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

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
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

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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

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
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PARTIAL TRANSCRIPT - 10:05 a.m. - 4:09 p.m.

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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
CHAIRPERSON YOUNG: I'm Jeff Young, Chairman of the Central Coast Regional Water Quality Control Board. Today is April 28th. Ms. Hewitt, would you like to call the roll.

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

CHAIRPERSON YOUNG: You are. Okay.

MS. HEWITT: -- hold for a second?

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

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

(Pause.)

MS. HEWITT: Thank you, Mr. Chairman.

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

MS. HEWITT: Daniel Press.

BOARD MEMBER PRESS: Present.

MS. HEWITT: Gary Shallcross.

BOARD MEMBER SHALLCROSS: Here.
Ms. Hewitt: Jeffrey Young.

Chairperson Young: Here.

Ms. Hewitt: Russ Jeffries.

Board Member Jeffries: Here.

Ms. Hewitt: John Hayashi.

Board Member Hayashi: Present.

Ms. Hewitt: Monica Hunter. Absent.

Les Bowker.

Board Member Bowker: Here.

Chairperson Young: Michael, would you like to introduce everybody that needs to be introduced.

Mr. Thomas: Okay.

Audience Speaker: (inaudible).

Chairperson Young: Thank you for letting us know that. And remind us if we talk too softly.

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

Prosecution Staff attorney, Lori Okun.
Matt Thompson, Project Manager with the Board.
And to my right is Carol Hewitt, Executive Assistant.
And we'll have some folks in the back handing out cards. These cards are colored.
We're this experiment. If you're opposed to the cease and desist orders, fill out a red card, a speaker card, that is. If you're in favor, fill out a blue card. And if you're Switzerland and you're neutral, fill out a white card.
The bathrooms are through the door to the rear and to my left, to your right, out through with the exit sign above it. And I --
AUDIENCE SPEAKER: (inaudible).
MR. THOMAS: You don't have to; you can fill out a white card if you prefer.
CHAIRPERSON YOUNG: That's just to make it easy to categorize visually, that's all.
MR. THOMAS: And as AGP Video announced earlier, there is a camera out in the atrium area. And this room does have a limit, obviously, so we're going to be asking people to go out to the front and watch the broadcast from there so that we don't get too many people in this room.
CHAIRPERSON YOUNG: Folks, what I want
to do is take a few minutes to describe what's going to be happening today procedure-wise so that everybody at least has some idea of when things are going to happen, when they're not going to happen, and try to accommodate any special needs that may exist.

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

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

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

We've had a number of evidentiary objections and other types of objections that have been raised that need to be taken care of before
we actually get into witnesses speaking.

And it occurred to me, Dr. Bowker, and

maybe before we go any further, that you would

like to --

BOARD MEMBER BOWKER: Make a statement.

CHAIRPERSON YOUNG: -- make a statement,

and then --

BOARD MEMBER BOWKER: I live in Los

Osos, but not at the prohibition zone, I do my

shopping and so forth. So, it's almost impossible

for me to avoid what is called ex parte

communications, communications on an issue outside

of a full quorum. So, on advice of legal counsel

and staff, I'm recusing myself from this issue.

Thank you.

CHAIRPERSON YOUNG: Okay. Thank you,

Dr. Bowker. That means you'll be stepping down.

BOARD MEMBER BOWKER: Yes.

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

(Laughter.)

CHAIRPERSON YOUNG: Our first witnesses

are here, but I'm just going over the order that

we're going to do this thing. And I want people
to know, because we may set some things that might
be somewhat more time-certain for some people.
And I'd like everyone to know where we're headed
and when they may be speaking.

We have different categories of
presenters. The first group of people that are
going to be addressing the Board are going to be
non-(inaudible) comments by government agencies.
And along with those presentations will
be what we would consider public comment of
interested persons.

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

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

(Audience speaking simultaneously.)

CHAIRPERSON YOUNG: If people do not
like that, they can discuss amongst themselves, if they know that their comments are going to be similar to others, the possibility of --

(Audience speaking simultaneously.)

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

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

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

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

When we return from lunch we will have the Los Osos Community Services District put on its case. And we estimate that will be about two hours of time. Up until the completion of the CSD's case, all of those comments are going to be
incorporated automatically. And all that, any
evidence that has been put into the record at that
point will automatically be included in each of
the individual hearings we will have for the
individual property owners.

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

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

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

We do encourage people to incorporate by
reference comments and evidence made by previous
speakers.
We will then have cross-examination by designated parties. And that means the prosecution staff, the CSD staff members, and that means the individual property owners. I don't know how long that will take, but we'll see what happens.

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

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

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

This is not the same hearing that we had before where there was an administrative civil liability before us against the District. This is an entirely different hearing. The issues that
were presented in that hearing are not necessarily relevant to what's being proposed as an enforcement item in this hearing.

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

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

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

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

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

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

Okay, one thing I would like to know about, and this has to do with the individual property owners. If there are any of them that
have any pressing health issues or childcare
issues or anything that we should consider in
terms of how we want to prioritize the individual
CDO hearings. And you guys --
AUDIENCE SPEAKER: -- pick up our
daughter by 5:00, so it would be great if we left
before 5:00.
CHAIRPERSON YOUNG: Okay, and your name, sir?
MR. STOLEY (Phonetic): James Stoley (phonetic.)
CHAIRPERSON YOUNG: Okay.
AUDIENCE SPEAKER: Does hair loss count in this whole --
(Laughter.)
CHAIRPERSON YOUNG: Well, if it did, I'm going to check into it.
Okay, I just want to make sure we got that first individual. Okay. Anyone else that has any pressing -- yes, sir, can you stand up so we can hear you?
MR. MOYLAN: Yeah, my name is Bill Moylan. I've arranged to go see my father who's in Illinois. He's in an urgent care facility. I'm leaving Monday and going to be gone for a
week, so if this hearing goes beyond the
dparameters of today, then I wouldn't be able to
attend next week. And I definitely want to
attend, so.

CHAIRPERSON YOUNG: Okay.

MR. MOYLAN: Thank you.

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

AUDIENCE SPEAKER: I'm disabled; I can't
stand and I can't see because everyone's standing
back here and got here early --

AUDIENCE SPEAKER: He can have my chair.

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

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

AUDIENCE SPEAKER: Can I move my chair?

CHAIRPERSON YOUNG: Do you have you
chair with you?

AUDIENCE SPEAKER: Yes, I do.

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

AUDIENCE SPEAKER: Sure.

CHAIRPERSON YOUNG: Mr. Briggs.

MR. BRIGGS: Mr. Chairman, as of a few
minutes ago there was still about ten chairs available out in the atrium area. And we are trying to bring some more chairs down, so --

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

AUDIENCE SPEAKER: We're sitting up here.

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

UNIDENTIFIED SPEAKER: Sure.

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

(Pause.)

AUDIENCE SPEAKER: Mr. Chairman.

CHAIRPERSON YOUNG: Yes.

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

(Parties speaking simultaneously.)

CHAIRPERSON YOUNG: Mr. Briggs, what is
the loading requirement for this room? And is
that an issue --

(Pause.)

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

(Pause.)

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

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

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

UNIDENTIFIED SPEAKER: Colin. That's
1036, is her number. 1036.
CHAIRPERSON YOUNG: Okay, we --

UNIDENTIFIED SPEAKER: Thank you.

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

Okay, 150. All right.

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

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

    MS. MOYLAN: Excuse me, I --

    CHAIRPERSON YOUNG: One thing I want to --

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

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

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

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

    MS. MOYLAN: I'm sorry?

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

    MS. MOYLAN: Thank you.

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

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

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

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

And is Mr. Racano here?

AUDIENCE SPEAKER: Yes.
CHAIRPERSON YOUNG: Joey Racano?
AUDIENCE SPEAKER: He's here.
CHAIRPERSON YOUNG: He is? Okay. All right, well, if he can hear me --

MR. RACANO: I'm here.

CHAIRPERSON YOUNG: Okay, hang on. No
photographs today.

MR. RACANO: I didn't bring my camera,

Mr. Young.

CHAIRPERSON YOUNG: Okay.

MR. RACANO: But you look good.

(Laughter.)

CHAIRPERSON YOUNG: I wish I looked as

good as you do, Mr. Racano.

(Laughter.)

MR. RACANO: I did bring copies of the

Constitution of the United States, though.

CHAIRPERSON YOUNG: Well, I think I can

get those online -- but thank you for the offer,

anyway.

You've been very good in terms of

respecting decorum. I just didn't want you to be

running up again and trying to take photos or

distracting what's going on.

MR. RACANO: Right.

CHAIRPERSON YOUNG: Okay. So, if anyone

has some burning comment to make when they hear a

speaker give his or her presentation, please keep

it to yourself. Or if you can't do that, and I

hear you start to express it, I'm going to ask you

to leave the room. And if that doesn't help, then
Officer Hedges is going to help me get that done. I don't think that's going to be necessary, but I don't want anyone to be surprised if it should come to that.

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

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

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

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plan.

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

That's the reason that --

CHAIRPERSON YOUNG: So the issue is bias --

MR. ONSTOT: Correct.

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

I have read through the transcript,
myself, and I can put my own comments in context of what was said.

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

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

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

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

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

It was not expressing bias that the
community took any particular path, but that, quoting again, "Something happen in a reasonable amount of time." I have no bias in this matter against or for any party.

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

BOARD MEMBER JEFFRIES: Yes.

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

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

You have to have an open mind when you're dealing with these types of issues. And you have to hear all the information before you can make up your mind. So I come with a clear conscience, I come with a clear mind. And at the previous hearing I did the same thing and I heard all the information.
And I don't know exactly what phrase or comment that I made that was considered to be biased one way or the other.

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

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

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

And whether it's to increase the political will or some other specific comments, I understand the explanation for that.
But, before the Board went into deliberations there was no intent that at least was expressed to these 150-or-so people that they would be dragged before the Board. And the Board came back after deliberating. Clear direction from the Board was putting these people in the pipeline.

CHAIRPERSON YOUNG: Let me offer my explanation for your concerns about my bias. And I read through the transcript and what I said. And I think what you're forgetting to publicly acknowledge, Mr. Onstot, is the role that Mr. Seitz and yourself had at that hearing in suggesting that the proper individuals or entities for any enforcement action on discharge violations were the individual property owners, themselves. That was not an issue by the Board Members. But it was simply a reaction to the evidence that we heard at that hearing.

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

And I've read through my comments. I only directed him or asked him to go to the next
step, which would be to look at individual
enforcement actions, and then tell us what he's
got planned, if anything. When and how and what
types of measures he had planned.

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

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

But I have not made up my mind as to
what I'm going to do today because I haven't heard
any oral testimony. I have reviewed and read all
of the documents that have been presented to me.
And based on that I have some preliminary thoughts
and opinions, but I haven't had a chance to
deliberate with my fellow Board Members to see
what their reactions are to the evidence, to come up with any type of appropriate remedy whatsoever.

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

BOARD MEMBER SHALLCROSS: No, none at all.

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

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

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

MR. ONSTOT: Thank you, Mr. Chairman.

CHAIRPERSON YOUNG: Okay. Now, we have some other subpoenas that have been issued, and I want to address those issues. The one that pops to mind is this individual that served Supervisor Bianchi with the subpoena here.
That was you that served the subpoena, or had it served?

MS. WATSON: I served it.

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

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

CHAIRPERSON YOUNG: Watson, --

MS. WATSON: Yes.

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

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

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

CHAIRPERSON YOUNG: Oh, you're the process server. Okay. What I'm interested in --
okay, who's the individual that wanted the
service?

MS. WATSON: Alan Martyn.

CHAIRPERSON YOUNG: Where is Mr. Martyn?

Mr. Martyn?

MR. MARTYN: I'm right here.

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

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

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

MR. MARTYN: Oh, I see.

CHAIRPERSON YOUNG: -- we are hearing
officers.

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

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

BOARD MEMBER SHALLCROSS: I affirm it.

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

BOARD MEMBER JEFFRIES: Absolutely correct.

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

MR. MARTYN: Thank you, Mr. Chairman.

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

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

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

CHAIRPERSON YOUNG: Well, I'd like you to give me an offer of proof that specifically what Supervisor Bianchi is going to testify to
that is relevant to the issues in this cease and
desist order hearing.

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

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

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

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

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

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

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

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

Does she have testimony that's relevant to that issue?
MR. MARTYN: Yes. We're talking about CDOs, isn't that correct?

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

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

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

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

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

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

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

AUDIENCE SPEAKER: How about a vote --

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

(Audience speaking simultaneously.)

CHAIRPERSON YOUNG: Sir, if you do that
again, I'll ask you to leave the room. Please
don't do it.

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

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

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

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

CHAIRPERSON YOUNG: Okay, and what is
that?

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

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

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

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

MR. MARTYN: Excuse me for a second.

Well, I think that we're looking at a real estate, so-called real estate expert. And I think that the harmful effects that he has helped to create on the community on the values in Los Osos and on our own properties and our well being, have been very deleterious.

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

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

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

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

MR. MARTYN: I mean I'm trying to --
CHAIRPERSON YOUNG: Folks, I know that there's a lot of history here. No one on this Board is stupid about that. But we're not going to open up the entire history of Los Osos and all the problems that it has shared as a community. It's not relevant to the cease and desist orders. If you feel that it is, you'll have the opportunity to take it up on appeal, or present it in a different forum. It's not going to be presented here.

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

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

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

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

CHAIRPERSON YOUNG: You'll have your
opportunity to cross-examine Mr. Briggs, and

you'll have freedom there.

Let's take the third one, Pandora Nash.

Does Pandora Nash have any evidence as --

MR. MARTYN: Mr. Chairman, can I ask you

a question, if I may respectfully submit a

question to you. Why are you questioning me about

my witnesses? For what reason and what purpose?

You haven't clarified that, Mr. Chairman.

CHAIRPERSON YOUNG: Because I have the

obligation to make sure that we don't have

testimony and evidence being offered that is not

relevant to the proceedings. The Hearing Officer

always does that. There needs to be an offer of

proof for everything that's being presented. In

some cases, that evidence is self evident as to

what its relevancy is.

MR. MARTYN: I thank you for your

response.

CHAIRPERSON YOUNG: Otherwise, I would

have 500 witnesses lined up to testify and it

would be cumulative, duplicative and unnecessary

to prove points that are in dispute.

MR. MARTYN: Well, we didn't call 500

witnesses, and I didn't call -- I just called
three witnesses. And I believe in my honest heart -- from my heart, this is nothing but political pressure. But, go again, Mr. Chairman, --

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

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

CHAIRPERSON YOUNG: Are you consulting with your attorney?

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

AUDIENCE SPEAKER: Assistant attorney.

AUDIENCE SPEAKER: Coach.

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

CHAIRPERSON YOUNG: Why Pandora Nash --

MR. MARTYN: Yes, um-hum.

CHAIRPERSON YOUNG: -- I'm quashing that subpoena --
MR. MARTYN: Pardon me?

CHAIRPERSON YOUNG: I'm quashing the third subpoena.

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

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

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

CHAIRPERSON YOUNG: Mr. Martyn, I think
you're making my point as to why I want to quash the subpoena. That testimony is not relevant to the issues before us today.

Now, as to Supervisor Bianchi, --

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

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

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

MS. OKUN: Right.

CHAIRPERSON YOUNG: So, at this point, I don't know. I'd like to hear from my colleagues as to what we should do about enforcing the subpoena.
Mr. Cash: Mr. Chairman, could I --

Wyatt Cash from the County Counsel's Office --
could I make a comment about --

Chairperson Young: Of course.

Mr. Cash: -- Supervisor Bianchi's --

Chairperson Young: Of course.

(Audience speaking simultaneously.)

Mr. Martyn: All right, I would like to
ask the Committee to (inaudible) and to address
the Board after this gentleman gets through, Mr.
Chairman.

Mr. Cash: Good morning, Mr. Chairman,

Board. Thank you for allowing me to address this
issue. The subpoena that is at issue was, as has
just been pointed out, was issued by Mr. Alan
Martyn and Mr. William Moylan.

And we join in the Chairman's concern
about the irrelevance of any testimony that
Supervisor Bianchi could present. And I would
point out, as I'm sure your Board has noticed,
that when you asked for an offer of proof there
was really no reason given, other than some
information about a statement perhaps that
Supervisor Bianchi made about the adequacy of
septic tanks.
And if that's the only testimony that these parties expect to elicit, then I would say that it goes back to Mr. Chairman's original comments, that the justification for the prohibition order is not at relevance in this hearing.

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

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

SUPERVISOR BIANCHI: Good morning.

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

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

CHAIRPERSON YOUNG: Please.

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

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

UNIDENTIFIED SPEAKER: Yes.

SUPERVISOR BIANCHI: Okay. My name is Shirley Bianchi, District 2 County Supervisor.
CHAIRPERSON YOUNG: You're the Supervisor for the Los Osos area?

SUPERVISOR BIANCHI: Yes.

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

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

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

SUPERVISOR BIANCHI: Yes.

CHAIRPERSON YOUNG: -- are true and correct?

SUPERVISOR BIANCHI: Yes.

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

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

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

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

CHAIRPERSON YOUNG: Okay. Do you have
any information as to the specifics of his
individual onsite disposal system?

SUPERVISOR BIANCHI: None whatsoever.

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

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

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

SUPERVISOR BIANCHI: No.

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

SUPERVISOR BIANCHI: None whatsoever.

CHAIRPERSON YOUNG: Okay.

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

CHAIRPERSON YOUNG: In that case I'm
going to quash the subpoena for Ms. Bianchi.

However, Ms. Bianchi, we do have a interested
public speaking part in our proceeding today if
you care to address the Board at that time.
You're welcome to do that. But, I don't see where your particular testimony is relevant to the issues that the Board has defined as at issue here today.

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

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

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

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

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

MR. SHIPE: Yes, my name is Robert Shipe. CDO number is 1024, the last four. I have a question because you continually say does it have anything to do with his specific site. And my question is are we individuals only going to be allowed to talk to our specific sites? Because I believe there were two parts
to this, and one is are CDOs the correct response from this Board. And if that is one of the questions, then it is my belief that we should all be able to speak directly to whether or not the CDOs are applicable to us.

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

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

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

(Audience speaking simultaneously.)

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

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

CHAIRPERSON YOUNG: Thank you for your
comments. Let's get back to --

(Applause.)

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

UNIDENTIFIED SPEAKER: Mr. Chairman.

MR. SHIPE: Mr. Chairman.

CHAIRPERSON YOUNG: Mr. Young is fine.

MR. SHIPE: Okay.

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

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

CHAIRPERSON YOUNG: Fine, go ahead.

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

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

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

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

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

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

She sent documentation to discourage and actually quash a plant being placed out of town. And she sent letters on the County letterhead to
that effect. And there's much information between
the State Water Board and Ms. Bianchi and the
other party that was subpoenaed.

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

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

MR. MOYLAN: Yes, I would.

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

MR. MOYLAN: Ms. Bianchi's comments?

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

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

CHAIRPERSON YOUNG: The truth about
what?

MR. MOYLAN: The truth about her role in
quashing the sewer project after it was stopped
and how it was quashed before it could be put outside of town.

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

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

CHAIRPERSON YOUNG: Yes.

MR. MOYLAN: You keep referring to, is this site-specific, does Ms. Bianchi have anything site-specific, has she ever been to your house.

No. And so you want to quash her as a -- or quash the subpoena of Ms. Bianchi and the other people, Jerry Gregory and Pandora Nash-Karner.

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

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

CHAIRPERSON YOUNG: Well, that is part of what --
MR. MOYLAN: Is that true, sir?

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

MS. TACKER: (inaudible).

CHAIRPERSON YOUNG: This is not an athletic competition.

MS. TACKER: I did not clap --

(Audience speaking simultaneously.)

CHAIRPERSON YOUNG: This is what this hearing is about.

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

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

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

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

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

CHAIRPERSON YOUNG: I'm saying that the
evidence that you think they are going offer at this hearing is not relevant to proving --

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

CHAIRPERSON YOUNG: You told me --

MR. MOYLAN: I didn't tell you what they're going to say. I haven't told you what they're going to say, but we need to hear what they're going to say.

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

(Audience speaking simultaneously.)

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

MR. MOYLAN: I disagree vehemently.

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

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

MR. ONSTOT: Mr. Chairman, --

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

CHAIRPERSON YOUNG: All right.

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

CHAIRPERSON YOUNG: Yes.

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

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

CHAIRPERSON YOUNG: Well, and I can appreciate that. And I think that any of these individuals can certainly tell the Board that, in their opinion, the issuance of the CDOs will have a negative impact on their property values. Okay.
By the way, this is our Board Attorney from the State Water Resources Control Board, John Richards. He's been appointed to advise the Board since we don't have the services of Ms. Okun and the prosecution staff, who are all separated from their functions.

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

Mr. Richards.

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

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

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

However, the parties are free to call
any of those witnesses and present the evidence that they want them to present during the proceeding as part of their own case.

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

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

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

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

MR. RICHARDS: Well, it's up to the
parties to produce their own witnesses.

MR. MARTYN: They came reluctantly, sir.

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

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

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

CHAIRPERSON YOUNG: Okay, moving on to our next procedural issue. I didn't have a chance to completely review the Prosecution Team's objections to the CSD exhibit list, but let me -- and I did review the entire CSD exhibit list last night. I made a cursory review of the objections. And I don't want to spend a lot of time on this. What I'm proposing to do, and I'll hear from Mr. Onstot and Ms. Okun about this. Mr. Onstot, I reviewed that list. It seems like you
could have pulled everything off of the shelves in
the CSD library. There's videotapes of CSD Board
meetings; there are newspaper articles; there are,
is it 800 documents?

MS. OKUN: I think it's 847.

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

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

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

MR. ONSTOT: Mr. Chair, I understand
that. And like we did last time, we have a very
inclusive list. As a defendant here and
respondent, we don't know what the prosecution
case is. We don't know exactly what would be relevant.

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

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

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

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

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

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

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

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

There were a few documents that were incorrectly described in the CSD's document list
so that I would ask when they go through that list
to keep that in mind.

CHAIRPERSON YOUNG: Okay. Well, I would

like the two of you to work to pare down that
list. Do you have any objections to the
Prosecution Team's list?

MR. ONSTOT: No.

CHAIRPERSON YOUNG: Okay. I think we
are ready.

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

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

CHAIRPERSON YOUNG: I have not seen the
subpoena.

MS. OKUN: I haven't seen the subpoena,
but I can give you a copy of the County's
objection if you want to see it. I don't know if
somebody's here from the County to address that.

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

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

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

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

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

MR. ONSTOT: Correct.

CHAIRPERSON YOUNG: Well, I think he
would be an important witness. Is he here?

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

CHAIRPERSON YOUNG: Okay.

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

CHAIRPERSON YOUNG: Okay.

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

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

CHAIRPERSON YOUNG: Can you speak louder.

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

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

MS. BOUCHARD: Okay. The only information we have is confidential, the entirety of the records and the identity of the informants. The records that they seek are records of complaints of discharge failures from septic
systems in Los Osos.

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

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

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

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

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

CHAIRPERSON YOUNG: But if their names
are not disclosed how is their confidentiality
breached?

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

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

MS. BOUCHARD: I understand.

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

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

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

MR. ONSTOT: Yes, Mr. Chairman, again, I'll reiterate. We're not asking for confidential information. We're not asking for names. We're asking for the County's regulatory program and how
it is coordinated with this Board's efforts in
managing septic tanks.

CHAIRPERSON YOUNG: But did you ask for
individual complaints?

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

CHAIRPERSON YOUNG: Okay.

MS. BOUCHARD: Okay, we understand.

We've narrowed the scope, then.

CHAIRPERSON YOUNG: Okay. Good.

MS. BOUCHARD: Thank you.

CHAIRPERSON YOUNG: Thank you.

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

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

This authority rests in this County with
the building official. So my ability to clarify
issues would be limited only to complaints that
are reported to us. And even then if we find a
failure we report that to the building department
or code enforcement for them to secure and obtain
compliance.

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

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

MR. CARNES: Exactly.

CHAIRPERSON YOUNG: Okay. All right,
thank you.

MS. BOUCHARD: Thank you.

MR. CARNES: Thank you.

CHAIRPERSON YOUNG: All right. Any
other objections?

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

CHAIRPERSON YOUNG: That's fine.

MS. McPHERSON: I just wanted to make
sure that that was on the record.

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

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

MR. SHIPE: Mr. Chairman, --

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

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

MR. SHIPE: Yes, Mr. Young. First I'd like to also apologize for kind of how loud I got last time. We're all individuals, we aren't used to this. And the adrenalin is running really high. And so I just kind of -- I felt a little
aggressive, and that was not my point at all. So I just wanted to clarify that.

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

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

MR. SHIPE: For interested parties.

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

MR. SHIPE: Yes.

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

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

CHAIRPERSON YOUNG: Color, this is not a discriminating -- this issue. I don't care what
color the card is.

MR. SHIPE: Okay, --

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

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

CHAIRPERSON YOUNG: -- or the blue side.

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

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

MR. SHIPE: Okay, so --

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

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

CHAIRPERSON YOUNG: Yeah, and we're all
referring to the interested parties --

MR. SHIPE: Right, yes.

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

CHAIRPERSON YOUNG: Thank you.

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

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

And so I noticed that you said I'd be able to speak early on. And I'm just hoping that I'm going to be able to speak, and I believe everybody should be able to speak to the issue to everybody, instead of just everybody having to address property-specific issues.
CHAIRPERSON YOUNG: And perhaps I wasn't clear earlier. But I'm going to let people use their 15 minutes any way they want to.

MR. SHIPE: Okay.

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

MR. SHIPE: Okay.

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

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

MR. SHIPE: Okay.

CHAIRPERSON YOUNG: -- let them get into that.

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

So I'm requesting that I be given the
full half hour.

CHAIRPERSON YOUNG: Where is he?

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

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

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

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

MR. SHIPE: Yes.

CHAIRPERSON YOUNG: Okay.

MR. SHIPE: But he --

CHAIRPERSON YOUNG: That the Board could act solely based on their written submission. So,
in terms of cobbling time together, --

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

(Pause.)

CHAIRPERSON YOUNG: Go ahead.

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

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

MR. SHIPE: I'm not ask --

CHAIRPERSON YOUNG: -- to coordinate the presentation.

MR. SHIPE: Okay.

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

MR. SHIPE: Okay.

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

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

CHAIRPERSON YOUNG: I understand that.
But you're making a request -- I would prefer to have this done in advance of the hearing, to take up right now.

MR. SHIPE: Okay, I'm sorry.

CHAIRPERSON YOUNG: So, --

MR. SHIPE: Mr. Young, --

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

MR. SHIPE: That's fair.

CHAIRPERSON YOUNG: -- use it wisely.

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

CHAIRPERSON YOUNG: Okay.

MR. SHIPE: A couple other questions. Because we have not been granted individual hearings, then it is my belief that no CDO should be issued until all have been heard.

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

(Laughter.)

CHAIRPERSON YOUNG: Okay.

MR. SHIPE: Would you be willing to --
that is my request that you don't -- because you had said earlier that you planned on ruling on some today, and coming back probably next week on others. And I'm asking that you wait till you hear everybody, because we have all asked to submit our evidence jointly.

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

(Laughter.)

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

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

MR. SHIPE: Okay.

CHAIRPERSON YOUNG: And I want the Board to be able to consider that at that moment because, Mr. Shipe, after 20 or 25, I'm liable to
forget some of the pertinent facts that happened early on in the proceeding.

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

MR. SHIPE: Yes.

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

MR. SHIPE: Okay.

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

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

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

MR. SHIPE: So, are you saying that basically since the CSD has asked to become a
designated party, you have granted them all of the
authority in representing the entirety of Los
Osos?

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

CHAIRPERSON YOUNG: I (inaudible) --

(Parties speaking simultaneously.)

MR. SHIPE: Okay, sorry.

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

MR. SHIPE: Okay.

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

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

CHAIRPERSON YOUNG: The reason why I
gave them designated party status was because I
thought they have some legitimate and important
issues that they could put before the Board for
consideration, and probably have the most
wherewithal to do that, to make a presentation.
And that they could most efficiently cobble that
information together and make a presentation that
most of the individuals would have the benefit of
simply incorporating by reference.

MR. SHIPE: Okay.

CHAIRPERSON YOUNG: That was my
decision.

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

CHAIRPERSON YOUNG: Okay. Next point?

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

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

Yes, sir.

MS. McPHERSON: Can I --

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

MS. McPHERSON: Go ahead.

UNIDENTIFIED SPEAKER: Go ahead.

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

CHAIRPERSON YOUNG: Which designated
party?

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

CHAIRPERSON YOUNG: Well, Mr. Moylan --

MR. MOYLAN: She's the coach.

MS. McPHERSON: I thought we were talking about documents, and I just wanted to --

like to hear --

CHAIRPERSON YOUNG: Sir, what is your name?

MR. BEARDSLEY: Are you talking to me?

CHAIRPERSON YOUNG: Yes, I am.

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

UNIDENTIFIED SPEAKER: Oh, you're press?

CHAIRPERSON YOUNG: Yeah, okay.

(Laughter.)

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

(Audience speaking simultaneously.)

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

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

CHAIRPERSON YOUNG: Documents
(inaudible). Okay, Mr. Moylan.

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

CHAIRPERSON YOUNG: From who?

MR. MOYLAN: Kelley Blacksher.

CHAIRPERSON YOUNG: Who's this person?

MR. MOYLAN: Apparently she works for your Board.

CHAIRPERSON YOUNG: Okay. Okay, go ahead.

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

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

At any rate, I just had this objection, and it's the last-minute objection to evidence presented to you over three weeks ago. It's objectionable to me. The proper time to elicit your objections to any evidence presented was
April 19, 2006 when you submitted your rebuttal to all the evidence that we presented on April 5th.

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

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

MR. MOYLAN: No, --

(Laughter.)

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

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

I wanted to provide as much notice as possible to the Board and to the parties. And unfortunately, it took me much longer than I expected because of the extraordinary length of the submission from the CSD. And the fact that
some of those 849 documents weren't actually
documents. They were files consisting of hundreds
of pages. Some of them were mislabeled. It took
a very long time to go through those documents.

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

Also, in terms of --

(Audience speaking simultaneously.)

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

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

MR. MOYLAN: I'd like to rebut that.
CHAIRPERSON YOUNG: Go ahead.

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

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

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

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

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

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

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

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

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

MR. MOYLAN: Okay.

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

MR. MOYLAN: Thank you.

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

Thank you for your comments.

MR. MOYLAN: Okay, thank you.
CHAIRPERSON YOUNG: Does anyone else have any procedural evidentiary issues? Okay, Mr. Pearson, are you represented?

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

If you want to call each one, --

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

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

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

MS. McPHERSON: Okay.

CHAIRPERSON YOUNG: Go ahead.

MS. McPHERSON: You'll have that.

I apologize that defendants in these proceedings don't understand evidentiary standards and some of the issues surrounding documents. The documents were compiled by the CSD, but also by the defendants. And so many of them here, and there's very very many that have been knocked out, off the list, and these are documents that are
being used by all 45, at least 23 I know of.
And each has had a chance -- has not had
a chance to object to Ms. Okun knocking those off.
And they probably will need to.

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

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

And if it's too difficult for the
prosecution to pull that together, I suggest we do
have a continuance in the interests of justice.

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

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

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

It's impossible. And so they are joined
in using one another's testimony. I believe the
procedures say that, that all of this would be considered together for each case. And it would all be incorporated.

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

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

CHAIRPERSON YOUNG: Anything else?

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

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

MS. McPHERSON: Okay.

CHAIRPERSON YOUNG: As to the exhibits, I think it's entirely appropriate for the other designated parties to be able to review the CSD's exhibit list when the prosecution team does so, and so they get to weigh in if they feel that any of those exhibits that Ms. Okun feels should be stricken, if any of the other designated parties, and not -- Ms. McPherson may not be speaking for
you, there may be others out there, it is entirely
appropriate for you to have some input into any of
those exhibits that you feel are -- that you need
or want to rely upon.

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

MS. McPHERSON: And that's to be done at
lunch?

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

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

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

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

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

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

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

I mean I got them literally at 2:00,
hand-carried from somebody who had them at the CSD office. I didn't have those. The designated parties did not have those.

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

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

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

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

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

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

CHAIRPERSON YOUNG: Okay, well, there was a -- the Board issued its own response, if
that's what we want to call it, -- the first time we heard about the prosecution team's changing any part of the CDOs is when everyone else did. I read that and wasn't quite sure what that was all about.

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

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

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

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

CHAIRPERSON YOUNG: What information?

MS. McPHERSON: As to a remedy.

CHAIRPERSON YOUNG: That's always been there.

MS. McPHERSON: Apparently that's not
really there, either. What is says is that, when
we've made calls, is that you can bring that to us
after you get your CDO. You accept the CDO as you
get it, and if you have another remedy then you
bring it to us to review after. I had --

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

MS. McPHERSON: No, we --

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

MS. McPHERSON: But we're --

CHAIRPERSON YOUNG: -- or not, so I
think that we have to wait and hear what all sides
have to say. And then we have to deliberate. I
don't think that -- I mean it's an infinite
regress to have proposals and counterproposals
back and forth. And then never hold a hearing
because you want to respond --
CHAIRPERSON YOUNG: I think what she's saying is that if the CDO is to be accepted that there has been -- staff is not recommending that people put forth any alternative --

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

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

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

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

So, we're really unclear on that 15
CHAIRPERSON YOUNG: Well, I don't know what staff has told anybody, because they're not talking -- so I need to hear what staff has to say about this. And we'll revisit this issue --

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

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

MS. McPHERSON: I'm concerned --

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

MS. McPHERSON: Okay.

CHAIRPERSON YOUNG: So, --

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

The way the CDOs were drafted the Board
didn't have to approve those alternatives. They could adopt the CDOs and the parties could provide their proposals later to be approved by the Executive Officer.

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

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

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

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

MS. McPHERSON: Okay, so some of these people didn't get it.

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

MS. McPHERSON: When the --

CHAIRPERSON YOUNG: So, let's --

MS. McPHERSON: When the last change occurred --

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

MS. McPHERSON: Okay.

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

MS. SCHICKER: Mr. Young.

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

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

CHAIRPERSON YOUNG: No, it's automatically done.

MS. McPHERSON: It's automatically done.
CHAIRPERSON YOUNG: Automatically done.

They don't have to worry about mentioning it.

Go ahead.

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

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

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

So, if the first designated party who takes his or her 15 minutes and presents evidence
that can be deemed relevant to a subsequent proceeding, that subsequent designated party can ask that the prior testimony be incorporated into the record for their proceeding.

MS. McPHERSON: So that's not automatic.

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

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

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

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

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

MS. McPHERSON: Okay.

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

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

CHAIRPERSON YOUNG: That's not.

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

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

MS. McPHERSON: Okay.
CHAIRPERSON YOUNG: Okay.

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

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

MS. SCHICKER: Yes.

CHAIRPERSON YOUNG: -- have an attorney here --

MS. SCHICKER: I know.

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

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

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

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

And I request time to be able to consult with our attorneys before, to go through that 850-document list where many documents were removed.
And I don't know about them yet. I didn't receive anything from Ms. Okun. I have email, too. And I need some more time. That's all I'm asking.

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

MS. SCHICKER: I realize that.

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

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

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

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

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

CHAIRPERSON YOUNG: I note your objection and --

MS. SCHICKER: Thank you.

CHAIRPERSON YOUNG: All right, then.

Any other objections we need to take up? Okay.

UNIDENTIFIED SPEAKER: I just wanted to
clarify one issue.

CHAIRPERSON YOUNG: Your name?

UNIDENTIFIED SPEAKER: My name is (redacted.)

CHAIRPERSON YOUNG: Okay.

UNIDENTIFIED SPEAKER: We received one of the CDOs.

CHAIRPERSON YOUNG: Yes.

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

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

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

I can't tell you how we're going to
respond to it, but I can tell you we're going to
listen to it and consider it.

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

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

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

CHAIRPERSON YOUNG: Ms. Okun, do you
want to clarify any confusion that may be there?
Are individuals permitted to make pitches to the Board?

MS. OKUN: Of course.

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

MS. OKUN: That's correct.

CHAIRPERSON YOUNG: Okay. All right.

Any other objections?

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

CHAIRPERSON YOUNG: Are you a designated party?

MR. MATTINGLY: Yes, sir.

CHAIRPERSON YOUNG: Okay, --

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

CHAIRPERSON YOUNG: Okay. Your address, sir?

MR. MATTINGLY: 440 Woodland.

CHAIRPERSON YOUNG: Okay.

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

CHAIRPERSON YOUNG: Okay.
MR. MATTINGLY: Not Los Crosos. I'd just like to see a show of hands of anybody else in here that maybe has been pulling their hair out or is completely confused --

CHAIRPERSON YOUNG: Sir, do you --

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

CHAIRPERSON YOUNG: Okay. Can you please state --

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

Because we have people that decided to jump the gun on starting a project does not mean that we should be punished for it. So I think we
should have ample time to review all of the
documents and everything else, besides a two-day
notice that was dropped at my door. I would have
liked a certified letter, personally. Thank you.

CHAIRPERSON YOUNG: Thank you for you
comments.

(Applause.)

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

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

CHAIRPERSON YOUNG: Sir, your name for
the record?

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

CHAIRPERSON YOUNG: Okay.

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

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

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

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

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

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

CHAIRPERSON YOUNG: Thank you for your comments.

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

CHAIRPERSON YOUNG: Pertinent health issues, --

MS. McPHERSON: yes.

CHAIRPERSON YOUNG: -- or --
MS. McPHERSON: This lady would like to speak.

CHAIRPERSON YOUNG: Okay.

MS. McPHERSON: She's on dialysis.

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

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

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

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

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

(Parties speaking simultaneously.)

MS. CINDERSON: I'm sorry --

CHAIRPERSON YOUNG: Okay, I suggest you
contact Ms. Okun or the prosecution team staff --

MS. CINDERSON: To do what?

CHAIRPERSON YOUNG: To present your

questions if there's something you don't know how
to do. You should seek competent advice.

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

MS. CINDERSON: I know.

CHAIRPERSON YOUNG: Okay?

MS. CINDERSON: But I would like you to

know that people are -- it's not just me. I know

there's other people out there that are sick.

Maybe I'm not important, but I feel that I might

be important --

CHAIRPERSON YOUNG: You are important.

(Audience speaking simultaneously.)

(Applause.)

MS. CINDERSON: And I do appreciate what
everybody's trying to do. I do pump my septic
tank out every three years. And I don't know what
to do. And I hope that you guys decide the right
decision. And I hope that you take consideration

about other people. Thank you. That's all I

wanted to say.

CHAIRPERSON YOUNG: Thank you very much,
okay.

(Applause.)

CHAIRPERSON YOUNG: Folks, please.

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

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

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

(Audience speaking simultaneously.)

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

CHAIRPERSON YOUNG: Okay.

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

CHAIRPERSON YOUNG: You're both here.

MR. ALABE: Right.

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

MR. ALABE: Each. Okay.

CHAIRPERSON YOUNG: Okay?
MR. ALABE: Thank you.

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

MR. ALABE: Okay, thank you.

CHAIRPERSON YOUNG: Any other issues?

Okay. We are going to take a break and come back at 12:30. Then we'll resume with public comments/interested party presentations.

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

CHAIRPERSON YOUNG: What is your name?

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

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

MR. PAIGE: Okay, thank you.

(Brief recess.)

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

MR. PAIGE: Are you a CDO recipient?

MR. PAIGE: No, I'm basically a witness
for the CSD.

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

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

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

MR. PAIGE: Okay, that's fine.

MS. OKUN: Mr. Young.

CHAIRPERSON YOUNG: Yes.

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

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

But I was wondering if you could respond
to their concerns about what was going to be
public. Obviously, this is a public hearing, and it's being broadcast on cable tv. So if people stand up and choose to give certain information, it's public.

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

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

(Pause.)

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

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

MR. SHIPE: That's mine.

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

MR. SHIPE: Absolutely.

CHAIRPERSON YOUNG: Okay.

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

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

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

MR. SHIPE: Okay.

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

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

CHAIRPERSON YOUNG: Okay. Yes, ma'am.

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

CHAIRPERSON YOUNG: Right.

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

CHAIRPERSON YOUNG: Okay.

MS. MOYLAN: You had mentioned that my
husband and I would have to consolidate our time.
And I just would like to object to that. He and
I, both, prepared presentations.
And because I am also a designated
party, I had assumed that I also had the 15
minutes, so that between us we would have 30
minutes to present.

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

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

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

CHAIRPERSON YOUNG: Okay.

MR. ONSTOT: One is that the individual
dischargers have retained an expert, Dr. Daniel
Wickham, who's President of ABG Wastewater
Solutions. And he's out of Sebastopol, and he's
on the clock. So he asked to be put on a priority
status, along with the others, as well, since he
traveled a long way to be here today. And
obviously has relevant testimony, since he has a
PhD and is an expert in septic tank pumping and
its affect on the environment.

CHAIRPERSON YOUNG: Okay.

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

CHAIRPERSON YOUNG: He's not retained by

the CSD, but retained by individual --

MR. ONSTOT: Dischargers.

CHAIRPERSON YOUNG: -- dischargers,

okay. And where is he?

MR. ONSTOT: He's here.

CHAIRPERSON YOUNG: Where?

(Parties speaking simultaneously.)

CHAIRPERSON YOUNG: Okay, as long as

he's at hand, that's fine.

All right, Michael, how many cards do we

have?

MR. ONSTOT: The other --

CHAIRPERSON YOUNG: Go ahead.

MR. ONSTOT: The other thing, Mr.

Chairman, is the CSD does have a motion to dismiss

that I would like to make at this time.

CHAIRPERSON YOUNG: Okay.

MR. ONSTOT: As you know, we submitted

extensive comments relating to what we perceive

are due process violations. And unfortunately, we
felt so strongly about this that our President, Ms. Schicker, wrote to the State Board asking the State Board to intervene and stop these proceedings today.

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

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

And that's signed by Chairwoman Doduc.

Now, the reason that's important is because we have a brand new court case that is directly on point. And it is called the Morongo Band of Mission Indians v. The State Water Resources Control Board. The decision is of January 2006. And in that case the due process aspects of having
a prosecution team was directly at issue. And the court found, along with another court, that when you have a prosecution team that has members that also advises a water board, even on different matters, that that is a violation of due process and the proceedings cannot go forward.

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

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

Now this court case relied upon another decision called the Quintero v. City of Santa Ana case. It's a 2003 case at 114 Cal. App. 4th, page 810. And in that case we had a city attorney's
office, where the deputy city attorney worked both
the personnel board prosecution team, as well as
advised the personnel board, itself. And in that
case it was also held to be a violation of due
process for that to happen.

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

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

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

Because Mr. Briggs and Ms. Okun have
submitted comments to this Board on behalf of the
prosecution team, and have been major players thus
far, the imputed bias to this Board is clearly
established by their conduct thus far.

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

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

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

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

So, we've complied with the applicable
requirements. I don't think that the appropriate response would be a motion to dismiss. I think that you should hear from your attorney. And if he has any concerns about this objection, the appropriate response would either be to continue this case, or I guess to proceed without Mr. Briggs and I, although I would object to that. I don't think it's necessary, and I don't think it's fair to the prosecution staff.

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

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

CHAIRPERSON YOUNG: By we you're referring to?

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

AUDIENCE SPEAKER: Higher, please.

AUDIENCE SPEAKER: Would you speak a
little higher, please.

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

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

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

MR. ONSTOT: Yes, but --

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

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

CHAIRPERSON YOUNG: Is it a Superior Court case?
MR. ONSTOT: It's a Superior Court case.

The Superior Courts are superior jurisdiction over all tribunals unless there's specific exceptions carved out like for the Public Utilities Commission. And even though I understand Mr. Richards --

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

MR. ONSTOT: Sure.

CHAIRPERSON YOUNG: Go ahead.

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

That was the legal issue in Quintero. That's the legal issue here. And I think that we could save ourselves a whole lot of time, regardless of what the attorneys believe, because the Court of Appeals decision in Quintero is
definitely binding. And we would argue that the trial court is definitely persuasive, and that is why we're citing it.

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

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

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

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

MR. THOMAS: I have 37 cards from folks who want to speak, and marked the card that they want to speak, that they want to testify. I have 21 cards from folks where they marked that they did not want to testify. I'm not sure if people understand the difference between testifying and
speaking. These are public speaker cards, even though it says testify on here. This is the public speaker time for this particular item.

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

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

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

CHAIRPERSON YOUNG: For the designated parties.

MR. THOMAS: -- designated parties to speak.

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

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

the 21 --

MR. THOMAS: Mr. Chairman, 37.

CHAIRPERSON YOUNG: Are there --

BOARD MEMBER PRESS: Mr. Chairman.
CHAIRPERSON YOUNG: Yes.

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

CHAIRPERSON YOUNG: Well, that --

BOARD MEMBER PRESS: Would you clarify?

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

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

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

Sir, tell us who you are.

MR. KLEIGER: Yes, sir; my name's
Lawrence Kleiger. And I do have a cease and
desist order. And my wife and I both,
inadvertently filled out a red card --

CHAIRPERSON YOUNG: Okay.

MR. KLEIGER: -- and so --

CHAIRPERSON YOUNG: Okay. Good. He has

a -- well let's take -- did you find his card?
Has anyone that has received a cease and desist
order, have any of you filled out a speaker card,
thinking that you needed to? Okay.

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

MR. SHIPE: We were told to.

CHAIRPERSON YOUNG: Okay.

(Audience speaking simultaneously.)

CHAIRPERSON YOUNG: Oh, those have

already been pulled out. Okay. All right, so

there is a group of 21 that put on their cards

they did not want to testify. Do you know who you

are? Okay. Do you mind --

(Parties speaking simultaneously.)

CHAIRPERSON YOUNG: What I want to do is

divide their time up now. So, if I know who's

going to speak, everyone's going to know what
their time is. I don't want to chop it up for them. So that's why I need to know who it is. Dr. Press?

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

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

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

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

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

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

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

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

AUDIENCE SPEAKER: Just a quick point to ask, I mean earlier you asked -- only because the room was crowded, there were fire concerns, you
asked all but the designated parties to leave. So
they may be out of the room.

MR. THOMAS: Yes, but our audio --

CHAIRPERSON YOUNG: The audio feed goes
in there.

(Audience speaking simultaneously.)

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

(Parties speaking simultaneously.)

CHAIRPERSON YOUNG: Okay, I'm going to
go through the cards I have so I can get this
clarified. Thomas Dempset, or Dempsey? Is he
Mr. Braverman, I know you're here. Is he here?
He was. Betty Braverman. Okay. Charles Kostas.
Mr. Kostas, are you here? Okay. Shirley Norman,
Ms. Norman, are you here?
Sandra Stilts or Saundra Stilts? Okay.

Did you wish to speak?

AUDIENCE SPEAKER: No.

CHAIRPERSON YOUNG: It's up to you.

MS. STILTS: No, I pass.
CHAIRPERSON YOUNG: You pass, okay.

Hans Schwarz, Dr. Schwarz, are you here? Dr. Schwarz. Okay. Mark Connelly, Mr. Connelly, are you here? Okay. Elaine Watson. Okay. Ms. Watson, do you wish to speak?

MS. WATSON: I will speak.

CHAIRPERSON YOUNG: You do?

MS. WATSON: I will, yes.

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

MS. POVERO: I pass.

CHAIRPERSON YOUNG: You pass, okay.

Leonard --

MR. AMBRUSO: Ambruso.

CHAIRPERSON YOUNG: Yes.

MR. AMBRUSO: I pass.

CHAIRPERSON YOUNG: You pass, okay.

Mark Robinson? Mr. Robinson, are you here? Okay. Darlene Reynolds? Ms. Reynolds, are you here?

AUDIENCE SPEAKER: She left.

CHAIRPERSON YOUNG: She left, okay.

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

MS. AKLE: Yes.

CHAIRPERSON YOUNG: You do, okay. Carol
Cribbs? Are you here, Ms. Cribbs?

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

CHAIRPERSON YOUNG: Yes.

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

CHAIRPERSON YOUNG: Okay, well, that --

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

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

MS. BRUTON: Point of order, Chairman.

I've found that --

CHAIRPERSON YOUNG: Excuse me, --

MS. BRUTON: No. We were told after 3:00 would be public hearing by your staff. Now you cannot bring all these people in here and then
look at the trouble -- how are you going to make
decisions --

CHAIRPERSON YOUNG: Excuse me, excuse me, --

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

CHAIRPERSON YOUNG: -- excuse me, excuse me --

MS. BRUTON: -- of it.

(Laughter.)

CHAIRPERSON YOUNG: Excuse me.

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

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

MS. BRUTON: -- you look?

CHAIRPERSON YOUNG: Okay. Officer, please. I want you out.

(Audience speaking simultaneously.)

CHAIRPERSON YOUNG: She has done this before at other hearings.

MS. BRUTON: Excuse me, but you are hijacking the public due process.

CHAIRPERSON YOUNG: Okay, please remove yourself from this room.
MS. BRUTON: I have a right to speak to that.

CHAIRPERSON YOUNG: Please remove yourself from this room. If you submitted a speaker card, that'll be your opportunity to speak. Have you?

MS. BRUTON: Yes.

CHAIRPERSON YOUNG: Okay. Thank you.


Mr. Harding, are you here?

AUDIENCE SPEAKER: Some of these folks could be out in the area; you can't run all the way --


Okay, well, I have a group of cards. You've heard who did not respond. We'll take them up at the last moment, but now how many -- we have 41, so divide that into an hour and a half. What is that?

And is Mr. Blakeslee here, Assemblyman Blakeslee? Is that you?

AUDIENCE SPEAKER: No.
CHAIRPERSON YOUNG: Are you a recipient of a cease and desist order?

AUDIENCE SPEAKER: No, I'm not.

CHAIRPERSON YOUNG: Okay. Why don't you come up here. Oh, did you check off that you wanted to speak?

AUDIENCE SPEAKER: Yes, I did.

CHAIRPERSON YOUNG: Okay, well, you're in the stack. It's those that put they did not want to speak, okay, that we're trying to deal with.

Okay, folks, those that are going to be speaking, you're going to have two minutes to address the Board. Is the Assemblyman here?

AUDIENCE SPEAKER: Yes, he is, he's going out the door.

CHAIRPERSON YOUNG: He's going out the door?

AUDIENCE SPEAKER: No, he's our --

CHAIRPERSON YOUNG: Okay. All right.

Okay, Supervisor Bianchi. Okay, Ms. Bianchi, like everyone else you'll have two minutes for your comments.

SUPERVISOR BIANCHI: My comments will be very brief. They're just simply that I'm here to
answer any questions that the Board might have, that's all.

CHAIRPERSON YOUNG: Okay.

AUDIENCE SPEAKER: Don't answer the public.

(Audience speaking simultaneously.)

SUPERVISOR BIANCHI: And I commend you on your patience.

CHAIRPERSON YOUNG: Well, they're testing me, I think, with this.

Folks, please keep it down.

All right, thank you. And thank you for being here.

SUPERVISOR BIANCHI: I'm going to be leaving shortly, so if there's any questions I'd just as soon have them now. I have an agenda to read for next Tuesday.

CHAIRPERSON YOUNG: Okay. Well, let me ask the Board. Does the Board have any questions of Supervisor Bianchi?

Okay, I guess not.

SUPERVISOR BIANCHI: Okay, thank you.

Thank you very much.

CHAIRPERSON YOUNG: Okay. All right, next speaker is Jack Pastel. I'll read four names
off in a row so you can get ready. Jack Pastel;
Dustan Mattingly; Steven Paige; and Maria Kelly.
If I butchered those names, I apologize. And, Mr.
Racano, you're the fifth one.

MS. OKUN: Mr. Chair, Mr. Mattingly is a
designated party.

CHAIRPERSON YOUNG: Okay. All right.

MR. ONSTOT: Mr. Chair, I'm also
informed that Assemblyman Blakeslee is on his way.

CHAIRPERSON YOUNG: Okay. Well, when he
comes then we'll just insert him.

MS. SCHICKER: Fifteen to 20 minutes.

CHAIRPERSON YOUNG: He'll be here in 15
to 20 minutes?

MS. SCHICKER: Yes.

CHAIRPERSON YOUNG: Okay. All right.

Jack Pastel, Steven Paige, Maria Kelly, Joey
Racano. Mr. Racano, there's two cards for you. I
don't believe you're really trying to get in extra
time. There's a red and a white card.

All right, Mr. Pastel, Jack Pastel.

Okay. All right, Steven Paige. Yes. Then Maria
Kelly, then Joey Racano, then Joyce Albright.

MR. PAIGE: Excuse me, Mr. Young, how
much time do we get?
CHAIRPERSON YOUNG: Two minutes. Two
minutes.

MR. PAIGE: Okay. I submitted a
voluntary plan to source sequester the solid
waste, the solid human waste on my property. And
I gave the plan to Harvey Packard over 34 days
ago.

And his initial response in his email
said that the plan was very viable; in so many
words he said that.

My plan reduces the total nitrogen
emission on an individual property by 58 percent.
It cuts shipping wastes by 90 percent, thus
cutting the air pollution by 90 percent. And it
also causes no water withdrawal from the aquifer
at all.

It is based on a Swedish system. I was
just wondering if you had an opportunity to review
it. I took the plan into the San Luis Obispo
Building Department and they kicked it upstairs to
your guys. And I've been waiting to hear back
from them on my plan.

It's also posted on your website, my
plan is posted on your website. I think it's a
viable alternative to hauling 9000 gallons of
waste per year per household. You reduce that
down to about 400 to 600 gallons. And you
certainly cut the truck APCD issue by about 90
percent, 80 or 90 percent.

I would like to have an opportunity to
hear back from your Board. I assume, at this
point I assume my plan is approved under CalCode
section 65943 because since the plan was kicked
out of the building department and sent to you
I've not heard, over 30 days I've not heard from
your Board. And I assume that my plan, at this
point, is approved because it's gone past that 30
days.

CHAIRPERSON YOUNG: All right, time's
up. Thank you for your comments. The Board,
itself, has not seen anything you have presented.
I'm looking in my interested party section of my
package. I don't see any written comments by you.

MR. PAIGE: It's emailed and was posted
on your website.

CHAIRPERSON YOUNG: Okay, well, --

MR. PAIGE: No, this is posted in the --

CHAIRPERSON YOUNG: Okay, anyway, the
proper thing is to submit it to the staff for
their analysis and review, and then
recommendations.

MR. PAIGE: Yes, I did submit it on the 23rd.

CHAIRPERSON YOUNG: Okay. Well, I can't tell you right now where that is in the process, but you can take that up with staff afterward. And maybe somehow that falls into the, you know, recipe for what to do.

MR. PAIGE: Okay.

CHAIRPERSON YOUNG: Okay?

MR. PAIGE: Yeah.

CHAIRPERSON YOUNG: Thank you for your comments.

I did want to, and I'm addressing something else right now, with Mr. Pastel, I did note he had some comments on the back of his card. And I overlooked that, and I think he wants me to read this, so I will do it on his behalf.

Thank you, Mr. Paige.

MR. PAIGE: Okay.

CHAIRPERSON YOUNG: And then Maria Kelly can come up while I read this. This is from, I believe, Jack Pastel: "I am a local resident for 11 years and have seen a positive change with our new CSD Board. At last we have a CSD that is
working toward a common goal to have a sewer plan outside of town. Please allow them to get the job done within a reasonable timeframe. This current action is slowing down the process. You can see by the turnout today we want to move forward. Thanks." Most likely it's his signature, Jack Pastel.

Okay. Maria Kelly.

MS. KELLY: I'm Maria Kelly. I have no public comment at this time. I just wanted to put in a comment. So I don't want to take your time. I just wanted to let you know.

CHAIRPERSON YOUNG: Okay, all right. Mr. Racano, followed by Joyce Albright, and then Ann Calhoun. And then Keith Wimer, Wimer, I'm not sure. Mr. Shallcross.

BOARD MEMBER SHALLCROSS: Yeah, I think there has been some confusion on this part of the proceedings. Because the public forum, which is different than what we're doing now, the public forum is after 3:00, and is noticed after 3:00. And that's for folks to speak on any item not on the agenda. So, you know, it's unfortunate if folks didn't understand that. But these folks are speaking on an item on the agenda, so they have to
speak within the item.

CHAIRPERSON YOUNG: Yeah.

BOARD MEMBER SHALLCROSS: And I think
that's where the confusion came.

CHAIRPERSON YOUNG: Okay. All right,

Mr. Racano.

MR. RACANO: Honorable Board, staff,
friends, friends at home, Joey Racano, the Orange
County Ocean Outfall Group.

It is the position of the Ocean Outfall
Group that individual cease and desist orders by
this Board leveled at the good citizens of Los
Osos violates them of their constitutional right
to equal protection under the law. This because
you have selected individuals and not all
individuals.

Cease and desist orders were meant to be
leveled at organizations, agencies, industries,
but it seems that we've found a new way to attack
the citizenry.

It is not the fault of the citizens of
Los Osos that the former CSD Board, who was
recalled in disgrace, chose to attempt to spend
the community into submission, their own words,
and begin the project, spending millions, with
only 27 days before a recall election that would
ultimately recall them all.

It is my knowledge that the regional
boards were created in the '70s from the state
boards, who were in turn created in the '40s from
the old rancher boards that made sure there was
water for cattle.

So never has the regional board served
the needs of the people or clean water.
Historically, you have served the needs of
industry, and it is the Ocean Outfall Group's
position that you continue to do so.

CHAIRPERSON YOUNG: Time's up; thank you
for your comments.

MR. RACANO: I thank you for this
opportunity to address you, and I urge you to
recognize the attempts by the community to remedy
any water quality situations.

CHAIRPERSON YOUNG: Joyce Albright; Ann
Calhoun; Keith Wimer --

AUDIENCE SPEAKER: Wimer.

CHAIRPERSON YOUNG: Winer, okay, pardon
me.

AUDIENCE SPEAKER: With an "m".

CHAIRPERSON YOUNG: Wimer, okay. And
then Jim Hensley.

CHAIRPERSON YOUNG: Okay, Ms. Albright,
you have two minutes.

MS. ALBRIGHT: Yes. Fine. Can you hear me?

CHAIRPERSON YOUNG: Yes.

MS. ALBRIGHT: Good morning, Honorable Board; Joyce Albright, and I'm of Los Osos. When I was searching for property --

AUDIENCE SPEAKERS: Can't hear.

CHAIRPERSON YOUNG: Would you speak up,

Ms. Albright. Howard, can you make sure --

MS. ALBRIGHT: Shall I start over?

CHAIRPERSON YOUNG: Go ahead.

(Audience speaking simultaneously.)

(Pause.)

MS. ALBRIGHT: That's much better.

CHAIRPERSON YOUNG: Okay, I'm starting right now.

MS. ALBRIGHT: Good morning, Honorable Board; Joyce Albright of Los Osos. When I was searching for property on the central coast in the mid '80s my sister warned me to stay away from Los Osos because it had sewer problems.

But I fell in love with this beautiful
community and chose it for retirement, which translates to limited income. I, too, will be financially strapped, whether I'm paying for regular pumping of my septic tank or for a sewer.

We had in construction an aesthetic, state of the art, odorless, gravity system designed to deal with salt water intrusion and to refurbish our groundwater. It was to be surrounded by a lovely park besides, and it was just down below me.

This project was stopped by the very people who are fighting you today. Some of them have been fighting against a sewer for over 20 years, same plan, different words.

While I do not want your enforcement measures to cause financial pressure on me or on our citizens, this community must be made aware that the time has come to stop dallying and build the sewer now.

The situation has developed into an enormous health issue. There is absolutely no excuse to put the sewer off any longer. Twenty years of dumping our sewage into our drinking water is unacceptable.

Community support to dissolve the LOCSD
and a transfer of the sewer project, and all
services, back to the County is accelerating
rapidly. Most of Los Osos realizes we must build
the damn sewer now.

You can get the facts at our new
website, dissolveLOC.org. Thank you, ladies and
gentlemen of the Regional Water Quality Control
Board for your continuing efforts to save our
water and the Bay.

CHAIRPERSON YOUNG: Okay, thank you for
your comments.

(Audience speaking simultaneously.)

CHAIRPERSON YOUNG: Excuse me, please
keep your comments to yourselves.

Ann Calhoun.

MS. CALHOUN: Watch your toes, everyone.

Got some rush-hour traffic here.

CHAIRPERSON YOUNG: So this is the
infamous Ann Calhoun?

MS. CALHOUN: Infamous, yes. Ann
Calhoun, Los Osos.

CHAIRPERSON YOUNG: Okay, so how are we
going to end up in tomorrow's blog?

(Laughter.)

MS. CALHOUN: You know blogs are not
submitable, or not relied upon by any persons of serious mien and --

CHAIRPERSON YOUNG: That's right, and --

(Applause.)

MS. CALHOUN: Which I thought was funny because it was sent out in the form of a press release.

(Laughter.)

CHAIRPERSON YOUNG: Okay, Ms. Calhoun, you have two minutes.

MS. CALHOUN: Thank you. Edward R. Murrow once accurately observed to be persuasive we must be believable. To be believable we must be credible. To be credible we must be truthful.

The recent April 27th Tribune editorial noted its dismay at the muddlement over the air quality issues that suddenly showed up. And noted the Regional Board's failure to gather all the facts which is guaranteed to further erode public confidence in the Regional Water Board.

If this Board wants to restore public confidence I think it needs to call for a continuance; get its scientific ducks in a row; its legal and procedural ducks in a row.

I would then suggest that it work with
the CSD to help create a septic management
district. Ironically, the proposed Board's
alternative plan that was going to require every
tank be pumped, inspected and certified, is
something that the community members have been
asking be done for years. And if I'm not mistaken
it's what the CSD is also proposing.

Above all I would hope this Board would
move immediately to update an amend the basin
plan, and resolution 8312 and '13 to reflect
present day realities, open the way for an
expandable wastewater treatment plan that prepares
for the new state septic tank regulations.

That action, I think, will go a long way
to restoring confidence that the Regional Board is
interested in solving water quality problems and
you don't need community-wide CDOs to do it.

Thank you.

CHAIRPERSON YOUNG: Thank you for your
comments. Okay, next speaker is Mr. Wimer.

MR. WIMER: Yes.

CHAIRPERSON YOUNG: Thank you. And then
Jim Hensley, and then Lalelle Speegle. Lazelle
Speegle.

MR. SPEEGLE: I have a CDO.
CHAIRPERSON YOUNG: Okay. Are you Mr. Speegle?

MR. SPEEGLE: Yeah.

CHAIRPERSON YOUNG: Okay, so you have a CDO, so we'll take that out. I'll give it to Mr. Thomas.

Okay, Mr. Wimer, you have two minutes.

MR. WIMER: Yes. Mr. Young, Regional Board, my name is Keith Wimer. I live in the prohibition zone of Los Osos. I was uncommitted on the wastewater issue until your Board imposed these measures. I am now committed to fighting your action in any way I can.

I'm particularly offended and distressed by a divide-and-conquer tactic, to single my neighbors and me out on the basis of an arbitrary designation called the prohibition zone; to threaten to take control of my property when you have no direct evidence of my breaking a law; violate my rights and force me to become active.

I'm a citizen who values the environment. I follow the laws. I respect the role of agencies such as yours to protect the environment and the public. I'm here to tell you that people like me believe your actions will have
more negative consequences than positive. They
will not move Los Osos any closer to a solution,
and they are wrong.

Regardless of how I voted or anyone in
the last CSD election, the democratic process was
followed and the new CSD has a plan for a more
long-term and comprehensive solution than the last
one, which should make up for any delay.

Importantly, their solution, I believe,
has the greatest potential for healing the rift in
the community. Your actions will only inflict
deeper wounds, rob scarce water from the reserves,
drain money from our pockets that could go towards
treatment and cause us to waste time and energy in
court.

I know your Board can come up with more
productive measures to resolve this issue. The
measures will have to respect us as law-abiding
citizens; they will have to impact everyone in the
community equally; and they will have to produce
the best solution for the environment and for all
the people of Los Osos.

If you implement such measures you will
affirm your roles as protectors of the environment
and servants of the public. If not, you will fail
the people of Los Osos and the central coast.

I ask you to stop these regressive measures against the citizens of Los Osos. Thank you.

CHAIRPERSON YOUNG: Okay, thank you for your comments.

(Applause.)

CHAIRPERSON YOUNG: Mr. Hensley and then Lacy Cooper and then Bo Cooper.

MR. HENSLEY: Honorable Board, Members of the Board, thanks for letting me --

CHAIRPERSON YOUNG: Can you speak up a little louder, sir, into the microphone.

MR. HENSLEY: Thanks for allowing me to speak here. I'm an old hand at Los Osos; I'm probably like older than dirt here. I've been paying for a sewer cleanout for 30 years. Now, that's taken out of my taxes every year, every year.

The only way you're going to get this sewer done is you to do your job, which you've been doing so far. You got to do something or these people are not going to do it.

Twenty years ago one of our members hired a lawyer in Los Angeles that told him that
they could keep this thing going and never get a sewer here for years and years and years.

This group that's in there right now has no plan, but they promised a plan, and they were on their feet running when they got elected to the new Board. All they've done is lose money for us, completely. They lost the big grant from federal government, $35 million. They also turned down the state's revolving fund, too. Right now they're working on a shoestring.

But when all of that's gone, no more money, those lawyers are going to go bye, bye, bye, bye. And we're going to be stuck with all those bills that are there, anyway. And the County is going to probably have to put the sewer in for us.

I thank you.

CHAIRPERSON YOUNG: Okay, thank you.

(Appause.)

CHAIRPERSON YOUNG: Okay, yeah, folks, I've asked you numerous times to please refrain from clapping.

Lacey Cooper, Bo Cooper, Mrs. R. Stern and then Diane Burke.

MS. COOPER: Can I speak now because I -
CHAIRPERSON YOUNG: Yeah, go ahead, Ms. Cooper.

MS. COOPER: Today I'm celebrating my 27th wedding anniversary. And as you can imagine, I'm overjoyed to be here. Just thrilled.

(Laughter.)

MS. COOPER: At least I'm here with my partner in crime, my husband, Bo, who will speak behind me. During the hearing Los Osos citizens will easily prove that the CDOs are unjust, unnecessary and totally uncalled for.

So why are we really here. We are here today to be tried and convicted for the serious crime of votus wrongus. In the eyes of the Regional Board Staff, we, the majority of Los Osos residents, voted the wrong way in our last CSD election. We had the nerve to want an affordable, sustainable sewer plant away from our downtown and we voted for it.

We did not let the pre- and post-election threats of the Regional Board Staff intimidate us. We are not letting the promise of CDOs deter us.

Even the perception that a state agency
is using its power and authority to coerce or
intimidate voters before or after an election has
a profoundly negative effect on the democratic
process.

Your Board's current punitive actions
are directly fanning the flames of ignorance and
fear, which threatens to dissolve our local
government, which you've heard from previous
speakers.

My sincere hope is that you will cease
and desist this campaign of individual
intimidation and punishment. Instead of coercion
we ask that you work with the LOCSD to establish a
truly viable wastewater solution.

In addition, if you drop all the CDOs
that would make a great wedding anniversary
present for my husband and myself. Thank you.

(Laughter.)

MS. COOPER: I also had a quick
procedural question, if I could, just about the
CDOs. I don't understand how people are going to
defend themselves, because you said in a
frequently asked question that even if they get
their nitrate levels down they're still
discharging into the total basin, so it doesn't
1 matter if individuals aren't polluting.

        CHAIRPERSON YOUNG: Okay, those
2 individuals will take that up during their
3 presentations. They can ask that --
4
        MS. COOPER: Okay, hope so.
5
        CHAIRPERSON YOUNG: -- at that point in
6 time.
7
        MS. COOPER: Thank you.
8
        CHAIRPERSON YOUNG: Thank you for you
9 comments. Okay, and Ms. Cooper's partner in
10 crime, Mr. Cooper.
11
        MR. COOPER: Bo Cooper, married to that
12 wonderful woman, Lacey Cooper, for 27 years. I
13 want to speak about the ACL lawyers. And the ACL
14 lawyers said that the voters are the CSD, and the
15 voters are the decisionmakers for the CSD, and
16 therefore the implication being that the
17 individuals are responsible for the actions of the
18 CSD, whether the individuals agreed with the
19 decisions of the CSD Board or not.
20
        My question is who else thinks that
21 individuals should be responsible for the
22 representative government. And my answer is Osama
23 Bin Laden. Osama Bin Laden said in January of
24 '99, he said, quote, "Muslim scholars have issued
a religious directive against any American who pays taxes to his government. He is our target because he is helping the American war machine against the Muslim nation."

Picking out individuals for the decisions of the group, the whole body politic, I think is very unjust. I'm not calling your guys terrorists, not calling you guys terrorists, but I think you are terrorizing the individuals in Los Osos. It concerns me deeply.

What also concerns me deeply is the process that's going on here. I guess I'm feeling a little terrorized by the procedures that are going on, by what appears to me to be a kangaroo court, by the appearance of being railroaded through. I'm very concerned about what's going on.

I've played the part of the Great Bodini before. I must say the Great Bodini predicts that CSDs will come down for all the people because I think you guys are not really listening, not really making a new decision, and have predetermined what's going on. Thank you.

CHAIRPERSON YOUNG: Thank you for your comments. Mrs. Stern, Mrs. R. Stern. Did I get
the name right?

MR. THOMAS: Stern.

CHAIRPERSON YOUNG: Yeah, Mrs. R. Stern.

Okay. Diane Burke, followed by David Duggan and then Gewynn Taylor. Okay. Hang on, let me restart this. Okay, go ahead.

MS. BURKE: Diane Burke, the prohibition zone. I completely object to any CDO against any household within Los Osos. It's never been proven that septic tanks are, in fact, the source of nitrate pollution. However, we have other water problems and they need to be addressed.

This current mandate by your Board will do nothing to improve our water quality or supply. And will, in fact, further deplete our aquifer resulting in more denigration of our water and supply.

As evidenced by the latest news from the Air Quality Control Board any such forced mandate will pollute the air we breathe, clean air and water, life sustaining substances, without which nothing can survive.

This mandate smacks of rogue dictatorship, manipulation and extortion of only one-third of our community without considering
long-term adverse effects to either air, water or individual rights.

Under the constitution each individual has the right to peacefully enjoy their home without interference. We have but one water basin serving all who draw from it. Your agency drew a line in the sand making only 4700 homeowners financially and morally responsible. Thus promoting new construction outside this boundary just when our water supply is at peril. New development must be reined in with the introduction of water conservation and smaller homes for the whole community of Los Osos.

Our duly elected CSD Board has answers for all these problems. Your agency should support their endeavors to move ahead expeditiously.

CHAIRPERSON YOUNG: Okay, can you wrap it up, please, Ms. Burke?

MS. BURKE: Yes. This will be to everyone's ultimate benefit. Thanks.

CHAIRPERSON YOUNG: Okay, thank you for your comments. Gewynn Taylor, followed by Assemblyman Blakeslee. And then George Taylor.

MS. TAYLOR: Excuse me, you called Mr.
Duggan before you called me, sir.

CHAIRPERSON YOUNG: Yeah, you're right.

I just moved his card off. Thank you. Yeah, Mr. Duggan.

MR. DUGGAN: I have a question before I start.

CHAIRPERSON YOUNG: Yeah.

MR. DUGGAN: Is my interested party statement included in your documents?

CHAIRPERSON YOUNG: Oh, yeah, I have vivid memories late at night going through --

AUDIENCE SPEAKER: Great.

(Audience speaking simultaneously.)

MS. OKUN: There is some additional comment that was received yesterday, as well.

MR. DUGGAN: Is that included in the record?

CHAIRPERSON YOUNG: Yes, yours was the extensive CEQA challenge and comments --

MR. DUGGAN: Yes, it is.

CHAIRPERSON YOUNG: -- that I read.

MR. DUGGAN: I just wanted to make sure that I was allowed to have that entered into the record.

CHAIRPERSON YOUNG: Of course, yeah,
it's 18 pages; it's in our packets.

MR. DUGGAN: Not only just the first statement, but my rebuttal to their rebuttal?

CHAIRPERSON YOUNG: No, you have two minutes, sir. Your time's --

MS. OKUN: Excuse me, he submitted two comments. One was within the comment period and that's in the printed comments. But he also submitted comments yesterday by email that were late.

CHAIRPERSON YOUNG: Yeah, those are not allowed in. Yeah, they're late. But, you have two minutes now to address this. I'll restart the clock.

MR. DUGGAN: David Duggan, Los Osos. As the prosecution has chosen to rebut my statement and didn't choose to associate my statement with that of the LOCSD, who is a designated party, and as the prosecution deemed to characterize my statement, after extensive research, as having no merit, it is apparent that the prosecution has given my statement great weight.

As the prosecution has dedicated resources to counter and rebut my statement it is evident that my statement goes beyond interested
party status on its own merits. And I petition
the Board to allow my counter-rebuttal of the
prosecution's rebuttal be placed on the record.

I also point out that the prosecution
has, on more than one occasion, changed the
conditions of the CDOs, and at an even more recent
date, April 24th, has changed the conditions of
the CDOs again. These actions alone should allow
for new evidence and statements to be entered into
the record.

It is also apparent that the recent
change of the conditions of the CDOs is due to the
concerns of the Air Pollution Control District
concerning the pumping requirement and the
possibility of air pollution due to the use of
added machinery, as in this case, a fleet of
diesel trucks, and a reasonable possibility of a
significant effect on the environment.

This is only one of the conditions
required to deny the exemption from CEQA, and it
has been met; it clearly has been met.

Since the staff has indicated that they
may revisit the pumping requirement, I would
enjoin this Board to delay this hearing until this
matter can fully be explored through a hearing of
the Air Pollution Control District.

As the process of these hearings are in doubt, as well as the reasons for bringing these actions, I would encourage this Board to rethink its approach to work with all concerned agencies you find appropriate and long-term solutions to what has become to be known as the Los Osos Sewer issue. Thank you.

CHAIRPERSON YOUNG: Thank you. Ms. Taylor, you're next, and then Assemblyman Blakeslee.

MS. TAYLOR: Good afternoon; my name is Gewynn Taylor; I'm a resident of Los Osos in the prohibition area.

Mr. Wimer eloquently expressed many positions that I take, as well as my husband. Having been in Los Osos for over 34 years, and having been active with three former executives of the Water Quality Control Board, I truly object to being assumed guilty of polluting the aquifer by using our septic tanks.

CDOs are meant for major polluters, not for individual residents with properly working septic systems. I have never been challenged that my septic system pollutes the groundwater. We
have our septic system pumped on a basic
timeframe.

We are only residents for part time. If
anyone would like to come out and prove that we
are polluting the water, please make arrangements
at your expense to prove that we are polluting the
groundwater.

Thank you.

CHAIRPERSON YOUNG: Okay, --

(Applause.)

CHAIRPERSON YOUNG: Assemblyman
Blakeslee.

ASSEMBLYMAN BLAKESLEE: Chair, Members,

thank you for the opportunity to come before you
today. I apologize that I wasn't here when you
initially called. I was pulled away to another
meeting, and returned as quickly as I could.

In the course of working on this
challenging project and problem I've had the good
fortune of working with many members of the
community who have demonstrated to me, I think,
quite unequivocally they do seek a clean water
solution as quickly as possible.

I'm fully respective of the fact that
different elected boards and appointed entities
that have responsibilities under the law are duly operating in that context, and doing their best to find a resolution of this complicated issue.

But I, in my analysis of the problem, come to the conclusion there may be no such ready quick resolution. And therefore I'm seeking to work with all the entities to see if, in fact, it might be possible to find a legislative remedy which would allow us, through statute, to resolve the many legal, financial, and frankly, technical problems which we're now faced with here today.

I cannot at this time tell you we have found such a solution. But I can tell you we're working in good faith with all parties to solicit their input and see if such a solution can be devised through legislation.

And so I would as, as you deliberate today, with the various options you have with enforcement orders, to consider including in any final determination and deliberation a provision which would allow for a rapid sunsetting of enforcement actions by this Board and by this body, in the event a legislative solution can be found.

I believe that such a representation by
this Board would be very helpful to discussions that are occurring currently. And I certainly would never urge you to do anything inconsistent with your responsibilities under law. But to the degree that a solution can be found that's consistent with law, having your assurance and your statements here today that you would work to find a quick and speedy expedited way to pull back those enforcement actions, I think, would be helpful.

And I request that. And I thank you for the opportunity to address you.

CHAIRPERSON YOUNG: Okay, thank you for your comments.

(Appause.)

CHAIRPERSON YOUNG: Dr. Press.

BOARD MEMBER PRESS: Assemblyman, could you -- we have a few questions for you.

BOARD MEMBER PRESS: Would you mind?

Yes, I appreciate your comment very much.

I just wondered if you could -- if you might suggest, what, in your view, is the -- do you have any thoughts about what a most rapid or expeditious way of getting to water quality improvements would be.
ASSEMBLYMAN BLAKESLEE: Well, personally, I do believe there is a significant clean water issue that probably needs to be addressed through a wastewater treatment system.

We need to find solutions which take down lawsuits that otherwise would impede our building to move forward. We need to find solutions that clear up questions about future liability. We need to make sure that to the degree we can take actions to restart the SRF loan, those actions can be taken.

And there have to be some deliberations, obviously, about the ultimate technology solution. And although I have strong feelings about each of those elements, in the course of being respectful for those with whom I’m dialogue-ing and soliciting input from, I want to be sure that I don’t prematurely talk about the particulars of a solution until we are at a place where I think all parties would be ready to shake hands and work together and say, yeah, we can go ahead and accept this, even though it may only be half a loaf or 60 percent of a loaf.

Because I think ultimately if there is to be a solution no one will be fully happy with
the outcome. I'm sorry to report there is no
solution which will make everyone happy.

But I do believe there's a solution we
could find which can expedite us building of a
project, which can restart moneys, which can
reduce liability. And most importantly, comport
with the laws of the state to insure a clean water
outcome as quickly as possible, which is very
important to me and I know it's important to you.

BOARD MEMBER HAYASHI: I have a
question.

CHAIRPERSON YOUNG: Yes.

BOARD MEMBER HAYASHI: Good morning.

ASSEMBLYMAN BLAKESLEE: Mr. Hayashi,
good to see you, John.

BOARD MEMBER HAYASHI: You say
expeditiously. What kind of a timeframe are you
thinking about?

(Laughter - audience speaking
simultaneously.)

ASSEMBLYMAN BLAKESLEE: I don't think we
can afford to wait years. I think we need to find
a solution which could have a potential restart on
some of the critical elements in months, not
years.
BOARD MEMBER HAYASHI: Okay, thank you.

CHAIRPERSON YOUNG: And by critical elements, what do you mean by that?

(Audience Laughter.)

ASSEMBLYMAN BLAKESLEE: You guys aren't going to make this easy on me, are you?

CHAIRPERSON YOUNG: Well, --

ASSEMBLYMAN BLAKESLEE: Mr. Young, again, my challenge is to be forthcoming with you, to ask and share with you how you can be helpful in terms of having a speedy sunsetting of enforcement actions if we can find such a solution.

I want to also be very respectful of all the parties with whom we're having these conversations to not inadvertently talk about elements which could reduce the likelihood we'd find ultimate a compromise.

So, if you will forgive that rather -- I sound like a politician --

(Laughter.)

ASSEMBLYMAN BLAKESLEE: If you'll forgive the --

CHAIRPERSON YOUNG: I'm glad you said it.
ASSEMBLYMAN BLAKESLEE: If you'll forgive the imprecision of my answer, it's not unwillingness to respond, but it's out of a sincere desire to see an answer come forward through legislation.

CHAIRPERSON YOUNG: Well, we appreciate your involvement, and hope that it, you know, gets all of us to where we want to be in the end, which is a solution and clean water.

So, thank you for your comments.

ASSEMBLYMAN BLAKESLEE: Thank you, Board, thank you, Chair.

CHAIRPERSON YOUNG: Okay. Let's see. (Applause.)

CHAIRPERSON YOUNG: Did I call anyone else at this time?

MR. TAYLOR: Yes, George Taylor.

CHAIRPERSON YOUNG: Yeah, okay. Mr. Taylor, you're the last speaker and I think, Board, should we then break for lunch?

BOARD MEMBER: Yes.

CHAIRPERSON YOUNG: Because I've got about another 40 minutes worth of interested parties. Okay, Mr. Taylor, you're the last speaker for now, and then we're going to break for
lunch. And I'll announce when we're going to return. Go ahead.

MR. TAYLOR: George Taylor, a Los Osos resident in the prohibition zone. And a interested party participant.

I'm here to protect our right to due process. I did not feel that if I didn't speak that I would be represented in any further action, and I want to be.

We understand that the Water Quality Control Board tasked Mr. Briggs with bringing in the individual CDO actions. No emergency existed to force the Regional Water Quality Control Board to act at the hearing. And even if there were, the Regional Water Quality Control Board failed to follow their own requirements for emergency situations.

Clearly, this represents a lack of due process. Having Mr. Briggs and prosecution team members hearing the CDOs is like having a fox hear the pleadings of the hens within the henhouse.

(Laughter.)

MR. TAYLOR: Thomas Jefferson wrote that we should never have appointed individuals that have decisionmaking capacity. All commissions
should be filled with elected-by-the-people
individuals. Thank you.

CHAIRPERSON YOUNG: Okay, thank you.

(Audience speaking simultaneously.)

(Appause.)

CHAIRPERSON YOUNG: All right, we're
going to break for lunch. And let's see, we're
going close by, we're walking. Can we get back
here in 45 minutes, is that possible or is that
just -- okay, an hour then, right? An hour.

So we will resume in one hour from now.

And we'll continue. And I'll tell you who is
next. Michael Jones, Alon Perlman, Pat Renshaw,
Lawson Schaller. Those are the ones that are up
next.

Thank you.

(Whereupon, at 1:38 p.m., the meeting
was adjourned, to reconvene at 2:38
p.m., at this same location.)

--o0o--
AFTERNOON SESSION

2:43 p.m.

CHAIRPERSON YOUNG: You're with the Air Pollution Control District?

MR. ALLEN: Yes, I am.

CHAIRPERSON YOUNG: Okay. And you need to leave by 3:30, or you have a 3:30 appointment?

MR. ALLEN: I have a 3:30 appointment, but I'm only about five minutes away, so --

CHAIRPERSON YOUNG: Okay.

MR. ALLEN: -- 3:20, if I could get out of here by 3:20 that would be fine.

CHAIRPERSON YOUNG: Okay. Well, have you been called as a witness, do you know, by anybody?

MR. ALLEN: No, I have not. I just wanted to --

CHAIRPERSON YOUNG: Mr. Onstot, do you know if he's been called by a witness?

MR. ONSTOT: I'm sorry, Mr. Chair, who is he?

CHAIRPERSON YOUNG: This is the gentleman from the Air Pollution Control District.

MR. ONSTOT: He's not on our list.

CHAIRPERSON YOUNG: Okay.
MR. ONSTOT: Name?

MR. ALLEN: Larry Allen.

MR. ONSTOT: He's not on our list.

CHAIRPERSON YOUNG: Okay. And no one has asked you to testify?

MR. ALLEN: No. I was asked to be present for questions, but --

MR. BRIGGS: I asked if someone could be present.

CHAIRPERSON YOUNG: Okay.

MR. ALLEN: I did have some comments that I would like to make if you didn't have questions of me.

CHAIRPERSON YOUNG: Okay, well, might as well do it now, as opposed to waiting till the end if he needs to leave.

Dr. Press, this is Mr. Allen of the APCD. Why don't you give us your comments, okay? And then if the Board has questions of you, then we'll proceed.

MR. ALLEN: Thank you. My name is Larry Allen; I'm with the Air Pollution Control District; I'm the Air Pollution Control Officer.

CHAIRPERSON YOUNG: Okay. Could you speak up into the microphone so everybody in the...
back of the room could hear you.

MR. ALLEN: Yes. Larry Allen with the Air Pollution Control District; I'm the Air Pollution Control Officer for the District.

I'm here today to ask your Board to conduct an air quality risk assessment before you move forward with the full order on all residences out in Los Osos that would require pumping of all of the houses out there six times per year.

And I gave a phone call to Roger Briggs and talked to Harvey Packard, also, a couple of weeks ago. And I'd like to say that your staff has been very cooperative and responsive to our concerns. They've been very good to work with.

If you could put the slide forward. Our recommendations are that you would assess the full air quality impacts from the septic pump-out project to determine potential impacts to the community.

That you would also look at what strategies might be needed to reduce any nuisance potential that would result from those actions.

And that you would define and also implement any mitigation measures that would be necessary to reduce those emissions and community
exposure to diesel particulate to something that's less than significant.

And push that forward again. Our assessment we would ask for would be to look at the emissions from the daily pump-outs. Right now the preliminary calculations we have are that there would be about 82 per day.

We'd like to see emissions from the truck trips, any other equipment that's associated with that, and that you would compare those to what our significance thresholds are for the different criteria pollutants.

But more importantly, we believe that a health risk assessment is needed to look at acute, chronic and potential carcinogenic risk impacts to both the community, to the San Luis Obispo community that is going to be adjacent to the San Luis Sewage Treatment Plant where all the effluent would be dumped on a daily basis.

And also to sensitive receptors like daycare, schools and playgrounds.

And just as a bit of background on that, next slide. The diesel particulate matter is identified as a toxic air contaminant with no threshold of significance. And that was done by
the California Air Resources Board back in 1999. It's the number one source of health risk from air pollution in the State of California, actually in the United States. It's responsible for about 70 percent of all health risks from air pollution in California. And all local air regulatory agencies have put significant efforts into working on diesel risk reduction plans.

And some of the statewide toxic control measures that are applicable to this project are that you would need to limit uncontrolled diesel engines that, you know, greater than 50 horsepower, to 20 hours per year or less of operation, in that they can't operate within 500 feet of a school facility during school hours.

In San Luis Obispo County we are nonattainment for the PM10 standard. We have adopted a PM plan in 2005. And so we are concerned about particulate emissions that would affect our ability to attain and maintain those standards.

This slide shows you the potential health risk from engines that are similar to the ones that would be used in these trucks. And on
the left side you see risk per million; and on the right side you see distance. And those numbers are in meters on the bottom.

But our significance threshold statewide are one in a million, which is that second line up from the bottom. And so within about a 500-foot range of those engines, this is for operating at 50 hours per year, you're going to exceed that risk.

And if you look at the next slide at the proposed rate, just a preliminary impact analysis that we saw, was that there would potentially be two pump-out trucks operating within a two-block period with any given point in time.

So this is kind of a random section of Baywood Park right there, with two trucks. And you can see that it's a pretty large radius, that's the 500-foot radius for each one of those.

So the potential for risk with this is fairly high. But there are mitigations that can be put in place that I believe that would reduce that risk significantly.

The largest one is to install diesel emission control devices on all the diesel equipment. It's going to add to the cost. They
can be expensive. But they're very effective.

Also, using newer diesel equipment

beyond 1996, they also have much lower emissions,
maintaining them in proper tune, using low-sulfur
diesel, making sure that you limit the activity
for pumping when you're near sensitive receptors
like schools and daycare centers. Limit
unnecessary idling.

From the nuisance side, installing
carbon filters on the vacuum trucks to reduce the
odors would be important. And then to, you know,
monitor and have a complaint response plan,
because that would likely fall to us. When you
start getting complaints on odors, they come our
way.

So, we would ask that you would conduct
a thorough assessment of the potential air quality
impacts from the pump-out. And that would include
a health risk assessment of the impacted
communities and look at what the potential cancer
risk would be.

And when you determine that, if it is
significant, beyond our one-in-a-million
threshold, that you would work with us to define
mitigation strategies that would reduce that to a
level of acceptability, which I believe can be done.

CHAIRPERSON YOUNG: Okay. Are these all diesel engines that are going to be used? I mean, do you know that?

MR. ALLEN: Yes. Typically those septic trucks are -- they need the power. Diesel is what provides the power, so our understanding is that all of the equipment out there would be diesel trucks.

CHAIRPERSON YOUNG: Okay. Dr. Press.

BOARD MEMBER PRESS: I assume that when you say San Luis Obispo County is nonattainment for PM10, you include probably have a breakdown of different parts of the County? Or is that considered your planning unit, and so you just --

MR. ALLEN: It's a regional designation.

BOARD MEMBER PRESS: Right, so you don't break it down by MAS, or smaller MSAs or anything like that?

MR. ALLEN: No.

BOARD MEMBER PRESS: Okay. I assume that a lot of this mitigation measures you're already trying to implement, right?

MR. ALLEN: We are, and in fact there
will be -- there are air toxic control measures by
the state that, for instance there's private fleet
measure coming out. But that's going to take
awhile to be implemented. That starts out with
the newer vehicles, so it's not going to be
effective on any existing equipment that's out
there.

BOARD MEMBER PRESS: Yeah, I guess my
question is, but you're already trying to get to
attainment, so --

MR. ALLEN: Correct.

BOARD MEMBER PRESS: -- the Air District
is already out of attainment, and you're worried
about going further out of attainment?

MR. ALLEN: That's correct.

BOARD MEMBER PRESS: So, I guess what
I'm trying to get at is you have a nonattainment
status; you're trying to get into attainment. But
you also have the potential for economic growth
that is going to, whether it's construction or
some other -- hauling, for example, any time
there's a bump in the economy, you're going to get
more diesel traffic.

And so, essentially this, some kind of
frequent pumping would, in essence, be similar to
what would happen with a lot of economic activity, because you get more diesel activity, right?

So how do you -- how are you planning on different scenarios of diesel truck activity.

This is just one among what might be several.

MR. ALLEN: Right. We don't -- well, first of all, let me state that it's actually the health risk from the toxic component of the diesel that we are most concerned with. Even though particulate matter we are nonattainment throughout the state, -- well, nonattainment here in this County.

And we have a plan that was adopted by our Board in July that has a series of control measures in it that will help move us towards attainment.

However, we do not have authority over mobile sources. And so we don't have direct authority to require control equipment on these vehicles right now. And it's not in our plan. That's a statewide authority that is not delegated to us. We have only authority over stationary sources.

Through CEQA we can require or recommend that controls be put on for any project. And then
that can be added as a mitigation for the project.
But we don't have direct authority to require it.

                        BOARD MEMBER PRESS: But does that, by
the same token, mean that the regional boards
don't have the authority to require mitigation
measures for diesel, either?

                        MR. ALLEN: Well, actually I believe
that you do have the authority, because you're
requiring the project to move forward. And if
you're requiring that, you can condition the
project however you see fit. It happens all the
time, you know, when we're dealing with urban
development.

                        So, I believe that that could be a
condition in your contract with whoever's doing
the pumping, that they would have to have control
devices.

                        CHAIRPERSON YOUNG: Well, we're not
entering any contracts --
       (Laughter.)

                        CHAIRPERSON YOUNG: -- with anybody. The
staff has made a recommendation of a possible
alternative, which they have withdrawn now because
of your agency's concern. But the Board doesn't
enter into contracts with contractors to do work
like this.

MR. ALLEN: Well, it seems like some analysis is going to be necessary to figure out how to apply those mitigations if there is deemed to be a significant health risk. And I'm not sure what your mechanism would be then, if you're not -- if that's the way that it's working.

But, --

BOARD MEMBER PRESS: I was not aware that we had a cross-medium kind of authority. Mr. Richards? Do we have any cross-medium -- do we have that kind of authority? I wouldn't think so.

MR. RICHARDS: Not exactly, but this gets a little -- this is a complicated area of CEQA because what an agency is required to do, especially a responsible agency that does not have complete authority over all aspects of a project, is to identify mitigation measures and identify the agencies or authorities that do have the power to impose those mitigation measures.

The Regional Board can only impose those mitigation measures which are within its authority. But would have to identify other measures and the entities that would have the power to impose those measures.
MR. ALLEN: Sounds like a complicated situation.

CHAIRPERSON YOUNG: Okay, any other -- Mr. Jeffries.

BOARD MEMBER JEFFRIES: Yeah, thank you, Mr. Chair. I just have one question. Do you have an air quality monitoring station in the Los Osos area?

MR. ALLEN: We have one in Morro Bay right across the Bay.

BOARD MEMBER JEFFRIES: Right across the Bay. So the graph that you showed us is collectively from the whole County? Or you whole air quality District?

MR. ALLEN: That was a graph developed by the Air Resources Board. It's independent of location. It's just showing for a given level of emissions at a specific meteorological regime what the potential concentration and impact of those emissions would be. So that chart is applicable to anywhere.

BOARD MEMBER JEFFRIES: But you did not bring a graph of any station that's near the vicinity of Los Osos?

MR. ALLEN: No, I did not, because this
is -- I'm trying to distinguish between health risk assessment and just merely looking at a concentration of a particulate matter on a filter, which is how we measure it.

And so when you do that you get one value, say 45 mcg/cubic meter. That does not tell you what the health risk is. You then take that concentration, put it into a computer model, and model the concentrate versus the population and look at what the potential and what the risk factors are for that specific pollutant. And it pops out a number that says here's what the health risk is for any given part of the population.

BOARD MEMBER JEFFRIES: Thank you.

BOARD MEMBER PRESS: Can you think of any other project in the County that would have an equivalent level of, whether it's benzene -- I don't know what the toxic constituent is that you're concerned --

MR. ALLEN: Diesel particulate matter.

BOARD MEMBER PRESS: That's the toxic that's, as opposed to PM10?

MR. ALLEN: Yes.

BOARD MEMBER PRESS: All right, so is there any other project you can think of in the
whole APCD, San Luis Obispo APCD, jurisdiction

that would have an equivalent to this? Or is this

the largest you've seen?

MR. ALLEN: No, I wouldn't say it's the

largest we've seen. I would say the largest we've

seen was the Avila Beach remediation, which was

huge. And we had -- we required diesel

particulate filters on most of the equipment that

was operating out there to try and reduce the risk
to the local population.

And we see construction projects a lot;
you see a large construction project like, for
instance, the proposed Delidio (phonetic) project.

They're going to have, if that goes through, a lot
of diesel equipment out there operating

simultaneously at the same time. And there's a

potential risk from that.

BOARD MEMBER PRESS: And you will order

filters on those?

MR. ALLEN: Yes. And we do that through

CEQA all the time on all kinds of projects.

BOARD MEMBER PRESS: Okay, thank you.

CHAIRPERSON YOUNG: Okay, any other

Board questions? No. Okay, thank you.

MR. ALLEN: I appreciate the opportunity
to speak, --

CHAIRPERSON YOUNG: Sure.

MR. ALLEN: -- and look forward to working with your staff.

CHAIRPERSON YOUNG: Okay, thank you very much for your time.

MR. PAYNE: I have a question for him.

CHAIRPERSON YOUNG: Mr. Payne, have you called him as a witness for your case?

MR. PAYNE: He's a witness for the air quality and this is very important air quality. I hear all of you being concerned about diesel particulates. Nobody said a thing about the exhaust from the compressors that are vacuuming the tanks out and blowing air out into the atmosphere with pathogens and E.coli and -- for one thing, there's --

CHAIRPERSON YOUNG: Mr. Payne, excuse me.

MR. PAYNE: Yes.

CHAIRPERSON YOUNG: Excuse me, sir. You'll have your opportunity later with your own case. But, --

MR. PAYNE: This is not my case, this is air quality that nobody is answering --
CHAIRPERSON YOUNG: Okay, Mr. Payne, Mr. Payne. If you want this gentleman to testify, ask him to stay and he can speak during your time allotment.

MR. PAYNE: Please stay. And if you have time, look up the Lane County Fair and the E.coli sickness that caused the people --

CHAIRPERSON YOUNG: Don't look at me.

MR. PAYNE: Okay?

CHAIRPERSON YOUNG: Okay.

MR. PAYNE: There's documentation on that.

CHAIRPERSON YOUNG: All right.

MR. ALLEN: That's an Environmental Health --

MR. PAYNE: E.coli is health; that's what makes people sick.

CHAIRPERSON YOUNG: All right.

MR. PAYNE: Kids died from E.coli in hamburgers not that long ago.

CHAIRPERSON YOUNG: Okay, Mr. Allen, thank you for your testimony, your comments. We're now going to continue with our interested persons' presentations. We have Michael Jones --
AUDIENCE SPEAKER: Excuse me, Mr. Young.

Does not Mr. Allen have to leave shortly?

CHAIRPERSON YOUNG: Yes.

AUDIENCE SPEAKER: Will there be a way to have him called as a witness for Mr. Payne in some other fashion?

CHAIRPERSON YOUNG: Only if -- with anybody who has their own presentation they're going to give, they have to make arrangements with witnesses in advance, or ask this gentleman if he wants to come back at some point in time to be used as a witness. That's how this is done.

MR. ALLEN: If I could, just briefly?

CHAIRPERSON YOUNG: Yes.

AUDIENCE SPEAKER: Thank you.

MR. ALLEN: E.coli is an issue for the Environmental Health Department. It is not something that we deal with. We deal strictly with air pollution that doesn't contain live matter in it. So I would to be able to answer any questions or deal with that. I'm sorry.

AUDIENCE SPEAKER: Thank you.

CHAIRPERSON YOUNG: Okay.

AUDIENCE SPEAKER: Thank you. Suggest we talk later.
CHAIRPERSON YOUNG: All right. Michael Jones, Alon Perlman, Pat Renshaw and then Lawson Schaller. That's the order. Please come up. You have two minutes.

Okay, Michael Jones --

MR. PERLMAN: Before you start the clock, I'm Alon Perlman; I understood that Michael Jones has gone to work. And he was under the impression that his testimony or comments could happen closer to 4:00, which is --

CHAIRPERSON YOUNG: Okay, what I will do, I'll --

MR. PERLMAN: So, if you could --

CHAIRPERSON YOUNG: -- put his name at the bottom of the list.

MR. PERLMAN: I do appreciate it.

CHAIRPERSON YOUNG: Okay. Mr. Perlman.

MR. PERLMAN: Yes. My name is Alon Perlman. I live in the prohibition zone. I'm currently running for LOCAC, and I believe we've met before.

What I would -- in a sense, I had some prepared statements but because of the EPA issues, I'm going to read a fortune cookie first. It says: Help people reach their full potential;
catch them doing something right."

Well, unfortunately there was a public hearing in regards to the pumping orders, and the people of Los Osos, who continue to amaze me in how aware they are of all issues, were very specific in identifying a large number of environmental concerns that came out from their concern about this ridiculous pumping order.

The most ridiculous item within the pumping order, itself, is that the Water Board Staff could not identify a valid scientific engineering or reason for doing this pumping. Neither from the literature, in fact, it was identified as being unprecedented.

As far as the diesel fumes, however, I would like to remind you that the Morro Bay is a bird sanctuary, so odds are that the birds' wings will carry away some of the diesel fumes. But, we've --

(Laughter.)

MR. PERLMAN: -- really not even touched the tip of the iceberg as far as what a bad idea bimonthly pumping is. It is entirely inconsistent with any septic management of any kind. It would not be an action that would be allowed within the
confines of an actual sewer.

I'd like to remind you that here present in this room are the duly elected CSD of Los Osos. The people of Los Osos, --

CHAIRPERSON YOUNG: Please wrap up your comments.

MR. PERLMAN: -- have elected them in order to solve this problem. And this Board, this Water Board currently is the biggest barrier for people receiving CDOs to be able to achieve compliance.

CHAIRPERSON YOUNG: Okay, thank you --

MR. PERLMAN: By bringing them into court --

CHAIRPERSON YOUNG: -- for your comments, Mr. Perlman.

MR. PERLMAN: -- and by fining them.

CHAIRPERSON YOUNG: I'd like to give everyone their two minutes. Please don't take from their time.

MR. PERLMAN: Thank you for your time.

CHAIRPERSON YOUNG: Matt, are the lights working on that? Up on the podium? Because I didn't see that timer go off.

UNIDENTIFIED SPEAKER: It hasn't been
working all day.

CHAIRPERSON YOUNG: But it's working here.

UNIDENTIFIED SPEAKER: Yeah, but not up there.

CHAIRPERSON YOUNG: The lights? Can you --

(Technical adjustments.)

CHAIRPERSON YOUNG: Okay, is this Pat Renshaw? Okay. Lawson Schaller and Julie Tacker. Okay.

MS. RENSHAW: Did you push the button yet?

CHAIRPERSON YOUNG: I just did, go ahead.

MS. RENSHAW: Okay. Pat Renshaw, Los Osos. Previously not in the prohibition zone, but because they found there wasn't enough people, they arbitrarily added me in.

(Laughter.)

MS. RENSHAW: I just want to -- well, I just don't know if you guys are really listening to the community. And I realize Roger Briggs is not here. I realize there's a lot of --

CHAIRPERSON YOUNG: He's sitting right
MS. RENSHAW: Oh, nice to meet you; nice to put a face. I appreciate you being here because I don't think we're being heard. And so my part is to say thank you. I want to say thank you to our CSD Board who took on this monster that was left to us by the County, by the Water Board, by the previous Board, and is trying to make this thing work.

Now, there's not a lot of people who will do this. They work hours and hours and community volunteers come in on their own time. We've put together press releases, newsletters. There's minds from CalPoly, from biologists, people that are just stepping forward and giving their input to help make this thing go.

I mean we didn't move to Los Osos because it's just another town. We didn't want to live in San Luis; it's too busy. We didn't want to live in Morro Bay. We don't want to pay for state water. We don't want to live in Oceana. We want to live in Los Osos. It's a wonderful town. We love it. We want it to be green. We want it to be healthy.

We don't want to drink dirty water. We
want to keep our water, and we want to keep it clean. We have a 10,000 year old aquifer that we didn't even know existed until we had a study. Now, why would we want to dirty something that's 10,000 years old? There's not much on this planet that's that old that we can actually identify. So I urge you to use your heads and think logically about this. Thank you. Thank you, Roger Briggs.

CHAIRPERSON YOUNG: Thank you for your comments. Lawson Schaller. Then Julie Tacker.

MR. SCHALLER: Hello, I'm Lawson Schaller. I'm a property owner in Los Osos. First, I'm opposed to the CDOs and this hearing process. There appears to be a great deal of confusion and/or misinformation on the hearings and proceedings by a previous or earlier show of hands.

There also seems to be a lot of questions on whether or not it's a due process, and whether or not it is legally sound. I think a lot of questions still remain is it fair and sound. It doesn't appear so from just being an observer.

Opposed to the CDO pumping for a lot of
reasons. Briefly, a couple. Millions of dollars will be spent by the community on the pumping, if it goes through. And I think it would be much better to apply these millions of dollars towards a sewer. I think the community would really like to do that. It's an awful lot of money.

There will also be millions of gallons pumped out of the area and I think that water should stay in the community to help recharge. I think that's very very important.

The air and noise pollution and its associated health risks were mentioned earlier. There's going to be potentially a great deal of traffic congestion and also increased costs on road maintenance. Clearly, quality of life will be impacted, which the previous woman addressed.

All of this money and all of the energy I highly recommend it be applied towards a solution instead of penalties and fines.

In echoing the words of Mr. Blakeslee earlier, I think we all need to work together on this instead of against each other. And I really think that leadership must take a role in this. The government boards, you people, the CSD. There are people within the community that are
economically very powerful. I think they need to reach out and come together. People with a great deal of political connections and power, that I think need to come together.

And I really think that needs to happen, that initiative needs to come forward on your part before it spirals out of control. Thank you.

CHAIRPERSON YOUNG: Thank you for your comments. Ms. Tacker. Followed by John O'Connor, I believe, and then Judy Vick and then Anton Vesely.

MS. TACKER: Good afternoon, Board. I'm Julie Tacker; I am the Director of the Los Osos Community Services District. I put a slide on the overhead, and then I've provided hard copies for you, because if your eyes are like mine, they're over 40 and maybe you can't see that very well.

This is our community of Los Osos broken up into its economic makeup by census tract in 2000. And then overlaid is the prohibition zone.

CHAIRPERSON YOUNG: Ms. Tacker, I'll stop the clock. I just want to ask you a question. Is this part of the CSD's presentation?

MS. TACKER: No. This is Julie Tacker's.
CHAIRPERSON YOUNG: Is this the CSD's information or data?

MS. TACKER: No, actually I had this commissioned, myself. The census data is readily available on the --

CHAIRPERSON YOUNG: Go ahead.

MS. TACKER: -- web.

CHAIRPERSON YOUNG: Go ahead.

MS. TACKER: Okay. I am a Director with the Los Osos Community Services District. I'm also the Chair of the Los Osos Middle School School Site Council. I'm the Vice Chair of the Baywood Elementary School School Site Council. There I serve as the Title I liaison to the San Luis Coastal Unified School District.

And Title I, if you don't know, is government funding, federal funding, for students that are at risk due to their low income status and their ability to buy or pay to have a free lunch. These children that are represented through Title I receive free and reduced lunches.

So my interest in Los Osos is and has always been its people, its families. And I have been involved with the children. I am a mom, and I've been involved with the children in the
multiple boards and councils that I've been on through the schools.

My concern for the people is and has always been the economic impacts of the sewer, estimated at $200 per month per household. Now the economic impacts of CDOs on those very same families. It sounds like, from Mr. Allen's testimony, that even $2400 a year, it could be in excess if you went to the pumping scheme.

My concern has always been on the home values and equity in their property. And I would like to focus my comments on the children. And, again, you have the economic makeup of our community there. And I think you can see that our community is not wealthy, and especially the prohibition zone. And that's something our Board, speaking as a Director, is going to analyze through an affordability study, is the ability of these people to pay for their sewer.

And what I think your enforcement actions today, they are compromised and unable to pay even for representation today. The 45 citizens do not have a lawyer representing them today.

CHAIRPERSON YOUNG: Thank you for your
comments. John O'Connor. Is Mr. O'Connor here? I'll put his name at the bottom of the stack, maybe he will appear.

      Judy Vick. Miss Vick or Mrs. Vick. Don't see her. Anton Vesely. Okay. And then Joe Sparks is going to follow you; and then Steve Senet and James Tkach or Tkach.

      MR. VESELY: Thank you, Board, for allowing me to speak. And thank everybody else for being here.

      My main concern is the efficiency or effectiveness of the proposed pumping plans. And I go back -- my main concern has been an expenditure of several -- well, many millions of dollars for this if were imposed continued pumping until the sewer is built.

      An expenditure of that size, if it were coming out of the Board's budget, or any commercial enterprise, would have a scientific foundation. You're not going to spend that kind of money if you don't have a basis in fact.

      So, my questions that I presented in a letter for this hearing were -- well, basically they came down to how are you going to measure the effectiveness of how this money is spent. And can
you measure it, since you don't have a baseline.
You don't even know where the, you know, where the
pollution level is at. You can't prove it came
from the septic tanks. How are you going to
measure how effective that pumping is?
So, it's -- nobody would spend that kind
of money. When it's our money, yeah, I get
excited and upset about it.
And let me say I'd rather put my time
and money into a solution. And I see the proposed
CDOs as not solutions, unprovable experiments that
many of us, myself included, perceive as
punishment.
Good place to stop, I guess.
CHAIRPERSON YOUNG: Thank you for your
comments. I just wanted to mention, you know, I
found your letter, which I read and I highlighted
your points in here.
You know, we're not focusing on the
levels of nitrates in the Bay.
MR. VESELY: Yeah.
CHAIRPERSON YOUNG: Okay, you understand
that? It's groundwater?
MR. VESELY: Yeah.
CHAIRPERSON YOUNG: And did you know
that when you wrote this out?

MR. VESELY: Yeah, that's the -- I mean my statements, doesn't matter where you're measuring.

CHAIRPERSON YOUNG: Okay.

MR. VESELY: You got to measure.

CHAIRPERSON YOUNG: You're concerned about the effectiveness of whatever's proposed?

MR. VESELY: Right.

CHAIRPERSON YOUNG: Okay. Thank you very much.

Okay, Joe Sparks.

MR. SPARKS: Mr. Young and the Board, thank you. This Board made a distinction at the District ACL hearing on the actions that got us here. And this Board should be consistent with that distinction, I believe.

The Board should not consider individual CDOs, I believe, until at least early next year where it's probable that by then the homeowners will have the opportunity to reaffirm a commitment to a project and mitigation without this enforcement.

The issuance of an ACL complaint and fines against the District already constitutes a
form of enforcement against the homeowners and
property owners within the prohibition zone since
the services are funded by their property taxes.

These CDOs basically are no more than
throwing salt in that wound.

Compounding the problem, the District
ACL complaint there was only fines, which was due
to the actions that this Board determined, by the
District, and not by the individual homeowners and
property owners.

The homeowners and property owners, as a
matter of record, took preemptive action by
approving an assessment in 2001 for a wastewater
treatment system. There was no reason for CDOs to
get the homeowners to commit then. Certainly
there's no reason now. That was the one and only
time the homeowners were legally asked to obligate
themselves to a treatment system, and they
responded overwhelmingly.

Present payments from that, on the order
of $20 a month for 30 years, your Board should
give that consideration when you evaluate the
potential of economic harm to individual
homeowners.

Combining these CDOs against individual
homeowners and property owners with the ACL
enforcement is financial double jeopardy against
these homeowners. Especially when many of them
cannot even vote for matters of the CSD.

        As regard to pumping, please consider
less frequent pumping, potentially bi- or tri-
annual initially so that the effects, that is if
you do consider pumping, so that the effects can
be monitored gradually with empirical data to
determine its effectiveness. The nitrate
accumulation in the prohibition zone are an
empirical system. So, there is a rationale for
implementing it more gradually than what was
recommended to determine the effectiveness and
minimize the cost.

        Please consider that data being assessed
to improve the treatment system and expected at
that time payments were about 100 to 120 a month,
based on that engineering assessment report. The
prosecution's contention that the individual is
realizing a benefit based on the $205 a month
neglects the influence of both the District
actions, the litigants, possibly other agencies.

        CHAIRPERSON YOUNG: Mr. Sparks, could
you please wrap it up.
MR. SPARKS: So, in closing, please, if you issue these, make sure that they are constructed to achieve the ultimate environmental and socioeconomic goals. And consider the commitment of the property owner legally encumbered by that assessment. Thank you.

CHAIRPERSON YOUNG: Thank you, Mr. Sparks. Steve Senet, James Tkach and then Chuck Cesena.

AUDIENCE SPEAKER: Mr. Cesena had to be (inaudible).

CHAIRPERSON YOUNG: Okay. James Tkach and then Richard Margetson, Marla Jo Bruton, Tom Hallis or Hellis.

AUDIENCE SPEAKER: Hollis.

MR. TKACH: James Tkach, Los Osos.

These are just some random thoughts, so it may sound a little disjointed. Holding individuals responsible for not having the sewer is like saying the victims of the flooding and hurricane Katrina are responsible for the failure of the levees.

The issue in this matter is not whether or not we want a sewer, but what type and the cost. The Clean Water Act, your own guidelines
call for sustainability and affordability. That's all the CSD has been trying to achieve, and why they opposed the previous project.

And I believe that pumping every other month is actually going to hurt water quality by destroying the biological system that forms in the tank. As the previous speaker said, I think the frequency of the pumping will actually hurt water quality.

As far as the citizens of Los Osos, probably the most informed about septage and sewers and are actively working to build a new project. The new CSD Board has already started a new project. The Board soon will be starting on a revised environmental document. So they are moving ahead.

We were this close to having a project through the Blakeslee agreement. I was in the room that night. Mr. Shallcross wanted us all to sing kumbaya. We were close that night. We really were. There were people on both sides of the aisle, they were holding their nose a little bit to accept the agreement, but they were willing to go with it. And unfortunately that was torpedoed by the actions of others.
And I think if this Board and the Executive Officer would have supported that agreement we'd be building two-thirds of the project today. And this action wouldn't be necessary.

So I think we can come to some, as Mr. Blakeslee said again today, that I think there is a solution on the horizon that we can get done soon without having to go through this action.

I object to the perception that if I'm discharging I'm violating the basin plan. You know, I'm 40 feet to groundwater where I am. And the technical advisory (inaudible) technical report back in the '80s showed the complete denitrification was occurring within 15 feet below the leachfields. I realize that doesn't help all areas in Los Osos.

CHAIRPERSON YOUNG: Can you wrap up your comments.

MR. TKACH: But it certainly would show that some of us are not violating the basin plan by our discharge. I urge you not to adopt this measure. Thank you.

CHAIRPERSON YOUNG: Thank you for your comments. Is this Mr. Senet or Mr. Cesena back
that? Mr. Senet. Okay, you're next. And then
Richard Margetson. This is who?

MR. CESENA: Mr. Cesena. Chuck Cesena.

CHAIRPERSON YOUNG: Okay, all right. So the other Director is not here? Steve Senet?

MR. CESENA: He had to leave.

CHAIRPERSON YOUNG: Okay.

MR. CESENA: He had another appointment to get to.

CHAIRPERSON YOUNG: Well, your card is here.

MR. CESENA: It's there. Is that a "get out of jail free" card?

CHAIRPERSON YOUNG: Go ahead.

(Laughter.)

MR. CESENA: Good afternoon, Board. Mr. Tkach and Mr. Sparks seemed to steal a lot of what I wanted to say. But I do want to leave you with one thought. Perception is everything.

I heard that from a political science professor the other day, speaking before our local board of supervisors. And whether it's the perception that you're biased because you started discussing ACLs and CDOs the week after the recall election. Or whether it's a perception that you
are anti-sewer because you want to move the sewer
outside of town and build a more sustainable and
affordable project, perceptions are very
important. And they're difficult to overcome.

But there is one undeniable fact that
should overcome the perception that we don't want
a sewer out in Los Osos. And Mr. Tkach touched on
it. The strains of kumbaya that were coming out
of our community center in late October.

We had what we thought was a resolution
to address what we thought were negotiations.
Now, you can call those negotiations bureaucratic
convention if you wish, which is what the State
Water Resources Control Board spokesperson called
them after sending us a letter that talked about
the framework for negotiations.

We thought we were negotiating. We
thought we have a solution. We would be under
construction now. But there was some sabotage
that occurred. And some of that sabotage would
have been brought to light with a subpoena that
was issued earlier today that you squashed.

And I really think that we should have
heard from Ms. Bianchi. I really think that she
had a role in stopping the construction that would
have been going on right now and would have
precluded the need for the CDOs.

There's no need for this. We do want to
build a project. Thank you.

CHAIRPERSON YOUNG: Thank you for your
comments. Mr. Margetson, followed by Marla Jo
Bruton, and then Tom Hollis.

MR. MARGETSON: Richard Margetson. The
first thing I want to talk about is the subpoenas.
I found it very interesting that Jerry Gregory and
Pandora Nash-Karner were issued subpoenas, but
were not in the building this morning. Did they
already know that you were going to quash them, --

CHAIRPERSON YOUNG: No.

MR. MARGETSON: -- or were they given
advance warning? Okay.

CHAIRPERSON YOUNG: The answer is no.
So don't speculate, don't make assumptions.

MR. MARGETSON: Well, it's very
interesting that Shirley Bianchi showed up and the
representative from the County showed up about
theirs, but the other two didn't show up, and then
weren't able to be called by --

CHAIRPERSON YOUNG: You know, Mr.
Margetson, you can spend a lot of time spinning
whatever you want to spin --

MR. MARGETSON: I'm not spinning. I'm just saying it's very --

CHAIRPERSON YOUNG: -- and I've stopped your time --

MR. MARGETSON: -- interesting that they're not here.

CHAIRPERSON YOUNG: Okay. All right. I have no idea why they did or didn't come.

MR. MARGETSON: Okay. I also continue to have a problem with Lori Okun's presence at these hearings. You have four agenda items on closed session today where she's not going to be in that discussion. But she assisted the Taxpayer Watch Group previous to being a party to the second action. And talk about tainted process, I think her sitting on the prosecution side totally taints this process.

Shirley Bianchi and Sam Blakeslee, what an opposite. Sam Blakeslee came here and talked on behalf of the community of Los Osos. And if you wonder why Shirley Bianchi needed to be subpoenaed, I think it was proven by her comments, or lack of comments up here at this podium. She said nothing, representing the biggest community
in her district.

And we're here talking about solutions. You want solutions. Here's an alternative. Instead of the pumping order, include everybody in the prohibition zone in Los Osos; and instead of $200, what it would average a month for these people to pump, why don't we put $50 a month from everybody into a trust fund that both the CSD and the Regional Board have a say on.

Figure what that would amount to in a year. And the restrictions on that trust fund would go completely to the needed studies and the requirements to build the new project.

And start with --

CHAIRPERSON YOUNG: Can you wrap up your comments, please.

MR. MARTYN: Yeah. And included in that, a serious water conservation program. Los Osos continues to use twice as much water, the average household, than our two neighboring towns, Cambria and Morro Bay.

Thank you.

CHAIRPERSON YOUNG: Thank you for your comments. Marla Jo Bruton, Tom Hollis, then Gail McPherson.
Good afternoon; I'm Marla Bruton from North Morro Bay. I would like to quote Benjamin Franklin in a warning that he gave a long time ago. And that warning was that a person who relinquishes their most basic civil rights in exchange for temporary security deserves neither security nor freedom.

I want to applaud the people in Los Osos. I've seen this revolutionary process taking place. The CSD Board that they have is one of the most impressive boards for a community that I have ever seen.

They have been working their hearts and minds out searching. They deserve respect. The woman that was in here, Mrs. Moylan, every time I come here you guys really flabbergast me, really. Telling a woman that only her husband can speak when they have a CDO order. As far as I checked, the last time I checked women have property rights. We had to fight for that. We had to fight.

And your coming here and dismissing this woman because she's the wife. She has a property interest and she has a right to speak. And I really -- you would do well to go back to school,
especially if you're going to be on a board like this.

And you can start with the Brown Act. And the Brown Act, the beginning of the -- Brown Act is that we do not relinquish our sovereignty.

CHAIRPERSON YOUNG: Thank you for your comments, Ms. Bruton. And my comments before to the Moylans was that they jointly had that time. I did not intend any inference that either one of them had to use the time. It's joint.

Mr. Hallis, Gail McPherson. Boy, Ms. McPherson, you're getting your time in today. Do you live in Los Osos?

MR. HOLLIS: Yes, I do.

CHAIRPERSON YOUNG: No, Gail McPherson. (Audience speaking simultaneously.)

CHAIRPERSON YOUNG: Do you live in Los Osos?

AUDIENCE SPEAKER: Duh?

AUDIENCE SPEAKER: It's none of your business.

CHAIRPERSON YOUNG: And then Elaine Watson. Mr. Hallis.

MR. HOLLIS: Okay, yeah, Tom Hollis.

I'm an 18-year resident of Los Osos.
MR. HOLLIS: Oh, sorry. Eighteen-year resident of Los Osos. For the last ten years I've been a science teacher at Atascadero High School, geology teacher at Questa. And ten years before that I was a environmental consultant, and did groundwater studies, groundwater mitigation was part of what I did.

I want to address the CDOs --

AUDIENCE SPEAKER: Louder, please.

MR. HOLLIS: I'll try. I want to address the CDOs. I had to ask myself why were these issued in terms of how is this going to help groundwater. How was this going to help clean the groundwater basin.

And, you know, it's -- to clean the nitrates, what you really need to do is you need to flush it out with clean water. And that's going to take decades. Groundwater does not move very quick, and it's going to take decades to do that.

And a sewer treatment plant would help that because we would put that clean groundwater that's been treated back in and be able to flush that. So that is the ultimate goal, to put this
But, to take and pump septic tanks and replace dirty water with less dirty water, for one, is probably not going to have a significant effect. And for two, it's really not going to address the problem very quickly. Again, it's going to take decades on this.

So, I look at this and I know that you guys have the same level of education that I have in groundwater if not a little bit more. And so I would think that you would know this.

So I look at the next thing, I say, well, maybe this is punitive; maybe this is to get our attention. Well, now I'm going to draw on my next ten years of experience. And as a teacher in high school, when I have a class that I'm having problems with, I don't randomly pick students to punish, nor do I pick the entire community to punish.

What I do is I go to the counselor, I go to other teachers, I go to the parents and I try and understand the students I'm having problems with.

And what happens then is that I don't even want to punish at that point. I want to help
them --

CHAIRPERSON YOUNG: Mr. Hollis, could you wrap --

MR. HOLLIS: -- in some other way.

CHAIRPERSON YOUNG: -- could you wrap your comments up, please.

MR. HOLLIS: My point being on the second thing is that I think you really need to work with us and not be punitive. Thank you.

CHAIRPERSON YOUNG: Thank you.

(Pause.)

CHAIRPERSON YOUNG: Okay, Ms. McPherson, go ahead.

MS. McPHERSON: Well, good afternoon. I think some of the comments we've heard already that there's some ideas out there that make this issuance of individual CDOs wholly unnecessary. And the idea to provide a provision for a sunset, in the event that you did adopt CDOs, is a wonderful idea from Mr. Blakeslee.

Participation in a structured process to get the weapons put down and actually identify who would like to come into the room as leaders from Los Osos and from the agencies that would be making efforts for legislation to help us solve
our problems is wonderful. I love that.

But there are people who clearly would
rather dissolve the community and continue to
fight. Mediation, arbitration, whatever you do, I
think that Sam Blakeslee is on the right path.

There's many people who have come and
offered that, offered to pay for it, offered to
host it. I hope that you'll be there. I think
that that's essential to see the sincerity of the
County and the various regulatory agencies.

I have some concerns because I don't
believe that any health effects issues have been
analyzed, or economic analysis. And to do a CDO
or any enforcement action, especially on an
individual, it would be very very important to
take a look at the conditions of ability to pay.
Is this going to cause more environmental harm.

And it said very clearly in the staff
report and all the reports is that in the interim,
until we get a treatment plant, we need to have
something to improve water quality. The test is
if this does not improve water quality then let's
spend that money somewhere else and do other
things.

And there have been proposals to pump
some of the upper aquifer and do some remediation around town to stop some of the nitrogen, lower the nitrogen that's going in. That's clearly a better idea.

But if it does not, if this proposal does not improve water quality, we should be applying those resources elsewhere.

Thank you very much for your time.

CHAIRPERSON YOUNG: Thank you for your comments. Elaine Watson, then Al Barrow, then Barbara Akle, Akle.

MS. WATSON: Elaine Watson. I live in the prohibition zone. You've already heard a number of very well thought out protestations to the CDOs. And I just want to state my objection to the CDOs, as well.

They are environmentally and financially unsound, and in no way contribute to the long-term management of the community's wastewater.

Los Osos wants a wastewater system. We want to manage our waste. But we want a complete system that addresses the long-term health of Morro Bay, water/energy conservation, and the financial resources of the community.

I strongly suggest that you find a more
sensible viable remedy in coordination with our CSD who want to build a wastewater system. You've had some good suggestions here from Mr. Blakeslee, Mr. Margetson and our own CSD has suggested a septic management program which would be very helpful in maintaining our septics and getting us through to the point where we can build a complete system that we want.

Thank you.

CHAIRPERSON YOUNG: Okay, thank you for your comments.

Mr. Barrow.

MR. BARROW: Good evening, my name is Al Barrow. I want to talk very clearly and very plainly.

The approach that you're taking is one of many that you could have taken. This approach that you're taking is leading you down the wrong pathway. Good decisions are about how you approach your problem, how you deal with it.

The approach that this Board has taken for the last 25 years hasn't worked. The first cleanup taken place in Los Osos is taking place right now at the fire department. The very first attempt. I worked there this morning installing a
lysimeter.

I want to give you an example. You hold that no soil treatment is given credit, no soil treatment is given credit for denitrification. Nitrogen being the problem.

Let me just say that if there was 10,000 -- I'm going to wait till you finish your discussion -- 10,000 pounds of nitrogen have been put into the basin through septic tanks in the last 30 years. Why do we only have 1 mg/liter increase in the basin over the last 30 years? Where did this nitrogen go? It was treated in the soil.

You're lying about the soil treatment, or else you're in denial. Because that water was treated by the soil and reduced the nitrogen; almost over 9 million pounds of nitrogen had been removed by the soil columns.

If it weren't so, it would show up with high monitoring rates for the nitrogen. So, you're making a big mistake on the soil treatment. I wanted to tell you that.

I would also like to say that a nitrogen management plan, which is what you use and your staff used at Santa Cruz, is a much more
constructive approach. How you handle and how you
manage the nitrogen that's going in the basin is
very very important.

You can use soil uptake, you can use ag
exchange. CSD is working on those issues right
now to try to --

CHAIRPERSON YOUNG: Can you wrap up your
comments, please.

MR. BARROW: I will try to do that very
quick, give me another 20 seconds. The CO2 issue
hasn't been addressed yet, which will make a big
difference. The cost of actually treating
nitrogen rather than using a soil uptake approach
is huge expensive.

And finally I'd like to say is the
reduction of the waste in the septic tanks can
achieve secondary treatment right now in the fire
department. And why don't you let us clean up our
basin, why can't we get a permit for a simple
system that's cleaning up the basin?

You say you want to clean up the basin,
you're not --

CHAIRPERSON YOUNG: Thank you, Mr. --

MR. BARROW: -- allowing us --

CHAIRPERSON YOUNG: -- Barrow for your
time. Thank you for your time. You said 20
seconds. You went over that. You're taking time
from --

MR. BARROW: Thank you.

CHAIRPERSON YOUNG: -- your neighbors.

Please.

MS. WATSON: I hope you heard what I
said.

CHAIRPERSON YOUNG: Barbara Akle,
please. Richard Sadowski, Michael Jones, John
O'Connor and Judy Vick.

MS. AKLE: Barbara Akle, Los Osos
prohibition zone.

AUDIENCE SPEAKER: Can't hear you.

MS. AKLE: Sorry. Pumping the septic
tanks every two months is a poor solution to the
sewage problems in Los Osos for all the reasons
that you've already heard, air pollution, salt
water intrusion, financial hardship for many. The
only benefits I see to that is to the pumping
companies and to the lawyers.

If the County is truly serious about
getting things moving they should approve the
dissolution of the Los Osos CSD and take matters
into their own hands.
I would also like to point out that the County was not blameless in this situation. After all, they handed out over 1000 building permits in Los Osos after the moratorium without any infrastructure in place to deal with the sewage.

So, that's all I have to say.

CHAIRPERSON YOUNG: Okay, thank you for your comments. Richard Sadowski. Mr. Sadowski, are you here? Okay. We're at the end of this list, folks. Michael Jones.

AUDIENCE SPEAKER: -- Sadowski --

CHAIRPERSON YOUNG: Oh, he is. Okay, Michael Jones, are you here? Michael Jones or John O'Connor.

AUDIENCE SPEAKER: He was coming at 4:00, Michael Jones --

CHAIRPERSON YOUNG: Okay. At 4:00, okay. Mr. Sadowski? Go ahead.

MR. SADOWSKI: Richard Sadowski, citizen, Morro Bay. I would first like to commend the Los Osos CSD on their expertise and diligence in doing the right thing.

Currently in the State of California Governor Schwarzenegger's -- the Governor's Office is attempting to have a $50 billion bond for
infrastructure repair.

Now, this bond is going to require what they call a report card. Now, fortunately, Los Osos and this County is on point with this information. What we have to do is, as a County, not slow down Los Osos, but speed up and catch up to these people. And let's get on point and get some of this available funding for this infrastructure. It's a statewide problem that's recognized by the Governor's Office.

Now, I have a collections grade four certificate from the California Water Environment Association, and a bachelor of science degree in chemical engineering. And while working in the aerospace industry we had what we called a tiger team, an assembly of first- and second-level supervisors that were experts in their field. And that's the kind of people you have in Los Osos. They are the template for this County in getting this funding.

Los Angeles County, Orange County, Inland Empire, the Bay Area are all submitting this. It's time that the Regional Board, instead of asking Los Osos to -- penalizing these people, commend them and help us with the rest of the
County get up to speed.

CHAIRPERSON YOUNG: Can you wrap up your comments, sir.

MR. SADOWSKI: Thank you.

Okay, so, Mr. Jones you say is coming at 4:00.
Let me go through this list. These are the people that have checked off they do not want to testify.

MS. SCHICKER: I have a card in that.

CHAIRPERSON YOUNG: I don't think I saw a card for you. Well, come on up.

MS. SCHICKER: Good afternoon, Board.
My name is Lisa Schicker. I'm the President of Los Osos Community Services District. In 2004 I testified before your Board two times. Both times you told me you don't like the downtown sewer; you must change your Board; you must change your Board.

The State Water Board told me that. The Coastal Commission told me that. And you told me that. And the County told me that. So I ran and was elected in 2004.

Recent editorial in the paper -- Mr. Young, do you need to stop a second?
CHAIRPERSON YOUNG: Are you asking me a question?

MS. SCHICKER: Yeah, I saw you look away and I thought you didn't want --

CHAIRPERSON YOUNG: I'm listening to what you're saying, Ms. Schicker. You have one minute and 15 seconds.

MS. SCHICKER: We're not anti-sewer. I published an editorial in the paper and I want to make sure that you gentlemen got it. I am sending things through Mr. Briggs and I hope you are getting the mail that I'm sending you to keep you updated on our projects.

The CDO is the wrong approach, you are terrorizing the citizens. You honestly are. And you're not helping the situation. We're trying very hard to get going on projects. We're expending great resources in these arguments and fights and lawsuits and piles of documents. It takes great energy. And it's not productive energy; it's negative energy. We can do better than that.

In October we had the Blakeslee compromise. We know it was kyboshed; we know how it was kyboshed. We have a pile of emails to
prove it. It's too bad.

During that compromise we promised four things. We promised that we would negotiate and meet with the Water Board Staff to keep them updated on our project. We have delivered. We have a good relationship with your staff and we're meeting monthly.

We promised that we would start a new project immediately. We have delivered. We are doing that right now.

We promised that we would implement septic management. We're working with Blakeslee for legislation. We may not need it. We're implementing it anyhow. We're doing it now.

We promised that we would do short- and long-term solutions. We're doing that.

CHAIRPERSON YOUNG: Can you wrap it up.

MS. SCHICKER: And wrapping up, you can be powerful powerful heroes today, and you could work with us. That's all we're asking. We have the same goals, the same goals for clean water.

You have many tools in your toolbox, the CDOs are the wrong tool. Please work with us.

Thank you.

(Applause.)
CHAIRPERSON YOUNG: Geri Walsh. Geri Walsh, followed by Linde Owen. Mr. Bleskey, you're an employee of the Community Services District, and so I would prefer it if you put your comments in during that time. We've allotted, I think, two hours for that. So I think it's different -- many of the Directors have spoken.

Clearly what Ms. Schicker said were really representations on behalf of the CSD. And I allowed that. All right. I'm trying to be generous as much as I can with time, but I would appreciate it if you would put your comments in with the two hours that we've allotted for you. Thank you.

Geri Walsh.

MS. WALSH: Geri Walsh, 20-year homeowner in the prohibition zone in Los Osos. We, the people of Los Osos, have not had representation. Our Supervisor, when asked by numerous individuals, would not get involved in the sewer situation.

I find it strange that our Supervisor, unlike Mr. Blakeslee, had to be subpoenaed to speak to the people of her District of Los Osos. Then hide behind her attorney that the people of
Los Osos pay for.

I find it strange that our County health representative had to be muzzled by his attorney that the people of Los Osos pay for. I find it strange that the people of Los Osos pay this Board and their attorneys to fight against us.

A previous speaker and spokesperson for the past recalled Board spoke about the state-of-the-art system that was designed actually to cause the financial demise of 40 percent of the people of our community. She spoke in favor of dissolution. I'm not willing to give up our fire department and water department that we've worked so hard to bring back to a state of financial accountability from the out-of-control spending of the past Board.

And where is the past Board today? They're not here. They formed a group to work behind the scenes and send emails to you asking you to fine us out of existence. Some of the same people you would not allow to be subpoenaed today.

I find it all very strange. Thank you.

(Applause.)

CHAIRPERSON YOUNG: Linde Owen.

MS. OWEN: Good afternoon, Linde Owen.
I'm wearing a couple of visuals. This is what it would feel like to be next out of 4255 people -- homes, excuse me, that are still left to be put into this position of fear.

My other visual is, and my point is, these are unproductive. These CDOs are accomplishing nothing.

I would, as long as we have Mr. Briggs in the room, I would like him to maybe address what happened with 8312 which was issued the exact same day that 8313, which is what you're enacting the CDOs off of, was also put into play.

That resolution said that septic management needed to be done. And they would have taken steps to lower the upper aquifer so that we did not have septic leach fields sitting in water, groundwater.

If you want to do the science we can put a great sewer in in Los Osos. But as long as you choose to do politics we're going to get noplace.

I have another comment. Oh, the data that you're working off of is 23 years old. That resolution was based on old data from questionable wells. We have new data. It's much updated. It says that we are polluting very little of the Bay,
from what the shellfish study said.

    Take that data and let's look at it and
re-analyze this resolution. I think that we have
properly operating septic tanks. They're not --
the CDOs are meant for major polluters, not
residences with properly working septic tanks.

    The procedural structure was designed
for corporations. I'm just an individual. I
don't have a special lawyer or a retainer like
Shell or Exxon.

    So, in closing, I would like to say that
perhaps those who urged you to sue us out of
existence, go ahead and pay the money to have
their group septic tanks pumped, and then they can
donate it to -- I think they should be donating it
to the people that need the help right now.

    CHAIRPERSON YOUNG: Thank you for you
comments, --

    MS. OWEN: I urge you to drop this
activity.

    CHAIRPERSON YOUNG: -- Ms. Owen. Okay,
Michael Jones, have you shown up yet? Okay.

    Folks, I'm going to read these cards;
these are people who said they didn't want to
testify. Perhaps someone misunderstood what that
meant.

Thomas Dempsey. Josephine Dempsey.

Braverman, two Bravermans, Betty Braverman.

Charles Kostas. If you hear your name and you
wish to speak, come up to the podium.

Shirley Norman; Hans Schwarz; Mark

Holley; Mary Pastel; Mark Robinson; Darlene

Reynolds; Susan McGinty; J. Harding; John

Anderson; Sharlot Sunshine; Carol Cribbs. Okay.

(Pause.)

CHAIRPERSON YOUNG: Is anyone here to

speak on items not on our agenda besides this one
card I have from Reginald Fagan? Okay, Mr. Fagan,

if you're here, come up.

This is our public comment period.

These are -- and I may have confused my labels

earlier, but I characterized the interested

persons portion, which we have just concluded,

except for Mr. Jones, with public comment. But

this is for comments unrelated to anything on the

agenda.

Okay, Mr. Fagan, go ahead.

MR. FAGAN: Hi, and I appreciate the

opportunity to speak. I feel, you know, the

energy of folks around the agenda, but I just
I'm a person that's lived in this County, you know, for about ten years. I live presently at San Luis Obispo. As a child I grew up and always looked forward to coming to this County, San Luis Obispo, you know, the beautiful lay of the land, you know, the beautiful recreation opportunities.

But I just, you know, would like to just encourage the community to try to come together, try to work these issues out. You know, I'm thinking about when I was a kid, I loved coming here fishing and camping. I'm thinking about the future generations, you know, that are in front of us, and that, you know, what are they going to do if we just keep gridlocking, we keep fighting and politicizing issues.

You know, bottomline is we need to focus our resources; we need to try to come together. We need to try to, you know, look at common ground.

I sat here for the last three to four hours and I've heard a lot of brilliant ideals, a lot of different alternatives. I just ask the Board if it's possible, because I'm a disabled
guy; I'm on a fixed income. And I really feel for people that are struggling. You know, it's hard enough trying to deal with the oil, gas price and all these other issues that we're dealing with today.

We need to try to come up with some best practices. We need to make sure that the things - - the decisions we make are science-based decisions, not politically based.

I guess I'm a citizen here. I'm an African-American. Don't see to many of them here. We need to try to make sure we bring everybody to the table. Because I think so many times we're being left behind.

Okay, so I'm just coming up to encourage that somewhere in there we can put the egos aside and start looking at, you know, what's the best interest for the future generation. We have to make decisions for the kids.

Because I remember being a kid that loved to come to San Luis Obispo. And I just want to make sure my daughter has that option, as well.

Okay, thank you, folks, for this time.

CHAIRPERSON YOUNG: Thank you for your comments.
(Applause.)

CHAIRPERSON YOUNG: Mr. Barrow, you submitted a speaker card for public comment. And, Mr. Barrow, if you get into anything related to Los Osos I will ask you to step away from the podium. So, please, don't do that.

MR. BARROW: Good evening, public and staff. My name is Al Barrow, and I've been a supporter of the Clean Water Act since it was initiated. I've been a supporter of the Coastal Act, protecting our resources. I strive very hard to save water in my daily routine. Some people think I should take a bath more often, but doesn't matter, I save the water.

(Laughter.)

MR. BARROW: And I believe in the Regional Water Board system. I believe in the State Water Board system. I believe especially in the U.S. Environmental Protection Agency. And I believe in their mission, and I support that from my heart. And I think everybody in this room does, as well.

I don't want you to mistake frustration for a lack of purpose or a negative approach. We all support your mission, and we appreciate the
work that you're doing towards that mission.

    We criticize you, it's constructively.

And it never hurts to get a little -- well, it
might hurt a little bit, constructive criticism,
but take it as heartfelt assistance public input
to improve our efforts to keep our beautiful
planet clean.

    Thank you.

CHAIRPERSON YOUNG: Okay. Dave Duggan.

Then Linde Owen. And I hope Mr. Jones appears,
because that'll be the end of the interested
persons.

MR. DUGGAN: Dave Duggan, Los Osos. I'm
here to talk about smart growth, 2050. I think we
had a vision, 2025, here not too long ago, talking
about water, estuaries, riparian, restoration
wetlands, and growth versus water usage.

    The San Luis Obispo is going to be doing
amendments to the general plan and other items
such as that, which is going to include
agricultural -- saving agricultural space as well
as open space.

    People should be aware that what is
going on right now with San Luis Obispo County and
the supervisors and the planning commission. They
should be watching and going to these meetings and be aware that they're making changes.

That if you are planning on putting in a system, wastewater, anywhere other than in the middle of your town, that you may have people -- doing that, if you're not aware what's going on. They're trying to keep areas greener around communities. And in doing so they may block any type of development that would keep you from siting the system where you want.

Now, I'm not trying to breach what you asked us not to do. I attended the meeting at the supervisors and we had a pretty good discussion on their vision for 2050 and even sooner. The CSD, as well as other small organizations -- just issued, very aware --

CHAIRPERSON YOUNG: Thank you for your comments, Mr. Duggan.

MR. DUGGAN: -- that this is going on.

Thank you very much.

CHAIRPERSON YOUNG: Linde Owen.

MS. OWEN: Linde Owen, thank you, again, for another opportunity. I wanted to do just a little mini primer on why I hate conventional gravity-fed sewers.
Number one, they're failing all over
America. They're one of the highest
infrastructure repair costs that's going undone.
There's not enough money on the planet to fix all
of them.

Now, what you have to think about is
you're taking raw sewage and other liquids from a
home and you're putting it in pipes. And you're
running them far underground where nobody sees
them. And if you have test mechanisms to go in
and see if they're leaking, or if the pipe is
broken, but you don't always know until it's
broken and it's spewed raw sewage into a drinking
supply, into a lake, into an ocean, into a river,
onto open land.

And so I believe that the EPA has come
up with what is called the small flows
clearinghouse, and they are urging smaller
communities throughout America, and people that
have to add onto their sewers, to look at doing an
effluent collection.

Because what you've done then is you've
kept the toxic material in a tank. It's the tank
has much less chance of breaking and spilling.
And they can be tested much easier than the pipes
All the leaks along the coast of California, the major can't swim here anymore. Danger signs up and down the ocean front areas. It's all from sewer pipes, raw sewage going through conventional gravity-fed pipes. Los Osos would love to do something more creative than that. Thank you.

CHAIRPERSON YOUNG: Okay, Michael Jones, are you here, Mr. Jones? He is here? You're Mr. Paige.

MR. PAIGE: Yeah, I was wondering --

CHAIRPERSON YOUNG: Okay. That is it.

MR. PAIGE: I was wondering if I could speak, just a short --

CHAIRPERSON YOUNG: You know what, folks, the last few comments really are getting into issues related to what we're discussing today. And if you really have something legitimate that was not related to sewage treatment or siting in Los Osos, I would be more interested in entertaining the thoughts.

But we have --

MR. PAIGE: This doesn't have anything -- it has to do with administration generally, of
the Water Board's doing. Thirty seconds.

CHAIRPERSON YOUNG: Thirty seconds.

MR. PAIGE: EPA's smart growth policies and objectives of minimizing infrastructure while increasing urban population density cannot be consistent with zero emissions requirement by the Water Quality Control Boards throughout the state. If Porter-Cologne enforcement is to have a positive public participation, flexible, smart growth enforcement that uses a menu of solutions would give the Porter-Cologne Act a more contemporary environmental credibility and quicker results. It is the only way we're going to get smart growth density in small cities throughout the state, and still meet CEQA regulations and watershed criteria.

Public participation is the key. So assuming that the public are a bunch of idiots is a real tragedy. Like myself, I'm trying to find a solution. Thank you.

CHAIRPERSON YOUNG: Okay. Mr. Payne, one minute.

MR. PAYNE: Thank you for a minute. It was several minutes ago that I put in a card for public comment, and it got lost. And I wanted at
that time to welcome Mr. Hayashi to the Board. And I'm glad to have him here. He knows a lot about people helping other people and a great family history that everybody should hear about.

The other thing that I wanted to talk about is choices. Many many years ago the Russians made hats out of a little animal called sea otters. And they almost got rid of them for us, but unfortunately somebody felt sorry for them and -- by the way, my parents came down here in 1953 and lived in Pismo Beach. And my brother used to go clamming for Pismo clams. They were as big as gooeyducks and they tasted good, and they weren't as tough as horse necks. And today you'd be lucky if you can find one an inch in diameter.

CHAIRPERSON YOUNG: Thank you for your comments.

MR. PAYNE: You're welcome. Wrong choice.

CHAIRPERSON YOUNG: Michael Jones.

(Laughter.)

CHAIRPERSON YOUNG: Okay. Mr. Bleskey, tell me what -- is this --

MR. BLESKEY: Just some general comments about my experiences here, unrelated to the
project. Just some issues related to what's going
on in Morro Bay --

CHAIRPERSON YOUNG: Go ahead, two
minutes. And this is the last interested person
comment. We will break after this. And then when
we return the prosecution team is going to put its
case on.

Go ahead.

MR. BLESKEY: Chairman Young, thank you
for letting me speak. One this is that I've been
here now for about seven months, and I envy the
central coast residents. I do come from Ventura,
and Los Osos is an interesting place to work and
it's even more of an interesting place to live,
which I do during the week.

Since the time that I've gotten here it
became quite evident the frustration that your
staff has experienced over the course of the
challenges facing you right now. And you got some
real doozies and some great opportunities, though,
too.

But over that course of time and our
latest conversations, your staff, especially
Harvey and Allison -- I keep wanting to say Alicia
-- I think that we're starting to grow the
relationship that we can cement with your staff over time, from a rocky start. And actually be productive in helping all of the central coast. I think the other thing that the central coast has, as a really unique opportunity, is the ability to use a lot of tools that you didn't have about 23 years ago, or, heck, even five years ago. And I see that reflected a lot in your young staff; also in a lot of the young engineers and environmentalists that I see coming out now. And their excitement on these opportunities that I, as an engineer from many years ago, didn't have. It's pretty cool stuff. And we'll talk about that later when you give me permission to do that. And I appreciate that.

I do want to ask that we do look at the problems that we're faced with on the central coast in light of those new tools. Both in technology that can be applied, and also the comments on some of the regionalization issues now in an era of very very sketchy energy costs. We may be better off to look at growing over time, a system or a linkage of systems that have been used in other areas of the state, that we can afford, and that make use of all the skills of your staff.
and the citizens and the technology available to
you.

But I did want to come up and say thank
you for the staff time and their cooperative
effort. Thank you, Mr. Young.

CHAIRPERSON YOUNG: Thank you for your
comments.

MR. MATTINGLY: Can I make one 30-second
comment?

CHAIRPERSON YOUNG: Wait a minute, --

MR. MATTINGLY: Dustan Mattingly --

CHAIRPERSON YOUNG: -- what is it
related to?

MR. MATTINGLY: It's not related to Los
Osos sewer or crap problem. What it is concerning
is that --

(Audience speaking simultaneously.)

CHAIRPERSON YOUNG: Your name?

MR. MATTINGLY: -- you were not given --

CHAIRPERSON YOUNG: Excuse me. Your
name, please.

MR. MATTINGLY: Dustan Mattingly. I
said that before.

CHAIRPERSON YOUNG: Okay.

MR. MATTINGLY: I just wanted to ask if
maybe, you know, besides Mr. Blakeslee, who I see you all gave your full attention to, maybe the rest of the people you could treat like people, not emails where you can glance at it and look away. I just noticed you guys were looking out the window or at the camera, doing your hair or something. This gentleman had his hands over his eyes --

CHAIRPERSON YOUNG: Thank you for your comments, sir.

MR. MATTINGLY: So if you could just please treat us --

CHAIRPERSON YOUNG: We're going to take a break, folks. We're going to come --

MR. MATTINGLY: -- like humans --

CHAIRPERSON YOUNG: -- back at 4:25. We'll start the prosecution team's presentation.

(Whereupon, at 4:09 p.m., the meeting was adjourned, to reconvene at 4:25 p.m., this same day.)

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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.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345