Wimer.

22 CHAIRPERSON YOUNG: Winer, okay, pardon
23 me.

24 AUDIENCE SPEAKER: With an "m".

25 CHAIRPERSON YOUNG: Wimer, okay. And

1 then Jim Hensley.

2 CHAIRPERSON YOUNG: Okay, Ms. Albright,
3 you have two minutes.

4 MS. ALBRIGHT: Yes. Fine. Can you hear
5 me?

6 CHAIRPERSON YOUNG: Yes.

7 MS. ALBRIGHT: Good morning, Honorable
8 Board; Joyce Albright, and I'm of Los Osos. When
9 I was searching for property --

10 AUDIENCE SPEAKERS: Can't hear.

11 CHAIRPERSON YOUNG: Would you speak up,
12 Ms. Albright. Howard, can you make sure --

13 MS. ALBRIGHT: Shall I start over?

14 CHAIRPERSON YOUNG: Go ahead.

15 (Audience speaking simultaneously.)

16 (Pause.)

17 MS. ALBRIGHT: That's much better.

18 CHAIRPERSON YOUNG: Okay, I'm starting
19 right now.

20 MS. ALBRIGHT: Good morning, Honorable
21 Board; Joyce Albright of Los Osos. When I was
22 searching for property on the central coast in the
23 mid '80s my sister warned me to stay away from Los
24 Osos because it had sewer problems.

25 But I fell in love with this beautiful

1 community and chose it for retirement, which
2 translates to limited income. I, too, will be
3 financially strapped, whether I'm paying for
4 regular pumping of my septic tank or for a sewer.

5 We had in construction an aesthetic,
6 state of the art, odorless, gravity system
7 designed to deal with salt water intrusion and to
8 refurbish our groundwater. It was to be
9 surrounded by a lovely park besides, and it was
10 just down below me.

11 This project was stopped by the very
12 people who are fighting you today. Some of them
13 have been fighting against a sewer for over 20
14 years, same plan, different words.

15 While I do not want your enforcement
16 measures to cause financial pressure on me or on
17 our citizens, this community must be made aware
18 that the time has come to stop dallying and build
19 the sewer now.

20 The situation has developed into an
21 enormous health issue. There is absolutely no
22 excuse to put the sewer off any longer. Twenty
23 years of dumping our sewage into our drinking
24 water is unacceptable.

25 Community support to dissolve the LOCSD

1 and a transfer of the sewer project, and all
2 services, back to the County is accelerating
3 rapidly. Most of Los Osos realizes we must build
4 the damn sewer now.

5 You can get the facts at our new
6 website, dissolveLOC.org. Thank you, ladies and
7 gentlemen of the Regional Water Quality Control
8 Board for your continuing efforts to save our
9 water and the Bay.

10 CHAIRPERSON YOUNG: Okay, thank you for
11 your comments.

12 (Audience speaking simultaneously.)

13 CHAIRPERSON YOUNG: Excuse me, please
14 keep your comments to yourselves.

15 Ann Calhoun.

16 MS. CALHOUN: Watch your toes, everyone.
17 Got some rush-hour traffic here.

18 CHAIRPERSON YOUNG: So this is the
19 infamous Ann Calhoun?

20 MS. CALHOUN: Infamous, yes. Ann
21 Calhoun, Los Osos.

22 CHAIRPERSON YOUNG: Okay, so how are we
23 going to end up in tomorrow's blog?

24 (Laughter.)

25 MS. CALHOUN: You know blogs are not

1 submittable, or not relied upon by any persons of
2 serious mien and --

3 CHAIRPERSON YOUNG: That's right, and --
4 (Applause.)

5 MS. CALHOUN: Which I thought was funny
6 because it was sent out in the form of a press
7 release.

8 (Laughter.)

9 CHAIRPERSON YOUNG: Okay, Ms. Calhoun,
10 you have two minutes.

11 MS. CALHOUN: Thank you. Edward R.
12 Murrow once accurately observed to be persuasive
13 we must be believable. To be believable we must
14 be credible. To be credible we must be truthful.

15 The recent April 27th Tribune editorial
16 noted its dismay at the muddlement over the air
17 quality issues that suddenly showed up. And noted
18 the Regional Board's failure to gather all the
19 facts which is guaranteed to further erode public
20 confidence in the Regional Water Board.

21 If this Board wants to restore public
22 confidence I think it needs to call for a
23 continuance; get its scientific ducks in a row;
24 its legal and procedural ducks in a row.

25 I would then suggest that it work with

1 the CSD to help create a septic management
2 district. Ironically, the proposed Board's
3 alternative plan that was going to require every
4 tank be pumped, inspected and certified, is
5 something that the community members have been
6 asking be done for years. And if I'm not mistaken
7 it's what the CSD is also proposing.

8 Above all I would hope this Board would
9 move immediately to update an amend the basin
10 plan, and resolution 8312 and '13 to reflect
11 present day realities, open the way for an
12 expandable wastewater treatment plan that prepares
13 for the new state septic tank regulations.

14 That action, I think, will go a long way
15 to restoring confidence that the Regional Board is
16 interested in solving water quality problems and
17 you don't need community-wide CDOs to do it.

18 Thank you.

19 CHAIRPERSON YOUNG: Thank you for your
20 comments. Okay, next speaker is Mr. Wimer.

21 MR. WIMER: Yes.

22 CHAIRPERSON YOUNG: Thank you. And then
23 Jim Hensley, and then Lalelle Speegle. Lazelle
24 Speegle.

25 MR. SPEEGLE: I have a CDO.

1 CHAIRPERSON YOUNG: Okay. Are you Mr.
2 Speegle?

3 MR. SPEEGLE: Yeah.

4 CHAIRPERSON YOUNG: Okay, so you have a
5 CDO, so we'll take that out. I'll give it to Mr.
6 Thomas.

7 Okay, Mr. Wimer, you have two minutes.

8 MR. WIMER: Yes. Mr. Young, Regional
9 Board, my name is Keith Wimer. I live in the
10 prohibition zone of Los Osos. I was uncommitted
11 on the wastewater issue until your Board imposed
12 these measures. I am now committed to fighting
13 your action in any way I can.

14 I'm particularly offended and distressed
15 by a divide-and-conquer tactic, to single my
16 neighbors and me out on the basis of an arbitrary
17 designation called the prohibition zone; to
18 threaten to take control of my property when you
19 have no direct evidence of my breaking a law;
20 violate my rights and force me to become active.

21 I'm a citizen who values the
22 environment. I follow the laws. I respect the
23 role of agencies such as yours to protect the
24 environment and the public. I'm here to tell you
25 that people like me believe your actions will have

1 more negative consequences than positive. They
2 will not move Los Osos any closer to a solution,
3 and they are wrong.

4 Regardless of how I voted or anyone in
5 the last CSD election, the democratic process was
6 followed and the new CSD has a plan for a more
7 long-term and comprehensive solution than the last
8 one, which should make up for any delay.

9 Importantly, their solution, I believe,
10 has the greatest potential for healing the rift in
11 the community. Your actions will only inflict
12 deeper wounds, rob scarce water from the reserves,
13 drain money from our pockets that could go towards
14 treatment and cause us to waste time and energy in
15 court.

16 I know your Board can come up with more
17 productive measures to resolve this issue. The
18 measures will have to respect us as law-abiding
19 citizens; they will have to impact everyone in the
20 community equally; and they will have to produce
21 the best solution for the environment and for all
22 the people of Los Osos.

23 If you implement such measures you will
24 affirm your roles as protectors of the environment
25 and servants of the public. If not, you will fail

1 the people of Los Osos and the central coast.

2 I ask you to stop these regressive
3 measures against the citizens of Los Osos. Thank
4 you.

5 CHAIRPERSON YOUNG: Okay, thank you for
6 you comments.

7 (Applause.)

8 CHAIRPERSON YOUNG: Mr. Hensley and then
9 Lacy Cooper and then Bo Cooper.

10 MR. HENSLEY: Honorable Board, Members
11 of the Board, thanks for letting me --

12 CHAIRPERSON YOUNG: Can you speak up a
13 little louder, sir, into the microphone.

14 MR. HENSLEY: Thanks for allowing me to
15 speak here. I'm an old hand at Los Osos; I'm
16 probably like older than dirt here. I've been
17 paying for a sewer cleanout for 30 years. Now,
18 that's taken out of my taxes every year, every
19 year.

20 The only way you're going to get this
21 sewer done is you to do your job, which you've
22 been doing so far. You got to do something or
23 these people are not going to do it.

24 Twenty years ago one of our members
25 hired a lawyer in Los Angeles that told him that

1 they could keep this thing going and never get a
2 sewer here for years and years and years.

3 This group that's in there right now has
4 no plan, but they promised a plan, and they were
5 on their feet running when they got elected to the
6 new Board. All they've done is lose money for us,
7 completely. They lost the big grant from federal
8 government, \$35 million. They also turned down
9 the state's revolving fund, too. Right now
10 they're working on a shoestring.

11 But when all of that's gone, no more
12 money, those lawyers are going to go bye, bye,
13 bye, bye. And we're going to be stuck with all
14 those bills that are there, anyway. And the
15 County is going to probably have to put the sewer
16 in for us.

17 I thank you.

18 CHAIRPERSON YOUNG: Okay, thank you.

19 (Applause.)

20 CHAIRPERSON YOUNG: Okay, yeah, folks,
21 I've asked you numerous times to please refrain
22 from clapping.

23 Lacey Cooper, Bo Cooper, Mrs. R. Stern
24 and then Diane Burke.

25 MS. COOPER: Can I speak now because I -

1 -

2 CHAIRPERSON YOUNG: Yeah, go ahead, Ms.
3 Cooper.

4 MS. COOPER: Today I'm celebrating my
5 27th wedding anniversary. And as you can imagine,
6 I'm overjoyed to be here. Just thrilled.

7 (Laughter.)

8 MS. COOPER: At least I'm here with my
9 partner in crime, my husband, Bo, who will speak
10 behind me. During the hearing Los Osos citizens
11 will easily prove that the CDOs are unjust,
12 unnecessary and totally uncalled for.

13 So why are we really here. We are here
14 today to be tried and convicted for the serious
15 crime of votus wrongus. In the eyes of the
16 Regional Board Staff, we, the majority of Los Osos
17 residents, voted the wrong way in our last CSD
18 election. We had the nerve to want an affordable,
19 sustainable sewer plant away from our downtown and
20 we voted for it.

21 We did not let the pre- and post-
22 election threats of the Regional Board Staff
23 intimidate us. We are not letting the promise of
24 CDOs deter us.

25 Even the perception that a state agency

1 is using its power and authority to coerce or
2 intimidate voters before or after an election has
3 a profoundly negative effect on the democratic
4 process.

5 Your Board's current punitive actions
6 are directly fanning the flames of ignorance and
7 fear, which threatens to dissolve our local
8 government, which you've heard from previous
9 speakers.

10 My sincere hope is that you will cease
11 and desist this campaign of individual
12 intimidation and punishment. Instead of coercion
13 we ask that you work with the LOCSD to establish a
14 truly viable wastewater solution.

15 In addition, if you drop all the CDOs
16 that would make a great wedding anniversary
17 present for my husband and myself. Thank you.

18 (Laughter.)

19 MS. COOPER: I also had a quick
20 procedural question, if I could, just about the
21 CDOs. I don't understand how people are going to
22 defend themselves, because you said in a
23 frequently asked question that even if they get
24 their nitrate levels down they're still
25 discharging into the total basin, so it doesn't

1 matter if individuals aren't polluting.

2 CHAIRPERSON YOUNG: Okay, those
3 individuals will take that up during their
4 presentations. They can ask that --

5 MS. COOPER: Okay, hope so.

6 CHAIRPERSON YOUNG: -- at that point in
7 time.

8 MS. COOPER: Thank you.

9 CHAIRPERSON YOUNG: Thank you for you
10 comments. Okay, and Ms. Cooper's partner in
11 crime, Mr. Cooper.

12 MR. COOPER: Bo Cooper, married to that
13 wonderful woman, Lacey Cooper, for 27 years. I
14 want to speak about the ACL lawyers. And the ACL
15 lawyers said that the voters are the CSD, and the
16 voters are the decisionmakers for the CSD, and
17 therefore the implication being that the
18 individuals are responsible for the actions of the
19 CSD, whether the individuals agreed with the
20 decisions of the CSD Board or not.

21 My question is who else thinks that
22 individuals should be responsible for the
23 representative government. And my answer is Osama
24 Bin Laden. Osama Bin Laden said in January of
25 '99, he said, quote, "Muslim scholars have issued

1 a religious directive against any American who
2 pays taxes to his government. He is our target
3 because he is helping the American war machine
4 against the Muslim nation."

5 Picking out individuals for the
6 decisions of the group, the whole body politic, I
7 think is very unjust. I'm not calling your guys
8 terrorists, not calling you guys terrorists, but I
9 think you are terrorizing the individuals in Los
10 Osos. It concerns me deeply.

11 What also concerns me deeply is the
12 process that's going on here. I guess I'm feeling
13 a little terrorized by the procedures that are
14 going on, by what appears to me to be a kangaroo
15 court, by the appearance of being railroaded
16 through. I'm very concerned about what's going
17 on.

18 I've played the part of the Great Bodini
19 before. I must say the Great Bodini predicts that
20 CSDs will come down for all the people because I
21 think you guys are not really listening, not
22 really making a new decision, and have
23 predetermined what's going on. Thank you.

24 CHAIRPERSON YOUNG: Thank you for your
25 comments. Mrs. Stern, Mrs. R. Stern. Did I get

1 the name right?

2 MR. THOMAS: Stern.

3 CHAIRPERSON YOUNG: Yeah, Mrs. R. Stern.

4 Okay. Diane Burke, followed by David Duggan and

5 then Gwynn Taylor. Okay. Hang on, let me

6 restart this. Okay, go ahead.

7 MS. BURKE: Diane Burke, the prohibition

8 zone. I completely object to any CDO against any

9 household within Los Osos. It's never been proven

10 that septic are, in fact, the source of nitrate

11 pollution. However, we have other water problems

12 and they need to be addressed.

13 This current mandate by your Board will

14 do nothing to improve our water quality or supply.

15 And will, in fact, further deplete our aquifer

16 resulting in more denigration of our water and

17 supply.

18 As evidenced by the latest news from the

19 Air Quality Control Board any such forced mandate

20 will pollute the air we breathe, clean air and

21 water, life sustaining substances, without which

22 nothing can survive.

23 This mandate smacks of rogue

24 dictatorship, manipulation and extortion of only

25 one-third of our community without considering

1 long-term adverse effects to either air, water or
2 individual rights.

3 Under the constitution each individual
4 has the right to peacefully enjoy their home
5 without interference. We have but one water basin
6 serving all who draw from it. Your agency drew a
7 line in the sand making only 4700 homeowners
8 financially and morally responsible. Thus
9 promoting new construction outside this boundary
10 just when our water supply is at peril. New
11 development must be reined in with the
12 introduction of water conservation and smaller
13 homes for the whole community of Los Osos.

14 Our duly elected CSD Board has answers
15 for all these problems. Your agency should
16 support their endeavors to move ahead
17 expeditiously.

18 CHAIRPERSON YOUNG: Okay, can you wrap
19 it up, please, Ms. Burke?

20 MS. BURKE: Yes. This will be to
21 everyone's ultimate benefit. Thanks.

22 CHAIRPERSON YOUNG: Okay, thank you for
23 your comments. Gwynn Taylor, followed by
24 Assemblyman Blakeslee. And then George Taylor.

25 MS. TAYLOR: Excuse me, you called Mr.

1 Duggan before you called me, sir.

2 CHAIRPERSON YOUNG: Yeah, you're right.
3 I just moved his card off. Thank you. Yeah, Mr.
4 Duggan.

5 MR. DUGGAN: I have a question before I
6 start.

7 CHAIRPERSON YOUNG: Yeah.

8 MR. DUGGAN: Is my interested party
9 statement included in your documents?

10 CHAIRPERSON YOUNG: Oh, yeah, I have
11 vivid memories late at night going through --

12 AUDIENCE SPEAKER: Great.

13 (Audience speaking simultaneously.)

14 MS. OKUN: There is some additional
15 comment that was received yesterday, as well.

16 MR. DUGGAN: Is that included in the
17 record?

18 CHAIRPERSON YOUNG: Yes, yours was the
19 extensive CEQA challenge and comments --

20 MR. DUGGAN: Yes, it is.

21 CHAIRPERSON YOUNG: -- that I read.

22 MR. DUGGAN: I just wanted to make sure
23 that I was allowed to have that entered into the
24 record.

25 CHAIRPERSON YOUNG: Of course, yeah,

1 it's 18 pages; it's in our packets.

2 MR. DUGGAN: Not only just the first
3 statement, but my rebuttal to their rebuttal?

4 CHAIRPERSON YOUNG: No, you have two
5 minutes, sir. Your time's --

6 MS. OKUN: Excuse me, he submitted two
7 comments. One was within the comment period and
8 that's in the printed comments. But he also
9 submitted comments yesterday by email that were
10 late.

11 CHAIRPERSON YOUNG: Yeah, those are not
12 allowed in. Yeah, they're late. But, you have
13 two minutes now to address this. I'll restart the
14 clock.

15 MR. DUGGAN: David Duggan, Los Osos. As
16 the prosecution has chosen to rebut my statement
17 and didn't choose to associate my statement with
18 that of the LOCSO, who is a designated party, and
19 as the prosecution deemed to characterize my
20 statement, after extensive research, as having no
21 merit, it is apparent that the prosecution has
22 given my statement great weight.

23 As the prosecution has dedicated
24 resources to counter and rebut my statement it is
25 evident that my statement goes beyond interested

1 party status on its own merits. And I petition
2 the Board to allow my counter-rebuttal of the
3 prosecution's rebuttal be placed on the record.

4 I also point out that the prosecution
5 has, on more than one occasion, changed the
6 conditions of the CDOs, and at an even more recent
7 date, April 24th, has changed the conditions of
8 the CDOs again. These actions alone should allow
9 for new evidence and statements to be entered into
10 the record.

11 It is also apparent that the recent
12 change of the conditions of the CDOs is due to the
13 concerns of the Air Pollution Control District
14 concerning the pumping requirement and the
15 possibility of air pollution due to the use of
16 added machinery, as in this case, a fleet of
17 diesel trucks, and a reasonable possibility of a
18 significant effect on the environment.

19 This is only one of the conditions
20 required to deny the exemption from CEQA, and it
21 has been met; it clearly has been met.

22 Since the staff has indicated that they
23 may revisit the pumping requirement, I would
24 enjoin this Board to delay this hearing until this
25 matter can fully be explored through a hearing of

1 the Air Pollution Control District.

2 As the process of these hearings are in
3 doubt, as well as the reasons for bringing these
4 actions, I would encourage this Board to rethink
5 its approach to work with all concerned agencies
6 you find appropriate and long-term solutions to
7 what has become to be known as the Los Osos Sewer
8 issue. Thank you.

9 CHAIRPERSON YOUNG: Thank you. Ms.
10 Taylor, you're next, and then Assemblyman
11 Blakeslee.

12 MS. TAYLOR: Good afternoon; my name is
13 Gwynn Taylor; I'm a resident of Los Osos in the
14 prohibition area.

15 Mr. Wimer eloquently expressed many
16 positions that I take, as well as my husband.
17 Having been in Los Osos for over 34 years, and
18 having been active with three former executives of
19 the Water Quality Control Board, I truly object to
20 being assumed guilty of polluting the aquifer by
21 using our septic tanks.

22 CDOs are meant for major polluters, not
23 for individual residents with properly working
24 septic systems. I have never been challenged that
25 my septic system pollutes the groundwater. We

1 have our septic system pumped on a basic
2 timeframe.

3 We are only residents for part time. If
4 anyone would like to come out and prove that we
5 are polluting the water, please make arrangements
6 at your expense to prove that we are polluting the
7 groundwater.

8 Thank you.

9 CHAIRPERSON YOUNG: Okay, --

10 (Applause.)

11 CHAIRPERSON YOUNG: Assemblyman
12 Blakeslee.

13 ASSEMBLYMAN BLAKESLEE: Chair, Members,
14 thank you for the opportunity to come before you
15 today. I apologize that I wasn't here when you
16 initially called. I was pulled away to another
17 meeting, and returned as quickly as I could.

18 In the course of working on this
19 challenging project and problem I've had the good
20 fortune of working with many members of the
21 community who have demonstrated to me, I think,
22 quite unequivocally they do seek a clean water
23 solution as quickly as possible.

24 I'm fully respectful of the fact that
25 different elected boards and appointed entities

1 that have responsibilities under the law are duly
2 operating in that context, and doing their best to
3 find a resolution of this complicated issue.

4 But I, in my analysis of the problem,
5 come to the conclusion there may be no such ready
6 quick resolution. And therefore I'm seeking to
7 work with all the entities to see if, in fact, it
8 might be possible to find a legislative remedy
9 which would allow us, through statute, to resolve
10 the many legal, financial, and frankly, technical
11 problems which we're now faced with here today.

12 I cannot at this time tell you we have
13 found such a solution. But I can tell you we're
14 working in good faith with all parties to solicit
15 their input and see if such a solution can be
16 devised through legislation.

17 And so I would as, as you deliberate
18 today, with the various options you have with
19 enforcement orders, to consider including in any
20 final determination and deliberation a provision
21 which would allow for a rapid sunseting of
22 enforcement actions by this Board and by this
23 body, in the event a legislative solution can be
24 found.

25 I believe that such a representation by

1 this Board would be very helpful to discussions
2 that are occurring currently. And I certainly
3 would never urge you to do anything inconsistent
4 with your responsibilities under law. But to the
5 degree that a solution can be found that's
6 consistent with law, having your assurance and
7 your statements here today that you would work to
8 find a quick and speedy expedited way to pull back
9 those enforcement actions, I think, would be
10 helpful.

11 And I request that. And I thank you for
12 the opportunity to address you.

13 CHAIRPERSON YOUNG: Okay, thank you for
14 your comments.

15 (Applause.)

16 CHAIRPERSON YOUNG: Dr. Press.

17 BOARD MEMBER PRESS: Assemblyman, could
18 you -- we have a few questions for you.

19 BOARD MEMBER PRESS: Would you mind?
20 Yes, I appreciate your comment very much.

21 I just wondered if you could -- if you
22 might suggest, what, in your view, is the -- do
23 you have any thoughts about what a most rapid or
24 expeditious way of getting to water quality
25 improvements would be.

1 ASSEMBLYMAN BLAKESLEE: Well,
2 personally, I do believe there is a significant
3 clean water issue that probably needs to be
4 addressed through a wastewater treatment system.

5 We need to find solutions which take
6 down lawsuits that otherwise would impede our
7 building to move forward. We need to find
8 solutions that clear up questions about future
9 liability. We need to make sure that to the
10 degree we can take actions to restart the SRF
11 loan, those actions can be taken.

12 And there have to be some deliberations,
13 obviously, about the ultimate technology solution.
14 And although I have strong feelings about each of
15 those elements, in the course of being respectful
16 for those with whom I'm dialogue-ing and
17 soliciting input from, I want to be sure that I
18 don't prematurely talk about the particulars of a
19 solution until we are at a place where I think all
20 parties would be ready to shake hands and work
21 together and say, yeah, we can go ahead and accept
22 this, even though it may only be half a loaf or 60
23 percent of a loaf.

24 Because I think ultimately if there is
25 to be a solution no one will be fully happy with

1 the outcome. I'm sorry to report there is no
2 solution which will make everyone happy.

3 But I do believe there's a solution we
4 could find which can expedite us building of a
5 project, which can restart moneys, which can
6 reduce liability. And most importantly, comport
7 with the laws of the state to insure a clean water
8 outcome as quickly as possible, which is very
9 important to me and I know it's important to you.

10 BOARD MEMBER HAYASHI: I have a
11 question.

12 CHAIRPERSON YOUNG: Yes.

13 BOARD MEMBER HAYASHI: Good morning.

14 ASSEMBLYMAN BLAKESLEE: Mr. Hayashi,
15 good to see you, John.

16 BOARD MEMBER HAYASHI: You say
17 expeditiously. What kind of a timeframe are you
18 thinking about?

19 (Laughter - audience speaking
20 simultaneously.)

21 ASSEMBLYMAN BLAKESLEE: I don't think we
22 can afford to wait years. I think we need to find
23 a solution which could have a potential restart on
24 some of the critical elements in months, not
25 years.

1 BOARD MEMBER HAYASHI: Okay, thank you.

2 CHAIRPERSON YOUNG: And by critical
3 elements, what do you mean by that?

4 (Audience Laughter.)

5 ASSEMBLYMAN BLAKESLEE: You guys aren't
6 going to make this easy on me, are you?

7 CHAIRPERSON YOUNG: Well, --

8 ASSEMBLYMAN BLAKESLEE: Mr. Young,
9 again, my challenge is to be forthcoming with you,
10 to ask and share with you how you can be helpful
11 in terms of having a speedy sunseting of
12 enforcement actions if we can find such a
13 solution.

14 I want to also be very respectful of all
15 the parties with whom we're having these
16 conversations to not inadvertently talk about
17 elements which could reduce the likelihood we'd
18 find ultimate a compromise.

19 So, if you will forgive that rather -- I
20 sound like a politician --

21 (Laughter.)

22 ASSEMBLYMAN BLAKESLEE: If you'll
23 forgive the --

24 CHAIRPERSON YOUNG: I'm glad you said
25 it.

1 ASSEMBLYMAN BLAKESLEE: If you'll
2 forgive the imprecision of my answer, it's not
3 unwillingness to respond, but it's out of a
4 sincere desire to see an answer come forward
5 through legislation.

6 CHAIRPERSON YOUNG: Well, we appreciate
7 your involvement, and hope that it, you know, gets
8 all of us to where we want to be in the end, which
9 is a solution and clean water.

10 So, thank you for your comments.

11 ASSEMBLYMAN BLAKESLEE: Thank you,
12 Board, thank you, Chair.

13 CHAIRPERSON YOUNG: Okay. Let's see.

14 (Applause.)

15 CHAIRPERSON YOUNG: Did I call anyone
16 else at this time?

17 MR. TAYLOR: Yes, George Taylor.

18 CHAIRPERSON YOUNG: Yeah, okay. Mr.
19 Taylor, you're the last speaker and I think,
20 Board, should we then break for lunch?

21 BOARD MEMBER: Yes.

22 CHAIRPERSON YOUNG: Because I've got
23 about another 40 minutes worth of interested
24 parties. Okay, Mr. Taylor, you're the last
25 speaker for now, and then we're going to break for

1 lunch. And I'll announce when we're going to
2 return. Go ahead.

3 MR. TAYLOR: George Taylor, a Los Osos
4 resident in the prohibition zone. And a
5 interested party participant.

6 I'm here to protect our right to due
7 process. I did not feel that if I didn't speak
8 that I would be represented in any further action,
9 and I want to be.

10 We understand that the Water Quality
11 Control Board tasked Mr. Briggs with bringing in
12 the individual CDO actions. No emergency existed
13 to force the Regional Water Quality Control Board
14 to act at the hearing. And even if there were,
15 the Regional Water Quality Control Board failed to
16 follow their own requirements for emergency
17 situations.

18 Clearly, this represents a lack of due
19 process. Having Mr. Briggs and prosecution team
20 members hearing the CDOs is like having a fox hear
21 the pleadings of the hens within the henhouse.

22 (Laughter.)

23 MR. TAYLOR: Thomas Jefferson wrote that
24 we should never have appointed individuals that
25 have decisionmaking capacity. All commissions

1 should be filled with elected-by-the-people
2 individuals. Thank you.

3 CHAIRPERSON YOUNG: Okay, thank you.

4 (Audience speaking simultaneously.)

5 (Applause.)

6 CHAIRPERSON YOUNG: All right, we're
7 going to break for lunch. And let's see, we're
8 going close by, we're walking. Can we get back
9 here in 45 minutes, is that possible or is that
10 just -- okay, an hour then, right? An hour.

11 So we will resume in one hour from now.
12 And we'll continue. And I'll tell you who is
13 next. Michael Jones, Alon Perlman, Pat Renshaw,
14 Lawson Schaller. Those are the ones that are up
15 next.

16 Thank you.

17 (Whereupon, at 1:38 p.m., the meeting
18 was adjourned, to reconvene at 2:38
19 p.m., at this same location.)

20 --o0o--

21

22

23

24

25

1 AFTERNOON SESSION

2 2:43 p.m.

3 CHAIRPERSON YOUNG: You're with the Air
4 Pollution Control District?

5 MR. ALLEN: Yes, I am.

6 CHAIRPERSON YOUNG: Okay. And you need
7 to leave by 3:30, or you have a 3:30 appointment?8 MR. ALLEN: I have a 3:30 appointment,
9 but I'm only about five minutes away, so --

10 CHAIRPERSON YOUNG: Okay.

11 MR. ALLEN: -- 3:20, if I could get out
12 of here by 3:20 that would be fine.13 CHAIRPERSON YOUNG: Okay. Well, have
14 you been called as a witness, do you know, by
15 anybody?16 MR. ALLEN: No, I have not. I just
17 wanted to --18 CHAIRPERSON YOUNG: Mr. Onstot, do you
19 know if he's been called by a witness?20 MR. ONSTOT: I'm sorry, Mr. Chair, who
21 is he?22 CHAIRPERSON YOUNG: This is the
23 gentleman from the Air Pollution Control District.

24 MR. ONSTOT: He's not on our list.

25 CHAIRPERSON YOUNG: Okay.

1 MR. ONSTOT: Name?

2 MR. ALLEN: Larry Allen.

3 MR. ONSTOT: He's not on our list.

4 CHAIRPERSON YOUNG: Okay. And no one
5 has asked you to testify?

6 MR. ALLEN: No. I was asked to be
7 present for questions, but --

8 MR. BRIGGS: I asked if someone could be
9 present.

10 CHAIRPERSON YOUNG: Okay.

11 MR. ALLEN: I did have some comments
12 that I would like to make if you didn't have
13 questions of me.

14 CHAIRPERSON YOUNG: Okay, well, might as
15 well do it now, as opposed to waiting till the end
16 if he needs to leave.

17 Dr. Press, this is Mr. Allen of the
18 APCD. Why don't you give us your comments, okay?
19 And then if the Board has questions of you, then
20 we'll proceed.

21 MR. ALLEN: Thank you. My name is Larry
22 Allen; I'm with the Air Pollution Control
23 District; I'm the Air Pollution Control Officer.

24 CHAIRPERSON YOUNG: Okay. Could you
25 speak up into the microphone so everybody in the

1 back of the room could hear you.

2 MR. ALLEN: Yes. Larry Allen with the
3 Air Pollution Control District; I'm the Air
4 Pollution Control Officer for the District.

5 I'm here today to ask your Board to
6 conduct an air quality risk assessment before you
7 move forward with the full order on all residences
8 out in Los Osos that would require pumping of all
9 of the houses out there six times per year.

10 And I gave a phone call to Roger Briggs
11 and talked to Harvey Packard, also, a couple of
12 weeks ago. And I'd like to say that your staff
13 has been very cooperative and responsive to our
14 concerns. They've been very good to work with.

15 If you could put the slide forward. Our
16 recommendations are that you would assess the full
17 air quality impacts from the septic pump-out
18 project to determine potential impacts to the
19 community.

20 That you would also look at what
21 strategies might be needed to reduce any nuisance
22 potential that would result from those actions.

23 And that you would define and also
24 implement any mitigation measures that would be
25 necessary to reduce those emissions and community

1 exposure to diesel particulate to something that's
2 less than significant.

3 And push that forward again. Our
4 assessment we would ask for would be to look at
5 the emissions from the daily pump-outs. Right now
6 the preliminary calculations we have are that
7 there would be about 82 per day.

8 We'd like to see emissions from the
9 truck trips, any other equipment that's associated
10 with that, and that you would compare those to
11 what our significance thresholds are for the
12 different criteria pollutants.

13 But more importantly, we believe that a
14 health risk assessment is needed to look at acute,
15 chronic and potential carcinogenic risk impacts to
16 both the community, to the San Luis Obispo
17 community that is going to be adjacent to the
18 San Luis Sewage Treatment Plant where all the
19 effluent would be dumped on a daily basis.

20 And also to sensitive receptors like
21 daycare, schools and playgrounds.

22 And just as a bit of background on that,
23 next slide. The diesel particulate matter is
24 identified as a toxic air contaminant with no
25 threshold of significance. And that was done by

1 the California Air Resources Board back in 1999.

2 It's the number one source of health
3 risk from air pollution in the State of
4 California, actually in the United States. It's
5 responsible for about 70 percent of all health
6 risks from air pollution in California. And all
7 local air regulatory agencies have put significant
8 efforts into working on diesel risk reduction
9 plans.

10 And some of the statewide toxic control
11 measures that are applicable to this project are
12 that you would need to limit uncontrolled diesel
13 engines that, you know, greater than 50
14 horsepower, to 20 hours per year or less of
15 operation, in that they can't operate within 500
16 feet of a school facility during school hours.

17 In San Luis Obispo County we are
18 nonattainment for the PM10 standard. We have
19 adopted a PM plan in 2005. And so we are
20 concerned about particulate emissions that would
21 affect our ability to attain and maintain those
22 standards.

23 This slide shows you the potential
24 health risk from engines that are similar to the
25 ones that would be used in these trucks. And on

1 the left side you see risk per million; and on the
2 right side you see distance. And those numbers
3 are in meters on the bottom.

4 But our significance threshold statewide
5 are one in a million, which is that second line up
6 from the bottom. And so within about a 500-foot
7 range of those engines, this is for operating at
8 50 hours per year, you're going to exceed that
9 risk.

10 And if you look at the next slide at the
11 proposed rate, just a preliminary impact analysis
12 that we saw, was that there would potentially be
13 two pump-out trucks operating within a two-block
14 period with any given point in time.

15 So this is kind of a random section of
16 Baywood Park right there, with two trucks. And
17 you can see that it's a pretty large radius,
18 that's the 500-foot radius for each one of those.

19 So the potential for risk with this is
20 fairly high. But there are mitigations that can
21 be put in place that I believe that would reduce
22 that risk significantly.

23 The largest one is to install diesel
24 emission control devices on all the diesel
25 equipment. It's going to add to the cost. They

1 can be expensive. But they're very effective.

2 Also, using newer diesel equipment
3 beyond 1996, they also have much lower emissions,
4 maintaining them in proper tune, using low-sulfur
5 diesel, making sure that you limit the activity
6 for pumping when you're near sensitive receptors
7 like schools and daycare centers. Limit
8 unnecessary idling.

9 From the nuisance side, installing
10 carbon filters on the vacuum trucks to reduce the
11 odors would be important. And then to, you know,
12 monitor and have a complaint response plan,
13 because that would likely fall to us. When you
14 start getting complaints on odors, they come our
15 way.

16 So, we would ask that you would conduct
17 a thorough assessment of the potential air quality
18 impacts from the pump-out. And that would include
19 a health risk assessment of the impacted
20 communities and look at what the potential cancer
21 risk would be.

22 And when you determine that, if it is
23 significant, beyond our one-in-a-million
24 threshold, that you would work with us to define
25 mitigation strategies that would reduce that to a

1 level of acceptability, which I believe can be
2 done.

3 CHAIRPERSON YOUNG: Okay. Are these all
4 diesel engines that are going to be used? I mean,
5 do you know that?

6 MR. ALLEN: Yes. Typically those septic
7 trucks are -- they need the power. Diesel is what
8 provides the power, so our understanding is that
9 all of the equipment out there would be diesel
10 trucks.

11 CHAIRPERSON YOUNG: Okay. Dr. Press.

12 BOARD MEMBER PRESS: I assume that when
13 you say San Luis Obispo County is nonattainment
14 for PM10, you include probably have a breakdown of
15 different parts of the County? Or is that
16 considered your planning unit, and so you just --

17 MR. ALLEN: It's a regional designation.

18 BOARD MEMBER PRESS: Right, so you don't
19 break it down by MAS, or smaller MSAs or anything
20 like that?

21 MR. ALLEN: No.

22 BOARD MEMBER PRESS: Okay. I assume
23 that a lot of this mitigation measures you're
24 already trying to implement, right?

25 MR. ALLEN: We are, and in fact there

1 will be -- there are air toxic control measures by
2 the state that, for instance there's private fleet
3 measure coming out. But that's going to take
4 awhile to be implemented. That starts out with
5 the newer vehicles, so it's not going to be
6 effective on any existing equipment that's out
7 there.

8 BOARD MEMBER PRESS: Yeah, I guess my
9 question is, but you're already trying to get to
10 attainment, so --

11 MR. ALLEN: Correct.

12 BOARD MEMBER PRESS: -- the Air District
13 is already out of attainment, and you're worried
14 about going further out of attainment?

15 MR. ALLEN: That's correct.

16 BOARD MEMBER PRESS: So, I guess what
17 I'm trying to get at is you have a nonattainment
18 status; you're trying to get into attainment. But
19 you also have the potential for economic growth
20 that is going to, whether it's construction or
21 some other -- hauling, for example, any time
22 there's a bump in the economy, you're going to get
23 more diesel traffic.

24 And so, essentially this, some kind of
25 frequent pumping would, in essence, be similar to

1 what would happen with a lot of economic activity,
2 because you get more diesel activity, right?

3 So how do you -- how are you planning on
4 different scenarios of diesel truck activity.
5 This is just one among what might be several.

6 MR. ALLEN: Right. We don't -- well,
7 first of all, let me state that it's actually the
8 health risk from the toxic component of the diesel
9 that we are most concerned with. Even though
10 particulate matter we are nonattainment throughout
11 the state, -- well, nonattainment here in this
12 County.

13 And we have a plan that was adopted by
14 our Board in July that has a series of control
15 measures in it that will help move us towards
16 attainment.

17 However, we do not have authority over
18 mobile sources. And so we don't have direct
19 authority to require control equipment on these
20 vehicles right now. And it's not in our plan.
21 That's a statewide authority that is not delegated
22 to us. We have only authority over stationary
23 sources.

24 Through CEQA we can require or recommend
25 that controls be put on for any project. And then

1 that can be added as a mitigation for the project.
2 But we don't have direct authority to require it.

3 BOARD MEMBER PRESS: But does that, by
4 the same token, mean that the regional boards
5 don't have the authority to require mitigation
6 measures for diesel, either?

7 MR. ALLEN: Well, actually I believe
8 that you do have the authority, because you're
9 requiring the project to move forward. And if
10 you're requiring that, you can condition the
11 project however you see fit. It happens all the
12 time, you know, when we're dealing with urban
13 development.

14 So, I believe that that could be a
15 condition in your contract with whoever's doing
16 the pumping, that they would have to have control
17 devices.

18 CHAIRPERSON YOUNG: Well, we're not
19 entering any contracts --

20 (Laughter.)

21 CHAIRPERSON YOUNG: -- with anybody. The
22 staff has made a recommendation of a possible
23 alternative, which they have withdrawn now because
24 of your agency's concern. But the Board doesn't
25 enter into contracts with contractors to do work

1 like this.

2 MR. ALLEN: Well, it seems like some
3 analysis is going to be necessary to figure out
4 how to apply those mitigations if there is deemed
5 to be a significant health risk. And I'm not sure
6 what your mechanism would be then, if you're not -
7 - if that's the way that it's working.

8 But, --

9 BOARD MEMBER PRESS: I was not aware
10 that we had a cross-medium kind of authority. Mr.
11 Richards? Do we have any cross-medium -- do we
12 have that kind of authority? I wouldn't think so.

13 MR. RICHARDS: Not exactly, but this
14 gets a little -- this is a complicated area of
15 CEQA because what an agency is required to do,
16 especially a responsible agency that does not have
17 complete authority over all aspects of a project,
18 is to identify mitigation measures and identify
19 the agencies or authorities that do have the power
20 to impose those mitigation measures.

21 The Regional Board can only impose those
22 mitigation measures which are within its
23 authority. But would have to identify other
24 measures and the entities that would have the
25 power to impose those measures.

1 MR. ALLEN: Sounds like a complicated
2 situation.

3 CHAIRPERSON YOUNG: Okay, any other --
4 Mr. Jeffries.

5 BOARD MEMBER JEFFRIES: Yeah, thank you,
6 Mr. Chair. I just have one question. Do you have
7 an air quality monitoring station in the Los Osos
8 area?

9 MR. ALLEN: We have one in Morro Bay
10 right across the Bay.

11 BOARD MEMBER JEFFRIES: Right across the
12 Bay. So the graph that you showed us is
13 collectively from the whole County? Or you whole
14 air quality District?

15 MR. ALLEN: That was a graph developed
16 by the Air Resources Board. It's independent of
17 location. It's just showing for a given level of
18 emissions at a specific meteorological regime what
19 the potential concentration and impact of those
20 emissions would be. So that chart is applicable
21 to anywhere.

22 BOARD MEMBER JEFFRIES: But you did not
23 bring a graph of any station that's near the
24 vicinity of Los Osos?

25 MR. ALLEN: No, I did not, because this

1 is -- I'm trying to distinguish between health
2 risk assessment and just merely looking at a
3 concentration of a particulate matter on a filter,
4 which is how we measure it.

5 And so when you do that you get one
6 value, say 45 mcg/cubic meter. That does not tell
7 you what the health risk is. You then take that
8 concentration, put it into a computer model, and
9 model the concentration versus the population and
10 look at what the potential and what the risk
11 factors are for that specific pollutant. And it
12 pops out a number that says here's what the health
13 risk is for any given part of the population.

14 BOARD MEMBER JEFFRIES: Thank you.

15 BOARD MEMBER PRESS: Can you think of
16 any other project in the County that would have an
17 equivalent level of, whether it's benzene -- I
18 don't know what the toxic constituent is that
19 you're concerned --

20 MR. ALLEN: Diesel particulate matter.

21 BOARD MEMBER PRESS: That's the toxic
22 that's, as opposed to PM10?

23 MR. ALLEN: Yes.

24 BOARD MEMBER PRESS: All right, so is
25 there any other project you can think of in the

1 whole APCD, San Luis Obispo APCD, jurisdiction
2 that would have an equivalent to this? Or is this
3 the largest you've seen?

4 MR. ALLEN: No, I wouldn't say it's the
5 largest we've seen. I would say the largest we've
6 seen was the Avila Beach remediation, which was
7 huge. And we had -- we required diesel
8 particulate filters on most of the equipment that
9 was operating out there to try and reduce the risk
10 to the local population.

11 And we see construction projects a lot;
12 you see a large construction project like, for
13 instance, the proposed Delidio (phonetic) project.
14 They're going to have, if that goes through, a lot
15 of diesel equipment out there operating
16 simultaneously at the same time. And there's a
17 potential risk from that.

18 BOARD MEMBER PRESS: And you will order
19 filters on those?

20 MR. ALLEN: Yes. And we do that through
21 CEQA all the time on all kinds of projects.

22 BOARD MEMBER PRESS: Okay, thank you.

23 CHAIRPERSON YOUNG: Okay, any other
24 Board questions? No. Okay, thank you.

25 MR. ALLEN: I appreciate the opportunity

1 to speak, --

2 CHAIRPERSON YOUNG: Sure.

3 MR. ALLEN: -- and look forward to
4 working with your staff.

5 CHAIRPERSON YOUNG: Okay, thank you very
6 much for your time.

7 MR. PAYNE: I have a question for him.

8 CHAIRPERSON YOUNG: Mr. Payne, have you
9 called him as a witness for your case?

10 MR. PAYNE: He's a witness for the air
11 quality and this is very important air quality. I
12 hear all of you being concerned about diesel
13 particulates. Nobody said a thing about the
14 exhaust from the compressors that are vacuuming
15 the tanks out and blowing air out into the
16 atmosphere with pathogens and E.coli and -- for
17 one thing, there's --

18 CHAIRPERSON YOUNG: Mr. Payne, excuse
19 me.

20 MR. PAYNE: Yes.

21 CHAIRPERSON YOUNG: Excuse me, sir.
22 You'll have your opportunity later with your own
23 case. But, --

24 MR. PAYNE: This is not my case, this is
25 air quality that nobody is answering --

1 CHAIRPERSON YOUNG: Okay, Mr. Payne, Mr.
2 Payne, Mr. Payne. If you want this gentleman to
3 testify, ask him to stay and he can speak during
4 your time allotment.

5 MR. PAYNE: Please stay. And if you
6 have time, look up the Lane County Fair and the
7 E.coli sickness that caused the people --

8 CHAIRPERSON YOUNG: Don't look at me.

9 MR. PAYNE: Okay?

10 CHAIRPERSON YOUNG: Okay.

11 MR. PAYNE: There's documentation on
12 that.

13 CHAIRPERSON YOUNG: All right.

14 MR. ALLEN: That's an Environmental
15 Health --

16 MR. PAYNE: E.coli is health; that's
17 what makes people sick.

18 CHAIRPERSON YOUNG: All right.

19 MR. PAYNE: Kids died from E.coli in
20 hamburgers not that long ago.

21 CHAIRPERSON YOUNG: Okay, Mr. Allen,
22 thank you for your testimony, your comments.

23 We're now going to continue with our
24 interested persons' presentations. We have
25 Michael Jones --

1 AUDIENCE SPEAKER: Excuse me, Mr. Young.

2 Does not Mr. Allen have to leave shortly?

3 CHAIRPERSON YOUNG: Yes.

4 AUDIENCE SPEAKER: Will there be a way
5 to have him called as a witness for Mr. Payne in
6 some other fashion?

7 CHAIRPERSON YOUNG: Only if -- with
8 anybody who has their own presentation they're
9 going to give, they have to make arrangements with
10 witnesses in advance, or ask this gentleman if he
11 wants to come back at some point in time to be
12 used as a witness. That's how this is done.

13 MR. ALLEN: If I could, just briefly?

14 CHAIRPERSON YOUNG: Yes.

15 AUDIENCE SPEAKER: Thank you.

16 MR. ALLEN: E.coli is an issue for the
17 Environmental Health Department. It is not
18 something that we deal with. We deal strictly
19 with air pollution that doesn't contain live
20 matter in it. So I would to be able to answer any
21 questions or deal with that. I'm sorry.

22 AUDIENCE SPEAKER: Thank you.

23 CHAIRPERSON YOUNG: Okay.

24 AUDIENCE SPEAKER: Thank you. Suggest
25 we talk later.

1 CHAIRPERSON YOUNG: All right. Michael
2 Jones, Alon Perlman, Pat Renshaw and then Lawson
3 Schaller. That's the order. Please come up. You
4 have two minutes.

5 Okay, Michael Jones --

6 MR. PERLMAN: Before you start the
7 clock, I'm Alon Perlman; I understood that Michael
8 Jones has gone to work. And he was under the
9 impression that his testimony or comments could
10 happen closer to 4:00, which is --

11 CHAIRPERSON YOUNG: Okay, what I will
12 do, I'll --

13 MR. PERLMAN; So, if you could --

14 CHAIRPERSON YOUNG: -- put his name at
15 the bottom of the list.

16 MR. PERLMAN: I do appreciate it.

17 CHAIRPERSON YOUNG: Okay. Mr. Perlman.

18 MR. PERLMAN: Yes. My name is Alon
19 Perlman. I live in the prohibition zone. I'm
20 currently running for LOCAC, and I believe we've
21 met before.

22 What I would -- in a sense, I had some
23 prepared statements but because of the EPA issues,
24 I'm going to read a fortune cookie first. It
25 says: Help people reach their full potential;

1 catch them doing something right."

2 Well, unfortunately there was a public
3 hearing in regards to the pumping orders, and the
4 people of Los Osos, who continue to amaze me in
5 how aware they are of all issues, were very
6 specific in identifying a large number of
7 environmental concerns that came out from their
8 concern about this ridiculous pumping order.

9 The most ridiculous item within the
10 pumping order, itself, is that the Water Board
11 Staff could not identify a valid scientific
12 engineering or reason for doing this pumping.
13 Neither from the literature, in fact, it was
14 identified as being unprecedented.

15 As far as the diesel fumes, however, I
16 would like to remind you that the Morro Bay is a
17 bird sanctuary, so odds are that the birds' wings
18 will carry away some of the diesel fumes. But,
19 we've --

20 (Laughter.)

21 MR. PERLMAN: -- really not even touched
22 the tip of the iceberg as far as what a bad idea
23 bimonthly pumping is. It is entirely inconsistent
24 with any septic management of any kind. It would
25 not be an action that would be allowed within the

1 confines of an actual sewer.

2 I'd like to remind you that here present
3 in this room are the duly elected CSD of Los Osos.
4 The people of Los Osos, --

5 CHAIRPERSON YOUNG: Please wrap up your
6 comments.

7 MR. PERLMAN: -- have elected them in
8 order to solve this problem. And this Board, this
9 Water Board currently is the biggest barrier for
10 people receiving CDOs to be able to achieve
11 compliance.

12 CHAIRPERSON YOUNG: Okay, thank you --

13 MR. PERLMAN: By bringing them into
14 court --

15 CHAIRPERSON YOUNG: -- for your
16 comments, Mr. Perlman.

17 MR. PERLMAN: -- and by fining them.

18 CHAIRPERSON YOUNG: I'd like to give
19 everyone their two minutes. Please don't take
20 from their time.

21 MR. PERLMAN: Thank you for your time.

22 CHAIRPERSON YOUNG: Matt, are the lights
23 working on that? Up on the podium? Because I
24 didn't see that timer go off.

25 UNIDENTIFIED SPEAKER: It hasn't been

1 working all day.

2 CHAIRPERSON YOUNG: But it's working
3 here.

4 UNIDENTIFIED SPEAKER: Yeah, but not up
5 there.

6 CHAIRPERSON YOUNG: The lights? Can
7 you --

8 (Technical adjustments.)

9 CHAIRPERSON YOUNG: Okay, is this Pat
10 Renshaw? Okay. Lawson Schaller and Julie Tacker.
11 Okay.

12 MS. RENSHAW: Did you push the button
13 yet?

14 CHAIRPERSON YOUNG: I just did, go
15 ahead.

16 MS. RENSHAW: Okay. Pat Renshaw, Los
17 Osos. Previously not in the prohibition zone, but
18 because they found there wasn't enough people,
19 they arbitrarily added me in.

20 (Laughter.)

21 MS. RENSHAW: I just want to -- well, I
22 just don't know if you guys are really listening
23 to the community. And I realize Roger Briggs is
24 not here. I realize there's a lot of --

25 CHAIRPERSON YOUNG: He's sitting right

1 there.

2 MS. RENSHAW: Oh, nice to meet you; nice
3 to put a face. I appreciate you being here
4 because I don't think we're being heard. And so
5 my part is to say thank you. I want to say thank
6 you to our CSD Board who took on this monster that
7 was left to us by the County, by the Water Board,
8 by the previous Board, and is trying to make this
9 thing work.

10 Now, there's not a lot of people who
11 will do this. They work hours and hours and
12 community volunteers come in on their own time.
13 We've put together press releases, newsletters.
14 There's minds from CalPoly, from biologists,
15 people that are just stepping forward and giving
16 their input to help make this thing go.

17 I mean we didn't move to Los Osos
18 because it's just another town. We didn't want to
19 live in San Luis; it's too busy. We didn't want
20 to live in Morro Bay. We don't want to pay for
21 state water. We don't want to live in Oceana. We
22 want to live in Los Osos. It's a wonderful town.
23 We love it. We want it to be green. We want it
24 to be healthy.

25 We don't want to drink dirty water. We

1 want to keep our water, and we want to keep it
2 clean. We have a 10,000 year old aquifer that we
3 didn't even know existed until we had a study.
4 Now, why would we want to dirty something that's
5 10,000 years old? There's not much on this planet
6 that's that old that we can actually identify.

7 So I urge you to use your heads and
8 think logically about this. Thank you. Thank
9 you, Roger Briggs.

10 CHAIRPERSON YOUNG: Thank you for your
11 comments. Lawson Schaller. Then Julie Tacker.

12 MR. SCHALLER: Hello, I'm Lawson
13 Schaller. I'm a property owner in Los Osos.
14 First, I'm opposed to the CDOs and this hearing
15 process. There appears to be a great deal of
16 confusion and/or misinformation on the hearings
17 and proceedings by a previous or earlier show of
18 hands.

19 There also seems to be a lot of
20 questions on whether or not it's a due process,
21 and whether or not it is legally sound. I think a
22 lot of questions still remain is it fair and
23 sound. It doesn't appear so from just being an
24 observer.

25 Opposed to the CDO pumping for a lot of

1 reasons. Briefly, a couple. Millions of dollars
2 will be spent by the community on the pumping, if
3 it goes through. And I think it would be much
4 better to apply these millions of dollars towards
5 a sewer. I think the community would really like
6 to do that. It's an awful lot of money.

7 There will also be millions of gallons
8 pumped out of the area and I think that water
9 should stay in the community to help recharge. I
10 think that's very very important.

11 The air and noise pollution and its
12 associated health risks were mentioned earlier.
13 There's going to be potentially a great deal of
14 traffic congestion and also increased costs on
15 road maintenance. Clearly, quality of life will
16 be impacted, which the previous woman addressed.

17 All of this money and all of the energy
18 I highly recommend it be applied towards a
19 solution instead of penalties and fines.

20 In echoing the words of Mr. Blakeslee
21 earlier, I think we all need to work together on
22 this instead of against each other. And I really
23 think that leadership must take a role in this.
24 The government boards, you people, the CSD. There
25 are people within the community that are

1 economically very powerful. I think they need to
2 reach out and come together. People with a great
3 deal of political connections and power, that I
4 think need to come together.

5 And I really think that needs to happen,
6 that initiative needs to come forward on your part
7 before it spirals out of control. Thank you.

8 CHAIRPERSON YOUNG: Thank you for your
9 comments. Ms. Tacker. Followed by John O'Connor,
10 I believe, and then Judy Vick and then Anton
11 Vesely.

12 MS. TACKER: Good afternoon, Board. I'm
13 Julie Tacker; I am the Director of the Los Osos
14 Community Services District. I put a slide on the
15 overhead, and then I've provided hard copies for
16 you, because if your eyes are like mine, they're
17 over 40 and maybe you can't see that very well.

18 This is our community of Los Osos broken
19 up into its economic makeup by census tract in
20 2000. And then overlaid is the prohibition zone.

21 CHAIRPERSON YOUNG: Ms. Tacker, I'll
22 stop the clock. I just want to ask you a
23 question. Is this part of the CSD's presentation?

24 MS. TACKER: No. This is Julie
25 Tacker's.

1 CHAIRPERSON YOUNG: Is this the CSD's
2 information or data?

3 MS. TACKER: No, actually I had this
4 commissioned, myself. The census data is readily
5 available on the --

6 CHAIRPERSON YOUNG: Go ahead.

7 MS. TACKER: -- web.

8 CHAIRPERSON YOUNG: Go ahead.

9 MS. TACKER: Okay. I am a Director with
10 the Los Osos Community Services District. I'm
11 also the Chair of the Los Osos Middle School
12 School Site Council. I'm the Vice Chair of the
13 Baywood Elementary School School Site Council.
14 There I serve as the Title I liaison to the San
15 Luis Coastal Unified School District.

16 And Title I, if you don't know, is
17 government funding, federal funding, for students
18 that are at risk due to their low income status
19 and their ability to buy or pay to have a free
20 lunch. These children that are represented
21 through Title I receive free and reduced lunches.

22 So my interest in Los Osos is and has
23 always been its people, its families. And I have
24 been involved with the children. I am a mom, and
25 I've been involved with the children in the

1 multiple boards and councils that I've been on
2 through the schools.

3 My concern for the people is and has
4 always been the economic impacts of the sewer,
5 estimated at \$200 per month per household. Now
6 the economic impacts of CDOs on those very same
7 families. It sounds like, from Mr. Allen's
8 testimony, that even \$2400 a year, it could be in
9 excess if you went to the pumping scheme.

10 My concern has always been on the home
11 values and equity in their property. And I would
12 like to focus my comments on the children. And,
13 again, you have the economic makeup of our
14 community there. And I think you can see that our
15 community is not wealthy, and especially the
16 prohibition zone. And that's something our Board,
17 speaking as a Director, is going to analyze
18 through an affordability study, is the ability of
19 these people to pay for their sewer.

20 And what I think your enforcement
21 actions today, they are compromised and unable to
22 pay even for representation today. The 45
23 citizens do not have a lawyer representing them
24 today.

25 CHAIRPERSON YOUNG: Thank you for your

1 comments. John O'Connor. Is Mr. O'Connor here?
2 I'll put his name at the bottom of the stack,
3 maybe he will appear.

4 Judy Vick. Miss Vick or Mrs. Vick.
5 Don't see her. Anton Vesely. Okay. And then Joe
6 Sparks is going to follow you; and then Steve
7 Senet and James Tkach or Tkach.

8 MR. VESELY: Thank you, Board, for
9 allowing me to speak. And thank everybody else
10 for being here.

11 My main concern is the efficiency or
12 effectiveness of the proposed pumping plans. And
13 I go back -- my main concern has been an
14 expenditure of several -- well, many millions of
15 dollars for this it if were imposed continued
16 pumping until the sewer is built.

17 An expenditure of that size, if it were
18 coming out of the Board's budget, or any
19 commercial enterprise, would have a scientific
20 foundation. You're not going to spend that kind
21 of money if you don't have a basis in fact.

22 So, my questions that I presented in a
23 letter for this hearing were -- well, basically
24 they came down to how are you going to measure the
25 effectiveness of how this money is spent. And can

1 you measure it, since you don't have a baseline.
2 You don't even know where the, you know, where the
3 pollution level is at. You can't prove it came
4 from the septic tanks. How are you going to
5 measure how effective that pumping is?

6 So, it's -- nobody would spend that kind
7 of money. When it's our money, yeah, I get
8 excited and upset about it.

9 And let me say I'd rather put my time
10 and money into a solution. And I see the proposed
11 CDOs as not solutions, unprovable experiments that
12 many of us, myself included, perceive as
13 punishment.

14 Good place to stop, I guess.

15 CHAIRPERSON YOUNG: Thank you for your
16 comments. I just wanted to mention, you know, I
17 found your letter, which I read and I highlighted
18 your points in here.

19 You know, we're not focusing on the
20 levels of nitrates in the Bay.

21 MR. VESELY: Yeah.

22 CHAIRPERSON YOUNG: Okay, you understand
23 that? It's groundwater?

24 MR. VESELY: Yeah.

25 CHAIRPERSON YOUNG: And did you know

1 that when you wrote this out?

2 MR. VESELY: Yeah, that's the -- I mean
3 my statements, doesn't matter where you're
4 measuring.

5 CHAIRPERSON YOUNG: Okay.

6 MR. VESELY: You got to measure.

7 CHAIRPERSON YOUNG: You're concerned
8 about the effectiveness of whatever's proposed?

9 MR. VESELY: Right.

10 CHAIRPERSON YOUNG: Okay. Thank you
11 very much.

12 Okay, Joe Sparks.

13 MR. SPARKS: Mr. Young and the Board,
14 thank you. This Board made a distinction at the
15 District ACL hearing on the actions that got us
16 here. And this Board should be consistent with
17 that distinction, I believe.

18 The Board should not consider individual
19 CDOs, I believe, until at least early next year
20 where it's probable that by then the homeowners
21 will have the opportunity to reaffirm a commitment
22 to a project and mitigation without this
23 enforcement.

24 The issuance of an ACL complaint and
25 fines against the District already constitutes a

1 form of enforcement against the homeowners and
2 property owners within the prohibition zone since
3 the services are funded by their property taxes.

4 These CDOs basically are no more than
5 throwing salt in that wound.

6 Compounding the problem, the District
7 ACL complaint there was only fines, which was due
8 to the actions that this Board determined, by the
9 District, and not by the individual homeowners and
10 property owners.

11 The homeowners and property owners, as a
12 matter of record, took preemptive action by
13 approving an assessment in 2001 for a wastewater
14 treatment system. There was no reason for CDOs to
15 get the homeowners to commit then. Certainly
16 there's no reason now. That was the one and only
17 time the homeowners were legally asked to obligate
18 themselves to a treatment system, and they
19 responded overwhelmingly.

20 Present payments from that, on the order
21 of \$20 a month for 30 years, your Board should
22 give that consideration when you evaluate the
23 potential of economic harm to individual
24 homeowners.

25 Combining these CDOs against individual

1 homeowners and property owners with the ACL
2 enforcement is financial double jeopardy against
3 these homeowners. Especially when many of them
4 cannot even vote for matters of the CSD.

5 As regard to pumping, please consider
6 less frequent pumping, potentially bi- or tri-
7 annual initially so that the effects, that is if
8 you do consider pumping, so that the effects can
9 be monitored gradually with empirical data to
10 determine its effectiveness. The nitrate
11 accumulation in the prohibition zone are an
12 empirical system. So, there is a rationale for
13 implementing it more gradually than what was
14 recommended to determine the effectiveness and
15 minimize the cost.

16 Please consider that data being assessed
17 to improve the treatment system and expected at
18 that time payments were about 100 to 120 a month,
19 based on that engineering assessment report. The
20 prosecution's contention that the individual is
21 realizing a benefit based on the \$205 a month
22 neglects the influence of both the District
23 actions, the litigants, possibly other agencies.

24 CHAIRPERSON YOUNG: Mr. Sparks, could
25 you please wrap it up.

1 MR. SPARKS: So, in closing, please, if
2 you issue these, make sure that they are
3 constructed to achieve the ultimate environmental
4 and socioeconomic goals. And consider the
5 commitment of the property owner legally
6 encumbered by that assessment. Thank you.

7 CHAIRPERSON YOUNG: Thank you, Mr.
8 Sparks. Steve Senet, James Tkach and then Chuck
9 Cesena.

10 AUDIENCE SPEAKER: Mr. Cesena had to be
11 (inaudible).

12 CHAIRPERSON YOUNG: Okay. James Tkach
13 and then Richard Margetson, Marla Jo Bruton, Tom
14 Hallis or Hellis.

15 AUDIENCE SPEAKER: Hollis.

16 MR. TKACH: James Tkach, Los Osos.
17 These are just some random thoughts, so it may
18 sound a little disjointed.

19 Holding individuals responsible for not
20 having the sewer is like saying the victims of the
21 flooding and hurricane Katrina are responsible for
22 the failure of the levees.

23 The issue in this matter is not whether
24 or not we want a sewer, but what type and the
25 cost. The Clean Water Act, your own guidelines

1 call for sustainability and affordability. That's
2 all the CSD has been trying to achieve, and why
3 they opposed the previous project.

4 And I believe that pumping every other
5 month is actually going to hurt water quality by
6 destroying the biological system that forms in the
7 tank. As the previous speaker said, I think the
8 frequency of the pumping will actually hurt water
9 quality.

10 As far as the citizens of Los Osos,
11 probably the most informed about septage and
12 sewers and are actively working to build a new
13 project. The new CSD Board has already started a
14 new project. The Board soon will be starting on a
15 revised environmental document. So they are
16 moving ahead.

17 We were this close to having a project
18 through the Blakeslee agreement. I was in the
19 room that night. Mr. Shallcross wanted us all to
20 sing kumbaya. We were close that night. We
21 really were. There were people on both sides of
22 the aisle, they were holding their nose a little
23 bit to accept the agreement, but they were willing
24 to go with it. And unfortunately that was
25 torpedoed by the actions of others.

1 And I think if this Board and the
2 Executive Officer would have supported that
3 agreement we'd be building two-thirds of the
4 project today. And this action wouldn't be
5 necessary.

6 So I think we can come to some, as Mr.
7 Blakeslee said again today, that I think there is
8 a solution on the horizon that we can get done
9 soon without having to go through this action.

10 I object to the perception that if I'm
11 discharging I'm violating the basin plan. You
12 know, I'm 40 feet to groundwater where I am. And
13 the technical advisory (inaudible) technical
14 report back in the '80s showed the complete
15 denitrification was occurring within 15 feet below
16 the leachfields. I realize that doesn't help all
17 areas in Los Osos.

18 CHAIRPERSON YOUNG: Can you wrap up your
19 comments.

20 MR. TKACH: But it certainly would show
21 that some of us are not violating the basin plan
22 by our discharge. I urge you not to adopt this
23 measure. Thank you.

24 CHAIRPERSON YOUNG: Thank you for your
25 comments. Is this Mr. Senet or Mr. Cesena back

1 that? Mr. Senet. Okay, you're next. And then
2 Richard Margetson. This is who?

3 MR. CESENA: Mr. Cesena. Chuck Cesena.

4 CHAIRPERSON YOUNG: Okay, all right. So
5 the other Director is not here? Steve Senet?

6 MR. CESENA: He had to leave.

7 CHAIRPERSON YOUNG: Okay.

8 MR. CESENA: He had another appointment
9 to get to.

10 CHAIRPERSON YOUNG: Well, your card is
11 here.

12 MR. CESENA: It's there. Is that a "get
13 out of jail free" card?

14 CHAIRPERSON YOUNG: Go ahead.

15 (Laughter.)

16 MR. CESENA: Good afternoon, Board. Mr.
17 Tkach and Mr. Sparks seemed to steal a lot of what
18 I wanted to say. But I do want to leave you with
19 one thought. Perception is everything.

20 I heard that from a political science
21 professor the other day, speaking before our local
22 board of supervisors. And whether it's the
23 perception that you're biased because you started
24 discussing ACLs and CDOs the week after the recall
25 election. Or whether it's a perception that you

1 are anti-sewer because you want to move the sewer
2 outside of town and build a more sustainable and
3 affordable project, perceptions are very
4 important. And they're difficult to overcome.

5 But there is one undeniable fact that
6 should overcome the perception that we don't want
7 a sewer out in Los Osos. And Mr. Tkach touched on
8 it. The strains of kumbaya that were coming out
9 of our community center in late October.

10 We had what we thought was a resolution
11 to address what we thought were negotiations.
12 Now, you can call those negotiations bureaucratic
13 convention if you wish, which is what the State
14 Water Resources Control Board spokesperson called
15 them after sending us a letter that talked about
16 the framework for negotiations.

17 We thought we were negotiating. We
18 thought we have a solution. We would be under
19 construction now. But there was some sabotage
20 that occurred. And some of that sabotage would
21 have been brought to light with a subpoena that
22 was issued earlier today that you squashed.

23 And I really think that we should have
24 heard from Ms. Bianchi. I really think that she
25 had a role in stopping the construction that would

1 have been going on right now and would have
2 precluded the need for the CDOs.

3 There's no need for this. We do want to
4 build a project. Thank you.

5 CHAIRPERSON YOUNG: Thank you for your
6 comments. Mr. Margetson, followed by Marla Jo
7 Bruton, and then Tom Hollis.

8 MR. MARGETSON: Richard Margetson. The
9 first thing I want to talk about is the subpoenas.
10 I found it very interesting that Jerry Gregory and
11 Pandora Nash-Karner were issued subpoenas, but
12 were not in the building this morning. Did they
13 already know that you were going to quash them, --

14 CHAIRPERSON YOUNG: No.

15 MR. MARGETSON: -- or were they given
16 advance warning? Okay.

17 CHAIRPERSON YOUNG: The answer is no.
18 So don't speculate, don't make assumptions.

19 MR. MARGETSON: Well, it's very
20 interesting that Shirley Bianchi showed up and the
21 representative from the County showed up about
22 theirs, but the other two didn't show up, and then
23 weren't able to be called by --

24 CHAIRPERSON YOUNG: You know, Mr.
25 Margetson, you can spend a lot of time spinning

1 whatever you want to spin --

2 MR. MARGETSON: I'm not spinning. I'm
3 just saying it's very --

4 CHAIRPERSON YOUNG: -- and I've stopped
5 your time --

6 MR. MARGETSON: -- interesting that
7 they're not here.

8 CHAIRPERSON YOUNG: Okay. All right. I
9 have no idea why they did or didn't come.

10 MR. MARGETSON: Okay. I also continue
11 to have a problem with Lori Okun's presence at
12 these hearings. You have four agenda items on
13 closed session today where she's not going to be
14 in that discussion. But she assisted the Taxpayer
15 Watch Group previous to being a party to the
16 second action. And talk about tainted process, I
17 think her sitting on the prosecution side totally
18 taints this process.

19 Shirley Bianchi and Sam Blakeslee, what
20 an opposite. Sam Blakeslee came here and talked
21 on behalf of the community of Los Osos. And if
22 you wonder why Shirley Bianchi needed to be
23 subpoenaed, I think it was proven by her comments,
24 or lack of comments up here at this podium. She
25 said nothing, representing the biggest community

1 in her district.

2 And we're here talking about solutions.
3 You want solutions. Here's an alternative.
4 Instead of the pumping order, include everybody in
5 the prohibition zone in Los Osos; and instead of
6 \$200, what it would average a month for these
7 people to pump, why don't we put \$50 a month from
8 everybody into a trust fund that both the CSD and
9 the Regional Board have a say on.

10 Figure what that would amount to in a
11 year. And the restrictions on that trust fund
12 would go completely to the needed studies and the
13 requirements to build the new project.

14 And start with --

15 CHAIRPERSON YOUNG: Can you wrap up your
16 comments, please.

17 MR. MARTYN: Yeah. And included in
18 that, a serious water conservation program. Los
19 Osos continues to use twice as much water, the
20 average household, than our two neighboring towns,
21 Cambria and Morro Bay.

22 Thank you.

23 CHAIRPERSON YOUNG: Thank you for your
24 comments. Marla Jo Bruton, Tom Hollis, then Gail
25 McPherson.

1 MS. BRUTON: Good afternoon; I'm Marla
2 Bruton from North Morro Bay. I would like to
3 quote Benjamin Franklin in a warning that he gave
4 a long time ago. And that warning was that a
5 person who relinquishes their most basic civil
6 rights in exchange for temporary security deserves
7 neither security nor freedom.

8 I want to applaud the people in Los
9 Osos. I've seen this revolutionary process taking
10 place. The CSD Board that they have is one of the
11 most impressive boards for a community that I have
12 ever seen.

13 They have been working their hearts and
14 their minds out searching. They deserve respect.
15 The woman that was in here, Mrs. Moylan, every
16 time I come here you guys really flabbergast me,
17 really. Telling a woman that only her husband can
18 speak when they have a CDO order. As far as I
19 checked, the last time I checked women have
20 property rights. We had to fight for that. We
21 had to fight.

22 And your coming here and dismissing this
23 woman because she's the wife. She has a property
24 interest and she has a right to speak. And I
25 really -- you would do well to go back to school,

1 especially if you're going to be on a board like
2 this.

3 And you can start with the Brown Act.
4 And the Brown Act, the beginning of the -- Brown
5 Act is that we do not relinquish our sovereignty.

6 CHAIRPERSON YOUNG: Thank you for your
7 comments, Ms. Bruton. And my comments before to
8 the Moylans was that they jointly had that time.
9 I did not intend any inference that either one of
10 them had to use the time. It's joint.

11 Mr. Hallis, Gail McPherson. Boy, Ms.
12 McPherson, you're getting your time in today. Do
13 you live in Los Osos?

14 MR. HOLLIS: Yes, I do.

15 CHAIRPERSON YOUNG: No, Gail McPherson.
16 (Audience speaking simultaneously.)

17 CHAIRPERSON YOUNG: Do you live in Los
18 Osos?

19 AUDIENCE SPEAKER: Duh?

20 AUDIENCE SPEAKER: It's none of your
21 business.

22 CHAIRPERSON YOUNG: And then Elaine
23 Watson. Mr. Hallis.

24 MR. HOLLIS: Okay, yeah, Tom Hollis.
25 I'm an 18-year resident of Los Osos.

1 AUDIENCE SPEAKER: Can't hear you, sir.

2 MR. HOLLIS: Oh, sorry. Eighteen-year
3 resident of Los Osos. For the last ten years I've
4 been a science teacher at Atascadero High School,
5 geology teacher at Questa. And ten years before
6 that I was a environmental consultant, and did
7 groundwater studies, groundwater mitigation was
8 part of what I did.

9 I want to address the CDOs --

10 AUDIENCE SPEAKER: Louder, please.

11 MR. HOLLIS: I'll try. I want to
12 address the CDOs. I had to ask myself why were
13 these issued in terms of how is this going to help
14 groundwater. How was this going to help clean the
15 groundwater basin.

16 And, you know, it's -- to clean the
17 nitrates, what you really need to do is you need
18 to flush it out with clean water. And that's
19 going to take decades. Groundwater does not move
20 very quick, and it's going to take decades to do
21 that.

22 And a sewer treatment plant would help
23 that because we would put that clean groundwater
24 that's been treated back in and be able to flush
25 that. So that is the ultimate goal, to put this

1 in.

2 But, to take and pump septic tanks and
3 replace dirty water with less dirty water, for
4 one, is probably not going to have a significant
5 effect. And for two, it's really not going to
6 address the problem very quickly. Again, it's
7 going to take decades on this.

8 So, I look at this and I know that you
9 guys have the same level of education that I have
10 in groundwater if not a little bit more. And so I
11 would think that you would know this.

12 So I look at the next thing, I say,
13 well, maybe this is punitive; maybe this is to get
14 our attention. Well, now I'm going to draw on my
15 next ten years of experience. And as a teacher in
16 high school, when I have a class that I'm having
17 problems with, I don't randomly pick students to
18 punish, nor do I pick the entire community to
19 punish.

20 What I do is I go to the counselor, I go
21 to other teachers, I go to the parents and I try
22 and understand the students I'm having problems
23 with.

24 And what happens then is that I don't
25 even want to punish at that point. I want to help

1 them --

2 CHAIRPERSON YOUNG: Mr. Hollis, could
3 you wrap --

4 MR. HOLLIS: -- in some other way.

5 CHAIRPERSON YOUNG: -- could you wrap
6 your comments up, please.

7 MR. HOLLIS: My point being on the
8 second thing is that I think you really need to
9 work with us and not be punitive. Thank you.

10 CHAIRPERSON YOUNG: Thank you.

11 (Pause.)

12 CHAIRPERSON YOUNG: Okay, Ms. McPherson,
13 go ahead.

14 MS. MCPHERSON: Well, good afternoon. I
15 think some of the comments we've heard already
16 that there's some ideas out there that make this
17 issuance of individual CDOs wholly unnecessary.
18 And the idea to provide a provision for a sunset,
19 in the event that you did adopt CDOs, is a
20 wonderful idea from Mr. Blakeslee.

21 Participation in a structured process to
22 get the weapons put down and actually identify who
23 would like to come into the room as leaders from
24 Los Osos and from the agencies that would be
25 making efforts for legislation to help us solve

1 our problems is wonderful. I love that.

2 But there are people who clearly would
3 rather dissolve the community and continue to
4 fight. Mediation, arbitration, whatever you do, I
5 think that Sam Blakeslee is on the right path.

6 There's many people who have come and
7 offered that, offered to pay for it, offered to
8 host it. I hope that you'll be there. I think
9 that that's essential to see the sincerity of the
10 County and the various regulatory agencies.

11 I have some concerns because I don't
12 believe that any health effects issues have been
13 analyzed, or economic analysis. And to do a CDO
14 or any enforcement action, especially on an
15 individual, it would be very very important to
16 take a look at the conditions of ability to pay.
17 Is this going to cause more environmental harm.

18 And it said very clearly in the staff
19 report and all the reports is that in the interim,
20 until we get a treatment plant, we need to have
21 something to improve water quality. The test is
22 if this does not improve water quality then let's
23 spend that money somewhere else and do other
24 things.

25 And there have been proposals to pump

1 some of the upper aquifer and do some remediation
2 around town to stop some of the nitrogen, lower
3 the nitrogen that's going in. That's clearly a
4 better idea.

5 But if it does not, if this proposal
6 does not improve water quality, we should be
7 applying those resources elsewhere.

8 Thank you very much for your time.

9 CHAIRPERSON YOUNG: Thank you for your
10 comments. Elaine Watson, then Al Barrow, then
11 Barbara Akle, Akle.

12 MS. WATSON: Elaine Watson. I live in
13 the prohibition zone. You've already heard a
14 number of very well thought out protestations to
15 the CDOs. And I just want to state my objection
16 to the CDOs, as well.

17 They are environmentally and financially
18 unsound, and in no way contribute to the long-term
19 management of the community's wastewater.

20 Los Osos wants a wastewater system. We
21 want to manage our waste. But we want a complete
22 system that addresses the long-term health of
23 Morro Bay, water/energy conservation, and the
24 financial resources of the community.

25 I strongly suggest that you find a more

1 sensible viable remedy in coordination with our
2 CSD who want to build a wastewater system. You've
3 had some good suggestions here from Mr. Blakeslee,
4 Mr. Margetson and our own CSD has suggested a
5 septic management program which would be very
6 helpful in maintaining our septic and getting us
7 through to the point where we can build a complete
8 system that we want.

9 Thank you.

10 CHAIRPERSON YOUNG: Okay, thank you for
11 your comments.

12 Mr. Barrow.

13 MR. BARROW: Good evening, my name is Al
14 Barrow. I want to talk very clearly and very
15 plainly.

16 The approach that you're taking is one
17 of many that you could have taken. This approach
18 that you're taking is leading you down the wrong
19 pathway. Good decisions are about how you
20 approach your problem, how you deal with it.

21 The approach that this Board has taken
22 for the last 25 years hasn't worked. The first
23 cleanup taken place in Los Osos is taking place
24 right now at the fire department. The very first
25 attempt. I worked there this morning installing a

1 lysimeter.

2 I want to give you an example. You hold
3 that no soil treatment is given credit, no soil
4 treatment is given credit for denitrification.
5 Nitrogen being the problem.

6 Let me just say that if there was 10,000
7 -- I'm going to wait till you finish your
8 discussion -- 10,000 pounds of nitrogen have been
9 put into the basin through septic tanks in the
10 last 30 years. Why do we only have 1 mg/liter
11 increase in the basin over the last 30 years?
12 Where did this nitrogen go? It was treated in the
13 soil.

14 You're lying about the soil treatment,
15 or else you're in denial. Because that water was
16 treated by the soil and reduced the nitrogen;
17 almost over 9 million pounds of nitrogen had been
18 removed by the soil columns.

19 If it weren't so, it would show up with
20 high monitoring rates for the nitrogen. So,
21 you're making a big mistake on the soil treatment.
22 I wanted to tell you that.

23 I would also like to say that a nitrogen
24 management plan, which is what you use and your
25 staff used at Santa Cruz, is a much more

1 constructive approach. How you handle and how you
2 manage the nitrogen that's going in the basin is
3 very very important.

4 You can use soil uptake, you can use ag
5 exchange. CSD is working on those issues right
6 now to try to --

7 CHAIRPERSON YOUNG: Can you wrap up your
8 comments, please.

9 MR. BARROW: I will try to do that very
10 quick, give me another 20 seconds. The CO2 issue
11 hasn't been addressed yet, which will make a big
12 difference. The cost of actually treating
13 nitrogen rather than using a soil uptake approach
14 is huge expensive.

15 And finally I'd like to say is the
16 reduction of the waste in the septic tanks can
17 achieve secondary treatment right now in the fire
18 department. And why don't you let us clean up our
19 basin, why can't we get a permit for a simple
20 system that's cleaning up the basin?

21 You say you want to clean up the basin,
22 you're not --

23 CHAIRPERSON YOUNG: Thank you, Mr. --

24 MR. BARROW: -- allowing us --

25 CHAIRPERSON YOUNG: -- Barrow for your

1 time. Thank you for your time. You said 20
2 seconds. You went over that. You're taking time
3 from --

4 MR. BARROW: Thank you.

5 CHAIRPERSON YOUNG: -- your neighbors.
6 Please.

7 MS. WATSON: I hope you heard what I
8 said.

9 CHAIRPERSON YOUNG: Barbara Akle,
10 please. Richard Sadowski, Michael Jones, John
11 O'Connor and Judy Vick.

12 MS. AKLE: Barbara Akle, Los Osos
13 prohibition zone.

14 AUDIENCE SPEAKER: Can't hear you.

15 MS. AKLE: Sorry. Pumping the septic
16 tanks every two months is a poor solution to the
17 sewage problems in Los Osos for all the reasons
18 that you've already heard, air pollution, salt
19 water intrusion, financial hardship for many. The
20 only benefits I see to that is to the pumping
21 companies and to the lawyers.

22 If the County is truly serious about
23 getting things moving they should approve the
24 dissolution of the Los Osos CSD and take matters
25 into their own hands.

1 I would also like to point out that the
2 County was not blameless in this situation. After
3 all, they handed out over 1000 building permits in
4 Los Osos after the moratorium without any
5 infrastructure in place to deal with the sewage.

6 So, that's all I have to say.

7 CHAIRPERSON YOUNG: Okay, thank you for
8 your comments. Richard Sadowski. Mr. Sadowski,
9 are you here? Okay. We're at the end of this
10 list, folks. Michael Jones.

11 AUDIENCE SPEAKER: -- Sadowski --

12 CHAIRPERSON YOUNG: Oh, he is. Okay,
13 Michael Jones, are you here? Michael Jones or
14 John O'Connor.

15 AUDIENCE SPEAKER: He was coming at
16 4:00, Michael Jones --

17 CHAIRPERSON YOUNG: Okay. At 4:00,
18 okay. Mr. Sadowski? Go ahead.

19 MR. SADOWSKI: Richard Sadowski,
20 citizen, Morro Bay. I would first like to commend
21 the Los Osos CSD on their expertise and diligence
22 in doing the right thing.

23 Currently in the State of California
24 Governor Schwarzenegger's -- the Governor's Office
25 is attempting to have a \$50 billion bond for

1 infrastructure repair.

2 Now, this bond is going to require what
3 they call a report card. Now, fortunately, Los
4 Osos and this County is on point with this
5 information. What we have to do is, as a County,
6 not slow down Los Osos, but speed up and catch up
7 to these people. And let's get on point and get
8 some of this available funding for this
9 infrastructure. It's a statewide problem that's
10 recognized by the Governor's Office.

11 Now, I have a collections grade four
12 certificate from the California Water Environment
13 Association, and a bachelor of science degree in
14 chemical engineering. And while working in the
15 aerospace industry we had what we called a tiger
16 team, an assembly of first- and second-level
17 supervisors that were experts in their field. And
18 that's the kind of people you have in Los Osos.
19 They are the template for this County in getting
20 this funding.

21 Los Angeles County, Orange County,
22 Inland Empire, the Bay Area are all submitting
23 this. It's time that the Regional Board, instead
24 of asking Los Osos to -- penalizing these people,
25 commend them and help us with the rest of the

1 County get up to speed.

2 CHAIRPERSON YOUNG: Can you wrap up your
3 comments, sir.

4 MR. SADOWSKI: Thank you.

5 CHAIRPERSON YOUNG: Thank you. John
6 O'Connor. Okay, not here. Judy Vick, not here.
7 Okay, so, Mr. Jones you say is coming at 4:00.
8 Let me go through this list. These are the people
9 that have checked off they do not want to testify.

10 MS. SCHICKER: I have a card in that.

11 CHAIRPERSON YOUNG: I don't think I saw
12 a card for you. Well, come on up.

13 MS. SCHICKER: Good afternoon, Board.
14 My name is Lisa Schicker. I'm the President of
15 Los Osos Community Services District. In 2004 I
16 testified before your Board two times. Both times
17 you told me you don't like the downtown sewer; you
18 must change your Board; you must change your
19 Board.

20 The State Water Board told me that. The
21 Coastal Commission told me that. And you told me
22 that. And the County told me that. So I ran and
23 was elected in 2004.

24 Recent editorial in the paper -- Mr.
25 Young, do you need to stop a second?

1 CHAIRPERSON YOUNG: Are you asking me a
2 question?

3 MS. SCHICKER: Yeah, I saw you look away
4 and I thought you didn't want --

5 CHAIRPERSON YOUNG: I'm listening to
6 what you're saying, Ms. Schicker. You have one
7 minute and 15 seconds.

8 MS. SCHICKER: We're not anti-sewer. I
9 published an editorial in the paper and I want to
10 make sure that you gentlemen got it. I am sending
11 things through Mr. Briggs and I hope you are
12 getting the mail that I'm sending you to keep you
13 updated on our projects.

14 The CDO is the wrong approach, you are
15 terrorizing the citizens. You honestly are. And
16 you're not helping the situation. We're trying
17 very hard to get going on projects. We're
18 expending great resources in these arguments and
19 fights and lawsuits and piles of documents. It
20 takes great energy. And it's not productive
21 energy; it's negative energy. We can do better
22 than that.

23 In October we had the Blakeslee
24 compromise. We know it was kyboshed; we know how
25 it was kyboshed. We have a pile of emails to

1 prove it. It's too bad.

2 During that compromise we promised four
3 things. We promised that we would negotiate and
4 meet with the Water Board Staff to keep them
5 updated on our project. We have delivered. We
6 have a good relationship with your staff and we're
7 meeting monthly.

8 We promised that we would start a new
9 project immediately. We have delivered. We are
10 doing that right now.

11 We promised that we would implement
12 septic management. We're working with Blakeslee
13 for legislation. We may not need it. We're
14 implementing it anyhow. We're doing it now.

15 We promised that we would do short- and
16 long-term solutions. We're doing that.

17 CHAIRPERSON YOUNG: Can you wrap it up.

18 MS. SCHICKER: And wrapping up, you can
19 be powerful powerful heroes today, and you could
20 work with us. That's all we're asking. We have
21 the same goals, the same goals for clean water.

22 You have many tools in your toolbox, the
23 CDOs are the wrong tool. Please work with us.

24 Thank you.

25 (Applause.)

1 CHAIRPERSON YOUNG: Geri Walsh. Geri
2 Walsh, followed by Linde Owen. Mr. Bleskey,
3 you're an employee of the Community Services
4 District, and so I would prefer it if you put your
5 comments in during that time. We've allotted, I
6 think, two hours for that. So I think it's
7 different -- many of the Directors have spoken.

8 Clearly what Ms. Schicker said were
9 really representations on behalf of the CSD. And
10 I allowed that. All right. I'm trying to be
11 generous as much as I can with time, but I would
12 appreciate it if you would put your comments in
13 with the two hours that we've allotted for you.
14 Thank you.

15 Geri Walsh.

16 MS. WALSH: Geri Walsh, 20-year
17 homeowner in the prohibition zone in Los Osos.
18 We, the people of Los Osos, have not had
19 representation. Our Supervisor, when asked by
20 numerous individuals, would not get involved in
21 the sewer situation.

22 I find it strange that our Supervisor,
23 unlike Mr. Blakeslee, had to be subpoenaed to
24 speak to the people of her District of Los Osos.
25 Then hide behind her attorney that the people of

1 Los Osos pay for.

2 I find it strange that our County health
3 representative had to be muzzled by his attorney
4 that the people of Los Osos pay for. I find it
5 strange that the people of Los Osos pay this Board
6 and their attorneys to fight against us.

7 A previous speaker and spokesperson for
8 the past recalled Board spoke about the state-of-
9 the-art system that was designed actually to cause
10 the financial demise of 40 percent of the people
11 of our community. She spoke in favor of
12 dissolution. I'm not willing to give up our fire
13 department and water department that we've worked
14 so hard to bring back to a state of financial
15 accountability from the out-of-control spending of
16 the past Board.

17 And where is the past Board today?
18 They're not here. They formed a group to work
19 behind the scenes and send emails to you asking
20 you to fine us out of existence. Some of the same
21 people you would not allow to be subpoenaed today.

22 I find it all very strange. Thank you.

23 (Applause.)

24 CHAIRPERSON YOUNG: Linde Owen.

25 MS. OWEN: Good afternoon, Linde Owen.

1 I'm wearing a couple of visuals. This is what it
2 would feel like to be next out of 4255 people --
3 homes, excuse me, that are still left to be put
4 into this position of fear.

5 My other visual is, and my point is,
6 these are unproductive. These CDOs are
7 accomplishing nothing.

8 I would, as long as we have Mr. Briggs
9 in the room, I would like him to maybe address
10 what happened with 8312 which was issued the exact
11 same day that 8313, which is what you're enacting
12 the CDOs off of, was also put into play.

13 That resolution said that septic
14 management needed to be done. And they would have
15 taken steps to lower the upper aquifer so that we
16 did not have septic leach fields sitting in water,
17 groundwater.

18 If you want to do the science we can put
19 a great sewer in in Los Osos. But as long as you
20 choose to do politics we're going to get noplacement.

21 I have another comment. Oh, the data
22 that you're working off of is 23 years old. That
23 resolution was based on old data from questionable
24 wells. We have new data. It's much updated. It
25 says that we are polluting very little of the Bay,

1 from what the shellfish study said.

2 Take that data and let's look at it and
3 re-analyze this resolution. I think that we have
4 properly operating septic tanks. They're not --
5 the CDOs are meant for major polluters, not
6 residences with properly working septic tanks.

7 The procedural structure was designed
8 for corporations. I'm just an individual. I
9 don't have a special lawyer or a retainer like
10 Shell or Exxon.

11 So, in closing, I would like to say that
12 perhaps those who urged you to sue us out of
13 existence, go ahead and pay the money to have
14 their group septic tanks pumped, and then they can
15 donate it to -- I think they should be donating it
16 to the people that need the help right now.

17 CHAIRPERSON YOUNG: Thank you for you
18 comments, --

19 MS. OWEN: I urge you to drop this
20 activity.

21 CHAIRPERSON YOUNG: -- Ms. Owen. Okay,
22 Michael Jones, have you shown up yet? Okay.

23 Folks, I'm going to read these cards;
24 these are people who said they didn't want to
25 testify. Perhaps someone misunderstood what that

1 meant.

2 Thomas Dempsey. Josephine Dempsey.
3 Braverman, two Bravermans, Betty Braverman.
4 Charles Kostas. If you hear your name and you
5 wish to speak, come up to the podium.

6 Shirley Norman; Hans Schwarz; Mark
7 Holley; Mary Pastel; Mark Robinson; Darlene
8 Reynolds; Susan McGinty; J. Harding; John
9 Anderson; Sharlot Sunshine; Carol Cribbs. Okay.

10 (Pause.)

11 CHAIRPERSON YOUNG: Is anyone here to
12 speak on items not on our agenda besides this one
13 card I have from Reginald Fagan? Okay, Mr. Fagan,
14 if you're here, come up.

15 This is our public comment period.
16 These are -- and I may have confused my labels
17 earlier, but I characterized the interested
18 persons portion, which we have just concluded,
19 except for Mr. Jones, with public comment. But
20 this is for comments unrelated to anything on the
21 agenda.

22 Okay, Mr. Fagan, go ahead.

23 MR. FAGAN: Hi, and I appreciate the
24 opportunity to speak. I feel, you know, the
25 energy of folks around the agenda, but I just

1 wanted to, you know, touch upon water quality.

2 I'm a person that's lived in this
3 County, you know, for about ten years. I live
4 presently at San Luis Obispo. As a child I grew
5 up and always looked forward to coming to this
6 County, San Luis Obispo, you know, the beautiful
7 lay of the land, you know, the beautiful
8 recreation opportunities.

9 But I just, you know, would like to just
10 encourage the community to try to come together,
11 try to work these issues out. You know, I'm
12 thinking about when I was a kid, I loved coming
13 here fishing and camping. I'm thinking about the
14 future generations, you know, that are in front of
15 us, and that, you know, what are they going to do
16 if we just keep gridlocking, we keep fighting and
17 politicizing issues.

18 You know, bottomline is we need to focus
19 our resources; we need to try to come together.
20 We need to try to, you know, look at common
21 ground.

22 I sat here for the last three to four
23 hours and I've heard a lot of brilliant ideals, a
24 lot of different alternatives. I just ask the
25 Board if it's possible, because I'm a disabled

1 guy; I'm on a fixed income. And I really feel for
2 people that are struggling. You know, it's hard
3 enough trying to deal with the oil, gas price and
4 all these other issues that we're dealing with
5 today.

6 We need to try to come up with some best
7 practices. We need to make sure that the things -
8 - the decisions we make are science-based
9 decisions, not politically based.

10 I guess I'm a citizen here. I'm an
11 African-American. Don't see too many of them here.
12 We need to try to make sure we bring everybody to
13 the table. Because I think so many times we're
14 being left behind.

15 Okay, so I'm just coming up to encourage
16 that somewhere in there we can put the egos aside
17 and start looking at, you know, what's the best
18 interest for the future generation. We have to
19 make decisions for the kids.

20 Because I remember being a kid that
21 loved to come to San Luis Obispo. And I just want
22 to make sure my daughter has that option, as well.
23 Okay, thank you, folks, for this time.

24 CHAIRPERSON YOUNG: Thank you for your
25 comments.

1 (Applause.)

2 CHAIRPERSON YOUNG: Mr. Barrow, you
3 submitted a speaker card for public comment. And,
4 Mr. Barrow, if you get into anything related to
5 Los Osos I will ask you to step away from the
6 podium. So, please, don't do that.

7 MR. BARROW: Good evening, public and
8 staff. My name is Al Barrow, and I've been a
9 supporter of the Clean Water Act since it was
10 initiated. I've been a supporter of the Coastal
11 Act, protecting our resources. I strive very hard
12 to save water in my daily routine. Some people
13 think I should take a bath more often, but doesn't
14 matter, I save the water.

15 (Laughter.)

16 MR. BARROW: And I believe in the
17 Regional Water Board system. I believe in the
18 State Water Board system. I believe especially in
19 the U.S. Environmental Protection Agency. And I
20 believe in their mission, and I support that from
21 my heart. And I think everybody in this room
22 does, as well.

23 I don't want you to mistake frustration
24 for a lack of purpose or a negative approach. We
25 all support your mission, and we appreciate the

1 work that you're doing towards that mission.

2 We criticize you, it's constructively.

3 And it never hurts to get a little -- well, it
4 might hurt a little bit, constructive criticism,
5 but take it as heartfelt assistance public input
6 to improve our efforts to keep our beautiful
7 planet clean.

8 Thank you.

9 CHAIRPERSON YOUNG: Okay. Dave Duggan.
10 Then Linde Owen. And I hope Mr. Jones appears,
11 because that'll be the end of the interested
12 persons.

13 MR. DUGGAN: Dave Duggan, Los Osos. I'm
14 here to talk about smart growth, 2050. I think we
15 had a vision, 2025, here not too long ago, talking
16 about water, estuaries, riparian, restoration
17 wetlands, and growth versus water usage.

18 The San Luis Obispo is going to be doing
19 amendments to the general plan and other items
20 such as that, which is going to include
21 agricultural -- saving agricultural space as well
22 as open space.

23 People should be aware that what is
24 going on right now with San Luis Obispo County and
25 the supervisors and the planning commission. They

1 should be watching and going to these meetings and
2 be aware that they're making changes.

3 That if you are planning on putting in a
4 system, wastewater, anywhere other than in the
5 middle of your town, that you may have people --
6 doing that, if you're not aware what's going on.

7 They're trying to keep areas greener
8 around communities. And in doing so they may
9 block any type of development that would keep you
10 from siting the system where you want.

11 Now, I'm not trying to breach what you
12 asked us not to do. I attended the meeting at the
13 supervisors and we had a pretty good discussion on
14 their vision for 2050 and even sooner. The CSD,
15 as well as other small organizations -- just
16 issued, very aware --

17 CHAIRPERSON YOUNG: Thank you for your
18 comments, Mr. Duggan.

19 MR. DUGGAN: -- that this is going on.
20 Thank you very much.

21 CHAIRPERSON YOUNG: Linde Owen.

22 MS. OWEN: Linde Owen, thank you, again,
23 for another opportunity. I wanted to do just a
24 little mini primer on why I hate conventional
25 gravity-fed sewers.

1 Number one, they're failing all over
2 America. They're one of the highest
3 infrastructure repair costs that's going undone.
4 There's not enough money on the planet to fix all
5 of them.

6 Now, what you have to think about is
7 you're taking raw sewage and other liquids from a
8 home and you're putting it in pipes. And you're
9 running them far underground where nobody sees
10 them. And if you have test mechanisms to go in
11 and see if they're leaking, or if the pipe is
12 broken, but you don't always know until it's
13 broken and it's spewed raw sewage into a drinking
14 supply, into a lake, into an ocean, into a river,
15 onto open land.

16 And so I believe that the EPA has come
17 up with what is called the small flows
18 clearinghouse, and they are urging smaller
19 communities throughout America, and people that
20 have to add onto their sewers, to look at doing an
21 effluent collection.

22 Because what you've done then is you've
23 kept the toxic material in a tank. It's the tank
24 has much less chance of breaking and spilling.
25 And they can be tested much easier than the pipes

1 can.

2 All the leaks along the coast of
3 California, the major can't swim here anymore.
4 Danger signs up and down the ocean front areas.
5 It's all from sewer pipes, raw sewage going
6 through conventional gravity-fed pipes.

7 Los Osos would love to do something more
8 creative than that. Thank you.

9 CHAIRPERSON YOUNG: Okay, Michael Jones,
10 are you here, Mr. Jones? He is here? You're Mr.
11 Paige.

12 MR. PAIGE: Yeah, I was wondering --

13 CHAIRPERSON YOUNG: Okay. That is it.

14 MR. PAIGE: I was wondering if I could
15 speak, just a short --

16 CHAIRPERSON YOUNG: You know what,
17 folks, the last few comments really are getting
18 into issues related to what we're discussing
19 today. And if you really have something
20 legitimate that was not related to sewage
21 treatment or siting in Los Osos, I would be more
22 interested in entertaining the thoughts.

23 But we have --

24 MR. PAIGE: This doesn't have anything -
25 - it has to do with administration generally, of

1 the Water Board's doing. Thirty seconds.

2 CHAIRPERSON YOUNG: Thirty seconds.

3 MR. PAIGE: EPA's smart growth policies
4 and objectives of minimizing infrastructure while
5 increasing urban population density cannot be
6 consistent with zero emissions requirement by the
7 Water Quality Control Boards throughout the state.

8 If Porter-Cologne enforcement is to have
9 a positive public participation, flexible, smart
10 growth enforcement that uses a menu of solutions
11 would give the Porter-Cologne Act a more
12 contemporary environmental credibility and quicker
13 results. It is the only way we're going to get
14 smart growth density in small cities throughout
15 the state, and still meet CEQA regulations and
16 watershed criteria.

17 Public participation is the key. So
18 assuming that the public are a bunch of idiots is
19 a real tragedy. Like myself, I'm trying to find a
20 solution. Thank you.

21 CHAIRPERSON YOUNG: Okay. Mr. Payne,
22 one minute.

23 MR. PAYNE: Thank you for a minute. It
24 was several minutes ago that I put in a card for
25 public comment, and it got lost. And I wanted at

1 that time to welcome Mr. Hayashi to the Board.
2 And I'm glad to have him here. He knows a lot
3 about people helping other people and a great
4 family history that everybody should hear about.

5 The other thing that I wanted to talk
6 about is choices. Many many years ago the
7 Russians made hats out of a little animal called
8 sea otters. And they almost got rid of them for
9 us, but unfortunately somebody felt sorry for them
10 and -- by the way, my parents came down here in
11 1953 and lived in Pismo Beach. And my brother
12 used to go clamming for Pismo clams. They were as
13 big as gooeyducks and they tasted good, and they
14 weren't as tough as horse necks. And today you'd
15 be lucky if you can find one an inch in diameter.

16 CHAIRPERSON YOUNG: Thank you for your
17 comments.

18 MR. PAYNE: You're welcome. Wrong
19 choice.

20 CHAIRPERSON YOUNG: Michael Jones.

21 (Laughter.)

22 CHAIRPERSON YOUNG: Okay. Mr. Bleskey,
23 tell me what -- is this --

24 MR. BLESKEY: Just some general comments
25 about my experiences here, unrelated to the

1 project. Just some issues related to what's going
2 on in Morro Bay --

3 CHAIRPERSON YOUNG: Go ahead, two
4 minutes. And this is the last interested person
5 comment. We will break after this. And then when
6 we return the prosecution team is going to put its
7 case on.

8 Go ahead.

9 MR. BLESKEY: Chairman Young, thank you
10 for letting me speak. One this is that I've been
11 here now for about seven months, and I envy the
12 central coast residents. I do come from Ventura,
13 and Los Osos is an interesting place to work and
14 it's even more of an interesting place to live,
15 which I do during the week.

16 Since the time that I've gotten here it
17 became quite evident the frustration that your
18 staff has experienced over the course of the
19 challenges facing you right now. And you got some
20 real doozies and some great opportunities, though,
21 too.

22 But over that course of time and our
23 latest conversations, your staff, especially
24 Harvey and Allison -- I keep wanting to say Alicia
25 -- I think that we're starting to grow the

1 relationship that we can cement with your staff
2 over time, from a rocky start. And actually be
3 productive in helping all of the central coast.

4 I think the other thing that the central
5 coast has, as a really unique opportunity, is the
6 ability to use a lot of tools that you didn't have
7 about 23 years ago, or, heck, even five years ago.
8 And I see that reflected a lot in your young
9 staff; also in a lot of the young engineers and
10 environmentalists that I see coming out now. And
11 their excitement on these opportunities that I, as
12 an engineer from many years ago, didn't have.
13 It's pretty cool stuff. And we'll talk about that
14 later when you give me permission to do that. And
15 I appreciate that.

16 I do want to ask that we do look at the
17 problems that we're faced with on the central
18 coast in light of those new tools. Both in
19 technology that can be applied, and also the
20 comments on some of the regionalization issues now
21 in an era of very very sketchy energy costs. We
22 may be better off to look at growing over time, a
23 system or a linkage of systems that have been used
24 in other areas of the state, that we can afford,
25 and that make use of all the skills of your staff

1 and the citizens and the technology available to
2 you.

3 But I did want to come up and say thank
4 you for the staff time and their cooperative
5 effort. Thank you, Mr. Young.

6 CHAIRPERSON YOUNG: Thank you for your
7 comments.

8 MR. MATTINGLY: Can I make one 30-second
9 comment?

10 CHAIRPERSON YOUNG: Wait a minute, --

11 MR. MATTINGLY: Dustan Mattingly --

12 CHAIRPERSON YOUNG: -- what is it
13 related to?

14 MR. MATTINGLY: It's not related to Los
15 Osos sewer or crap problem. What it is concerning
16 is that --

17 (Audience speaking simultaneously.)

18 CHAIRPERSON YOUNG: Your name?

19 MR. MATTINGLY: -- you were not given --

20 CHAIRPERSON YOUNG: Excuse me. Your
21 name, please.

22 MR. MATTINGLY: Dustan Mattingly. I
23 said that before.

24 CHAIRPERSON YOUNG: Okay.

25 MR. MATTINGLY: I just wanted to ask if

1 maybe, you know, besides Mr. Blakeslee, who I see
2 you all gave your full attention to, maybe the
3 rest of the people you could treat like people,
4 not emails where you can glance at it and look
5 away. I just noticed you guys were looking out
6 the window or at the camera, doing your hair or
7 something. This gentleman had his hands over his
8 eyes --

9 CHAIRPERSON YOUNG: Thank you for your
10 comments, sir.

11 MR. MATTINGLY: So if you could just
12 please treat us --

13 CHAIRPERSON YOUNG: We're going to take
14 a break, folks. We're going to come --

15 MR. MATTINGLY: -- like humans --

16 CHAIRPERSON YOUNG: -- back at 4:25.
17 We'll start the prosecution team's presentation.

18 (Whereupon, at 4:09 p.m., the meeting
19 was adjourned, to reconvene at 4:25
20 p.m., this same day.)

21 --o0o--

22

23

24

25

CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Central Coast Regional Water Quality Control Board Meeting; that it was 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 outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of May, 2006.